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Evaluation of the Common Implementing Regulation
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COMMISSION STAFF WORKING DOCUMENT

Evaluation of the Common Implementing Regulation

Accompanying the document

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

Midterm Review Report of the External Financing Instruments

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Executive summary

This document sets out the results of a mid-term evaluation of the Common Implementing Regulation (CIR), aimed to feed into the Mid-Term Review Report on the EU External Financing Instruments. It looks at whether the CIR is still fit for purpose.

Relevance:

The CIR's primary achievement lies in the establishment of common rules on the implementation of the External Financing Instruments, thereby ruling out the divergences which existed previously between the pre-2014 External Financing Instruments. Also today, having harmonised CIR rules for formulation, implementation, monitoring and evaluation is considered useful. The simplification resulting from the CIR, on the other hand, is limited, the real simplification-agenda pursued since 2014 by the Commission being rather at the level of the Financial Regulation and its contractual templates. The choice of the CIR's substantive policy topics is not exhaustive and reflects the considerations of the legislators at the time of the CIR's adoption.

Effectiveness:

Considerable efforts have been undertaken by the Commission in the field of promoting climate change and environment mainstreaming, promoting human rights and fundamental freedoms, and inclusion of criteria regarding accessibility for persons with disabilities. While the CIR provided a legal underpinning for these topics, it had limited causal effect in ensuring their activation within the framework of the External Financing Instruments, because the attention to these topics was driven by broader policy agendas. The same would apply to the strengthening of the Commission's evaluation practice, which is not solely attributable to the CIR. By contrast, the increased flexibility and speed of delivery in the implementation through individual and special measures and annual action programmes can be credited directly to the CIR. In addition, the CIR's role in strengthening the Commission's external actions' monitoring and reporting systems is positively evaluated.

Coherence:

The CIR introduced the legal requirement to produce a common Annual Report on all External Financing Instruments and this enhanced internal coherence in the reporting. When it comes to EU visibility, the CIR provisions consolidated the common practice that had existed since 2010. The Commission's commitment to the aid effectiveness agenda on the use of country procedures materialised primarily through budget support, but also through recent openings for certain actions in project approach. The EU support to Civil Society Organisations and Local Authorities reached an unprecedented level, but was – again – primarily being driven by broader policy agendas beyond the CIR.

Efficiency:

The increased untying of aid, another aid effectiveness commitment, and the additional flexibility in the rules on nationality and origin, are attributable to the CIR. The intention to promote the participation of local and regional contractors in EU financed contracts as reflected in the CIR, within the boundaries of the Financial Regulation's public procurement rules, was followed by tangible results.

Leverage:

The incitation in the CIR to leveraging financial resources is pursued through budget support which acts as a catalyst for the mobilisation of both financial resources and political engagement. The CIR has contributed to the further expansion and development of financial instruments and blending; it helped to create a regulatory framework that allowed for

simplification and more efficient procedures for their implementation thereby increasing the attractiveness of these mechanisms.

1. Introduction

Purpose of the evaluation

This document sets-out the results of a mid-term evaluation of the Common Implementing Regulation¹ (CIR). The evaluation is retrospective and looks at whether the CIR is fit for purpose, based on its performance to-date, with the objective of informing future work on the External Financing Instruments and their actions. In particular, this evaluation, which is part of a set of ten evaluations covering all the External Financing Instruments² under Heading 4 'Global Europe' of the 2014-2020 Multiannual Financial Framework³ as well as the 11th European Development Fund (EDF)⁴, informs the Mid-Term Review Report⁵ which draws conclusions across the External Financing Instruments. This paper is largely based on the external evaluation by independent consultants⁶ provided in Annex 4.

Scope of the evaluation

The scope of the evaluation corresponds to the requirements for the Mid-Term Review Report set out in Article 17 of the CIR. Although the CIR is not an External Financing Instrument, the SWD on the CIR follows, as much as possible, the evaluation criteria which article 17(1)(2nd paragraph) of the CIR lays down for the External Financing Instruments. It focuses on the period January 2014 to June 2017. However, due to the length of the implementation cycle of the External Financing Instruments, the availability of data and results are limited. Therefore the evaluation also looked at the previous period (2007-2013) for some of the evaluation criteria. The countries covered under the evaluation are those eligible under the regulations setting up the External Financing Instruments. In accordance with the EU Better Regulation Agenda/Better Regulation Guidelines⁷ and pursuant to the requirements of Article 17 of the CIR itself, the following evaluation criteria have been used: relevance, effectiveness, efficiency, coherence and leverage. The particularity of the CIR being that it is merely ancillary to the External Financing Instruments through which it operates, the EU added value in terms of subsidiarity, can solely be evaluated at the level of the External Financing Instruments, not at the level of the CIR. To the extent possible, aspects of the criterion 'EU added value' are captured by the criterion 'leverage'.

2. Background of the initiative and baseline

Description of the CIR and its objectives

The External Financing Instruments make up a major part of the above-mentioned Multiannual Financial Frameworks' Heading 4 which, together with the EDF which functions outside the EU budget, provides the EU with the tools necessary to fulfil its role on the world stage and to ensure that it is able to live up to its ambitions in promoting its interests and

¹ Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014, OJ L77, p. 95;

² Development Co-operation Instrument, European Neighbourhood Instrument, European Instrument for Democracy and Human Rights, Greenland Decision, Instrument contributing to Stability and Peace, Instrument for Pre-accession Assistance, Instrument on Nuclear Safety Cooperation, Overseas Countries and Territories Decision, Partnership Instrument and the Common Implementing Regulation.

³ The Multiannual Financial Framework is divided into six broad groups of expenditure called "Headings". The external financing instruments make up the majority of Heading 4: Global Europe.

⁴ Council Regulation 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund, OJ L 58 of 3 March 2015. For the purpose of this exercise, the evaluation of the Overseas Countries and Territories Decision is included within the evaluation of the 11th European Development Fund;

⁵ As requested in Article 17 CIR;

⁶ Evaluation of the Common Implementing Regulation, Final Report June 2017, taken up in Annex 4 below;

⁷ Commission communication 'Better regulation for better results - An EU agenda', COM (2015) 215 http://ec.europa.eu/smart-regulation/better_regulation/documents/com_2015_215_en.pdf, and 'Better Regulation Guidelines' Commission Staff Working Document, SWD (2015) 111 http://ec.europa.eu/smart-regulation/guidelines/docs/swd_br_guidelines_en.pdf;

universal values and principles such as democracy, human rights, peace, solidarity, stability and poverty reduction and to help safeguard global public goods.

Adopted in early 2014, the External Financing Instruments were designed to ensure policy implementation, with the intention of remaining relevant for the entire duration of the Multi-annual Financial Framework and therefore enabling the EU to implement external action policy as needed.

The CIR features for the first time in the legislative set of 2014-2020 External Financing Instruments. Its objective primarily lies in the establishment of common harmonised rules on the implementation⁸. By achieving this, the CIR successfully put a halt to the pre-2014 situation whereby each individual instrument contained its own implementing rules and whereby divergences in implementation existed between the pre-2014 External Financing Instruments.

The CIR only applies to the External Financing Instruments under Heading 4 of the EU General Budget. It does not apply to the 11th EDF which has its own rules of implementation⁹.

Although part of the same legislative package, the CIR is quite incomparable to the External Financing Instruments because of its horizontal nature, as the CIR is first and foremost a collection of limited transversal provisions applying horizontally to all Instruments under its scope. Secondly, while each of the External Financing Instruments determine the objectives, scope, programming, financial envelope and process for allocation of funds for the respective policy they implement, the CIR provides a set of common rules and procedures applicable to project formulation, implementation, evaluation and audit. Thirdly, even less than the External Financing Instruments, the CIR is not a standalone Regulation: its provisions are heterogeneous and vary from some procedural/technical provisions which complement the Financial Regulation¹⁰, to some overarching cross-cutting policy-commitments (on diverse punctual topics, such as accessibility for persons with disabilities, rule of law or environmental screening) which complement the commitments made in each External Financing Instrument. As regards thematic cross-cutting issues, the orientations already given for the programming phase within the various External Financing Instruments are reflected by the CIR concerning the implementation phase.

The intervention logic reflects the understanding of the rationale of the Commission and legislative bodies for creating the CIR. Assumptions and expected outcomes and impact are systematically tested in the Answers to the Evaluation Questions (section 5) and analysed under Conclusions (section 6).

Table 1: intervention logic:

CONTEXT	2012 Financial Regulation		EXPECTED OUTCOMES	EXPECTED IMPACT
* EU external action is supported by 8 distinct EU Budget EFIs (+ EDF outside EU budget) governed by separate Regulations; * Financial Regulation and Comitology Regulation followed by all EFIs; * Implementing rules under the 2007-2013 Regulations diverse	2011 Comitology Regulation		* Unified adoption of action programmes and measures (Comitology); * Common financing provisions; * Specific financing provisions for DCI, ENI, IPA II, INSC and EIDHR; * Common rules for monitoring and evaluation;	* Efficient use of resources for optimal impact of EU external action; * Improved delivery of the objectives of the EFIs (effectiveness); * Enhanced coherence, complementarity, synergies and added value between and across EFIs;
	2007-2013 Regulations Diverse implementing rules:	2014-2020 Common Implementing Rules (CIR)		
	DCI	DCI		
	EIDHR	EIDHR		
	ENI	ENI		
	IPA	IPA II		
IFS	IcSP			

⁸ As provided in its Article 1, the CIR applies to the Development Co-operation Instrument (DCI), the European Instrument for Democracy and Human Rights (EIDHR); the European Neighbourhood Instrument (ENI), the Instrument contributing to Stability and Peace (IcSP); the Instrument for Pre-Accession Assistance (IPA-II) and the Partnership Instrument (PI). The Instrument on Nuclear Safety Co-operation (INSC) and Greenland Decision (GD) are not mentioned in article 1 of the CIR, but contain references to the CIR. The CIR does not apply to the 11th EDF.

⁹ The 11th EDF has its own rules of implementation. See Council Regulation 2015/322 of 02 March 2015 on the implementation of the 11th European Development Fund

¹⁰ Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, OJ L-298 of 26/10/2012;

with inconsistency-risks; * Increasing emphasis on partner Country ownership and results oriented management; * Strengthened emphasis on EU policy priorities and principles;	INSC	PI 2014-2020 INSC, art. 8 with ref. to CIR	* Enhanced EU visibility; * Tracking of expenditure on climate action and biodiversity; * Linking budget support to democracy, human rights and fundamental freedoms;	* Efficiency gains: more timely, cost efficient and coordinated forms of working; * Increased leverage of EFIs to raise financial, political or policy engagement;
	GD	2014-2020 GD, art. 5&6 with ref. to CIR		
	EDF Outside EU budget	2014-2020 EDF, outside EU budget, with own Implementing rules		
* For historical and political reasons EU external action has been organised through distinct EFIs; * EFI Regulations are conceptualised and negotiated through separate processes (compartmentalisation); * Risk of diversity and lack of consistency in implementing rules;		Creating CIR to achieve harmonisation and simplification of implementing rules for 8 EFIs which continue to be distinct;	* A common transversal Regulation has the ability (fitness for purpose) to harmonise and simplify implementing rules for optimal impact, while allowing for a sufficient degree of flexibility, despite continued compartmentalisation of EFIs; * Common implementing rules have the ability to contribute to enhanced coherence, complementarity and synergies between EFIs;	

Baseline

As this is a mid-term evaluation, the baseline has been set at 1 January 2014¹¹, when the CIR was adopted for the period 2014-2020. Therefore the evaluation compares, to the extent possible, the situation in January 2014 with the current situation.

For some evaluation criteria, where comparison to the previous set of implementing rules was necessary, the evaluation also compares the implementation rules of 2014-2020 with those of 2007-2013 in order to assess the added value of the creation of the CIR. The following table provides an overview of the topics which as from 2014 were taken up in the harmonised CIR, and how the same topics were dispersed over the various Instruments in the 2007-2013 MFF.

Table 2: comparison CIR with pre-CIR situation:

Current CIR – MFF 2014-2020		MFF 2007-2013, before existence of CIR						
2014 CIR topics	2014 CIR articles	2006 DCI ¹² articles	2006 ENI ¹³ articles	2006 IFS ¹⁴ articles	2006 IPA ¹⁵ articles	2006 EIDHR ¹⁶ articles	2007 INSC ¹⁷ articles	2006 CI ¹⁸ articles
Adoption programmes & measures	2	22,23	12,13	8,9	14	6,7,9	5,6	6
Support measures	3	26	16	12	16	8	9	9
Financing methods	4,6	24,25,27 28,29	14,15,17 18,19	10,11,13 14,15	13,15 17	10,11,12 13	7,8,10 11,12	7,8,10 11
Taxes duties & charges	5	25(2)	15(3)	11(2)	15(4)	13(6)	8(3)	8(3)
Protection EU financial interests	7	30	20	16	18	15	13	12
Rules on nationality & origin	8,9,10,11	31,36	21,27	17	19	14	14	-
Monitoring & evaluation of actions	12	33	24	21	22	16	17	13
Annual report	13	34	25	23	13(6)	18	18	14
Climate action & biodiversity	14	-	-	-	-	-	-	-
Involvement of stakeholders	15	-	-	-	-	-	-	-
Committee procedures	16	35	26	22	14	17	19	15
Review & evaluation of Instrument	17	40	30	25	27	20	21	18

The External Financing Instruments and the CIR further frame within the international Aid Effectiveness agenda, which pursues the following principles:

- Ownership: Partner countries exercise effective leadership over their development policies and strategies and coordinate development efforts.

¹¹ Article 17(3) CIR;

¹² Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation – OJ L378/41 of 27.12.2006;

¹³ Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument – OJ L 310/1 of 9.11.2006;

¹⁴ Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability - OJ L 327/1 of 24.11.2006;

¹⁵ Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) - OJ L 210/82 of 31.7.2006;

¹⁶ Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide - OJ L 386/1 of 29.12.2006;

¹⁷ Council Regulation (EURATOM) No 300/2007 of 19 February 2007 establishing an Instrument for Nuclear Safety Cooperation - OJ L 81/1 of 22.03.2007;

¹⁸ Council Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories - OJ L 405/41 of 30.12.2006;

- Alignment: Donors base their overall support on Partner countries' national development strategies, institutions and procedures.
- Harmonisation: Donors aim to be more harmonised, collectively effective and less burdensome, especially on those partner countries, such as fragile states, that have weak administrative capacities.
- Managing for results: Both donors and partner countries manage resources and improve decision making which targets results.
- Mutual accountability: Donors and partner countries pledge that they will hold each other mutually accountable for development results.

In 2014, when the CIR was adopted, the EU's roadmap to implement those principles, was laid down in the Commission's Communication "Agenda for Change"¹⁹.

3. Method

The Staff Working Document is largely supported by the independent evaluation undertaken by an external consultant, integrating feedback received from an Open Public Consultation: for more details, see Annex 1.

4. Implementation state of play

Current situation in quantitative and qualitative terms

Not being a financing instrument, the CIR has not been allocated any funds. The CIR is not intended to provide financing, but to ensure harmonisation in the implementation through a common set of provisions applying horizontally to the External Financing Instruments under its scope. Its provisions can only be applied together with those of the External Financing Instruments and they can only be operationalised through actions financed by an External Financing Instrument. As a result, the qualitative and quantitative appreciation of the functioning of the CIR can only be based on the qualitative and quantitative results seen in the functioning of the various External Financing Instruments.

Implementation of the CIR 2014-2020

For external cooperation, all internal procedural instructions and guidance are compiled into comprehensive user-manuals, accessible through a web-based application. Likewise, for the benefit of external contractors working in development, a unique public manual has been developed called 'PRAG': the EU external actions Practical Guide for Procurement & Grants²⁰, which details the contract award procedures for services, supplies, works and grant contracts and contains in annexes the various contractual templates. The delegation and financing agreement templates are equally internet-accessible²¹ to the Commission's indirect management partners (i.e. the partner countries, Member States agencies and international organisations to whom the implementation of actions have been delegated). These manuals operationalise the provisions of the underlying legal acts governing those procedures, most notably the Financial Regulation and the Comitology Regulation²², but also the CIR. The manuals are regularly and successively revised to reflect new provisions in the underlying legal acts, to incorporate improved working methods or to introduce enhanced

¹⁹ Communication from the Commission of 13 October 2011, "Increasing the impact of EU Development Policy: an Agenda for Change" (COM(2011) 637 final);

²⁰ For more detail, see the PRAG at https://ec.europa.eu/europeaid/about-funding_en;

²¹ For more detail, see the COMPANION at https://ec.europa.eu/europeaid/about-funding_en;

²² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L-55 of 28/02/2011;

simplifications²³. Moreover, in parallel with the entry into force of the CIR, the internal user-manual and external PRAG were fully updated in order to be entirely aligned with the CIR's new provisions.

In the same manner, the Commission's policy documents²⁴ and methodological guidance²⁵ were updated and fine-tuned, including those which touch upon the substantive policy topics laid down in the CIR (see section 5).

5. Answers to the evaluation questions

For consistency and ease of reference, this Staff Working Document mirrors the structure, as well as the evaluation questions, of the independent evaluation report in Annex 4.

Evaluation Question 1: Relevance

To what extent was the CIR relevant at time of adoption and to what extent does it continue to be relevant?

- EQ1(a): the need for harmonisation and implementing common rules:

Prior to the MFF 2014-2020, each individual External Financing Instrument contained its own implementing rules which led to divergences in the implementation of the External Financing Instruments covering the MFF 2007-2014.

In the 2014-2020 legislative package, horizontal rules were grouped in one legislative act: certain implementation issues were sufficiently similar in respect of each instrument that common rules could cover them, mainly on procedural topics such as: adoption of action programmes and measures (see EQ2(d) below), management modes and co-financing, financing methods (see EQ5(a&b) below) protecting the Union's financial interest, reimbursement of taxes (see EQ1(b) below), rules on nationality and origin (see EQ4(a&b) below), grant and other award procedures (see EQ4(c) below), evaluation of actions (see EQ2(f) below), monitoring (see EQ2(e) below), annual reporting (see EQ3(a) below), review and evaluation of the instruments. As a result, the CIR features for the first time in the legislative package of the 2014-2020 External Financing Instruments: its main achievement lies in the establishment of common harmonised rules on the implementation of external assistance as this rationalises previously heterogeneous rules across instruments and puts an end to divergences of interpretation that harmed the Instruments' effectiveness.

- EQ1(b): simplification of those rules:

By formulating such a common set of rules, the CIR greatly contributes to the simplification agenda in that it avoids divergences and problems in interpretation. Still, it derives from the interplay with the substantive External Financing Instruments that the CIR could only be limited in scope, covering the phases of project formulation, implementation, evaluation and audit, whereas the External Financing Instruments themselves determine the objectives, scope, multiannual programming, financial envelope and allocation of funds for each instrument. Likewise, the CIR makes use of the different tools for implementation which are provided for in the Financial Regulation and applies them specifically to external relations, such as EU trust funds, financial instruments and blending.

Since 2014, the continued simplification efforts in the field of international cooperation and development were focussed on eliminating unnecessary burdens, increasing flexibility and reducing complexity for external partners: International Organisations and Member States

²³ For more detail on the successive revision of PRAG and the internal manuals, see the chapters 'simplification' in the Staff Working Documents (SWDs) accompanying the Annual Reports, published at https://ec.europa.eu/europeaid/annual-reports_en;

²⁴ For more detail on the EU policies in the field of development, see https://ec.europa.eu/europeaid/policies/policies_en;

²⁵ For more detail on the sectors in which the EU external aid is being implemented, see https://ec.europa.eu/europeaid/sectors/sectors_en;

Development-Agencies²⁶, Partner Countries²⁷ or grant beneficiaries²⁸. In addition, increased use is made of IT-technologies²⁹. Other simplifications are also in sight, but first require amendments to the Financial Regulation by the co-legislators, reason for which a revision³⁰ has been proposed and is ongoing.

A particular topic on simplification raised in the survey³¹ amongst the EU Delegations relates to taxes. Notably, many voice concerns on the CIR provision on exemption from taxes, duties and charges, stating that these tax exemptions are difficult and complex to implement in practice.

The CIR harmonises for the first time the provision on taxes and other duties. Under the Multiannual Financial Framework 2007-2014 the predecessors³² of DCI and EIDHR stipulated in absolute terms that their funds should not be used for paying taxes in partner countries. In 2011, both instruments were amended³³: non-eligibility remained the rule, but exceptions to that principle became possible.

The CIR continued on that path: for the External Financing Instruments governed by the CIR, as a matter of principle, general taxes³⁴ paid in partner countries are eligible for cost-reimbursement under the conditions of the Financial Regulation, unless exemptions negotiated with the partner country apply (Article 5 CIR).

Also from a policy point of view, such tax exemptions are under debate³⁵: Domestic Resource Mobilisation (DRM)³⁶ is one of the most important topics within the context of the sustainable development financing as agreed during the third International Conference on Financing for Development in Addis Ababa in 2015. Tax incentives/exemptions have been identified as a major reason for the base erosion and limited tax collection in developing countries. Moreover, they add to the complexity of tax regimes, reduce their transparency and put an additional strain on tax administrations that face already capacity constraints. A simplification and reduction of such tax regimes is important, as it will contribute to fighting tax avoidance, tax evasion and illicit financial flows.

- EQ1(c): inclusion of substantive policy topics in the CIR:

Besides the procedural implementing rules mentioned above, the CIR also contains certain cross-cutting³⁷ policy-considerations applying horizontally to all External Financial Instruments' implementation: by doing so, the CIR mainstreamed, at the level of implementation, policy issues, such as human rights, democracy and rule of law (see EQ2(b))

²⁶ For instance, the current agreement template ('Pagoda2') developed in 2016 reflects a simplification of the cost eligibility rules: <http://ec.europa.eu/europeaid/companion/welcome.do?locale=en>;

²⁷ For instance, the current Program Estimates ('PE') template, developed in 2015: a PE contains a work programme of activities to be implemented by a Partner Country for a given budget; the Partner Country's imprest component allows procurement to be conducted by the imprest administrator, up to certain ceilings: https://ec.europa.eu/europeaid/funding/procedures-beneficiary-countries-and-other-donors_en. An imprest is a fund of a fixed amount, within which modest expenses are paid;

²⁸ For instance, the current grant template developed in 2015 which now allows the grant beneficiary to use its own procurement procedures, instead of imposed procedures: see the Practical Guide (PRAG) at https://ec.europa.eu/europeaid/funding/about-grants_en;

²⁹ For example, in the field of grants where the new online tool PROSPECT provides external grant-applicants a single web-portal and renders the whole management of calls for proposals paperless: https://ec.europa.eu/europeaid/funding/about-grants_en;

³⁰ Commission's proposal COM(2016) 605 final of 14/09/2016,

³¹ Evaluation of the Common Implementing Regulation, Final Report June 2017, Annex pages 110 -113;

³² Regulation (EC) No 1905/2006 of the European Parliament and the Council of 18 December 2006 establishing a financing instrument for development cooperation, OJ L 163 of 23/06/2007; Council Regulation (EC) No 1889/2006 of the European Parliament and the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide, OJ L 386, 29/12/2006;

³³ Amendments by Regulation (EU) No 1339/2011 of the European Parliament and the Council of 13 December 2011 and by Regulation (EU) No 1340/2011 of the European Parliament and of the Council of 13 December 2011, both published in OJ L 347, 30/12/2011;

³⁴ The CIR however kept the rule that taxes, duties or charges specific to EU assistance may not be collected (article 5, 1st sentence, CIR); the present SWD-section relates to taxes, duties or charges which are not specific to EU assistance: ie general taxes, such as VAT collected on all goods within the Partner Country;

³⁵ Evaluation of the Common Implementing Regulation, Final Report June 2017, Annexes, pages 95, 110, 111 and 112;

³⁶ For more info on Domestic Resource Mobilisation, including the Addis Ababa conference, see https://ec.europa.eu/europeaid/policies/financing-development/domestic-resource-mobilisation_en;

³⁷ Cross-cuttings issues are issues which must be appropriately addressed for each action, irrespective of the sector focus, delivery modality or geographic location of the action;

below), stakeholders' dialogue (see EQ3(d) below), accessibility of people with disabilities (see EQ2(c) below) or climate change and protection of biodiversity (see EQ2(a) below).

The independent evaluation questions the choice of substantive policy topics included in the CIR, stating that there was no clear rationale for why some were considered and others not³⁸. Services through this Staff Working Document agree that the choice of the CIR's substantive policy topics is indeed not exhaustive and reflects the considerations of the legislators at the time of the CIR's adoption.

Evaluation Question 2: Effectiveness

To what extent has the CIR delivered on its objectives, e.g. improved delivery of the objectives of the instruments?

- EQ2(a): promoting climate change and environment mainstreaming³⁹:

The independent evaluation finds that the CIR has had a limited beneficial effect on the mainstreaming of climate change and environmental action⁴⁰; increased attention for environment and climate change mainstreaming over the last few years has been driven mainly by broader policy agendas. The CIR contains two references to climate change and environment mainstreaming.

Article 14 CIR contains the requirement that an annual estimate of the overall spending related to climate action and biodiversity shall be made and that the funding allocations shall be subject to a tracking system based on the OECD methodology ("Rio markers"). Climate change and biodiversity related funding is now systematically tracked on the basis of Rio markers. The data available, reported in the Mid-term review of the MFF⁴¹, indicates that there is evidence of significant progress in the mainstreaming of climate and environment action since 2014, especially in the DCI. However more remains to be done to have a systematic and effective integration of these themes across all sectors of EU cooperation. Enhanced mainstreaming by the Commission and EU Delegations has been mainly driven by the new international agenda, mainly the 2030 Agenda for Sustainable Development⁴², the Paris Agreement on Climate change⁴³ and the Sendai Framework on Disaster Risk Reduction⁴⁴. Services through this Staff Working Document agree with the independent evaluation report that the CIR provided an additional, useful, legal underpinning for these objectives but contained relatively little new guidance on implementation.

Article 2(6) CIR requires that appropriate environmental screening be undertaken at project and programme level, including the use of environmental assessments where appropriate. Environmental screening is systematically promoted at the design stage, while environment impact assessment and strategic environmental assessment are regularly applied where appropriate. In line with this provision, the Commission has further developed since 2014 a comprehensive offer of services and tools to support environment and climate change mainstreaming, including new guidelines, a helpdesk and a knowledge management tool.

- EQ2(b): promoting human rights and fundamental freedoms⁴⁵:

³⁸ Evaluation of the Common Implementing Regulation, Final Report June 2017, section 3.1.7 at page 8;

³⁹ For more info on 'Climate Change' and 'Environment' actions, including the policies, projects, results and key documents cited, see https://ec.europa.eu/europeaid/sectors/environment_en;

⁴⁰ Evaluation of the Common Implementing Regulation, Final Report June 2017, page 10;

⁴¹ Commission Staff Working Document (SWD) accompanying the Communication on the Mid-term review of the MFF 2014-2020, published at http://ec.europa.eu/budget/mff/lib/COM-2016-603/SWD-2016-299_en.pdf;

⁴² https://ec.europa.eu/europeaid/policies/european-development-policy/2030-agenda-sustainable-development_en

⁴³ https://ec.europa.eu/europeaid/sectors/environment/climate-change-disaster-risk-reduction-and-desertification/climate-change_en

⁴⁴ http://ec.europa.eu/echo/news/european-commission-launches-sendai-action-plan-disaster-risk-reduction_en

⁴⁵ For more info on 'Human Rights and Fundamental Freedom' actions, including the policies, projects, results and key documents cited, see https://ec.europa.eu/europeaid/sectors/human-rights-and-governance_en, as well as https://ec.europa.eu/europeaid/sectors/human-rights-and-governance/democracy-and-human-rights_en;

Article 1(6) CIR provides that the Union shall seek to promote, develop and consolidate the principles of democracy, the rule of law and respect for human rights and fundamental freedoms, and integrate those principles in the implementation of the External Financing Instruments.

With respect to improved delivery of the objectives under the EIDHR, the CIR has made an important contribution in terms of increased flexibility by allowing for providing urgent assistance to human rights defenders and in emergencies or crisis situations where launching a Call for Proposals would not be suitable⁴⁶. The fact that the CIR includes the possibility of 're-granting'⁴⁷ (ie civil society organisations in charge of a project can award grants to non-registered entities) has made the EIDHR more responsive in situations of shrinking space for civil society.

Progress with regard to integrating human rights and gender equality in the implementation of External Financing Instruments seems to have mainly been driven by broader policy agendas, such as the 2015-2019 EU Action Plan on Human Rights and Democracy⁴⁸ and the Gender Action Plan II⁴⁹, rather than references in the CIR. The Staff Working Document on a "Tool-box for a Rights-Based Approach (RBA), encompassing all human rights, for EU development cooperation⁵⁰" was particularly important. It describes the RBA as a working methodology which integrates gender equality and defines the working principles of applying all rights (legality, universality and indivisibility of human rights), participation and access to the decision making process, non-discrimination and equal access, accountability and access the rule of law, and transparency and access to information.

The Commission has been pursuing the full and concrete integration of the RBA into EU development instruments and activities, using training and guidance, capacity support, results-oriented monitoring guidelines and criteria for evaluation. The RBA has been integrated in key internal guidance documents and templates, such as the new Action Document template⁵¹, the template for the assessment of cross-cutting issues and the template for Quality Support Groups assessments⁵², as well as the Budget Support Guidelines⁵³. The Commission created an internal RBA Help-desk providing thematic support to colleagues and following up on RBA training and technical assistance and initiated coordination with Member States and other stakeholders on the RBA.

The 2017 European Consensus on Development⁵⁴ reinforces the EU's commitment to the RBA and extends it to Member States.

- EQ2(c): inclusion of criteria regarding accessibility for persons with disabilities⁵⁵:

Article 2(7) CIR provides that in the design and implementation of programs and projects, criteria regarding accessibility for persons with disabilities shall be duly taken into account.

As a party to the UN Convention on the Rights of Persons with Disabilities⁵⁶ (CRPD), and signatory of the 2030 Agenda for Sustainable Development⁴², the EU is fully committed to

⁴⁶ See article 6(c) CIR;

⁴⁷ See article 4(11) CIR;

⁴⁸ EU Action Plan on Human Rights and Democracy, https://eeas.europa.eu/sites/eeas/files/eu_action_plan_on_human_rights_and_democracy_en_2.pdf;

⁴⁹ Joint Commission–EEAS Staff Working Document on Gender Equality and Women's Empowerment, at https://ec.europa.eu/europeaid/joint-staff-working-document-gender-equality-and-womens-empowerment-transforming-lives-girls-and_en;

⁵⁰ <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%209489%202014%20INIT>;

⁵¹ See the action documents at http://ec.europa.eu/europeaid/funding/funding-instruments-programming/annual-action-programmes_en;

⁵² See the Quality Support Group functioning at https://ec.europa.eu/europeaid/designing-operations-quality-system_en;

⁵³ https://ec.europa.eu/europeaid/policies/budget-support-and-dialogue-partner-countries_en

⁵⁴ For more info on Policy Coherence for Development, including the European Consensus on Development and other key documents cited, see https://ec.europa.eu/europeaid/policies/policy-coherence-development_en;

⁵⁵ For more info on 'Disabilities' actions, including the policies, projects, results and key documents cited, see https://ec.europa.eu/europeaid/sectors/human-development/social-inclusion/disability_en, as well as https://ec.europa.eu/europeaid/sectors/human-rights-and-governance/democracy-and-human-rights/economic-social-and-cultural-rights_en;

make all its development cooperation policies and programs inclusive of and accessible to persons with disabilities. This commitment has been explicitly translated into the new European Consensus on Development⁵⁴. The EU is one of the largest supporters of the rights of persons with disabilities through development cooperation. Between 2010 and 2016, it funded over 336 projects focusing on the rights and socioeconomic inclusion of persons with disabilities in over 95 countries.

Operationalising Article 2(7) CIR, a number of measures have been taken regarding the implementation phase of programs, to improve the mainstreaming of disability concerns in all development cooperation projects, notably:

- the PRAG⁵⁷ states that accessibility requirements for persons with disabilities must be included in the technical specifications of EU funded tenders, following a "design for all approach";
- as an internal instruction, considerations regarding the respect of the rights of persons with disabilities are included into the assessment of new projects (i.e. as part of the cross-cutting issues assessment / rights-based approach for each action);
- actions were undertaken to raise the awareness and capacity of EU staff to mainstream disability, such as: i) a guidance note for EU staff on disability-inclusive development; ii) regular training courses for EU staff both on mainstreaming gender, disability and child rights, and on the rights based approach (including the inclusion of persons with disabilities); iii) the creation of a platform for exchange on disability issues on capacity4dev⁵⁸.

Making all development cooperation fully inclusive and accessible is a challenge that the EU shares with other development partners. A new EU global thematic project named 'Bridging the Gap'⁵⁹ precisely seeks to join forces with EU Member States, the Office of the High Commissioner for Human Rights, and networks of Disabled People's Organisations to increase awareness, coordination and technical capacity of development partners to include persons with disabilities in mainstream development cooperation towards the Sustainable Development Goals in a way that is consistent with the CRPD.

Services through the Staff Working Document find that the commitment reflected in Article 2(7) CIR, constitutes a valuable step in the larger process of improving accessibility for persons with disabilities.

- EQ2(d): flexibility and speed of delivery under the comitology procedures⁶⁰:

Articles 2 and 3 CIR determine the applicable comitology-provisions for action programmes and measures in the field of external assistance.

The contribution of the CIR to raising flexibility and speed under the comitology procedures by establishing specific rules is only possible within the limits set out by the Comitology Regulation²² containing the general rules. Services through this Staff Working Document find that the CIR has played a positive role in terms of increasing the effectiveness of the measures' adoption process, for the following reasons:

- Within the above-mentioned limits, and as one element of flexibility, the CIR specifies the thresholds under which implementing measures can be adopted without prior

⁵⁶ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

⁵⁷ See PRAG chapter 2.3.6 (page 37) at https://ec.europa.eu/europeaid/about-funding_en ;

⁵⁸ capacity4dev is the European Commission's knowledge sharing platform for development cooperation where EU staff, as well as development professionals from EU member states, partner governments, civil society, academia and the private sector can collaborate: <https://europa.eu/capacity4dev/>

⁵⁹ See Annex VI of DCI Commission Decision C(2015)8571 at https://ec.europa.eu/europeaid/commission-implementing-decision-27112015-annual-action-programme-2015-part-iii-theme-human_en;

⁶⁰ For more info on comitology, see <http://ec.europa.eu/transparency/regcomitology/index.cfm?do=implementing.home>;

opinion of the committees which only have to be communicated to the committees after their adoption (ex-post info). While similar provisions existed in the last set of External Financing Instruments 2007-2013, the different thresholds were not harmonised, which caused difficulties in the implementation. With one set of thresholds in the CIR and an extended scope for applying this simplified procedure, the number of measures adopted without prior opinion has risen compared to the previous years (2011-13).

- In the past objection from one single Member State to a written procedure, was sufficient to have the measure debated in the plenary session, now a simple majority is necessary. This is a qualitative change, as it means that a successful outcome can be expected. The use of written procedure could therefore have an impact on the speed of delivery.

Finally, it must be remembered that after the opinion of the committee the adoption procedure within the Commission has to be completed according to the internal rules of the Commission, which is not a subject matter of the CIR.

- EQ2(e): monitoring⁶¹:

Article 12 CIR requires that the Commission shall regularly monitor its actions and review progress made towards delivering expected results, covering outputs and outcomes.

The role played by the CIR in strengthening monitoring and thus enhancing accountability of External Financing Instruments as well as the likelihood of achieving the intended impact of EU funded interventions was – correctly - positively assessed in the external evaluation report⁶². Indeed, the monitoring and reporting systems used in the context of the current MFF have been upgraded.

Since 2015, a results-framework for international cooperation and development has been put in place and a dedicated section on results is currently included in the Annual Report on External Financing Instruments⁶³. Also with a view to operationalise Article 12 of the CIR, revised templates for Action Documents⁵¹, accompanied with new dedicated guidances and trainings, have been set up in the course of 2015, 2016 and 2017 - ultimately contributing to enhance results based management at all levels.

- EQ2(f): evaluation⁶⁴:

Article 12 CIR provides that the Commission shall evaluate the impact and effectiveness of its sectoral policies and actions and the effectiveness of programming, where appropriate by means of independent external evaluations.

The external evaluation⁶⁵ found that the CIR provisions on evaluation have given an additional impetus to strengthen the evaluation function of the Directorate General for International Cooperation and Development, the Service for Foreign Policy Instruments and the Directorate General for Neighbourhood and Enlargement Negotiations.

It also found that the CIR requirement that evaluations should be carried out based on “*pre-defined, clear, transparent and, where appropriate, country-specific and measurable indicators*”⁶⁶, helped to strengthen the monitoring and evaluation by increasing attention to results and thereby improving chances that EFI impact is ultimately achieved. For instance,

⁶¹ For more info on external actions Monitoring and Results Framework, including key documents cited, see https://ec.europa.eu/europeaid/monitoring-and-reporting-ec-funded-projects_en;

⁶² Evaluation of the Common Implementing Regulation, Final Report June 2017, page 12;

⁶³ See the annual reports at https://ec.europa.eu/europeaid/annual-reports_en;

⁶⁴ For more info on external actions Evaluation, including evaluation policy, methodology, as well as project and strategic evaluations, see https://ec.europa.eu/europeaid/using-our-experience-improve-quality-our-development-engagement_en;

⁶⁵ Evaluation of the Common Implementing Regulation, Final Report June 2017, page 12;

⁶⁶ Article 12 (1) of the CIR;

according to interviewees at EU headquarters, CIR provisions on monitoring and evaluation have contributed to the adoption of a comprehensive Results Framework⁶⁷ in 2015.

However, several EU Delegations pointed out in their responses to the evaluation survey⁶⁸ that, while the rules on monitoring and evaluation are adequate, they consider not to be sufficiently involved in evaluations and too much use of costly external consultants was made.

Evaluation Question 3: Coherence

To what extent has the CIR enhanced coherence, complementarity, synergies and added value between individual instruments, and across the set of instruments as well as more coordinated ways of working?

- EQ3(a): annual reporting to the European Parliament and Council⁶⁹:

Article 13 CIR requests the Commission to submit to the European Parliament and to the Council an annual report on the achievement of the objectives of each Regulation by means of indicators, measuring the results delivered and the efficiency of the relevant Instrument.

Implementing the CIR-requirement to produce a common Annual Report on all External Financing Instruments (i.e. those managed by the Directorate Generals of European Commission for International Cooperation and Development, for Neighbourhood and Enlargement Negotiations and by the services of the European Commission for Foreign Policy Instruments), as from 2015 required extensive upstream consultation and coordination between these services. The challenge at the time was to adapt the choice of indicators to the realities also of others than Least Developed Countries and to ensure overall consistency of indicators. Benefits in terms of enhancing internal coherence in the reporting on External Financing Instruments outweighed the fact that the publication of the 2015 Report was considerably delayed. The delay should not recur with the publication of the 2016 Report and the reports of subsequent years.

Services through the Staff Working Document agree with the external evaluation that the implementation of the CIR-requirement constitutes a major achievement.

- EQ3(b): promoting visibility⁷⁰:

Article 4(5) CIR requires that, when providing the Union's financial assistance, the Commission shall ensure the visibility of the Union's financial support, including through measures imposing visibility requirements on recipients of Union funds.

The link between practices to enhance EU visibility, i.e. project a coherent image of EU external action, and the CIR is relatively weak⁷¹. References to EU visibility in the CIR remain at a general level. CIR provisions provide the legal underpinning to common practice that has existed at least since 2010.

- EQ3(c): use of country systems:

Art 1(5) CIR and recital 18 state that the Commission shall favour the use of the partner countries' systems when possible and appropriate in light of the nature of the action.

⁶⁷ For more information, on the Results Framework, see https://ec.europa.eu/europeaid/devcos-results-framework_en;

⁶⁸ Evaluation of the Common Implementing Regulation, Final Report June 2017, Annex pages 49-51;

⁶⁹ For more info on external actions Reporting, including the annual reports, see https://ec.europa.eu/europeaid/annual-reports_en;

⁷⁰ For more info on Communication and Visibility for EU external actions, see https://ec.europa.eu/europeaid/work/visibility/index_en.htm_en;

⁷¹ Evaluation of the Common Implementing Regulation, Final Report June 2017, page 14;

The Busan Partnership Agreement⁷² builds on Paris and Accra⁷³ in committing partner countries to strengthening their country systems to the maximum extent possible; and commits donor countries to using partner country public financial management systems, i.e. that development partners will use country (procurement) systems, as the default approach for development cooperation. As it uses the full public finance management system, budget support⁷⁴ remains for the Commission the main modality for the use of countries' systems.

In addition, also in project approach, modalities exist which permit the use of country systems: EU contributions to international or regional funds managed by Member States Agencies (MSAs) or by International Organisations (IOs), may result in the use of country procedures to the extent that the pillar-assessed MSA or IO under indirect management⁷⁵ itself uses partner country procedures. As for indirect management to Partner Countries (PC), the Commission opened in 2016 additional possibilities: on the one hand, within Program Estimates⁷⁶, country procedures for the award of procurement and grant contracts may be used, when those procedures have been previously positively assessed. On the other hand, Pool funds for sector-wide programmes may now also be managed by a Partner Country using its own country procedures subject to a positive full pillar assessment⁷⁷. To date only a very limited number of financing decisions were adopted which make use of those recent openings.

- EQ3(d): involvement of stakeholders in beneficiary countries⁷⁸:

Articles 4(11) and 15 CIR urge the Commission to take account of the specificities, needs and context of stakeholders in the beneficiary countries, such as civil society organisations and local authorities, as well as to duly involve them in the implementation of external actions.

The input from the CIR in the achievement of the objective to involve stakeholders of beneficiary countries, is impossible to isolate as it is intertwined with similar objectives pursued by the DCI's Civil Society Organisations – Local Authorities (CSO-LA) Thematic Program, which is already instrumental regarding the involvement of civil society of beneficiaries' countries. Indeed, as already indicated in the Commission's Communication of 2012⁷⁹, under the CSO-LA Program, the Commission systematically and regularly consults stakeholders in order to allow them to play their role. The main concrete results illustrating this continuing achievement are the Policy Forum for Development (PFD)⁸⁰ and the implementation of EU Roadmaps for engagement of civil society in 105 partner countries⁸¹.

⁷² For more details see <http://www.oecd.org/dac/effectiveness/49650173.pdf>;

⁷³ For more info on the EU approach to development effectiveness, including the Busan, Paris and Accra agreements, see https://ec.europa.eu/europeaid/policies/eu-approach-aid-effectiveness_en, as well as <http://www.oecd.org/dac/effectiveness/parisdeclarationandaccraagendaforaction.htm>;

⁷⁴ For more detail on budget support: see <https://ec.europa.eu/europeaid/node/1565>;

⁷⁵ The so-called 'pillar-assessment' of the systems and procedures referred to in article 60(2) FR: an assessment whether an organisation has procedures in the field of internal control, accountancy, audit, financing, transparency and data-protection (ie the so-called 'pillars'), which provide sufficient assurance to be entrusted with indirect management;

⁷⁶ A Program Estimate contains a work programme of activities to be implemented by a Partner Country for a given budget; its imprest component allows procurement to be conducted by the imprest administrator, up to certain ceilings (by default up to EUR 299 999); an imprest is a fund of a fixed amount, within which modest expenses are paid;

⁷⁷ For more detail on partner country managed Program Estimates and Sector-wide Pool Funds, see chapter 3.2.3.3 ('Scope of delegation: budget-implementation tasks delegated') of the Companion at <http://ec.europa.eu/europeaid/companion/document.do?nodeNumber=3.2.3.3>;

⁷⁸ For more info on 'Civil society' and 'Local authorities' actions, including the policies, projects, results and key documents cited, see https://ec.europa.eu/europeaid/sectors/human-rights-and-governance/civil-society_en and https://ec.europa.eu/europeaid/sectors/human-rights-and-governance/local-authorities_en;

⁷⁹ The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations, Communication from the Commission COM(2012)492: see notably its part on promotion of a meaningful and structured participation of CSOs in domestic policies of partner countries, in the EU programming cycle and in international processes, published at <http://ec.europa.eu/transparency/regdoc/rep/1/2012/EN/1-2012-492-EN-F1-1.Pdf>;

⁸⁰ The Policy Forum For Development is the result of a Structured Dialogue, to offer CSOs and LAs from all around the world as well as European institutions, a multi-stakeholder space for dialogue on development issues, see <https://europa.eu/capacity4dev/policy-forum-development/>;

⁸¹ Roadmaps: Conceived as a joint initiative between the European Union and Member States, to strengthen the strategic engagement with civil society through a common strategic framework to improving the impact, predictability and visibility of EU actions, see <https://europa.eu/capacity4dev/public-governance-civilsociety/minisite/eu-country-roadmaps-engagement-civil-society-introduction>;

The systematic consultation prior to calls for proposals in all EU Delegations can also be mentioned.

Where the CIR has played a role for synergising instruments, is definitely by offering common and more flexible rules. In that sense, through the External Financing Instruments, the Commission has met the objectives defined in Article 4(11)⁸² of the CIR. The Sub-granting option has allowed reaching more smaller and local organisations. Direct award is also foreseen systematically in the call for proposals. Common new rules on nationality and origin on procurement and grant award procedures have helped synergies between instruments. Services through this Staff Working Document are hence of the opinion that the CIR favoured a better coordination between instruments in that regard.

It is important to highlight that the CSO-LA Thematic Program is based on a bottom-up approach, allowing the leverage with other sectorial/thematic instruments and programs both at EU Headquarters and EU Delegations. While securing around EUR 200 million a year for CSO-LAs directly, a total of EUR 2 billion are annually committed for CSOs and LAs through all EU instruments⁸³.

Also the geographical programs financed by DCI, EDF, ENI and IPA, all support long term projects with Civil Society and local Authorities in their respective geographic areas, ensuring the involvement of all stakeholders in beneficiaries countries. In addition, long-term support for structural dialogue with civil society on conflict prevention and peace-building issues forms an integral part of programming under IcSP⁸⁴.

Evaluation Question 4: Efficiency

To what extent has the CIR contributed to timely and cost efficient forms of working?

- EQ4(a): untying of aid:

Articles 8 to 11 CIR lay down the rules on nationality and origin for procurement, grant and other award procedures used in the implementation of external assistance. CIR-recital 10 frames those rules within the Union's commitments to untie Union assistance.

Commitment to accelerate efforts to untie aid was made by the participants to the Busan High Level Meeting⁷³ in 2011. This commitment has been duly translated into the EU regulatory framework with the CIR, which harmonised the rules on nationality and origin for a number of External Financing Instruments under the general budget⁸⁵.

The CIR allows entities to participate in calls for proposals and tenders if they are effectively established in⁸⁶:

- developing countries and territories, as included in the list of Official Development Assistance (ODA) recipients, published by the Development Assistance Committee (DAC) of the Organisation for Economic Co-operation and Development (OECD) ('list of ODA recipients'⁸⁷); for members of the G-20 group⁸⁸, only if they are the beneficiaries of the action;
- overseas countries and territories covered by Council Decision 2013/755/EU⁸⁹, and

⁸² Article 4(11) related to definition financing, type of contribution, award modalities for the management of grants;

⁸³ OECD Report "Aid for CSOs" – December 2015: <https://www.oecd.org/dac/peer-reviews/>;

⁸⁴ IcSP Regulation, Article 4.2(b);

⁸⁵ For more details, see the Evaluation of the Common Implementing Regulation, Final Report June 2017, page 16;

⁸⁶ Except for IPA II, see article 10 CIR;

⁸⁷ The OECD-DAC list of ODA recipients is published at <http://www.oecd.org/dac/stats/daclist.htm>;

⁸⁸ The G-20 list is published at <http://www.oecd.org/g20/g20-members.htm>;

⁸⁹ Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision'), OJ L 344, 19.12.2013. The overseas countries and territories (OCTs) are those listed in Annex II to the Treaty on the Functioning of the European Union (TFEU), OJ, C-115 of 9.5.2008;

- to the member countries of the OECD, in the case of contracts implemented in a Least Developed Country (LDC) or a Highly Indebted Poor Country (HIPC), as included in the list of ODA recipients.

The external evaluation report refers to the 2016 GPEDC Monitoring Report (Global Partnership for Effective Development Cooperation⁹⁰) which stated that EU performance had improved since 2010 but no major change since 2012⁹¹. Services through this Staff Working Document are of the opinion that it is too early to establish which effect the change in the regulatory framework has had on aid untying. According to the 2017 Report on the DAC Untying Recommendation, the EU share of untied aid to LDCs and HIPCs was 84.3% in 2015 (93% in 2012)⁹². EU share in the total ODA was 62.3% in 2015 (47.7% in 2010). These percentages refer to all EU institutions, and instruments that are tied such as IPA reduce the Commission's overall performance in the total share. As the DAC report shows EUs development aid to the LDCs is to a large extent untied.

- EQ4(b): eligibility criteria⁹³:

While setting up the rules on nationality and origin in Articles 8 to 11 CIR, the other main objectives besides untying pursued with the CIR were to provide more flexibility and extension on a horizontal level.

As regards the extension of rules, the CIR achieved this in case of co-financing, where rules on nationality and origin have been extended to those of the partner providing co-financing. As a result, two sets of rules apply simultaneously, thus the entity wishing to participate in a contract-award has to fulfil one or the other. The same applies in indirect management with respect to the rules of the delegated organisation. In addition, in cases where an action is financed from two instruments at the same time, the rules applicable to both instruments apply the same way, ie. the entity wishing to participate has to fulfil one or the other.

When it comes to increasing flexibility, it is equally important to mention that the CIR provides that IcSP and EIDHR are fully untied, which means they do not apply any rule of nationality or origin. In addition, rules of origin no longer apply to supplies under EUR 100 000. As a result, the number of derogations regarding rules of origin has considerably fallen⁹⁴ compared to the period 2011-2013, thereby contributing to less administrative burden and swifter implementation, which is particularly notable for grant contracts.

- EQ4(c): participation of local and regional contractors⁹⁵:

The Financial Regulation's procurement rules applicable to external actions envisage that participation in tendering procedures shall be open on equal terms to all persons eligible under the Treaties and the relevant External Financing Instrument. All public contracts shall respect the principles of transparency, proportionality, equal treatment and non-discrimination. Contracts shall be put out to tender on the broadest possible basis, except when use is made of a negotiated procedure.

It is in this framework laid down by the Financial Regulation, that Article 8(6) CIR imposes on the one hand, to give priority to local and regional contractors in case of single tenders and

⁹⁰ The Global Partnership for Effective Development Cooperation (GPEDC) monitors progress achieved in implementing the aid-effectiveness principles of ownership, focus on results, inclusive partnerships and transparency and accountability. Please see <http://effectivcooperation.org/monitoring-country-progress/explore-monitoring-data/>;

⁹¹ <http://www.oecd.org/development/making-development-co-operation-more-effective-9789264266261-en.htm>;

⁹² DCD/DAC(2017)6/FINAL, published at <https://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/2017-Report-DAC-Untying.pdf>;

⁹³ For more info on Eligibility criteria, see chapters 2.3.1 and 2.3.2 of PRAG and PRAG-annex A2a at https://ec.europa.eu/europeaid/funding/about-funding-and-procedures/procedures-and-practical-guide-prag_en;

⁹⁴ The number of derogations on rules on nationality and origin is estimated at 720 during the period 2011-13, while this number is only 347 for the period of 2014-2016 based on data extracted from CRIS – Common Relex Information System;

⁹⁵ For more info on external action procurement procedures, see PRAG at https://ec.europa.eu/europeaid/funding/about-funding-and-procedures/procedures-and-practical-guide-prag_en;

on the other hand, to promote in all other procurement cases the participation of local and regional contractors. This is in line with the Outcome Documents of the High Level Meetings of Global Partnership for Effective Development Cooperation in Mexico (2014) and Nairobi (2016)⁹⁶ that confirm the commitment to 'enhance the localisation of development cooperation, including by promoting local procurement' in order to strengthen the country ownership and improve especially the level of de facto untied aid.

The majority of single tenders are to be found within the imprest components of program estimates^{27,76,77}. The survey amongst the EU delegations reveals that in 2016, inside the imprest component⁹⁷, out of the total number of contracts awarded under the sample, respectively 46% (DCI), 51% (EDF) and 36% (ENI) were single tenders awarded to local and regional contractors⁹⁸.

The same survey shows that also in procurement procedures other than single tenders, local and regional contractors are successful in winning contracts: within the imprest components, on top of the above-mentioned single tender percentages, they received in 2016 additionally 23% (DCI), 31% (EDF) and 20% (ENI) of all contracts awarded under the sample. This demonstrates that also under competitive negotiated procedures and local open procedures, local and regional contractors succeed in winning contracts. Under the competitive negotiated procedure, the contracting authority draws up a list of at least three economic operators of its choice, without publication of a notice. In a local open procedure, the contract notice is not published on the Official Journal of the European Union, but only in the Partner Country and on the Commission's website.

For larger-scale contracts subject to international tendering, by necessity the financial, economic, professional and technical capacity requirements reflected in the selection criteria, match the amount at stake and may act as an obstacle for local and regional operators. Still, also there, business opportunities exist through either subcontracting assignments from the main contractor or through entering into a consortium with other partners. In that respect, subcontracting is allowed for all procurement contracts.

Overall, the above figures show that the CIR-commitments to promote the participation of local and regional contractors, is successfully implemented.

Evaluation Question 5: Leverage

To what extent has the CIR contributed to making the leverage of further funds or political/policy engagement possible?

- EQ5(a): leveraging of financial resources through budget support⁹⁹:

Article 4(2) CIR qualifies budget support as a method of financing based on mutual accountability and shared commitments to universal values, aimed at strengthening contractual partnerships between the Union and partner countries. CIR-recital 19 promotes its use to support poverty reduction and the use of country systems, make aid more predictable and strengthen partner countries' ownership of development policies and reforms.

A budget support operation is composed of a financial transfer, capacity development and policy dialogue. Through budget support, the EU engages from the technical level to the highest political level with partner countries on macro-economic policies, public finance reform, including domestic revenue mobilisation, and on the public policy which is supported (overall development policy or sector policy depending on the type of programme). Results

⁹⁶ For more info on the Mexico and Nairobi meetings, see https://ec.europa.eu/europeaid/policies/eu-approach-aid-effectiveness_en;

⁹⁷ In 2016, the imprest components committed, amounted to a total of EUR 186 720 524.96;

⁹⁸ Final Report Annexes, page 106;

⁹⁹ For more info on Budget support, including policy and key documents cited, see https://ec.europa.eu/europeaid/policies/budget-support-and-dialogue-partner-countries_en;

and impact of this modality are demonstrated by numerous country evaluations and illustrated in the annual report on budget support covering fiscal year 2015¹⁰⁰.

A budget support operation can also act as a catalyst and facilitate further leveraging of financial resources and political engagement. Budget support acts at different levels. On the one hand, it reduces the risks for investors by strengthening institutions and promoting conducive national and sectoral policies, which are crucial elements for all investment operations, notably to economic governance and macro-economic stability. The related technical assistance envelopes focus on specific capacity building to the implementation of sector policies, Public Finance Management reforms, expenditure management, statistics, etc.

On the other hand, budget support can strengthen the coherence between the projects undertaken by private investors and the various policies of the government. EU financial assistance, in particular budget support and the blending instruments, are used to leverage domestic public resources in recipient countries as well as funds from other donors, institutions and private sector within a coherent overall framework. This is particularly critical in low income countries that private investors tend to avoid.

Budget support is also an instrument which can contribute to sustaining the results achieved by investment. It can help with the transition of developing countries from ODA to domestic revenues, increase transparency and accountability and improve public investment policies and execution as well as improve the investment climate and business environment.

Domestic revenue mobilisation, fiscal transparency and sound public financial management are closely interlinked and supported by a number of actions. The overall approach is clarified in the 2015 Staff Working Document 'Collect More – Spend Better'¹⁰¹ and its implementation is organised along two axes, one to support international and regional partnerships and the other, larger one, to support to domestic public finance in the context of economic governance and budget support programmes at national level.

- EQ5(b): leveraging of financial resources through financial instruments¹⁰²:

Articles 4(1)(e) and 4(3) CIR highlight the financing through financial instruments, such as loans, guarantees, equity or quasi-equity, investments or participations, and risk-sharing instruments. CIR-recital (8) promotes the use of such financial instruments for their leverage effect, as an efficient use of available resources in order to optimise the impact of the Union's external actions.

The CIR has contributed to the further expansion and development of blending, implemented through indirect management with development finance institutions. The CIR helped to create a regulatory framework for the implementation of financial instruments used in external action and blending.

Blending is the combination of non-repayable form of support as well as repayable financial instruments (equity, loans, guarantee, other risk sharing capital etc.) funded by the EU with loans and other repayable and non-repayable funds provided by eligible finance institutions to finance investments. It was introduced in 2007 with the establishment of the EU-Africa Infrastructure Trust Fund¹⁰³ and the blending facility for the Neighbourhood region. Currently there are 8 blending facilities¹⁰⁴ covering all regions of external action, Africa, Neighbourhood, Asia, Central Asia, Latin America, the Caribbean, the Pacific and the Western Balkans.

¹⁰⁰ http://ec.europa.eu/europeaid/annual-report-eu-budget-support-2016-0_en;

¹⁰¹ <https://ec.europa.eu/europeaid/sites/devco/files/swd-collect-more-spend-better.pdf>

¹⁰² For more info on financial instruments including policy and key documents cited, please see https://ec.europa.eu/europeaid/policies/innovative-financial-instruments-blending_en

¹⁰³ For more details on the EU-Africa Infrastructure Trust Fund, see https://ec.europa.eu/europeaid/regions/africa/eu-africa-infrastructure-trust-fund-eu-aif_en;

¹⁰⁴ https://ec.europa.eu/europeaid/policies/innovative-financial-instruments-blending_en;

In external action financial instruments are also used at the level of individual, smaller scale projects. These projects are proposed by pillar assessed⁷⁵ development finance institutions that are eligible under each blending facility which implement them according to their rules. The CIR allows for the grouping of these financial instruments for the purposes of reporting and ex ante assessment, thus avoiding unnecessary bottlenecks for timely implementation.

Through this attractive innovative instrument greater leverage, i.e. mobilisation of additional funds, can be achieved in two ways; firstly, blending itself leverages funds from development finance institutions through EU funds availability as such; secondly, the use of financial instruments by the EU itself contributes to greater leverage through the repayable nature of the EU funds that can be used in a revolving manner.

Blending experience has shown that the estimated financial leverage ratio¹⁰⁵, on average 1:17, can vary considerably depending on the sector, region, country and project specifics. Projects are in parallel assessed for their non-financial added-value ("additionality") they may bring, e.g. social, environmental, policy dialogue etc. The leverage effect is further scaled up, when the EU uses financial instruments, instead of grants, as the former have the potential of enhancing the use of the budget resources. Therefore, the CIR contributes also to the efficient use of EU funds.

The use of financial instruments in external assistance is increasing. A template for signing contracts has been established based on the rules applicable in the Financial Regulation, and reference was made to the CIR for its own rules on reflows.

This SWD therefore concludes that the CIR has directly contributed to the leverage of funds.

6. Conclusions

1. The CIR has proven fit for purpose in the context of formulation, implementation, monitoring and evaluation of External Financing Instruments. It increased flexibility in the adoption of implementing measures under comitology procedures, rules on nationality and origin. It also provided for broader use of country systems and the use of local and regional contractors. Accountability has been enhanced through the strengthening of monitoring and evaluation and a more comprehensive annual report on External Financing Instruments.

2. The most important added value of the CIR has been that it harmonised implementing rules for all External Financing Instruments. Harmonisation has been achieved to a large extent for comitology procedures, general financing provisions (notably general and sectoral budget support), rules on nationality and origin (untying of aid) as well as monitoring and evaluation. At the same time, specific provisions still had to be designed to respond to the diverging needs of individual External Financing Instrument. These are contained in various legal acts, the CIR itself, the External Financing Instrument Regulations and in dedicated additional Implementing Regulations¹⁰⁶. The establishment of a single set of rules was achieved to a large extent, with due consideration given to specificities at the same time.

3. The CIR has proven fit for purpose in terms of simplification of rules to a lesser extent. Firstly, the coexistence of implementing rules outside of the CIR result in a legal architecture which is still complex. Secondly, the applicable comitology rules provide limited exceptions from examination procedures. Thirdly, rules on nationality and origin remain difficult to explain to external stakeholders. Lastly, more stringent requirements for monitoring, evaluation and the Annual Report – albeit enhancing accountability – pose

¹⁰⁵ The ratio between on the one hand the financing provided by EU funds, and on the other hand the total financing coming from additional non-EU funds;

¹⁰⁶ Commission Implementing Regulation No 447/2014 of 2 May 2014 on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession assistance (IPA II); Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument;

challenges for compatibility between multiple indicators in different External Financing Instrument contexts.

4. The CIR has proven fit for purpose to a lesser extent as well in terms of the most efficient use of available resources to optimise the impact of external action. The adoption procedure for action programmes, individual measures and special measures remains still lengthy.

5. Finally, the CIR has proven fit for purpose to a lesser extent when it comes to some of the substantive policy-concerns: while the CIR did provide a legal underpinning for those topics, it had limited direct causal effect in ensuring their activation within the framework of External Financing Instruments, as the attention to these topics was often driven by broader, pre-existing policy agendas. In addition, the selective choice of substantive topics included in the CIR, implied by contrast the possibility of non-included topics gaining importance after the CIR's adoption, without being highlighted in the CIR.

Annex 1. Procedural information

1. Independent evaluation:

The evaluation is largely supported by the independent evaluation undertaken by an external consultant. Data collection by the consultant was undertaken through a two-step approach involving separate but related exercises:

- The application of the CIR rules has been assessed by various evaluation teams as part of their respective evaluations of External Financing Instruments. This assessment took place by providing responses to a common set of questions (October – December 2016) formulated by the external consultant for the CIR;
- In a second step, responses from the evaluation teams were drawn together by the external consultant for the CIR, who also collected additional information (December 2016 – January 2017).

The independent evaluators also made use of responses to the *general survey on External Financing Instruments among EU Delegations*.¹⁰⁷ The EU Delegations survey consisted mostly of open questions soliciting narrative responses. The response rate can be considered as high, since 85 completed questionnaires were received (from 132 EU Delegations contacted). The survey therefore produced much useful information from the field.

The independent evaluation teams also reviewed *key documents* and conducted *interviews with EU staff* and other stakeholders in Brussels and during field visits. Data from different sources (document study, interviews, survey) were compared and checked for consistency, before formulating findings and conclusions.

2. Open Public Consultation:

The draft external evaluation report was posted on the website of the European Commission for an *Open Public Consultation* between 7 February and 5 May 2017¹⁰⁸. All stakeholders in partner countries and EU Member States were welcome to participate in this consultation¹⁰⁹.

The objective of the web-consultation was twofold:

- To gather feedback from the broadest possible range of stakeholders.
- To gather preliminary ideas on the future External Financing Instruments after the current ones expire on 31 December 2020.

In addition, as part of the public consultation, a *technical workshop* with over 180 participants from the European Parliament and EU Member States was organised on 27-28 March 2017. The purpose of this workshop was to gather views on the draft external evaluation reports of the External Financing Instruments and start reflections on the future of the instruments post-2020. The comments received during the Open Public Consultation have been taken into consideration in the final version of the external evaluation report and also as an additional source of evidence and basis for the analysis.

¹⁰⁷ Evaluation of the Common Implementing Regulation, Final Report June 2017, Annex pages 130 - 139;

¹⁰⁸ https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en;

¹⁰⁹ For the OPC-feedback received, see the Evaluation of the Common Implementing Regulation, Final Report June 2017, Annex pages 140-146;

Annex 2. Synopsis report of the stakeholders' consultation

10 pages max

Lead: Evaluation units

The self-standing synopsis summarises the results of all the consultation activities in relation to a particular initiative and gives a qualitative analytical overview of these results. Its aim is twofold: to inform policy making on the outcome of all consultation activities and to inform stakeholders on how their input has been taken into account and to explain why certain suggestions could not be taken up. The synopsis should comprise the following general elements:

- A key outline of the consultation strategy, referring to the consultation objectives as defined, identified stakeholders and selected consultation methods and tools;
- Documentation of each formal consultation activity, including, if applicable, an explanation as to how and why the initial consultation strategy was modified;
- Information on which stakeholder groups participated, which interests they represented and whether all identified stakeholder groups have been reached;
- Description of the results of each consultation activity; if different consultation activities have been undertaken in the context of the same consultation scope, a comparison of their results including interdependencies, consistencies or contradictions in relation to contributions and main stakeholder categories;
- Information on identified campaigns for public consultations (where organisations call their members to participate in the consultation with suggested responses). The information should include the share of contributions and their viewpoint.
- For ad hoc contributions received outside the formal consultation context, a separate paragraph should be added describing the origin of the contributions received including identification of the type of stakeholder and their represented interests,
- Where applicable, a paragraph summarising the feedback received on the roadmap or inception impact assessment
- Explanation and justification on how the information gathered in the context of the consultation work as well as feedback received have fed into the further work on the initiative, evaluation or fitness check. Where relevant, this should include explanation on why certain widely supported views were not or not entirely considered.
- If National Parliaments have contributed, it is recommended to inform in a separate paragraph which National Parliaments contributed (Member State and chamber) and what issues they addressed.

The main part of the SWD should make reference to key conclusions of the synopsis where relevant.

Annex 3. Acronyms

CIR	Common Implementation Regulation
CSO	Civil Society Organisation
CRPD	UN Convention on the Rights of Persons with Disabilities
DAC	Development Assistance Committee
DCI	Development Cooperation Instrument
DG DEVCO	Directorate General for International Cooperation and Development
DG NEAR	Directorate General for Neighbourhood and Enlargement Negotiations
DRM	Domestic Resource Mobilisation
EDF	European Development Fund
EEAS	European External Action Service
EFI	External Financing Instrument
EIDHR	European Instrument for Democracy and Human Rights
ENI	European Neighbourhood Instrument
EUD	EU delegation
FR	Financial Regulation
FPI	Service for Foreign Policy Instruments
GD	Greenland Decision
GPEDC	Global Partnership for Effective Development Cooperation
HIPC	Highly Indebted Poor Country
IcSP	Instrument contributing to Stability and Peace
INSC	Instrument for Nuclear Safety Cooperation
IPA II	Instrument of Pre-Accession Assistance
IO	International Organisation
LA	Local Authorities
LDC	Least Developed Country
MFF	Multiannual Financial Framework
MS	Member States
MSA	Member States Agency
MTR	Mid-Term Review
OECD	Organisation for Economic Co-operation and Development
ODA	Official Development Assistance
OPC	Open Public Consultation
PC	Partner Country
PI	Partnership Instrument
PRAG	EU external actions Practical Guide for Procurement & Grants

PPCM	Programme and Project Cycle Management
PFM	Public Finance Management
ROM	Results-Oriented Monitoring
RBA	Rights Based Approach
SDG	Sustainable Development Goals

Annex 4. External evaluators' report, including its annexes.

The external evaluation can be found here: https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en