

*Study on Legal Instruments and Lessons Learned from
the Evaluations Managed by the
Joint Evaluation Unit*

Final Report

Volume 1:
Final Summary Report

July 2011

Evaluation for the European Commission





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**Study on Legal Instrument and Lessons
Learned from the Evaluations Managed by the
Joint Evaluation Unit**

FINAL REPORT

July 2011

**This evaluation was carried out by
*The European Centre for Development
Policy Management***

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The authors accept sole responsibility for this report, drawn up on behalf of the Commission of the European Union. The report does not necessarily reflect the views of the Commission

Study on Legal Instruments and Lessons Learned from the Evaluations Managed by the Joint Evaluation Unit

Final Report

The report consists of 3 volumes:

Volume 1: Draft Final Summary Report

Volume 2: The Intervention Logics

Volume 3: The Review of Evaluation Reports

VOLUME 1: DRAFT FINAL REPORT

1. Introduction
 2. Conceptual Framework
 3. Methodology
 4. Phases 1 and 2: The Intervention Logic of the Legal Instruments
 5. Phase 3: Linking Evaluation Results (2006-2011) to the Legal Instruments Objectives
 6. Phase 4: Proposals for the Future
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1. Analysis of the Evaluation Evidence
 2. Synthesis of the Phase 3 Evidence on the Six Legal Instruments
 3. Review of Evidence on Implementation Issues
- Annex 1: Grid for Analysing Evaluation Reports
Annex 2: Trends in Management, Modality, Approach and Performance

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ACRONYMS

3Cs	Coherence, Complementarity and Coordination
AAP	Annual Action Programme
ACP	African, Caribbean and Pacific countries
ASEAN	Association of Southeast Asian Nations
ASEC	ASEAN Secretariat
BS	Budget support
CBC	Cross Border Cooperation
CFSP	Common Foreign and Security Policy
COM	European Commission Communication
CSO	Civil Society Organisation
CSP	Country Strategy Paper
DAC	Development Assistance Committee
DCECI	Development Cooperation and Economic Cooperation Instrument
DCI	Development Cooperation Instrument
DEVCO	Directorate General Development and Co-operation
DG RELEX	Directorate General External Relations
EC	European Commission
ECHO	Directorate General Humanitarian Aid and Civil Protection
EDF	European Development Fund
EEA	European Economic Area
EEAS	European External Action Service
EIA	Extended Impact Assessment
EIB	European Investment Bank
EIDHR	European Instrument on Democracy and Human Rights
ENP	European Neighbourhood Policy
ENPI	The European Neighbourhood Policy Instrument
EP	European Parliament
ERDF	European Regional Development Funds
ESDP	European Security and Defense Policy
ETP	European Training Programme
EU	European Union
EUD	European Union Delegation
Euratom	European Atomic Energy Community
FDI	Foreign Direct Investment
FIL	Faithful Intervention Logic
GBS	General Budget Support
IAEA	International Atomic Energy Agency
ICC	International Criminal Court
ICI	Industrialised Countries Instrument
IFI	International finance institution
IfS	Instrument for Stability
IL	Intervention Logic
INSC	Instrument for Nuclear Safety Cooperation
IP	Investment Promotion
IPA	Pre-Accession Assistance
JEU	Joint Evaluation Unit
JRC	Joint Research Centre
LICs	Local Information Commission
M&E	Monitoring & Evaluation

MEFF	Multi-annual Financial Framework
MDGs	Millennium Development Goals
MEDA	Instrument of economic and financial cooperation under the Euro-Mediterranean partnership
MEP	Member of Parliament
MEFF	Multi-annual financial framework
MICs	Monitoring and Information Centre
MS	Member State
MTR	Mid-Term Review
NA	Not Applicable
NGO	Non-Governmental Organisation
NRM	Natural resource management
NSA	Non-State Actor
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OJ	Office Journal of the European Communities
OSA	On-site assistance and design safety
PCA	Partnership and Co-operation Agreement
PCD	Policy Coherence for Development
PCM	Project Cycle Management
PEGASE	Mécanisme Palestino-Européen de Gestion de l'Aide Socio-Economique
NIP	National Indicative Programme
RIP	Regional Indicative Programme
PKO	Peace keeping operations
PMU	Programme Management Unit
PR	Progress Report
PRSPs	Poverty Reduction Strategy Papers
RG	Reference Group
RWM	Radioactive waste management and safeguards
SEC	Secretariat of the Council of the European Union
SIGMA	Support for Improvement in Governance and Management
SMEs	Small and Medium Enterprises
SQ	Study Question
TACIS	Technical Assistance to the Commonwealth of Independent States
TAIEX	Technical Assistance and Information Exchange
TDCA	Trade, Development and Cooperation Agreement
TEC	Treaty establishing the European Community
TEU	Treaty on European Union
TORs	Terms of Reference
UN	United Nations
WTO	World Trade Organisation

EXECUTIVE SUMMARY

Purpose and approach of this study

1. The *overall purpose* of this study was to see what lessons could be learnt from the past experience of EC external action programmes that might be useful in the design and formulation of the EU's next multi-annual budget. In addition, the study also sought to identify lessons which could improve the design of future evaluations.
2. The current European multi-annual budget runs from 2007 to 2013 and includes a set of 10 external action budget lines or 'legal instruments' as they are known, instead of 35 in the previous budget. This reform involved a protracted negotiation between the Commission, the European Parliament and the Council. Proposals for Europe's next multi-annual financial framework (MFF) from 2014 are discussed during 2011-2012.
3. Out of the current 10 legal instruments, 6 were analysed in this study:
 - **DCI** – the financing instrument for development cooperation;
 - **ENPI** – European Neighbourhood and Partnership Instrument;
 - **INSC** – Instrument for Nuclear Safety Cooperation;
 - **IfS** – Instrument for Stability;
 - **EIDHR** – Instrument for the promotion of democracy and human rights worldwide;
 - **ICI** – Instrument for cooperation with industrialised and other high-income countries and territories.
4. These 6 legal instruments are all Council regulations that provide the legal basis for expenditure of the budget in the defined areas. The regulations spell out the wishes of the European Parliament and the Council of Ministers, as to how and on what the available funds should be spent.
5. The study was based on an analysis of documents and looks into what are basically two separate bodies of evidence: (a) the legal instruments and how they were formulated; and (b) the evaluation reports for the relevant 2007-2010 period. These represented the two key phases of the study process (see section 3 of this Volume for details on the methodology), which formed the evidence base for the study's findings, conclusions and recommendations:
 - *Ex-ante analysis*: what did the **6 legal instruments** set out to achieve?
 - *Ex-post analysis*: what can be learned from **57 evaluation reports** commissioned by the JEU (Joint Evaluation Unit) for the then DGs RELEX, DEV and AIDCO as to whether these expected results were achieved?
6. The *key conclusion* to be drawn from this study is that the logic of the principal external action legal instruments could generally be substantially improved in order *first*, to make it clearer for users how it is intended to achieve the instruments' objectives, and *second*, to make it easier to evaluate progress made towards these objectives. The study has demonstrated that it is possible and indeed valuable to relate the findings of the evaluations done during the life time of the last set of financial instruments to a good number of the results and impacts expected from them, but the analysis also reveals gaps and an overall lack of evidence on progress towards the Global Impacts of each instrument.

7. These gaps in evidence are not just to do with the coverage of the evaluations, but also, it is argued, because the legal instruments are in themselves not always clear and they have not been designed in a manner that facilitates their evaluation. Recommendations are formulated as to how this situation might be remedied in the next set of external action legal instruments for the 2014-2020 multi-annual financial framework, both by improving the formulation of the instruments so that their logic is clearer and by taking proactive steps to link the future evaluation programme more closely to the new instruments.

The intervention logic of the legal instruments

8. As a first step in the study, *Faithful* intervention logics were produced on the basis of the details in the Regulations and then analysed. These diagrams reflect the legal instruments in terms of objectives, the values and principles they incorporate as well as the hierarchy of their importance in relation to each other.
9. In order to further detail these diagrams and produce *'reconstructed'* intervention logics, an analysis was subsequently made of the ex-ante impact assessments, the initial proposals of the EC on the legal instrument and other documents such as Annual Action Plans for the implementation of each instrument.
10. The following conclusions are drawn on the basis of this *comparison of the reconstructed logics* (see Annex to this Volume) *with the faithful logics*:
- ***Having a single legal base for each instrument*** helps improve the clarity of what is intended in the legal instrument as well as the governance and accountability provisions.
 - ***The objective to have policy-driven instruments*** remains relevant and useful as the policies help clarify and explain intentions in greater detail.
 - ***Formulating clear logic chains in regulations is key.*** This can be encouraged by avoiding unstructured lists of activities and unclear links between activities, outputs and their intended impacts. The relationships between each step in the chain should be clear and logical so as to avoid gaps in the logic and 'orphan' outputs or impacts.
 - ***A division of tasks*** between the regulation and the policy document can be a way to go into greater detail without overloading the regulation. The policies can be used to provide a more detailed framework than is found in the regulations so as to ensure a common-basis of understanding and *guide the choices* made in country/regional strategy papers as well as help ensure alignment with the regulation. The instrument should not just be seen as a random cluster of activities that the EC wishes to conduct, but rather as an agreed *intervention framework with a thought through logic.*
 - ***Prioritisation to guide execution.*** Several regulations contain long lists of identified activities. Prioritising these in relation to the objectives of the instrument can be useful to clarify the intervention logic.
 - ***A minimum level of detail is needed in regulations.*** Disagreements between the Commission and the Parliament over the eligibility of certain activities to be undertaken as well as on the type of outputs shows that a minimum level of detail may avoid such disagreements emerging later during the implementation process.
 - ***ODA/non-ODA division needs to be clarified in geographic instruments.*** One reoccurring issue identified in the EC's 2009 Mid Term Review of the instruments was the issue of eligibility of certain types of expenditure as Official Development Assistance (ODA). Some Regulations (DCI, ICI and ENPI) were particularly confronted with such challenges as a result of disagreements with the Parliament on what activities were eligible as ODA. Regulations could be more specific on whether ODA and/or non-ODA activities were fundable.

- *The complementarity between thematic and geographic instruments needs to be clearer.* Complementarity that was ‘required’ by the regulations did not always emerge in practice. This points to a need to (a) *specify what type of complementarity* is intended and to (b) clarify further the *division of tasks and relationship between thematic and geographic instruments and programmes.*

Linking evaluation results to the legal instruments

11. As a second step in the study, *Information on the results achieved* through EC development cooperation was identified by a structured analysis of 57 evaluation reports. These were all finalised between 2006 and 2011, and to some extent cover the performance of the predecessors of the legal instruments studied here. The Study therefore worked on an *assumption of a high degree of continuity* in the external action work of the Commission, which implied that results would still be relevant to the Study and could be related to the existing instruments.
12. *A total of 266 results* were identified which corresponded to expected results in the intervention logics. Despite being high in number, their distribution across the six legal instruments is *very uneven* (see table), with most being related to just three instruments, the DCI, ENPI and EIDHR. There is thus felt to be *insufficient evaluation evidence for the INSC and particularly the ICI and IfS instruments.*

	# of results		# of results
DCI	147	ICI	4
EIDHR	28	IfS	5
ENPI	74	INSC	13

13. Horizontal analysis of the results per instrument (see Volume 3) resulted in the following conclusions:
 - *Lack of clarity in intervention logics leaves room for interpretation* Linking the evaluation results to the interventions logics is made more difficult when the latter are not clear in their logic chain and overloaded at the result level. This obscures both learning and accountability on whether the results as found in evaluations contributed to the impact and global impact objectives as stated in the legal instruments.
 - *A fair degree of convergence was evident* between what was expected and what took place, *but not all results are positive.* The sizeable proportion of mixed results (i.e. which did not make a difference) indicates *room for improvement* in both the programming and implementation, but also in the formulation of the guidance the instruments themselves provide for these actions.
 - *Missing links.* There was a lack of evidence on linkages and interrelations between the six legal instruments being made in practice in their use. None of the evaluations addressed this explicitly.
14. *Conclusions on the implications for the future evaluation programme* were also drawn. The following points were identified as requiring attention:
 - *Address evaluation and policy gaps*
 - *Establish additional review processes focussing on the Global Impact*
 - *Improve the links between evaluations and regulations*
 - *Budget for ex-ante impact and risk assessments*
 - *Improve the timing of evaluations so that their conclusions are ready when needed*

Conclusions and proposals for the future

15. As was stated in paragraph 6 above, the *overall conclusion* emerging from this study is that it is by and large feasible to match up the results gathered by evaluation reports with the logic of the six legal instruments studied. The match is generally good though not perfect, and this highlights that improvements could be made in both the implementation and in the evaluation process. To achieve this more attention would have to be paid to the contents, logic and results of the legal instruments throughout their lifecycle. A first step would be to improve their logic and tie them in well with the related policy documents so that they are more useable as a day-to-day tool in implementation. A second would be to factor them systematically in to the evaluation programme.
16. Following this conclusion, *two sets of recommendations* have therefore been formulated: seven relating to the design of future legal instruments and four additional recommendations on possible improvements to the future evaluation programme.

Recommendations for future legal instruments:

17. *The key issue for future legal instruments was felt to be ensuring they had a clear logic.* Some principles to follow to achieve this in their design were identified:
- *The regulation should reflect a logical argument* of what is to be achieved and how;
 - *Use simple language;*
 - *Leave space for management;*
 - *Stick strictly to the essentials* particularly in broader and more complex instruments;
 - *Instruments should be policy-driven* so if the policy does not exist draft it first
 - *Use a clear division of tasks between the regulation and the policy*, with the latter providing the detail and the former only the essence of the argument;
 - *Resist the temptation to be exhaustive in the regulation.*
18. *Instruments should incorporate a Global Impact review clause* so as to ensure some form of review or assessment takes place of the extent to which the Global Impact of the regulation is being achieved.
19. *Strengthen the complementarity between instruments.* As indicated very little evidence came through of the instruments being used as intended in a complementary fashion. This should be reinforced in the future instruments with clearer indications of what is expected.
20. *Link on-going implementation of past instruments to current priorities* so that new ideas and priorities feed through faster into current programmes. This could be done by including a 'continuity clause' in the regulation, that specifies this link is desirable and indicates which new instrument is linked to which 'old' funds. This would also help overcome the time-lag problem encountered in synthesis studies such as this one.
21. *Set targets for the use of different aid modalities.* The current instruments make provision for the use of a wide range of modalities. Yet in several cases it was found that only one or two different modalities were being used and often ones (such as the calls for proposals system with NSAs) that were not ideal for achieving the outputs and intended impact of the instruments.
22. *Prepare the regulations for blending loans and grants* as it is already apparent that a greater use of both will become more common in the future. The new regulations need to provide for

this so as to ensure greater synergies between different components of the EU external action system.

23. *Design a coherent package of new instruments* so as to promote transparency, encourage efficient use of all the instruments and help ensure that all stakeholders understand their different uses and how they complement each other.

Recommendations for future evaluations

24. *Improve explicit links between evaluation and the legal instruments:* The current regulations do not set any priorities for evaluation, and existing evaluations do not explicitly aim to provide information relevant to evaluating the regulations. Future terms of reference for evaluations could include references to specific objectives of the legal instruments with a requirement to evaluate whether or not the work being evaluated has helped make progress towards this goal.
25. *Ensure timely and sufficient coverage of all legal instruments:* The programming of evaluations should ideally not leave some programmes or instruments completely uncovered so late in the cycle even if these are the instruments where least money is spent. Efforts should be made to ensure that the next evaluation programme is sufficiently representative in terms of the funding volume, the scope of expected results, and the type of programme. To ensure this happens adequate resources for independent evaluation will be required.
26. *Adequate baselines and ex-ante assessments:* Several of the evaluation reports examined pointed to problems in measuring performance due to absent baselines or risk assessments. Impact assessments had only been conducted for 2 out of the 6 legal instruments. Under the next Multi-Annual Financial Framework, *links could be improved between ex-ante assessments and ex-post evaluations*, and efforts should be made to ensure that specific baseline and risk assessments are conducted in parallel to the Impact Assessments.
27. *Provisions for synthesis studies and evaluations* – The current study has underlined the value for policy making of conducting synthesis exercises of evaluation reports from time to time. This could be encouraged by allocating funds for this purpose in budgets and by writing a requirement for such exercises into future legal instruments.

Concluding remarks

28. This final report describes an analytical exercise which in various ways was *relatively unique*, because it sought to systematically synthesise and draw lessons from a group of evaluation reports. Despite its different limitations, the overall exercise shows the value of making occasional investments in synthesising and analysing the results of multiple evaluation reports. The results of the analysis confirm that not only evaluating the concrete outcomes of policies themselves, but also the process of their formulation can result in valuable lessons that can strengthen the effectiveness of future policy.

1 INTRODUCTION

1.1 Context of the Study

As part of the reform of EU external assistance undertaken by the European Commission in the early years of the new millennium, a major rationalisation of the EU Budget chapter for external action was carried out. The new multi-annual budget or EU ‘financial perspectives’, as they are known, that came into force in January 2007 thus included a set of 10 external action budget lines or ‘financial instruments’ instead of the previous 35. This reform involved a protracted negotiation with the two other concerned European institutions, the European Parliament and the Council, and placed considerably more management authority in the hands of the Commission in exchange for what was seen at the time as a clearer statement of objectives and policy against which the Commission would then be held accountable. The new budget lines were thus seen as ‘*policy based instruments*’ and their regulations were explicitly linked with related policy statements.

In the development cooperation sector, the funds for which constitute a large proportion of the EU external action budget, this reform was widely welcomed and the OECD DAC Peer Review of the EC in 2007 concluded:

“The consolidation of financial instruments has been an important and necessary exercise and will result in greater transparency, efficiency and effectiveness. But there may be more opportunities ahead to further integrate and reduce them, particularly in 2013 when most financial instruments expire. The Community needs to persist in streamlining its budgetary arrangements.”¹

As we approach the end of the period of this multi-annual budget (2007-2013) it is therefore appropriate to look back and see what lessons can be learned in time for these to feed into the reflection on the future successor instruments. This study is a contribution to this reflection.

As per the ToR for this study, six of the external action instruments were created in 2006 and 2007 are covered. These are as follows:

Table 1: EU external action Legal Instruments covered in this study

Instrument	Funds for 2007-2013 ²
1) The financing instrument for development cooperation (DCI), established on 18 December 2006 (Regulation (EC) No 1905/2006)	€ 10.057 billion
2) The European Neighbourhood and Partnership Instrument (ENPI), established on 24 October 2006 (Regulation (EC) No 1638/2006)	€ 11.181 billion
3) The Instrument for Nuclear Safety Cooperation (INSC), established on 19 February 2007 (Regulation (EURATOM) No 300/2007)	€ 524 million
4) The Instrument for Stability (IfS), established on 15 November 2006 (Regulation (EC) No 1717/2006)	€ 2.062 billion
5) The financing instrument for the promotion of democracy and human rights worldwide (EIDHR), established on 20 December 2006 (Regulation (EC) No 1889/2006)	€ 1.104 billion
6) The financing instrument for cooperation with industrialised and other high-income countries and territories (ICI), established on 21 December 2006 (Regulation (EC) No 1934/2006)	€ 172 million
Total	€ 25.10 billion

All the above instruments are used to finance EU interventions in and cooperation with third countries, and have to be consistent with the objectives for EU external action in general and

¹ Quoted from the summary of the Peer Review at:

: http://www.oecd.org/document/0/0,3343,en_2649_34603_38897408_1_1_1_1,00.html

² EC sources used: http://ec.europa.eu/europeaid/how/index_en.htm and

http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/industrialised_countries/r14107_en.htm

development cooperation in particular, as set out in the EU Treaties for the period of study (2006-2010). The regulations relating to these six instruments were analysed in the study. Since their establishment the instruments have been subject to some limited assessment and review, the conclusions of have also been examined.

As per its mandate for evaluating the policies and operations of the wider RELEX family, the Joint Evaluation Unit (JEU) has managed a series of geographic and thematic evaluations, as well as some on aid modalities, since the adoption of the various regulations. These evaluations are listed in Annex 1 to the ToR and constitute another body of evidence that will be covered by this study. The main focus of these evaluations was on results and impacts (effects) achieved and one of their main objectives was to identify key lessons in order to improve the current and future strategies and programmes of the Commission of the European Union (further referred to as 'Commission').

1.2 Objectives of the Study

The Terms of Reference for the study state its overall objective as:

“Based on the JEU evaluations from 2006 to 2010 to identify results of the EC’s external and development cooperation and learn lessons in order to provide inputs for the revision of the related EU Budget legislative instruments (post 2013).”

The ToR also specify sub-objectives and tasks grouped under a series of four Phases as follows:

1. In **Phase 1** of the study, an analysis was made of the six legal instruments in terms of the objectives, values and principles they incorporate as well as the hierarchy of their importance in relation to each other. Logical diagrams corresponding to each of them were developed in order to identify possible gaps or overlaps between the objectives and scope of the instruments. This work was presented in the **Inception Report**.
2. During **Phase 2** of the study, existing impact assessments for the six instruments and other documents relating to them were reviewed to identify the expected impact of the instruments and explain how this impact was planned to be achieved. The additional information from these sources was used to improve the intervention logic diagrams
3. In **Phase 3**, a synthesis of evaluation reports was produced to list the actual achievements or impacts they identified and compare them with the expected impacts derived from the analysis of the instruments in Phase 2. The **Desk Report** summarised the conclusions of Phases 2 and 3.
4. **Phase 4** of the study involved the identification of options for improving future legal instruments on the basis of the analysis carried out in the three earlier phases of the study. This is reported on in this **Final Report**.

This Final Report (Volume 1) is thus intended to not only report on Phase 4, but also to sum up the findings and conclusions of the whole study, as well as present options for improving the future legal instruments and their evaluation. A first part of this report introduces the context and key concepts used. This is followed by a short methodology chapter. Thereafter two sections present the work on the legal instruments (Phases 1+2) and on the evaluation (Phase 3). The last chapter reports on the conclusions and recommendations reached in Phase 4.

For more detail of the earlier stages of the study, the work done in the previous phases and covered in the Inception and Desk Reports is also presented again, with the comments received having now being taken into account, in the accompanying Volumes 2 (Phases 1+2) and 3 (Phase 3).

2 CONCEPTUAL FRAMEWORK

2.1 Role of Regulations/Legal Instruments

The six specific legal instruments covered by this Study are all Council regulations, that provide the legal authority for expenditure of the budget in the defined areas. They also provide the key ‘organising principles’ for the financial assistance the European Commission manages on behalf of the European Union for the purpose of advancing relevant Articles in the Treaty on European Union. The Regulations spell out the wishes of the Budgetary Authority, that is the European Parliament and the Council of Ministers, as to how and on what the available funds should be spent.

Studies on European development cooperation and the wider EU external action programme under the previous Financial Perspectives (2000-2006) often pointed out that its governance was far from effective, and highlighted problematic issues such as the high number of legal instruments and the micromanagement tendencies of some EU actors involved. The 2002 OECD/DAC Peer Review, for instance, was clear in its assessment of this financial architecture: *“The large number of different budget lines and instruments mentioned above, many of which require their own legal basis and regulations, and the proliferation of the number of procedures all create inefficiencies.”*³

Despite the defects of this earlier system of multiple budget lines, the European Parliament – which was at the origins of the creation of many of these old budget lines – felt that using its budgetary powers was the only real way of ensuring it could direct the Commission’s spending into the directions it saw as priorities. In a sense therefore the creation of budget lines can also be seen as a reaction by the Parliament to what could be characterised as a ‘policy vacuum’ or lack of policy dialogue with the European Commission. The result was however, the gradual creation of a complex system of large and small budget lines that all required specific strategies and administrative measures resulting in considerable inefficiency and a general lack of transparency.

In addition to this policy vacuum, there had in fact also been a ‘legal vacuum’ in that in the past not all budget lines have always been backed up by a regulation. This situation escalated when in 1994 the Commission and EP attempted to continue funding some ongoing interventions following the Council’s rejection of the Commission’s 1994 EU anti-poverty programme, and is well documented by Geyer (2001)⁴. Some member states challenged the Commission in the ECJ and won their case⁵ forcing the latter to review some 100 budget lines without a legal base and freeze the funds in these lines until a regulation had been agreed in each case.

It is therefore clear that the regulations providing the legal base for budget lines occupy a vital position in the interaction between the two arms of the Budgetary Authority and the Commission. Reforming the structure of the budget of EU external action was therefore an ambitious task as well as a key aspect of the general reform of EU external assistance embarked upon by the Prodi Commission in the early years of the new Millennium.

A first key step in this reform of the budget structure for EU external action was the report of the so-called “PEACE” group, composed of Commissioners Nielson, Patten, Solbes, and Verheugen, under the Chairmanship of Commissioner Lamy, published in 2003 in the course of the preparatory work on the financial perspectives 2007-2013. The report’s conclusions were presented in two parts,

³ Source: <http://www.oecd.org/dataoecd/12/1/1935386.pdf>

⁴ Geyer, R. (2001) Can European Union (EU) Social NGOs Co-operate to Promote EU Social Policy? In: Journal of Social Policy 30, 3, 477–493. UK: Cambridge University Press. <http://eprints.lancs.ac.uk/3203/1/geyer1.pdf>

⁵ The ECJ decision of 12 May 1998 argued the Commission could only finance ‘significant’ actions if it had a legal base (i.e. a Council decision) to do so.

Part A covering “*Strategy to 2013: The European Union as the World’s Partner*” and part B plainly titled “*Instruments*”. By presenting their conclusions in this order, the Group also emphasised what it explicitly noted on page 8: “*policy must lead the instrument.*” An Annex to their report provides a comparison between the current structure and the proposed new structure, including proposals in relation to the external action areas covered by some of the legal instruments subject of this study.

While the PEACE Group report covers a variety of considerations in the policy options and budgetary resources needed for establishing an enlarged EU as a global partner, the Commission subsequently mainly used the efficiency argument for advancing its reform proposal. In the words of someone who was closely involved in this process on the side of the Commission: “*In 2004, the Commission had proposed a set of new external relation tools as a base for the delivery of EC external assistance. By that time, the existing instruments amounted to more than 30 different legal instruments, which implicated a loss of efficiency in the management of the Community’s external financing programmes.*”⁶

However, the final agreement reached on the respective legal instruments was in some ways quite different from the Commission’s original proposals. This is summarised in Table 2:

Table 2: Differences between the EC proposals and the agreed legal instruments

Original EC Proposals	Legal instruments finally agreed
1. The Instrument for Pre-Accession	Proposal adopted with changes made by the Council and Parliament
2. The European Neighbourhood and Partnership Instrument (ENPI)	Proposal adopted with changes made by the Council and Parliament
3. The Instrument for Development Co-operation and Economic Cooperation (DCECI)	Commission proposal rejected, and split up into two instruments adapting parts of the original: <ul style="list-style-type: none"> 1. Development Cooperation Instrument (DCI) 2. The financing instrument for cooperation with industrialised and other high-income countries and territories (ICI) 3. Continuation of the financing instrument for the promotion of democracy and human rights worldwide (EIDHR) as a separate instrument
4. The Instrument for Stability	Proposal adopted with changes made by the Council and Parliament, a key one being to separate out an Instrument for Nuclear Safety Cooperation

Reflecting on the outcomes as presented in Table 1, Bartelt (2008) argues: “*Out of the four new instruments merely two were submitted to co-decision procedure (DCECI and ENPI). By contrast, the final outcome summed up to seven new instruments, with four out of seven being co-decided, which gave the European Parliament an unprecedented degree of power over the legislative framework for external spending.*”

Despite the changes made to its proposals, the Commission however still recognised many advantages that the reform would allow for. In a presentation on the new instruments and aid effectiveness in January 2007, the EuropeAid Director General identified the following advantages of the new instruments:

⁶ Bartelt, S. (2008) “The Institutional Interplay Regarding the New Architecture for the EC’s External Assistance.” In: European Law Journal, Vol. 14, No. 5, September 2008, pp. 655–679. Oxford: Blackwell Publishing

Table 3: Considerations behind the reform of the instruments⁷

1) More than 35 instruments replaced with 10 (incl. 2 old ones: humanitarian aid and macrofinancial assistance)	5) Same rules for all instruments: eligibility, financing mechanisms, procedures
2) Clearer links: with EU development and neighbourhood policies	6) Eligibility: more possibility on types of beneficiaries (including civil society)
3) Up-to-date texts on EU commitments: MDGs, untying of aid, Paris Declaration, etc	7) Financing: more possibility on types of actions (budget and sector support, twinning, debt relief, pool funding, operating costs, etc)
4) More involvement of European Parliament: democratic scrutiny	8) Opening up of procedures: mechanisms for co-financing

2.2 Role of Impact Assessment of the Instruments

One of the sources the TOR specifies the study should use are the impact assessments to be done for each of the legal instruments. The impact assessment procedure was set up in 2003 to improve policy-making in the Commission. It functions as an *ex-ante* analytical tool for improving the coherence of measures that are under preparation. The Commission identifies the likely positive and negative economic, environmental and social effects of proposed policy actions, and outlines potential synergies and trade-offs in achieving competing objectives, thus enabling informed political judgments to be made about the proposed measures. The assessment process involves consultation with stakeholders and coordination across the various Commission services. In addition to the basic impact assessment procedure, the Commission also uses a variety of other *ex-ante* assessment mechanisms that can provide information for promoting policy coherence for development (PCD), including trade sustainability impact assessments, impact assessment studies, and the Eco-Management and Audit Scheme.⁸

Each year, the Secretariat-General of the European Commission, working in conjunction with the Impact Assessment Board and the Commission departments, screens all forthcoming initiatives and decides which of them require impact assessments. Impact assessments are performed for the most important initiatives and those with the most far-reaching impacts, but they are not relevant or appropriate for every single initiative. Following the introduction of the system in 2003, the EC's Guidelines on Impact Assessments were revised in 2005 and 2009. The most recent version now pays more attention to assessing the impacts on developing countries.⁹

Of the six instruments that are to be reviewed in the context of this study, Impact Assessments have only been conducted for two of them: the EIDHR and the ICI, and neither was done in the 2005-2006 preparation of the new instruments¹⁰. One must assume that the main reason why Impact Assessments were not done systematically for all the proposals and notably not for the two major ones, the DCECI proposal and the ENPI, was that the 2002 Communication announcing the new procedure foresaw its gradual introduction. This is also evident from the gradual growth in the number of reports available on the Secretary General's website.¹¹ It is also clear that the impact assessment would have prolonged¹² a negotiation process that was already likely to be long and

⁷ Richelle K, 25 January 2007, powerpoint presentation: http://ec.europa.eu/europeaid/multimedia/presentations-speeches/documents/070125_development_banks.pdf

⁸ Keijzer, N. (2010) EU Policy Coherence for Development: from moving the goalposts to result-based management? Maastricht: ECDPM Discussion Paper 101

⁹ Keijzer, N. (2010) EU Policy Coherence for Development: from moving the goalposts to result-based management? Maastricht: ECDPM Discussion Paper 101

¹⁰ The EIDHR Impact assessment was done in 2003 when it was necessary to extend the life of the EIDHR which was due to expire in December 2004 and the ICI one in 2009 when the geographical scope of the instrument was being reviewed.

¹¹ Only 21 Impact Assessment reports were published in 2003 and 32 reports in 2004, in comparison with 102 in 2007 and 135 in 2008. Source: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0276:FIN:EN:PDF>

¹² The IA procedure is estimated by the 2009 EC Guidelines to take 52 weeks on average.

complicated enough and the Commission may therefore have preferred to start with decisions that were less constrained by a tight calendar.

However, in the absence of the impact assessment reports, various other process documents are available, such as the Commission's original proposals for all the instruments, which could therefore be used for producing reconstructed intervention logics in the second phase of the study.

2.3 Relationship between Legal Instruments and Related Strategies

As was argued in the PEACE Group report, it is the policies that should drive the instruments and not the other way around. While thus being guided by the policies, the legal instruments or regulations also fulfil important functions by themselves:

1. Using formal legal language, they guide the Commission on what can and cannot be financed under the instrument. This then provides clear indications for officials to work with and a basis on which any disagreements arising on the appropriateness of certain expenditures can be resolved.
2. They also recognise and describe the roles that different actors, including the Commission, are required to play in the various process elements that are recognised in the text of the regulation (programming, evaluation, comitology, ...).

While it would be nice to assume that the distinction between policy documents and the legal instruments was clear cut, it is also realistic to expect that this is not the case when considerable negotiation is involved in finalising them. As we have seen the legal instruments were ultimately the product of, in some cases, fairly protracted negotiations. For the Parliament in particular the new package of a very limited number of instruments involved the loss of a traditional way of exerting influence over the spending of the budget. In areas where the MEPs were not confident that the Commission officials agreed with their vision, their natural reaction would be to build as many safeguards and conditions as possible into the legal documents whether or not this might repeat provisions already made in the un-enforceable policy documents. It was expected therefore that the study would find far greater detail and more 'policy specifications' in the text of the more contested legal instruments than in the less contested ones.

Thus, though formally different, the role of the legal instruments is in some ways similar to that of the policy documents. The recent Feasibility Study¹³ for the evaluation of the *European Consensus for Development*, the policy document associated with the DCI, for instance suggested the *Consensus* had four different roles: political, normative, accountability and visibility. In the case of the legal instrument it is clear that they also have strong normative and accountability roles as the Commission can be held legally accountable against them and is therefore obliged to follow the prescriptions the instruments set out. Yet, even though these are by definition not political documents, they do seem to play a political role as is perhaps most evident from the frequent reference to the text of the regulations made in European Parliament debates. On the other hand the legal instrument has no visibility role as it is an internal document not familiar to the wider public and is written in a terse and formal language that is not designed to be widely accessible.

Thus while the legal instruments are intended to be policy based and therefore can be expected to mirror certain aspects of the policies they are each linked to, the degree to which the policy is reflected in the instrument will vary. This is likely to partly be a function of whether or not that particular instrument was politically contested. The normative and accountability roles of the legal

¹³ ECDPM for the European Commission (JEU), *Feasibility Study for the Future Evaluation of the Implementation of Part II of the European Consensus on Development*, Final Report, December 2010, pp.6-7

instruments being strong we can expect them to include unambiguous language that states objectives and expected results and makes very clear what the Commission will be held accountable for.

2.4 Strategies as a Basis for Evaluations

Even though they include specific provisions for evaluations, the six legal instruments themselves are generally not seen as an obvious subject for systematic evaluation themselves, let alone collectively as a group of six more or less related Council regulations. This is evident in the EuropeAid's evaluation programme, which in the recent past only covered ex-post reviews for two discontinued Regulations (namely TACIS in 2006 and MEDA in 2009), and none are planned for the remainder of the Joint Evaluation Unit 2007-2013 work programme.

This does not mean that the 2007-2013 instruments themselves are not "evaluable", but probably rather that it is too soon to evaluate them. Logically an evaluation of any of these instruments could only take place once the funds to which they apply had been used to a reasonable extent. The instruments started to be used in early 2007 and it would therefore take a couple of years before the funds they governed started to be used on the ground and several more years before enough had been spent to provide material for an ex-post evaluation. In other words such an evaluation could not really expect to start before 2012 at the earliest.

Unfortunately 2012 is too late to start identifying lessons that might be used to improve the next round of legal instruments for the 2014-2020 financial framework as these will be in the process of formulation and negotiation up to two years before they need to be ready on 1 January 2014 (so from 2011 onwards).

Given the value in establishing to what extent the objectives reflected in the instruments have been attained, and what can be learned on the basis of these results before the next set are agreed, this study aims to look back at their basic design and stated intentions, while also in parallel looking into what different ex-post evaluations say about the results of the EU's different interventions as financed and managed under these instruments.

Thus, the study looks into what are basically two separate bodies of evidence:

1. The legal instruments and how they are formulated; and
2. The evaluation reports

The study then relate these two bodies of evidence to each other and on that basis draws out conclusions that can be used in the preparation of the next set of legislative instruments. So while the study must recognise that there is therefore no causal link running from the current legislative framework into the cooperation evaluated in these past evaluations, this does not mean that there are no useful lessons to learn from them that can help in the framing of the new post 2013 legislative framework. There is after all considerable continuity in the EU's external action over the years and from one budget period to the next.

3 METHODOLOGY

3.1 Scope and Focus of the Study

The scope of this study is defined in the ToR's overall objective, which requires the study to identify results of EC external and development cooperation on the basis of JEU evaluations conducted from 2006 to 2010 and on this basis provide inputs for the upcoming revision of related legal instruments. The six legal instruments to analyse are also clearly specified.

The team drafted a series of study questions (SQs) to maintain the focus of the work during the course of the study. The order of these questions corresponds to the overall structure and key phases of the study and they are designed to ensure the analysis builds up step by step. The questions are listed in the Table below.

Table 4: Study Questions

Phase 1 Step 1 (<i>Faithful logic</i>)
SQ 1: What is the rationale of the overall approach of each instrument?
SQ 2: What are the expected effects of each of the instruments and how were they planned to be achieved?
Phase 1 Step 2 (<i>Faithful logic</i>)
SQ 3: What differences can be identified between the logical diagrams in terms of objectives and scope of the different instruments? In particular: a. Are there any gaps and overlaps? b. Are there any issues concerning coherence, complementarity and synergies between the different instruments? ¹⁴
Phase 2 (<i>Reconstructed logic</i>)
SQ 4: How might the logic of each instrument been clarified in order to bring out better how it was expected to achieve the objective of the instrument?
Phase 3 (<i>Evaluation synthesis</i>)
SQ 5: What are the overall results and effects pertinent to the instruments identified in the evaluations?
SQ 6: On the basis of results identified (in Q5) are there any overall trends or lessons to learn to be identified from the evaluations and that might be pertinent to the instruments?
Phase 4 Step 1 (<i>On the future instruments</i>)
SQ 7: What conclusions can be drawn from the key findings of the evaluations (based on Q5+Q6) in terms of improving the legal instruments in future? (identifying conclusions)
SQ 8: Based on these key findings and conclusions, what options might exist for improving the future legal instruments? (identifying recommendations)
Phase 4 Step 2 (<i>On the future JEU evaluation programme</i>)
SQ 9: Based on the conclusions of Q5 and Q6 as well as the options identified under Q8, how might the evaluations for the future programming period best be organized (in terms of coverage, timing and objectives, etc.)?

3.2 Methodology for the Study Phases

As indicated in the introduction the Study process consists of four key phases. The methodology for each of the four phases is discussed in the following sub-sections.

3.2.1 Phase 1 (Inception Report): Preparation of Intervention Logics for Each Legal Instrument

The **first objective** is to “analyse the legal instruments in terms of their objectives, value and the principles they incorporate.” This was done by developing logical diagrams for each of the instruments under study so as to clarify their objectives and areas of intervention. These then provided the basis for a comparison of the logical diagrams in order to identify possible gaps or overlaps between the

¹⁴ Specific definition for coherence featured in the ToR: “the extent to which the intervention logic is not contradictory/the intervention does not contradict other intervention with similar objectives.”

objectives and scope of the instruments so as to explain and assess the level of coherence, complementarity and synergies between the instruments and the rationale of the overall approach.¹⁵

The JEU's methodology webpages¹⁶ describe the intervention logic as “*the set of all the assumptions used to explain how the intervention will produce its expected effects. It can be in the form of one or more diagrams presenting the activities, outputs, results and different levels of expected impacts.*” As required in ToR, the intervention logics developed during this phase were ‘faithful diagrams’, based only on the original policy document, in this case the adopted Regulation..

3.2.2 Phase 2 (Desk Report): Impact Assessment of the Legal Instruments (Including Comparison and Identification of Possible Gaps and Overlaps)

The **second objective** required the Study Team to (1) “*review the initial impact assessment or ex ante evaluation of the 6 legal instruments in order to identify the expected impacts of those instruments and to explain how they were planned to be achieved;*” and (2) “*compare the expected impacts with the impacts found in step one and describe the differences where they exist.*”

Step one consisted of developing a ‘reconstructed intervention logic’ for each instrument. As the expected ex-ante impact assessments were found not to exist the study team used a series of other documents relating to the instruments, such as action plans, reviews and progress reports to build up these ‘reconstructed intervention logics’ from the basis provided by the ‘faithful logics’. Certain issues were also checked with Commission officials.

Step two involved analysing the faithful and reconstructed logics to identify differences between the original proposals for the instruments and the adopted Regulations. Where necessary, the study team took account of the evolution of the context from the period of drafting till the final approval. The study team then identified gaps or overlaps between the ‘Faithful intervention logics’ and the ‘reconstructed intervention logics’ of the 6 instruments.

3.2.3 Phase 3 (Desk Report): Analysis and Synthesis of Evaluations

The **third objective** mentioned in the ToR is to provide a “*synthesis of the evaluations mentioned in Annex 1.*” This synthesis was to describe the results identified in the evaluations and how they relate to the expected effects identified in the intervention logics developed in Phases 1 and 2. The synthesis needed to cover a total of 65 evaluation reports. Of these 65, 20 were noted as “*foreseen 2010 and beginning 2011*”, which meant that some reports were not available in time for inclusion in the study.

Table 5: Types and sub-types of evaluations to be synthesised

Country evaluations ¹⁷		Regional evaluations		Thematic evaluations	
ACP	21	ACP	5	Channel/modality evaluations	8
DCI	9	DCI (ASEAN and Central America)	2	Cross-cutting issues and sectors	8
ENPI	6	ENPI (MEDA II and TACIS)	2	Aid effectiveness/Europeanisation	3
				Other (statistical support)	1
Total country evaluations	36	Total regional evaluations	9	Total thematic evaluations	20

¹⁵ The ToR includes the following definition of the term ‘coherence’ which will be adopted during the study: “the extent to which the intervention logic is not contradictory/the intervention does not contradict other intervention[s] with similar objectives.”

¹⁶ http://ec.europa.eu/europeaid/evaluation/methodology/methods/mth_ilg_en.htm

¹⁷ This differentiation is based on the grouping in which the respective countries are located. It may however be that the geographic evaluation concerned covers interventions funded through various legal instruments (e.g. both DCI thematic programmes and EDF geographic instruments).

Given the JEU's own systems for quality control of the evaluations it commissions, the study team worked on the assumption that the evaluation reports were sufficiently valid and reliable to be considered as independent evaluation evidence and did conduct its own quality assessment.

As the principal means for conducting the data collection for producing the synthesis, a specific analysis grid was developed and agreed with the JEU. This can be found in Volume 3. Given the large variety of evaluation reports to be examined, the study required a rather broad and flexible definition of results to be sure that it collects relevant evidence from the reports. The JEU's glossary on its web pages defines a 'result' as "*The initial impact of an intervention*" and 'impact' as "*A general term used to describe the effects of an intervention on society*".¹⁸ Building on this definition, the synthesis therefore provided an overview of societal effects in the countries concerned which can to some extent be contributed or attributed to EC-funded interventions.

The efforts made by the JEU to ensure a standard methodology and approach in the evaluations it commissions means that the structure of the reports produced by their evaluation are relatively standard. This facilitated the work of the study team, as the evidence of societal effects was commonly located in the chapter in which the consultants respond to the Evaluation Questions. This chapter therefore became the prime focus of the study team. Nevertheless, the grid used by the study team also allowed for an overall examination of the full reports and the possibility to identify and include additional results during the data collection in case these results are located in other chapters. A structured Excel table was created to collect all data as gathered in the grids to facilitate the qualitative analysis made of the results.

3.2.4 Phase 4 (Final Report): Developing Options for Future Legal Instruments

The **fourth objective** is to "*identify options to improve future legal instruments.*" Such proposals should build on the outcome of objectives 1, 2 and 3 and should be accompanied with an analysis of the potential advantages and disadvantages of each option. Although the material analysed during the study relates largely to period before the Lisbon Treaty entered into force (December 2009), the ToR require the study to formulate conclusions and options for the future legal instruments in a manner that takes account of the current and future context of external cooperation as established in the Lisbon Treaty. Building on the same material proposals should also be made on evaluation of activities under the future programming period.

¹⁸ Source of the definitions quoted: http://ec.europa.eu/europeaid/evaluation/methodology/glossary/glo_en.htm

4 PHASES 1 AND 2: THE INTERVENTION LOGIC OF THE LEGAL INSTRUMENTS

4.1 Methodology and Overall Findings

Phases 1 and 2 aimed at designing **intervention logic diagrams** for the six legal instruments that are covered by this study (DCI, ENPI, ICI, EIDHR, IfS and INSC). More specifically,

- The **objective of Phase 1** was to analyse the “legal instruments in terms of objectives, the values and principles they incorporate as well as the hierarchy of their importance in relation to each other” and on based on this to develop corresponding logical diagrams “in order to identify possible **gaps or overlaps between the objectives and scope of the instruments**”.
- The **objective of Phase 2** was to review the impact assessments of the six instruments and identify the “expected impact of the instruments and explain how this impact was planned to be achieved”. The two phases are complementary in that Phase 2 aims at completing Phase 1 by ensuring a complete intervention logic is provided by analysing different sources.

In order to meet these objectives the study team developed a first set of ‘faithful’ intervention logics on the basis of a ‘faithful’ reading of the regulations. The intervention logic of each instrument was developed reflecting the global impacts, intermediary impacts, results, outputs and activities as stipulated in the regulation (see table 6 for definitions). A horizontal analysis and comparison of these intervention logics was done in conclusion (see next section for key observations).

Table 6: Key evaluation terms for the intervention logic (DG Budget 2004)

Concept	Definition
Activity	The areas of interventions of the instrument targeted at achieving the global impact.
Outputs	What is directly produced/supplied through the implementation process. Indicators at this level are called output indicators. i.) what should be delivered, and ii.) at what time
Results	Immediate or initial effect
Intermediate impacts	Outcome of an intervention
Global impacts	Longer-term effects / outcomes of an intervention

Under Phase 2, additional documents were analysed in order to reconstruct the intervention logic and therefore ensure a more complete understanding on how the impact was expected to be achieved. As per the ToRs of the study, the study team set out to analyse the impact assessments of the instruments in order to reconstruct the logic. However, only two impact assessments (for the EIDHR and the ICI) were available and as a result information from other sources (e.g. the Annual Action Plans, initial proposal of the EC for the given instrument) was also used. The reconstructed logics are available in an Annex at the end of this Volume and both the faithful and reconstructed logics are in Volume 2 of this study.

The reconstructed intervention logics were then compared with the faithful intervention logics as developed in Phase 1 with respect to six comparative elements, namely:

1. The differences between the faithful and the reconstructed intervention logic
2. The degree of detail on objectives and earmarking

3. Global objectives that imply a mix of ODA and non-ODA
4. Differences on geographic coverage
5. Differences on governance between the proposals and actual regulations
6. Differences on processes for planning and M&E

A comparative table was then drawn up (table 4, Volume 2) in order to summarise the comparison. A summary of the conclusions is provided in the next section.

4.2 Key Findings per Phase

This section presents a **summary of the findings of Phases 1 and 2**. Section 4.3 will then provide a **consolidated reading** of these results in order to feed into the recommendations reached in Phase 4 of this study (pertaining to the future of the legal instruments under the future financial framework from 2014).

4.2.1 Key Findings from Phase 1

- *Clarity on the legal base of each instrument* – In the negotiations process for the DCI and the IfS the EP emphasised the need to have a single legal base underpinning each regulation. This was largely driven by (i) the MEPs' wish to highlight and to avoid any ambiguity about the poverty focus of the EU's development instrument and thus the use of development aid as ODA; and (ii) the need to avoid ambiguity on the governance role of the EP in each case.
- *Policy-driven regulations and policy frameworks* – In the process of negotiating the legal instruments the EP and the Council both picked up the PEACE Group emphasis on the need to produce policy-driven regulations, which could easily be related to EU policy priorities. In the case of the ENPI the work of the study team showed that the existence of a clear policy framework (ENP) considerably facilitated the negotiations process. Similarly, in the case of the DCI, the *European Consensus on Development* approved by all three institutions in December 2005, proved to be an important foundation in the process of the negotiation of the DCI.
- *Linkages between the instruments* – All the regulations refer to the need for synergies between instruments, yet it is not always clear how they are expected to complement each other nor whether there is any order of precedence. The scope of the DCI overlaps with the thematic programmes of the ENPI and with the EIDHR. The EIDHR overlaps with the DCI, IfS and the ENPI. Equally the IfS overlaps with the EIDHR, INSC, DCI and the ENPI, though in this case it is made clear that the IfS is intended as a rapid reaction and supplementary instrument for circumstances where they others cannot be used. In general, however, this pattern raises a question about potential duplication in effort between the different instruments.

Besides, the specific analysis of the faithful Intervention Logics (ILs) as provided in volume 2, a **horizontal analysis of the faithful ILs** brings out a number of conclusions. These are:

- *Room for manoeuvre is provided through a broad definition of Activities, Results and Outputs* – The regulations generally provide a long and heterogeneous list of the different activities that the instrument can fund and leave leeway regarding the measures and modalities the EC can use to achieve the objective specified. This can be explained by the need to provide the EC with enough room for manoeuvre. Similarly, the regulations are less clear on the outputs expected and the results that the regulation aims to achieve; though these can often be deduced from the suggested activities. This is also not necessarily surprising given the *role of the instruments* and the need to *allow sufficient leeway for proper management* by those charged with the administration of the funds. Similarly, the middle ground between the activities and

results is largely left empty for the *Commission to devise appropriate implementation strategies*.

- *Unclear intervention logic* – Although the flexibility outlined above allows for room for manoeuvre for programming and management, it inevitably raises concerns over the solidity of the **logic chain**. Gaps in the logic will mean that it is not entirely clear how the legislative authority expected its instructions in the instruments to be carried out. This is not necessarily negative in practice if the general logic is still clear enough and gives sufficient guidance and enough flexibility for the executive branch to then devise appropriate strategies for the achievement of the objectives and the desired global impact. But this does often then pose a challenge for the *evaluation* of the impact of the different instruments.
- *Balance between ‘prescription’ and ‘flexibility’* – Although there has been no indication that the instruments were prescriptive to the point that they hampered the proper administration of the funds and the achievement of the objectives of the instrument, the Study Team did note that the original proposals for the instruments were often more flexible than the final regulations agreed after the negotiations. Thus the *involvement of the EP usually resulted in greater levels of prescription* regarding the activities to be covered by each instrument. The diagrams where a lot of activities and results are listed (eg. the DCI or the IfS) are for the instruments where the Parliament was most wary of giving the Commission flexibility and wanted to retain as much *oversight* and control as possible. These variations may however also be explained by the level of pre-existing experience in the area and where a new instrument was replacing an existing instrument more or less one to one the past experience made it possible to write a degree of detail into the instrument more easily. The concern with oversight is also evident in the governance provisions, with a greater level of detail on the EP’s comitology role being specified in the final instruments for the DCI, IfS and INSC.
- *The length of the regulation does not give rise to differences in terms of ‘layout’ of the intervention logic* – The study focussed on two types of instruments; those which are primarily geographic in coverage (ENPI, ICI and DCI) and those that are thematic (EIDHR, INSC, IfS and DCI Thematic), but interestingly this does not give rise to much difference in the layout of the regulation or the intervention logics. The exception being the DCI which, as part of its complex nature, incorporates a hierarchy that sets the geographic above the thematic programmes.
- *Clear guidance on the use of ODA/non-ODA funds* – One distinction between the instruments can be made based on the guidance the regulations provide on the ODA or non-ODA nature of the funding to be used. The original proposal for the DCECI aimed at a ‘mix’ ODA and non-ODA funding. However, with the rejection of this proposal and the creation of the separate DCI, EIDHR and ICI the guidance provided by the regulations became a lot less clear even though they were adopted at a time when the Commission was emphasising the importance of a ‘policy mix’. Thus it is apparent that efforts have been made to keep the DCI strictly ODA-focused and the ICI and INSC instruments focussed on non-ODA spending. On the other hand the EIDHR and IfS with their emphasis on complementarity and global coverage and the ENPI with its mixed region allow for a real ‘mix’ of ODA and non-ODA. As a result, the strict ODA focussed DCI shows overall objectives that are *closely tuned to the Union’s objective for development cooperation*, while the other instruments are more *focused towards broader external action objectives* and/or show a wider orientation.
- *Synergies between the instruments* – The regulations highlight the need for complementarity between the different instruments. This has largely resulted from the political negotiation process preceding the adoption of the instruments. However, it remains to be seen whether in practice this has been consistently put into practice (see evidence from Phase 3 of this study which did not find any conclusive evidence of the existence of such links).

4.2.2 *Key Findings of Phase 2*

As noted above, this phase sought to develop ‘reconstructed’ intervention logics in order to improve the faithful logics developed under Phase 1. This was done through the analysis of the ex-ante impact assessments, the initial proposals of the EC for each legal instrument and other documents such as Annual Action Plans for their implementation. The comparison of the reconstructed logics with the faithful logics highlighted a number of aspects.

- *Impact assessments did not guide the formulation of the regulations* – Only two impact assessments were available for use by the study team (EIDHR and ICI). However the period in which the impact assessments were conducted did not make them usable in the process of formulating the regulations. This lack of IAs at the right moment probably contributed to the often fairly weak logic chains in some of the regulations.
- *Instrument outputs often only stipulated in other documents* – As suspected in Phase 1, the content of the output level which was often lacking in the faithful intervention logics was often to be found in other documents notably the 2009 MTR of the legal instruments and such documents as Annual Action Plans. This also confirms the assumption that the definition of further detail for each instrument was often largely left to the programming phase. In addition, there was also the question of ‘orphan’ outputs under the DCI, specifically the ACP Sugar Protocol, which cannot be clearly linked to the global impact.
- *Level of details in the regulations varies, at times strengthened as a result of political negotiations* – Some regulations include more details of linkages between intermediate and global impacts, others include less. The intended impacts of the DCI and the ICI were both changed as a result of the splitting up of the DCECI. In the case of the DCI the final regulation included a much greater degree of detail as a result of negotiations. The ICI regulation also had new intended impacts introduced as a result of the split. A similar trend is noticeable with the IFS and the INSC, that both became more detailed after being split apart. This suggests that in the negotiations between the Commission and the legislative authority at the time, there was a tendency to pin matters down more and be more specific. However, the ENPI is an exception as the level of details was reduced as a result of the negotiations between the EC and the EP. The analysis of the MTR, however, noted that the level of detail in the regulations has generally not affected their operationalisation.
- *In practice, the lack of clarity on the type of funds has posed problems* – This was mainly seen in the case of the DCI. In this instance, the 2009 MTR notes that differences had arisen between the EC and the EP on questions of the eligibility of certain activities because they did not conform to ODA criteria laid down by the OECD/DAC. The implication is that while the DCI Regulation does appear to allow for a mix of ODA and non-ODA funding the tendency of the Parliament was to view the DCI funds as to be used very largely if not entirely as ODA.
- *No significant changes regarding M&E* – generally, the initial Commission proposal and the final regulation had similar levels of detail regarding monitoring processes and the actors to be involved. In some cases however (EIDHR, ICI, DCI) the final proposal gives a stronger role to specific stakeholders such as CSOs as implementation, monitoring and evaluation actors.
- *Logic chain not always clarified through the analysis of other documents* – This concern persisted in the reconstructed intervention logic, leading the study team to question whether the *logic chain* should be further clarified either in the regulation or in a *complementary policy document*. Furthermore, the hierarchy of activities and results did not become clearer resulting in questions being raised on how that would impact on the achievement of the impact.

4.3 Implications for the Future Legal Instruments

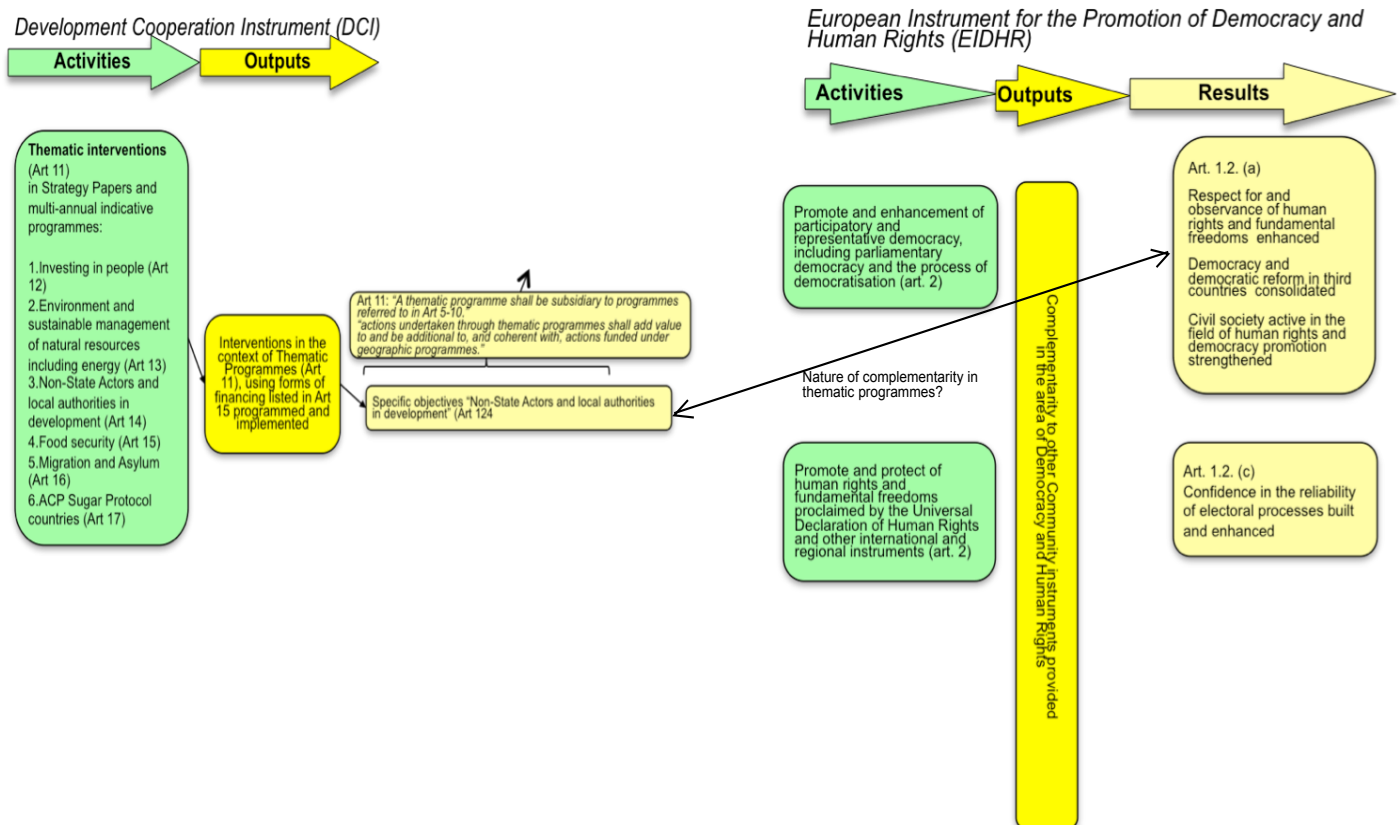
A consolidated reading of the results of Phases 1 and 2 raise a number of questions as to the formulation of the future legal instruments. These are:

- *A single legal base for each instrument* – The legal basis for regulations was a contentious issue in the previous negotiations as the EP sought to affirm and secure its role in external action. The current Lisbon Treaty could potentially set aside this concern as the EP can now play a stronger co-decision role in external action. However, the EP's emphasis on the need to focus on development cooperation as a key objective of external action may lead to the re-emergence of the question on the legal basis as different institutions may interpret the Treaty in different ways when it comes to the central objective of EU external action as outlined in the Lisbon Treaty.
- *Linkages with policy frameworks 'ground' the negotiations* – The analysis of the negotiations process leading up to the establishment of the ENPI notes that these were made easier due to the existence of a clear policy framework on which the Instrument was to be based. The *European Consensus on Development* played a similar role vis à vis the DCI negotiations. The value of this link between policy and instrument could now be more widely recognised.
- *The need to clarify the logic chain* – Often, the regulations seem to just provide a framework to implement an unstructured and diverse list of activities without clarifying the link between the choice of activity and outputs and the intended impact of the regulation. As a result, the logic chain that accompanies the choice of such activities/outputs is not clear, the relationship between the different activities is nebulous and most importantly the link between the activities and the steps leading up to the desired impact is too vague. Furthermore, there were occasional 'breaks' in the intervention logics where the team found some 'orphan' outputs, which are not logical contribution to the intended impact is not necessarily clear (e.g. Sugar Protocol under the DCI).
- *A division of tasks between regulations and policy documents* – One way to ensure that greater detail on what is intended is available, could be by making more systematic usage of complementary policy documents such as the *European Consensus on Development* in the case of the DCI. These policy documents can provide a better framework to ensure a common basis of understanding and *guide the choices* made in the regional and country strategies so as to ensure that they are aligned with the regulation. This is important if one assumes that the instrument is not just a random 'activities cluster' that the EC wishes to conduct, but rather serves as an agreed *intervention framework with a thought through logic*. Furthermore, this can be facilitated if the previous point (linkages with policy frameworks) is addressed and an impact assessment is conducted at an appropriate moment.
- *Prioritisation to guide execution* – The process of prioritisation of objectives on the basis of a long list of identified activities (current situation in several of the regulations) can be a tool to clarify the intervention logic. Prioritisation can be done within a regulation or in the related policy document, but clearly can also be done through the creation of separate thematic instruments. This would tend to confirm more strongly the priorities of the legislative authority. If the latter method is indeed to be used as a prioritisation tool, it then becomes important to ensure that these separate instruments do not contain long and varied lists of outputs of their own.
- *A minimum level of detail in the regulation is needed* – While the analysis under Phase 1 noted that there is a healthy balance between the 'prescription' and 'flexibility' and Phase 2 indicated that the lack of details in the regulation did not pose a major challenge, it is worth noting that it can create some issues in practice – although this remains the exception rather than the rule. The disagreements between the Commission and the Parliament over the eligibility

of certain activities to be undertaken as well as on the type of outputs (eg. case of Small Arms with the IFS) is a case in point.

- **ODA/non-ODA division needs to be clarified in geographic instruments** – Although a ‘faithful’ reading of the text of the regulation indicates that there is a clear indication of the type of funds that can be used and generally favouring an ODA/non-ODA mix (Phase 1), practice has shown that some difficulties have emerged. One reoccurring issue identified in the MTR pertains to the eligibility of certain types of expenditure as ODA. Some regulations (ENPI, DCI, ICI) were particularly faced by implementation challenges as a result of disagreements on what activities were eligible as ODA. This was not an issue faced in the thematic regulations. As a result this begs the question on whether the regulations should indeed be more specific on the type of ODA/non-ODA fundable activities and not leave it as a general clause.
- **Complementarity between thematic and geographic instruments needs to be clearer** – As noted there is a call for complementarity between different instruments but the link between them is not very clear and creates the risk of overlaps. Although the ‘faithful’ reading of the regulations indicates the need to ensure complementarity between the different instruments (Phase 1), the second and third Phases of this study did not provide evidence that such complementarity has been achieved in practice. The MTR analysis and the evaluations were inconclusive on the question of complementarity between thematic and geographic instruments. In the case of the DCI it was clear that the complementarity within the DCI, between its own geographic and thematic interventions, was weak. Furthermore, the link between the different thematic programmes (e.g. between those of the DCI and the EIDHR programmes notably in the area of support to NSAs – cf. Figure 1. below with extracts from the two intervention logic diagrams) is not clear. As a result, two key implications for the future legal instruments can be drawn from this finding: (i) the need for the regulations to specify what type of complementarity is being referred to and (ii) the added-value of a division between thematic and the geographic instruments needs to be more carefully thought through.

Figure 1: Provisions for support to NSAs/CSOs in the DCI and the EIDHR



5 PHASE 3: LINKING EVALUATION RESULTS (2006-2011) TO THE LEGAL INSTRUMENTS OBJECTIVES

5.1 Methodology and Overall Findings

The *objective* of the third phase of this Study is to provide a “*synthesis of the evaluations mentioned in Annex 1* [of the TOR].” This synthesis needs to give an overview of what results were achieved ‘*on the ground*’ (i.e. societal effects), which can to some extent be contributed or attributed to EC-funded interventions. This chapter presents this synthesis, which describes the *results identified in the evaluations* and how these relate to the *expected effects* as defined in the regulations. Together with the conclusions of chapter 2, this forms the basis for proposing options for the future of the instruments themselves and their evaluation in the future.

Out of a total of 65 evaluations that were listed in the TOR, *57 reports* had been completed in time for them to be included in this study¹⁹. These reports can be divided into the following three groups and in how they cover geographic areas and themes:

Table 7: Types and sub-types of evaluations synthesised

Country evaluations ²⁰		Regional evaluations		Thematic evaluations	
ACP	17	ACP	5	Channel/modality evaluations	4
DCI	12	DCI (ASEAN and Central America)	2	Cross-cutting issues and sectors	8
ENPI	5	ENPI (MEDA II and TACIS)	2	Aid effectiveness/ Europeanisation	1
				Other (statistical support)	1
Total country evaluations	34	Total regional evaluations	9	Total thematic evaluations	14

The evaluations were all finalised between 2006 and 2011, and to some degree cover the performance of the predecessors of the legal instruments that are studied here. The Study worked on the *assumption* of a *high degree of continuity* of the external action work of the Commission, which meant that results would still be relevant to the Study and could be related to the existing instruments.

An *analysis grid* was developed to ensure a consistent and structured analysis of the evaluation reports (see Volume 3). The analysis of each evaluation report involved the following six steps (Table 8 below provides a *glossary* of the terms referred to in these steps):

1. Given the use of the JEU’s standard methodology, the team members identified *key results* by analysing the full report, with most attention paid to the chapter in which the evaluation team provided answers to the Evaluation Questions.²¹
2. To be able to group the different results for the analysis, each was ‘labelled’ under specific *sectors or areas of work* (e.g. rural development, human rights).²²

¹⁹ Some ongoing evaluations which would have been useful to include were not completed in time (eg. The Human Rights Thematic Evaluation)

²⁰ This differentiation is based on the grouping in which the respective countries are located. It may however be that the geographic evaluation concerned covers interventions funded through various legal instruments (e.g. both DCI thematic programmes and EDF geographic instruments).

²¹ Given the Joint Evaluation Unit’s (JEU) own systems for quality control of the work it commissions, the Study Team worked on the assumption that the evaluation reports are sufficiently valid and reliable to be considered as independent evaluation evidence, and has not reassessed this question for itself.

²² It should be emphasised that sector labels were mainly based on how these were referred to in the evaluation reports (in a few cases these were seen more as cooperation areas than sectors). The EU Code of Conduct on Division of Labour explains that “(...) [t]he appreciation of what constitutes a sector, being intuitive or informed, should be done in a flexible manner, at partner country level and match the definition of the partner country, that should have identified the sector as a priority in its poverty reduction strategy or equivalent.” Sectors are used here sometimes to facilitate the presentation of the analysis, but they can not be used as solid and reliable base for grouping results.

3. The results as identified were subsequently linked to the *third column of the intervention logic diagrams* (Results). The same result could sometimes be linked to two or more intervention logics (e.g. a result achieved in the education sector in a North-African country could be financed both through ENPI and DCI)
4. The same results were also analysed to see how they could be related to the *fourth column* of the intervention logic diagrams (Impacts).
5. The analysis grid included a separate box where evaluation *findings relating to the cooperation process* could be reflected (e.g. the use of specific modalities, the use of financial procedures, coordination with other donors). This information is presented in Volume 3 and has been used for finding out why results were (not) achieved.
6. Once all evaluations had been analysed in individual grids, all information was copied into one single *Excel file*. Filters were included to allow results to be grouped by instrument, Result and/or Impact area.

Table 8: Glossary of key terms used in the analysis of the evaluations²³

Sector	Result description
Result	<p><i>"The initial impact of an intervention."</i> The expected result(s) of an intervention as described in the evaluation report. Council Regulation for a specific legal instrument (as formulated for the instrument as a whole or for separate parts). Based on the nature of the results and how they relate to the intervention logic, the results can be either:</p> <ul style="list-style-type: none"> • positive: effectively contributing to the achievement of the specific Results as reflected in the faithful intervention logic; • mixed: unsuccessful or ineffective in taking these specific Results forward; • negative: counterproductive to the legal instrument's intention.
Unique result	A result which appears once in the context of one evaluation report. Unique results can be linked to several 'Results' and 'Impacts' of one intervention logic, or to different 'Results' and/or 'Impacts' of different intervention logics, which is why there is a difference between the total number of unique results and the total number of results as identified.
Impact	<i>"A general term used to describe the effects of an intervention on society."</i> The expected impact(s) of an intervention as described in the Council Regulation for a specific legal instrument (as formulated for the instrument as a whole, often in the Article setting the objectives).

The following table displays the number of results that could be related to each of the legal instruments.

Table 9: Number of results linked to expected results of the intervention logics

	Number of results	Number of unique results
Development cooperation instrument (DCI)	231	147
European instrument for the promotion of democracy and human rights (EIDHR)	29	28
European Neighbourhood and Partnership Instrument (ENPI)	74	74
Instrument for cooperation with industrialised and other high-income countries (ICI)	4 (all from the regional ASEAN evaluation)	4
The Instrument for Stability (IfS)	5 (two in the civil society channel evaluation, one in the Liberia evaluation)	5
Instrument for Nuclear Safety Cooperation (INSC)	13	8
Total number of results linked to an instrument²⁴	356	266

²³ Source of Result and Impact definitions: http://ec.europa.eu/europeaid/evaluation/methodology/glossary/glo_en.htm

It should be stressed that given the methodology used these figures, despite being presented as numbers, are only suitable for a qualitative analysis. The main reason that *the numbers are not appropriate for quantitative analysis* in the strict sense is because the results should not be seen as equal in weight, e.g. because different methodologies were used to gather data to support these, but also because some results as identified are wider in scope, while others are much more confined.²⁵ The Study Team was hence only able to do a *qualitative weighting*, and mostly comments on the relative distribution of results within and between legal instruments.²⁶ On this basis, the analysis could look into what has gone right and what could have gone better through EC cooperation as captured in the regulations can nevertheless result in *relevant lessons* for the next generation of legal instruments.

It must also be emphasised that the above distribution of the results merely presents an *overview of the available evidence* in evaluation reports in relation to the EC's past performance. However, this empirical evidence cannot be interpreted as direct data on the performance of the six legal instruments and the degree to which their objectives have been realised. Yet, in the current circumstances where the legal instruments have to be reviewed and possibly revised *before* the results of their implementation are fully known²⁷, the data provides a good proxy indicator that can be a *useful tool in the review and revision process*.

Besides there being a *high number of evaluation results*, their distribution across the six legal instruments is highly uneven, with most being related to just three instruments, the DCI, ENPI and EIDHR. There is thus *insufficient evaluation evidence for the INSC and particularly the ICI and IfS instruments*. Moreover, around 60 percent of the evaluation results for the DCI can be related to more than one Result of the DCI intervention logic, which is mainly due to the DCI Regulation containing a higher quantity of expected results compared to other legal instruments.

The results found in geographic evaluations covering EDF countries which could be linked to one of the 6 intervention logics were very largely related to the thematic Results of the DCI intervention logic. A smaller number of EDF country results could be linked to the IfS and the EIDHR legal instruments.

5.2 Key Findings per Instrument: Implications for the Future Legal Instruments

This section presents the *key findings for each instrument*, and draws key implications for the future legal instruments as an input to the analysis of options for the future legal instruments. *Volume 3* of this report provides the complete analysis of the results in relation to all six legal instruments.

²⁴ In addition to the totals presented above, the database also contains 147 results which could not be linked to any of the instruments, where EDF countries make up 112 of these results.

²⁵ For example, some results do not go beyond the level of what was achieved in terms of 'outputs' in log-frame terms, while other results as identified look into how such outputs have contributed to outcomes and to the likeliness of these taking the Global Objective (i.e. poverty reduction) forward.

²⁶ In a few cases the Team has nonetheless considered results as 'insufficient' in number in a more absolute sense, particularly at the level of instruments when these are below 10 and are based solely on one or two evaluations within a confined geographic (e.g. one region) or thematic focus.

²⁷ It is noted that for some areas, e.g. regional integration, it is most often not realistic to expect results and impacts to occur within the full duration of an EU budget cycle.

5.2.1 *The Development Cooperation Instrument (DCI)*

Summary of Findings on the DCI

Out of the total unique results identified that could be related to the legal instruments, *more than half* can be related to the expected Results and Impacts of the DCI Intervention Logic. The large majority of the results identified for the DCI can be related to *two of the five regions* (Latin America and Asia). Especially for the Middle East and South-Africa, available results are so few that little can be said about the degree to which these programmes have been taken forward. Similarly, most results related to *two of the five thematic programmes*: ‘investing in people’ and ‘environment, sustainable resources’. Findings in relation to ‘Food security’, ‘Migration and asylum’ and ‘ACP sugar protocol’ are too few to allow any conclusions to be drawn.

A few remarks can also be made in relation the nature of the results:²⁸

- 118 DCI results (57%) were considered as *positive*, in the sense that they can be seen as effectively contributing to the achievement of the specific Results reflected in the faithful intervention logic (notwithstanding their relative sustainability). These positive results relate both to geographic and thematic programmes.
- A further 83 results (39%) were judged as *mixed*, in the sense that the evaluators saw them as unsuccessful or ineffective in taking the expected Results forward. In most cases these results were found to be relevant though ineffective, or were too small scale in terms of coverage or investment to really make a difference.
- Finally, 8 results (4%) were considered as *negative* in the sense that what was achieved was counterproductive to the Results as described in the DCI regulation. Failure was due to inappropriate design and investment, or to overpowering local-specific factors.

The following paragraphs will analyse the nature of the results that were related to the different Result areas of the DCI, while leaving out those Result areas that feature too few results to be of interest for such a comparison (R4, 5, 11 and 12). Given the high number of evaluation results that can be related to the DCI compared to the other legal instruments, the below table presents examples of results per area to give an impression of what was achieved, with figures giving a full overview of the number of results. A longer version can be found in Volume 3 of this report, which also analyses the negative results which are not included here as they were very few in number.

²⁸ In the case of interpreting the nature of results it was deemed better to analyse the results (as opposed to the unique results) in the case of the DCI. Given that some results could be related to multiple Result areas in the intervention logic, this resulted in a better overall picture on the overall ‘equation’ for different Result areas. For the other legal instruments, this analysis was instead made on the basis of the unique results. It should also be noted that because this analysis was made at the level of Results, using the filters in the Excel table, the 22 results that were only linked to the Impact level were excluded from the analysis. This is why the total of positive, mixed and negative results amounts to 208.

Table 10: Types of results achieved per Result area of the DCI

<p>R1. Geographic: Latin-America (49 results, of which 4 negative) Positive results (24) achieved in: transition from primary to secondary education (Bolivia); quality improvement in secondary education (several countries); support to productive sectors and life standards (Bolivia, Nicaragua); and public finance management (Nicaragua) Mixed results (21) in, or due to: underinvestment leading to insignificant effects in cross-cutting areas and CSOs; results which did not transcend the project; insignificant results in projects aiming to promote labour diversification (each in several countries).</p>
<p>R2. Geographic: Asia (50 results, of which 2 negative) Positive results (27) achieved in: policy learning on energy and biodiversity in the ASEAN region; support to decentralisation (India); trade integration was successfully supported in several countries; effective support to the health sector and policy dialogue on environment policy in Thailand; support to democratic change in the Maldives. Mixed results (21) in, or due to: ineffective training at the ASEAN regional level; insufficient level of investments to make a difference in various cases or go beyond the project-level (e.g. gender); effectiveness was also hampered in some cases by a lack of visibility and/or ownership in energy interventions; low sustainability of results after withdrawal from the environment sector (Vietnam).</p>
<p>R3. Geographic: Central Asia (5 results) Positive results (3) achieved in: positive results when working through CSOs throughout the region, as well as in promoting trade and investments, as well as through specific interventions in support of productive sector by improving irrigation and infrastructure. Mixed results (2) in, or due to: rural development interventions too small and 'projectised' to make a difference</p>
<p>R6. Overall objectives for thematic programmes (9 results) Positive results (7) achieved in: effective use was made of the UN as channel for development cooperation. Infrastructure was reinforced in Senegal, while in the same country the social sectors received effective support Mixed results (2) in, or due to: unsustainable training interventions with poor supervision in the Central African Republic, and unsustainable results through micro-projects in Mauritius</p>
<p>R7. Thematic: Investing in people (36 results, of which 2 negative) Positive results (23) achieved in: access to justice was improved through EC interventions in Nicaragua; integration of women in projects strengthened in several developing countries; access to and completion of primary and secondary education supported in various countries; EC support has contributed to construction and rehabilitation in post-conflict or post-emergency situations (Eritrea, Somalia, Liberia, Pakistan, Nicaragua). Mixed results (11) in, or due to: health sector reform was proceeding slower than expected in Angola; no impact of gender activities in Botswana; outcomes of EC projects did not sufficiently translate into political dialogue, with a resulting low impact on policy in Thailand.</p>
<p>R8. Thematic: Environment and natural resources (23 results) Positive results (10) achieved in: large-scale and visible impact through projects financed in Botswana and Malaysia, Thailand and several other countries; policy formulation capacity and sustainable economic production was supported in the Pacific; positive and successful contributions to water supply were observed in a large thematic evaluation. Mixed results (13) in, or due to: insufficient resource/means allocation for energy projects or environment in India; unsuccessful sensitisation in the Seychelles; low effectiveness of energy interventions; failed attempts to mainstream environments in micro-projects.</p>
<p>R9. Thematic: Non-State Actors and local authorities (18 results) Positive results (12) achieved in: multiple cases of successful support to NSAs; support to CSOs helped to reach out to under-serviced areas or facilitate mainstreaming of quality improvement strategies in cooperation focusing on education. Mixed results (6) in, or due to: in Malaysia the activities were limited in scope, and the CSO-government dialogue poor in quality; In Chad the unfavourable governance conditions did not allow for progress; in Uganda and other countries isolated improvements did not contribute to systemic change and development on a sustainable basis.</p>
<p>R10. Thematic: Food Security (11 results) Positive results (7) achieved in: food security reactive capacity increased in Angola and Uganda; targeted investments in infrastructure in Bolivia; strengthened production systems in Mauritius; co-management of regional fish stock in Pacific. Mixed results (4) in, or due to: low sustainability in Bolivia given low stakeholder participation; short-term oriented food security support not leading to sustainable results in Liberia; results hampered in Seychelles by lack of communication investment.</p>

Beyond the Result level, it was also concluded that there is sufficient evidence that can be related to three of the five expected Impacts of the DCI. However, evidence relating to the third specific Impact (integration in the world economy) is relatively narrow, and completely absent for the last specific Impact (strengthened relations).

Conclusions on the DCI and implications for Future Instruments

A few conclusions and implications can be drawn in relation to the future legal instruments and the potential role for a DCI or similar instrument:

- **Unclear logic:** The findings confirm an observation made earlier in this study, namely that the DCI can be described as a *not fully logical match* between its *high number of expected results and instruments* and its *relatively tight Global Impact objective* (i.e. poverty eradication in the context of sustainable development).²⁹ Since the wide majority of evaluations reviewed in this study that relate to the DCI do not succeed in finding evidence on whether the results and impacts achieved in fact contribute to the global impact goal of poverty reduction in the context of sustainable development, an important *'evaluation gap'* remains.
- **Extraneous inputs?** Some items mentioned under inputs, particularly those in particular thematic process but also pre-set output objectives at the level of geographic programmes³⁰, also *do not seem directly relevant* to the Impact and Global Impact level. Especially some of the thematic programmes almost seem to represent *'orphan result areas'*, for which the only logic for finding them in the DCI regulation would be that this is the largest (and perhaps most 'accommodative') of the legal instruments in financial and thematic terms.
- **High level of ambition:** The evaluations also point to the fact that the higher Impact level (and particularly the Global Impact) is much less within reach, as shown by the much more tentative language found in the reports. Moreover, the *linkage between the Impact and Global Impact level is unclear*, and it cannot be automatically assumed that Impacts achieved contribute to the Global Impact goal of poverty reduction. By not providing hard evidence on whether the Global Impact is taken further, they also provide indications that the Impact and Global Impact levels of the DCI reflect a *very high level of ambition*.
- **Uneven use of modalities:** As noted in the second phase of this study that even though the DCI allows for 13 different means of financing the cooperation activities (see Art. 25), the 2009 EC Mid Term Review noted that the thematic programmes have mostly if in some cases not exclusively relied on *calls for proposals/tender procedures*. Given the many procedural delays encountered in the spending of the budgets, as well as the large time investments required for particularly the 'softer' areas of intervention (non-state actors, environmental sustainability, investing in people), one lesson to be drawn is that there should be further analysis into how more diversified use of available aid modalities may be promoted.
- **Mixed results:** these were found particularly when the objectives of an intervention were inconsistent with government policies, or not perceived as being among their political priorities.

²⁹ In earlier phases of this study, it was noted that different actors see different 'logics' in what a regulation should or shouldn't do, and hence either value the flexibility offered or greatly emphasise on the global impact level as a way of disciplining and bringing order into the complex of development interventions that are designed and implemented.

³⁰ As described in international declarations which the EU subscribes to, such as the 2002 Monterrey Consensus and the 2005 Paris Declaration on Aid Effectiveness, the central philosophy of geographic programming is that the programming of assistance can follow national or regional preferences as expressed in specific policy strategies, while the DCI regulation to some degrees prescribes the outcomes of such joint programming exercises.

Particularly in more normative fields of cooperation (e.g. human rights and democracy, environment), EC interventions have to ‘swim against the current’ by design. Here, *mixed results should be accepted when choosing to take such higher risks*.

5.2.2 *European Neighbourhood and Partnership Instrument (ENPI)*

Summary of Findings on the ENPI

Results pertinent to the ENPI instrument have been identified in *15 evaluations* out of the 57 analysed. A significant majority of results identified are related to the EC’s interventions in the economic, private and trade sectors (in total 30% of the results). When looking at the regional distribution, half of the results concerned the region ENPI East, while only 23% of the results were related to the Southern ENPI region. The rest of results (28%) have been identified in thematic worldwide evaluations, and therefore only partly refer to the ENPI region.

53% of the results were *positive* and none were *negative*, while 47% of results were found to be *mixed*. The intervention logic for the ENPI distinguishes two kinds of Results: (R1) support to promoting good governance, equitable social and economic development and (R2) the implementation of partnership cooperation agreements or other existing and future agreements. Even though the distribution of identified results across the Intervention Logic Results is *quite balanced* (48 vs. 23³¹), this is different for the proportion of *mixed results*: for the first Result area only 37.5% of the results were mixed, while 69.5% of the results were mixed for the second Result area, suggesting more difficulties with implementation in this latter area.

When looking at the *positive results* identified that are pertinent to the ENPI instrument, it appears that EC interventions have made a positive contribution to the **development of trade relationships** between the EU and the ENPI partner countries, and in supporting the development of the **private sector**. Some positive results related to **civil society** have also been identified as well as in the **water and social sectors**. It has been noted that EC interventions (MEDA) resulted in improved professionalism of Civil Society Organisations. It seems likely that the positive results contributed to the first expected Global Impact (“Commitments to EU values as liberty, democracy, Human Rights, fundamental freedoms and rule of law are promoted”) rather than the second (“Enhanced cooperation and progressive economic integration is promoted”).

In most cases, *mixed results* correspond to cases where EC interventions were **unsustainable**, in particular because of the **scarcity of financial resources** available. Ex post results have also been judged by evaluators as ineffective or with a limited sustainability when they were **focused** (geographically for example) or **too specific**.

Conclusions on the ENPI results

One sectoral focus where positive interventions have been identified emerges: **trade and private sector development**. This is also the theme at the top of the priorities as described in the Intervention Logic. This indicates convergence between programming and implementation for this result. However a similar convergence cannot be demonstrated for the other priorities (outputs) in the IL. As regards the support to **civil society**, evaluation reports show some discrepancies between ENP-East and ENP-South. In the Eastern part of the ENP region, the predecessor of the ENP instrument has provided significant support to Civil Society in a broad range of areas such as the social and environmental sectors and in accordance with the Regulation which recognises the importance of the development of Civil Society in ensuring the long-term sustainability of economic

³¹ the 3 remaining results not being related to any specific result from the IL

reform. On the contrary, the good results achieved in the economic and social sectors in the South have not been accompanied by appropriate reinforcement of human rights and democratisation and a strengthened participation of Civil Society in the development process. No evidence was found that all the priorities expressed in the Country Strategies were subsequently carried throughout the programming chain, and ultimately turned into specific actions from which results could be traced. It is difficult to see whether it is due to gaps in the IL, to the specific approach adopted for the present survey, or to the way evaluations are conducted and present results. **Whereas one can conclude that coherence exists between the Intervention Logic, the strategic intentions and the implementation with respect to R1, no conclusion can be made for R2.**

According to the review of evaluations, it appears that *Budget support* (BS) is bringing good results to support comprehensive structural/ sector reforms, avoiding the gaps and “stop-go” effect of a *Project approach*. Whilst this requires a stronger public finance management (PFM), support through budget support does also contribute, when successful, to improvements in PFM. In particular, budget support appears to be efficient when combined with policy dialogue and capacity building. *Other aid delivery mechanisms such as the project approach or twinning* remain very effective in targeted reforms, *possibly in combination with BS*. In the ENP-South region, the positive aspects of the **introduction of BS** under the predecessor of ENPI, were highlighted in evaluation reports. It aimed at supporting comprehensive structural and sector reforms rather than specific sets of activities. It contributed to the formulation, implementation and acceleration of reforms that were nationally owned and considered as important by the EC. In the ENP-East region, the **project-by-project approach** under the predecessor of ENPI presented the risk of losing momentum and beneficiary commitment during the time between one project and its successor. In addition, the stop-go nature of project-based support to the sector has in some cases resulted in unrealistic goals being set.

As regards *ownership*, weak ownership has been underlined under the predecessor of the ENPI as being one consequence of project-based approach in the ENP-East region. In addition, it was noted that partner States considered dialogue not to be conducted as envisaged in the Regulation. In some cases this has resulted in limited ownership of CSP and NIP. In the ENP-South region, the ownership has been considered as generally strong under the predecessor of the ENPI, particularly for interventions targeted on reforms that are part of the governmental priorities. The evaluation report underlined the fact that “*BS interventions were generally characterised by a higher level and greater depth of preparation and, therefore, benefited from a high degree of ownership. This modality contributed to improving the quality and continuity of the policy dialogue with the partners and to focus it on essential reforms.*”

Identification of gaps in the ENPI faithful intervention logic

During Phase 2 of the study improvements were made to the faithful intervention logic in order to produce the reconstructed logic. In particular:

- Additions were made at the activities’ level in the areas of: Implementation of regional flagship initiatives, Promotion of maritime support and Special measures implementations;
- Simplifications were made at the level of outputs by regrouping them into six coherent categories: Economic integration and trade, Mobility & migration, People to people exchanges, Thematic support (regional dimension), Political co-operation and Management of crisis situation.

From the analysis of results (Phase 3) and of the IL from ENPI regulation (Phase 2), it can be concluded that:

- At the level of results, R1 could be split into two separate results’ area. During phase 3, most of the results identified in the evaluation reports were indeed mostly relevant to the *support of social and economic development*, which does not obligatorily go with *the promotion of good governance* ;

- One area is missing at the level of the *intermediate impact*. To move towards the global impact (“*development of an area of prosperity involving the EU and the neighbouring countries, based on key founding principles of the EU*”), the *promotion of social and economic development* constitutes an additional intermediate impact to which most ENPI results contribute.

Points from the ENPI relevant for Future Instruments

From these findings, the following points have emerged that could be useful for the design of the the future instruments:

- *Programming for Impact?* The evaluations do not always allow tracking of the results in such a way that they can easily be associated with a specific Impact or specific Output from the IL. This could indicate a lack of coherence in the programming process, a theoretical bias in the methodology of the evaluations reviewed, or in the approach adopted in this evaluation. No evidence was found that all the priorities expressed in the country strategies were subsequently carried throughout the programming chain.
- *Room for improvement in the intervention logic?* One of the main themes emerging from the desk study was the important divergence between the original proposal of the Commission and the adopted regulation, with respect to the thematic dimension of the ENPI instrument. This has impacted on the IL: One could argue that actions pertinent to the second Result area (“*Partnership and co-operation and other existing or future agreements are implemented*”), to which few results are associated, might be easier to implement through thematic programmes. Other gaps have been identified and are described above.
- *Finding a mix of modalities:* according to the review of evaluations, it appears that budget support is bringing good results in support of comprehensive structural/sector reforms (as noted under MEDA II), and avoids the gaps and “stop-go” effect of a project approach (that were observed under TACIS). Other aid delivery mechanisms such as projects or twinning remain effective in targeted reforms.
- *Respecting ownership ensures success:* The evaluation report on TACIS underlined low ownership as one consequence of the project-based approach and weak partner dialogue. On the contrary, ownership has been considered strong under MEDA II, which is generally the case for BS interventions. This modality also contributed to improving the quality and continuity of policy dialogue with partner countries.

5.2.3 European Instrument for the Promotion of Democracy and Human Rights (EIDHR)

Summary of Findings on the EIDHR

Compared to the DCI and to the ENPI, the results extracted from the evaluations that are relevant to the EIDHR were relatively limited. A total of 29 results, of which **21 were unique results**, were identified as relevant to the EIDHR. Reflecting a choice made in evaluation programming and timing, the results were *largely related to the second Result area* (22 out of 29) in the intervention logic pertaining to respect for “human rights and the rule of law, democratic reforms in third countries and support to civil society organisations”, while very few evaluation findings could be found in relation to the other three expected Results.³² The evaluation findings specifically highlight

³² Methodological note : some key evaluations (e.g. human rights evaluation) that would have contributed to the assessment of the implementation of the EIDHR had not been completed at the time of this study. Furthermore, a large number of the evaluations

support provided to *civil society organisations*. The high proportion of positive results also suggests that this support has been largely successful. Nonetheless this raises two concerns: (i) that the implementation of the regulation is unbalanced (since the instrument has many more focus areas than civil society) and (ii) a lack of evaluation evidence to help determine the overall impact of the regulation, through the interaction of different interventions. The latter is a point that was also brought out by some evaluations which noted that, overall, the EC has had *limited impact on the overall environment* in some countries (e.g. Egypt and Malaysia) concerning human rights and democracy promotion. Typically this was linked to *difficult or even non-existent political dialogue* with partner governments.

The EIDHR: Implications for Future Instruments

The analysis of the findings raises two questions relevant for the formulation of a future legal instrument. The first relates to the logic of the intervention and especially its implementation/application in reality. It is difficult to assess to what extent the EC has been successful in promoting democratic governance and human rights through the EIDHR by simply looking at the available evaluations. The evaluations covered by this study show that the EC has achieved positive results with respect to civil society support, but were inconclusive as to whether the global impact of the EIDHR was being achieved. The on-going evaluation of human rights should however lead to additional evidence to inform EU policy makers' on the implementation of all the different outputs and how these are contributing to the achievement of the global impact. This in turn should help in determining the continuing relevance of the current global impact for a future EIDHR.

The second point is that because human rights work can also be funded from the larger legal instruments such as the ENPI and the DCI it is not possible to determine from this study whether it is important to have a separate EIDHR instrument or not. Again the answer to that question and the effectiveness of this specific instrument per se can probably only be provided by the on-going human rights evaluation.

5.2.4 *Instrument for Nuclear Safety Cooperation (INSC)*

Summary of Findings on the INSC

The results show that the evaluation reports recognize that the EU has made *useful contributions to promoting nuclear safety* principally in ENPI countries. In doing so it achieved a number of the Results set out in the INSC legal instrument, not least protecting EU citizens against radiation, mitigating the consequences of the accident and probably also preventing further accidents. While the evaluations do note this EU strong contribution to positive results and overall impact they also recognize that these cannot be purely attributed to the EU's input, nor is there much certainty as to the longer-term sustainability of the impact.

While all other results were of a *positive* nature, one *mixed* result suggests that partners are not as convinced as the EU about the need for further institutional development and that the sustainability of the action is therefore not yet assured. Finally, one result was negative by indicating that "*EU Member States have very different sensitivities regarding nuclear power production. This has an impact on the ability of the Commission to support nuclear safety in the CIS countries*" (Energy Evaluation, 2008, p.69).

covered in this study also evaluated the implementation of the predecessor of the EIDHR (the European Initiative for Democracy and Human Rights).

In the INSC intervention logic only one Impact was identified to which all the Results contribute. This was confirmed by the same group of ten results identified in the evaluation reports coming up in relation to the Impact in the INSC as shown in the intervention logic.

The INSC: Implications for Future Instruments

Although no overall conclusion can be drawn on the effect of the INSC due to lack of evidence, what limited evidence exists is positive. The EU is now an experienced and credible actor in the field. There are clearly also continuing issues to be tackled and not all of them will be straightforward. On the basis of the evidence available therefore it *appears to be important to maintain an EU budget* in this area. No evidence emerged that suggested that changing the scope of the instrument would have advantages. However, because the objective of the instrument is well defined and fairly restricted it has been possible to construct a relatively clear and straightforward logic compared to those of some of the other instruments. This would suggest that it is helpful to retain the INSC in its present form as a separate instrument providing this fits in with the overall design of any future package of instruments.

5.2.5 *The Instrument for Stability (IfS)*

Summary of Findings on the IfS

The number of results identified that could be related to the IfS is very small, and *insufficient as a firm evidence base* for trends or lessons learnt. The available results relate to *two of the four Results*, respectively the second (“Threats to law and order, to security and safety of individuals, critical infrastructure and to public health addressed”) and fourth (“Strengthened capacity of international, regional and sub-regional organisations, state and non-state actors [to respond to conflict and stability issues]”). These results were collected from country evaluations covering Liberia, Namibia and Tanzania, while additional results were found in the thematic evaluation of CSOs as aid delivery channels.

The findings emphasise the importance of *flexibility and rapid response*, in achieving results in the broad field of *conflict prevention* or the more specific fields of *demobilisation* or *recovery*. The findings also emphasise the achievement of results and utility of *engaging civil society* for results in conflict prevention and resolution. The few results that were found are positive, and also clearly align with the rationale and modus operandi of the IfS in particular its rapid, flexible response and its support for civil society.

The IfS: Implications for Future Instruments

No overall conclusion can be drawn on the effect of the IfS due to *lack of evidence* in the evaluation reports available and analysed. An *evaluation of the IfS* is presently in the process of being finalised, but this report was not included in the study given that it was not managed by the JEU but rather by a policy unit which means it does not meet similar standards of independent evaluation compared to the reports evaluated in this study. It may nevertheless still be a helpful and timeline analytical document to inform decision making on the future of the IfS.

5.2.6 Instrument for Cooperation with Industrialised and Other High-Income Countries (ICI)

Summary of Findings on the ICI

The analysis of the evaluation reports resulted in only *four results*, which were all found in *one single regional evaluation* which assessed the EC's cooperation with the Association of Southeast Asian Countries (ASEAN). The results cover only two of the four Results identified in the intervention logic: "Safeguards Links strengthened at the regional level" and "understanding of the EU and its visibility in partner countries enhanced". The results could be linked to the two Impact objectives as reflected in the intervention logic.

Three out of four results were of a *positive* nature, while one result relating to training was judged as *mixed* given that the training interventions has not led to good results for reasons related to relevance (other factors are more important in determining progress in regional integration) and effectiveness (high turnover reduces the contribution made through training).

At the impact level, two results could be related to the second Impact area (I2: contribution to creating an environment conducive to pursuing and developing its relations with those countries and territories), while one could be linked to the first Impact (I1: contribution to achieving economies of scale, synergies greater effectiveness and visibility for Community action at bilateral level). A fourth result, finally, could not be clearly linked to either of the two Impacts.

The ICI: Implications for Future Instruments

Based on the ASEAN evaluation, it may be cautiously concluded that the EC's cooperation – which was not financed through ODA – has made a good contribution to the relations between Europe and this Asian group of countries. The results however do not provide a reliable basis to draw meaningful conclusions on to what extent expected Results and Impacts of the ICI have been taken further, and for drawing implications on the future of this instrument.

5.3 Overall Conclusions Based on the Evaluation Evidence

The overall picture that emerges is that the exercise was only really useful for *three out of the six instruments*, that is the DCI, ENPI and EIDHR. That said, those results that can be linked to these three other instruments are broadly positive suggesting that additional evaluations would be expected to endorse their value as instruments. Based on the analysis of evaluation findings, this section will first present conclusions concerning the implications for the future legal instruments, followed by implications on how their evaluation may be strengthened in the future.

5.3.1 Horizontal conclusions: Implications for the Future Legal Instruments

When analysing the different findings as presented here, a few horizontal conclusions were drawn and fed into the fourth phase of this study together with the instrument-specific findings (further discussion is found in Volume 3 of this report):

- *Overloaded instruments*: first and foremost, whereas previously EU development cooperation was plagued by a proliferation of instruments, it seemed that today there is a proliferation of items/topics inside regulations. While it is deemed important to have a manageable number of

legal instruments, these legal instruments must also be manageable in themselves.³³ The downside of ‘overloading’ instruments shows for the ENPI and DCI and makes it difficult to track whether their purpose as instruments are really being fulfilled.

- ***Lack of clarity in some intervention logics:*** the logic chain of some of the six instruments was clearer and easier to follow than others; this is not just a question of overloading but also of it not always been obvious how different steps in the chain fed into the next level; this leaves a lot of leeway for interpretation and while the reports do give an impression of positive forward movement the conclusions remain at a level of generality that may not be that useful in terms of learning specific lessons.
- ***Results matching expectations:*** a fair degree of convergence was found between the expected Results as outlined in the regulations and the ex-post results as identified in the evaluations;
- ***But not all results are positive:*** overall, the majority of the evaluation results were positive, but the sizeable proportion of mixed results indicates *room for improvement* in both the programming and implementation, but also in the formulation of the instruments themselves as guiding these actions;
- ***Missing links?*** Finally, there was a lack of evidence on the linkages and interrelations between the six legal instruments. None of the evaluations were found to address this issue explicitly, for instance by contrasting the ways the interventions implemented in relation to each of the instruments were managed.

5.3.2 *Horizontal conclusions: Implications for Future Evaluation Programme*

The following conclusions are drawn as to how the current legal instruments are evaluated, and how this might be changed in the future:

- ***Evaluation and policy gaps:*** the wide majority of evaluations reviewed in this study do not present evidence on how the results achieved contribute to the Global Impact goal as formulated in the regulations. This obscures the vision on whether overall policy goals as formulated are in fact taken further.
- ***Ensure additional review processes focusing on the Global Impact?*** Given the lack of knowledge on the progress towards the Global Impact as formulated by the instruments, there might be a basis to look into the possibilities for seeing whether future legal instruments (or policy documents relating to these) might call for targeted ex-post evaluation *at the level of the Global Impact*. Given that the practice of impact evaluations is still in its infancy and indeed still seen as controversial in some sections of the international evaluation community³⁴, one might think beyond ‘independent evaluation’ for this purpose and rather explore possibilities for participatory review processes conducted with the key actors of the partnership as recognised in the regulations (e.g. ENPI governments, CSOs, other donors).
- ***Improving links between evaluations and regulations:*** the regulations do not set any priorities for evaluation, and the evaluations do not explicitly aim to provide information relevant to evaluating the regulations. This conclusion would assume that policy makers think that legal instruments should be ‘evaluable’ and should be logically structured for allowing this to be done. See also section 6.2 for more specific recommendations on future evaluation practices.
- ***Budgeting for baselines and risk assessment:*** a few evaluations indicate problems in measuring performance due to absent baselines or risk assessments. This shows that *links could be improved between ex-ante assessments* (such as the Impact Assessments managed by the Secretariat General) *and ex-post evaluations*, and at the least may suggest that at the beginning of the new funding cycle specific baseline and risk assessments should be put in place.

³³ In this context, the proposals in the EC Green Paper on the modernisation of development cooperation to reduce the number of development cooperation areas and themes in which it is engaged appears promising.

³⁴ See for instance <http://www.3icimpact.org/>

- *Improve evaluation timing:* this exercise indicates that during the current negotiations on revising and/or reforming the legal instruments, *some sectors or cooperation areas lack a sufficient evaluation evidence to inform decisions.* While continuing to ensure that the evaluation programming is sufficiently representative of actions in all legal instruments, the future evaluation programme could include a synthesis study similar to this one, but with additional resources to engage in additional data collection for those instruments where there is insufficient evidence. This would imply launching such a study slightly earlier in the budget cycle compared to the present study.

6 PHASE 4 : RECOMMENDATIONS FOR THE FUTURE LEGAL INSTRUMENTS AND THEIR EVALUATION

This chapter reports on the final phase of this study and in which the study team has sought to draw out the implications that their research in line with the requirements of the TOR. The first element of this is the implications for the design of the future legal instruments for the post 2014 Multi-annual Financial Framework. Second some conclusions are formulated on the design of the future programme of evaluations of EU external action work under the new instruments.

6.1 Implications for the Future Legal Instruments

6.1.1 *Overall Assessment*

In terms of implications for how to plan and formulate the next generation of legal instruments the main conclusion reached by the study is that the logic of a number of the regulations as represented in the intervention logic diagrams was not always as clear as desirable. The research suggests that the effectiveness of some of the six legal instruments could be enhanced by making improvements to their underlying logic. In particular the larger and less focussed instruments with various geographic and thematic components could in principle benefit from some simplification that would help a clearer logic to emerge.

In looking at the six instruments the study team was also struck by the diversity in the whole package, with some very large, complex and broad instruments and others small and highly specialised. The research into the origins of each instrument indicated that there were various technical and political reasons for this that are not the object of this study, but the fact remains that the result is a package that has only limited overall coherence. This is likely to create problems of comprehension among different stakeholders and particularly those more distant from the day to day management of the instruments. The existence of some small instruments with very specific purposes, for instance, prompts the question as to why one theme should have its own instrument whereas another does not. Equally because the six were not conceived together as a package there are areas of overlap and indeed also some gaps between them. Aside from the management problems this has created, this is also a source of potential confusion among stakeholders and ultimately therefore a potential obstacle to greater efficiency and effectiveness. In designing the future instruments it is suggested therefore that some thought could usefully be put into the overall coherence of the package so that users can see clearly what each one is for and how their different roles fit together and complement each other. However, this is not the main preoccupation of this study.

6.1.2 *The Specificities of the Individual Instruments*

Looking first at specifics it emerged from Phase 2 of the study that the problem of lack of clarity in the logic affected mainly the two larger and more complex instruments. Four out of the six instruments had a relatively clear and straightforward logic where the activities and outputs could more or less clearly be linked to the final global objective in each case. Thus for the EIDHR, the IFS, the ICI and the INSC this logic could be grasped fairly quickly though minor improvements could still be made.

The ENPI and the DCI, however, are both large complex instruments as is evident from their intervention logics. They also both have geographic as well as thematic elements to them, but in other respects they are very different and the conclusion of the research suggested that looking forward improvements to each them should probably be rather different.

The unifying element of the ENP is the concept of good neighbourliness. This is clear from the Global Impact of the instrument and is a feature that permeates all aspects of the intervention logic.

It is also the key characteristic that makes the instrument easily understood by its users and stakeholders. Thus while in practice the instrument is often seen as having two distinct parts: ENPI East and ENPI South, and the actions it supports vary hugely between these two regions, it is also clear that splitting the instrument on these regional lines would immediately undermine the neighbourhood idea and with it the conceptual clarity of the instrument. The ENPI also has thematic foci, but the research shows that these are used in variable combinations with the national action plans determined in conjunction with the partner governments. Thus while the EU has identified a number of priority themes which it wishes to promote through the ENPI there is then a process of negotiation with each partner government that determines the final action plans. Evidence from the evaluation reports reflect the result of this negotiation, as some of the themes emerge more clearly in some countries than others suggesting that the EU has more success in persuading its partners of the importance of some themes than others. Although, as we have seen, there also seemed to be scope for improving the clarity of how some of these thematic areas are woven into the logic chain. Overall however, the research indicated that the logic of the ENP rested on the interplay of the geographic and thematic elements during the negotiation process with each government and it would therefore be difficult to separate any one element out from the instrument.

The DCI for its part has two distinct elements with both a series of geographic programmes and a series of thematic programmes. The distinction between the two is carried considerably further in the regulation's text than in the ENPI because the programming of these different funds is done in different ways. The use of the geographic funds are thus planned with the partner governments (or regional organisations) while the use of the thematic funds is planned by the Commission and then individual activities are designed and organised directly with the different actors that will implement them. The major difficulty with the DCI is first the variety of all these programmes and then the distance between them and the five expected Impacts, and again between these and the desired Global Impact of the instrument, that is *poverty eradication*. The latter also indicates a very high level of ambition which it is clear from many comments in the evaluation reports studied is considered largely out of reach. The result is that the intervention logic of the instrument does not bring out clearly how these different elements are expected to work together to achieve this very distant Global Impact. The DCI is therefore a strong candidate for simplification. However, given the likely legal obstacles and political opposition to reducing the level of the ambition of the Global Impact, other ways need to be found to achieve this simplification.

In conclusion therefore out of the two larger and more complex instruments, it would seem that while there are arguments to maintain the ENPI in its present form, the case for clarifying the logic of the DCI is much stronger. When one considers that it may also be necessary to accommodate a budgetised EDF in the new DCI in the post 2014 Multi-annual Financial Framework, making the instrument even larger and more diversified, this case becomes stronger still.

6.1.3 Improving the logic of future instruments

As already indicated the research in Phases I and 2 of the Study found that some of the six legal instruments under study had a clearer logic chain than others. In particular it was found that the links between expected Results, Impacts and the Global Impact objective as formulated in the regulations were not always very clear. This became particularly apparent in the drafting of the intervention logic diagrams. Poor clarity in the intervention logics in turn makes evaluation of implementation more difficult, which can compromise both accountability and learning. Lack of clarity can also complicate decision-making on what interventions are relevant, appropriate and strategic for achieving the Global Impact of an instrument, which ultimately represents why it was created and justifies the budget allocation. In some of the instruments studied the clarity of the logic was further hampered by the size and complexity of the instrument. The worst case of this was felt to be the DCI although the ENPI logic was also complex.

Starting from this conclusion that the logic of the regulations is important to enable their effective use as instruments to implement the Union's objectives, an effort needs to be made to clarify and ideally simplify the regulations in the future. There are several ways this might be done:

- A first obvious way with a large and complex instrument would be to split it up into several component parts for which the logic is easier to define.
- A second would be to seek to identify some general principles of good logic chain design and see how these might help.
- A third option would be to go back to first principles and seek to build the logical chain for an area of EU external action on the basis of what the regulation is intended to achieve and, hence re-design its instrument from scratch.

The Reference Group discouraged the Study Team from pursuing the first option as this was no longer useful in terms of the stage reached in the on-going process of formulating proposals for the next Multi-annual Financial Framework. It is therefore proposed here to explore the other two avenues. Where useful we will use the case of development cooperation as an example precisely because the current DCI is one of the more complex instruments.

6.1.4 Identifying principles of good intervention logic design

The methodology notes on the Commission's Joint Evaluation Unit's website³⁵ explain in simple terms how a chain of results from the first inputs through the different levels of results and impacts to the Global Impact corresponds to a hierarchical set of objectives (from implementation objectives to global objectives). This is the basis for a clear intervention logic diagram.

The clearer each step of the logical chain is spelt out and these different levels of objectives are defined, the easier it is to understand the diagram and see how the inputs will feed into the outputs, then on to the outcomes and ultimately lead to the final global impact and objective. Ideally it is this logic chain that needs to be outlined in the regulations for the new instruments. If the logic chain is spelt out step by step in this way, with each step clearly feeding in to the next, there are clear benefits in terms of implementation, monitoring, evaluation and accountability. A clear logic also helps the drafting of an ex-ante impact assessment and helps those who have to read this assessment and approve the legal instrument, because they can see that the proposals are well founded.

However, in practice Phase 1 and 2 of this Study have shown how the logic chains in the existing financial instruments are generally clearest at each end and have fewer details in the centre. In other words the instruments specify the global impact that is wanted and maybe some intermediate impacts at one end and at the other end they specify a string of inputs that could be made. In between there is far less detail, which means that in some extreme cases identified in Phase 2 the contribution of planned actions to achieving the global impact seemed to be more a matter of faith than of logic.

In terms of the role of the legal instruments it is clearly appropriate that the legislative authority is most interested in specifying what global impact it wants to achieve and secondly in indicating the inputs that the Commission is allowed to use to achieve this global impact, at the very least in terms of the overall funding amounts that can be used. In between it is clear that the regulation needs to leave enough space for the Commission to manage the instrument and formulate the detailed plans required, so it should also not be too prescriptive. Yet at the same time, it is also understandable that the legislative authority wants to know whether what it is asking the Commission to do is feasible and have at least some idea of how the latter proposes to go about achieving the desired global impact. The Commission, for its part, may well be interested in having certain other points (such as

³⁵ http://ec.europa.eu/europeaid/how/evaluation/methodology/impact_indicators_en.htm

specific types of inputs, approaches or modalities) agreed in the instrument so that it is reassured that it can employ them. But, in a field as broad as development cooperation, it is then not too surprising that one ends up with a long and heterogeneous list of inputs that might just be used in implementation. Once one starts specifying a few such inputs then it becomes necessary that nothing gets left out, as any omission might later be interpreted by one party or the other as a deliberate exclusion. Seeking to be exhaustive in this way is also likely to complicate negotiations and delay approval. Moreover, even the most exhaustive list will date with time and new unforeseen elements emerge that were not covered in the regulation and then cannot be funded.³⁶ Regulations should thus be worded in sufficiently generic terms so as to avoid having to provide exhaustive detail in an effort not to miss out anything crucial.

In drafting a regulation a balance thus needs to be sought between having enough detail at each stage of the logic chain, but not too much. It should be possible to follow the chain easily with each level clearly feeding into the next in one direction, or in the other direction, it should be evident how each level of objective is achieved by implementing the steps that feed into it. The best test of this is probably to attempt to construct an intervention logic diagram. Gaps in the logic chain and too little detail will affect the clarity of the logic chain. Too much detail will not only reduce clarity but also probably hamper ease of management by unnecessarily constraining the room for manoeuvre.

Another way of looking at this, is to consider what really needs to be in the text of the instrument and what could be left out, to be covered in other policy or strategic documents. The regulations for the instruments do not exist in a vacuum but rather in a context provided first by the Treaty and then by overarching policy documents approved by the EU institutions. These policy documents may not be legal documents in themselves, but they are often perceived as 'politically binding' and can be referred to in the legal instrument and the link thereby given a certain legal standing. It is therefore possible to leave a lot of the detail to the policy document and only sketch out the broad lines of the logic of the policy in the regulation.

In the case of development cooperation, the overarching policy document is the *European Consensus on Development* from December 2005. The DCI regulation from 2006 refers to the *Consensus* in its preamble indicating that it provides the framework for EU development cooperation. Interestingly, however the regulation contains more details in some areas than the *Consensus* itself, for instance it specifies that there will be geographic and thematic programmes in the DCI and goes into considerable details as to what these will contain. The *Consensus* on the other hand simply indicates that different countries and regions will require different treatment and so flexibility is important. The fact that the regulation is more detailed and prescriptive than the policy document in this case would seem to be the wrong way round. While there are likely to be reasons why this occurred at the time the DCI was drafted, it is worth questioning whether in the current context this is still necessary. If not, then the text of the successor to the DCI might well be simplified by applying the principle that *prima facie* the legal instrument should be less detailed than the policy document.

Another conclusion that emerged from this study was that smaller, more specific instruments generally had clearer logic chains than the larger, more complex ones. While this could be simply by accident, it is also true that the more specific the purpose of an instrument the easier it should be to summarise what needs to be done to achieve its objective and write this up in a simple logic chain. One might therefore draw the conclusion that it is better to avoid large instruments and while splitting up large instruments into smaller ones is probably the simplest way of tackling the problem of greater complexity that comes with larger size, another approach is to be far more strict in distilling the essential logic out of the process under consideration. In other words the larger and more complex domain covered by the instrument, the greater the discipline required to achieve a

³⁶ The DCI is a case in point. Thus for instance the funding commitments made by the EU to help promote international action in climate change and biodiversity, respectively adopted in Copenhagen in 2009 and Nagano in 2010, can formally not be funded under the DCI regulation.

well synthesised argument and a clear succinct logical chain in the regulation. The strained circumstances of the negotiations over the original DCI regulation were clearly not a conducive environment to achieve such discipline.

Finally, there are a number of practical provisions that need to be included in the legal instrument. These relate essentially to accountability and ‘evaluability’ as this is one of the important functions of the regulation. The regulation thus provides the basis on which the Council and EP can hold the Commission accountable for the execution of the work and the spending of the funds covered by the instrument. The text therefore needs to indicate what sort of governance mechanisms will be established, what form of reporting is required, etc. But while these provisions are essential, they do not affect the logic chain of the instrument and can therefore be largely left to one side in this discussion. The one reason they are important for this study however is that these provisions should ideally also provide the basis for evaluation. They should therefore stipulate the need for evaluations to be done, what these should cover and ideally what the stakeholders seek to learn from the evaluations at least in general terms. As we have seen the language in such ‘review’ articles can usefully be much more precise on what needs to be reviewed, by whom, and by when so that the priorities and objectives are clear. They might also point to synergies between legal instruments (e.g. DCI and EIDHR) that need to be evaluated specifically.

Box 1: Some principles of good legal instrument design

Starting from the assumption that it should be possible to summarise the argument of a good regulation in a simple intervention logic diagram we can derive a **few principles of good legal instrument design**:

- ***Build the instrument around a logical argument:*** The different elements of the logic chain should clearly lead, step by step, one in to the next, so that it is clear which activities will lead to what result and which results to what impact and vice versa.
- ***Simple language:*** The steps in the chain should be worded as simply as possible and should not be overloaded with excessive detail that obscures the logic.
- ***Space for management:*** Flexibility also needs to be built in so as give adequate leeway for efficient management
- ***Stick to the essentials:*** The larger the domain to be covered by the regulation the greater the need for strict discipline in getting the argument spelt out succinctly so that the logic chain remains clear
- ***Policy driven instruments:*** If no relevant policy document exists for a specific instrument then one should be drafted and agreed first so that the complementarity between the policy and the regulation can be clearly established
- ***Complementary roles:*** An effective division of labour should be sought between the regulation and the related policy document and formally recognised. Both should follow the same essential logic chain. But the policy document can cover the full detail, leaving the regulation to concentrate on the essential argument and logic chain.
- ***Resist temptation to be exhaustive:*** Avoid seeking to cover everything in the regulation and generally choose a more generic form of words.

6.1.5 *Building the logic of an instrument from first principles*

Taking the example of development cooperation as an illustration, the Treaty is the place to start building the logic chain. The Lisbon Treaty reconfirms right from its first chapter that the EU “... shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights...” (TEU Art. 3.5, author’s emphasis added). This is further emphasized in the general provisions on the EU’s external action (TEU Art. 21) and then it is made clear that “*Union development cooperation shall have as its primary objective the reduction and, in the long term, the eradication of poverty*” (TFEU Art.208). This thus provides the ‘global impact’ to be sought by any EU budget instrument on development cooperation and the starting point for constructing the intervention logic.

The Treaty provides one more clue on what the EU should be doing in terms of development cooperation and that is to specify in the same article that this work should also comply with the commitments the EU has made at the UN and in other relevant international fora. This would therefore include such current UN objectives as the achievement of the MDGs or adherence to the principles of the Paris Declaration on Aid Effectiveness and the Monterrey Consensus on Financing for Development.

In the absence of further detail in the Treaty, the *European Consensus on Development* is the best source of EU level policy on development and how one might achieve the expected Global Impact of poverty eradication, as it is the only policy statement on development cooperation that has been agreed by all the three principal EU institutions. All three will obviously be involved in the decision on the new DCI, and it can therefore also be expected that the EC's Impact Assessment for the future legal instruments, including the DCI, will derive various ideas from the *Consensus*. The box below highlights a number of points from the *Consensus* that could be used for drafting an intervention logic on EU development cooperation.

Box 2: The European Consensus of Development – elements for an intervention logic

The *Consensus* provides considerable elements, in both the EU-wide (EU and Member States) Part I and in the EC-specific Part II, that can be used to construct an intervention logic for EU development cooperation.

For instance Part 1 provides the following elements on how it is envisaged the EU will work on development cooperation:

- Part 1, Section 1 on the Common Objectives (paras 5, 6 and 8) reiterates the overarching objective of *poverty eradication* and the commitment to the development goals of major UN conferences and summit found in the TEU and explicitly talks about the *pursuit of the MDGs*.
- Part 1, Section 2 on the Multidimensional Dimensional Aspects of Poverty Eradication takes the discussion down a level and breaks poverty up into a number of 'core dimensions'. Paragraph 11 also argues that combating poverty will only be possible if emphasis is placed on three things (i) *investing in people*, (ii) *the protection of natural resources to secure rural livelihoods* and (iii) *investing in wealth creation*. The empowerment of women is also mentioned as a core element in the same paragraph. These could be used to formulate second level impacts in an intervention logic diagram, and by doing so operationalise the Global Impact objective as provided by the Treaty.
- In the same section, Paragraph 12 lists a series of 'development activities' that can be used in the Activities column of the far left of the intervention logic diagram.
- Part 1, Section 4 on Common Principles talks first and foremost about *ownership and partnership* (para 14-16), and then refers to political dialogue, participation of civil society, gender equality and addressing state fragility (paras 17-22), all of which can feature in a diagram.

Part 2, for the European Community, also has various valuable elements.

- Part 2, Section 1 on the Comparative Advantages of the Community (paras 48-54) identifies a number of features of the EC that should be part of the way it works in development cooperation. The most relevant for a logic diagram are: the *'global presence'* that implies the EC will work with all developing countries, *'promoting best practice'* that implies an investment in knowledge generation and exchange, and *'size and critical mass'* that indicates an ability to deal with large scale projects. Equally a number of others also imply the EC will make resources available for certain tasks it is in a good position to carry out such as *'facilitating coordination and harmonisation'*, *'promoting democracy, human rights and good governance and respect for international law'* and the *'the participation of civil society'*. These can all usefully feature in the Results or Outputs columns of an IL diagram.
- Part 2, Section 2 on Differentiated Approaches also has some important references to the fact that the EC will adapt its approach to the different development context and needs of *both LICs and MICs* (para 60-61)
- Part 2, Section 3 takes the question of Responding to Partners Needs further and refers to the need for both *concentration and flexibility* (paras 67-68)
- The same section goes on to list a series of Areas for Community Action in which the EC is to further develop its expertise and capacity and which will be the areas where it will be primarily active (Paras 70-99: *Trade and regional integration – the Environment and the sustainable management of natural resources – Infrastructure, communications and transport – Water and energy – Rural development, territorial planning, agriculture and food security – Governance, democracy, human rights and support for economic and social reforms – Conflict prevention and fragile states – Human development – Social cohesion and employment*). Again this provides a useful list of activities where the EC will be seeking to produce Outputs and achieve Results.

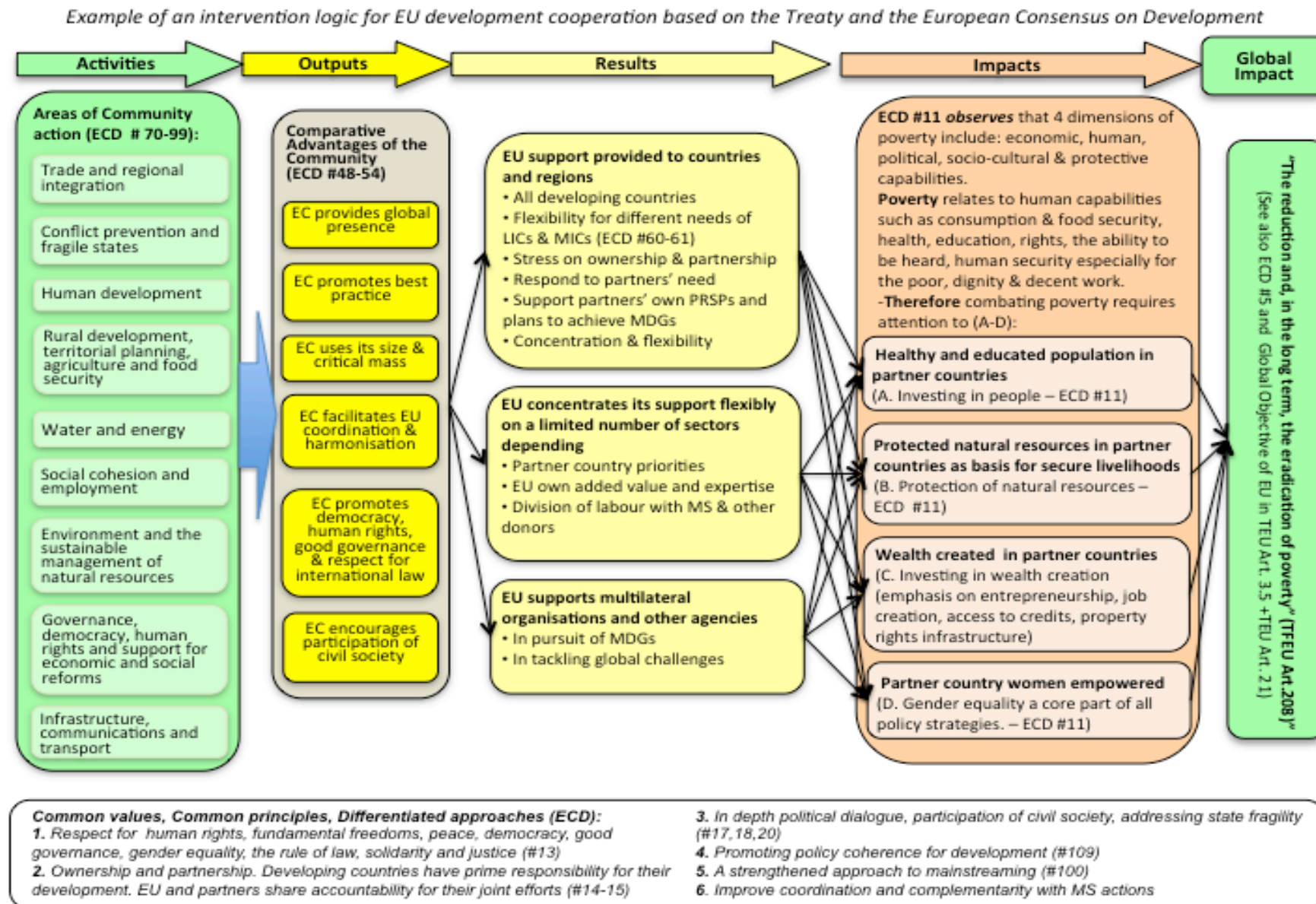
Looking at the details of the *Consensus* summarised in Box 1 above it is clear that an intervention logic based on the *Consensus* would have a number of differences with the intervention logic of the current DCI. These may be useful to consider in formulating the regulation for the successor instrument. The biggest obvious difference would be that there would be no reference to geographic programmes. The only distinction between different types of countries that the *Consensus* makes is between LICs and MICs, and it does so without going into detail on what this distinction would entail in practice. Otherwise it indicates that the EC will work globally and therefore potentially in any developing country. The *Consensus* also does not relate particular activities to particular regions as is the case in the current DCI regulation. Even for the two categories it does mention, the LICs and MICs (paras 60-61), the *Consensus* only suggests a number of topics to keep in mind in working with each of them, but it also indicates that it will first of all follow their own poverty reduction strategies.

In other words if the logic of the new DCI were to be built on that of the *Consensus* it would not have a split between geographic and thematic programmes. Rather the logic would largely be built around thematic areas of work and an assumption of global coverage to all developing countries. In terms of supporting country and regional development work it would recognise that LICs and MICs had different needs, but the basic premise would be that the content of CSPs and RSPs was determined in dialogue with the countries and regions concerned, with the principles of concentration and flexibility and above all of ownership systematically applied.

Another difference between the *Consensus* and the DCI regulation is that the former does not seek to be prescriptive or exhaustive in the areas in which the EU will work in development concentration. Rather these are worded in more indicative terms which it indicates considerable flexibility which provides an openness to new ideas and approaches that may become relevant.

An example of what an intervention logic based on the Treaty and the *Consensus* might look like is provided below (Figure 2). This could be used as a model that may provide some useful ideas for the drafting the regulation for the successor to the DCI.

Figure 2: Example of an intervention logic for EU development cooperation based on the Treaty and the European Consensus on Development.



6.1.6 *Horizontal Recommendations Applying to All Future Legal Instruments*

While the options that have been presented so far each apply differently and in differing degrees to individual legal instruments, the Study Team also identifies the following horizontal recommendations which can be taken into account in the drafting of all the new regulations to govern existing and possibly new instruments from 2014:

- ***Logical legal instruments:*** In Box 1 some principles of good legal instrument design based on a clear intervention logic were summarised from the previous discussion. These placed emphasis on clarity and simplicity of language, a logical argument chain, the inclusion of some space for management flexibility, discipline in only including the essentials, an effective division of labour between policy documents and regulations, the importance of having regulations being policy driven and resisting the temptation to be comprehensive.
- ***Global Impact review clauses:*** Regulations could include specific provisions to ensure sufficient analysis of and learning about progress made towards the achievement of the legal instruments' Global Impact objectives. The difficulty of 'measuring' progress made at this level has been acknowledged, and existing independent evaluations covered by this study were unable to effectively do so. Instead, regulations might include a provision for a specific budget for more participatory and 'political' review processes conducted jointly with the key actors of the partnership as recognised in the regulations (e.g. partner government representatives, members of parliament, CSOs, industry, other donors).
- ***Strengthening the complementarity of the instruments:*** In the current instruments an effort was made to state that the instruments were to be used in a complementary fashion, yet there was a general lack of evidence of such linkages and interrelations actually occurring. None of the evaluations were found to address this issue explicitly so there may be more occurrences than was apparent. That said it remains important that the complementary use of instruments should be encouraged as it adds flexibility to the funding system and helps ensure that the coherence intended between the Union's different external action objectives gets carried through into practice. Such clauses strongly encouraging complementary usage should therefore once again be included in all the new regulations and the complementarity of the package of instruments as a whole should be an important consideration in its design.
- ***Linking on-going implementation of past instruments to current priorities:*** There is clearly a time lag of several years between the drafting of a legal instrument and the full implementation of the funds it covers. Yet the study demonstrated that despite this time lag there was still considerable continuity in the work on the ground. This made it entirely feasible to link the results of programmes funded under the previous instruments to the intervention logics of the current ones. It could therefore be considered whether it would be possible and useful to recognise the on-going nature of the work by inserting a 'continuity clause' in the next generation of instruments (post 2014), which explicitly states that the new instruments' main objectives and principles should, as far as possible, also be taken into account in the on-going implementation of programmes actually funded from their predecessors. Doing so might encourage a faster follow-up in implementing new ideas and priorities emerging from the new regulations. In practice this would make implementation more rapidly sensitive to the wishes of the Parliament and Council and to the latest policies of the Commission. New regulations could even be explicitly linked to the specific old ones they replace, so that it is clear which 'old' funds relate to which new instrument, though of course this would be more difficult if major changes are made to the configuration of the whole package of instruments. Such a clause that recognised this continuity might also make it easier to evaluate 'across' various EU budget

cycles. Ultimately it would also make the logic of a synthesis study such as the current one stronger and therefore easier to conduct again in 5 or more years time.

- *Targets for aid modalities:* The regulations studied in Phase 1 and 2 present a wide range of modalities that can be used in the context of the interventions.³⁷ However, the EC's Mid-Term Review has shown that particularly in the case of thematic programmes, EC cooperation interventions are principally financed through one aid modality: the Call for Proposals. As there has been some good experiences with the use of modality targets in development cooperation policies (e.g. targets for budget support in the 2005 *Paris Declaration on Aid Effectiveness*, paragraph 32 of the *European Consensus on Development*), introducing targets for the use of a variety of modalities into the regulations could help ensure that the potential for flexible approaches may be realised in practice.
- *Preparing the regulations for blending loans and grants:* the 2007 DAC Peer Review of European Community development cooperation estimated that over 90% of gross ODA disbursements was made in the form of grants.³⁸ Current emerging policy proposals put forward by the Commission in its Green Paper on the Modernisation of EU Development Policy, as well as the analysis contained in the 2009 EC Mid Term review of the legal instruments, however point to a need to further 'blend' and ensure synergies between different parts of the external action of the EU which are provided in the form of grants and loans. This is also underlined by the European Investment Bank's increased profile and investments in developing countries. It might therefore be looked into how the regulations could help ensure this 'blending' to occur in practice.³⁹

6.1.7 *Conclusion and recommendations for the new legal instruments*

The main difficulty the study encountered with some of the current legal instruments and which should ideally be addressed in the future is the question of the clarity of the logic chain. In drafting the new set of legal instruments for the post-2014 MFF, the key objective to keep in mind is to seek to **create instruments that have a clear internal logic** where it is possible to see relatively easily how the various activities and inputs will contribute collectively to achieving the global impact that is defined for the instrument. It is felt that by doing so it will be easier to manage the instrument for the Commission and the scrutiny functions of the EP will also be easier to perform. In particular it should be possible to monitor progress and results achieved and in due course evaluate against the objectives set by the instrument.

Ideally the **instruments should also be designed as a package that is easily understood** by stakeholders, where the individual scope and role of each is well defined and distinct and the complementarity between the different instruments is clear. This will provide a stronger practical basis for establishing the desired synergies between them during implementation. Moreover, if the regulations are also to be more widely used as a basis for monitoring, evaluation and accountability they need to be easily understood by a wider variety of stakeholders than just those charged with their implementation.

As we have seen creating this clarity in the instruments is partly about the clarity of the interconnections between the different steps of the logic chain written in to the regulations, but it is also about not overloading them with excessive detail. One important tool in achieving this balance

³⁷ For example, Article 25 of the DCI Regulation presents thirteen different approaches to financing which can be used.

³⁸ See page 74 : <http://www.oecd.org/dataoecd/57/6/38965119.pdf>

³⁹ More analysis can be found in: EU Think Tanks Group (2011). EU Blending Facilities:

Implications for Future Governance Options

[http://www.ecdpm.org/Web_ECDPM/Web/Content/Download.nsf/0/DC043A3449A5C2F1C125782D00322BA5/\\$FILE/EU%20Blending%20facilities-imp%20for%20future%20governance%20options_Jan%202011.pdf](http://www.ecdpm.org/Web_ECDPM/Web/Content/Download.nsf/0/DC043A3449A5C2F1C125782D00322BA5/$FILE/EU%20Blending%20facilities-imp%20for%20future%20governance%20options_Jan%202011.pdf)

is to **ensure that each instrument has a related policy document**. The instruments are expected to be policy driven and yet not all of them have such policy documents and even in cases where these exist there are inconsistencies between the policy document and the regulation. It is suggested that the prime principle to be adhered to is that the policy document should be more detailed than the regulation and the latter should therefore just contain a description of the overall logic chain of the instrument without excessive detail.

In addition the regulations need to contain the necessary **governance and accountability clauses** including provision for evaluation and review. This is also the topic of the next section of this report.

6.2 Proposals for the Evaluation of Activities in the Future Programming Period

The TOR also asked the Study Team to put forward some indications on how the evaluation programme might be improved under the next Multi-Annual Financial Framework. For the purposes of this Study it was clearly important for the team to have had access to a good range of completed evaluation reports that covered to a reasonable degree the full scope of the six legal instruments under study. The number of ex-post evaluation reports available was certainly adequate and by and large the range was good with some for each of the different types of evaluation (by country, by region, by theme, by channel), but in some areas there were gaps (principally in the different themes and regions) as has been noted.

Besides making improvements in the design and use of the evaluation programme itself, improvements can also be made by strengthening links with the Commission's Impact Assessment system. During the period that the legal instruments for the current Financial Perspectives were designed, there was not yet an obligation to do Impact Assessments (IAs) for all policy proposals, while today IAs are required for all legislative proposals which have significant economic, social and environmental impacts. Hence, for this evaluation only two IAs were available, and these were of a rather 'light' nature and covered the EIDHR and ICI regulations, which were less substantial in financial and thematic scope than others. The situation has now been improved with revised IA guidelines having been adopted in 2009⁴⁰ and Impact Assessments now required for all future legal instruments, making a future study such as this one probably more straightforward.

Based on the main findings of the ex-ante analysis (of IAs and other Commission documents together with the Regulations) and the ex-post evaluations, a few conclusions emerging from the different phases of the study, can be drawn on the current state of EC evaluation practices and how these can contribute to learning about the use and results of the legal instruments:

1. *Impact Assessments have not had an influence on the negotiation process* of the current generation of legal instruments. Their potential value in helping to clarify the logic of proposed interventions is however clear and, given that the EC's IA system has now been consolidated, they should play an important role in the formulation of the next generation of legal instruments. They should both help inform the drafting of the text of the Regulations and provide an important ex-ante evidence-base for future evaluations.
2. *The coverage of the different legal instruments by ex-post evaluations needs to improve.* The study found that the evaluation evidence available for the past financial perspectives period was not proportionally distributed over the six legal instruments, making it difficult to assess a number of them.

⁴⁰ These guidelines are available on a dedicated website on IAs maintained by the Commission's SG: http://ec.europa.eu/governance/impact/commission_guidelines/commission_guidelines_en.htm

3. *The evaluation coverage of the different key elements of the legal instruments also needs to improve.* Choices made in the current evaluation programming to concentrate on specific elements of the legal instruments resulted in limited evidence being available on others (e.g. most EIDHR-related evaluations focused on support to civil society).
4. *The evaluation programme needs to be maintained or increased.* The required changes in evaluation practices as presented in this report (i.e. better linking ex-post evaluations to legal instruments, improving synergies between ex-ante and ex-post evaluations, ensuring fully representative evaluation programming and improving accessibility and visibility of evaluation results) will require that the number of evaluations conducted by the JEU will at least need to be kept at the current level but preferably increased.⁴¹

Based on the main findings of this study and these conclusions, the following four recommendations are put forward and relate particularly to how evaluation practices might be improved under the next Multi-annual Financial Framework with regard to the object of this study, that is the legal instruments. The four recommendations are interlinked and hence not meant as a menu of choices. In other words they should ideally be taken forward as a package.

6.2.1 Recommendation A: Improve explicit links between evaluation and the legal instruments

The analysis of Phase 3 presented in the previous Chapter concluded that regulations do not set any priorities for evaluation, and the evaluations do not explicitly aim to provide information relevant to evaluating the regulations. Future terms of reference for evaluations could include references to specific objectives of the legal instruments with a requirement to evaluate whether or not the work being evaluated has helped make progress towards this goal. Thus the intervention logics of the legal instruments could also be an element that evaluators are expected to relate to in their work. An added advantage of this would be that it would ensure that the overall objectives of the evaluation programme would be more closely linked to those of the legal instruments.

Such a move to systematically relate evaluation findings to the intervention logics for the legal instruments would require that the JEU ensures that intervention logics for the legal instruments are prepared right at the start of the evaluation programming period and include these in TORs for future evaluation studies.

Box 3: Links between the evaluations and the legal instruments: pros and cons

Advantages	Disadvantages
<ul style="list-style-type: none"> • Evaluators and managers are ‘sensitised’ about the contents of the regulations and better relate their work to the instruments’ objectives. • Evaluations which are more explicitly related to the legal instruments might more easily feed into policy and political review processes in the Council, EEAS, Parliament or Commission. • It would also be possible to use the linkages/overviews as a basis for intermediate synthesis reports which can be made available to relevant decision-makers (see also recommendation D). 	<ul style="list-style-type: none"> • Making these links can be complex in case evaluations cover multiple EU budget cycles and when there are strong differences/evolutions in the instruments these evaluations cover. • Systematic linkage of evaluation findings to legal instruments also require additional quality control investments by the JEU, for instance on developing methodological guidance for evaluators on how they can link evaluation results to legal instruments. The EC may choose to develop the intervention logics for the future legal instruments themselves, or commission this analysis.

⁴¹ Although generally speaking these findings would definitely not be a logical base for reducing the JEU’s budget, it is possible to look into how the existing budget can be used differently by looking at the budget per evaluation, or reduce country-level while increasing the number of thematic or regional evaluations.

6.2.2 *Recommendation B: Adequate and timely coverage of all legal instruments*

The results of Phase 3 of this study indicate that during the current negotiations on revising and/or reforming the legal instruments, *some sectors or cooperation areas lack sufficient evaluation evidence to inform decisions*. The current study was to some extent hampered by the absence of completed evaluations of work coming under a number of instruments. There was thus inadequate coverage for the ICI, INSC, IfS and even to some extent the EIDHR where a crucial evaluation was on-going at the time of the study. The programming of evaluations should ideally not leave some programmes or instruments completely uncovered so late in the cycle even if these are the instruments where least money is spent.

In considering how best to ensure good evaluation coverage external action programmes defining what a ‘representative evaluation programme’ would amount to can be done in different ways:

1. *By funding volume:* It can aim to be representative by covering a high proportion of the total amount of funding that is made available for all legal instruments combined;
2. *By scope of expected Results:* Alternatively, it might aim to be representative by covering a high proportion of interventions targeting the different expected Results listed in the regulations.
3. *By type of programme:* Finally, it may aim to be representative in terms of the different programmes (country, regional, thematic, etc.) and instruments (ICI, IfS, etc) covered.

It is acknowledged that some legal instruments address topics or areas that have not been evaluated as frequently as others, but several of these topics have now been taken up towards the end of the 2007-2013 budget (e.g. human rights, conflict prevention, energy). Therefore, efforts should be made to ensure that the next evaluation programming is sufficiently representative in accordance with all three definitions set out above. Assuming that the variety of areas covered by the EU’s external action remains at least constant, and so does the overall budget available, then it would seem that the current budget for independent evaluation should be consolidated under the next budget cycle.

Box 4: Adequate and timely coverage of all legal instruments: pros and cons

Advantages	Disadvantages
<ul style="list-style-type: none"> • Avoidance of decisions having to be made on a narrow evidence base. • Existing evaluations might also be used in other policy processes, e.g. in the communication with the Parliament, or in mid-term reviews produced by the Commission. 	<ul style="list-style-type: none"> • Making these links can be complex in case evaluations cover multiple EU budget cycles and when there are strong differences/evolutions in the instruments these evaluations cover.

6.2.3 *Recommendation C: Adequate baselines and ex-ante impact assessment as a basis for future evaluations*

Several evaluations pointed to problems in measuring performance due to absent baselines or risk assessments. The analysis in Phase 2 of this study was moreover confronted by the fact that limited Impact Assessments⁴² had only been conducted for 2 out of the 6 legal instruments and even these were not done at the time when the instruments were being created so did not feed into their design.

A total absence of IAs at the time of formulating proposals for the legal instruments evidently complicates their ex-post evaluation. In this study this becomes evident in the increasing uncertainty in evaluation findings when these relate to items ‘higher up’ the intervention logics. The Global

⁴² The 2 available Impact Assessments (IAs) were not very detailed assessments, e.g. they did not provide a clear baseline of the state of democracy and human rights in developing countries at the time that operations from the EIDHR would proceed.

Impacts for most of the instruments reviewed are derived from the TEU and further justified by reference to the policies cited in the legal instruments (e.g. the *European Consensus on Development* for the concept of ‘poverty eradication’ in the case of the DCI) where Intermediary Impacts are often also indicated. The existence of these policies however does not guarantee that higher level objectives will be formulated in a concrete or ‘SMART’ fashion, but IAs should ideally contribute to ensuring that this done in a more operational manner.

Revised guidelines for conducting IAs were published in January 2009. The following box provides a summary of key questions that an IA is expected to respond to.

Box 5: Key questions to be addressed by Impact Assessments⁴³

- “What is the nature and scale of the problem, how is it evolving, and who is most affected by it?”
- What are the views of the stakeholders concerned?
- Should the Union be involved?
- If so, what objectives should it set to address the problem?
- What are the main policy options for reaching these objectives?
- What are the likely economic, social and environmental impacts of those options?
- How do the main options compare in terms of effectiveness, efficiency and coherence in solving the problems?
- How could future monitoring and evaluation be organised?”

Three of the six key steps specified in the EC’s guidelines for Impact Assessment would seem particularly relevant for how the IA report may contribute to the Commission’s proposals for legal instruments and be used as a key reference document by the Commission, the EP and the Council in the further negotiations: Define the objectives (step 2); analyse the impact of the options (step 4); and Outline policy monitoring and evaluation (step 6).

Making provisions for M&E in the text of the future legal instruments would ensure that there was a basis to conduct such work and a basis for agreement with the Parliament on what their needs and expectations were in this area. This could also help ensure that evaluation reports could feed more systematically into the scrutiny and accountability processes of the Parliament. In this context, reference is made to the inter-institutional agreement between the European Parliament, the Council and the Commission on ‘better law making’ (OJ C 321/01 31.12.2003). Paragraph 25 of this agreement, which aims to improve the quality of law-making by means of a series of initiatives and procedures, reads as follows:

“The three Institutions, exercising their respective powers, will ensure that legislation is of good quality, namely that it is clear, simple and effective. The Institutions consider that improvement of the pre-legislative consultation process and more frequent use of impact assessments (both ex ante and ex post) will help towards this objective. They are committed to the full application of the Inter-institutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community legislation.”

Given the low use made of Impact Assessments (as well as ex-post evaluations) by the Parliament and the Council, the Commission could perhaps also put further effort in directly informing them of the existence of Impact Assessments once these are published as Staff Working Documents. For instance they are not always systematically referred to in press releases once legislative proposals have been adopted by the College and are sent to the Council and Parliament.

Under the next Multi-Annual Financial Framework, *links could be improved between ex-ante assessments* (including, but not only, the Impact Assessments) *and ex-post evaluations*, and efforts

⁴³ As summarised on page 4 of the guidelines :

http://ec.europa.eu/governance/impact/commission_guidelines/docs/iag_2009_en.pdf

should be improved to ensure that specific baseline and risk assessments are conducted in parallel of the Impact Assessments, which could draw on data gathered in ex-post evaluations.

Box 6: Adequate baselines and ex-ante assessments: pros and cons

Advantages	Disadvantages
<ul style="list-style-type: none"> • Strengthened links may better enable future evaluations to look into results at the Impact level. • Improving links between various assessment processes can reduce the risks that these are seen as 'bureaucratic requirements' as opposed to means to improve cooperation. 	<ul style="list-style-type: none"> • Strong investments in ex-ante research might lead to delays in programming and/or implementation, and could result in high costs in financial and institutional terms (e.g. for partners in the south).

6.2.4 Recommendation D: Provisions for synthesis evaluations and communication of evaluation findings to Council and Parliament

Resources for synthesis analysis should be allocated throughout the next MFF along with provisions to make sure inputs can be readily used. Feedback received on the outputs from the earlier Phases of this study have confirmed the relevance and appropriateness of investing some resources in producing syntheses of evaluation findings and comparing these with the objectives as outlined in the regulations for the legal instruments. Instead of doing such a study incidentally, the evaluation programming could usefully plan ahead and take various steps so that analyses like these could be conducted with relatively limited investment. The structure of the evaluation reports covering the effectiveness of the EU's activities conducted under the legal instruments could, for instance, be adapted so that they include a standard table summarizing the key findings and linking these to expected Results and Impacts as set in the new regulations.

Such investments can ensure that synthesis analyses could thus be conducted anywhere on any subject, during the MFF period, which would allow easier comparison and contrasting of findings in different evaluations (see also recommendation A above). Doing so would however require a study early on in the process, once all new regulations have been adopted, to develop intervention logics and complete this ex-ante assessment at an early stage. As separate documents, shorter synthesis tables reflecting only the findings that were achieved and links to relevant intervention logics might also be developed as a tool to communicate recent evaluation findings to the European Parliament and relevant Council working parties, which in general unfortunately do not tend to be very informed about the findings of evaluations as commissioned by the JEU.

In addition to investing in such synthesis reports, steps can also be taken to improve the visibility and accessibility of evaluation reports after these have been adopted. Evaluation reports are presently rather well hidden on the DEVCO website: no direct link is provided on the home page, the visitor needs to know s/he to look under 'How we work' and click several times to access the reports. Moreover, the website is not regularly updated, given that at this stage in May 2011 not a single evaluation report adopted in 2011 was available.⁴⁴ Perhaps a specific procedure could be put in place which would ensure that reports would become uploaded as soon as approved (i.e. similar to what happens with legislative proposals).

⁴⁴ See: http://ec.europa.eu/europeaid/how/evaluation/evaluation_reports/reports_by_year_en.htm (Website visited 3 May 2011)

Box 7: Provisions for synthesis evaluations: pros and cons

Advantages	Disadvantages
<ul style="list-style-type: none">• Synthesis studies of evaluations provide a better overall picture of trends• Aggregating evidence from several evaluation reports, providing these are done in a relatively uniform manner and to similar standards, provides better evidence for overall all policy making• Strengthening visibility and accessibility of evaluation reports can also be an important step forward	<ul style="list-style-type: none">• This requirement will add to the existing load of each evaluation• This will also make individual studies more complex which may make it harder to find evaluators with the adequate skills and knowledge• Investing in regular synthesis reports might result in these findings being considered outside the 'context' in which they were achieved (this disadvantage would mainly relate to shorter 'synthesis tables' and not to longer reports such as the present one).

7 CONCLUDING REMARKS

This final report describes the result of an analytical exercise that in various ways was relatively unique. Aside from the conclusions of the study itself a number of points emerge from this that it is useful to retain.

First, despite some initial doubts about possible obstacles expressed in the risks analysis in the Inception Report, the overall study proved a worthwhile and productive exercise not only from the point of view of the study team, but judging from the response at Reference Group meetings, also for Commission officials. Both of the key elements of the Study Team's work, that is the creation of intervention logics for the six legal instruments and the aggregation of the evaluation results to provide a picture of areas well- and under-addressed by existing evaluations were clearly perceived as useful information to have.

Second, the relative novelty of the exercise also underlined to the Team that the instruments themselves are rather distant to various stakeholders and it would seem even to some EC officials. The instruments are referred to in terms of specific points that they make, but it would seem that they are very rarely examined for their overall internal logic and that doing so raises a good number of issues. Thus individual stakeholders (officials or others) will often only have a detailed knowledge of those parts of the regulations related to the specific geographic or thematic elements that they deal with on a daily basis. This obviously also obscures both the overall vision of whole package of instruments and any assessment of the interrelations between the instruments. Under the previous institutional setting for EU external action this was reinforced by a situation where specific Directorates General were mostly concerned by specific instruments. The creation of a single DG for development cooperation, DEVCO, that covers both policy formulation and implementation, and of a single entity, the EEAS, that is responsible for promoting the overall coherence of EU external action through all the programming, provides a unique opportunity to remedy this situation and promote a more holistic approach to the use of the full package of legal instruments.

As a third important lesson, the Study Team chose to also extract and analyse findings from the evaluations in relation to the functioning of the overall cooperation process, in the hope that this information might facilitate the interpretation on why certain results did or did not occur. In the end it was not feasible to make clear links between this 'operational' information and the evidence on results, but this work nevertheless provides a useful source of information for seeing what comments regularly come out of evaluation reports in this area. As these are of a supplementary nature, the results of this specific analysis are not covered in this Volume of the report, but were kept in mind in the formulation of the options for the future. Volume 3 presents the results of this exercise and puts forward some areas where the scope for improving the effectiveness of the cooperation process itself could be looked into.

Finally, the overall exercise showed the value of making occasional investments in synthesising and analysing the results of several independent evaluation exercises at once to obtain an overall picture of trends. Moreover, despite the initial concerns, particularly on the analysis of the genesis and practical evolution of the legal instruments themselves, the results of the analysis did confirm that not only evaluating the concrete outcomes of policies, but also the process of their formulation can result in valuable lessons that can strengthen their ultimate effectiveness.

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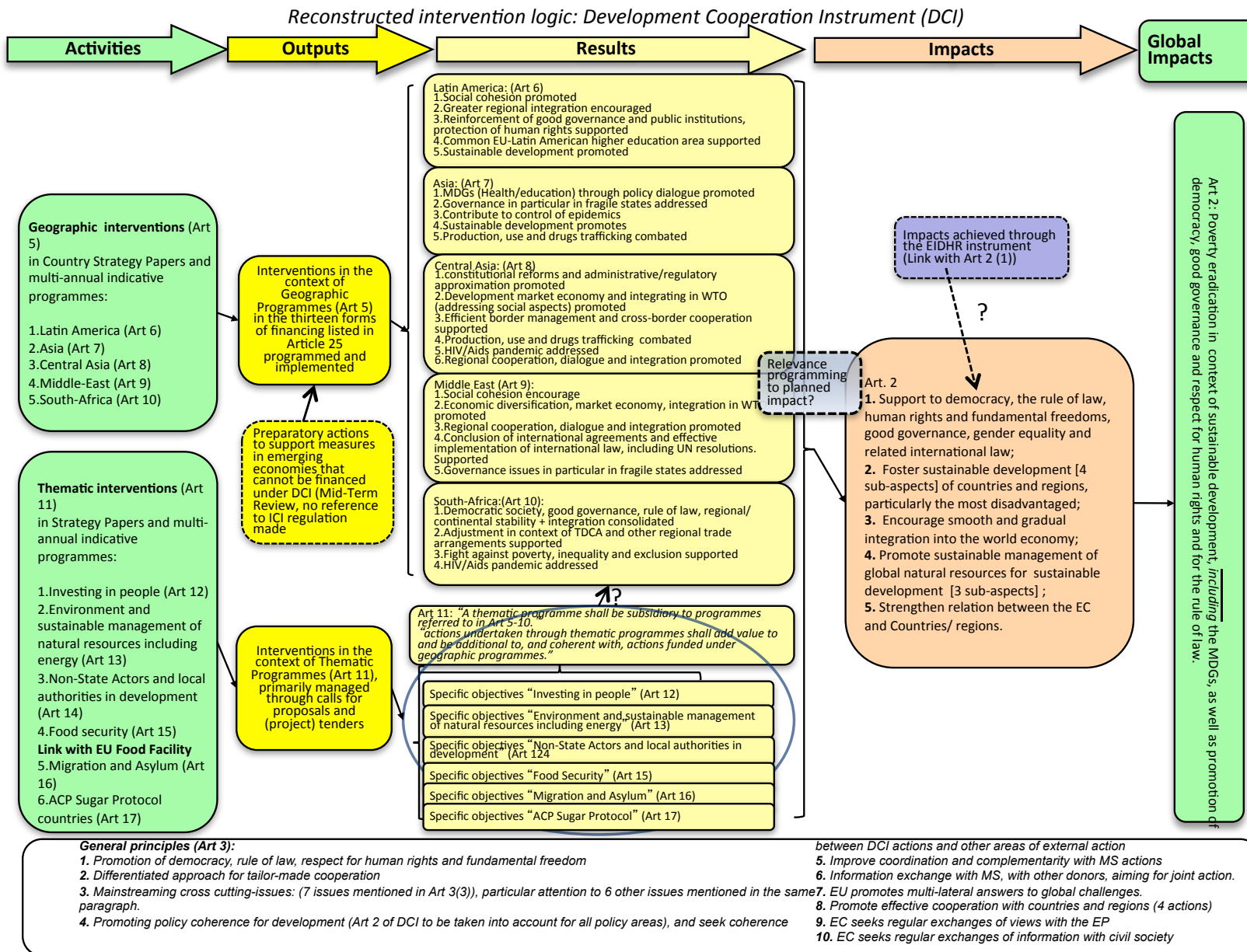
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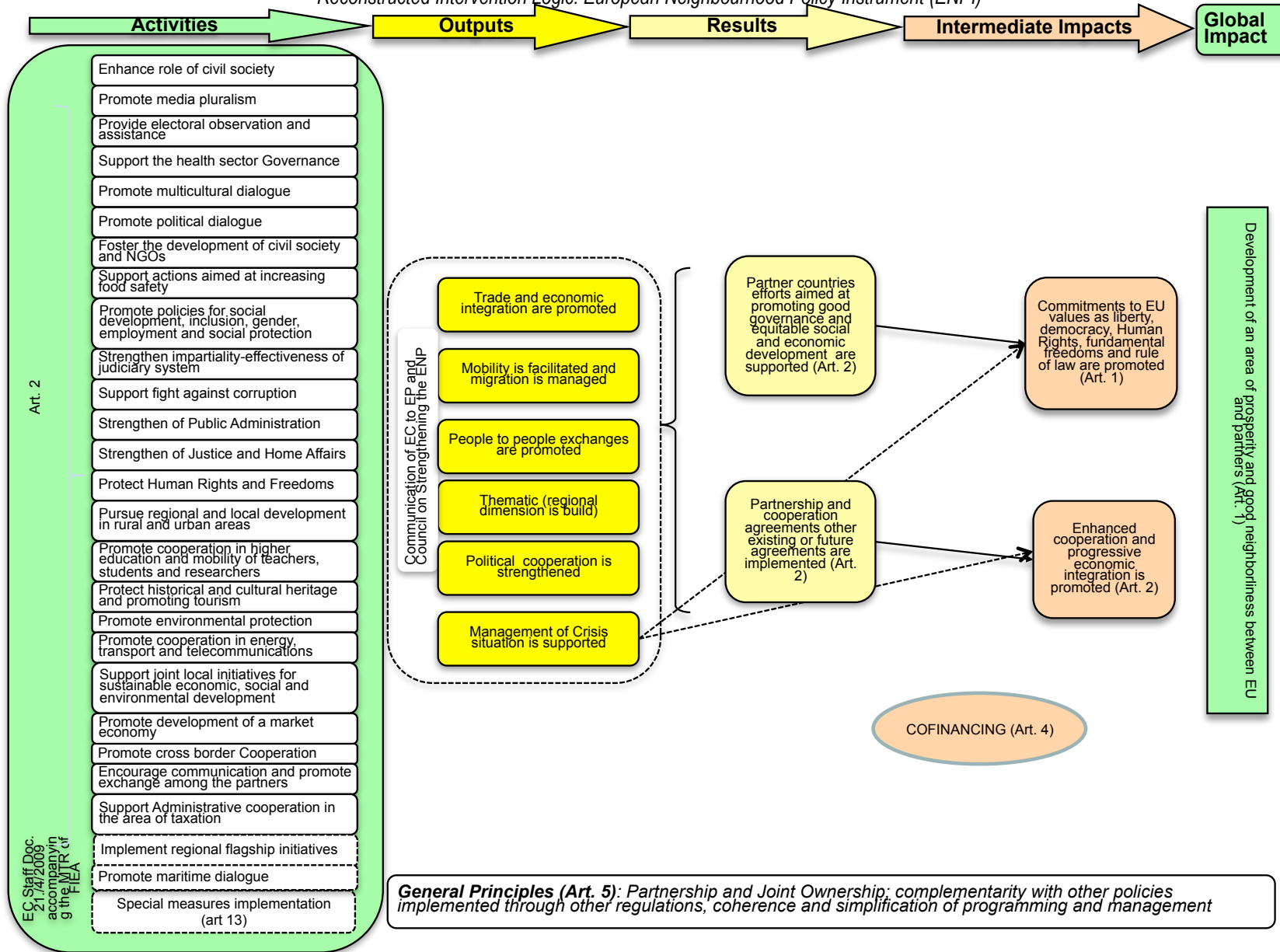
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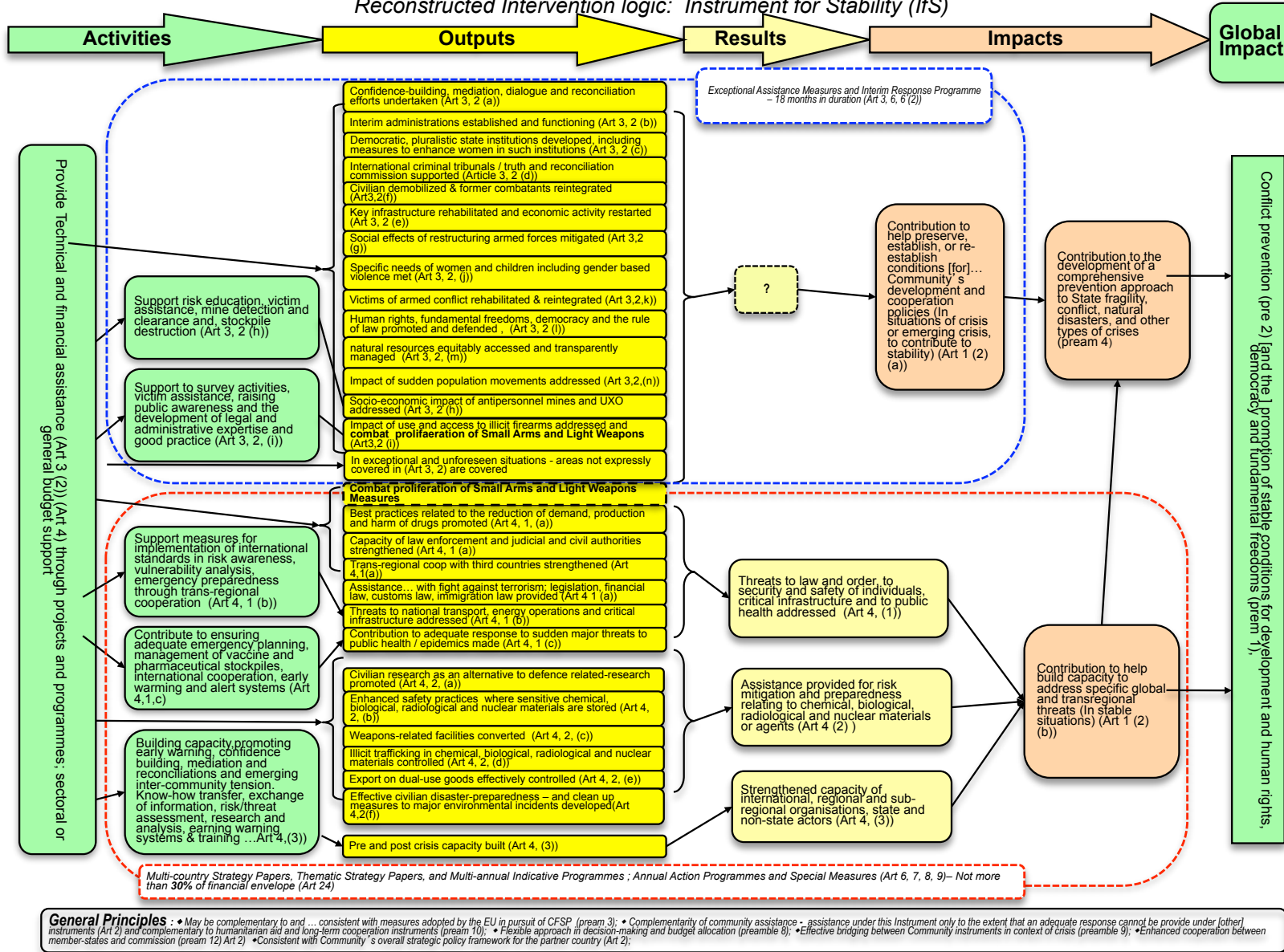
ANNEX: RECONSTRUCTED INTERVENTION LOGICS



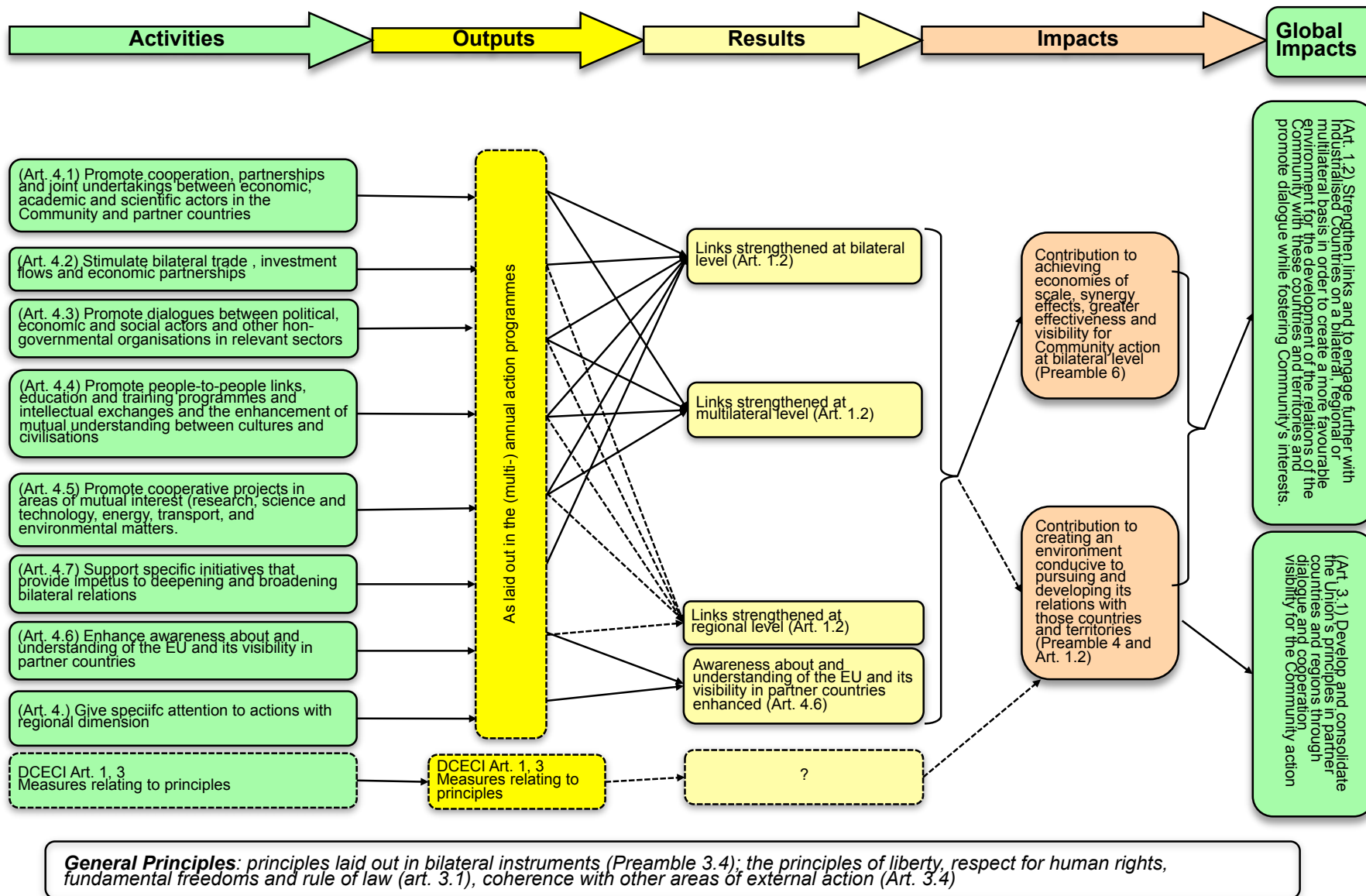
Reconstructed Intervention Logic: European Neighbourhood Policy Instrument (ENPI)



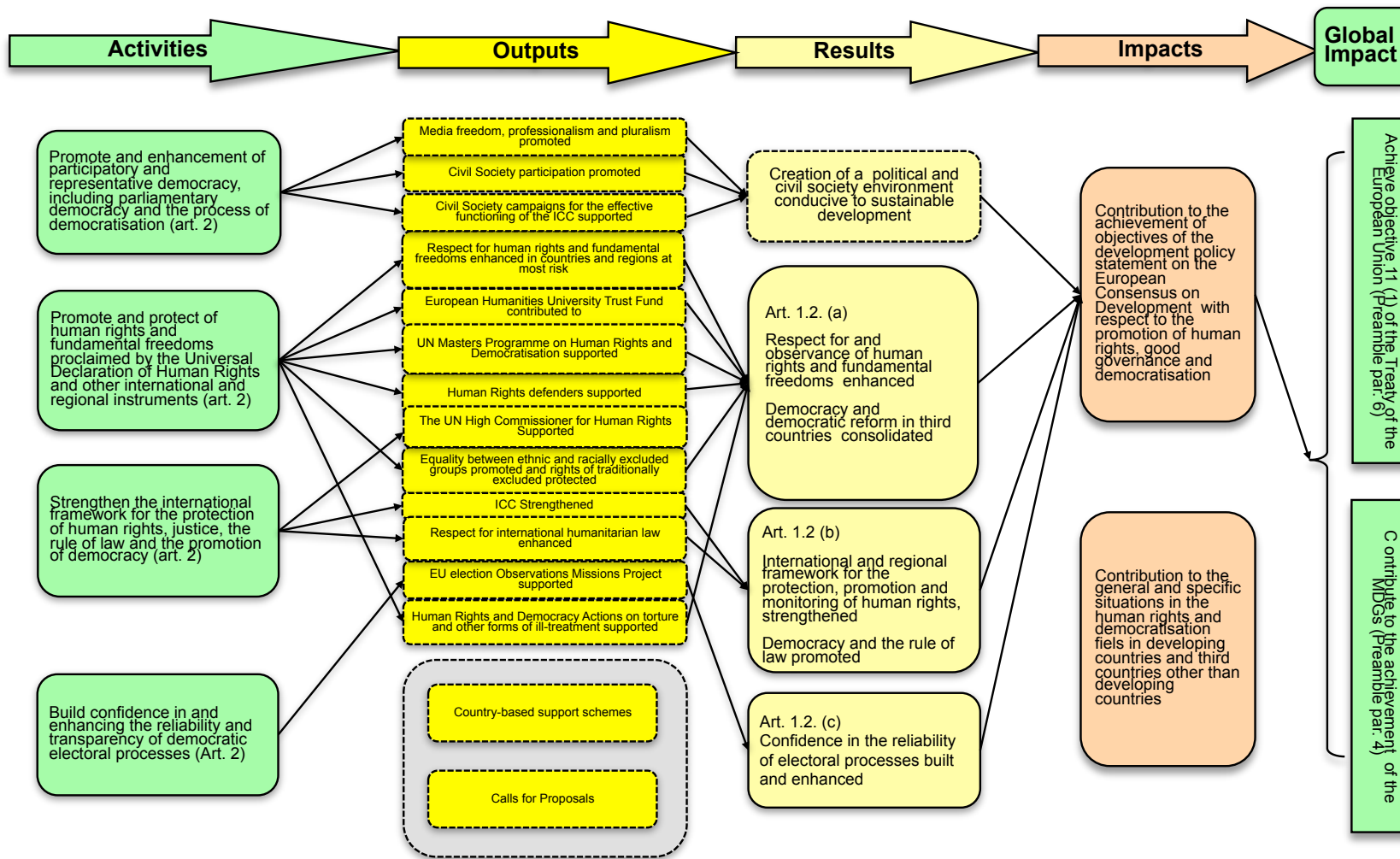
Reconstructed Intervention logic: Instrument for Stability (IfS)



Reconstructed Intervention Logic: Instrument for Cooperation with Industrialised Countries and High Income Countries (ICI)

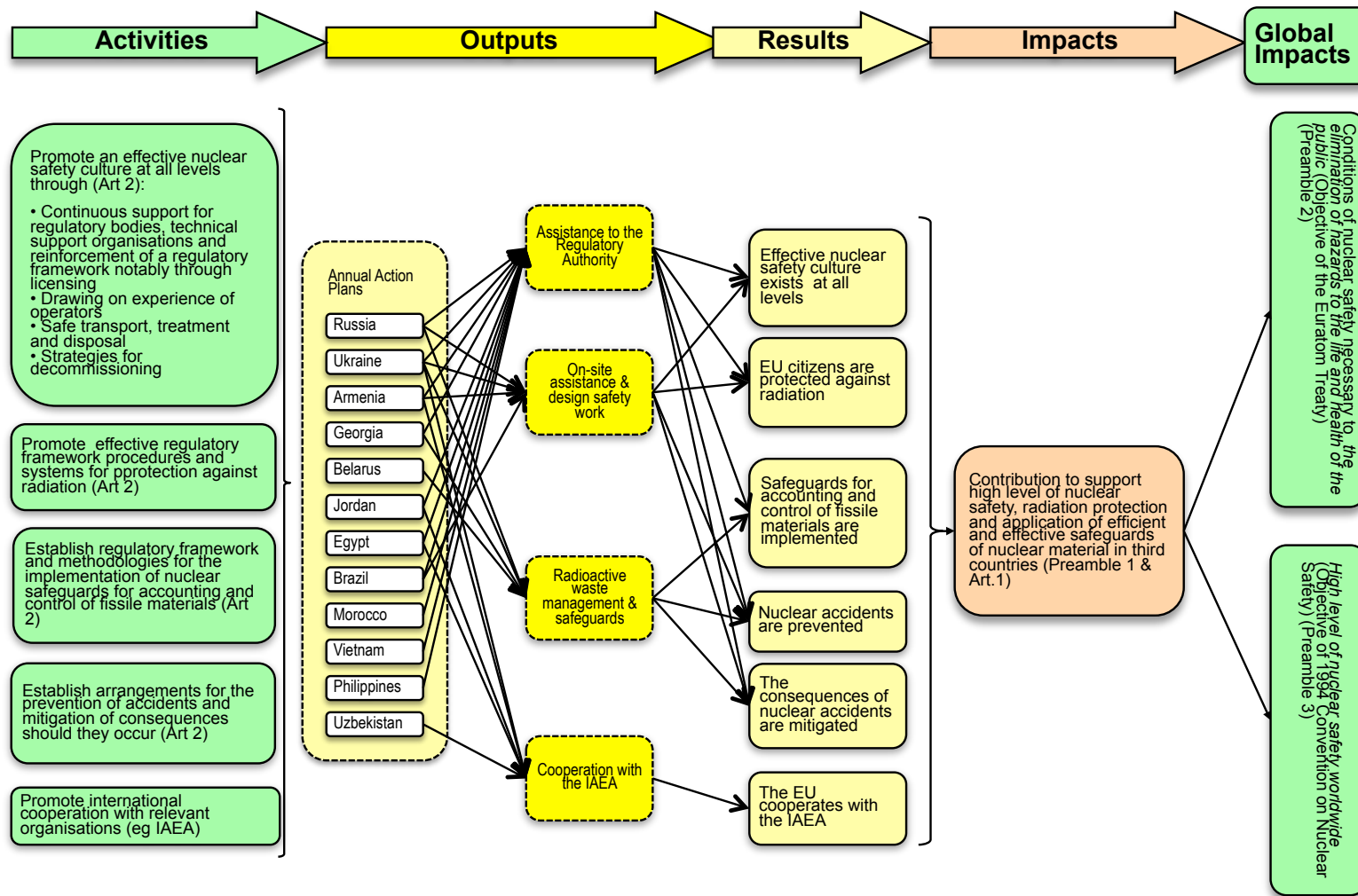


Reconstructed Intervention Logic: European Instrument for the Promotion of Democracy and Human Rights (EIDHR)



General Principles (preamble + Art. 2): Principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law; general principles established by the International Bill of Human Rights, and any other human rights instrument adopted within the framework of the United Nations as well as relevant human rights instruments; promotion and protection of gender equality, the rights of the child, rights of indigenous peoples, rights to persons with disabilities and principles such as empowerment participation, non-discrimination of vulnerable groups and accountability

Reconstructed Intervention Logic: Instrument for Nuclear Safety Cooperation (INSC)



General Principles: Complementarity of this instrument with other EU external action instruments (Preamble 1). EU should fulfill its obligations under international conventions/treaties (Preamble 3). The Community should continue to pursue close cooperation with the IAEA (Preamble 4). Safety in Europe is linked to nuclear safety in third countries (Preamble 5). The responsibility for nuclear safety of the installation should rest with the operator and the State having jurisdiction over the installation (Preamble 11)