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Evaluation of the IP Keys in China, Latin America and South East Asia

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Implementation

FINAL REPORT

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List of abbreviations

AA	Association Agreement
AMT	Activity Monitoring Table
AQSIQ	Administration of Quality, Supervision, Inspection and Quarantine
AR	Argentina
ASEAN	Association of Southeast Asian Nations
AUCL	Anti-Unfair Competition Law
AWP	Annual Work Plan
BO	Bolivia
BR	Brazil
CA	Central America, by extension the Central American countries (i.e. Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama)
CAASA	China Anti-infringement and Anti-counterfeiting Innovation Strategic Alliance
CAN	Comunidad Andina [Andean Community] by extension the CAN countries (i.e. Bolivia, Colombia, Ecuador, and Peru)
CFDA	China Food and Drug Administration
CJEU	Court of Justice of the European Union
CL	Chile
CMO	Collective Management Organisation
CNIPA	National Intellectual Property Administration, PRC
CNR	Centro Nacional de Registros (IPO El Salvador)
CO	Colombia
CPVO	Community Plant Variety Office
CR	Costa Rica
CRM	Collective Right Management
CT	Central Team
DCI	Development Cooperation Instrument
DCST	Development Centre of Science and Technology
DG AGRI	Directorate-General for Agriculture and Rural Development
DG COMP	Directorate-General for Competition
DG DEVCO	The European Commission's Directorate-General for International Cooperation and Development
DG GROW	The European Commission's Directorate General for Internal Market, Industry, Entrepreneurship and SMEs
DG JUST	Directorate-General for Justice and Consumers
DG TAXUD	The European Commission's Directorate General for Taxation and Customs Union
DG TRADE	Directorate-General for Trade
DGIP	Directorate General of Intellectual Property of Indonesia
DIGEPIH	Dirección General de Propiedad Intelectual (IPO Honduras)
DIGERPI	Dirección General del Registro de la Propiedad Intelectual (IPO Panama)
DINAPI	Dirección Nacional de Propiedad Intelectual (IPO Paraguay)
DIP	Department of Intellectual Property of the Ministry of Commerce of Thailand
DNPI	Dirección Nacional de Propiedad Industrial (IPO Uruguay)
DoA	Description of Action
DUS	Distinctiveness, Uniformity and Stability
EABC	European Association for Business and Commerce
EC	Ecuador
ECAP	EU Intellectual Property Rights Co-operation Programme
ECM	Extended Collective Management
EDB	Enforcement Database
EIPPN	European Intellectual Property Prosecutors Network
EPO	European Patent Office
EU	European Union
EUCCC	European Union Chamber of Commerce in China
EUCIPAN	EU-China IP Academic Network
EU-CN	European Union - China

EUD	European Union Delegation
EUIPO	European Union Intellectual Property Office
FMCG	Fast Moving Consumer Goods
EUR	Euro
EUROPOL	European Union Agency for Law Enforcement Cooperation
EUTMR	EU Trade Mark Regulation
FPI	Foreign Policy Instrument
FRAND	Fair Reasonable and Non Discriminatory (<i>intellectual property licensing</i>)
FTA	Free Trade Agreement
GACC	General Administration of Customs of the People's Republic of China
GC	General Court of the European Union
GEVES	Variety and Seed Study and Control Group
GI	Geographical Indication
GT	Guatemala
HK	Hong Kong
HN	Honduras
HQ	Headquarters
IACC	International Anti-Counterfeiting Coalition
IAS	Internal Audit Service
ICT	Information and Communication Technology
IEPI	Instituto Ecuatoriano de Propiedad Intelectual (IPO Ecuador)
IFPI	International Federation of the Phonographic Industry
IMPI-MX	Instituto Mexicano de la Propiedad Industrial (IPO Mexico)
IMS	Information Management System
INDECOPI	Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual (IPO Peru)
INPI-AR	Instituto Nacional de la Propiedad Industrial (IPO Argentina)
INPI-BR	Instituto Nacional da Propriedade Industrial (IPO Brasil)
INPI-CL	Instituto Nacional de la Propiedad Industrial (IPO Chile)
INPI-FR	Institut National de la Propriété Industrielle (IPO France)
INTA	International Trademark Association
IP Viet Nam	Intellectual Property Office of Viet Nam (formerly the National Office of Intellectual Property of Vietnam or NOIP)
IPOPHIL	Intellectual Property Office of the Philippines
IR	Interim Report
MAFF	Ministry of Agriculture, Forestry and Fisheries of Japan
IT	Information Technology
KA	Key Action
LAC	Legislative Affairs Commission
MERCOSUR	Mercado Común del Sur [Southern Common Market] by extension the MERCOSUR countries (i.e. Argentina, Brazil, Paraguay and Uruguay)
MOARA	Ministry of Agriculture and Rural Affairs of the People's Republic of China
MOFCOM	Ministry of Commerce of the People's Republic of China
MoU	Memorandum of Understanding
MX	Mexico
NCAC	National Copyright Administration of China
NI	Nicaragua
NPC	National People Congress
OBS	European Observatory on Infringements of Intellectual Property Rights
OCPI	Oficina Cubana de Propiedad Industrial (IPO Cuba)
OEPM	Oficina Española de Patentes y Marcas (IPO Spain)
OLAF	European Anti-Fraud Office
OPR	Operational Progress Report
OSIT	On Site Implementation Team
PA	Panama
PCT	Patent Cooperation Treaty
PE	Peru
PI	Partnership Instrument
PMB	Project Management Board
PRC	People's Republic of China
PSC	Project Steering Committee
PVR	Plant Variety Rights
PY	Paraguay
RCD	Registered Community Design
RP	Reporting Period
RPI-CR	Registro Nacional de la Propiedad Industrial (IPO Costa Rica)
RPI-GT	Registro Nacional de la Propiedad Industrial (IPO Guatemala)
RPI-NI	Registro Nacional de la Propiedad Industrial (IPO Nicaragua)

SAIC	State Administration for Industry and Commerce of the People's Republic of China
SAMR	State Administration for Market Regulation
SAPI	Servicio Autónomo de Propiedad Intelectual (IPO Venezuela)
SCUT	South China University of Technology
SEA	South-East Asia
SENAPI	Servicio Nacional de Propiedad Intelectual (IPO Bolivia)
SEP	Standard Essential Patents
SFGA	State Forestry and Grassland Administration of the People's Republic of China
SIC	Superintendencia de Industria y Comercio (IPO Colombia)
SICA	Sistema de la Integración Centroamericana [Central American Integration System]
SIECA	Secretaria de Integración Económica Centroamericana [Central America Secretariat of Economic Integration]
SIPO	State Intellectual Property Office of the People's Republic of China
SMEs	Small and Medium-sized Enterprises
SPC	Supreme People's Court of the People's Republic of China
STE	Short-Term Expert
SV	El Salvador
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TS	Trade Secrets
UPOV	International Union for the Protection of New Varieties of Plants
USA	United States of America
USPTO	United States Patent and Trade mark Office
USS	User Satisfaction Survey
UY	Uruguay
VE	Venezuela
VOCU	Virtual Operational Coordination Unit
WCT	WIPO Copyright Treaty
WG	Working Group
WIPO	World Intellectual Property Organisation
WTO	World Trade Organisation

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1. Introduction

The Final Report of this Mid Term Evaluation is submitted in accordance with Section 6.3 of the Terms of Reference and prepared after the missions of the EU Evaluation Experts to China, Argentina, Mexico, Peru, Thailand and Vietnam, which took place from 5 to 27 October, with the assignment starting on 3 September 2019.

The Specific Terms of Reference for the mid-term evaluation outlined the global objective of the assignment for the Evaluation Experts to verify, analyse and assess in detail the issues referring to the five evaluation criteria endorsed by the OECD-DAC (relevance, effectiveness, efficiency, impact and sustainability), and to the EU-specific evaluation criteria (complementarity and coherence, as well as EU added value) of the IP Keys in China, Latin America and South East Asia. In addition, it sought to provide lessons learnt and recommendations for a successful implementation of the Programmes in the remaining period, as well as for other EU initiatives of technical cooperation.

This Final Report is structured in such way as to reply to the global objective and respect the specific objectives of the review, paying particular attention to the impact and sustainability issues as well as providing recommendations on protection and enforcement of intellectual property rights, successful implementation of the Programme and Lessons Learnt.

2. Overview of the IP Keys China, Latin America and South East Asia

Under the Framework Contract FPI/PSF/2015 – Lot 4, the Mid-term Evaluation of three IP Keys Programmes with geographic coverage of China, Latin America and South East Asia, was initiated by the EU Commission in May 2019. All three programmes commenced in mid-2017 for 4 years and implemented EU Partnership Instrument (PI), a new financing instrument to support foreign policy-driven actions in the period 2014-2020.

The IP Keys designed to address the EU offensive interests with regard to intellectual property rights with specific objectives as follows:

- To facilitate and support FTA negotiations in the respective regions/country;
- To promote European Union standards in IPR legislation, protection and enforcement and the development of best practices;
- To support the interests of European Union innovators and right holders trading with or investing in China, South East Asia, Latin America;
- To increase political and public awareness of the importance of IPR protection.

The issues of protection and enforcement of intellectual property are at the heart of EU Trade policy, fully enshrined in its Trade policy agenda and reflected in trade negotiations and crucial for the EU's ability to compete in the global economy. In order to be able to invest and sell products on foreign markets, EU companies require solid and predictable IPR legal frameworks at international level.

The EU supports strong IPR standards to tackle intellectual property infringements in the EU and abroad. However, in order to achieve these higher standards of IPR protection and enforcement, it is not enough to include comprehensive IPR Chapters in bilateral or regional trade agreements aiming to guarantee similar levels of IPR protection to that found in the EU. Helping third countries implement these agreements and improve the local situation for EU companies are drivers for specialised technical cooperation focussed on IP.

Considering that over 95% of all EU exports are IP protected, it is clear that EU right-holders require access to effective ways of protecting their rights internationally and one such way is technical cooperation on IP realised via special programmes such as the ones implemented by the EUIPO: the three IP Keys with China, Latin America and South East Asia, which are now the focus of evaluation by the Team of Experts.

2.1. IP Key China

The IP Key China was designed to enhance EU-China cooperation on selected emerging challenges in the area of Intellectual Property, with particular attention to opportunities arising from China's own policy choices and market access. The most relevant priorities are cooperation with the Chinese Government authorities, judiciary authorities and academic institutions as well as the implementation of tools aimed at facilitating IP dissemination and management.

The **overall objective** of the IP Key China is to promote a more level playing field for EU companies operating in China by contributing to greater transparency and fairer implementation of the IPR protection and enforcement system in the country. Although the main purpose of the action is the EU interest, Chinese stakeholders and the public at large will also benefit from the alignment of the EU-China IP Environment.

In order to accomplish the overall objective, the following specific objectives are pursued:

- To promote progressive convergence between China and European Standards in IPR legislation, protection and enforcement and the development of best practices;
- To support European innovators and right holders trading with or investing in China;
- To contribute to greater transparency and fair implementation of the IPR protection and enforcement system in China, avoiding any protectionist market access barriers through the misuse of IPR legislation;
- To increase political and public awareness of the importance of IPR protection, including through the academic environment.

The objectives of the Programme are crystallised in the following six specific actions:

- 1) Contribution to improved situation in priority areas defined during the annual EU China IP Dialogue;
- 2) Enhanced understanding and trust through regular exchange activities;
- 3) EU-China IP working groups supported effectively;
- 4) Modernised IP administration and enforcement practices and tools;
- 5) Awareness raised on the importance of IP protection and enforcement;
- 6) Improved information sharing system and document repository.

Priority areas defined during the annual EU China IP Dialogue are the following:

- Pending legislative projects in the areas of copyright and patents including the Beijing Treaty ratification, the unitary patent system, standard-essential patents;
- Trademark issues of bad faith registration, likelihood of confusion and protection of well-known trademarks;
- Enforcement activities and developments, particularly online counterfeiting and piracy, and standards on verification of the source of counterfeiting goods;
- Trade secrets protection, in particular by monitoring the implementation and interpretation of the recent legislative amendments;

There were over 20 activities implemented out of 27 activities planned, which were identified through a comprehensive consultation process with European and Chinese stakeholders.

2.2. IP Key LA

A total of 18 Latin America and Central American countries are potentially covered by the IP Key LA, with focus on 15 countries of the Andean Community (Colombia, Peru and Ecuador), Central America (Costa Rica, Panama, El Salvador, Honduras, Guatemala and Nicaragua), Mercosur (Argentina, Brazil, Paraguay, Uruguay¹), and Chile and Mexico.

¹ Venezuela, which is included as a Mercosur country member in the IP Key documents, has been suspended since 05 August 2017.

The IP Key LA was designed to support EU interests by helping countries address selected challenges emerging in the area of intellectual property (IP) in the region, having their activities the major driver in facilitating trade and investment by removing obstacles and barriers to boost market access.

The **overall objective** of IP Key LA is to promote a more level playing field for European companies operating in LA by contributing to greater transparency and fair implementation of its IPR protection and enforcement system in LA. To reach this overall objective, IP Key LA pursues the following **specific objectives**:

- Prepare and accompany FTA negotiations in the region.
- Promote European standards in IPR legislation, protection and enforcement and the development of best practices.
- Support the interests of European innovators and right holders trading with or investing in LA.
- Increase political and public awareness of the importance of IPR protection.

To attain these objectives the action focuses on the following six specific **expected results**:

- Substantive support for the preparation and development of FTA negotiations;
- Information collection and strategic analysis to prepare regional integration in Central America;
- Effective Support for IP Dialogue and Sub-Committees and Implementation of FTAs;
- Improved IP administration and enforcement practices including the increased usage of IP information technology tools and the establishment of an Enforcement Network;
- Awareness raised on the importance of Intellectual Property, its protection and enforcement; and
- Establishment of an information management system and document repository.

The Interim Report on the progress of the implementation of the AWP2 covers the first semester of 2019. During this period, 7 activities were implemented (over a total of 24 activities included in the AWP2).

2.3. IP Key SEA

Geographical coverage of the IP Key SEA is Southeast Asian countries with which the EU holds IP dialogues, negotiates and/or has concluded Free Trade Agreements, namely Indonesia, Malaysia, Philippines, Singapore, Thailand, and Vietnam. Least Developed Countries (LDCs) in Southeast Asia, i.e. Cambodia, Lao People's Democratic Republic and Myanmar, are also potentially covered and therefore are involved in a few regional activities carried out covering several/ or all member states of the Association of Southeast Asian Nations (ASEAN).

The IP Key SEA was designed to support the Free Trade Agreement (FTA) talks and Intellectual Property Dialogues of the European Union with its South East Asia (SEA) trading partners.

The **overall objective** of IP Key SEA is to act on a national level to establish for EU companies operating in SEA an IPR environment of greater transparency and fair implementation of IPR protection and improved enforcement systems. To reach this overall objective, IP Key SEA has committed to pursuing the following **specific objectives**:

- Promote European Union standards in IPR legislation, protection and enforcement and the development of best practice where possible via FTAs;
- Support the interest of European Union innovators and right holders trading with or investing in South East Asia;
- Contribute to greater transparency and fair implementation of IPR protection and enforcement systems in South East Asia, avoiding and discouraging any market access barrier and misuse of IPR legislation, and to further improve the IPR environment;
- Increase political and public awareness of the importance of IPR protection, including in universities.

The objectives of the Programme are aimed to assist the countries in addressing specific emerging challenges in the area of IP that also affect EU businesses and stakeholders, and which stem from policy agendas and priorities laid out by the SEA countries. In this context, IP Key SEA acts at the bilateral level to provide technical

expertise to SEA countries in developing IPR rules and regulations that are consistent with international standards and global best practices, establishing systems to facilitate high quality and expeditious processing for the registration of IP rights and their effective enforcement, and will provide support for accession to international agreements that are included in EU FTA chapters.

The seven results, expected to be achieved, are the following:

- FTA negotiations supported effectively;
- IP dialogues supported effectively;
- FTA implementation supported effectively;
- Enhanced capacity of IP authorities;
- Registration practices and tools modernised;
- Awareness raised on IP protection and enforcement; and
- Information management system and document repository is established.

Overall, there were over 25 activities implemented, which were identified through a comprehensive consultation process with European and South East Asia IP stakeholders, various departments and agencies of the European Commission, and the respective government agencies and IP Offices of the South East Asia countries.

3. Objectives of Mid-term Evaluation and Expected Results

The overall objective of the Mid-term Evaluation of the three IP Keys for China, South East Asia and Latin America for the years 2017-2019, is to provide the relevant external co-operation services of the European Commission:

- An overall independent assessment about the past performance of the three IP Keys Programmes, paying particular attention to the relevance, effectiveness, efficiency, impact of the Programme actions against its objectives;
- Key lessons learnt and to propose practical recommendations for the remaining period of the Programme implementation.

The Team of Experts had a key task of evaluation to demonstrate accountability, to promote lessons learned to improve future policy making and to formulate practical and concrete recommendations for the remaining period of the IP Keys implementation.

The overall objective of the Partnership Instrument (PI) is to improve access to third markets and boosting trade, investment and business opportunities for European companies (including SMEs) by means of economic partnerships, business and regulatory co-operation, and support for the implementation and negotiation of EU trade and investment agreements. This objective is targeted to the efficient implementation and capitalization of the three IP Keys.

The expected results of this assignment, as defined by the ToR, are twofold:

- An overall independent assessment of the performance of the IP Keys in China, LA and SEA is conducted, taking into account and paying specific attention to intermediate results measured against their objectives;
- Key lessons and recommendations are identified, in order to guide future policy and programming decisions of the PI in support to IPR policy dialogues.

Following the agreed Methodology (provided by the Inception Report), the expected results are now achieved by producing **4 deliverables** with the best approach minding the value for money concept:

- Kick-off meeting minutes, confirming the evaluation timeline, and key stakeholders contacted for each region;
- Inception report, including the interview structure with a set of specific questions presented per particular sector (Annex 1 to the Final Report);

- Flash Reports / Country Memoires per visited country (presented as Annex 2 to the Final Report); and
- Final Evaluation Report, following the DAC criteria for evaluation, which would a) highlight activities of clear EU interest; b) include recommendations and lessons learned for the remaining programme implementation period; and c) suggest possible specific areas of intervention for the next programming phase.

This Final Evaluation Report consists of three sections: introduction and background of the MTE, major findings of the Evaluation Team (for each respective Programme – IP Key in China, Latin America, South East Asia), lessons learned with specific references to each of the Programmes and recommendations (for each of the Programmes as well as common to all IP Keys).

4. Major findings of the evaluation

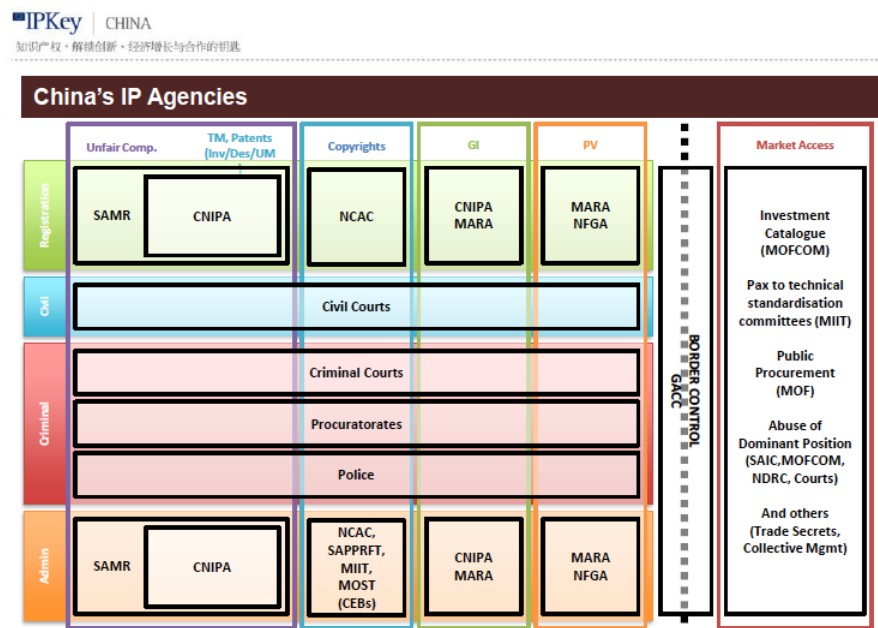
This Part of the Final Evaluation Report presents the evaluation questions posed and conclusive answers, together with evidence and reasoning. The organisation of this document is made around the responses to the questions, which are systemically covering the following evaluation criteria: relevance, effectiveness, efficiency, impact and sustainability, plus coherence and EU added value. The elaborated answers are intended to give a more precise and accessible form of evaluation criteria and to articulate the key issues of concern to stakeholders, thus, optimising the focus and utility of the evaluation. Considering that there are three EU Programmes evaluated by the Team of Experts, respectively there are three sections in this part.

4.1. IP KEY China

4.1.1 Relevance

IP Key China is fully supportive of Objective 3 of the Partnership Instrument in terms of improving access of European companies (irrespective of their specific size), to the Chinese markets and boosting trade, investment and business opportunities by means of economic partnerships, business and regulatory co-operation.

IP Key China is working with 15 different Chinese institutions in the planning and implementation of the Programme activities.² Outlined in the below chart all local institutions involved in the Programme:



² Source: IP Key China MTR Status Update, Benoit Misonne, Project Leader, September 2019.

As expanded further below, all IP Key China activities planned in coordination with the local stakeholders address selected IP Rights areas which are of relevance to the internationalisation of EU companies, with a particular attention to the Chinese market and its specific challenges.

From the Chinese side, the Ministry of Commerce (MOFCOM) is the supervisor responsible for coordination and delegation of tasks to the other relevant institutions. This ensures that activities are also generally in line with local interests and priorities, which is very important to keep stakeholders engaged. Apart from MOFCOM, it has also been verified during the field mission that most Ministries and Agencies are very pleased with the IP Key Programme.

For example, Chinese IP judges from the Supreme People's Court (SPC) confirmed that the topics chosen by the IP Key during the activities (specific reference was made to EU study visit: "Mission to the EU for judicial exchange; Activity ID 1_R2A0102) were relevant and matched their needs, with a particular reference to aspects of litigation and enforcement, such as evidence preservation, EU case-law consistency and measure standardisation. That was much appreciated and taken as a good example for improvements not only in the IP field, but also for the judicial Chinese system in general.

From the legislative standpoint, according to Legislative Affairs Commission (LAC), the IP Key is highly relevant to the Chinese Policy. Specific reference was made to Activity "Study visit on Legislative Reform, with particular focus on the draft Patent and Copyright Law: ID: 1_R1A0301). During the visit it has been reported that Chinese Officials understood the legislation of the EU Member States and shared thoughts with the EU participants on relevant legislative aspects.

The above examples show how IP Key China contributes to improving local IP regimes by working with relevant national authorities in the judiciary as well as the legislative sector to adapt the national legal framework to the European standards. This clearly facilitates European companies to enter the local market with a reduced level of risks and business uncertainties.

Another positive recent example of a relevant activity which has been reported is the "Training on Cross-Border IP Enforcement", a 3-day training course with the Ministry of Public Security of the People's Republic of China on 28-31 October 2019, in Changchun, Jilin Province (Activity ID: 2_R1A0603).³ The activity contributes to improving situation in priority areas defined during the annual EU China IP Dialogue, namely: enforcement activities and developments, particularly online counterfeiting and piracy, and standards on verification of the source of counterfeiting goods.

The above activity shows the geographical spread of the Programme not only focuses on major cities, but also reaches secondary provinces and areas in a very well-balanced fashion. This is fundamental to keep engaged the entire Chinese administration structure, not only at central level, but also at the local one.

Overall, it appears that the IP Key China is appreciated and valued by stakeholders as a relevant Programme and the Evaluation Team has verified that the IP Key China is aligned with EU strategic goals as well as national IP priorities, which is necessary to keep local engagement and cooperation.

In particular, the IP Key China is playing an important role in reinforcing the intellectual property dialogue mechanism so as to strengthen cooperation for combating counterfeiting and piracy and improving transparency and predictability of the entire IP system. Without the IP Key vehicle, many EU inputs in relevant trade areas would not have any other way to reach Chinese stakeholders.

The IP Key China covers all relevant IP Rights of strategic EU interest in the country, such as trademarks, patents, industrial designs, copyrights, plant varieties, also addressing topics of specific importance such as issues of IP enforcements (including on-line IP enforcement), IP bad faith applications, as well as inclusion of Chinese trademarks applications and registrations in European IP tools and databases such as the TMVIEW.

It is, however, important to note that the recent restructuring of the Chinese administration has delayed the implementation of the action in some extent, mostly in connection with activities related to Trademark and Designs.

³ Interim Progress Report, 01.01.2019 to 30.06.2019 - Grant Agreement PI/2017/385326, August 2019.

It is also important to consider that, in any case, the China National Intellectual Property Administration (CNIPA) has undeniably become the most relevant IP Key local stakeholder (being now also in charge of protection of Trademarks, Designs and GI's). Since this agency is experiencing some constraints in terms of budget and human resources, it suggested a direct cooperation between the IP Key and the CNIPA, without (or in parallel) with MOFCOM's coordination. This would assist in attracting additional resources and improve the CNIPA engagement with the EU Programme. In view of the above, some adaptation for the further period of implementation could be considered. In particular, the building of a direct cooperation between the IP Key and the CNIPA might increase the agency's participation (leading to allocation of human and financial resources necessary for the implementation of the IP Key activities). This would be reflected in a better and faster implementation of activities in relevant areas which are now under the CNIPA's direct competence.

Overall conclusion on relevance

It should be concluded that IP Key China is relevant to the extent that is fully supportive of Objective 3 of the Partnership Instrument, in terms of improving access of European companies, irrespective of their specific size, to the Chinese markets and boosting trade, investment and business opportunities by means of economic partnerships, business and regulatory co-operation.

IP Key China contributes to improving local IP regimes by working with relevant national authorities in the judiciary as well as the legislative sector to adapt the national legal framework to the European standards. This clearly facilitates European companies to enter the local market with a reduced level of risks and business uncertainties.

The IP Key China is taking into consideration all relevant IP Rights of strategic EU interest in the country, such as trademarks, patents, industrial designs, copyrights, plant varieties, trade secrets, also addressing topics of specific importance such as issues of IP enforcements (including on-line IP enforcement), IP bad faith applications, as well as inclusion of Chinese trademarks applications and registrations in European IP tools and databases such as the TMVIEW.

Main risks and obstacles to the correct implementation of the activities, such as the recent Chinese administrative reorganisation, as well as the current lack of full engagement from the CNIPA's side have been correctly identified and the PMT is working to mitigate such challenges and to properly adapt the activity planning to the changing scenario.

4.1.2 Effectiveness

In terms of effectiveness of the Programme, the Evaluation Team has verified that most of the activities planned for the first year of implementation have been successfully completed and closed. These activities tend to be in line and pertinent for the purposes and expected results of the EU trade policy, the most relevant being:

- EU strategic interests further discussed in the EU-China IP Dialogue;
- EU business interests promoted throughout the Chinese territory (not only main cities but also less developed provinces);
- Improvement of Chinese legal framework and IP practices towards more transparency and predictability

Among highly pertinent activities, it could be mentioned:

- Activity 11 (2018): Study visit on legislative reform (Patent and copyright Laws)
- Activity 19 (2018): Promotion of EU-China customs cooperation on IPR enforcement
- Activity 16 (2018): Training of Chinese experts at the CPVO
- Activity 21 (2018): Mission the EU for judicial exchange
- Activity 18 (2018): EU China conference on Online IPR protection and Innovation

All the above topics are pertinent for the purpose of EU trade policy and specific priorities, such as issues related to the fight against IP infringements and alignment of Chinese legislation to EU and international standards.

As a positive example, efforts undertaken and results being achieved by the IP Key in the plant variety sector should not be underestimated. In particular, the MARA (Ministry of Agriculture) has expressed special satisfaction and appreciation of the IP Key activities in this specific field. In particular, the EU is seen as a model in the field of Plant Variety protection and the Plant Variety system is considered particularly advanced in Europe. Alignment of Chinese Plant Variety standards of protection to EU standards would significantly aid plant breeders with enabling them to enter the Chinese market. China is taking advantage of the EU assistance in this field in order to improve their practices and regulations, not only for local benefit but also for the benefit of foreign inventors investing in China. IP Key activities of specific pertinence in this sense which have been completed are:

- Training on formal and substantial evaluation of PVP applications (CPVO and UPOV);
- Training on DUS trialling and observation work. BSA, Hannover and Wurzen (Germany);
- Training on DUS trialling and observation work. Geves, Surgères (France);
- Training on QAS (CPVO) and Naktuinbouw (NL).

It should be taken into account that China is currently revising the PVP Regulation, so it is an important moment to cooperate in this field. In particular, the new PVP Regulation has just been drafted by the MARA and submitted to the Ministry of Justice for approval. It should be also noted that CPVO's comments to the revision were welcomed and included in the draft.

The IP Key has also implemented pertinent activities in the field on-line anti-counterfeiting and e-commerce, which is an important priority field for the EU trade. In particular, positive comments on IP Key's work were given by CAASA (China Anti-Infringement and Anti-Counterfeit Alliance). It was reported that more than 400 participants plus 160,000 online viewers followed the EU-China conference on online IPR protection and Innovation (Activity 18, 2018).

The CAASA itself has shared with the Evaluation Team the compilation of links showing an impressive news coverage and dissemination of the mentioned event by Chinese media.

It must be considered that the Chinese E-Commerce Law was enacted in 2018 and there is now need for correct implementation, and CAASA perceives the EU as having great experience in online IP protection. Enhanced IP protection in the Chinese on-line environment is a fundamental goal to be achieved by the IP Key China as it coincides with primary EU companies' interests.

Having said that, and from a general perspective, it is a matter of fact that the current lack of engagement and resources of the CNIPA is posing some difficulties to the effectiveness of the Programme, particularly in the areas of Trademarks, Designs and GI's. In fact, relevant activities planned in these areas for the first (2018) and the second year of implementation (2019) were delayed or put on hold.

Against this background, specific suggestions of the Evaluation Team would be:

- 1) Reduce density of activities and, in particular, of training sessions;
- 2) More focus on studies and innovative formats, such as webinars and case law compilations;
- 3) In terms of IP thematic, increase attention to protection of Designs and Trademarks. In particular, a study on current Chinese situation of bad faith applications (Trademarks, but also of other IP rights) would be timely, useful and well received by EU and Chinese stakeholders;
- 4) For the PMT to consider issues of timely reporting (following specific requirements and considering time that would be necessary for completion of the reports, as well as proper communication of all information).

On the other hand, the issue related to the lack of engagement of CNIPA has been partly mitigated by the completion of two activities included in the 2019 AWP: i) Exchange in China on the Trademark Law (Activity: R1A0201) and ii) Workshop in Design Rights in China (Activity: R1A0101).

Overall conclusion on effectiveness

The activities of the IP KEY China are pertinent for the purpose of the EU trade policy. In particular, a large number of activities planned and implemented so far in China have been of major interest for EU trade policy purposes and, at the same time, very well accepted by local stakeholders as proved by outstanding online coverage.

IP Key China has shown a satisfactory level of performance during the first two years of implementation in terms of its achievements and IPR coverage, in spite of the challenges posed by the Chinese administrative reform that have inevitably slowed down some of the activities linked to the CNIPA (particularly in the trademark and design field).

All local stakeholders interviewed during the field mission have shown high satisfaction with the overall quality, technical level and professionalism reflected in the activities implemented so far by IP Key China, with a clear wish of continued cooperation for the future.

From the IPR focus standpoint, and in order to further improve effectiveness of the Programme, the Evaluation Team would recommend for the remaining implementation period to be more realistic and pragmatic in the activity planning, by reducing the density of training activities and conferences and conduct more studies, also aimed at updating activities and works conducted under past programmes in areas such as:

- IPR and competition law
- Standard essential patents
- Bad faith applications in trademarks and patents
- Unregistered designs
- Geographical indications
- Copyrights and public performance rights,
- E-commerce and online IP infringement
- Enforcement and litigation issues
- Trade secrets

Stakeholders would also welcome specific activity on Trademarks, domain names and Data Protection.

4.1.3 Efficiency

In terms of efficiency, the Evaluation Team has verified that most of activities planned for the first year (2018) have been implemented, although some of them have been deferred, delayed or postponed, mostly due to the CNIPA reorganisation and its lack of human resources and budget.

Activities of specific interest that have been put on hold for the above reason are in the field of EUTM and RCD (R4A0401), study on the impact and roving seminars of the mutual recognition agreement on GIs (R4A0601 and R2A0302) and Integration of IP administration tools (TMVIEW). In the case of TMVIEW and the integration of all Chinese trademarks in the database, it has been reported that the migration is almost ready but has been delayed due to some technical problems.

The same issue has been found in the implementation of activities during the second year (2019): while many activities have been completed or are on-going, those involving CNIPA have been put on hold.

The Evaluation Team noted that the above issues appear to be beyond the control of the IP Key management. The current limited engagement of the CNIPA has been explained by the lack of human and financial resources of this agency (going along with the coordination issue of the MOFCOM mentioned under the section on relevance). However, reinforcement of the Team in Beijing by filling all current vacancies would be certainly beneficial in terms of overall efficiency of the Programme and better performance (the fact that the PMT is not complete now is clearly a weak point that impacts on reporting and overall administration). Also, the training by the current Project Manager of a senior position is encouraged in order to start delegating more tasks and reducing the PMT's workload in the mid-term period.

Furthermore, there are additional aspects at practical and organisational level that could also be improved, such as:

- Use traditional as well as new activities formats to reach wider public and universities;
- Improve the reporting system between the IP Key and the EU Delegation. In this respect, as also suggested for the IP Key SEA, the reporting period could be reduced to monthly (instead of bi-weekly).
- Keep an Excel table of activities with colour indicators stressing the current status of the activity (ongoing, closed, on hold, etc.) and clearly showing the specific thematic area (Trademark, Patents, GI's, Copyright, IP Enforcement, etc.). This would help the reader to immediately catch the progress of the action in terms of achieved coverage of the different IP and priorities areas.

The Team of Evaluators have also verified that the IP Key China Website includes a repository of useful legal documents which can be accessed from the IP resources link: <https://ipkey.eu/en/china/ip-information?refinementList%5Bproject%5D%5B0%5D=China>.

This database includes over 3000 documents, also those which are related to past IP cooperation projects.

However, the search tool is not entirely user friendly, and technical improvements in this sense are recommended in order to gain the most out of this valuable library of exceptional interest for many stakeholders involved in the action.

Overall conclusion on efficiency

Considering the complexity of the Chinese administrative structure and the recent institutional reorganisation, as well as the overall dimension of IPR protection in this country, which is a world leader in terms of IP infringements, the IP Key China is certainly an important and efficient EU Programme with apparent satisfaction of the local stakeholders and EU businesses. Most of all, the IP Key China remains to be a necessary tool for the EU strategic efforts aimed at maintaining the IP Dialogue with the Chinese government.

In the opinion of the Evaluation Team, the financial resources foreseen by the Programme are allocated correctly, as presented in the IP Key China Annual Work Plans. In particular, the PMT tends to ensure that most of the activities envisaged in the Annual Work Plans are aligned with IP areas and priority issues identified by all relevant stakeholders. Allocation of resources is also well balanced in terms of geographical distribution of the activities throughout the Chinese territory. Indeed, relevant activities are not only organized in main cities such as Beijing and Shanghai, but also in other provinces and areas of interest. Still, the suggestions made in the previous paragraph should be considered for further improvement and overall better performance.

In terms of staff availability and commitment, it should be noted that at the time of evaluation, the PMT has not been complete. This necessarily means more workload for the Team Leader and other members of the PMT. It should be noted that the Project Team Leader has extensive knowledge and practical experience of past IP cooperation interventions in China, which is considered to be a positive element for efficiency and helps to build solid relationships with local stakeholders. However, it cannot be denied that, in some cases, relationships with specific institutions can be improved. In this respect, a suggestion for the future to further improve efficiency would be the building of a direct cooperation between the IP Key and the CNIPA, without or in parallel with MOFCOM's coordination. This might increase CNIPA's engagement and participation leading to allocation, in the respective agency, of appropriate human and financial resources for the implementation of the IP Key activities in specific areas of interest, such as trademark, designs and geographical indications.

4.1.4 Impact

In order to assess the impact of the IP Key China Programme, it is fundamental to take into account that EU-China IP cooperation commenced several years ago and has certain achievements due to the past EU Programmes. Those actions were very helpful in activating an IP awareness process in the country and continuation of a dialogue on IP issues between the EU and Chinese agencies, top-level institutions, wider public and the academy.

China has made encouraging efforts to keep up with international IPR standards and improve the overall situation also thanks to the discussed EU interventions. Although China remains one of the most problematic countries in terms of IP protection and challenging in terms of market access for EU companies, recent positive achievements cannot be underestimated, also considering the complexity of the general context.

While it is difficult to provide tangible results in terms of direct impact of the IP Key China, in only two years of implementation, it is clear to the Evaluation Team that without the work being done by the current IP Key intervention, the improvements activated under past EU IP Programmes would not be fully capitalised.

In order to assess how the outputs and deliverables produced so far are being valorised and shared in public or semi-public fora, it is necessary to look at two different dimensions of the Chinese administrations which play an extremely significant role in guiding the IP policy: the country's supreme legislative body and the judiciary system that interprets and applies the law in the name of the state.

From the judiciary point of view, China is experiencing rapid changes in the IP area. In 2018, the number of civil, administrative and criminal Intellectual property cases newly accepted by the People's Courts was 334,951, this is 41.19% more than 2017. This exceptional growth of IP cases has been witnessed not only in the Beijing province, but also in other areas such as Guangdong, Shanghai and Zhejiang provinces. A significant increase in case concluded as well as more awards of damages based on market value to increase the severity of punishments for IP infringement has been reported by the People's Courts.

Having noted this, senior judges interviewed during the field mission in Beijing by the Evaluation Team, expressed great satisfaction regarding IP Key China efforts in guiding and contributing to the Chinese IP policies. In particular, the judges referred to specific activities such as study visits to EU judicial institutions as an extremely useful experience for their daily work. Indeed, they consider specific EU litigation procedures as a model for improvement.

Interestingly, important judicial interpretation documents have been issued by the People's Court during the 2018, such as the "*Provisions on several issues concerning the application of Law in Examining cases involving taking preservation measures against infringing acts in IP disputes*" which provided clarity on matters such as the applicants of preservation cases, review procedures, necessity of preservation, jurisdiction relating to the determination of erroneous applications and initiation of compensation action to redress an erroneous application, removal of preservation measures and application charges⁴. It should not be underestimated that senior judges discussed some of the above topics during IP Key study visits in Europe and reported on that to the Chinese Chief Justice at the end of the activity.

It has also been reported that Chinese Patent Judges review the guidelines of the European Patent Office (EPO) on a regular basis and are also interested in the case law generated by the European Court of Justice on IP cases.

Judicial cooperation with Europe is working well. For example, in November 2018, a delegation of IP judges' form China went on study visits to Germany, Belgium and Luxembourg. This was an activity aimed at fostering exchanges with the IP related policy makers and judiciaries of EU authorities to help them understand the level of judicial protection given to the IP in both regions, and China's efforts of giving equal protection to local and foreign IP holders.

This very good engagement of the SPC in the IP Key activities is very important in terms of impact, since the Courts have been active participants in the revision of relevant Laws and Regulations, such as the Civil Code, Patent Law, Copyright Law, Law against unfair competition, Trademark Law and regulations on the protection of New Plant Varieties.

There is also a desire to produce more bilingual case law compilations and summaries of specific IP Key activities that will be then shared between stakeholders, used by the EU delegations to decide on subsequent activities, benefited by several interested parties (such as IP practitioners, students, etc.), published in public fora and uploaded in the IP Key website document repository with possible updates in case of legal changes.

From the legislative perspective:

⁴ Source: *Intellectual Property Protection by Chinese Courts in 2018*, published by the Supreme People's Court, Beijing, 2018

- The MARA (Ministry of Agriculture - another very well engaged local stakeholder) expressed particular satisfaction and appreciation of the IP Key activities and reported that the Plant Variety Regulation is now pending approval and that the CPVO's comments to the revision were welcomed and included in the draft. Thus, positive impact of the intervention is expected also in the Plant Variety field, a sector of strategic trade interest in the coming years.
- According to the Legislative Affairs Commission (LAC), the IP Key is highly relevant to the Chinese Policy. Specific reference was made to Activity "Study visit on Legislative Reform, with particular focus on the draft Patent and Copyright Law: ID: 1_R1A0301). During the visit it has been reported that Chinese Officials understood the legislation of the EU Member States and shared thoughts with the EU participants on relevant legislative aspects. The following constructive suggestions were proposed:
 - EU business needs to know more about Chinese IP Law and practice;
 - There is a need for more exchange of information on legislation with other IP Keys (e.g. IP Key SEA);
 - Translations of English legislative documents into Chinese are necessary for senior LAC Officials not familiar with foreign languages.
 - Dedicate more attention to current legislative "hot topics" in China such as Patent Law (including pharmaceuticals patents) and Design protection.
- Finally, as to the Copyright Reform, the International Federation of the Phonographic Industry informed the Evaluation Team that a positive impact on Chinese Broadcasting and Performance Rights is foreseen and this information is in line with comments provided by the LAC during the meeting in Beijing.

It is a matter of fact that the IP Key is recognised as one of the most important foreign IP cooperation tools in China. The wide media coverage of most of the activities conducted, also guaranteed by the full engagement in each activity of at least one Chinese agency as co-organiser, ensures significant impact and good dissemination of deliverables and achieved results within all stakeholders and institutional partners (from European and Chinese side). In this sense the increased positive perception by key stakeholders of the importance of the intervention and the necessity of applying more reliable models of IPR protection and enforcement is also part of the positive impact discussed.

Overall conclusion on impact

The programme has produced constructive effects during the first two years of implementation and it is also supporting and expanding the positive impact of past IP cooperation intervention in the country.

The Evaluation Team has reported important results after consultations with judiciary representatives and legislative officials; general enhanced relationships between EU and Chinese stakeholders have clearly supported a general improvement of the IP Dialogue; outputs and deliverables of the intervention, such as case law compilations, legal publications and studies, as well as summaries of specific IP Key activities will be shared and used by EU and Chinese stakeholders, also for preparation of future activities and initiatives.

The significant media coverage of most of the activities conducted ensures significant impact and good dissemination of deliverables and achieved results within all stakeholders and institutional partners.

The IP Key China's current efforts are also necessary to maintaining and capitalising the positive impact and improvements activated under the past EU IP Programmes in the country.

4.1.5 Sustainability

The question to be answered under this section relates to whether the results and benefits of the IP Key intervention will persist even after the conclusion of the programme. This also depends on the willingness and capacity of local stakeholders to maintain operational those processes activated under the cooperation period.

According to the Evaluation Team assessment, the indicators presented below suggest that, in principle, the IP

Key China enjoys a sufficient level of sustainability.

On the one hand, the IP Key, in coordination with the Trade Section of the EU Delegation, makes efforts to ensure that the results are in line with the EU strategic priorities and interests. On the other hand, according to the interviews maintained during the filed mission, most of the Chinese stakeholders, appear to be motivated and interested in maintaining a fruitful cooperation with the IP Key to obtain mutual benefits from the Programme activities and initiatives. The fact that every activity is agreed and organised in consultation and in coordination with a Chinese partner (including the tangible financial participation from the Chinese side in the organisation of the events) should ensure that these initiatives match Chinese trade interests (assuming that such interests corresponds to EU IPR priorities), and this plays in favour of sustainability in the sense that those achievements will be benefited and capitalised upon, also after the end of the cooperation.

Compared with the situation in the past, the overall complexity in China has increased but, at the same time, IP Key is more important than ever to keep a fruitful EU-CHINA IP Dialogue and to guide Chinese strategic partners towards the creation of a more IP friendly environment. As explained under Section 4.1.3, the Project Leader has historical direct knowledge of European IP cooperation in China. This should also play in favour of sustainability during and after the completion of the Programme.

Furthermore, legislative changes are underway or planned for the near future in different relevant fields (Copyrights, Plant Varieties, Designs, etc.) and the judicial apparatus is paying more and more attention to fight against counterfeiting and bad faith behaviours in the IP field. This all presumes a reasonable level of sustainability. Indeed, positive outcomes stemming from the above mechanisms activated during the intervention period (or even during past EU cooperation interventions) should mature in positive results in the coming years.

From the financial perspective, the Chinese partners contribute 50% of the total allocation to the organisation of the activities. This shows that Chinese policy makers and competent authorities strongly believe in the Programme and are making efforts to make results sustainable. Local interests in the action appear to be in line with main EU strategic priorities and this is fundamental in order to avoid dispersion of resources.

From the organisational point of view, the fact that a specialised EU IP agency (EUIPO) is the implementing authority and the technical supervisor behind the IP Key initiative is an excellent asset that plays in favour of overall sustainability of the programme. According to several Chinese stakeholders, the EUIPO is perceived as a world-class excellence in the IP field and the IP Key itself (all IP Keys, irrespective of the region) the most important, useful and comprehensive IP programme at global level. In this respect, it is important that the EUIPO maintains and even intensify its support and backup assistance to the PMT in order to fill gaps in the action implementation and reporting system.

Overall conclusion on sustainability

The fact that every activity is agreed and organised in consultation and in coordination with a Chinese partner ensures that these initiatives match local trade interests and this plays in favour of sustainability in the sense that those achievements will be benefited and capitalised upon, also after the end of the cooperation.

The substantial financial contribution to the organisation of the activities from the Chinese side also plays an important role in terms of sustainability.

All in all, there are sufficient indicators suggesting that the flow of benefits of the IP Key in China will continue after the conclusion of the Programme. The Mid-Term Evaluation can suggest that the level of sustainability of the Programme is satisfactory. However, in order to maintain and even improve it, it can be suggested to implement follow-up strategies after the events, prepare post activities documents such as case law and legislative compilations in bilingual format, and consider mentoring after trainings and workshops. Also, the role of the EUIPO should not be underestimated and its presence and continued assistance to the action should be intensified.

4.1.6 Complementarity and Coherence

The IP Key's Project Management is currently making efforts to keep good communication and coordination with the EU Delegation in Beijing in order to ensure achievement of expected results in the priority areas. However,

there is clearly room for improvement. In this respect, a few suggestions can be made to further improve communication and coordination between the PMT, EUIPO and the EU Delegation. In particular:

- Additional efforts should be made to improve the general quality and clarity of the reporting system, by reaching agreed solutions between the PMT and the EU Delegation, with the backup support of the EUIPO. Moreover, provided deadlines and overall agreed timing to be respected, as delays cause additional stress for organization of the activities.
- Consider reducing reporting, for example, the bi-monthly reporting system to only one communication per month. This change should however be agreed with the EU Delegation and it may, in principle, apply to all three IP Keys for the sake of coherence and consistency.
- The content of the reporting documents can be improved by focusing more on essential information, by using colour codes to clearly show progress of the activities and type of IP right covered. This will help to be more illustrative in terms of scope of the Programme and better understand the strategy designed to achieve the expected results.
- Approve a formal process for the EU Delegation to periodically review the content displayed on the IPKEY website in order to avoid inconsistencies.
- Intensify information exchanges between the IP Key and the EU Delegation on sensitive political issues in order to avoid incidents and complaints during activities and events.

In relation to activity planning and identification of priorities, it should be mentioned that the EU Delegation in Beijing has already provided a useful input after consultations with stakeholders, DG TRADE and the mid-term evaluation Team, with suggestions for the IP Key AWP 2020. Considering density of activities, it was proposed to reduce some study visits and training events (being not only costly, but also time-consuming in terms of budget and organization, also agreed by the Chinese counterparts) in favour of more webinars and guidelines on relevant topics such as patents, competition law, IP bad faith applications, unregistered design rights, enforcement and online counterfeiting. This research exercise would be also aimed at updating studies and publications issued under prior EU cooperation programmes in view of recent changes and developments witnessed at legislative and practical level.

The German and French Embassies in Beijing expressed general satisfaction with the information and regular updates provided by the PMT. As positive examples, the German IP attaché gave very positive feedback in connection to events he has attended so far and the French IP Attaché referred to the latest event in the E-commerce field, follow up of a study, in which the Embassy was directly involved. Overall, most stakeholders mentioned good coordination in terms of knowledge sharing. The EU Embassies in Beijing are in regular contact with EU businesses entering the local market or already operating in the country. For this reason, regular discussions and exchanges between Embassies and the IP Key must not only continue but increase in the future.

In relation to the China IPR SME Helpdesk, the IP Key was asked not to engage in training at lower level (SMEs) in order to avoid overlapping with their activities. Periodical meetings between the IP Key, the IPR helpdesk and the EU Business Associations are however encouraged in order to explore synergies, discussions and knowledge sharing. No other EU IP action in the country that could entail an issue of coordination or duplication of work has been reported.

There is also complementarity of efforts between the IP Key and other EU key partners, such as the EPO and the CPVO, having important roles in the patent and plant variety side of the action. This is made possible by the close relationship and good cooperation between these EU agencies and the EUIPO.

Overall conclusion on Complementarity and Coherence

It can be concluded that the IP Key Programme activities tend to be operated in coordination with the Trade Sections and EUs market access team of the EU Delegation. However, in order to reach an optimal level of cooperation during the remaining part of the action, it would be useful to follow the recommendations indicated above and be open to further adjustments, in agreement with the EU Delegation and the support of the EUIPO.

Consultations and knowledge sharing between the EU Embassies and the IP Key work well, add value and should be even increased for the remaining period of the Programme.

There is no overlap or duplication of work with the China IPR SME Helpdesk, and no other EU IP action in the country has been reported that could entail an issue of coordination or duplication of work.

4.1.7 EU Added Value

The IP KEY programme is considered by various stakeholders and partners the most important, useful and comprehensive programme in the IP field at global level.

Strategic objectives and results achieved by the programme in terms of a more level playing field in IPR related issues for EU businesses in China clearly match the interests of EU members, also at national level.

According to the communication of the EU Commission on China dated 12 March 2019⁵,

“China preserves its domestic markets for its champions, shielding them from competition through selective market opening, licensing and other investment restrictions; (...) the favouring of domestic operators in the protection and enforcement of intellectual property rights and other domestic laws (...). Given the magnitude of our trade and investment links, it is important to develop a more balanced and reciprocal economic relationship.

Among other aspects, *“swift conclusion of the negotiations on the Agreement on Geographical Indications will be key in ensuring the mutual recognition of geographical indications in each other’s market”.*

In this respect, it must be recalled that on 6th November 2019, the EU and China concluded the negotiations on a bilateral agreement to protect 100 European Geographical Indications (GI) in China and 100 Chinese GI in the EU against imitations and usurpation. This landmark agreement is expected to result in reciprocal trade benefits and demand for high-quality products on both sides⁶.

The IP Key Activity N°1-R3A0102 (AWP 1, 2018) entitled “Allocate adequate and mainly dedicated resources to support the IP Dialogue Process” was perfectly in line and in support of the above achievement in the GI’s field. By way of this activity, IP Key China dedicated further resources to more efficiently and effectively supporting DG TRADE in managing the Dialogue/WG preparatory phase and follow-up. In particular, IP Key supported the The EU-China IP Dialogue Process in the Geographical Indications area with the participation of one IP Attaché at the EU-China GI negotiations / EU-China IP Working Group, held at the end of December 2018 in Brussels.

From a more general point of view, studies on specific IP topics of Chinese IP Law and practice, and the presence of EU officials during activities (e.g. study visits in Europe) is also very useful for the EU interested parties to learn more about Chinese IP environment and have a direct contact with Chinese players (such as IP judges, examiners, Government Officials, etc.), increasing the EU added value of the action as a diplomatic tool in the country.

Follow-up on specific activities, such as the publication of brief case law summaries or continued mentoring after training and workshops will keep the intervention aligned with evolving European Union expectations. Also, new activity formats, such as webinar, will offer EU added value by giving the possibility to have online viewers and participant from Europe.

From the visibility standpoint, the evaluators have been informed that IP Key will be present with its own stand during the next INTA annual meeting in Singapore (25-29 April 2020: <https://www.inta.org/2020Annual/Pages/Home.aspx>). INTA Annual meeting is the most important annual congress in the Trademark industry. IP Key presence will be a great opportunity to reaffirm, once again, the leadership of the IP Key and the EUIPO in the context of international IP cooperation.

Also, the IP Key website (in particular, the IP document database) is a powerful IP library that can be consulted by EU policy makers and legal practitioners with great benefit. However, improvement of the search tool is encouraged due to the large amount of information contained therein.

⁵ Joint communication to the European parliament, the European council and the council : “EU-china – A strategic outlook” <https://ec.europa.eu/commission/sites/beta-political/files/communication-eu-china-a-strategic-outlook.pdf>

⁶ Source: https://ec.europa.eu/commission/presscorner/detail/en/IP_19_6200

As a constructive suggestion for future planning, it would be useful to conduct a comparative study on the EU and Chinese GI systems, with a particular focus on enforcement issues, and also a specific workshop on IP and Artificial Intelligence, due the strategic importance of this new technologic field.⁷

Overall conclusion on EU Added Value

All in all, it is possible to conclude that IP Key China is offering added value to the EU as a global player in different dimensions.

For example, IP Key supported the EU-China IP Dialogue Process in the Geographical Indication area with the participation at the EU-China GI negotiations / EU-China IP Working Group, held at the end of December 2018 in Brussels.

Also, the presence of EU officials during IP Key activities interacting with Chinese players (IP judges, examiners, Government Officials, etc.) plays an important diplomatic role in the country.

From the visibility standpoint, participation of the IP Key in IP international congresses (such as the INTA annual meeting) will be a great opportunity to strengthen the EU image as a leader in the IP realm and the EUIPO as the most innovative and powerful IP agency in the context of international IP cooperation.

4.2. IP Key Latin America

4.2.1. Relevance

IP Key LA is relevant in relation to EU foreign policy objectives achievement, and in particular, fully aligned with the EU IPR policy objectives.

One of the Programme achievements to this respect is that it has made possible to strengthen ties with Latin American countries authorities – thus significantly reinforcing the action that EUIPOs develop bilaterally as part of their institutional action plans. The Programme has also been essential to make visible IPR issues and to facilitate promotional actions of IPR protection in the region. Additionally, the application of project funds is considered to have contributed to facilitate the actions carried out by the EUIPOs that commonly face budgetary restrictions to achieve their objectives more fully. The active and very productive process of consultation with the EUIPOs allows to take into account their needs based on their strategic plans of action in the region and, therefore, the annual work plans adequately reflect these guidelines. Likewise, this consultation process made possible not to repeat or overlap programme actions with others carried out by EUIPOs.

A similar pronouncement was taken from IMPI (Mexico), considering IP Key LA as an excellent and also a fundamental tool to strengthen the institutional relationship between national and EUIPOs, which produces as a positive effect the convergence of the countries of the region – particularly Mexico and Central America sub-region – of laws and practices towards European standards.

Among other examples mentioned to sustain this assertion, the Study on the impact of IP in the business of EU companies in Mexico (AWP1-2018 – Activity 22: IP impact study on IPR intensive industries in Mexico – on-going activity) in EU companies business in Mexico was considered very important, to the extent that it can reflect how IPR protection influences economic development and how protection standards directly relate to size of the economies – i.e., the higher the protection standards the higher the economic development rate. In the same order of ideas, the contribution of the programme to the discussions of the Special Committee on Intellectual Property of the modernised Global Agreement, is considered essential to provide information to IP officers that are part of the deliberations, especially on EU practices and standards – the traceability issue in tequila trade was one of the examples mentioned about this point.

⁷ In this respect, see Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions – Artificial Intelligence for Europe, COM (2018) 237 final, 25.4.2018.

IP Key LA has been fundamental in terms of establishing better relations with local IPOs authorities, as well as visibility and awareness of the importance of IPRs by local IPOs, judicial authorities, professionals and IP professionals associations and Customs authorities.

Supporting this important accomplishment, in the view of the EUD to Peru its relationship with the local IPO (INDECOPI) has experienced a marked improvement, through which a good line of cooperation has been achieved and consolidated. In particular, it was observed that, being the starting point a distant and not exempt of mistrust relationship with INDECOPI, this has now turned into a fluid one, with INDECOPI showing a growing appreciation for European cooperation in this field. This new scenario undoubtedly contributes to the objectives of improving market access and boosting trade, investment and business opportunities for EU companies, to the extent that cooperation matches the needs of IPOs local and sub-regional strategies and policies by the elevation and homogenization of protection standards, as well as by addressing matters of mutual interest of both parties which, in turn, creates a favourable environment for the negotiation of the trade agreement implementation process.

In relation to the activities carried out in the first two years of the programme implementation, special emphasis was placed on those related to GIs, not only because of their concrete results but also because they correspond directly to the European interest from a commercial perspective, as well as they are a priority in itself among the whole IP areas. Activities related to plant varieties were also noted as an important area, although relatively less important from a trade perspective.

In the context of the alignment of EU-INDECOPI implementation strategies, the latter institution requested support to implement GIs and Trademarks according to the European model. INDECOPI also expressed the necessity of cooperation for the implementation of the GIs Regulatory Councils, which it considers key for the support of the Subcommittee on Intellectual Property under the EU-Peru trade agreement. Therefore, for future planning the cooperation needs of INDECOPI should be taken into account by IP Key LA. INDECOPI raises these needs on two levels: on one hand, the implementation of the trade agreement - within the framework of the Subcommittee on Intellectual Property - and, on the other, the development of legislative initiatives. In this line, the opinion of the EUD to Peru is to meet those needs making available the tools to address them through the IP Key LA programme.

In this same line of opinions, INPI (Argentina) authorities stated that IP Key LA has a huge regional impact contributing in generating a common language and an elevation of IPR protection standards among national IPOs in the region. Additionally, it was highlighted that the Programme planning and implementation were developed in permanent consultation and exchange with the local IPOs, taking into account the assessment of each country necessities, although without imposing criteria of choice, granting each authority autonomy in the definition of activities. In other words, as a result of this prior consultation process, the intervention actions implemented reflect the needs expressed by the local IPOs of the region.

A similar pronouncement was collected from the authorities of the Andean Community General Secretariat for whom IP Key LA intervention is highly positive for the Andean region to the extent that, although countries individually have the prerogative to request activities and benefit from them, the overall result for the Andean Community is beneficial because it fosters a common agenda and develops the exchange of experiences and knowledge between countries, which consequently is reflected in the sub region negotiation areas. Likewise, cooperation contributes by promoting the matching of standards in terms of IP tools.

Also, according to the perspective of INDECOPI, IP Key LA has been an extremely useful and fruitful cooperation action, especially because it has been correctly focused on specific areas and/or issues in which cooperation is necessary and therefore its results are very positive and evident, among them: the development of IP tools, such as intervention actions in the area of GIs, and the activities in the field of plant variety registration. Additionally, a study currently being prepared on the intellectual property impact on the Peruvian economy was mentioned, a need that has been present for some years and now has been addressed by IP Key LA (under Activity 12 of AWP2 2019: Support in the development for studies on the Economic importance of IPRs, Social perception of IPRs; Impact of infringements of IPRs – on-going study). In particular, the first two issues have been very well implemented and capitalised by the institution, whose overall evaluation of the project intervention is very positive, being the expectation that this line of intervention will continue during the next two years of IP Key implementation.

In the area of IPR enforcement actions, according to CAME (Argentina) – the most representative SMEs business organisation at national level, actively involved since the mid-2000s in multiple actions in defence of

intellectual property rights, mainly fighting against counterfeiting and piracy –, IP Key LA has made a very important contribution to visibility and knowledge of commercial scale counterfeiting and piracy. A specific reference to this respect was made to the event on the Second IP Enforcement and Governance Week, which took place in Argentina in August 2019 (AWP 2, 2019: Activities 4 (Customs and Border Enforcement), 5 (Judges Symposium) and 6 (Enforcement Summit). In the view of AMPPI (Mexico), the programme represents a positive contribution in this area, especially when made extensive to Central America, since smuggling activity is currently operated by disembarking containers in local countries and then accessing by land to Mexico, a recently identified modality to circumvent border controls.

As can be concluded from the preceding paragraphs, IP Key LA is consistent with and supporting of the EU policy objectives as they are determined by the PI (Objective 3), aimed to improving market access and boosting trade, investment and business opportunities through economic partnerships, business and regulatory cooperation (non-textual definition).

The relevance and importance of the programme in relation to this objective are expressed, for example: a) by the improvement of IPR regimes and regulations, that ultimately benefit EU companies and specially SMEs access to target markets by encouraging the adoption of higher standards and harmonized with those of the EU; b) by raising awareness and promote actions to effectively enforce IPR protection; and c) in its contribution to the negotiations for the implementation of the various trade agreements - these being one of the most important aspects of the main instruments to facilitate trade between the EU and the target markets.

On the relevance of the selected IPR areas to globalisation of EU companies, even taking into consideration that different IPR areas are more or less important to different industries or economic sectors – depending for example on their size and their degree of IP intensity, IP Key LA covers all IPR areas (a table summarising the distribution of IP areas in each of the Annual Work Plans is reproduced below in section on Effectiveness).

Risks and assumptions originally identified in the Description of Action and in the Logical Matrix are correct, as well as the intervention logic shows the right relationship between purpose and programme overall objective, expected results and activities to be implemented within the foreseen period of time. Target countries in the region got through eleven changes of government since the launching of the programme, which in turn resulted in changes in ministerial and IPO authorities, as well as more or less significant changes in the political orientation of the new administrations and eventually in the IP national legislations. Nevertheless, none of these circumstances significantly affected the planning and implementation of the programme, nor its overall performance or effectiveness. This positive response to the above changes can be attributed not only to the appropriate reaction and good management of the PMT, but also to the strong relationship built with local IPOs and other key public and private stakeholders in the region.

As examples of the above statement, the PMT responded efficiently to changes of authorities in the Andean region, as the implementation of one of the activities organised in Colombia (AWP1-2018, Activity 12: Support Implementation or Revision of Trade Mark and Design Examination Guidelines, November 2018) coincided with the change of authorities of the local IPO, a circumstance that, however, did not prevent the successful completion of the activity and, simultaneously, the opportunity was taken to contact the new authorities and initiate consultations in view to planning for the following year. In a similar manner, IP Key LA responded effectively to the challenges posed by the change of authorities that took place in Mexico at the end of 2018 and that led to changes in the upper and middle management levels of the IMPI. Following the change of IMPI authorities in December 2018, fluid channels of consultation were quickly established, and as a result, as specifically mentioned in the interview held with the IMPI, the commitments made by this office during the consultation process for the elaboration of the AWP 2 2019 were maintained by the new authorities. The Roving Seminar on the importance of IPRs for Business: perspectives from the EU and Latin American Countries (AWP 2 2019, Activity 8.1, March 2019) was cited as an example.

Cross-cutting issues have been taken into account by the programme, in relation to gender issues (for example, the distribution of event participants is 51% women and 49% men) and environmental and general security / public health aspects (the latter through its activities on enforcement that promote fighting practices against piracy and counterfeiting products, which in cases such as pharmaceuticals, cosmetics and toys can be extremely dangerous for public health).

Overall conclusion on relevance

The Evaluation Team can conclude that the IP Key LA is relevant and fully consistent with and supportive of the EU policy objectives as defined in Objective 3 of the PI.

The Programme makes an important contribution to the improvement of IP regimes and regulations, by building capacity and promoting higher IPR standards, by supporting the process of trade agreements implementation and by raising awareness and best enforcement practices, all of which ultimately benefit EU companies, and specifically SMEs access to target markets.

On the relevance of the selected IPR areas to globalisation of EU companies, the IP Key LA covers all IPR areas, and the Evaluation Team analysis of the Programme documents and reports can conclude that an adequate balance of activities planned and implemented in relation to IPR areas covered has been achieved, both at the country and sub-regional level.

The programme response to challenges and risks posed by changes in governments of several of the target countries has been adequate to mitigate the consequences of such changes, so that these circumstances have not affected the overall performance of the Programme or its effectiveness.

4.2.2. Effectiveness

The evaluation of the pertinence of the activities planned and implemented by the programme for EU trade policy purposes is highly positive. This becomes evident in a large number of activities all of which have also had very positive results in terms of impact, added value and sustainability, as described in other sections of this report, for example:

- 1) AWP1-2018, Activity 6: Collective management of Copyright and related rights: Exchange of best practices
- 2) AWP1-2018, Activities 17: Regional Seminar on Border Enforcement on IPR; 18: Enforcement Summit; and 19.2: Judges Symposium
- 3) AWP1-2018 – Activity 22: IP impact study on IPR intensive industries in Mexico (ongoing activity)
- 4) AWP2- 2019, Activities 4: Customs and Border Enforcement; 5: Judges Symposium; and 6: Enforcement Summit
- 5) AWP2-2019, Activity 10.2: Workshop on Trade Marks and Designs Examination Practice
- 6) AWP1-2019, Activity 8.1: Roving Seminar on the importance of IPRs for Business: perspectives from EU and Latin American Countries (Mexico, Guatemala, El Salvador and Costa Rica)
- 7) AWP1-2019, Activity 18: Regional Workshop on Geographical Indications Enforcement in Central America (planned for December 2019)
- 8) AWP2-2019, Activity 17.1: IT assisted quality and productivity IP tools

All of the above examples also prove that the choice of IPR focus areas is aligned with EU trade priorities, as can be verified from the opinions of the stakeholders consulted during the field missions and from the analysis of the process through which the annual planning is carried out, involving exchanges with EU implementing partners – e.g. EPO, CPVO, EU IP Attachés in the region, EUDs – and guidance provided by FPI and DG Trade on the priorities to be given to certain areas and activities. In addition to the consultation process, planning of the activities of the AWP2-2019 takes into consideration the information gathered during IP Key LA implementation of AWP1-2018, so ensuring thus ensuring the continuity and eventual deepening of activities in certain areas, a factor that favours a greater effectiveness of the Programme.

The consultation process with the General Secretariat of the Andean Community is a good example of the above. Highlighting the excellence of the IP Key LA presentation at the moment of its launching, as well as the effective line of communication and consultation established from the beginning with the PMT, it was explained that under the Programme framework the Andean countries decided to act on two levels: at community level - through initiatives presented or raised by the General Secretariat - and at national level - where each country presents its needs and priorities for cooperation. At community level, the General Secretariat presented EUIPO with four initiatives, namely: cooperation in financing the negotiating committee activities, which - in accordance with the project objectives - was considered not applicable; the digital mapping of the GIs for the Andean countries, a manual of good practices and a seminar on Copyright, and promotion of creative industries. As a result of the consultations between the parties, it was determined that cooperation to finance the activities of the negotiating

committee was not an applicable request - given the objectives of the programme - and one activity was included in AWP1-2018 (Activity 6: Collective management of Copyright and related rights: Exchange of best practices).

In the same sense, opinion expressed by EuroChamber Argentina representatives is that the presentation of the programme has been excellent, and that the organisation has been regularly consulted by the PMT regarding the planning and implementation of relevant activities.

From the information gathered during the interviews, a great appreciation was shown for EUIPO's management, qualifying it as excellent, both in terms of its consultation mechanisms and its activities coordination and, in general, the quality of the intervention. In what regards to the activities implementation, some specific points were stated:

- Excellent coordination is observed to adapt the contents of seminars and workshops to the needs expressed by local IPOs
- EUIPO contribution is important from the institutional point of view, for its reputation and professionalism
- There is an important added value in the knowledge of how other IPOs work in European countries and also in the countries of the region
- The importance of promoting and improving the relationship between authorities of agencies linked to IP (IPOs and other agencies, such as the judiciary and customs authorities) which: allows to establish wide networks of contacts that remain as an intangible asset of the programme supporting its sustainability; promotes and favours common practices (in the use of IP Tools) and common criteria for the resolution of cases
- Capacity building implies a clear orientation towards the homogenization of tools and also to get to know that some of IPOs practices are more common than originally thought
- The importance of setting up activities that allow a thematic continuity, which is extremely useful for the purpose of monitoring its effects and its impact (by comparison with isolated activities on certain topics)

In terms of its achieved results so far, IP Key LA performance shows rather impressive figures as shown in the following table:

Number of Activities	33 activities implemented: - AWP1-2018: 25 activities, of which 19 implemented, 1 deemed as non-implementable, 1 carried over into AWP2-2019, 4 longer term videos and studies ongoing - AWP2-2019: 24 activities, of which 14 implemented, 8 ongoing and 2 not yet started (as of 5 September 2019)
Number of Participants in IP Key LA Events	2525
Participants overall satisfaction	AWP1-2018 = 95% AWP2-2019 = 97%
Stakeholders overall satisfaction	85%

The distribution of activities by IPR area and by Geographical Region/Countries shows a balanced composition in both cases, according to the process through which the annual planning is carried out. The information for AWP1 and AWP2 is summarised in the following table:

IPR	% Activities	Geographical Distribution	% Activities by Region ⁸
AWP1-2018			
General IP	32%	Mercosur + Chile	31%
GIs	8%	Andean countries	26%
Patents	8%	Central American countries	25%
Plant Varieties	12%	Mexico	18%
Copyright	8%		
Trademarks and Designs	32%		
AWP1-2019			

⁸ For AWP1-2018 the geographical distribution of activities is measured in terms of cost.

General IP	37%	Mercosur + Chile	33%
GIs	13%	Andean countries	33%
Patents	13%	Central American countries + Mexico	26%
Plant Varieties	8%	EU	8%
Copyright	4%		
Enforcement	12%		
Trademarks and Designs	13%		

This indicator, within the framework of the analysis of the activities implemented during the first two years, allows the Evaluation Team to affirm that there are no significant differences in the effectiveness between the target markets.

That being said, in several of the interviews held during the field missions, some negative aspects regarding the Programme effectiveness were pointed out, among them:

- During this period EUD to Mexico involvement in the planning of activities was insufficient, due to different factors that prevented an adequate interaction with EUIPO PMT. It is worth noting however that this setback has been overcome by establishing a new modality of coordination and consultation with new recently appointed EUIPO Deputy Project Leader. Likewise, the EUD to Peru was not consulted for AWP1 and, consequently, objectives considered important for the actions of the Delegation were set aside, a problem that was addressed for AWP2 and additional efforts are currently being made to improve consultation and coordination processes for planning the activities for the remaining period of the Programme.
- With respect to the consultation process dynamics and implementation, the absence of an explanation to those who have been consulted on the reasons why their opinion was not reflected in the activities planning was pointed out as one of the elements that have negatively affected the effectiveness of the Programme, although it is currently being resolved.
- The lack of flexibility of the project to give consideration to certain 'on demand' activities was brought to attention, citing as an example the refusal to support the organisation of an activity within the framework of ExpoAlimentaria 2019 in Peru, which would have served to maximise the impact of the programme in the GIs area. At the time, this request was posed by INDECOPI to both IP Key LA and EUD and it is not clear whether this rejection was either due to a different assessment of the pertinence or importance of the demand or to the inability to reallocate project funds for that purpose (due to budget, bureaucratic or organisational restrictions - i.e., not having the possibility of altering the annual work plan). As a consequence the EUD to Peru had to organise an event by itself to cover the need, by resorting to funds initially allocated for other uses, when, in fact, the organisation of an event by IP Key LA with EUIPO experts and others from the EU would have contributed to a greater extent.
- Another characteristic affecting the effectiveness relates to the administrative difficulties of the program to finance the attendance of participants from the host country of the activity. By virtue of this restriction, the program can finance the attendance of participants from other countries attending the activity, but not that of the local participants, which, when the activity is carried out to respond to a specific interest of the country - in this case of Mexico - which is also coincident with the interests of the EU, harms the achievement of the objective sought and decreases the effectiveness of the intervention. In this regard, however, it should be noted that the information analysed by the Evaluation Team on the reports of activities carried out in Mexico shows that this difficulty was not present or, when it was raised, was effectively resolved by the PMT by resorting to the collaboration of partner organisations in the activity.

The issues related to the quality and composition of the events audiences and the ways to better reach EU SMEs or their greater involvement were the object of varied opinions on the part of the stakeholders consulted during the field missions. Additional aspects related to these issues are addressed below under section on Complementarity and Coherence, since some of their outcomes link with the lack of complementarity with EU funded projects that provide services and information to SMEs, such as ElanBiz or Latin America IP SME Helpdesk.

Initially, the shortcomings observed in some events related to the contrast between the content and quality of the presentations and the degree of knowledge and the heterogeneous composition of the audience; this aspect, it is added, could be corrected to the extent that the call to the events can point to a more selected audience

depending on the topic to be addressed. Secondly and more specifically related to the ability to convene EU SMEs or have them more involved, for some of the interviewees the relationship and capacity building in local IPOs is considered more important than reaching companies directly. Through these interventions, European companies are ultimately favoured, mainly through the improvement and homogenisation of protection standards and practices, as well as tools incorporation and management. Furthermore, they consider that the programme activities are not directly ultimately useful for EU companies or for local companies associated with EU companies operating in Argentina or MERCOSUR, since if they are medium or large companies, all have direct advice from major legal offices, and in the case of SMEs, they usually gain advice and information from the IPOs of their countries of origin.

Regarding information dissemination and visibility, the general opinion of the stakeholders is that the programme has made a very positive contribution to the visibility of EU IPR policy. A progressive improvement of the website was observed, and it was also confirmed that information about IP Key LA is easily accessible to local IPOs and the general public, and there is effective communication between PMT and local IPOs. Nevertheless, the delay in the full operation of the information management system (IMS) and document repository has been pointed out. According to PMT reports, a database (Anti-Counterfeiting Rapid Intelligence System - ACRIS) created by the EUIPO Observatory for IP Infringements has been considered the most adequate and cost-effective platform to host the IMS. In January 2019, the latest version of ACRIS has been put in production for the benefit of DG TRADE, users, stakeholders and EUDs, but its use by DG TRADE and EUDs is still pending. The fact that one of the studies conducted by IP Key LA (Inception Phase, Activity 1: Study of IPR provisions in the national laws of MERCOSUR in relation with the negotiations of FTAs with the EU, completed on 28 March 2018) is not available to the EUD to Argentina or to the EUIPO Counsellor for Latin America is an example that appears directly related to this delay and which negatively affects the objective of the activity, which is the contribution to the negotiation and implementation of the recently subscribed agreement by the EU with MERCOSUR.

Overall conclusion on effectiveness

The evaluation of the pertinence of the IP Key LA activities planned and implemented for EU trade policy purposes is highly positive. A large number of activities analysed by the Evaluation Team are evidence of this assertion, as well as all of them have also had very positive results in terms of their impact, value added and sustainability.

From the opinions of the stakeholders consulted during the field missions and the analysis of the activities reports, the choice of IPR focus areas is aligned with EU trade priorities, and this assessment is also supported by the process through which the annual planning is implemented.

IP Key LA shows a remarkable performance during the first two years of implementation in terms of its achievements and outcomes monitoring indicators. These indicators, together with the IPR areas and geographical distribution of activities also show that there are no important differences in effectiveness between target markets.

All activities implemented so far by IP Key LA programme has been highly valued by all stakeholders interviewed during the field missions, underscoring not only the quality of the technical expertise that has been provided but also its effectiveness in terms of IPOs and other IPR-related governments authorities capacity building and promotion of awareness, best practices and higher standards in IPR, all of which converge toward the overall objective of the programme – i.e. to promote a more level playing field for EU companies operating in the region by contributing to greater transparency and fair implementation of IPR protection and enforcement.

While recognising achievements of the programme in terms of dissemination and visibility, a recommendation should be made to complete and make fully operational and available the information management system (IMS) and document repository.

4.2.3. Efficiency

From the information analysed from some of the activities reports, the Evaluation Team can conclude that the available resources have been used efficiently, principally when related to organisation and coordination of

activities with local agencies or third parties partnership, as well as allocated adequately by country/IP areas in the annual work plans.

Among other examples, the following can be cited to illustrate this assertion:

- 1) AWP1-2018, Activity 11: Technical workshop to facilitate the adoption of IT assisted and productivity IP tools by LA IP Offices, organized in Peru. INDECOP (Peru) provided one key speaker, four more IT and IP experts to share experiences with the participants from the other offices, the venue (including technical equipment and laptops for all IT participants), and logistical assistance and catering.
- 2) AWP1-2018, Activities 3: Seminars on Plant Variety Protection: Support to Accession to UPOV 91, organized in Peru and Ecuador; and 7: Workshop Plant Variety Protection: Exchange of Best Practices plant breeders' rights, organized in Peru, both in August 2018. The seminars and the workshop that were attended by more than 250 people had the collaboration of the Union for the Protection of New Varieties of Plants (UPOV) and the Community Plant Variety Office (CPVO), INDECOP (Peru) and the National Intellectual Rights Service of Ecuador (SENADI). In both cases, INDECOP and SENADI provided key speakers, the venue (including technical equipment) and the logistics.
- 3) AWP2-2019, Activity 9: EU Conference on Geographical Indications and the Lisbon Agreement (Geneva Act), for which IP Key LA covered the costs of the participation of high-level IP officials from Bolivia, Colombia, Ecuador and Peru at the 2019 edition of the Worldwide Symposium on Geographical Indications and in the GI Study Visit to held on 02-04 and 05-06 July, respectively, can be mentioned as an example of joint coordination with WIPO, the National Industrial Property Institute of Portugal (INPI) and with IP Key SEA for the organization of the Study Visit.

In the same vein, the information gathered by the Evaluation Team reveals an appropriate use of available resources, which is evidenced, among other aspects, by the numerous examples of collaboration with other organisations in the management and implementation of activities. This contributes to a significant reduction in costs in relation to the alternative scenario in which this synergy did not exist: the use of office facilities in the Mexican Institute of Industrial Property (IMPI) and the participation of both this organisation and others who also contributed to the promotion of activities and/or provided experts for different events, are additional examples that support this assessment.

Even if budget figures were not discussed during the interviews with stakeholders, as the document received by the Evaluation Team is confidential, efficiency of IP Key LA can be assessed from the analysis of the EUIPO report for IP Key LA and the activities reports.

According to those two sources, the implementation expenses are under the approved budget and various means of financial management are applied for the optimisation of the budget, among them partnership with third organisations such as WIPO or EUIPOs, with local IPOs, and activity grouping (e.g. same place, same participants). The record of activities implemented and satisfaction indicators is rather high: 19 activities implemented for the AWP1-2018 with 97% satisfaction – from which 4 long-term videos and on-going studies, 1 deemed non-implementable, and 1 carried-over for 2019; and 14 activities implemented for the AWP2-2019 until September 2019 (over 24 activities planned), with 95% satisfaction – from which 8 activities on-going and 2 activities not yet started. The balance between countries and IPR areas is also good considering, for example, the AWP2-2019, seeking for a regional and sub-regional balance of the number of activities planned – this number is fairly similar for the three sub-regions: Mercosur plus Chile, 5 activities, Andean Region 4-5 activities, Central America plus Mexico 5-9 activities, being the remaining activity to be carried out in an European country, as well as covering the whole range of IPR areas, with the objective of maintaining a fair balance for the EU industries standing behind them.

In another order of thought, in some of the interviews – EUDs to Mexico and Argentina – two kinds of observations were noted on efficiency. On the one hand, it was mentioned that the programme budget included, for the first phase, an allocation to fixed expenses (basically for installation) that appears relatively excessive when compared to the expenses allocated for activities. Although it is accepted that the initial fixed expense was essential given the design and scope of the project, from a general perspective this statement had a negative connotation for efficiency in the allocation of programme resources. On the other hand, the inclusion of activities related to the learning and use of EUIPO tools was assessed as a non-strictly efficient application of programme resources, to the extent that these are activities which EUIPO carries out on a regular basis as part of its relationship with the countries and, therefore, these activities could have been replaced by others more strictly related to the design and objectives of the programme. However, both aspects were considered as minor issues in relation to the programme efficiency overall judgement. Furthermore, in what relates to the latter, the outcome

of activities on IP Tools is one of the most outstanding indicators in terms of its impact and its contribution to the sustainability of the intervention.

According to the opinion of the EUD to Argentina, the allocation of resources for the establishment of a physical location for the On-Site Implementation Team in Argentina were relatively high because of the difficulties of various kinds faced this endeavour, that were a very important initial disadvantage that partly delayed the program implementation and conspired, to some extent, in the optimisation of the intervention efficiency. Nevertheless, EUIPO personnel presence at actions headquarters is considered crucial, which makes the office location in Argentina an essential necessity. Furthermore, on their opinion the program budget should be increased, mainly because the intervention covers a very large number of countries, with regional imbalance in terms of legislation, culture and IPRs compliance (in short, for all countries, with the exception of Brazil, language is the only common element). In the same sense, a valid question to be posed is if it would not be necessary to have a greater number of management teams in the region to operate more comprehensively and efficiently.

Finally, regarding budget administration and annual activities planning, it is considered important to leave a certain number of activities undefined - in addition to the "on-demand" activities that are open to ad hoc activities to be requested by DG Trade - and even apart from the annual planning so to answer with ad hoc actions to those needs that arise on a temporary basis. In other words, it is recommended a greater flexibility on the actions annual planning, even proposing the possibility of introducing quarterly revisions to adjust the planning to the needs that could emerge in certain situations, for instance, resulting from sudden changes in local policies which in turn led to changes in the needs to be met by the intervention.

Overall conclusion on efficiency

As a first conclusion on efficiency criterion, the Evaluation Team can report that the available resources have been used efficiently, principally when related to organisation and coordination of activities with local agencies or third parties partnership, as well as allocated adequately by country/IP areas in the annual work plans, according to the priorities identified by the EU Commission, DG Trade and EU stakeholders, but also in line with an adequate balance of IP areas and countries coverage.

Resourcing of activities is done based on quantifiable elements, determining the estimated resources needed for activities implementation on the basis of the requirements for each activity appraised by the PMT, taking into account technical support by experts, conference speakers and logistic support.

Additional elements to positive evaluate the efficient use of available resources are the numerous examples of collaboration with other organisations in the management and implementation of activities, which contribute to a significant reduction in costs in relation to the alternative scenario in which this synergy did not exist.

The general positive assessment on efficiency is not undermined by observations on the relatively large part of the budget allocated to the expenditure initially incurred for the launching of the project or the non-justification of the allocation of resources for certain activities, which although expressed as reproduced above, were considered minor problems from the perspective of an overall evaluation. At the same time, some of the proposals related to the need to consider a possible increase in the budget, as well as the suggestion to introduce greater flexibility in the allocation of resources in the annual Programmes, will be included in the section on lessons learnt and recommendations.

4.2.4. Impact

IP Key LA shows significant results in terms of the impact evaluation of the intervention, as can be summarised in the following points:

- 1) The activities related to GIs allowed comparative analysis and exchange of experiences with other countries – i.e. AWP1-2018, Activities 5.2: Relations between trademarks and geographical indications, and 16: Training and Exchange of Best Practices regarding the Registration of GIs; and AWP2-2019,

Activity 9: EU Conference on Geographical Indications and the Lisbon Agreement (Geneva Act). These activities were deemed as particularly positive in terms of the legislative reform of Peru in 2019, aimed at the protection of GIs. It is also worth mentioning the treatment of differences in the legislative frameworks for the protection of GIs and Trademarks, between the legislation of the Andean Community and EU legislation, which led to a very beneficial analysis and exchange of ideas for both sides.

- 2) Activities related to the protection and registration of plant varieties (AWP1-2018, Activities 3: IP Key Latin America: Plant Variety Protection: Support to Accession to UPOV 91, and 7: IP Key Latin America: Plant Variety Protection: Exchange of Best Practices plant breeders' rights) had a qualitative and quantitatively important impact. On the one hand, given that Peru is adhering to the 1991 UPOV Convention, the exchange of knowledge and experiences in the region was helpful, as well as the contribution of experts convened for the seminar and the workshop carried out in this IP area. On the other hand, the activity contributed to the administrative process that INDECOPI is carrying out to implement the registry, through contact and exchange with experts from the region and the EU. In terms of the impact of the actions of the project in this area, interest of producers increased, and an augmentation in the number of applications for registration was verified (as registration is still a not too widespread regulation, the absolute number of applications is small, but the growth in percentage terms exceeded 100%) after these activities and, according to the opinions received, as a direct consequence of them.
- 3) One of the programme expected results – i.e. Result 3: Effective Support for IP Dialogue and Subcommittees and Implementation of FTAs – has had a concrete impact, which is the installation of the GI protection treatment in the negotiations related to the implementation of the integration process in Central America. Additionally, the treatment of this issue occurs in a context of increased knowledge of the Central American countries negotiators, allowing to advance towards the objectives of integration in a less conflictive and more fluid way, a result that can be attributed to the intervention.
- 4) The technical workshop on IT Assisted Quality and Productivity IP Tools (AWP2-2019, Activity 17.1), organised in Costa Rica in July 2019: this workshop focused, among other IP tools, on the Common Tool for Trade Marks' Examiners (CESTO), with the attendance of IPOs (one IP expert plus one IT expert in most of the cases) from Central America (offices from Costa Rica, Honduras, Nicaragua, El Salvador, Guatemala) and from Dominican Republic and Cuba. As a result, the Industrial Property Registry of Costa Rica signed the license agreement during the workshop, successfully installed and configured the CESTO software on their server, ready for testing by business users (trade mark examiners). And a commitment was made to send the template of the License Agreement to El Salvador, Nicaragua, Guatemala and the Dominican Republic authorities.
- 5) The Regional Seminar on Border Enforcement on IPR (AWP1-2018, Activity 17), provided training for Customs and Law Enforcement Authorities from Mexico and Central America on fighting against counterfeiting and piracy at borders. As was specifically pointed out by Mexican Customs authorities during the interview, as a result of the activity a significant improvement was observed in the presentation of the cases detected by Customs officers.

In addition to these tangible examples of the impact of intervention, a valuable appreciation of the Programme activities was expressed by all stakeholders consulted during the field missions, without exception. Several of the opinions also highlighted that IP Key LA is considered as one of the most outstanding projects of the EU cooperation as well as compared to cooperation projects of other international players. It could also be seen that the activities presentations and documentary materials delivered and shared in public or semi-public fora by the Programme receive positive feedback from users. In particular, a high expectation was observed for the effectiveness of the studies on the impact of the IP in the economic development and its later circulation.

There are no objective elements, such as statistics or measurable results, to affirm that there has been an improvement in IPR protection as a result of the intervention of IP Key LA. Having said that, and taking into account some of the positive impacts arising from the examples enumerated above, IP Key LA contributes – although only indirectly – to support the INPI (Argentina) strategy in legislation promotion for IP legal framework modernisation, such as in Argentina's accession to the Madrid Agreement for International Registration of Marks and dissemination of PCT (Patent Cooperation Treaty) benefits, treaty to which Argentina is not part of. This contribution is reflected in the greater awareness of economic operators in general, as well as in their better knowledge of the nature and scope of both instruments and their importance for economic development.

Additional results that have a positive impact on the Programme include: the construction of networks between national IPOs, especially in the field of IPR enforcement - a factor that also contributes to the sustainability of the intervention -; progress in improving the practices and capacity of IPOs in the region; and local IPOs

knowledge improvement on enforcement practices, area in which the Programme has achieved considerable progress in raising awareness and better understanding of the issue at stake.

Another domain in which IP Key LA has exerted a positive influence upon EU policy application relates to the relationship between the national and EUIPOs. According to EUIPOs opinions collected during the field missions, although the programme objective was not well understood or appreciated at the beginning of the project implementation, after two years of its implementation, there is an evident and positive transformation in this relationship. Within the scope of trade negotiations this change of perspective came about as a result of the sensitisation on the existing problems on IP protection improvement and of a greater awareness on the matter, as well as better knowledge of EU prevailing practices and standards.

Finally, in what concerns to the subsequent actions taken by the Commission services following the completion of IP Key LA activities and the exploitation of their results by EUDs and/or TRADE-HQ, two important aspects must be stressed. The first is the positive effects of the Programme by its contribution to facilitate relations with local IPO authorities on the basis of a more fluid relationship based on a better knowledge of the issues under discussion, which has led to the introduction of issues essential to EU interests in the process of implementing trade agreements - i.e. GIs, Plant Varieties and Enforcement, among the most important ones -. The second is its contribution to the planning process, insofar as the results and recommendations of the implemented activities are used to guide future planning and thus promote the continuity and deepening of the treatment of problems in certain areas of the IP.

Overall conclusion on impact

Several examples of direct impact of IP Key LA activities have been reported above, showing that the programme has produced positive effects during these two first years of implementation, generally in terms of enhancing the relationship between EUDs and EUIPOs and national IPOs, building up of strong networks among national IPOs on IPR standards and practices, and promoting the image and visibility of EU cooperation in IPR.

Events and activities receive good coverage from local media and materials and documents are available to the public in the Document Repository of the IP Key LA Website, so reinforcing the positive impact on IPR issues.

Commission services have directly benefited from these results, through the improvement of the relationship with local authorities and the introduction of issues essential to the EU's interest in the processes of implementation of trade agreements, as well as it has been observed that the implementation of activities influences, through their results and recommendations, the process of future planning.

4.2.5. Sustainability

The MTE seeks to answer the question as to whether IP Key LA Programme meets the sustainability criterion, understood as the extent to which the results of the program and its benefits will subsist even after the intervention is over. Even taking into account the fact that IP Key LA is the first Programme of the kind performed in the region, that its effective implementation covers a short period of time – i.e. since March 2018 –, and that its activities are still underway, which makes it difficult to carry out an entirely reliable assessment on this subject, several indicators allow to conclude that the level of sustainability of the IP Key LA activities is very high.

Undoubtedly, the strategic conception of the Programme with a long-term vision, added to the way in which the PMT plans and implements activities, are the main elements on which the sustainability results are based. Follow-up strategy, knowledge sharing, and most of all, effective engagement of local IPOs in planning and implementing activities, contribute to counterbalancing the difficulties and mitigating the risks associated with the context in which the Programme operates, such as the high staff turnover of IPOs or their operational and financial weaknesses, which limits the chances that the positive effects of the development intervention will continue beyond the end of the project period.

In general terms, from the opinions gathered in interviews with stakeholders in the field missions, it appears that the sustainability of the intervention is more likely to occur when the interests of the beneficiary institutions are matched by activities that serve those interests, of course assuming that such interests coincide with the objectives of the EU's IPR policy.

The above information, together with the analysis of several activities reports, allow the following points and examples to be cited in support of a confident assessment on sustainability of the IP Key LA results achieved so far:

- a) The perception by key stakeholders of the importance of applying higher standards of IPR protection and enforcement for economic development and also about the contribution of capacity building intervention in target institutions. To this respect, it is generally recognised that the programme makes an important contribution in improving the capacity of institutions in the area of IPR and, more importantly, it highlights how some activities provide valuable elements to demonstrate practically how IPR protection relates to the level of economies development and to disseminate these results as a tool to improve understanding and facilitate implementation by the final beneficiaries of protection.
- b) Concrete examples showing the appropriation of benefits of the cooperation:
 - AWP1-2018, Activity 11: Facilitate the adoption of IT assisted and productivity IP tools by LA IP Offices, a technical workshop aimed to improve the application and examination processes of Latin American trademarks and designs, hence supporting EU businesses to protect their IP rights in the region, was attended by IPOs authorities from Peru, Colombia, Uruguay, Argentina, Chile and Costa Rica (one IP expert and one IT expert from each IPO). As a concrete result from the activity, three of the attendant IPOs signed the license agreement for the delivery of the Common Tool for Trade Marks' Examiners (CESTO), Peru IPO before and the other two, Uruguay and Colombia IPOs, during the workshop.
 - AWP2-2019, Activity 17, replica of the above mentioned for Central America, showed as a result the incorporation by Costa Rica IPO of CESTO software and the strong interest shown by most of the other IPOs in the sub-region, and as an additional element that illustrates sustainability, the participation of INDECOPI (Peru) was summoned to contribute its experience in this matter.
- c) The enforcement seminar held in Mexico – i.e. AWP1-2018, Activity 17: Regional Seminar on Border Enforcement on IPR – provides another example that was specifically referred in the interview with officers from the Central Administration of Investigation of the General Customs Administration. This custom unit is responsible for counterfeit merchandise entry detection into Mexican territory. Its competence extends from shipment identification (by foreign trade inspectors and verification agents) and the respective communication to the alleged affected party (holder of the IP right on the allegedly falsified product -), up to the construction of the case of the matter, through communication to the agencies involved, in particular the IMPI, ending in the dispatch eventual stoppage, giving then place to and intervention of judiciary instances. A positive assessment of the training received in terms of its contribution to sustainability is two-fold: on the one hand, attendees acquired knowledge that can be and actually is transmitted to other officers when they move to other Customs Administration locations; on the other hand, the knowledge about how other administrations and customs experts manage counterfeiting, as well as the establishment of a network of contacts that allows moving towards a better management of cases and towards a homogenisation of practices.
- d) In the same vein, the activities carried out at the Enforcement Week in Argentina (AWP2-2019, Activities 4, 5 and 6) that are a continuation of the event held in Mexico (AWP1-2018) that also covered Central America sub-region, have been conceived within the framework of a long term strategy to address different enforcement-related issues, such as the interpretation of IPR legislation, rules and regulations by the judiciary branch, the protection of IPR at the national borders and the formulation of policies and decision-making. These activities support sustainability to the extent that they provide knowledge and contribute to the homogenisation of criteria among the authorities of the target countries, both of which are called upon to remain even after the cooperation has ended.
- e) Planned activities in the GIs area – AWP2-209, Activities 2 and 18, respectively on GI Enforcement Training for Customs in Mexico and GI Event in Costa Rica, are of common interest to EU policies and those of the target countries or sub-regions. Both in Mexico - where new legislation on GIs and Origin Appellations has recently been passed - and in Central America - in relation to the implementation of the commitments of the EU-Central America agreement - this coincidence of interests converges in an action of appropriation of the benefits of intervention by Mexico and Central America. In the case of Mexico, this activity is fully aligned with the interest and priorities of IMPI, as well as other stakeholders, and to the extent that GIs is perceived as an area with great development potential to promote the

recognition and protection of these rights, sustainability is affirmed and reassured on the basis of the communion of interests of the parties and the most direct and close relationship of the local Regulatory Councils with their European peers – a relationship in which there is a tangible possibility of reaching reciprocal agreements of recognition and control and verification.

- f) A positive influence on the negotiation / implementation of trade agreements: on the one hand, the fact that the GI protection issue has been installed and is being discussed within the Subcommittee on Intellectual Property under the EU-Peru trade agreement, as well as the direct link between this issue of negotiation and cooperation activities through IP Key LA - as evidenced in the minutes of this Subcommittee - are an example of how intervention has positively influenced the negotiation, constituting a fact that will be maintained in the medium term; on the other hand, within the framework of the EU-Central America trade agreement, the fact that GIs are one of the main topics currently under treatment in the Intellectual Property Subcommittee of the Association Committee is a testimony not only that the actions of the programme on this area fully contribute to one of its expected results – i.e. Result 3: Effective Support for IP Dialogue and Subcommittees and Implementation of FTAs –, but also that the installation of the topic and its treatment in a context in which a greater knowledge of the parties on the scope and enforcement of legislation is developed is a factor that contributes to the sustainability of the intervention.

- g) Conduction of studies, as the IP Impact Study on IP intensive industries in MERCOSUR (AWP1-2018, Activity 23) – as well as a similar study conducted in Mexico (AWP1-2018, Activity 22) –, which provide factual foundations on the importance of IPR as a factor in economic development and provide arguments for sustaining the benefits of IPR as a tool for economic growth. This activity increases knowledge that supports sustainability in target countries.

Overall conclusion on sustainability

The evidence collected and analysed by the Evaluation Team leads to the conclusion that the sustainability of the IP Key LA activities is very high.

This judgment is supported by numerous examples of activities in which there is evidence that the results and benefits of the Programme will persist even after the end of cooperation.

Various aspects related to the administration and implementation of the Programme, such as the follow-up strategy, the strong engagement of local IPOs and the convergence of their interests and needs with the planning and implementation of activities also contribute to a positive assessment of the sustainability of the Programme.

4.2.6. Complementarity and coherence, synergies with other EU Programmes

IP Key LA activities are planned and implemented in coordination with the EUDs. With the exception of EUDs to Peru and Mexico, where consultation process during the planning phase of the activities to be implemented presented some deficiencies during the first stage of the programme implementation – this process has been favourably redirected to correct those flaws, so that the coordination of activities with the relevant sections of the mentioned EUDs has been effectively improved – the PMT acts to ensure adequate coordination with the trade sections of the EUDs in the target markets, the communication among both parties is fluid and EUDs participate in the activities when these are carried out in the country where they are based.

Regular consultations with EUDs and EUMS in the target countries, as well as with DG Trade and other Commission services – as, for instance, EU Plant Variety Office -, and with EUIPOs with activity in the region, are held to collect information complementary to that already available. Planning of the activities is carried out on the basis of a comprehensive stakeholder consultation process which guarantees the broadest participation of all involved and, although in the end an equilibrium must be struck between the demands and what can actually be offered, the evidence provided by the PMT shows an adequate balance of the activities to be implemented, both from the point of view of their regional coverage and the different IPR areas. Some of the activities for the AWP3-2020 that have been already identified but not yet decided, and therefore not available to include in the MTE report, show that the above described process is actually followed.

In terms of synergy and complementarity, IP Key LA shows some important features in its implementation activities: first, it collaborates and facilitates the cooperation activities of the region in other regional areas, such as PROSUR⁹ and IBEPI¹⁰; secondly, it also shows synergy with actions of other institutions and cooperation agencies such as WIPO and USPTO. Evidence of the latter was seen in the participation of the expert in the seminar "Argentina Export: benefits and advantages offered by the international protection of industrial brands, designs and models", held in Buenos Aires in conjunction with the two mentioned organisations and INPI. Thirdly, it is worth mentioning the study visit organised back-to-back with the GI Conference – AWP2-2019, Activity 9: EU Conference on Geographical Indications and the Lisbon Agreement (Geneva Act) – and together with IP Key South East Asia as a way to establish better synergies between the two projects and promote sharing of experiences and exchange of best practices on GIs between the two regions.

On a separate issue, the interrelationship with other programmes designed to provide services and information to SMEs, such as ElanBiz¹¹ or Latin America IP SME Helpdesk¹², shows aspects that should be considered when evaluating the complementarity of the programme.

First of all, there are not overlaps of the IP Key LA and these programmes. However, on the contrary, given that both programmes provide services to European companies - particularly the second to SMEs - with business or interests in Latin America, a close complementarity with IP Key LA would be expected. In the opinion of the Evaluation Team IP Key LA should be a source of enrichment of the services provided by both ElanBiz and Latin America IP SME Helpdesk and, reciprocally, these should contribute to the dissemination of IP Key LA activities and events as part of the services they provide to companies, which does not happen based on the information collected by the Evaluation Team.

In terms of the evidence supporting this assertion, several searches on both websites did not yield any systematic reference to IP Key LA events and the Evaluation Team only found one instance in which Latin America IP SME Helpdesk collaborated with the dissemination of an event (AWP 2 2019, Activity 8: Roving Seminar on the importance of IPRs for Business: perspectives from EU and Latin American Countries. Mexico, Guatemala, El Salvador and Costa Rica, March 2019). This deficiency directly affects the eventual improvement in the IP Key LA ability to convene a specific audience to planned events and to increase stakeholders' involvement and, therefore, negatively affects the effectiveness of the implementation.

This issue is of concern of IP Key LA PMT and was highlighted in most of stakeholders' interviews, as related to the poor or inexistent participation of EU SMEs in the programme activities, and also connected with the improvement of the quality of the audience in terms of their level of knowledge or link with the topics addressed in each event.

Overall opinions collected from the interviews were coincidental in pointing out this deficiency. For example, even if EUIPO Management has been in contact with Latin America IP SME Helpdesk at the beginning of the programme, there has been little or no interaction and coordination between the parties - with the exception of Activity 8 above mentioned -. Therefore, there is no overlap possibility given the virtual inactivity of the Latin

⁹ PROSUR was created in 2009 as a regional cooperation system between nine South American countries, namely Argentina, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Suriname and Uruguay, to promote innovation, competitiveness and entrepreneurship in the region through the strategic use of intellectual property rights, and in particular, through the establishment of a common platform for the integration and exchange of information on patent applications, results of the examination of patent applications and other IP resources.

¹⁰ The Ibero-American Industrial Property Program (IBEPI) is a regional project launched by the National Industrial Property Offices of Argentina, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Spain, Guatemala, Mexico, Paraguay, Peru, Portugal, Dominican Republic and Uruguay. IBEPI constitutes a regional cooperation framework at the Ibero-American level for the use of Industrial Property towards development, based on the needs identified in the Region in terms of promoting the strategic use of Industrial Property as a tool for competitiveness and development at industrial, commercial and research level in Latin America.

¹¹ As extracted from its website (<https://www.elanbiz.org/about-us>), ELANBiz is a project funded by the European Union that seeks to increase and diversify the European economic presence in Latin America by providing updated and comprehensive information services to European companies and organisations interested in doing business in strategic Latin American countries.

¹² As extracted from its website, the Latin America IP SME Helpdesk (<http://www.latinamerica-ipr-helpdesk.eu/about-us>) is a First Line IP Assistance Service for European/COSME Small and Medium Enterprises (EU SMEs and SMEs from the Associated Countries) that operate or intend to access the Latin American market towards improving their global competitiveness. It provides free IP advice and IP resources, and organises and participates in training and raising awareness events.

America IP Helpdesk, which in fact no longer has any representation based in Mexico. Other interviewees mentioned that Latin America IP SME Helpdesk presents, in principle, similar problems in its own interrelationship and fluid access to SMEs, although it is unknown whether this is due to its activities dissemination modality or the lack of SMEs databases, especially of EU companies. EUD to Peru has no direct contact or coordinates with Latin America IPR SME HelpDesk, and from its viewpoint, there is no IP Key LA synergy with the Latin America IPR SME HelpDesk, which in principle should be a natural source of activities dissemination among its businessmen database supposedly built on the basis of the companies that use the service for intellectual property inquiries.

While most of the opinions collected in the interviews were sceptical about the possibility of generating program complementarity with the Latin America IPR SME HelpDesk, the Evaluation Team believes that an effort should be made to promote synergy and greater coordination between the two programs - also extensive to ElanBiz - which could contribute to better dissemination of IP Key LA and improve the effectiveness of its implementation, with mutual benefits for both parties.

Overall conclusion on complementarity and coherence

The planning and implementation process of the IP Key LA is coordinated with the EUDs, and some of the coordination and consultation problems that were observed during the first stage are already solved. Communications and continuous exchange of information with the PMT are fluid as expected and do not pose any problems so far, as it was confirmed during the field missions.

In a similar manner, complementarity is also ensured in the management of the information for planning of the activities.

Among some other aspects related to complementarity, the lack of coordination between IP Key LA and the Latin America IPR SME Helpdesk must be emphasised to the extent that it results in a reduced effectiveness of the programme. A recommendation should follow to make further efforts in order to reach a better interaction between both projects.

4.2.7. EU added value

IP Key LA highly contributes to the EU IPR policies in the region. As part of the opinions in this sense revealed in the interviews during the field missions, it was highlighted that the programme allowed establishing EU presence and dissemination of its strategic vision, its standards and IP protection procedures, particularly among government IPR-related institutions. The importance of this result is paramount, for example, in Mexico, given the USA presence prevalence and actions under NAFTA – soon to be USMCA agreement – whose vision and policy on IP matters differs in many respects from that of the EU, being the approach on GIs the most important one to this respect – i.e., this is the IP area in which the differences between the American and European conception have been, and are, more evident –.

The programme contribution to the EU's image and visibility is also considered as fully accomplished. This accomplishment is not only verifiable on the profuse dissemination of information about its activities, as well as of the corresponding materials and documents - both through its website and other media such as social networks and digital media - but also and mainly through the close and fluid relationship with the local IPOs, that recognise the programme as a useful cooperation tool to promote the improvement of their management and protection standards.

As a result of the latter, the relationship of the EU IPOs with their peers in the region has been strengthened, as well as the establishment or re-establishment of effective channels of contact between the latter and the EUD, promoting a more favourable climate for trade negotiations and the implementation of trade agreements.

Another significant factor was mentioned in relation to the impact of the IP Key project as an articulator of initiatives and policies in the region. Regardless of the fact that each national IPO has its own objectives, rules, regulations and areas of action, cooperation has promoted and enabled target countries to build a common agenda, while allowing narrowing the relationship of national offices through their officials and technicians and the exchange of information and knowledge on how each agency operates nationwide. This relationship and the

construction of a common agenda at the regional and sub-regional levels promoting EU IPR standards and best practices, are a IP Key LA's remarkable contribution to EU added value as a global player, and can at the same time be seen as a positive impact of the cooperation and one of the elements of the sustainability of the programme.

The two aspects enunciated above make IP Key LA useful and valuable as a tool for developing EU diplomacy in the region.

Last but not least, the momentum in strengthening the institutional improvement of local IPOs in IPR areas of common interest, as well as the development of capacity to combat IPR infractions in piracy and counterfeiting, are two other aspects directly resulting from the implementation of the program.

The first one is the relationship established by INDECOPI (Peru) with the international organization OriGIn under one of the activities carried out in the area of GIs and Trade Marks, that gave place to an agreement signed between both organizations on 2nd October 2019, for the establishment of OriGIn Peru, an independent national association – based within INDECOPI – open to all Peruvian groups in charge of GIs. INDECOPI intends to deepen the relationship with OriGIn, for which they are analysing guidelines for possible agreements, and this relationship is entirely attributed to the programme intervention.

The second one is the contribution of the programme, recognised by private sector stakeholders, to visibility and knowledge of commercial scale counterfeiting and piracy, by adding value in knowledge development about the most efficient practices to fight against IPR infringements in this area, by generating and encouraging synergy of efforts made by business organisations in the region, and by contributing to the establishment of a network of contacts with peer organisations in other countries. A specific reference to this respect was made by CAME, the most important business organisation representing SMEs in Argentina, to the event on the Second IP Enforcement and Governance Week, that took place in Argentina in August 2019 (AWP2-2019: Activities 4 (Customs and Border Enforcement), 5 (Judges Symposium) and 6 (Enforcement Summit)).

Overall conclusion on EU added value

IP Key LA highly contributes to the EU IPR policies in the region, through the establishment of the EU presence and the dissemination of its strategic vision, its standards and IP protection procedures, particularly among government IPR-related institutions.

The Programme has contributed to the image and visibility of the EU in the countries of Latin America and Central America building a clear and recognised identification of the project with the European cooperation, not only through the dissemination of its activities but also by the quality demonstrated in the implementation of its activities and the results so far achieved in the promotion of the European standards of protection and enforcement of IPR and the creation and enrichment of the relations between local and EUIPOs.

The role of IP Key LA as an articulator of initiatives and policies in the region, as well as the building up of a closer and more fluid interrelationship between the national IPOs with a common agenda at the regional and sub-regional levels promoting EU IPR standards and best practices, are a remarkable contribution of the intervention to EU added value as a global player. This attribute, together with the strengthening of the relationship of the EUIPOs with their peers in the regions and fluid contact channels with the EUDs, promote a more favourable climate for trade negotiations and the implementation of trade agreements, and are, therefore, a useful tool for EU diplomacy in the target countries.

4.3. IP KEY South East Asia

4.3.1. Relevance

The major question posed by the ToR in relation to relevance concerned the extent to which the objectives of the IP Key SEA have been consistent with and supportive of the European Union policy objectives as outlined by the Partnership Instrument, in particular, Objective 3.

It can be recalled that Objective 3 is targeted to: *Improving access to third country markets and boosting trade, investment and business opportunities for European companies (including SMEs) by means of economic partnerships, business and regulatory co-operation.* The IP Key South-East Asia fully supports Objective 3 and this can be proved and illustrated by a number of specific examples.

First of all, the IP Key SEA undertakes activities that help to improve the overall IP legal frameworks in the different countries of the region to facilitate access for EU businesses, specifically, SMEs. It should be noted that the Project Team of the IP Key SEA is rather well connected with another EU Team - initiative IPR Help Desk SEA, where a number of joint events have been organised: among them activity on enforcement in Saigon (April, 2019), monthly Webinars (with focus on IPR enforcement).

The implementation of IP Key SEA is also consistent with the following objective under Article 1.2(c) of the Partnership Instrument:

(c) Improving access to partner country markets and boosting trade, investment and business opportunities for companies from the Union, while eliminating barriers to market access and investment, by means of economic partnerships, business and regulatory cooperation. The attainment of that objective shall be measured by the Union's share in foreign trade with key partner countries and by trade and investment flows to partner countries specifically targeted by actions, programmes and measures under this Regulation.

The IP Key SEA contributes to improving the IP regimes by working with national authorities to revise national legal and administrative frameworks to be more aligned with international and European standards, which in turn makes it easier for European businesses to enter the target countries and reduce the risks in their operations.

Insufficient IP protection and weak enforcement mechanisms are major barriers to market access of EU businesses in third countries. The IP Key SEA has been working directly with national authorities in Southeast Asian countries (Indonesia, Malaysia, Philippines, Singapore, Thailand, and Viet Nam) at the bilateral level to improve their respective IP regimes and align their practices with those in the EU, thus, paving the way for at least a review of their respective legal and administrative frameworks that are more transparent and accessible.

With more transparent legal and administrative frameworks aligned with international (and European) standards, there is a higher level of certainty that the IP rights of EU businesses in SEA are adequately protected and enforced. When national IP Offices in the SEA countries use legal practices and implementation tools that comply with international and European standards, the entry of EU businesses in these countries is facilitated. EU companies can logically expect that the same standards they are accustomed to in the EU are being applied by IP Offices in the SEA countries. For instance, there is an on-going activity in Vietnam where the Trademark Guidelines for examiners of the IP Office are now under revision with expert support provided under IP Key SEA. It is expected that such Guidelines will be up to 80% based on the EU (EUIPO) practices and recommendations, meaning that applications of EU TMs in Vietnam will be following nearly the same process of examination, also the issue of registration of bad-faith TMs will be taken care of, and all this will lead to better protection of registered TMs from EU companies.

Examples of the IP Key SEA activities that contributed to facilitation of access EU businesses to SEA countries are the following:

- **Activity 22 (AWP1-2018):** Integration of SEA countries in the global databases and IT tools developed by the EUIPO, which ensures accessibility and transparency of IP-related information needed by EU IP owners and stakeholders doing business in the SEA region;
- **Activity 1 (AWP1-2018):** Promotion of the *sui generis* GI protection system in countries that do not have such a system yet to facilitate the protection of GIs following the EU system;
- **Activity 2 (AWP2-2019):** Revision of GI regulations and improvement of GI *sui generis* systems in countries to align better align their practices and standards with those of the EU;
- **Activity 3 (AWP2-2019):** Implementation of activities on enforcement of IP rights in the SEA countries to ensure that the rights of EU IP owners are not only adequately protected but also enforced in the countries;
- **Activity 13 (AWP2-2019):** Provision of assistance in drafting national trademark guidelines that are fully aligned with the EUIPO trademark guidelines.

The relevance and importance of the IP Key SEA should be stressed in light of the on-going EU negotiations with SEA countries, seeing free trade agreements as the main instrument for facilitating trade between the EU and the individual SEA countries, with the long-term goal of signing a regional FTA with the ASEAN.

The IP Key SEA initiates activities to facilitate the implementation of concluded/signed FTAs, the negotiation of FTAs, and discussions in IP Dialogues.

During the meeting with the Department of IP of Thailand, it was confirmed that IP Key SEA has a specific relevance and links with the 20-year IP Roadmap for Thailand 4.0 , more specifically with six important elements

in the areas of IP Creation, IP Protection, IP Commercialisation, IP Enforcement, declaring specific interest in Geographical Indications and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions.

During the meeting with the Project Leader of the IP Key SEA detailed information was provided on the process of work of the team, communications and planning of the activities. So, IP rights areas planned for the next year are selected on the basis of the relevant specific objectives of the IP Key SEA, always in consultation with the EU Delegations and EU Commission. The European Commission on its part consults the European Stakeholders during the preparation of the respective annual work plans (the Team Leader was participating at that event held in Brussels on 24 September 2019). So, it can be confirmed that activities planned in the AWP correspondingly address priorities identified by various stakeholders.

It should be noted that in relation to Thailand, preferences and needs of the main local stakeholder – the DIP - have been taken into consideration when defining the activities of the Programme, indeed, all activities are organised with the support from the DIP (so, in case of lack of interest, there would not be events with participation of around 150 people – as communicated by the DIP). There has been specific interest in GIs and Traditional Knowledge (as part of their National IP Roadmap). None of the proposed activities have been rejected by the DIP, on the contrary, choice of the topics / IPRs coverage have been very much appreciated by the DIP.

It appears that IP Key SEA in Thailand and Vietnam (countries, where the Team of Evaluation Experts had missions) are fully appreciated and supported by the public (DIP in Bangkok and IPO in Hanoi) and private sector (as number of companies have been taking part in the events, confirmed by European Chamber of Commerce in the case of Vietnam, in particular). For the remaining period of the Programme, coordination of activities and enhanced cooperation, as well as exchange of information will continue to be highly appreciated. The role of the IP Key SEA in Thailand and Vietnam on IPR promotion, enforcement and awareness raising is undisputable.

The Programme is taking all cross-cutting issues into account – it respects gender issues and encourages participation of women, it embraces environmental and general safety / public health aspects (since falsified, counterfeited products – notable examples of toys for children, cosmetics, pharmaceuticals, etc. - are considered to be dangerous as harming health and lives of people.

Replying to the specific question on relevance of the selected IP rights within the EU Programme to globalisation of EU companies, it should be noted that **the IP Key SEA covers all IP rights, without any exclusion:** copyright, geographical indications, industrial designs, patents (and utility models), plant varieties, trademarks, as well as trade secrets/undisclosed information and issues of enforcement. Needless to say, all these IP rights are relevant to the globalisation of EU companies, although the importance of the different IP rights varies depending on the industry and size / turnover of the EU companies.

The table below presents IP areas covered by the first and second Annual Work Plans (2018 and 2019) of the IP Key SEA:

IP Area	% of activities (AWP1-2018)	% of activities (AWP2-2019)
Copyright		8
Enforcement	27	27
GIs	18	12
TM & Designs	18	14
Patents	9	15
Plant varieties	9	8
Cross-IP/IT Tools	18	15

It should be noted that trademarks are important to EU companies regardless of sector or size, while patents are more important to EU businesses engaged in technology-intensive industries and may be larger in size / turnover. Industrial designs and copyrights are the concern of EU companies in the creative sector. Plant variety protection is an area of interest amongst EU farmers and plant breeders.

The protection and enforcement of IP rights are of interest to all EU IP owners, especially those whose IPRs are the subject of infringement or violations in SEA countries. Adequate protection of IP rights is of major concern and is necessary to the unimpeded globalisation of EU companies.

From the provided documents (Annual Work Plans and Progress Reports) it can be seen that rather good balance is reached among the planned and implemented activities as well as regional and national. This experience of IP Key SEA can be used in planning of the activities for other Programmes and projects.

Finally, to address the risks defined for the target countries for IP Key SEA, the Project Management Team ensures direct and open communication with the stakeholders in the different target countries. The PMT also makes it a point to keep an open and regular line of communication with the EU Commission, DG Trade.

In identifying and defining activities included in the Annual Work Plans Annual Work Plans, drafting of the ToR of Activities (Action Description, Section 4.2.2), the PMT follows a consultation procedure with the different EU Delegations, the Member States, EU Chambers of Commerce, and other EU stakeholders to ensure that their views and requests are considered, before the final approval by DG TRADE.

Once the consultation process with the EU stakeholders is completed, the PMT confirms that the activities are also aligned with the needs of the different IP Offices to ensure that their cooperation and participation in the activities is secured. The active practical involvement of the IP Offices and other national authorities is also necessary for implementation of certain recommendations and the overall sustainability of the results of the project.

The PMT monitors developments in the target countries and possible changes in priorities to allow modifications or amendments of certain activities, if possible, following these changes / developments.

In addition, it should be noted that the Description of the Action underlines that IP Key SEA was a completely new action to be carried out in SEA region, so for setting up the project and preparation of the first AWP 5 months have been allocated (this timing was respected). The Partnership Instrument – Logical Matrix clearly states overall and specific objectives, impacts and expected outcomes. The Description of the Action for the implementation of the Programme explained the approach and what had to be done during the Inception Phase, organisational set-up and responsibilities, planning and reporting procedures, terms of reference for individual activities in order to achieve the expected results.

The intervention logic presented by the Description of the Action and the Logical Framework are functional: there is a clear causal relationship between purpose and overall objective of the Programme, results expected, and activities to be conducted within the foreseen period of time, as well as approach to planning of activities on annual basis. The intervention logic was well specified and realistic and was made at the level of the Objectives (Overall and Specific) and Results Chain. The Indicators, Baselines, Targets as well as Sources of Verification, are linked to the Outputs (however, it should be noted that only Annual Progress Reports were made available for the Evaluation Team, no materials of the events or actual delivered Studies or Reports).

The main risks of extreme staff turnover and lack of interest as well as changes in the policy priorities, were correctly identified by the Description of the Action – it will be seen from other criteria assessed by this document how they have influenced the implementation of the IP Key SEA and what impact they had on efficiency and effectiveness of interventions.

Therefore, although the risks and assumptions indicated in the Description of the Action were correctly identified and fully appropriate, in this respect the Description of the Action does not outline any mitigation measures. In fact, it should be noted that some activities of the IP Key SEA originally planned had some delays (among them are the GAP Analyses for Thailand – this activity was not yet completed due to the poor quality of the provided final report, so no satisfaction was communicated by the EU Delegation in Bangkok).

Overall conclusion on relevance

In conclusion, the relevance of the IP Key SEA is extremely high and fully consistent with and supportive of the European Union policy objectives as outlined by the Partnership Instrument, in particular, Objective 3.

The IP Key SEA undertakes activities that help to improve the overall IP legal frameworks in the different countries of the region to facilitate access for EU businesses, specifically SMEs.

The IP Key SEA contributes to improving the IP regimes by working with national authorities to revise national legal and administrative frameworks to be more aligned with international and European standards, which in turn makes it easier for European businesses to enter the target countries and reduce the risks in their operations.

The relevance and importance of the IP Key SEA should be stressed in light of the on-going EU negotiations with SEA countries, seeing free trade agreements as the main instrument for facilitating trade between the EU and the individual SEA countries, with the long-term goal of signing a regional FTA with the ASEAN.

The IP Key SEA includes activities to facilitate the implementation of signed FTAs, the negotiation of FTAs, and discussions in IP Dialogues.

The Programme is taking all cross-cutting issues into account – it respects gender issues and encourages the participation of women, it embraces environmental and general safety / public health aspects (since falsified, counterfeited products – notable examples of toys for children, cosmetics, pharmaceuticals, etc. - are considered to be dangerous as harming health and lives of people.

Replying to the specific question on relevance of the selected IP rights within the EU Programme to globalisation of EU companies, it should be noted that the IP Key SEA covers all IP rights, without any exclusion. From the provided documents for evaluation it could be concluded that rather good balance is reached among the planned and implemented activities in relation to IP rights coverage, as well as national and regional levels.

In order to address the risks defined for the target countries for IP Key SEA, the Project Management Team ensures direct and open communication with the stakeholders in the different target countries.

The Partnership Instrument – Logical Matrix clearly states overall and specific objectives, impacts and expected outcomes. The intervention logic presented by the Description of the Action and the Logical Framework are functional. Therefore, although the risks and assumptions indicated in the Description of the Action were correctly identified and fully appropriate, they have not been hampering the IP Key SEA implementation and the achievement of the results.

4.3.2. Effectiveness

Evaluation of effectiveness of the IP Key SEA can start with a general observation and answer to a specific question of the Terms of References: are there major differences in the effectiveness between the Target Markets respectively? Conducted field missions in Thailand and Vietnam, as well as numerous video and telephone interviews, allowed the Team of Experts to conclude that there are certainly some notable differences in the effectiveness between the target markets and countries of the SEA region.

The effectiveness of interventions largely depends on the willingness and/or capacity of the national authorities to collaborate with IP Key SEA. For example, Vietnam has just signed the FTA and is currently in the process of ratification of this Agreement, so the IP Office in Hanoi has been working very actively with the PMT of the IP Key SEA to ensure that compliance is reached in relation to the IP obligations of Vietnam in the FTA.

In this regard, the activities / events or any other initiations of the IP Key SEA would have full cooperation and interest of the IP Office in Vietnam and the effectiveness of the activities can be assured. In the case of Singapore, not much intervention has been requested because the IP Office (or other competent authorities) has the capacity to comply with the FTA obligations without much additional assistance needed from the IP Key SEA. At the same time, the PMT has an open communication with the EU Delegation in Singapore and the IP Office of Singapore for any interventions that may be needed to assist in the implementation of Singapore's FTA obligations in IP.

In the case of countries including Indonesia (with an on-going negotiation) or Malaysia, Philippines, and Thailand where the FTA negotiations are either paused or about to resume or where an IP Dialogue is currently underway, the IP Key SEA has been working towards implementing activities aimed at facilitating preparedness by the target country to certain requests of the EU in the negotiations.

It is evident that in the SEA region countries have different capacity and human resources available in terms of complying with undertaken obligations. For example, it is known that in some countries once a national authority would make a commitment, it would ensure that such commitment is fulfilled. There are also countries where even if the head of the IP Office is taking a commitment, the technical officials of that IP Office are unable to immediately fulfil the commitment or implement the activity. This situation is common not only in the SEA region, but also in other regions of the world and not specific to IP offices, but to any governmental institutions and agencies.

One point in terms of effectiveness has to be highlighted – for IP Key SEA measuring quantitatively all achieved results is rather challenging and possibly attention has to be paid to those aspects that are not measurable, yet indispensable for the EU Trade Policy.

At the same time, impressive figures can be presented in terms of overall number of people trained or taking part in the Programme events, number of completed activities for the first two years, interest in the web site of the IP Key SEA (number of visits / twits, etc.) from the programme start until the period of the MTE (i.e. November 2019).

- Number of training activities, including seminars, conferences, exchange of best practices and roundtables discussions: **20**;
- Number of Studies: **6**;
- Total participants in IP Key SEA's events: **1044** (43% Women, 57% Men);
- Overall satisfaction: **96%**;
- Number of EU Businesses participating in IP Key SEA's events: **60**;
- Communication material published: **119** documents (71 news and 48 IP documents);
- Twitter outreach: **740K** impressions;
- Website use: **120K** page views.

The EU is the only player with such a large (from a financial point) and comprehensive (in terms of regional and IP scope coverage), as well as ambitious plan in the South East Asia in relation to Intellectual Property Rights (confirmed by the WIPO).

Activities of the IP Key SEA are fully in line and pertinent for the purposes of the EU trade policy. Among them can be mentioned:

- Activity 22 (AWP1-2018): Activity Integration of SEA countries in the global databases and IT tools developed by the EUIPO which ensure accessibility and transparency of IP-related information needed by EU IP owners and stakeholders doing business in the SEA region;
- Activity 1 (AWP1-2018): Promotion of the sui generis GI protection system in countries that do not have such a system yet to facilitate the protection of GIs following the EU system;
- Activities 3 (AWP2-2019): Implementation of activities on enforcement of IP rights in the SEA countries to ensure that the rights of EU IP owners are not only adequately protected but also enforced in the countries.

Completing the field missions in Vietnam and Thailand, the Team of Evaluation Experts confirms that activities implemented in those countries have been extremely effective. This concerns, first of all, support to drafting and revision of the Guidelines for TM Examiners (Activity of the AWP 13 – Year 2 – 2019). This activity was requested by the IPO of Vietnam and intended to facilitate the adoption of the Trademark Examination Guidelines. The core idea was to have Guidelines aligned with EU and international best practices to benefit EU businesses seeking to protect their marks in the country. The activity entailed the provision of technical expertise to conduct a review of the existing trademark laws and regulations of Vietnam, including the relevant case-law or jurisprudence. The technical experts consulted and discussed with trademark examiners and IP officials regarding the specific content, examples, and legal provisions to be cited in the Draft Guidelines. A review of the existing National Guidelines was also undertaken, in order to assess the scope of updating that was required. In the course of developing the Trademark Examination Guidelines, the technical experts also presented EU best practices on substantive examination, which were recommended to be adopted as far as they are consistent with the national legal framework.

The IPO of Vietnam expressed gratitude and appreciation of support from the IP Key SEA underlining high quality of expertise and very valuable information shared by the EUIPO experts. During the mission of the Evaluation Team of Experts, the Guidelines have been undergoing final revision and expected to be adopted by the IPO by the end of this year. Once the National Guidelines will be adopted, trainings of trademark examiners, IP agents and practitioners, and trademark owners/users, including SMEs, would be planned to be conducted.

It is important to note that the IPO of Vietnam is very eager to continue collaboration with IP Key SEA and suggests development of the teaching materials on IP (focusing on TMs, but not limited to that IP right). Such training material can be used in schools, colleges and vocational training of various professions with the idea of promoting and explaining IP rights and importance of their protection. Such initiative and activity of IP Key SEA would be extremely effective and would not require too much time or budget as most of the work & collection of information have been already done during the revision of the TM Guidelines.

The activity on revision of TM Guidelines in Vietnam is contributing to improving the trademark system and practices in Vietnam. Finally, the output (prepared TM Guidelines) may serve as a model to other SEA countries wishing to update their trademark guidelines and consider development of the teaching materials not only for trademark examiners but also for general public.

The IPOs of Vietnam and the DIP of Thailand also confirmed participation in a number of training activities, including seminars, conferences, exchange of best practices and roundtables discussions. Excellent programmes and speakers, useful and relevant information presented were regarded by the national IP Offices very positively and with gratitude. However, it was suggested to allow sufficient time for planning and arrangements, in addition to sharing information in relation to all planned activities for the entire year (as per AWP – in relation to particular country – national and regional), with an update each 3-6 months (in case of changes).

From the visibility point of view, activities with development of teaching materials would be highly recommended to be considered for the future planning. The EU Delegation in Hanoi stressed attention to the fact that for

Vietnam it could be right timing for revision and amendments of the IP Legal Framework, in particular legal system of enforcement of IP rights (with the idea of simplification and effectiveness).

It was confirmed during the meetings that information of the IP Key Programme is generally easily accessible by the IPOs and general public (via Internet, communications of the Project Team, Project Leader, etc.). The national IPOs and EUIPO have excellent communication and exchange of information. There is smooth and constant communication flow between the IPO and the Project Team / Leader based in Bangkok (and location of the Project Management Team in Thailand was considered to be fully appropriate).

This very important point was addressed in relation to E-Learning platforms & tools of the EUIPO – it could be shared more widely, as every event reveals interest expressed by new learners.

The Evaluation Team believes that the Programme will be gradually achieving its Expected Results and Project Purpose, but allocated time is needed for completion of this process. It also should be noted that the Programme has adapted to external conditions (risks and assumptions) in order to ensure the achievement of the expected results. This can be concluded by the Evaluation Team on the bases of the following information:

- a) National IP Offices support the IP Keys SEA and take an active part in its implementation (this has been apparent through all the meetings with various stakeholders);
- b) IP promotion and enforcement are among the priorities for the national Governmental policies of the SEA countries;
- c) National IP Offices have adequate human and technical resources to take part in organisation and undertake the activities, participants are motivated to improve their practical knowledge and expertise and learn more things;
- d) National IP Offices have positive attitude to coordination of activities in relation to IP, but complex governmental structure and specific legal procedures appear to be still a challenge recognized by the Programme and taken into account (allowing at least 4 weeks before each organised event, as well as proper planning of the activities).

In the opinion of the Evaluation Team, it is too early to talk about concrete seven results, as envisaged by the Description of the Action, achieved by the Programme. In fact, there has been some factors and delays that influenced the start of the Programme, among them setting-up the Project Management Team and office, even at the time of evaluation the Project Management Team was still expecting an office space, in addition to changes of the Leader and Communication Expert. There has been issues of communication (internal & external), however, this has been understood and taken into account (Annex IV on Communication has been revised).

The Evaluation Team wishes to recommend increasing the visibility of the Programme, using specific activities planned for the next years (among them could be promotional videos, publication in the media, etc.).

The information provided by the IP experts (of the EUIPO as well as other consultants engaged in the Programme activities) is reported to be not only correct, complete and to the point, but of a very high quality (in terms of presentation and contents). Training activities conducted by the Programme have been very much appreciated by the participants – they learned new things that helped them in their daily work (one of the most memorable and referred examples is in relation to the Customs Trainings – focusing and facilitating practical aspects of controls at the border).

Information of the IP Key Programme is generally easily accessible by the IPOs and general public (via Internet, communications of the Project Team, Project Leader, etc.). Very important point was addressed in relation to E-Learning platforms & tools of the EUIPO – it could be shared more widely, as every event reveals interest expressed by new learners.

For the Gap Analyses / Studies, it can be recommended by the Evaluation Team to pay further attention in engaging external experts. At the same time density of activities has been also mentioned. The time schedule can be respected more promptly to allow organisation of the planned activities, more specifically allowing longer periods for organisation of the events (not 3-4 weeks, but 6-8 weeks in advance with overall planning being shared on bi-annual or annual basis, even if being indicative).

Overall conclusion on effectiveness

The activities of the IP Key SEA are very pertinent for the purpose of the EU trade policy, they are defined according to the objectives of the EU expressed in the Partnership Instrument, the documents released by the Commission concerning Intellectual Property rights, including issues relating to counterfeiting, infringement, and the online and physical markets on the watch list, and the objectives laid out in the Multi-Annual Indicative Programme of the EU. The activities of the IP Key SEA are also defined according to the Expected Results provided in the Description of the Action.

EU trade priorities are expressed in the choice of IPR focus areas as per the respective annual work plans: in both the 2018 and 2019 Annual Work Plans, the areas of focus in terms of IPR and target countries expressed by the EU Commission, DG Trade and the other stakeholders, as well as in documents released by the Commission, are used as inputs in determining the activities to be implemented. IPR focus areas included in the annual work plans are also derived from the EU FTA draft texts, which provide the specific priorities of the EU in the free trade agreement negotiations.

One priority area of the EU is IPR enforcement, and a majority of the activities of IP Key SEA focus on enforcement (27% of activities).

The PMT is conducting consultations for inputs and EU priorities to be considered in the 2020 Annual Work Plan. The PMT is also in communication with DG Trade in their identification of priority areas and target countries for 2020.

Information of the IP Key Programme is generally easily accessible by the IPOs and general public (via Internet, communications of the Project Team, Project Leader, etc.). Very important point was addressed in relation to E-Learning platforms & tools of the EUIPO – it could be shared more widely, as every event reveals interest expressed by new learners.

The Evaluation Team believes that the Programme will be gradually achieving its Expected Results and Project Purpose, but allocated time is needed for completion of this process.

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The Evaluation Team wishes to recommend increasing the visibility of the Programme, using specific activities planned for the next years (among them could be promotional videos, publication in the media, etc.).

As a conclusion, it should be mentioned as positive and very important element of effectiveness that any activity of the IP Key SEA, such as Study, workshop or seminar, were certainly very much appreciated by relevant stakeholders and technical expertise provided by all IP experts involved, including EUIPO, CPVO and others, was of outstanding quality (IP cooperation has been reported not only correct and complete, but of a very high effectiveness and appropriateness (in terms of presentation and contents). The Team of Evaluation Experts is happy to acknowledge this element.

4.3.3. Efficiency

In terms of the exact outputs of the IP Key SEA achieved so far after two years of the implementation of the Programme, the following can be reported by the Evaluation Team, according to the Progress Reports received **most of the activities planned have been implemented** (some activities, like IP Gap Analyses for Thailand have been delayed, as expectations in relation to quality still to be fulfilled by the contractors).

The available resources of the EUIPO Team in Alicante and in Bangkok have been used efficiently, especially when it concerned coordination of activities and concrete planned events (Project Leader and Deputy Project Leader based in Thailand have confirmed that when events for both ARISE + and IP Key SEA are planned, possible overlapping in terms of planning and location is avoided, thematic issues are checked and required help is provided by the Project Team).

It should be underlined that none of the IP Key SEA activities overlap with any activities of other EU projects in relation to IP issues – such as IP SMEs Helpdesk or IPR ARISE+. First of all, because focus and results of the activities are different, secondly excellent communication is established between the management ensuring synergies and coordination of all EU programmes (which should remain for the following period of execution of IP Key SEA). Considering the specific nature of the EU Programmes and its general spectre of technical cooperation and attention (all IP matters), all of them contribute to various IP concerns of EU businesses in different manner and in practice complement each other. An example of such complementarity can be seen on activities of IP Key SEA in relation to enforcement and E-Commerce:

- **Activities 4 (AWP2-2019):** Exchange of Best Practices on Online IPR Infringement and the responsibility of Intermediary Service Providers;
- **Activities 7 (AWP2-2019):** Seminar on Counterfeit Fast-Moving Consumer Goods;
- **Activities 3 (AWP2-2019):** Implementation of activities on enforcement of IP rights in the SEA countries to ensure that the rights of EU IP owners are not only adequately protected but also enforced in the countries.

The specificities of each country are taken into account in coordination of activities of the IP Key SEA by providing the following:

- a) Seminars and conferences - Seminar on Counterfeit Fast-Moving Consumer Goods and Conference on enforcement of IP rights;
- b) Study on control mechanism for GIs;
- c) Guidelines for Trademark examiners;
- d) Training - IT officials trained to allow them to manage the tools and ensure that the uninterrupted transmission of data to the EUIPO global tools;
- e) Study tours and visits - Study visit on Plant Varieties.

At the same time, more visibility and communication activities would be encouraged on the Regional / National levels, mapping all the activities implemented per country, as well as participation of the national experts at the regional events. It can be suggested to keep an Excel Table of activities with colour indicators (completed versus on-going activities, as well as activities per country / regional and finally thematic coverage – which activities concerned, which topic). Such tables of information in relation to various activities would be helpful not only for the Programme management and efficiency, but as a visibility element showing the achieved balance and interest (per country for various IP rights).

The complexity of the Governmental Structure of the SEA countries requires cooperation and coordination of activities and initiatives between various Ministries, Departments and Agencies. Although primer interest and collaboration is with the IP Offices, it is clearly seen in a number of activities that other stakeholders play important role in IP enforcement (like Customs). Each participant of the IP Key Programme activities in Thailand or Vietnam invited by the DIP and IPO, in its turn, appeared to be interested and engaged in the events organised. Moreover, it should be noted that evaluation of the events, such as training activities and conferences, showed over 90% satisfaction of the participants (based on the forms completed and shared for monitoring of the Programme).

Therefore, the overall picture of the IP Key SEA implementation of various activities in the region proves to be very well organised and known to major partners of the Programme (most of the events had audience of over 150 participants per event). In light of that, the Evaluation Team can suggest to use this example of proper communication in planning and organising events for other EU Programmes and projects.

Although it is too early to report full achievement of expected results of the IP Keys, it is certainly clear that all activities of the Programme taking place in SEA countries are coordinated with the national IP Offices. Moreover, geographical areas and specific interests of the countries are taken into account for planning of regional activities.

It was confirmed by the national IP offices that there are no overlaps of the IP Key Programme activities and other regular activities executed by other international agencies or entities in the relevant areas such as judiciary members, Customs, etc. Good collaboration is established with the WIPO (particularly in relation to networking and experts' database).

The few examples of the most efficient aspects of the implemented activities can be presented below:

- Support for the Drafting of Trademark Examination Guidelines for Vietnam (**AWP 2 – Activity 13**);
- Study on the control mechanisms needed to guarantee the efficient and effective implementation and enforcement of the geographical indications system in Viet Nam (**AWP 1 – Activity 16**);
- Seminar on Border Controls and Customs Enforcement (**AWP 2 – Activity 18**);
- Roving Seminars for the IP Officials on the registration and enforcement of TM and Industrial Designs in Indonesia and Thailand (August 2018) – the venue for the event was provided by the IP Office of Indonesia and speakers have been from the IP Offices of both countries, also taking care of invitations of local participants;
- Study Visit on GIs to Europe (October 2018), when relevant consortia and associations of GI producers in Italy were engaged in organization and shared practical knowledge on protection and advantages of sui generis system at the national level.

Cooperation with WIPO can be only encouraged and further strengthened in respect to two issues – IP managerial skills and mentoring / fellow training (where specific experience of WIPO, having general and well established approach, can be useful).

Financial aspects of the IP Key SEA have not been discussed during the meetings with the various stakeholders due to the fact that the Team of Evaluation Experts received the budget outlines as confidential documentation not to be revealed to any other parties. However, generally effectiveness and efficiency of the IP Key SEA from the financial point of view can be confirmed by the Team of Evaluators.

Overall conclusion on efficiency

The evaluation question in relation to efficiency, posed by the ToR, on resources estimated and allocated adequately by country / IP areas in the annual work plans, can be replied positively as rather good balance is reached during the planning and implementing the activities of the IP Key SEA Programme. Indeed, resources estimation and allocation largely depend on the priorities identified by the EU Commission, DG Trade and the EU stakeholders. The PMT ensures that all the activities envisaged in the Annual Work Plans are aligned with IP areas and priority countries identified by stakeholders for the year.

The PMT also considers the inputs from documents, such as the Gap Analysis / IP Studies identifying the areas requiring project intervention, Commission documents, such as the Counterfeit and Piracy Watchlist, other studies conducted as part of the annual work plans, the plans and priorities of the countries, and feedback from the implementation of the prior year's activities. Geographical areas and specific interests of the countries are taken into account for planning of regional activities, this also proves efficiency of the IP Key SEA.

Resourcing of the IP Key SEA activities is done based on quantifiable elements. Estimated resources, needed for the implementation of the activities in the annual work plans, are determined based on the requirements for the successful conclusion of each activity, whether these are in the form of technical support provided by experts, conference speakers, logistical support, and other similar requirements. These resources estimation is based on analysis of the requirements anticipated for each activity of the IP Key SEA Programme.

Internal monitoring and assessment of the IP Key SEA events, such as training activities and conferences, showed over 90% satisfaction of the participants. The Evaluation Team can suggest this example of proper communication done by the Project Management Team of the IP Key SEA in planning and organising events for other EU programmes and projects. At the same time, more visibility and communication activities could be suggested on the Regional / National levels, mapping all the activities implemented per country, as well as participation of the national experts at the regional events.

As a conclusion on efficiency, in the opinion of the Evaluation Expert, being the most difficult point among the other evaluation criteria, it should be communicated that IP Key SEA can provide a good lesson to be learned that timely technical expertise in combination with staff availability and commitment are the main elements for achieving expected results. It can be seen that the IP Key SEA performance so far has shown rather impressive results (as earlier communicated, completion of study tours, training activities and conferences, showed over 90% satisfaction of the participants).

In addition, an important element contributing to the high evaluation of the results is the fact that IP Key SEA activities build upon achievements of previous activities, in the sense that the PMT approaches any challenge gradually until achievement of the ultimate intended objective (as the case may be, since not all results are achieved yet and the Programme continues its activities). This is fundamental when there is a need for capacity building throughout the process. This can be considered as a justification for necessity of multi-annual programmes like IP Keys. It is also very important to underline that there is a dynamic element in the assessment of the impact of IP Key in terms of gradual improvements achieved in the IPR environment of the countries concerned.

Selection and choice of the EUIPO as a major contractor of the IP Key SEA Programme was totally appropriate. Review of the implementation arrangements of the Programme in terms of the quality of day-to-day management, communication, management of delivery modalities (contracts, payments, monitoring, supervision and other activities etc.), including management of the budget and organisational structure and adequacy of personnel, expertise and resources showed reasonably good results.

The findings of the Final Report provided evidence that the management for achieving the expected results during the first two years of implementation and progress made so far has been rather impressive (in terms of implemented regional and national activities). Therefore, in the opinion of the Evaluation Team, there is no need

to deviate or suggest alternative approaches, as the strategic approach of the Description of the Action and once more activities are taking place results should become even more evident.

4.3.4. Impact

Assessing the impact of the IP Key SEA Programme, it is necessary to consider the importance of EU image in this region, as a leader and model for IPR protection and promotion. The contribution of this Programme to the overall IP issues is directly linked to the technical progress and innovation as well as developmental dimension – so very necessary for the countries of SEA and recognised by their National Policies (for example in Thailand – National IP Roadmap).

It would be impossible to provide specific measured results and statistics supporting the statement that at present IPR situation and protection has increased in SEA countries due to the Programme activities, but it is certain that IP Key SEA is known in this region and recognised as one of the most important EU cooperation actors in these countries.

At present, all the activities completed have been greatly appreciated by the SEA stakeholders. Direct impact on daily work of the national IP offices (the DIP in Thailand and the IPO of Vietnam) was improving the way of communication and planning of the activities, information sharing between the governmental bodies – various ministries and agencies.

Special appreciation has been expressed for support in revision of the National Trademark Guidelines for examiners in Vietnam, which once adopted would be contributing to time saving, transparency, efficiency and correctness of the TM examiners (benefits would be for national applicants as well as foreign, including the EU). Topics of the events and planned activities indirectly had impact on the legal reform, changes to the legal acts (this could be seen in relation to TM law). Another positive element linked to the human resources, leading to creation of new jobs and expansion of the IP divisions (for example, the DIP of Thailand has over 500 people working now in 9 departments – Patent (over 100 examiners), Trademark (over 100), Design (50), Legal (50), Legislation revision (50), Appeal (50), GIs (20), Enforcement, Finance & General Administration).

For the EU business, IP Dialogue and relevant meetings organised by the IP Key Programme are important for the sharing information, networking and overall exchange on the IP technical level that without this Programme would not be possible. In terms of information sharing, reference to the IP Key SEA Web Site should be made, where information on the implemented or planned activities is made available. The database at present contains over 500 documents.

The EU Delegation in Bangkok confirmed the use of the web site and commented on the style of communications to be capable reaching the wider public (suggestions of the EU Delegation in relation to communications and visibility have been taken into account).

It should be noted that there is a transparent and clear process of IP Key activities planning, engaging various stakeholders, where the lead is taken by the EU Commission, EU Delegations of the SEA countries, EUIPO Project Team and national IP offices.

Specific recommendations for the future planning were provided by the EU Delegations in Malaysia and Singapore (see section of the Final Report with recommendations). It should be noted that format of the activities varies from traditional to very innovative (such as webinars) and this trend should be encouraged for the future. Events and activities of the Programme are well covered by the local media and this helps to ensure the positive impact and perception of IPRs in daily life as a necessary element (interviews of the Project Leader on the importance of IPR protection and issues of health and safety in respect to special categories of products such as toys or pharmaceuticals).

Example of the IP Key SEA commissioned Study on the control mechanisms needed to guarantee the efficient and effective implementation and enforcement of the Geographical Indications system in Vietnam can be also presented to illustrate the positive impact.

It should be recalled that the EU-Vietnam Free Trade Agreement includes commitments in areas that would ensure enhanced protection of intellectual property rights, including Geographical Indications. Protection of GIs is conditioned on effective system of controls, as not everybody can use protected denominations, but only those

producers who comply with the particular requirements of the Technical Specifications. Therefore, this Study on enforcement mechanisms for GIs in Vietnam was aimed at ensuring that the competent authorities would effectively implement the country's GI commitments agreed under the EU-Vietnam FTA. The Study focused on enforcement, including the prevention of misuse and infringement of protected GIs, eliminating counterfeits in the market and at the borders, ensuring quality control of the product before its commercialisation at the producers/processor's level. The final draft of the Study was delivered in December 2018. This Study is very important for ensuring that provisions of the EU-Vietnam FTA are indeed having practical purpose, as without proper protection and enforcement in Vietnam, achievements of signing the FTA in relation to IPRs are meaningless.

In reply to specific questions of the ToR on how outputs and deliverables of the Programme, produced under the specific contracts, are being valorised and shared in public or semi-public fora, it can be answered that all studies requested to be undertaken by the IP Key SEA were shared with the project owners, and some of those that could be shared in public fora, have been published.

The results of the national IP Gap Analysis conducted, which are confidential in nature, would be used in determining interventions needed to facilitate the achievement of the expected project results and as materials for FTA negotiations and IP Dialogues. Indeed, some work still to be undertaken to complete the National IP Gap Analyses for Thailand (as communicated by the EU Delegation, the results of these analyses have not been satisfactory and rather useless due to the poor quality of drafting and insufficient depth of research undertaken). However, it was confirmed by the Project Leader that the work will continue on this Activity of the IP Key SEA (initiated in 2018) till the moment of complete agreement and satisfaction of the EUD is reached, meaning that further research would be taking place, if necessary even in 2020).

For the rest, the following can be highlighted:

- **Activity 1 (AWP1-2018)** - *Feasibility Study on the establishment of a sui generis Geographical Indications (GIs) system – done for the Philippines and Brunei* - the recommendations of this Study will be used as basis for future activities under the AWP3-2020.
- **Activity 10 (AWP1-2018)** - *Gap analysis on the current legal situation in comparison with EU requests as per FTA negotiations – for Thailand, Philippines and Malaysia* - the results have been shared with DG Trade and will be used for planning of activities under AWP3-2020.

Once the work on the Vietnamese Trademark Guidelines is completed (IP Key SEA – **Activity 13 (AWP2-2019)**), documents will be shared in public fora and later used as Training Materials on IP and TM issues for the trademark examiners, IP attorneys, and the trademark stakeholders in the country, as well as general public (the idea to use such materials in schools, colleges as well as for vocational training).

Another example of positive and wide impact of the IP Key SEA is integration of the countries in the global IT databases resulting in availability of information on IP to the general public and accessible worldwide. This is happening due to **Activity 22 (AWP1-2018)**: The trademarks and designs data of the SEA IP Offices are now publicly available on TM-View and Design-View.

During numerous events organised by the IP Key SEA presentations delivered by experts and resource persons are published in the Document Repository of the IP Key Website and are accessible to the public.

The missions conducted in Thailand and Vietnam confirmed that Gap Analyses and Studies prepared as results of the IP Key SEA activities are used by the EU Delegations (the issues raised in relation to the National IP Gap Analyses for Thailand proved that it is extremely important document expected by the Trade Section). The Programme results / outputs / deliverables for certain have been used, are used and will be used by the DG Trade and the EU Delegations in subsequent actions, such as FTA negotiations, and in the implementation of the FTAs. The recommendations provided are taken seriously and reflected in the AWP for future interventions on various areas of intellectual property. As an example of feedback from the Commission, the IP Key SEA PMT recently received inputs from DG Trade concerning future activities for the AWP3-2020, and the outcomes of the prior activities under AWP1 and AWP2 are now used for some recommended activities for implementation in 2020.

Finally, **subsequent actions taken by the Commission services following the completion of IP Key activities are based on the action's recommendations.** With reference to the meetings conducted with the PMT, the recommendations made by the IP Key SEA were already used to decide on subsequent activities to be approved and the priorities in terms of target countries. There is also preference for activities or actions that were built on the accomplishments of prior activities, among them:

- **Activity 10 (AWP1-2018):** *Gap Analysis on the current legal situation in comparison with EU requests as per Free Trade Agreement negotiations*, were carried out separately for each country of three countries: Thailand, Philippines and Malaysia. The conclusion of European Union Free Trade Agreements (FTAs) with countries in the SEA region are based on solid economic criteria. The EU is currently negotiating a Free Trade Agreement with the Philippines. The aim is to conclude an agreement similar in coverage to those the EU achieved in its trade agreements with Singapore in 2014 and Vietnam in 2015. At the same time, Free Trade Agreements negotiations were put on hold with Thailand and Malaysia but they might be resumed in the future. The proposed Gap Analysis were carried out separately for each country (Thailand, Philippines and Malaysia), therefore have provided additional evidence on the legal situation in these countries in comparison with the EU requests as per Free Trade Agreement (FTA) Negotiations. The preliminary recommendations of the Gap Analysis studies were used to identify activities under AWP2-2019 and the results of the studies are now used in preparation of the AWP3-2020.
- **Activities 5 & 6 (AWP1-2018):** *Study Visit on Plant Varieties and Conference on Experience and benefits of the International Union for Plant Variety Protection*. The objective of this Study visit was to share experiences from a country in the region and provide a platform for discussion between the targeted SEA countries so that they can learn from each others' experiences. The recommendations on how to proceed with the initiative to push for accession to the UPOV were used as inputs to design the follow-up activities under AWP2-2019.

The recommendations are also considered for subsequent actions of the EU Commission's services.

Overall conclusion on impact

In most of the areas, the IP Key impact has been rather direct and reached a high level of robustness. Several very important positive results in relation to impact were reported by the Team of Evaluators – among them, more generally, enhanced capacity of the EU Delegations and National IP Offices; connections among all the stakeholders in relation to IP enforcement initiatives; image of the EU in the SEA region as a leader and model for IP protection and promotion. The contribution of this Programme to the overall IP issues is directly linked to the technical progress and innovation as well as developmental dimension – so very necessary for the countries of SEA and recognised by their respective National Policies.

Examples of positive and wide impact of the IP Key SEA is integration of the countries in the global IT databases resulting in availability of information on IP to the general public and accessible worldwide. During numerous events organised by the IP Key SEA presentations delivered by experts and resource persons are published in the Document Repository of the IP Key Website and are accessible to the public.

Events and activities of the Programme are well covered by the local media and this helps to ensure the positive impact and perception of IPRs in daily life as a necessary element.

Subsequent actions taken by the EU Commission services following the completion of IP Key activities are based on the action's recommendations. With reference to the meetings conducted with the PMT, the recommendations made by the IP Key SEA were already used to decide on subsequent activities to be approved and the priorities in terms of target countries.

As a final point of assessment of Mid-term Evaluation on impact, a question could be posed whether high expectations of some stakeholders (EU Delegations to Thailand, Malaysia and Singapore) could be met in the coming months of the IP Key SEA Programme in relation to some specific activities (such as the National IP Gap Analyses for Thailand, support on designs for Malaysia and Singapore) and positive answer is conditioned on the improved efficiency of implementation, engagement of Short Term Experts, as was planned and well explained by the PMT. In addition, it could not be denied that adoption of the National Trademark Guidelines in Vietnam would lead to much greater impact, but as not yet achieved could not be counted by the Mid-Term Evaluation.

4.3.5. Sustainability

The level of sustainability of the IP Key SEA activities is rather high. There are a number of reasons to believe that the flow of benefits will continue after completion of the Programme:

- h) Due to engagement of the national IP Offices and EU Delegations in planning and implementation of the activities;

- i) Because of organised training activities, meaning that information, knowledge and expertise will be multiplied (for example for TM examiners, etc.);
- j) The IP Key SEA there has been IP Dialogue established which is used for coordination of activities among various stakeholders and information sharing;
- k) The fact that IPR enforcement in SEA countries in need of reform and can be strengthened as a result of the IP Key SEA Programme activities;
- l) Issues of IPR Commercialization, Promotion and Protection are becoming more apparent and sensitized, there is also awareness of public and private sector of the necessity to work together in order to achieve the common objectives;
- m) The IP Key SEA helps national authorities to understand better the EU concerns why there are problems and what are the most efficient ways to overcome them, therefore, there is more trust and engagement in resolving the problems in more coherent way;
- n) The IP Key SEA (EUIPO) methodology helps to share the information and present it to all stakeholders in a clear and coherent manner.

It is undisputable that the national IP offices are very supportive to the IP Key SEA and there is no resistance or misunderstanding of the objectives of the Programme, which are fully in line with the national IP priorities. Moreover, there is a clear motivation for continuation of the activities of the IP Key SEA Programme and even future programmes of the EU.

It could be also noted that overall, the policy environment in SEA countries is very supportive to the operation of the IP Key SEA Programme, financial costs are shared, so this all can help ensuring sustainability of the activities of the IP Key SEA Programme in the future.

There are a number of elements of the IP Key SEA management that contribute to ensuring sustainability of the actions, among them certainly follow-up strategy (some planned activities are based on the findings of the initial activities, such as Gap Analyses and Studies), knowledge sharing and engagement of the national IP Offices. Indeed, to guarantee sustainability of the Programme results, the Project Management Team implements activities of the Programme in collaboration with the National IP offices, involved in these activities and engaged in follow up actions.

For example, the Trademark Guidelines requested by IP Office of Vietnam are being drafted and revised with the support of the EUIPO and full involvement of the Trademark Department of the IP Office in Hanoi (**Activity 13 (AWP2-2019)**): intended to facilitate the adoption by Vietnam of Trademark Examination Guidelines which are aligned with EU and international best practices, which would benefit EU businesses seeking to protect their marks in the country). Follow-up actions, such as training of the TM Officers will be conducted to ensure that the adopted Guidelines are used and eventually updated by the IP Office. In addition, teaching materials will be developed and used not only by the IP Office, but for the purposes of education of a wider audience (such as in schools, colleges and vocational training courses).

This activity in Vietnam (or rather group of activities implemented within several years) can be used as a model for planning similar activities in Indonesia and Philippines when their respective national Trademark Guidelines are developed in the future work plan.

Some other notable examples of sustainable activities are in relation to the use of IT databases - **Activity 24 (AWP2-2019)**: IT officials to be trained to allow them to manage the tools and ensure prompt transmission of data to the EUIPO global tools. The SEA countries integrated in the IT databases are provided with the necessary training to ensure that they are able to transmit data seamlessly to the EUIPO global tools. Training is provided to ensure that other on-line tools can be maintained by the office post-deployment.

The IP Key SEA also follows the Train-the-Trainers approach for some of the actions to ensure that those who receive the training can transfer knowledge in their respective countries. This can be seen from **Activity 14 (AWP2-2019)**, which entails the organization of technical meetings with SEA and EU patent officials to establish a sustainable training programme for SEA patent trainers and examiners.

The Project Management Team defines the level of participation from the countries as a way to assure that the participants have both the capacity and the authority to implement some of the recommendations made in the activities. For example, for **Activities 4, 5 & 6 (AWP2-2019)** in relation to plant varieties, high-level officials were requested to attend the activities to ensure that the messages are properly communicated back to their respective offices. It can be added that in the case of the high-level plant variety study visit (**Activities 5 & 6 – AWP2-2019**), new initiatives based on the results of the activities in 2019 are now being formulated for AWP3-2020.

Overall conclusion on sustainability

The sustainability criterion relates to whether the positive outcomes of the IP Key SEA Programme and the flow of benefits are likely to continue after external funding ends. The conducted interviews lead to optimistic and promising position on sustainability of the achieved results. Indeed, the level of sustainability of the IP Key SEA activities is rather high.

It is undisputable that the national IP offices are very supportive to the IP Key SEA and there is no resistance or misunderstanding of the objectives of the Programme, which are fully in line with the national IP priorities. Moreover, there is a clear motivation for continuation of the activities of the IP Key SEA Programme and even future programmes of the EU.

There are a number of elements of the IP Key SEA management that contribute to ensuring sustainability of the actions, among them certainly: follow-up strategy, knowledge sharing, Train-the-Trainers methodology and engagement of the national IP Offices. Thus, all achieved results so far have a long-term benefit. Moreover, with the plans of activities for the coming year, it could be expected that results of the IP Key SEA Programme would continue during the following period of implementation and even further.

The conducted interviews during the missions in Thailand and Vietnam lead to optimistic and promising position on sustainability of the achieved results of the IP Key SEA.

4.3.6. Complementarity and coherence, synergies with other EU Programmes

Evaluating complementarity and coherence, the Team of Evaluators can report that activities of the IP Key SEA are planned and implemented in coordination with the EU Delegations. The PMT ensures that there is coordination with the various Trade Sections in the EU Delegations in the target countries. During the meetings with the EU Delegations it was confirmed that flow of information and communication with the Project Management Team and Project Leader is direct and does not pose any problems. As provided in the MTE Report, the PMT has a direct and open communication with the EU Delegations to ensure that their inputs and suggestions are taken into account in defining activities and interventions. The EUDs also participate in project activities to ensure that they are constantly informed when actions are implemented in target countries.

Information for planning of the activities is collected in a complementary manner to acknowledge already available sources either through the EU MS presences in the third country, or through EU Commission services. Through the regular consultations with the different EU Delegations, EU Member States in the different countries, and DG Trade, the IP Key SEA focus on collecting information that are either not (readily) available and those that are requested specifically for the purposes of the EU Commission. In the same vein, activities are identified only through a series of consultations with the stakeholders.

As far as the IPR SME Helpdesk activities concerns, it should be noted that there is coordination and even joint activities of both EU initiatives. Unlike the IPR SME Helpdesk, the IP Key SEA does not work directly with specific EU businesses and does not provide information directly requested by EU business needing information about the different target markets in SEA.

The IP Key SEA works mainly with national authorities and stakeholders present in SEA countries and focuses on contributing to the improvement of the legal and administrative frameworks. The work of the IP Key SEA ultimately redounds to the benefit of EU businesses, and the expected results of the project are more long-term.

A number of specific activities contributed to the implementation of IPR commitments in the trade agreements to be considered shortly with Singapore, Vietnam are the following:

AWP1-2018

- Activity 3: Exchange on best IPR practice for enforcement officials;
- Activity 5: Study visit on plant varieties;

- Activity 6: Conference on experiences and benefits of the International Union for Plant Variety Protection (UPOV);
- Activity 12: Study on GI control in Vietnam;
- Activity 14: Illicit trade Environment Index: detailed Singapore country report;
- Activity 15: Conference on the importance of GIs in Singapore.

AWP2-2019

- Activity 4: EU Conference on Geographical Indications and the Lisbon Agreement (Geneva Act);
- Activity 6: Study Visit by SEA Plant Variety Authorities to the CPVO and Testing / Examination Offices in the EU;
- Activity 7: Exchange of Best Practices in Promoting Transparency, Accountability, and Good Governance of Collective Management Organizations (CMOs);
- Activity 8: Conference on Trademarks;
- Activity 13: Support to the Drafting of the Trademark Guidelines of IP Vietnam.

There are options for “on-demand” activities in both Annual Work Plans (2018 and 2019) that are available for the EU Commission DG Trade and the EU Delegations. So, if there is a need for a specific activity relating to the implementation of the FTA obligations of Singapore and Vietnam, it can be well planned. Some activities have been already identified for the 2020 Annual Work Plan, but at the time of the MTE Report writing are under discussion with DG Trade. Among them, suggestions of activities of technical meetings for Vietnam to ensure that stakeholders would have clear understanding of the provisions of the FTA to enable them to meet their obligations; other planned activities in Singapore and Vietnam are to conduct seminars for raising awareness on the benefits of the FTAs to the two countries.

In relation to the coordination with the Trade Sections of the EU Delegations in SEA countries it should be confirmed that communication with the PMT is regular (even suggestion has been made to reduce the bi-monthly reporting to only one communication per month, that would allow the PMT to concentrate more on the activities, yet, it is understood that such requirement is a contractual obligation that cannot be changed easily).

From the SKYPE meetings conducted with other EU Delegations (such as EUD Malaysia and Singapore), it can be confirmed that the PMT based in Bangkok has a direct and open discussions with these EU Delegations to ensure that their inputs are taken into account in defining activities and interventions for the future planning. For certain, coordination is in place and EUDs also participated in a number of project activities, this ensures that they receive information in relation to planned and conducted activities, as well as regularly informed when actions are implemented in target countries.

Recommendations provided by the EU Delegation in Malaysia is very relevant for ensuring coherence, this is to have coordination among all IP Key instruments (meetings of the IP Key SEA, China and LA Teams and exchange of information). It was confirmed that a special meeting in Alicante of all Project Leaders is planned this year, moreover, Video conferences are also organised by the EUIPO (connecting all tree programmes – at least once per trimester). This is very useful and necessary initiative of the EUIPO.

Planning of the Programme activities is also an example of complementarity and coherence – as all activities are identified only through a series of consultations with various stakeholders. Indeed, it is difficult to plan and satisfy all requests as a balance has to be reached between what is requested and what can be actually delivered always bearing in mind that IP Keys should advance EU’s objectives in the countries concerned, but at the same time reports provided documentary proof that activities conducted so far cover range of IP rights and indeed have regional and national focus as appropriate.

From that perspective a recommendation from the Team of Experts – in the Excel file with a record of all activities (planned and completed), it is possible to have indications using different colour codes, for example showing all activities in relation to specific IP right (such as copyright – conducted within national or regional Programme initiatives), activities per country – again as an example – for Thailand – in which activities this country was taking part (specific national activities for Thailand only, as well as activities of the regional level, where Thai officials were taking part too). At the end of the Programme with this simple technic, it would be possible to have a very good illustration of geographical coverage as well as scope of the Programme in relation to IPRs. In addition, re-grouping of activities per thematic would help to understand the strategy for achieving expected results of the Programme, as often those stakeholders that are less familiar with the IP Key SEA, may question some activities

and their relevance (but detailed descriptions provided by the AWP fully justify the activities of the Programme and clearly reply to the needs of both EU and SEA stakeholders). Moreover, from the received data (reports for the past 2 years, in addition to the recent activities), it can be seen that rather good balance is present (none of the IPRs have been neglected; most, if not all requests of countries have been taken into account and either already implemented or in such process or planned for the future.

The specificity of IP Key SEA is that in parallel, there are two other EU projects for SEA on IPRs are implemented at the same time. It should be noted that during the interview with the IPR SME Helpdesk, it was confirmed that the IP Key SEA coordinates with the IPR SME Helpdesk, moreover, communication is regular and very useful, as several joint actions have been completed already. There is no duplication of work or efforts, as unlike the IPR SME Helpdesk, the IP Key SEA does not work directly with specific EU businesses (small, medium or large) and does not provide information directly requested by EU business about the different target markets in SEA. The IP Key SEA works mainly with national authorities and stakeholders present in SEA and focuses on contributing to the improvement of the legal and administrative frameworks. There is certainly complementarity and synergies that must be acknowledged, as the work of the IP Key SEA ultimately enhances the benefit of EU businesses, and the expected results of the project are more long-term.

Complementarity and synergies between IP Key SEA and IPR ARISE+ should be reported. First of all, this is due to the fact that the EUIPO and the PMT implement both projects. The task of the PMT to ensure that duplication in terms of activities is avoided, while at the same time maintaining synergies between the two projects.

From the managerial point of view, the IP Key SEA activities are identified and defined without the approval of the national authorities in the target countries, while IPR ARISE+ activities have to be always approved by the IP Offices. However, the IP Key SEA does not abuse the position in terms of planning, it ensures that the national authorities are informed of the activities and implementation clearly is done with engagement of the staff of the national IPOs.

Another element in understanding the difference between the two EU initiatives: all the IP Key SEA activities are designed to reply to the specific EU interests, so these activities are defined on the basis of the policies of the EU and the priorities defined annually by DG Trade and the EU Delegations. This is not the case for IPR ARISE+. The IP Key SEA works with countries at the bilateral level and activities are defined according to the interventions needed in the target countries, while IPR ARISE+ is focused more on regional integration, and activities are almost always intended for all countries. Activities under IPR ARISE+ are also limited to those initiatives contained in the ASEAN IPR Action Plan, while activities under IP Key SEA are determined in accordance with EU interests and priorities. Finally, in addition to IPR enforcement, the IP Key SEA includes activities on copyrights, patents and plant varieties which are not covered by IPR ARISE+. The IP Key SEA also focuses on the IP areas identified as priorities in trade agreements, while the IPR ARISE+ works towards development of IP capacity. It is important to highlight also that the process through which the Annual Work Plans drafted by EUIPO are approved avoids activities under IP Key SEA to be redundant or overlapping the activities implemented under ARISE+ IPR. As per the EU-EUIPO Grant Agreement, the Project Management Board, which on the European Commission side is represented by DG TRADE and FPI, is responsible for revising and adopting the Annual Work Plans. Before an AAP is adopted, DG TRADE and FPI, on behalf of the European Commission, ensures that activities proposed by EUIPO are fully in line with the IP KEY Programme objectives and do not duplicate activities carried out at ASEAN level under ARISE+ IPR.

Another element in understanding the difference between the two EU initiatives: all the IP Key SEA activities are designed to reply to the specific EU interests, so these activities are defined on the basis of the policies of the EU and the priorities defined annually by DG Trade and the EU Delegations. This is not the case for IPR ARISE+. The IP Key SEA works with countries at the bilateral level and activities are defined according to the interventions needed in the target countries, while IPR ARISE+ is focused more on regional integration, and activities are almost always intended for all countries. Activities under IPR ARISE+ are also limited to those initiatives contained in the ASEAN IPR Action Plan, while activities under IP Key SEA are determined in accordance with EU interests and priorities. Finally, in addition to IPR enforcement, the IP Key SEA includes activities on copyrights, patents and plant varieties which are not covered by IPR ARISE+. The IP Key SEA also focuses on the areas identified in draft FTA texts while the IPR ARISE+ works towards development of IP capacity.

To conclude, there are no risks of duplication of efforts or repetition of activities between IP Key SEA, IPR SME Helpdesk and IPR ARISE+, in spite of the identical regional coverage (SEA) or focus on Intellectual Property Rights. In practice, all three initiatives serve specific purposes and only more coordination as well as exchange

of information can be recommended for remaining implementation period. In the opinion of the Team of Evaluation Experts, it would be beneficial to have joint activities between the IP Key SEA and the IPR SME Helpdesk (as experience of completed activities on E-Commerce has shown that such events are hugely appreciated by the EU businesses).

Overall conclusion on complementarity and coherence

Activities of the IP Key SEA are planned and implemented in coordination with the EU Delegations. The PMT ensures that there is coordination with the various Trade Sections in the EU Delegations in the target countries. During the meetings with the EU Delegations it was confirmed that flow of information and communication with the Project Management Team and Project Leader is direct and does not pose any problems.

Information for planning of the activities is collected in a complementary manner to acknowledge already available sources either through the EU MS presences in the third country, or through EU Commission services.

In relation to IPR SME Helpdesk activities, it should be noted that there is coordination and even joint activities.

Complementarity and synergies between IP Key SEA and IPR ARISE+ should be reported. First of all, this is due to the fact that the EUIPO and the PMT implement both projects. The task of the PMT as well as of the Project Management Board, as outlined above, is to ensure that duplication in terms of activities is avoided, while at the same time maintaining synergies between the two projects.

To conclude, there are no risks of duplication of efforts and repetition of activities between IP Key SEA, IPR SME Helpdesk and IPR ARISE+, in spite of the identical regional coverage (SEA) or focus on Intellectual Property Rights. In practice, all three initiatives serve specific purposes and only more coordination as well as exchange of information can be recommended for remaining implementation period.

4.3.7. EU added value

All conducted interviews during the missions in SEA counties, allowed the Team of Evaluation Experts to conclude that IP Key SEA is contributing very highly to the EU policies – not only in terms of specific IP rights, but coming across various aspects of enhancing social and traditional values, gender respect and promotion of women's employment, environmental, as fight against the counterfeited goods has all those dimensions covered.

For this reason the Evaluation Team concludes that the Programme is fully in line with evolving strategies of the European Union. It is also clear that IP protection orientation in SEA countries is very much turned towards the EU, from practical, legal and even commercial points of view, so there are high expectations for the coming two years of implementation and even beyond.

All the activities implemented by the IP Key SEA ensured the visibility of the EU as funding source of the project (this can be seen from the links of information provided with publications).

The IP Key SEA also develops and disseminates information materials and uses social and digital media to promote the visibility of the EU. The presence of EU officials in the activities also serves the purpose of promotion of the Programme and valuable contribution to the EU policies. As an example, the IP Key SEA participates in the IP Week@Singapore to promote visibility.

For the future, issue of visibility should be kept in mind and where possible become a focus of attention for the PMT when making arrangements for the specific regional events, such as conferences (as certain stakeholders shared concerns that it is not easy to follow all the news and events of the Programme, perhaps a mailing list can be made with regular updates, yet, not all are happy to receive mails with information that might not be relevant each time). However, issues of visibility are important and EUIPO has substantial experience in technical cooperation so can be trusted to take good and sufficient care of that aspect.

Highlighting the added value does the IP Keys offer the EU as a global player, it should be explained that the IP Key SEA brings to the target countries the practices of the EU and works towards the adoption of these standards and practices by the SEA national authorities. This is clear from the IP Key SEA:

- **Activity 13 (AWP2-2019):** Supports the drafting of the Trademark Guidelines in IP Viet Nam based on EUIPO practices.
- **Activity 12 (AWP2-2019):** This focuses on extension of EU practices that may be adopted by IP Offices in SEA.

The global tools developed by the EUIPO are also made available to the different countries to assure that IP information is accessible worldwide, especially for EU users.

The promotion of the EU standards and IP regime by the IP Keys to the different regions contributes to the dissemination of EU practices globally and to the overall value of the EU as a global force in the field of IP.

The PI/FPI focuses on partnering with non-EU countries that are of strategic interests to the EU. Unlike the more conventional development projects, the IP Key SEA, being implemented under PI/FPI, can focus on specific countries or IP areas that are identified as a priority for a specific year in the course of the implementation of the IP Key. The IP Key SEA has more flexibility in terms of selecting the areas / countries that are identified by EU Commission DG Trade and are supportive of the EU's strategic interests.

Overall conclusion on EU added value

As mentioned already by this Report in the previous sections, the IP Key SEA has contributed to the image and visibility of the EU in the concerned SEA countries.

All the activities implemented by the IP Key SEA ensure the visibility of the EU as funding source of the project. The IP Key SEA also develops and disseminates information materials and uses social and digital media to promote the visibility of the EU. The presence of EU officials in the activities also serves to promote the contribution of the EU. The IP Key SEA also participates in the IP Week@Singapore to promote visibility. Another good case in point is the joint visibility activity organised by EUIPO together with the Thai DIPO on the occasion of the International IP Day. In 2020, additional visibility activities are planned to be organised by the IP Key SEA.

The IP Keys SEA also serves as a tool for EU IP diplomacy in the target countries. The implementation of the IP Key SEA activities helps to maintain good relations with the SEA countries. Although the IP Key SEA objectives are focused on the needs of the EU and EU stakeholders, the PMT ensures that activities implemented in the SEA countries are with engagement of the national IP Offices, and an open communication and healthy working relationship is maintained with the all relevant national authorities in the target countries.

5. IP Keys China, LA and SEA - Lessons learnt and Recommendations

5.1. Lessons learnt and recommendations for IP Key China

- The IP Key China is a relevant Programme, to the extent that it is fully supportive of Objective 3 of the Partnership Agreement.
- The IP Key China activities are planned in coordination with local stakeholders addressing selected IP Rights areas, which are of relevance to the internationalisation of EU companies, with a particular attention to the Chinese market and its specific challenges.
- The PMT of the IP Key China is not complete at present, missing several members, this puts additional pressure to the Team Leader and other members of the Team. Reporting was affected by that fact and there were some delays marked by the EU Delegation. At the same time, the PMT is working to overcome those challenges and tries to adapt the activity planning to the constantly changing scenario of Chinese reality.
- The Supreme People's Court (SPC) confirmed that the topics chosen by the IP Key during the activities (specific reference was made to EU study visit: "Mission to the EU for judicial exchange; Activity ID 1_R2A0102) were relevant and matched their needs, with a particular reference to aspects of litigation

and enforcement, such as evidence preservation, EU case-law consistency and measure standardisation.

- According to the Legislative Affairs Commission (LAC), the IP Key is highly relevant to the Chinese Policy.
- The IP Key China contributes to improving local IP regimes by working with relevant national authorities in the judiciary as well as the legislative sector to adapt the national legal framework to the European standards.
- The Programme has very constructive and well-balanced geographical coverage, when activities and events take place not only in major cities, but also reach various provinces.
- The IP Key China is playing an important role in reinforcing the intellectual property dialogue mechanism so as to strengthen cooperation for combating counterfeiting and piracy and improving transparency and predictability of the entire IP system. Without the IP Key vehicle, many EU inputs in relevant trade areas would have no other way to reach Chinese stakeholders.
- The IP Key China contributes to improving local IP regimes by working with relevant national authorities in the judiciary as well as the legislative sector to adapt the national legal framework to the European standards.
- Without doubts, the EU is seen as a model in the field of IP protection in general and in particular in relation to the Plant Variety protection. The EU Plant Variety system is considered particularly relevant for China.
- The IP Key China has shown a satisfactory level of performance during the first two years of implementation in terms of its achievements and overall IPR coverage, in spite of the challenges posed by the Chinese administrative reform.
- The IP Key China remains to be a necessary tool for the EU strategic efforts aimed at maintaining the IP Dialogue with the Chinese government.
- Financial resources appear to be adequately allocated, considering the IP Key China Annual Work Plans and coverage of various IP issues.
- Senior judges of the Supreme Court of China interviewed during the field mission of the Evaluation Team in Beijing expressed great satisfaction regarding the IP Key China efforts in guiding and contributing to the Chinese IP policies. It was also confirmed that the Chinese Patent Judges review the guidelines of the European Patent Office (EPO) on a regular basis, and are also interested in the case law generated by the European Court of Justice on IP cases.
- Most of the Chinese stakeholders (including the MOFCOM), are highly interested in maintaining fruitful cooperation with the IP Key to obtain mutual benefits from the Programme activities, and the IP Key is of crucial importance to keep a fruitful EU-CHINA IP Dialogue and to guide Chinese strategic partners towards the creation of a more IP friendly environment.
- The fact that a specialised EU IP agency (EUIPO) is the implementing authority and the technical supervisor behind the IP Key initiative is an excellent asset that plays in favour of overall effectiveness and sustainability of the Programme.
- Periodical meetings between the IP Key, the IPR helpdesk and the EU Business Associations are fully encouraged in order to explore further synergies, discussions and knowledge sharing.
 - The Team of Evaluation Experts can provide the following recommendations for the current and future implementation of the IP Key China:

I. Programme management

- 1) Regrouping of activities. Less density. Less trainings in favour of innovative formats such as webinars.
- 2) Improve reporting, particularly paying attention to timely delivery respecting agreed deadlines. Improve quality and clarity of reports and all relevant documentation – Excel file with record of activities should

contain colour codes to show progresses by specific IP right. Logic behind the interventions and activities, concrete achievements, and areas of IP coverage, etc. Consider less density and more flexibility in terms of number of reports to be delivered (monthly reporting, instead of each 2 weeks).

- 3) The PMT should have a complete Team of Experts for smooth operation, so EUIPO is encouraged to support the recruitment process. From the EU Delegation is expected more guidance on priorities and realistic approach to deliverables. Better communication between the EUIPO and PMT with EUD in Beijing, engagement of MOFCOM in coordination process (regular meetings possibly twice a year could be suggested).
- 4) If possible, building direct cooperation between IP Key and CNIPA in some activities (trademark and design) - this would increase CNIPA's engagement and participation and would probably help to deploy more resources.
- 5) More informal activities and networking events to deepen discussions and interaction between attendants.
- 6) Activity follow-up: publication of case law summaries in English and Chinese on topics of mutual interest (for example: preservation of evidence in IP Cases).

II. Activity content

- 1) More studies, also aimed at updating activities and studies conducted under past programmes. Areas of specific interest: IPR and competition law, standard essential patents, bad faith applications in trademarks and patents, unregistered design, GIs, copyrights and public performance rights, e-commerce and online IP infringement, enforcement and litigation issues, Trade secrets.
- 2) Specific activities on i) Trademarks, Domain Names and Data Protection ii) Artificial Intelligence and IP.
- 3) Broader research for international experts, also seeking WIPO's assistance.
- 4) Increase technical level of topics during EU study visits for Chinese judges and allow more opportunities for informal exchanges and networking.

III. Visibility

- 1) Approve a formal process for the EU delegation to periodically review the content displayed on the IP Key website.
- 2) Intensify information exchanges between IP Key and the EU Delegation on sensitive political issues.
- 3) Intensify IP Key presence at international IP conferences, such as INTA, Marques, AIPPI, etc.
- 4) Coordination among all three IP Keys to ensure consistent brand image in events and materials.

5.2. Lessons learnt and recommendations for IP Key LA

The following lessons learnt are the most relevant as they arise from the preceding analysis:

- The intervention logic of the Programme has responded more than reasonably well to what was originally stated in the Description of the Activity and the Logical Framework. The programme has reacted effectively and satisfactorily to the numerous changes of government in several of the countries of the region and has achieved an important record in terms of the successful implementation of the planned activities. Based on this evaluation, the Evaluation Team considers that no major modifications are required in the planning and that in the line in which it has been developed, the program will continue to evolve favourably in the achievement of its general and specific objectives.
- The objections raised about the deficiencies in the consultation process between EUIPO and the EUDs are an issue that must be mentioned in this evaluation, although the observed situations have already been or are currently in the process of being resolved – particularly in Mexico, due to the reformulation of the interlocution and consultation mechanisms. From the information gathered it appears that this problem is justified, in part, by the fact that IP Key LA is the first program of its kind in the region and, in addition to the logical difficulties inherent in its design and implementation, the wide range of situations due to the diversity of all types that characterise the countries covered by the program makes it more difficult to have a homogeneous perspective of the importance of activities and their relationship with trade policy priorities – it should be noted that in many countries the relationship with government

authorities was scarce or non-existent before the irruption of the program (case of Peru), particularly in the area of IP.

- It is worthwhile, however, to make two observations regarding the operation of the program during the first two years and its expected evolution in the remaining years until its completion. Firstly, on the consultation process, the greater the involvement of the EUDs in the phase of consultation and planning of activities, the better the degree of fulfilment of the objectives of the program, especially in terms of its effectiveness and impact, through a better convergence of the activities with the priorities of the EU trade policy. Secondly, the introduction of greater flexibility in planning is recommended, in order to be able to respond quickly to unexpected changes in the priorities or policies of the countries of the region.
- The development of a direct, solid and fluid relationship with the national IPOs, through a process of systematic and permanent exchange of information and the survey of their needs and interests is a fundamental factor to achieve the objectives of the program. The construction of this relationship and its continuous enrichment has been one of the most valued aspects of IP Key LA – all public and private stakeholders consulted shared this opinion - and has contributed to the fulfilment of several of the evaluation criteria analysed in this report: greater effectiveness and efficiency in the planning and implementation of activities, greater impact of their results, greater support for the sustainability of the intervention and, very particularly, a valuable contribution to the image and visibility of EU cooperation and its strategic role in promoting the raising of standards of protection and enforcement of IPR, corresponding therefore with EU policies in this area.
- The IP Key LA success in fulfilling IPR awareness through the activities implemented during its first two years is valued as a necessary but not sufficient action, considering therefore that it would be desirable for additional actions to be carried out to promote best practices within local IPOs. To this respect, for example, a specific concern was expressed in the area of GIs and Appellations of Origin: being this topic of common interest between – mainly Mexico, Central America and Andean Countries – and the EU, and of a great development potential, given the important number of local products that could apply for a GI or an Appellation of Origin. The development of this potential would require actions to facilitate producers' due-diligence, such as, for instance, for the implementation of the GIs Regulatory Councils and the promotion of institutional and formal relations between local and EU agencies, as well as between local and EU Regulatory Councils.
- The Andean Community, as an Andean countries institutional integration bloc bringing up the possibility of having a main interlocutor for the entire sub region, is one of the elements that have been taken into account for the IP Key LA design. However, the testimony collected in the Andean Community General Secretariat shows that, in practice, its role is limited or of little use in serving as the sole interlocutor for the countries of the sub region. On the one hand, as the General Secretariat does not actually have enough power to decide on behalf of countries about certain issues - the autonomy of countries to decide on their cooperation needs and become direct partners of the project is evidence of this -. On the other hand, because the needs of the General Secretariat as such are not those of the countries and it can only adopt or propose initiatives as a regional body to the extent that such initiatives do not require express approval of the countries - that is, only if those initiatives can be implemented through mere administrative resolutions -. In the opinion of the Evaluation Team this factor should be taken into account for the future planning, to prioritise the needs of the three Andean countries that have enforced free trade agreements with the EU.
- On complementarity and synergies with other programmes, a good example was observed on the study visit organised back-to-back with the GI Conference to promote EU standards to Andean countries and contribute to a certain extent to improving the GI protection system in their respective countries. The event gave the opportunity of establishing better synergies between IP Key LA and IP Key SEA, as well as promoting sharing of experiences and exchange of best practices between the two regions (as part of the Activity 9: EU Conference on Geographical Indications and the Lisbon Agreement (Geneva Act), AWP2-2019, July 2019). Similar activities should be encouraged in future planning. On the contrary, however, the absence of complementarity between IP Key LA and Latin America IPR SME Helpdesk and Elanbiz, should be pointed out as a negative factor, and it is advisable to make an additional effort to correct this shortcoming.

The Evaluation Team analysis leads to the following recommendations for the implementation of the IP Key LA, which are presented below, grouped according to the following topics:

I. Management of the Programme, events / activities / contents of the activities

- 1) Regarding the effectiveness of the activities carried out, closed workshops are preferred over open seminars. Open seminars are considered inefficient, due to the difficulty of adequately focusing on an audience which does not have a homogeneous level of knowledge or appropriate to the seminar subject, nor do their problems fit the seminar topics discussions. On the contrary, closed workshops for officials and specialists (not only from IPOs but also from academia and other dedicated private organisations), with specialised thematic content and specific objectives, prior documents examination and briefings that summarise the main points that are useful for negotiation at the regional level, are more effective in promoting the desired results. Additional arguments sustaining these opinions relate to the consideration that the first phase of awareness and visibility of IPR issues has been completed, therefore it would be now more effective to provide capacity building through workshops addressed to a specific target audience – i.e., local IPOs, customs officers, members of the judiciary, IP lawyers organisations –, and bringing EU experts in each of the relevant topics.
- 2) It is considered important to establish programs of activities that allow a thematic continuity, extremely useful for the purpose of monitoring its effects and its impact.
- 3) To introduce “train the trainers” activities in the future planning, for example, but not exclusively, in the area of enforcement practices.
- 4) It is considered advisable to improve the composition of the target audience in certain events (especially in open seminars).
- 5) As target audiences do not always have the same level of knowledge or specific interest on issues it is recommended to take especially into account their heterogeneity when planning the events
- 6) It is suggested as important / necessary to improve the facilities in which events are organized.
- 7) In particular for Argentina and subject to budgetary possibilities, it was suggested by the EUD the convenience of developing more activities in the country Provinces, because being Argentina a country of large territory, Provinces’ reality is sometimes very different from that of the Capital.

II. Information sharing

- 1) Given the delay in the full operation of the information management system (IMS) and document repository, the Evaluation Team recommendation is to complete as soon as possible this task and make the IMS and document repository fully operational and available.

5.3. Lessons learnt and recommendations for IP Key SEA

The MTE Final Report assessing the IP Key SEA would like to share the following lessons learnt:

- The IP Key SEA contributes to improving the IP regimes by working with national authorities to revise national legal and administrative frameworks to be more aligned with international and European standards, which in turn makes it easier for European businesses to enter the target countries and reduce the risks in their operations.
- The relevance and importance of the IP Key SEA should be stressed in light of the on-going EU negotiations with SEA countries, seeing free trade agreements as the main instrument for facilitating trade between the EU and the individual SEA countries, with the long-term goal of signing a regional FTA with the ASEAN.
- The Programme is taking all cross-cutting issues into account – it respects gender issues and encourages participation of women, it embraces environmental and general security / public health aspects.
- IP Key SEA covers all IP rights, without any exclusion. From the provided documents for evaluation it could be concluded that rather good balance is reached among the planned and implemented activities in relation to IP rights coverage, as well as national and regional levels.
- To address the risks defined for the target countries for IP Key SEA, the Project Management Team ensures direct and open communication with the stakeholders in the different target countries.
- The intervention logic presented by the Description of the Action and the Logical Framework are functional. Therefore, although the risks and assumptions indicated in the Description of the Action were correctly identified and fully appropriated, they have not been hampering the IP Key SEA implementation and the achievement of the results.
- Information of the IP Key Programme is generally easily accessible by the IPOs and general public (via Internet, communications of the Project Team, Project Leader, etc.). Very important point was

addressed in relation to E-Learning platforms & tools of the EUIPO – it could be shared more widely, as every event reveals interest expressed by new learners.

- It should be mentioned as positive and very important element of effectiveness that any activity of the IP Key SEA, such as Study, workshop or seminar, were certainly very much appreciated by relevant stakeholders and technical expertise provided by the EUIPO was of outstanding quality.
- Geographical areas and specific interests of the countries are taken into account for planning of regional activities, this also proves efficiency of the IP Key SEA.
- Resourcing of the IP Key SEA activities is done based on quantifiable elements. Estimated resources, needed for the implementation of the activities in the annual work plans, are determined based on the requirements for the successful conclusion of each activity, whether these are in the form of technical support provided by experts, conference speakers, logistical support, and other similar requirements. These resources estimation is based on analysis of the requirements anticipated for each activity of the IP Key SEA Programme.
- Internal monitoring and assessment of the IP Key SEA events, such as training activities and conferences, showed over 90% satisfaction of the participants. The Evaluation Team can suggest to use this example of proper communication done by the Project Management Team of the IP Key SEA in planning and organising events for other EU programmes and projects.
- IP Key SEA can provide a good lesson to be learned that timely technical expertise in combination with staff availability and commitment are the main elements for achieving expected results. It can be seen that the IP Key SEA performance so far has shown rather impressive results.
- Selection and choice of the EUIPO as a major contractor of the IP Key SEA Programme was totally appropriate. Review of the implementation arrangements of the Programme in terms of the quality of day-to-day management, communication, management of delivery modalities (contracts, payments, monitoring, supervision and other activities etc.), including management of the budget and organisational structure and adequacy of personnel, expertise and resources showed reasonably good results.
- The findings of the Final Report provided evidence that the management for achieving the expected results during the first two years of implementation and progress made so far has been rather impressive (in terms of implemented regional and national activities). Therefore, in the opinion of the Evaluation Team, there is no need to deviate or suggest alternative approaches, as the strategic approach of the Description of the Action and once more activities are taking place results should become even more evident.
- In most of the areas, the IP Key impact has been rather direct and reached a high level of robustness. Several very important positive results in relation to impact were reported by the Team of Evaluators – among them, more generally, enhanced capacity of the EU Delegations and National IP Offices; connections among all the stakeholders in relation to IP enforcement initiatives; image of the EU in the SEA region as a leader and model for IP protection and promotion.
- Examples of positive and wide impact of the IP Key SEA is integration of the countries in the global IT databases resulting in availability of information on IP to the general public and accessible worldwide. During numerous events organised by the IP Key SEA presentations delivered by experts and resource persons are published in the Document Repository of the IP Key Website and are accessible to the public.
- Events and activities of the Programme are well covered by the media (web portal of the IP Key SEA as well as local, see Annex to the Final Report with links to various sources of information) and this helps to ensure the positive impact and perception of IPRs in daily life as a necessary element.
- Subsequent actions taken by the EU Commission services following the completion of IP Key activities are based on the action's recommendations. With reference to the meetings conducted with the PMT, the recommendations made by the IP Key SEA were already used to decide on subsequent activities to be approved and the priorities in terms of target countries.
- The level of sustainability of the IP Key SEA activities is rather high, the national IP offices are very supportive to the IP Key SEA and there is no resistance or misunderstanding of the objectives of the Programme, which are fully in line with the national IP priorities.

- There are a number of elements of the IP Key SEA management that contribute to ensure sustainability of the actions, among them certainly: follow-up strategy, knowledge sharing, train-the-trainers methodology and engagement of the national IP Offices. Thus, all achieved results so far have a long-term benefit. Moreover, with the plans of activities for the coming year, it could be expected that results of the IP Key SEA Programme would continue during the following period of implementation and even further. The conducted interviews during the missions in Thailand and Vietnam lead to optimistic and promising position on sustainability of the achieved results of the IP Key SEA.
- Activities of the IP Key SEA are planned and implemented in coordination with the EU Delegations. The PMT ensures that there is coordination with the various Trade Sections in the EU Delegations in the target countries. During the meetings with the EU Delegations it was confirmed that flow of information and communication with the Project Management Team and Project Leader is direct and does not pose any problems.
- The IP Key SEA has contributed to the image and visibility of the EU in the concerned SEA countries. All the activities implemented by the IP Key SEA ensure the visibility of the EU as funding source of the project. The IP Key SEA also develops and disseminates information materials and uses social and digital media to promote the visibility of the EU.
- The IP Keys SEA also serves as a tool for EU IP diplomacy in the target countries. The implementation of the IP Key SEA activities helps to maintain good relations with the SEA countries.
- In relation to IPR SME Helpdesk activities, it should be noted that there is coordination and even joint activities organised. Complementarity and synergies between IP Key SEA and IPR ARISE+ should be reported. First of all, this is due to the fact that the EUIPO and the PMT implement both projects. The task of the PMT to ensure that duplication in terms of activities is avoided, while at the same time maintaining synergies between the two projects.

The Team of Evaluation Experts can provide the following recommendations for the implementation of the IP Key SEA, which can be structured concerning the following themes:

I. Management of the Programme, events / activities

- 2) Planning of the activities – please consider the human resources issues of the National IP Offices (in particular, DIP in Thailand), as more time would be appreciated before the events (such as training courses or conferences – now 3-5 weeks, better 6-8 weeks, at least).
- 3) Less density of activities, focus on quality, but not quantity, so if necessary reduce the number of activities (these concerns training activities or conferences).
- 4) List of participants can be shared in advance with speakers (for better understanding of the audience – example of activities on Copyright).
- 5) Reporting requirements – how to improve Excel file with record of all activities, Annual Progress Reports.
- 6) Balance of the planned activities as well as methodology to be explained better in the APRs.
- 7) Continue to pay attention to the issues of complementarity and coherence between IP Key SEA, IPR SME Helpdesk and ARISE+ IPR activities. There are no risks of duplication of efforts and repetition of activities between IP Key SEA, IPR SME Helpdesk and ARISE+ IPR, in spite of the identical regional coverage (SEA) or focus on Intellectual Property Rights. In practice, all three initiatives serve specific purposes and only more coordination as well as exchange of information can be recommended for remaining implementation period. A question was posed on whether it is a good idea to replicate such experience of two programmes: IP Key SEA and IPR ARISE+ in other regions. The Team of Evaluation Experts believes that solution that was found for SEA region of having 2 IP programmes at the same time is appropriate for the time being and specific situation (need of activities in the EU interests only that are not possible to organise within ARISE+ IPR), may not be necessary in the future. As was communicated by the EU Delegation in Bangkok, there will be no need to have two EU programmes at the same time as specific tool will be developed and available from 2020 to cover both initiatives by one EU instrument.

II. Contents of the activities – logic behind interventions, results expected

- 1) Focus on the expected result of the activity – how best it can be achieved, what has to be done step by step, activities can be grouped. Grouping of the activities could help to increase efficiency, impact and sustainability of the actions (for example, before visit of IP experts / judges, consider preparatory work, event itself and publication). Excellent example of grouping of actives is in relation to TM Guidelines for Vietnam – first revision of TM Guidelines, followed by adoption and training of TM Examiners, however, not finished, as there can be Teaching Materials used for wider public, etc.).
- 2) During the training / conference – allow more time for the debate, questions, possibly consider alternative options and follow up for practical aspects of information received by the participants.

- 3) Various panels of the conferences should have sufficient time for covering each topic and discussing it, no need just to “rush” through the presentations.
- 4) Search for Experts for the activities outside the special expertise of the EUIPO.
- 5) GAP Analyses – how to improve the quality up to the expectations of the EU Delegations.
- 6) Type of the activities – to be more innovative, consider webinars, mentoring, creation of working groups, finding new ways of becoming more sustainable.
- 7) Interconnection of the activities – continue collaboration with other EU programmes as well as with WIPO.

III. Visibility of the Programme

- 1) The Evaluation Team wishes to recommend increasing the visibility of the Programme, using specific activities planned for the next years (among them could be promotional videos, publication in the media, etc.).
- 2) More visibility and communication activities could be suggested on the Regional / National levels, mapping all the activities implemented per country, as well as participation of the national experts at the regional events.
- 3) Reporting requirements – how to improve Excel file with record of all activities, Annual Progress Reports to focus on the achieved results per IP right (more information with suggestions can be found in the relevant sections of the Final Report);
- 4) Communication and public diplomacy component, how to better achieve the visibility objectives with specific activities.

Specific recommendations provided by the EU Delegations and supported by the Evaluation Team:

- In order to help to follow all the activities (our recommendations on mapping all the activities, provided on the Excel Tables of activities planned or already implemented, thematic coverage and regional / national dimension);
- Important to have coordination among all IP Key instruments (meetings of the IP Key SEA, China and LA Teams and exchange of information);
- Consider engagement of experts from various fields (not only EUIPO, but also European Patent Office, GI experts, etc.)
- Specific for Malaysia – activity on Industrial Designs as a top priority (communicated from the EU Member States – example of Italy and products coming from Italy was made), issues linked to consumer protection & indication of source information, which is not correct).