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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.6.2008
COM(2008) 383 final

GREEN PAPER

Future relations between the EU and the Overseas Countries and Territories

{SEC(2008) 2067}

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1. INTRODUCTION

Under Part Four of the Treaty establishing the European Community (the EC Treaty), the overseas countries and territories (the OCTs) are closely associated with the European Community. Historically, the list of OCTs mainly included countries and territories that have in the meantime become independent sovereign countries, most of them ACP countries. This explains why the logic applied to cooperation between the EU and the OCTs is to a large extent identical to that applied to cooperation between the EU and the ACP states, despite the fact that the OCTs are covered by a separate legal base in the EC Treaty.

However, such parallelism does not correspond to the reality in the field, the specific social, economic and environmental challenges faced by the OCTs today, and the close historical, institutional and political ties between the OCTs and the EU. Furthermore, it does not take into account the potential of OCTs as strategically important outposts, spread all over the world, as proponents of the EU's values. In addition, the wider international context has evolved, in particular as a consequence of globalisation, the ongoing liberalisation of international trade and also the increased regional integration of the ACP countries. All these factors require a thorough renovation of the partnership between the OCTs and the EU.

Against this background, the OCTs and the four Member States to which they are linked (Denmark, France, the Netherlands and the United Kingdom) have since 2003 called for better recognition of the OCTs' specific situation. At the same time, the Commission as well as an increasing number of Member States have expressed reservations as regards the amalgamation of the OCT-EC association and the Community's development cooperation policy with its emphasis on the fight against poverty and the millennium development goals. For its part, the Commission has already since 2005 suggested building a new relationship based on the OCTs' and the EU's membership of the same family, rather than the OCTs' development needs per se.

Consequently, the Commission wishes to carry out a holistic review of the relations between the EU and the OCTs and to consider a substantial revision of the OCT-EC association. It is the intention to examine how to step away from the classic development cooperation approach, while enhancing the competitiveness of the OCTs and their gradual integration within the regional and world economies, taking into account not only the challenges they are facing but also their potential. In order to pave the way towards such a modernisation, the Commission has adopted this Green Paper, which should facilitate a global and transparent discussion on the future relations between the EU and the OCTs, in particular as regards the overall philosophy that should underpin these relations in the longer term.

The aim of the present Green Paper is therefore not to set out a new policy or establish new financial instruments or detailed procedures, but to examine a series of challenges and opportunities and to obtain input from interested parties before defining a new partnership between the EU and the OCTs, in particular in view of the expiry of the current Overseas Association Decision at the end of 2013.

2. PRELIMINARY INFORMATION ON THE OCTs

2.1. The 21 OCTs: association with the Community, diversity and common characteristics

According to the EC Treaty, the OCTs are non-European countries and territories that have special relations with Denmark, France, the Netherlands and the United Kingdom. They are associated with the European Community with a view to promoting their economic and social development and establishing close economic relations between them and the Community as a whole. The EC Treaty states that the association of the OCTs with the Community ‘shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire’.

The countries and territories concerned are listed exhaustively in Annex II to the EC Treaty. In total, 21 OCTs are listed: Greenland, New Caledonia and Dependencies, French Polynesia, French Southern and Antarctic Territories, Wallis and Futuna Islands, Mayotte, Saint-Pierre and Miquelon, Aruba, Netherlands Antilles (i.e. Bonaire, Curaçao, Saba, Sint Eustacius, Sint Maarten), Anguilla, Cayman Islands, Falkland Islands, South Georgia and the South Sandwich Islands, Montserrat, Pitcairn, Saint Helena and dependencies, British Antarctic Territory, British Indian Ocean Territory, Turks and Caicos Islands, British Virgin Islands and Bermuda. However, the arrangements for association have never been applied to Bermuda in accordance with the wishes of the Government of Bermuda.

The OCTs are constitutionally linked to a Member State, but without being part of the Community as such. In fact, based on Article 299(3) of the EC Treaty, the provisions of the Treaty in principle do not apply to the OCTs, except Part Four of the Treaty, which deals exclusively with the OCT-EC association. Hence, there is a fundamental difference between the OCTs and the outermost regions referred to in Article 299(2) of the EC Treaty. Unlike the OCTs, the outermost regions not only are constitutionally linked to a Member State, but also form an integral part of the Community and are bound in principle by the entirety of the Community *acquis*. It is therefore not appropriate to make any quantitative or qualitative comparison between the OCTs and the outermost regions in terms of benefits received from the EU and obligations towards the EU.

There are huge differences between the OCTs themselves in terms of the degree of autonomy vis-à-vis the Member States to which they are linked, but also in the economic and social field and as regards their geographical characteristics and climate. However, despite the immense diversity between the OCTs, they do share common characteristics: none of them is a sovereign country, they are all parliamentary democracies, they are all islands, the size of their populations is very small and their ecological richness is extraordinary compared to continental Europe. They are all relatively vulnerable to external shocks and are in general dependent on a narrow economic base that mostly revolves around services. They are also heavily reliant on imports of goods and energy. In general, exports of goods from the OCTs to the EU or within their respective geographical regions remain limited.

A more detailed outline of the OCTs’ diversity and common characteristics is attached in the Commission staff working Paper in Annex I to the present Green Paper. Moreover, an overview of the individual OCTs with statistical data is attached in the Commission staff working Paper Annex II.

2.2. The current OCT-EC association: the Overseas Association Decision of 27 November 2001

Whereas Part Four of the EC Treaty (Articles 182 to 188) contains the basic provisions on the association of the OCTs with the Community, the detailed rules and procedures for the OCT-EC association are laid down by the Council pursuant to Article 187 EC, through successive ‘Overseas Association Decisions’ adopted since 1964¹. These detailed provisions, namely those of the Overseas Association Decision of 27 November 2001², can be divided into two main categories: provisions on development finance cooperation and provisions on economic and trade cooperation. A summary of these provisions can be found in the Commission staff working paper attached in Annex III to the present Green Paper.

The Overseas Association Decision’s present provisions on development finance cooperation are intended to promote the sustainable development of the OCTs, with the focus on the reduction, prevention and, eventually, eradication of poverty. Accordingly, development finance cooperation with the OCTs has until now been financed from the EDF, which is the financing instrument also used for development finance cooperation with the ACP states.

Whereas the current Overseas Association Decision was initially applicable until 31 December 2011, its duration has been extended until 31 December 2013 following technical amendments made in 2007, in order to coincide with the duration of the 10th European Development Fund (EDF) covering the period 2008 to 2013 and the multiannual financial framework for the period 2007 to 2013. However, these technical amendments remain without prejudice to later revision of the decision before its expiry in 2013, in particular for the subsequent application of the principles set out in Part Four of the EC Treaty as regards the OCT-EC association³.

3. FUTURE PERSPECTIVES FOR OCT-EU RELATIONS

Because of the close link between the OCTs and the Community through the related Member States, the trade regime applicable to the OCTs — as summarised in Annex III to this Green Paper — is one of the most favourable ever granted by the Community. This close link also explains why the per capita level of Community financial assistance to the OCTs is

¹ An Implementing Convention annexed to the Treaty of Rome of 25 March 1957 determined the particulars and procedure for the association of the OCTs with the Community for the first five years following the entry into force of the Treaty, i.e. until 31 December 1962. Subsequently, the detailed provisions and procedure for the EC-OCT association were laid down in Decisions with a duration of five years, adopted by the Council on 25 February 1964, 29 September 1970, 29 June 1976, 16 December 1980 and 30 June 1986. On 25 July 1991 and on 27 November 2001, the Council adopted further decisions on the association of the OCTs with the Community, each with a validity of ten years. However, the duration of the Overseas Association Decision of 27 November 2001 was extended in 2007 until 31 December 2013, to coincide with the duration of the 10th European Development Fund and the multiannual financial framework for 2007-2013.

² Decision 2001/822/EC of the Council of 27 November 2001 on the association of the overseas countries and territories with the European Community (OJ L 314, 30.11.2001, p. 1). Decision as amended by Decision 2007/249/EC (OJ L 109, 26.4.2007, p. 33).

³ See Article 62 of the revised Overseas Association Decision, as well as recital 14 of Council Decision 2007/249/EC.

significantly higher than the ACP average⁴. The somewhat specific procedures for development finance cooperation in comparison with the rules applicable to cooperation with ACP states, and the OCTs' eligibility for Community programmes⁵, are also directly linked to this special relationship, which is based on the solidarity between Europe and the OCTs referred to in the preamble of the EC Treaty.

According to the preamble of the EC Treaty, to which Article 182 of the EC Treaty regarding the association of the OCTs with the Community refers, the High Contracting Parties that decided to create the European Community intended 'to confirm the solidarity which binds Europe and the overseas countries' and desired 'to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations'.

However, the solidarity underpinning the OCT-EC association and in particular the readiness of the Community to promote the sustainable development of the OCTs by providing significant financial assistance has regularly been called into question. In this respect, reference is made in particular to the fact that the situation has now changed considerably, as the introduction of the concept of solidarity between the Community and the OCTs stemmed from a time where this related to the mostly African colonies of the Member States and to the European Customs Union replacing the previous bilateral trade arrangements with these former colonies.

Upon the signature of the Treaty of Amsterdam on 2 October 1997, the representatives of the governments of the then 15 Member States acknowledged that the initial arrangements for the association of the OCTs with the Community could no longer deal effectively with the challenges of OCT development. However, they also solemnly restated that the purpose of association was to promote the economic and social development of the OCTs and to establish close economic relations between them and the Community as a whole⁶. Whereas the OCT-EC association arrangements were reviewed subsequently and a number of innovations were introduced by the Overseas Association Decision of 2001, namely as regards the financial instrument, the overall approach towards the OCTs remained nevertheless closely inspired by the ACP-EC Partnership Agreement and its classic development cooperation logic based on the fight against poverty, despite the mismatch between such an approach and the OCTs' contemporary situation.

Against this background, the present state of affairs is called into question by different stakeholders, ranging from the Commission, the OCTs and the Member States to which the OCTs are linked, to Member States without OCTs. On the one hand, there is a need to examine thoroughly how the OCT-EC association could be adapted to the OCTs' specific situation, the particular challenges they face, their actual or potential importance for the EU as a whole and the reality of today's globalised world. On the other hand, and especially since the enlargement of the EU on 1 May 2004, questions are being asked about the interest of having the Community promote the sustainable development of the OCTs, in particular where

⁴ Under the 10th EDF (2008-2013), the average per capita level of Community financial assistance to the OCTs is approximately six times higher than the average per capita level for of Community financial assistance to the ACP states.

⁵ Pursuant to Article 58 of the Overseas Association Decision. See also Annex III to the present Green Paper.

⁶ Declaration No 36 on the Overseas Countries and Territories annexed to the Final Act of the Conference of the representatives of the governments of the Member States that adopted the Treaty of Amsterdam (OJ C 340, 10.11.1997).

an OCT's per capita GNP is close to the Community average or where a Member State has ceased to provide direct bilateral development assistance to some of its own OCTs.

Therefore, the Commission wishes to launch, with the present Green Paper, a global and transparent discussion on the future relations between the EU and the OCTs, in particular as regards the overall philosophy that should underpin these relations in the longer term. The issues raised here relate to the grounds, objectives and nature of the solidarity between the EU and the OCTs. Moreover, more specific issues regarding the trade regime applicable to the OCTs and the OCTs' specific characteristics are dealt with in the Commission staff working paper attached in Annexes IV and V to the present Green Paper.

The challenges set out below do not relate to the quantity or source of future Community financial assistance to the OCTs and thus remain without prejudice to the outcome of the future negotiations on the multiannual financial framework for the period 2013-2020 and on the budgetisation of the EDF. Neither do they relate to how the Commission will administratively manage Community financial assistance in the future, which is a question regarding the internal organisation of the Commission.

3.1. Partnership between the Community and the OCTs

3.1.1. The impact of the special relationship between the OCTs and the related EU Member States

Even though Article 182 EC qualifies them as non-European and the Community *acquis* is not applicable to them, simply considering the OCTs as if they were just third parties would not correspond to the reality in the field. Indeed, while the OCTs do not form an integral part of the EU, they are a part of or at least closely related to an EU Member State, which means that they cannot be uncoupled from the EU and, in a sense, are 'part of its ultimate frontiers'.

To start with, an entire part of the EC Treaty itself is dedicated to the association of the OCTs with the Community and lays down the basis for treating the OCTs as if they were not just third countries. Under the structure of the EC Treaty, the OCT-EC association does not form part of the Community's development cooperation or the Community's external action in general.

Moreover, by virtue of their history and their special relations with Member States of the EU, the OCTs form an integral part of a society that respects the values on which the EU is founded and the principles resulting from the common constitutional traditions of the Member States, such as respect of human dignity, liberty, democracy, equality, the rule of law and respect of fundamental rights. These values and principles, which the EU also promotes vis-à-vis third countries, are put in practice in the OCTs.

In addition, unlike with third countries, all OCT nationals are in principle European citizens in the sense of Article 17 of the EC Treaty, which states that every person holding the nationality of a Member State is a citizen of the Union. More precisely, all nationals of Greenland and the French and Dutch OCTs also have the nationality of the related Member State automatically. As from 21 May 2002, the citizens of all the British OCTs are also British citizens, but they can renounce it in favour of remaining British overseas territories citizens only and are not obliged to have a passport describing them as a British citizen. As European citizens, OCT nationals are in principle also entitled to the rights conferred by Union citizenship (as laid down in Articles 18 to 22 of the EC Treaty), such as the right to move and reside (but not work) freely within the territory of the Member States. Moreover, OCT nationals can be

granted the right to vote for and participate in the election of the European Parliament, subject to the conditions defined by the related Member States in compliance with Community law. This is, for example, the case for nationals of the French OCTs.

For Saint-Pierre and Miquelon and Mayotte, their special link with the EU is also reflected by the use of the euro in these OCTs, even though their monetary regime is not specified in the EC Treaty as they do not form part of the Community⁷. There are no other OCTs that use the euro at present, but the French OCTs in the Pacific are examining the possible replacement of their currency by the euro⁸.

It may also be noted that, even though the general provisions of the EC Treaty do not apply to the OCTs in the absence of an express reference, the jurisdiction of the Court of Justice of the European Communities covers preliminary rulings requested under the EC Treaty by a court whose jurisdiction covers an OCT, as well as proceedings instituted under the conditions laid down in the EC Treaty by plaintiffs from an OCT against acts adopted by the Community.

Some OCTs are evolving towards closer integration with their related Member States, which are considering asking the Council to modify the treaties in order to integrate these territories within the Community as outermost regions. However, the Community remains neutral towards the possible evolution in the internal relations between the OCTs and their related Member States, and towards the differences between the OCTs as regards the constitutional relations with their related Member States, in particular the tendency in most OCTs towards greater autonomy and independence. Such issues are the exclusive domain of the Member States concerned and their own OCTs. Only if an OCT became fully independent would its nationals in principle cease to be European citizens and its close link with the EU via the related Member State disappear.

Without prejudice to any such future evolution, the aspects highlighted above show that the status of the OCTs in relation to the Community differs from that of any third country, including third countries associated with the Community by specific agreements, such as the ACP states or the countries covered by the Community's Neighbourhood Policy. Nonetheless, the OCTs do not form part of the Community, irrespective of the question whether or to what extent the law of the related Member State applies in a given OCT.

The question therefore is where to situate the OCTs as regards their relations with the Community, bearing in mind, on the one hand, that the relations between the Community and its members (including the outermost regions) cannot be applied as such to the OCTs and that, on the other hand, the association of the OCTs with the Community is not to affect the constitutional relations between the OCTs and the Member States to which they are linked.

Question 1: How should the solidarity between the Community and the OCTs be translated at policy level, taking into account the special relationship of the OCTs with the Community?

⁷ See Council Decision 1999/95/EC of 31 December 1998 concerning the monetary arrangements in the French territorial communities of Saint-Pierre-et-Miquelon and Mayotte (OJ L 30, 4.2.1999, p. 29).

⁸ France announced in 2003 that a request for the introduction of the euro in French OCTs in the Pacific would be submitted to the European institutions only if each of these three OCTs agrees to the introduction of the euro. In this context, Wallis and Futuna declared that it will align on the decision to be taken by French Polynesia and New Caledonia. In 2006, the Assembly of French Polynesia adopted a resolution in favour of the introduction of the euro, whereas New Caledonia has not yet taken any decision.

3.1.2. *A contemporary interpretation of the purpose of the OCT-EC association*

According to Article 182 EC, the purpose of the OCT-EC association is to promote the economic and social development of the OCTs and to establish close economic relations between them and the Community as a whole.

Article 1 of the current Overseas Association Decision clarifies that the objectives of the OCT-EC association are pursued by focusing on the reduction, prevention and, eventually, eradication of poverty in the OCTs and on sustainable development (including its environmental pillar) and gradual integration within the regional and world economies. The attention paid to combating poverty and the application of a development cooperation logic to the Community's financial cooperation with the OCTs often leads to identification between OCTs and ACP countries, in particular because the financial instrument, i.e. the EDF, is identical.

However, the current focus on the fight against poverty is seen more and more by the OCTs and the Member States to which they are linked as an obstacle to tackling the OCTs' vulnerability as micro-island economies in the most efficient way, especially because the Community's development finance cooperation with the OCTs is currently based on a set of standards that are similar to those applied to development cooperation with ACP countries and that do not fully reflect the OCTs' specificity in terms of their extreme smallness, institutional and constitutional situations, geographical and climatic diversity, their differing levels of development, and the importance attached to innovation, entrepreneurship and competitiveness.

The integration of the OCTs within the Community's development cooperation is also the subject of increased criticism from Member States without OCTs and from ACP countries, as illustrated during the negotiations on the 10th EDF Internal Agreement, for instance. The main reason for this criticism is that the OCTs benefit from development aid financed from the EDF, even though certain OCTs can hardly be considered as 'developing countries', no OCT is qualified as a low income territory⁹, they are not part of the ACP-EC Partnership Agreement and they are not covered by the provisions of the EC Treaty on development cooperation. In addition, the level of aid per capita granted to the OCTs and financed from the EDF is significantly higher than the ACP average¹⁰, which is due to the fact that the OCTs are more closely linked with the EU than the ACP countries, but is not related to the OCTs' needs as such.

On the one hand, it seems indeed reasonable that development cooperation should in the first place benefit the countries that need it most. On the other hand, it is unfair to focus solely on per capita income as an indicator of the OCTs' needs, as this would fail to take into account their vulnerability as micro-island economies and in particular the fact that their small size and their dependence on a very narrow economic base severely affect their institutional capacities and their development potential. Moreover, it should be borne in mind that several OCTs are heavily dependent on financial transfers from their related Member States, which ensures a relatively high level of social and public service but may also result, for example, in a very large and predominant public sector and an underdeveloped private sector.

⁹ According to the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD/DAC). See Annexes I and II attached to the present Green paper for more details.

¹⁰ See footnote 4 above.

Nevertheless, the challenges related to the OCTs' vulnerability as micro-island economies do not necessarily require a classical development cooperation approach. On the contrary, the sustainable development of the OCTs in today's globalised world seems best served by increasing their competitiveness and their gradual integration within regional and world markets, taking due account not only of the challenges they face, like high production and transport costs, diseconomies of scale and a relative lack of institutional capacity, but also of their potential, such as their expertise in certain areas, the relatively high level of education of their populations compared to neighbouring countries, or the availability of certain natural resources. Moreover, environmental concerns merit special attention given both the OCTs' fragility in the face of climate change and their potential based on their biodiversity.

In order to take into account the OCTs' vulnerability, it would not be a durable solution to resort simply to making exceptions to the current rules and procedures instead of defining a real strategy towards the OCTs, because merely making exceptions to the Community's development policy would undermine the coherence of this policy as set out in the European Consensus on Development¹¹. Moreover, this would be diametrically opposed to the positions expressed by a number of Member States without OCTs. It is thus essential to have a discussion first on policies, not procedures.

Question 2: Do you agree that we should move to a new approach with the OCTs distinct from the classical development cooperation approach (based on the fight against poverty)? If so, what kinds of actions would you propose in order to better promote the sustainable development of the OCTs and the strengthening of their competitiveness and resilience?

¹¹ Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: 'The European Consensus' (OJ C 46 of 24.2.2006, p. 1).

3.1.3. *Mutual interests*

The OCTs are located in more or less remote geographical regions all over the world. Despite their location outside the EU's external borders, the OCTs and the Member States to which they are linked often point to the strategic importance of the OCTs as the 'ultimate frontiers of Europe' or the 'outposts of the EU', namely because they are part of or at least closely linked to an EU Member State. This raises a double question: What is the actual strategic importance of the OCTs for the EU as a whole? And what kind of responsibilities should this entail for the OCTs as regards the role they could play within their regions?

In the Caribbean, Pacific and Indian Ocean regions, the OCTs are neighbours of ACP states. Like the French outermost regions in the Caribbean and Indian Ocean, some of these OCTs have know-how that is not always available in their neighbouring countries and could usefully be shared with these countries. Similarly, OCTs could also actively contribute to the promotion of the 'European' values that they share on an as wide as possible geographical basis in their respective regions.

The idea has been put forward to help establish 'centres of experience and expertise' in the OCTs, facilitating the OCTs' role as bridgeheads between the EU and their respective regions. This could, for example, relate to the implementation and promotion of high standards in the field of the environment, the rule of law, good governance, respect for human rights, including minority rights, the promotion of good neighbourly relations, or the principles of market economy, innovation and sustainable development.

Also relevant are the ecological richness and different climatic conditions in the OCTs, which could offer great research potential. This is already the case in some OCTs, like in French Polynesia, where scientific projects on biodiversity are being implemented involving research institutes from France and the United States. Regarding Greenland, the exploitation of hydrocarbons and other minerals and the possibility of new sea routes across the North Pole could bring new opportunities.

However, the present partnership between the Community and the OCTs can hardly be considered as one based on reciprocal interests. In fact, the actual responsibilities incumbent upon the OCTs are limited to those of aid partners and beneficiaries of a non-reciprocal preferential trade regime. The partnership between the European Community and Greenland¹² could in a certain sense be considered as an exception, even though the actual responsibilities of Greenland in areas other than fisheries remain fairly minor (without prejudice to the policy dialogue with regard to the programme for the sustainable development of Greenland).

The actual responsibilities for the OCTs under the current partnership indeed remain quite limited. For example, the Overseas Association Decision clarifies that the objectives of the OCT-EC association are pursued by focusing, among other things, on the OCTs' gradual integration within the regional and world economies. In this respect, the decision also encourages inter-OCT and OCT-ACP regional cooperation, solidarity and integration, as well as the establishment of more balanced economic and social relations between the OCTs, ACP countries, Member States and other parts of the world. At the same time, the OCTs have on numerous occasions pointed to the role they could play as competitive bridgeheads between

¹² See Council Decision 2006/526/EC of 17 July 2006 on relations between the European Community on the one hand, and Greenland and the Kingdom of Denmark on the other (OJ L 208, 29.7.2006, p. 28).

the EU and their respective regions, which the Commission has welcomed. However, this implies increased cooperation within their respective regions and with the EU, the effective transfer of know-how and the implementation of high-quality standards. Yet, even though the decision contains provisions allowing for and insisting on regional cooperation between the OCTs and their neighbours (whether the Community's outermost regions, ACP states or other third countries), it does not provide actual incentives or responsibilities to do so, and, so far, the results remain rather limited in spite of the resources made available to the various partners concerned.

Another example of limited responsibilities under the present OCT-EC association relates to the OCTs' environmental legacy. Besides the significance of the OCTs' environmental sustainability for their own well-being, the preservation of the OCTs' biodiversity is of major importance for the Community and for the world at large, given its international dimension in terms of research, the sustainable exploitation of natural resources and the fight against climate change. However, the current Overseas Association Decision does not confer any responsibilities on the OCTs to engage effectively in environmental protection and conservation activities according to Community standards, in the monitoring of the regularity of fisheries activities, in effective pollution control measures and adequate emergency response capacities where new commercial possibilities could be exploited, or in scientific cooperation with European research institutes and teams from Member States other than those to which the OCTs are linked. Several OCTs do adhere to exemplary environmental standards that are equivalent to Community standards, but this cannot be said to be general practice in all the OCTs, which often show patterns of unsustainable ecosystem use.

All the OCTs are characterised by a biodiversity that is much richer than in continental Europe as a whole. These insular and isolated countries and territories constitute privileged locations for the development of endemic species, whether animal or vegetable and terrestrial or maritime: for example, New Caledonia has more than 2 000 endemic plants and more than 1 600 fish species. 200 coral species have been identified in Mayotte. The OCTs are also important places for migrating species: a very large proportion of black-browed albatrosses reproduce in the Falkland Islands, in South Georgia, and in the archipelagos of Crozet and Kerguelen (which are part of the French Southern and Antarctic Territories), Greenland hosts 25 species of marine mammals, and humpback whales migrate to French Polynesia to reproduce. The OCTs are thus of major importance for world biodiversity. Sustainable use and protection of this biodiversity would benefit from better scientific documentation and access to research results. The Commission is of the opinion that the biodiversity and other natural assets of the OCTs could be the basis for strengthened cooperation in the field of research and conservation.

The OCTs' potential as regards biodiversity is already recognised at international level, through the development of scientific projects to gain a better understanding of ecosystems, the way they interact and their importance for the worldwide environmental balance. These research projects also aim to find solutions to safeguard this potential, which is highly threatened, for example by the introduction of non-endemic species that destroy existing habitats or supplant endemic vegetation (like goats in Bonaire and Curacao, miconia in French Polynesia and New Caledonia, etc), or by the impact of climate change on corals. The international community feels increasingly concerned about the loss of biodiversity. In its communication of 22 May 2006 entitled 'Halting the loss of biodiversity by 2010 and beyond — Sustaining ecosystem services for human wellbeing', the European Commission for its part emphasises that 'effective action in the biodiversity-rich overseas countries and territories of Member States is vital to the EU's credibility in this international arena'.

The Commission is also keen to develop a more active partnership with the OCTs as regards cooperation in other areas such as economic policy, enterprise, employment and social policy, trade and investment, infrastructure (including with regard to the Galileo system, as OCTs are potential or real candidates for the development of ground infrastructures), research, maritime affairs and governance of the sea, energy supply, energy efficiency and renewable energy sources, good governance (including in the tax, financial and judicial area), civil society development, cultural exchanges, the media, education and training, migration, and the fight against organised crime, trafficking of human beings, terrorism, money laundering, tax fraud, tax evasion, drugs and illegal, unreported and unregulated fishing, as well as administrative, police and judicial cooperation. Moreover, cooperation in the field of both sea and air transport — including as regards the Common Aviation Area — can significantly contribute to the integration of OCTs within their region and to a closer relationship between the OCTs and the Community.

In any event, the possibilities for action in the mutual interest of a given OCT and the EU (and neighbouring developing countries) depend on that OCT's potential and willingness to develop and share certain assets, and on the attractiveness of these assets for the EU, neighbouring countries or other potential partners, as well as on the EU's readiness to cooperate more actively in the domain in question with that OCT. In this respect, it is essential to take into account the OCTs' enormous diversity, and in particular the situation of OCTs that are extremely isolated because of geographical, political or other reasons. An important challenge also relates to the role and influence of certain countries in the different regions in which the OCTs are located — like the United States, Brazil and Venezuela in the Caribbean, or the United States, Japan, China, Australia and New Zealand in Pacific.

In 2003, the OCTs and the Member States to which they are linked indicated that moving towards a genuine partnership should be accompanied by the conclusion of an agreement (to be supplemented if necessary by individual protocols) instead of the adoption of a decision by the Council. However, the present Green Paper does not examine such considerations, since Article 187 of the EC Treaty explicitly provides that the detailed rules and procedures for the OCT-EC association are to be laid down by the Council.

Question 3: How could the partnership between the OCTs and the EU become more active and reciprocal, in the mutual interest of both partners? Which actual responsibilities should this entail for the OCTs or the Member States to which they are linked (within the limits of their constitutional competences)?

Question 4: What are, in your view, the most important domains of mutual interest for cooperation between the OCTs and the EU?

Question 5: What could be the advantage for the OCTs of increased regional cooperation and integration? How could a transfer of knowledge and know-how between the OCTs and their neighbours be encouraged?

Question 6: What is your opinion on a possible reinforcement of the political dialogue between the EU, an OCT and the Member State to which it is linked, in particular in situations where the interests of the EU and the OCT concerned would differ?

3.2. The trade arrangements between the Community and the OCTs

No review of the present trade arrangements between the Community and the OCTs can take place without taking into account the changes in the wider world, which affect the Community and the OCTs themselves, as well as the OCTs' principal trading partners and in particular their ACP neighbours. The Community has for many years consistently supported regional economic integration as a priority for the ACP states, because integration regionally and within multilateral trading systems offers new trade opportunities that could lead to economic growth and thus a path out of poverty for these countries. This is also the underlying rationale of the development cooperation logic of the Economic Partnership Agreements (EPAs) negotiated with the ACP states.

It is also a fact that the theoretical benefits offered to the OCTs by the current OCT-EC trade regime in terms of preferential access to the Community market are eroding as a result of progressive trade liberalisation on a global and regional scale. This is an inevitable process for which the OCTs need to prepare, in particular because the OCTs already benefit from the most generous tariff regime ever granted by the Community, which leaves no real room for improving their preferential access to the EU market.

In this context, the Commission has since 2003 invited the OCTs located in an ACP region and the Member States to which they are linked to examine their position on the regional economic integration of these OCTs with their neighbouring ACP countries, and what these OCTs stand to lose or gain from participating in such regional economic integration. This is also of particular relevance with regard to rules of origin and namely cumulation of origin between OCTs and ACPs.

In addition, a modernisation of the rules of origin (primarily regarding fisheries products), tailored to the OCTs' specific situation, or the strengthening of the OCTs' capacities to comply with obligations on imports of goods into the Community, for example in the sanitary and phytosanitary field (which also represents a key element in the EPAs), could help maximise the benefits that the OCTs derive from the OCT-EC trade regime despite the decreasing theoretical value of their tariff preferences. In the same vein, the current transshipment procedure should be subject to a critical assessment.

With reference to the Commission staff working paper attached in Annex IV to the present Green Paper, the Commission would like to know your view on the following questions :

Question 7.1: What are in your view the benefits of greater regional economic integration that could present an advantage for certain OCTs in response to globalisation and the erosion of their trade preferences vis-à-vis the Community?

Question 7.2: How could the OCTs engage in wider regional trade and how could the Community facilitate this?

Question 8.1: What is your view on the added value for OCTs of OCT-ACP cumulation of origin?

Question 8.2: By which OCTs and how often is OCT-ACP cumulation used? Does it involve the sourcing of raw materials from ACP states and their transformation on the spot in OCTs?

Question 8.3: How can the modernisation of the rules of origin be adjusted to the specific situation of the different OCTs?

Question 9.1: What is in your view the added value of cooperation with the OCTs in trade-related areas in response to globalisation and the erosion of their trade preferences vis-à-vis the Community?

Question 9.2: How could the OCT-EC association contribute to improving the situation in OCTs more actively in this regard?

Question 10.1: What is your opinion on the real added value of the existing transshipment procedure in the current Overseas Association Decision?

Question 10.2: How could the OCT-EC association be adapted to better promote the development of transport (air, road and harbour) infrastructure?

Question 10.3: Do you have suggestions regarding other ways to help make well-developed but under-utilised harbour infrastructure in OCTs more competitive?

3.3. The OCTs' specific characteristics

On 2 October 1997, the Conference of the representatives of the governments of the Member States that adopted the Treaty of Amsterdam made a declaration on the OCTs in which it called for a review of the OCT-EC association arrangements with the objective of, among other things, taking greater account of the diversity and specific characteristics of the individual OCTs¹³. Consequently, the 2001 Overseas Association Decision introduced a number of innovations in this respect. Whereas until the 8th EDF, programmable aid was divided among the French, Dutch and British OCTs as a group, leaving it up to the Member States concerned to allocate these resources between their own OCTs, the 2001 Overseas Association Decision introduced the allocation of Community financial assistance directly to individual OCTs and provided for greater subsidiarity as regards the management of the financial instrument. It also included provisions on the needs of the most isolated and least developed OCTs. However, based on the experience acquired since then, a number of further challenges concerning the OCTs' vulnerability and diversity should now critically be assessed, without prejudice to the questions raised above.

More precisely, with reference to the Commission staff working paper attached in Annex V to the present Green Paper, the Commission would like to know your view on the following questions:

Question 11: How should the Community's promotion of the sustainable development of the OCTs relate to their actual vulnerability as micro-island economies?

Question 12: What is your opinion on the establishment of an index to measure the relative vulnerability of the OCTs, allowing comparison not only between the OCTs, but also with other countries and territories? If such an index is to be established, which criteria should be used?

¹³ Declaration No 36 on the Overseas Countries and Territories annexed to the Final Act of the Conference of the representatives of the governments of the Member States that adopted the Treaty of Amsterdam (OJ C 340, 10.11.1997).

Question 13: In view of the exposure of many OCTs to natural disasters, how should Disaster Risk Reduction be included in future OCT-EU relations?

Question 14: How could the OCT-EC association be adapted to take greater account of the OCTs' diversity without increasing the administrative burden for the OCTs and the Commission?

4. CONCLUSIONS

The EC Treaty states that the purpose of the association of the OCTs with the European Community is to promote the economic and social development of the OCTs and to establish close economic relations between them and the Community as a whole. Moreover, it lays down the trade-related objectives and basic principles of this association. However, within the limits of the EC Treaty, there is a very large room for manoeuvre to modernise relations between the EU and the OCTs, in order to adapt them to the reality in the field, the specific situation of the OCTs as micro-island economies scattered all over the world and the potential they offer, as well as the wider international context and regional realities, while fully taking into account the unique status of the OCTs in relation to the Community.

In order to pave the way towards the future, the present Green Paper is intended to spark a broad public discussion on a number of essential questions regarding any substantial modernisation of the OCT-EC association, so that the Commission will eventually be able to determine the appropriate policy response on best possible informed basis, with the objective of defining a new long-term strategy for the association of the OCTs with the Community, which will fully or partly replace the current one when the present Overseas Association Decision expires on 31 December 2013. This remains without prejudice to a possible revision of the Decision before the end of 2011, in accordance with its Article 62.

The period of public consultation will commence on 1 July 2008 and end on 17 October 2008.

The European Commission invites you to submit your contribution using the electronic form that you can find on its website at the following address:

http://europa.eu/yourvoice/consultations/index_en.htm

Received contributions will be analysed carefully by the Commission in order to pave the way towards the definition of a new policy towards the OCTs. More precisely, contributions will be examined to see whether, and to what extent, the views expressed can be accommodated in future policy proposals pertaining to the OCTs. Received contributions will be published on the Internet, together with the identity of the contributor, unless the contributor objects to publication of the personal data on the grounds that such publication would harm his or her legitimate interests. In this case the contribution may be published in anonymous form. Otherwise the contribution will not be published nor will, in principle, its content be taken into account. Organisations are asked to identify themselves. The Commission will acknowledge receipt of the contributions received, but without necessarily providing an individual response with regard to their content.

In order to provide adequate feedback to responding parties and to the public at large, explanatory memoranda accompanying legislative proposals or a communication by the Commission on relations between the EU and the OCTs will include the results of this consultation and an explanation as to how its results were taken into account.

You are encouraged to use the electronic response form, which will make it easier to process your opinions during this consultation.

You may, however, also send a written contribution to the following address:

Green Paper on the future relations between the EU and the OCTs

European Commission

Directorate-General Development and Relations with African, Caribbean and Pacific States

DG DEV/D/1

SC-15 07/130

B-1049 Brussels

For enquiries, you can also send an email to: DEV-DIR-D@ec.europa.eu