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IMPACT ASSESSMENT

Accompanying the document

COUNCIL DECISION

**on the association of the overseas countries and territories with the European Union
("Overseas Association Decision")**

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LIST OF ACRONYMS

ACP	African, Caribbean and Pacific States
ACS	Association of Caribbean States
ASEAN	Association of South East Asian Nations
AVE	Ad Valorem Equivalent
CARICOM	Caribbean Community and Common Market
CARIFORUM	Caribbean Forum of ACP States.
CFP	Common Fisheries Policy
CET	Common External Tariff
COMESA	Common Market for Eastern and Southern Africa
COMTRADE	Commodity Trade Statistics
CSME	CARICOM Single Market and Economy
DDA	Doha Development Agenda
DFQF	Duty Free and Quota Free
EAC	East African Community
EBA	Everything But Arms
EDF	European Development Fund
EEN	Europe Enterprise Network
EIB	European Investment Bank
EPA	Economic Partnership Agreement
ERDF	European Regional Development Fund
ESA	Eastern Southern Africa
EU	European Union
EUR	Euro
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GSP	General System of Preferences
HS	Harmonised System Nomenclature
ILO	International Labour Organisation
ISG	Inter Service Group
IUU	Illegal, Unregulated, Unreported fishing

LDC	Least Developed Country
MacMap	Market Access Map
MDG	Millennium Development Goals
MERCOSUR	Mercado Común del Sur
MTF	Multi-Annual Financial Framework
MFN	Most Favoured Nation
NAMA	Non-Agricultural Market Access
NTB	Non-Tariff Barrier
OAD	Overseas Association Decision
OCTA	Association of the Overseas Countries and Territories
OCTs	Overseas Countries and Territories
OECS	Organisation of East Caribbean States
PACER	Pacific Agreement on Closer Economic Relations
PICTA	Pacific Island Countries Trade Agreement
SACU	Southern African Customs Union
SADC	Southern African Development Community
SPD	Single Programming Document
SPS	Sanitary and Phytosanitary Measures
STABEX	System for the Stabilisation of ACP and OCT Export Earnings
TBT	Technical Barriers to Trade
TFEU	Treaty on the Functioning of the European Union
TRIPs	Trade-related aspects of Intellectual Property Rights
UNCTAD	United Nations Conference on Trade and Development
UNECLAC	United Nations Economic Commission for Latin America and the Caribbean
US	United States
USD	United States Dollar
WITS	World Integrated Trade Solutions
WTO	World Trade Organisation

INTRODUCTION

Policy context of the renewal of the Overseas Association Decision

Part Four of the Treaty on the Functioning of the European Union (TFEU) associates the Overseas Countries and Territories (OCTs) with the European Union (EU). Article 198 of the TFEU stipulates that the purpose of the EU-OCT association is to promote the OCTs' economic and social development and to create close economic relations between them and the EU as a whole. It is also underlined that the association shall serve primarily to further the interests and prosperity of the inhabitants of the OCTs, in order to lead them to the economic, social and cultural development to which they aspire.

Since 1958, the detailed rules and the procedure for this association have been laid down by the Council of the EU through successive Overseas Association Decisions (OADs)¹. The present OAD will expire on 31 December 2013. The revision process of this Decision, conducted within the limits of the TFEU, is underway and should lead to a legislative proposal for a new OAD, expected to enter into force on 1 January 2014. This legislative proposal will be based on a holistic review in the context of this impact assessment and which has involved the European Commission, the OCTs, their Member States and other stakeholders. In line with Council Conclusions 17801/2009 of 22 December 2009 on the EU's relations with the OCTs, the legislative proposal should aim at renewing the association, as well as focusing its areas of cooperation around priorities recognised by all parties as being of mutual interests.

According to Article 203 of the TFEU, the legislative proposal will lay down the provisions as regards the detailed rules and the procedure for the association of all OCTs with the EU, irrespectively of their level of wealth or other specific characteristics of individual OCTs. It will set the legal framework and define the General Framework of the EU-OCT Association, the possible areas of cooperation between the EU and the OCTs, the trade regime that will govern the exchanges and the cooperation in that field between OCTs and the EU as well as the different financial instruments to which OCTs will be eligible to (11th EDF and the horizontal programmes). This homogeneous framework will be further detailed, as far as EU financial assistance is concerned, at the programming stage with each beneficiary OCT in order to identify the areas of cooperation where EU's aid would be the most effective in view of meeting the objectives of the association. In that respect, special consideration will be given to the specific economic, social and environmental situation and needs faced by the concerned OCT.

The legislative proposal for a Council Decision forms part of the European Commission's work programme for 2012.

¹ 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 314/1, 30.11.2001), amended by Decision 2007/249/EC (OJ L 109/33, 26.04.2007).

Brief presentation of the OCTs²

OCTs are islands located in the Atlantic, Antarctic, Arctic, Caribbean, Indian Ocean and Pacific regions. They are not sovereign countries but depend on four Member States of the EU: Denmark, France, the Netherlands and the United Kingdom. The association of the OCTs with the EU flows from the constitutional relations that these countries and territories have with the four Member States.

Table 1: The OCTs associated with the EU

UK	NL	FR	DK
Caribbean			
Anguilla	Aruba	Saint-Barthélemy	
British Virgin Islands	Bonaire		
Cayman Islands	Curaçao		
Montserrat	Saba		
Turks and Caicos Islands	Sint-Eustatius		
(Bermuda) ¹	Sint-Maarten		
Pacific			
Pitcairn		French Polynesia	
		New Caledonia	
		Wallis and Futuna	
Indian Ocean			
British Indian Ocean Territory		Mayotte	
Northern Atlantic			
		Saint-Pierre et Miquelon	Greenland
Southern Atlantic and Antarctic			
Saint Helena, Ascension Island, Tristan da Cunha		French Southern and Antarctic Territories	
Falkland Islands			
South-Georgia and the South Sandwich Islands			
British Antarctic Territory			

¹ Though Bermuda is mentioned in both the TFEU and the OAD, it has asked that the association arrangements would not apply.

In general, OCTs have wide ranging autonomy, covering areas such as economic affairs, employment market, public health, home affairs and customs. Defence and foreign affairs

² See Annex 10 for a brief presentation of each inhabited OCT

usually remain within the remit of the Member States. The OCTs are not part of the EU's customs territory and are outside the Internal Market. The EU legislation does not apply.

Being nationals of the EU Member States to which their countries and territories are constitutionally linked, OCT inhabitants hold EU citizenship. The OCTs' total population represents only 0.02% of the world population (1.2 million). Their total land mass represents only 80,000 sq km³.

1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1. Organisation and timing

The preparation of the new Overseas Association Decision OAD has been carried out under the lead of DG Development and Cooperation - EuropeAid. The drafting of this Impact Assessment report has been coordinated by the Inter-service Group (ISG) for Overseas Countries and Territories, acting as Impact Assessment Steering Group and composed by representatives of all relevant services⁴. It aimed at ensuring consistency of the proposals developed within this report with other EU policies and duly took into consideration the consultations, reviews and studies mentioned in Section 1.3. The European Investment Bank was also consulted.

Given the wide scope of the OAD, specific working groups conducted detailed analysis of environmental issues and climate change on the one hand and of trade and trade related aspects on the other hand. These working groups delivered specific reports that are attached as Annexes 11 and 12 to the present report.

Given that EU financial assistance to OCTs have been financed by the European Development Fund (EDF) so far and that the European Commission have proposed to continue this funding for the next multi-annual financial framework (MFF), this impact assessment took into consideration the Impact Assessment conducted in the context of the preparation of the proposal for the 11th EDF⁵.

1.2. Impact Assessment Board (IAB)

Two versions were successively submitted to the Impact Assessment Board which delivered its opinions on 17 February 2012 and on 7 May 2012. IAB's comments were incorporated in this revised version of the report. In particular, the following changes were made: the scope of the OAD was better explained in the introduction in order to underline the fact that the OAD will apply to all OCTs, irrespectively of their level of wealth or other specific characteristics. The outcome of past consultations, studies and evaluations was better explained (section 1.3 and Annexe 5) and linked to the underlined drivers. Furthermore, the problems were better identified and linked to the objectives and policy options (in that regard two tables were added for clarity). International financial services and taxation issues were incorporated in the

³ Not counting Greenland (the world's largest island) and the British Antarctic Territory, which respectively account for 2.2 million and 1.7 million km².

⁴ The ISG met on 13 September, 4 October and 30 November 2011, and 10 and 12 January 2012. See Annex 3 for participating Commission services.

⁵ Commission Communication COM(2011) 837 of 7 December 2011. See the accompanying Commission staff working paper SEC(2011) 1459 for an Impact Assessment dedicated to the European Development Fund.

report. Policy options were revised in order to clearly explain the shortcomings of the current OAD and the discarded policy options were mentioned in the report. The options were compared in terms of effectiveness, efficiency and coherence. Furthermore, the report fully integrates and references the findings in the annexes. The specific reports on environmental issues on the one hand and on trade issues on the other hand were incorporated in the report as annexes and were referenced where necessary as appropriate in the main report. Finally, former Annex 4 has been incorporated, as requested, in the main text and a glossary (Annex 2) was added.

1.3. Consultation and expertise: review of consultations, studies and evaluation reports

In accordance with the greater emphasis placed on consultation and expertise as a tool to inform policy making, the present report takes account of a wide range of consultations, studies and evaluation reports.

Outcome of stakeholders' consultation

The revision of the OAD has been the subject of various stakeholders' consultations throughout the period 2008-2011. These include public consultations, but also ad hoc regular meetings between the OCTs, the Member States to which they are constitutionally linked and the European Commission, as well as dialogue foreseen under the association such as the annual Forums, the regular trilateral meetings, or the partnership working parties dedicated to environmental issues, trade issues, regional integration of the OCTs, financial services in the OCTs and the future EU-OCTs relations.

The outcome of stakeholders' consultation highlighted the following issues:

Paradigm shift and new policy priorities

In their replies to the Green Paper⁶, stakeholders called for a change of the association's current focus on poverty reduction and development cooperation to a more reciprocal relationship focused on the sustainable development of the OCTs (i.e. a development model that conciliates economic activities and social well-being in the long run while preserving natural resources and ecosystems for future generations), which could, at the same time, support the promotion of EU values and standards in the wider world.

This was highlighted during the interventions at the stakeholders' conference in October 2008 which gathered over 100 interested parties from the OCTs' authorities, their Member States, the EU's institutions and bodies and civil society at large.

The Council of the European Union in its Conclusions of 22 December 2009⁷ welcomed and expressed support to the change of paradigm.

⁶ Green Paper COM(2008) 383 of 25 June 2008. A synthesis of the different contributions is provided in Annex 5.

⁷ Conclusions 17801/09

In a Joint Position Paper⁸ adopted in February 2011, the OCTs and their Member States called for a better recognition of the OCTs as part of the European family, an association further based on the mutual interests of the EU and the OCTs and a focus on potential and vulnerabilities of the OCTs. The document also draws the attention to the issues of preference erosion and other trade related issues and building capacity, and calls for the EU to recognise the efforts the OCTs have made in complying with international standards in the area of tax governance and the regulation of financial services.

It was also underlined that issues relating to environment, climate change and disaster risk reduction should constitute a priority for the future EU-OCT relations: sustainable use and protection of OCTs biodiversity and natural resources, environmental security, energy and renewable energy, ecosystems conservation, fight against climate change impacts and mitigation, preparedness and response to disasters, invasive species, sustainable fisheries. Stakeholders⁹ called for an enhanced cooperation of the EU with the OCTs and Outermost regions in the field of conservation of biodiversity and ecosystems services.

EU's solidarity with the OCTs

Solidarity between the EU and OCTs should be based on the fact that OCT inhabitants, as nationals of the related Member States, were also EU citizens. It was underlined that by helping OCTs to strengthen their competitiveness and resilience, reduce their vulnerability and implant themselves in their regional environment, the EU would actually be investing in strategic outposts able to promote EU values in the world.

Lessons and conclusions from studies

The EU-OCT association was analysed in various studies¹⁰, commissioned either by the European Commission or by the OCTs. These studies covered topics such as the trade regime contained in the OAD, the OCTs' environmental profiles, OCT statistical systems and capacities, OCT disaster preparedness as well as the cooperation of the EU with the OCT during the period 1999-2009¹¹. This latter evaluation was presented and discussed with the stakeholders on the occasion of the annual OCT-EU Forum in March 2011.

The main conclusions of these studies are:

Financial assistance to OCTs¹²

The external evaluation study conducted in 2011¹³ found that the EU-OCT financial cooperation in the period 1999-2009 (under the 8th and 9th EDF as well as under the

⁸ See:
<http://www.octassociation.org/Visual%20Identity%20and%20Publications/Reports/joint%20position%20280211.pdf>

⁹ In July 2008 a conference on "The European Union and its Overseas Entities: Strategies to counter Climate Change and Biodiversity Loss" was held in La Réunion Island gathered representatives of the European Commission, European Parliament, public authorities and civil stakeholders from the OCTs, outermost regions of the EU and EU Member States.

¹⁰ See Annex 1: list of references of all the documents and studies considered in the impact assessment.

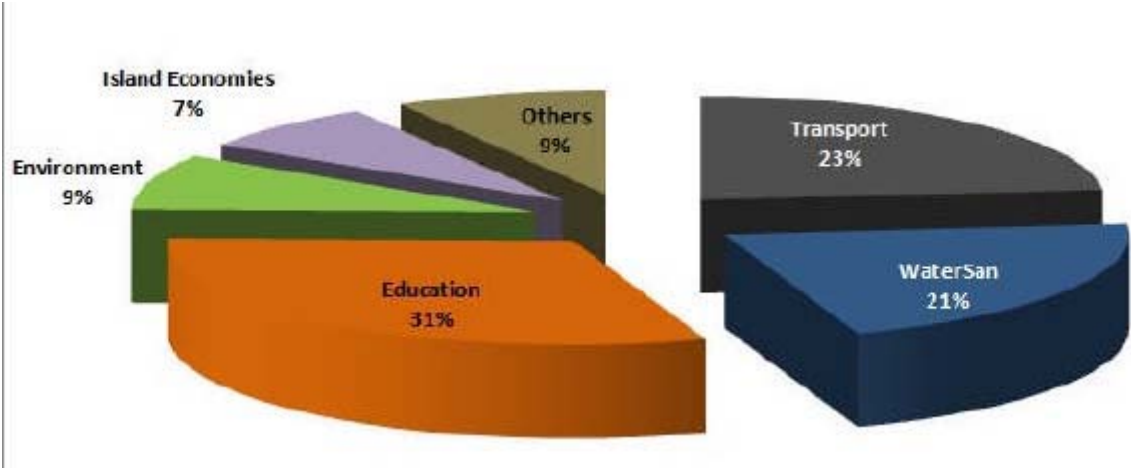
¹¹ ECO Consult et al., Region Level Evaluation: Overseas Countries and Territories (OCT), contract N° EVA 2004/geo-acp, Final Report, July 2011 (hereafter ECO consult et al. (2011)).

¹² An overview of the available sources for financing cooperation with OCTs during 2007-2013 period is provided in Annex 6.

¹³ ECO Consult et al. (2011), Region Level Evaluation: Overseas Countries and Territories.

Greenland budget lines) was coherent with both the association's objectives and the OCTs' political priorities.

Out of EUR 380 million committed, 31% were dedicated to education (e.g. skills development in mining industry, a sector with export potential in New Caledonia), 23 % to transport infrastructure (e.g. upgrade of harbours, air-ports and road infrastructure to improve connectivity of Saint-Pierre et Miquelon, St. Helena, Ascension Island and Tristan da Cunha, Anguilla, New Caledonia, Turks and Caicos and Montserrat with the world), 21 % to water and sanitation infrastructure, 9 % to environment (management and protection of resources, disaster preparedness and waste management), 7 % to island economies and 9 % to activities such as technical assistance and cooperation on trade and trade related areas (e.g. support to trade in services, notably in the area of tourism in Montserrat or support to trade development of Falkland Islands, including key export sectors, such as fisheries, aquaculture, meat production and tourism).



Despite the positive results obtained, the study recommended that the current association framework be revised so as to better adapt the financial assistance framework to political priorities that have recently emerged as well as the needs and realities of OCTs. It has to be noted that this aspect falls within the scope of the powers of the Commission to administratively manage EU financial assistance and therefore it is not addressed in the OAD. It will be detailed in the Commission Regulation implementing the OAD.

The study also highlighted that there was a need to foster cooperation between OCTs and their neighbouring countries was also identified as a means to reach efficiency. In this respect, the study highlighted that cooperation between the OCTs and their neighbours (third countries, ACP States or outermost regions of the EU) is insufficiently facilitated by the EU.

Access to EU programmes and horizontal budget lines¹⁴ has, despite the full eligibility of the OCTs to these programmes, proven difficult to implement, due primarily to lack of administrative capacity in most OCTs. The OCTs are more than willing to participate in the different programmes, yet there is need for better information and guidance in the application process.

The study recommended that the current association framework be revised so as:

¹⁴ An overview of the programmes and budget lines referred to in Annexes II E-F of the OAD is provided in Annex 6 of this report.

- (a) to incorporate the political priorities mentioned above in the programming the themes and political priorities that have emerged in the last decade;
- (b) to promote cooperation between OCTs and their neighbouring countries, amongst others through a better coordination and coherence of EU actions and strategies in relation with the different actors;
- (c) to facilitate access to EU horizontal programmes, notably through information sessions and/or seminars financially supported by a dedicated envelope or by means foreseen in each programme.

*Trade and trade related issues*¹⁵

In their overall assessments of the OCT trade regime, OCTs, their Member States as well as external evaluators all agree that the trade and economic component of the EU-OCT association has contributed to the sustainable social and economic development of OCTs by providing OCTs a secure access to the large EU market, providing numerous export opportunities, and supporting local economies. Echoing the conclusion of an earlier external evaluation of the 9th EDF¹⁶, ECO Consult et al. (2011) stated that EU-OCT cooperation programmes and projects under the 8th and 9th EDF had been highly relevant to the individual OCTs' needs as well as coherent with both the association's objectives and the OCTs' own priorities¹⁷. As regards coherence between EU support to the OCTs and other EU policies (migration, trade, fisheries etc.) ECO Consult et al. (2011) found no marked contradictions or inconsistencies¹⁸.

Even if the OCT trade regime has provided levers for the OCTs' economic development, certain areas of improvement were identified. LUFF et al. (2010) and others have pointed out that while the EU offers OCT wide market access, this has not always translated in actual trade opportunities, as OCTs faced several challenges to effectively exploit the market access that was offered. The challenges not only relate to structural difficulties OCTs face, such as the size of their economies and their enterprise, the remoteness of their territories or even the absence of OCT trade policies, but also have to a certain extent to do with the EU rules and conditions which define the OCTs' actual market access. The studies also point out that the relative worth of the OCTs' duty free and quota free market access is decreasing as a result of progressive trade liberalisation on a global and regional scale. Finally, the studies highlighted that compared to the arrangements for trade in goods, the OAD arrangements for trade in services were relatively underdeveloped.

The recommendations of external evaluators were:

- (a) to adapt the arrangements concerning trade in goods so as to better take into account structural difficulties (small sized economies, enterprises, administrative capacity), amongst others by introducing more flexible rules of origin for OCT goods exports to the EU;

¹⁵ For a more detailed analysis of trade and trade related issues, see the dedicated report Annex 12

¹⁶ BURKE et al. (2006)

¹⁷ ECO Consult et al. (2011), p. 38.

¹⁸ Idem, pp. 81-83.

- (b) to allow for the possibility for OCTs to engage in more favourable trade relations with other OCTs and developing countries, so as to reflect the increasing importance that trade in services has gained in world and regional economies in the last decade and to facilitate regional integration in this area;
- (c) to foresee support and capacity building for the development of OCT trade related policies as well as to assist OCTs in regulatory reform;
- (d) to support dissemination within OCTs of information regarding the conditions defining access to the EU market (e.g. European technical, food and consumer health regulations);
- (e) to maintain the direct dialogue between the European Commission and the OCTs on e.g. trade and trade related issues and ensure that OCT interests are taken into account in the context of EU trade negotiations.

One example of the difficulties that OCTs have encountered in accessing the EU market relates to the rules of origin and the requirements for OCT fish exports to the EU. One of the requirements concerns the nationality of the crew that operate the fishing vessels that catch fish outside an OCT's territorial waters¹⁹. For example, due to their remoteness and small size population, the Falkland Islands have had difficulties in complying with this requirement. As a consequence, the Falkland Islands are dependent on temporary derogations from the rules of origin to ensure that its fish products caught outside territorial waters can be exported to the EU free of duty.

Another example of problems relating to the rules of origin which OCTs have encountered relate to the possibilities for OCTs to cumulate their own materials and materials from third countries in view of exporting originating goods that may enter the EU market duty free and quota free. Presently, the OAD allows OCTs to cumulate materials from other OCTs, ACP States or from EU Member States. However, for certain OCTs, such as the isolated OCTs (e.g. Greenland and Saint-Pierre et Miquelon) cumulation with ACP States or EU Member States is either not interesting or not feasible as these partners are located too far away. These OCTs are more interested in cumulation possibilities with other third countries, such as Canada, which is currently not allowed under the OAD, unless derogations are granted.

*Environmental issues*²⁰

The study "OCTs environmental profiles"²¹ identified the following main concerns of the OCTs:

- climate change,
- natural disasters,
- threats to wildlife and biodiversity, habitat destruction,

¹⁹ According to the rules of origin, at least 50% of the crew needs to have the nationality of either an OCT, an ACP State or an EU Member State.

²⁰ See Annex 11, sections 1.2, 2.2 and 2.3.

²¹ OCTs environmental profiles – NIRAS PINSISI Consortium Partners; Service contract 2006/12146; January 2007.

- illegal, unregulated and unreported fishing,
- waste management,
- water supply and sanitation.

Another external study²² on the cooperation of the EU with the OCTs during the period 1999-2009 concluded that environment and climate change adaptation are regarded as matters of vital importance to the OCTs. However, only few concrete results of the EU-OCT cooperation were found in this field due to limited funding, despite the recognition of the importance of the environment, the reality of climate change and the importance of disaster preparedness. The study therefore recommended that for the post 2013 EU-OCT relationship, the association framework should be revisited in order to better respond to new and emerging priorities in the OCTs, such as energy and climate change and to address new objectives such as sustainable management of natural resources and conservation of biodiversity.

The Communication²³ from the Commission of 6 November 2009

The outcome of the public consultation process and the conclusions from the studies were taken into account by the European Commission in its proposals for the orientations of the future association of the OCTs with the EU. In its Communication of 6 November 2009, the Commission recognised the necessity for the EU-OCT association to focus more on a partnership based on the mutual interests of the EU and the OCTs rather than on the fight against poverty. The Communication identified three central objectives in order to pursue the purpose of the association as stated in Article 198 TFEU: (i) enhancing OCTs' competitiveness, (ii) reducing their vulnerabilities and (iii) promoting their cooperation with other partners.

1.4. Statistical Data

The analysis in this report is based on both qualitative and quantitative data, where available. An important reservation needs to be made regarding the latter. The analysis below mainly draws on data directly available to the European Commission and external studies, one of which was specifically dedicated to OCT statistical systems and capabilities²⁴. For instance, the study found that whereas all of the OCTs that responded to its survey produced statistics relative to trade (exports and imports in broad categories, volume and value), these were not always publicly available (through websites, hard copies and/or CD-ROM). Among the reasons given to explain the lack of public availability of certain statistics the following four were most cited: lack of demand, provision only on demand, lack of financial resources and unreliability or non-conformity with international standards. Where statistics were publicly available, their publication was not always timely and the reference periods not up to date.

²² ECO Consult et al. (2011), Region Level Evaluation: Overseas Countries and Territories.

²³ Communication COM(2009) 623 of 6 November 2009 "Elements for a new partnership between the EU and the overseas countries and territories".

²⁴ Analysis of the Statistical Systems in the OCTs and Recommendations Aiming at Enhancing Statistical Systems of OCTs, Framework Contract Beneficiaries – Lot 11, N° 2010/253401/1, Draft Final Report, September 2011.

Also, the available statistics were not always in conformity with internationally agreed nomenclatures²⁵.

2. PROBLEM DEFINITION

2.1. The problem requiring action and the scope of the decision

2.1.1. The problem

Since the adoption in 2001 of the current OAD, the regional and international environments in which OCTs operate has considerably changed. New political priorities have emerged at European and international level, (such as environment, climate change, sustainable management of natural resources) as well as changes in global trade patterns. The European Commission proposed a strategy²⁶ articulated around three priorities: smart growth, sustainable growth and inclusive growth as a response to the economic and financial crisis.

For their part, the OCTs continue to face economic and social problems and/or struggle to found their economies on a sustainable basis. They are confronted with a number of difficulties linked to their fragile environments and the need to secure the environmental pillar of sustainable development.

2.1.2. Main challenges

Based on the results of the various studies and consultation of stakeholders, it appears that the main challenge OCTs face consists in putting their economies and societies on a sustainable development path by improving their competitiveness, reducing their vulnerability, increasing environmental resilience, and cooperating with their neighbours and integrating in the regional and/or world economies, where this is possible.

Economic challenges

OCT economies all have, in general, small-sized domestic markets due to their small populations. Trade development therefore often represents an important potential for OCT economic development. However, OCT production bases are generally small and economic activity is often concentrated in a few sectors.

As net importers all of them face structurally negative trade balances with the rest of the world, even if between 2004 and 2008 overall OCT exports grew 9% annually from USD 1.2 billion to USD 1.8 billion. In the same period, however, OCT imports increased with 10% every year from USD 3.4 billion to USD 5.9 billion²⁷. OCT exports are generally concentrated in a few sectors.

²⁵ Idem, pp. 43-44 and 52. Often different versions and combinations were used, at different levels of analysis, of national and international classification systems such as the Harmonised System (World Customs Organisation), the Standard International Trade Classification (UN) and the Broad Economic Classification (UN).

²⁶ Communication COM(2010) 2020 final of 3 March 2010 "Europe 2020 – A strategy for smart, sustainable and inclusive growth"

²⁷ ECO Consult et al. (2011), Region Level Evaluation: Overseas Countries and Territories, pp. 75-76. For more information about the OCTs' trade profiles, see the report on trade and trade related aspects of the OAD in Annex 12, notably pp. 90-102.

For some OCTs, economic ties with the EU are of great importance, but in general OCT/EU trade tends to be one-sided. For other OCTs, the economic ties between them and the EU remain limited. The tendency for OCTs to run trade deficits is reflected in OCT/EU trade flows. In 2010 the OCT/EU import/export ratio was approximately 1/2, with the value of EU27 exports to the OCTs amounting to over EUR 2 billion and the value OCT exports to the EU27 amounting less than EUR 1 billion (see Annex 8). While OCTs export mainly fishery and other mineral and natural products to the EU, the EU primarily exports industrial products and some agro-food products to the OCTs.

Services represent an important part of the economy in all OCTs, though the actual percentage varies. In light of the increasing importance that trade in services has acquired in the world economy and the limited potential for development of trade in goods, OCTs show considerable interest in developing economic activity and exports in their services sectors as a way to diversify their economies. Tourism and related sectors (culture, recreation and sports) came out as drawing the most attention. Other sectors being considered by OCTs were: (renewable) energy (consulting, engineering etc.) and environment services (environment protection etc.) as well as business, telecommunication and other supporting services (telephone support services, data storage, internet traffic relay etc.)²⁸.

In some OCTs, located in the Caribbean, financial services are the mainstay of their economies. In 2008, the values of the respective GDPs of the Cayman Islands and British Virgin Islands were estimated at USD 2.87 billion and USD 1.215 billion²⁹. Foreign investments into the territories amounted to USD 10.9 billion and USD 3 billion respectively, the bulk of which goes to the financial sector. Investment outflows are important as well. By contrast, productive investments in the real economy are modest, especially when compared with other OCTs such as New Caledonia.³⁰

Environmental challenges³¹

All OCTs are characterised by a high biological diversity as they are remote and have developed in isolation. These insular and remote countries and territories constitute privileged locations for the development of endemic species, whether animal or vegetable, terrestrial or marine. However, the OCTs' potential as regards biodiversity is subject to several threats such as the impacts of climate change or the introduction of non-endemic species. OCTs are amongst the insular countries that have to face the impacts of climate change. Depending on the geographical location of the OCTs, the effects of climate change will be different: melting of permafrost, coral reef bleaching impacting marine fauna and flora, salinisation of fresh wateraquifer are among examples.

The insular characteristics of the OCTs make them particularly exposed to environmental shocks as well as natural disasters whose frequency could be influenced by climate change.

²⁸ Information taken from a questionnaire the European Commission circulated among the OCTs and their Member States in the Summer of 2011. A more detailed discussion as well as an overview of the replies to the questionnaire can be found in the report on trade and trade related aspects of the OAD in Annex 12.

²⁹ Source: UN Statistics Division, Country Profiles for Cayman Islands and British Virgin Islands. See: <http://data.un.org/>.

³⁰ LUFF et al. (2010), pp. 163-163

³¹ "OCTs environmental profiles" assessed by the Joint-Venture of NIRAS PINSISI Consortium partners. Service contract 2006/12146, January 2007. The main report can be consulted on the following web page: http://ec.europa.eu/development/icenter/repository/environmental_profile_main_report_en.pdf

The OCTs are particularly vulnerable to climatic, seismic and volcanic risks and to tsunamis. Such natural disasters can easily destroy the infrastructures and hamper the economic activities. Besides the risk of economic paralysis, these phenomena can cause a heavy human toll and lead to the displacement of populations, and are thus likely to disrupt the economic and social organisation of the OCTs.

OCTs are highly reliant on fossil fuels imported at high transport costs, which make them extremely vulnerable to external economic shocks. They therefore face the challenge of reducing this energetic vulnerability.

Finally, sustainable management of water and waste is of vital importance in OCTs. These issues are among the most challenging OCTs need to face, as the absence of critical mass in these countries and territories make adapted solutions necessary.

2.2. The underlying drivers of the problem

The underlying drivers of the problem identified above can be summarised as follows:

- (1) The OCTs have difficulties to overcome handicaps due to their physical characteristics (insular, small, remote, variable in size of exclusive economic zone);
- (2) They fail to mitigate their high vulnerability linked to their geographic characteristics (located in areas of cyclonic and seismic activities, exposed to impacts of climate change such as coral reef bleaching or sea level rise, highly dependent on imports of fossil fuels at high transport costs);
- (3) They hardly overcome low administrative capacities due to their small size and, as a consequence, they face difficulties in elaborating and implementing policy tools and developing infrastructures;
- (4) They fail to develop their micro-economies characterized by structural weaknesses, a small undiversified production base, with exports concentrated in a few sectors³²;
- (5) They are confronted with erosion of trade preferences for OCTs in their relations with the EU and increased competition for their exports in third markets, due to the conclusion of an increasing number of free trade agreements (FTAs) by major trading partners (the EU, the US and Canada) that are important destination markets for some OCTs;
- (6) They are sometimes unable to be covered by initiatives/agreements concluded by the EU and/or their Member States aiming at tackling political priorities at European and international level that emerged in the last ten years such as impacts of climate change with third partners, lowering the capacities of the OCTs to join global response mechanisms.

³² For a more detailed analysis of the OCTs' economic profiles, see Annex 12.

Table 2: problems and underlying drivers

Problems	Underlying drivers
OCTs continue to face economic and social problems	<p>Handicaps linked to their physical characteristics</p> <p>Low administrative capacities</p> <p>Micro-economies with structural weaknesses</p>
OCTs are confronted to difficulties linked to their vulnerable environments	vulnerability linked to their geographic characteristics
The OCTs do not benefit from the changes global trade patterns and global issues that emerged the last ten years	<p>Erosion of trade preferences and increased competition for their exports to third markets</p> <p>Incapacity to be part of initiatives relating to global issues that emerged in the last ten years</p>

2.3. The EU's right to act and the EU added value

The EU's right to act in the area of EU-OCT relations derives primarily from Part Four of the TFEU. The purpose of the EU-OCT association, the social and economic development and close economic ties between the OCTs and the EU as a whole, cannot be achieved via actions at Member States level. Moreover, with regard to the OCT trade regime, Member States actions would not be possible as the common commercial policy falls within the domain of the EU's exclusive competence (Part Five, Title II of the TFEU). According to Article 206, the EU's trade policy should contribute to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign investment, and the lowering of customs and other barriers. The rules of the EU-OCT preferential trade relations are governed by the principles laid down in Title II of Part Five of the TFEU regarding the EU's trade policy.

As stipulated in Article 203 of the TFEU, the Council of the EU shall lay down provisions as regards the detailed rules, arrangements and procedures of the association of OCTs with the Union³³. These include trade and trade related issues, customs arrangements, public health, public security or public policy and freedom of movement for workers throughout the OCTs and Member States. This is expected to be in accordance with the principles laid down in the TFEU regarding the definition and implementation of EU policies and activities, concerning inter alia environment and gender equality (TFEU Part One).

In view of increasingly complex challenges, none of the EU's internal priorities – security, smart, inclusive and sustainable growth and job creation, climate change, access to energy,

³³ An overview of the structure of the current OAD is provided in Annex 4.

resource efficiency, including the protection of biodiversity, safe management of water or waste, health and pandemics, education - will be achieved in isolation from the wider world.

With 27 Member States acting within common policies and strategies, the EU alone has the critical mass to respond to global challenges, such as climate change. The action of individual Member States can be limited and fragmented. This critical mass also puts the EU in a better position to conduct policy dialogue with partner OCT governments.

Through its external action, the EU is committed to promoting its standards, and sharing its expertise. The OCTs have the potential for becoming strategic outposts of the EU throughout the world. Upgrading the OCTs legislation and standards to EU levels could increase both the influence of the OCTs and subsequently the EU in their respective regions.

3. OBJECTIVES OF THE FUTURE LEGISLATIVE FRAMEWORK

On the basis of the policy needs, problems and drivers that are anticipated in the period until 2020, the general and specific objectives of the OAD 2014-2020 are as follows³⁴.

3.1. General objectives

Based on the Articles 198 and 199 TFEU, the general objectives are:

- (1) to promote the economic and social development of the OCTs;
- (2) to establish close economic relations between the OCTs and the EU as a whole;
- (3) to further the interests and prosperity of the inhabitants of the OCTs in order to lead them to the economic, social and cultural development to which they aspire;
- (4) to allow OCTs to benefit from the same trade treatment that Member States accord to each other
- (5) to promote the definition and implementation of environmental policies in the OCTs as one of the three pillars of sustainable development (alongside with economic and social development).

3.2. Specific objectives

Throughout the various consultations and external studies, a clear consensus has arisen among stakeholders, external assessors and political actors alike that the purpose and objectives of the association, as laid down in Articles 198 and 199 of the TFEU, would need to be translated into the objectives identified by the Commission as central to this framework and which were endorsed by the Council of the EU³⁵. The specific objectives might seem broader and less detailed than would be appropriate for any particular programme. The key purpose of these objectives is to provide a basis for assessing the options in relation to the future priorities of the OAD.

³⁴ Operational objectives will be identified in future cooperation programmes to be concluded with the OCTs.

³⁵ COM(2009) 623 and conclusions of the Council 17801/09.

The specific objectives of the next association framework would therefore be as follows:

- to help promote EU's values and standards in the wider world;
- to establish a more reciprocal relationship between EU and OCTs based on mutual interests;
- to enhance OCTs' competitiveness;
- to strengthen OCTs' resilience, reduce their economic and environmental vulnerabilities;
- to promote cooperation of OCTs with third partners;
- to integrate the latest EU policy agenda priorities;
- to take into account changes in global trade patterns and EU trade agreements with third partners.

Table 3: Link between problems and objectives

Problems	General Objectives	Specific objectives
OCTs continue to face economic and social problems	<p>To promote the economic and social development of the OCTs.</p> <p>To establish close economic relations between the OCTs and the EU as a whole.</p> <p>To further the interests and prosperity of the inhabitants of the OCTs in order to lead them to the economic, social and cultural development to which they aspire.</p> <p>To allow OCTs to benefit from the same trade treatment that Member States accord to each other.</p> <p>To promote the environmental development of the OCTs.</p>	<ul style="list-style-type: none"> ○ To help promote EU's values and standards in the wider world. ○ To establish a more reciprocal relationship between EU and OCTs based on mutual interests. ○ To enhance OCTs' competitiveness. ○ To strengthen OCTs' resilience and reduce their economic and environmental vulnerabilities. ○ To promote cooperation of OCTs with third partners; ○ To integrate EU policy agenda priorities. ○ To take into account changes in global trade patterns and EU trade agreements with third partners.
OCTs are confronted to difficulties linked to their vulnerable environments	<p>To further the interests and prosperity of the inhabitants of the OCTs in order to lead them to the economic, social and cultural development to which they aspire.</p> <p>To allow OCTs to</p>	<ul style="list-style-type: none"> ○ To help promote EU's values and standards in the wider world. ○ To establish a more reciprocal relationship between EU and OCTs based on mutual interests. ○ To enhance OCTs' competitiveness. ○ To strengthen OCTs' resilience and reduce their economic and

Problems	General Objectives	Specific objectives
	<p>benefit from the same trade treatment that Member States accord to each other.</p> <p>To promote the environmental development of the OCTs.</p>	<p>environmental vulnerabilities.</p> <ul style="list-style-type: none"> ○ To promote cooperation of OCTs with third partners.

Problems	General Objectives	Specific objectives
<p>The EU-OCT association does not take into account the changes of global trade patterns and emerging global issues</p>	<p>To promote the economic and social development of the OCTs.</p> <p>To establish close economic relations between the OCTs and the EU as a whole.</p> <p>To further the interests and prosperity of the inhabitants of the OCTs in order to lead them to the economic, social and cultural development to which they aspire.</p> <p>To allow OCTs to benefit from the same treatment that Member States accord to each other.</p> <p>To promote the environmental development of the OCTs.</p>	<ul style="list-style-type: none"> ○ To help promote EU's values and standards in the wider world. ○ To establish a more reciprocal relationship between EU and OCTs based on mutual interests. ○ To enhance OCTs' competitiveness. ○ To strengthen OCTs' resilience and reduce their economic and environmental vulnerabilities. ○ To promote cooperation of OCTs with third partners. ○ To integrate EU policy agenda priorities. ○ To take into account changes in global trade patterns and EU trade agreements with third partners.

3.3. Consistency with external action priorities and other EU policies

The "Europe 2020" provides the benchmark against which the coherence of EU policies and the promotion of EU values, standards and interest need to be checked³⁶. Coherence with the Europe 2020 strategy should be sought, as far as its smart growth and sustainable priorities are concerned, promoting support to research, innovation as well as to information and communication technologies (ICT) and sustainable growth capacities as catalysts for socio-economic development.

³⁶ Commission Communication COM (2010) 2020, 3 March 2010.

The 2014-2020 OAD will play an important role in that respect. Indeed, the idea of establishing ‘centres of experience and expertise’ could relate to the implementation and promotion of high standards, including international standards, e.g. in the fields of environment and food safety and consumer health. The OCTs are all characterised by rich biodiversity. The sustainable use and protection of this biodiversity would benefit from better scientific documentation and access to research results.

Likewise, the implementation of international standards within the area of food safety, animal and plant health could facilitate trade between OCTs and their trading partners, including EU Member States. The EU's commitment to environmental standards as well as its role as a global player in the fight against climate change could be of great value to both the EU and the OCTs. The European Commission believes that biodiversity and other natural assets of the OCTs could be the object of a strengthened cooperation in the field of research and conservation. A partnership in the area of environment could be of mutual interest to both parties.

4. POLICY OPTIONS

4.1. Discarded options

a) No EU action

The option ‘no EU action’ is not assessed in this impact assessment report as Part IV of the TFEU constitutes in itself an obligation for the EU to act.

b) Two distinctive Council Decisions: one for trade regime and another for cooperation for sustainable development

This option was discarded since it would weakness the possibility to define a comprehensive framework for all OCTs. In addition, it would rather increase the legislative burden for EU institutions and would limit the visibility of the EU-OCT partnership.

4.2. Policy option 1: Status Quo Renewal of the current Overseas Association Decision without any changes.

Under Policy option 1, the structure and the content of the currently into force Association Decision would be maintained for the period 2014-2020.

Cooperation issues

Fight against poverty will continue to be the overall goal of the association despite the fact that the Commission, the Member States, the OCTs and all stakeholders have recognised its inappropriateness in an EU-OCT framework of cooperation. Furthermore, the various areas of cooperation will be maintained without any particular focus on the mutual interests of the EU and OCTs.

Trade rules

The arrangements for trade between the EU and the OCTs would remain unchanged (no possibility for introduction of provisions for improved conditions under which OCTs access the EU market nor for modifications in terms of the arrangements for trade in services and

establishment). Finally, under this option, and given the developments in trade patterns and EU/third countries trade agreements, the EU would not be in a position to comply with its Treaty obligations requiring applying to the OCTs the same treatment as the one Member States accord each other.

Financial assistance

Under policy option 1, EDF resources would be distributed between five main categories (Territorial, Regional, Technical Assistance, Emergency/Humanitarian Aid, European Investment Bank – Investment Facility) and according to the same key of distribution of the total envelope (69%, 14%, 2%, 5% and 10% respectively). In addition to the financial allocations under the EDF, the OCTs would remain eligible to the horizontal budget lines of the EU.

Implementation of policy option 1

According to policy option 1 the period of validity of the next OAD would be 2014- 2020. It would also imply the definition and adoption of a Commission Regulation laying the implementation modalities of the OAD as well as the establishment of programming guidelines following consultations with OCTs and their Member States. In terms of implementation of the financial cooperation under policy option 1, a margin of flexibility could be built in by reserving a given amount as non-programmed aid to respond to unforeseen events and mitigate the impact of economic external shocks. Dedicated technical assistance and capacity building would be made available to support the OCTs in identifying and formulating comprehensive policies and subsequent implementation plans, namely in the areas chosen for EU financial assistance.

Policy option 1 would allow the EU-OCT association to continue to support the OCTs, the same way as the current framework does, in the economic and social problems they face and the difficulties linked to their vulnerable environment they are confronted with. The implementation of the OAD as proposed under policy option 1 would not allow addressing the issues in relation with the need to take into account changes in global trade patterns and emerging global issues.

4.3. Policy option 2: Modernisation of the Overseas Association Decision and alignment with EU policy framework

Option 2 would modernise and align the OAD with the EU policy framework. Its objectives and principles would be revised, taking into account the political orientations of the Council of the EU, the requests the OCTs and their Member States expressed on different occasions as well as the results of external studies.

Cooperation issues

Under this option, the EU-OCT cooperation would give a particular focus on areas of mutual interests, as called for by the stakeholders and underlined as a recommendation in the external studies, e.g climate change, biodiversity conservation, research and innovation, allowing to take into account the international political priorities that emerged in the last ten years and which are in accordance with the Europe 2020 agenda. Furthermore, under this option, the EU-OCT association would contribute to the promotion of EU interests and values, considering OCTs as outposts of the EU in their regions.

Trade rules³⁷

Under policy option 2, the trade regime would continue to give OCTs duty free and quota free access to the EU market. In parallel, new provisions would foresee improved conditions under which OCTs could access the EU market by revising the preferential rules of origin (e.g. deletion of the requirement regarding the nationality of the crew manning vessels fishing outside territorial waters and the inclusion of new or clearer definitions of wholly obtained goods and minimal operations, lighter administrative requirements regarding evidence of direct transport of OCT goods between the OCT's territory and the EU, new possibilities for cumulation, more flexible administrative procedures for granting derogations to the rules of

³⁷ See Annex 12 section 7.2.3.

origin with period of validity determined on a case by case basis, etc.). In addition, policy option 2 suggests revising the arrangements for trade in services and establishment and granting the OCTs Most Favoured Nation treatment, where they currently receive only basic third country treatment (i.e. GATS).

Finally, policy option 2 suggests the introduction of new provisions that would ensure the correct management of trade preferences and the clarification of the respective responsibilities of OCTs, Member States and the EU concerning administrative errors and fraud.

Financial assistance

The financial assistance for the OCTs would still be based on territorial and regional envelopes. Option 2 suggests the increase (in comparison with the current OAD) of regional allocation. This would allow achieving the objectives aiming at better responding to issues that emerged in the last decade, and are of common interest to all OCTs and the EU. Some of these issues have been continuously highlighted by the OCTs and their Member States, such as: environment, climate change, statistical systems, disaster risk reduction, health threats, renewable energy and innovation.

The envisaged increase of the regional allocation under the 2014-2020 OAD would also serve the objective for an enhanced cooperation between OCTs and their neighbouring partners as well as the objective aiming at expanding the EU's sphere of influence via the OCTs. The OCTs, as recognised members of the wider European family and outposts of the EU in their respective regions, will thus directly benefit not only the EU as a whole but also their neighbours, thereby serving as a lever for the objectives of EU external policy.

Option 2 also proposes to renew the eligibility of the OCTs to all the EU programmes. Where relevant, EU programmes would have a dedicated window in favour of the OCTs (e.g. climate change, environmental research and biodiversity). Through a closer dialogue between Member states, the European Commission and the OCTs, a better alignment of the EU assistance and the aid provided by the Member States would be pursued. This would facilitate the creation of synergies between the two types of assistance and would lead to more predictability and aid efficiency.

Policy option 2 does not foresee a change in relation with the programming modalities of financial resources. Indeed, "territorial" and "regional" financial allocations would be programmed in a Programming Document (PD). The OCTs would be requested to concentrate the EU financial support on a single focal sector. For the regional envelope the choice of focal sector would be done from the list of themes of mutual interest mentioned above.

Implementation of policy option 2

The period of validity of the next OAD would be 2014- 2020. As policy option 1, policy option 2 would also imply the definition and adoption of a Commission Regulation laying the implementation modalities of the OAD as well as the establishment of programming guidelines following consultations with OCTs and their Member States. In terms of implementation of the financial cooperation under policy option 2, a margin of flexibility could be built in by reserving a given amount as non-programmed aid to respond to unforeseen events and mitigate the impact of economic external shocks. Dedicated technical assistance and capacity building would be made available to support the OCTs in identifying

and formulating comprehensive policies and subsequent implementation plans, namely in the areas chosen for EU financial assistance.

In terms of programming, option 2 suggests to keep the current programming requirements and modalities while proposing that particular account will be taken and consideration will be given where it exists a "comprehensive territorial development plan" or a "comprehensive development plan agreed between the OCT and the Member State".

The association framework envisaged under policy option 2 would allow the EU to continue supporting the OCTs in their efforts to address the economic and social problems and difficulties they face in a more focused and coordinated way than the current framework does. It would fully take into account the requests expressed by the stakeholders for a more targeted cooperation on areas of mutual interests. Changes in global trade patterns and emerging global issues would be fully integrated in the new framework.

This policy option could contribute to the achievement of general and specific objectives defined in sections 3.1 and 3.2 above through a more focused and coordinated partnership, aligning with EU policy framework, EU policy agenda priorities and changes in global trade patterns.

4.4. Option 3: Several partnership agreements concluded

Option 3 would entail a diversification of EU-OCT relations. In the area of trade and economic cooperation two approaches would be adopted. Certain OCTs could be included in other EU bilateral trade arrangements, namely Economic Partnership agreements (EPAs) or FTAs, where relevant and possible. For the remaining OCTs, an OCT trade regime equivalent to policy option 1 or 2 would be foreseen under the association framework. Whilst this would not cover the trade and economic cooperation with those OCTs which would have been included in other trade agreements, it could cover cooperation with all OCTs in all other areas. An alternative option would consist in having all cooperation with OCTs that would fall under an EPA or FTA take place in the context of these agreements. This would include that financial assistance would also take place outside of the association framework.

Cooperation issues

Integrating OCTs in other trade agreements would imply that at least that EU-OCT trade related cooperation would be channelled via the specific institutional set up of the agreements in which the OCTs would be integrated. For other areas of cooperation, such as environment and climate change, EU-OCT cooperation could also be included in this framework or could continue to take place in an EU-OCT specific framework covering all OCTs or only one OCT, irrespective of the trade regime under which they would fall.

Trade rules

Under this option, it would be made use of theoretical opportunities for the inclusion of OCTs in EU trade agreements with the Caribbean region (for Dutch and British OCTs), the Central American and Andean countries (for Dutch OCTs), the Pacific region (for French and British OCTs) and Canada (for French and Danish OCTs). As a consequence, OCTs would not only be ensured market access to the EU, but also to the market(s) of the other co-signatories of the relevant trade agreement(s). In exchange, the OCTs would have to open up their markets to

the EU and the trade partner(s) concerned through negotiations. OCT commitments would have to be negotiated for each OCT separately.

The rules of origin applicable to OCT goods would be the ones negotiated in the context of the agreement in which the OCTs would be integrated. For example, under the EPAs, the OCTs would benefit from a number of simplifications and relaxations of the general provisions and product specific rules that were introduced prior to the reform of the General System of Preferences (GSP). Thus, the OCTs concerned would not benefit from innovations such as the deletion of the crew requirement for vessels fishing outside of territorial waters or the simplification of the rule on direct transport. However, such innovations could be introduced at a later stage, at the moment when the EU and its relevant trade partners review their agreement. Additional cumulation possibilities could be foreseen, depending of the EPA that the OCTs would join (cumulation with neighbouring countries belonging to a coherent geographical entity or cumulation for products entering the EU duty free quota free under MFN[, GSP] or, for industrial products, under an FTA with the EU). For example, in the Pacific EPA, the OCTs would have access to the global sourcing provision, allowing them to import non-originating tuna for further processing that would benefit from preferential access when exported to the EU³⁸.

OCTs that would be integrated in an EU trade agreement would benefit from the commitments in trade in services and establishment which the EU took in the context of that agreement. These OCTs would need to give further market access to both the EU and the third countries concerned.

The goods and services of those OCTs which would not be integrated in other trade agreements would receive a treatment in line with the ones described in policy options 1 and 2.

Financial assistance

For those OCTs that would be included in other trade agreements, the trade and economic cooperation would take place in the relevant FTA or EPA. Trade and economic cooperation with OCTs would take place in the context of the relevant trade agreement. Cooperation in other areas would continue to take place in a framework specific to the OCTs. Financial assistance would be provided under the 11th EDF, taking into account the different cooperation frameworks that would be foreseen.

Implementation of policy option 3

Integrating or associating OCTs to other trade agreements would imply considerable legal changes. It would imply that OCTs joining such an agreement would not be covered by Part IV of the TFEU. Their Member States would have to request that the OCTs concerned be removed from Annex II to the TFEU, which lists the OCTs associated to the EU, if the substantive FTA provisions would be incompatible with it. Inclusion of OCTs within the scope of EU trade agreements would be subject to negotiations between the EU's trade partners, representatives of the OCTs themselves and the EU. As OCTs are not sovereign States, Member States would have to represent them in the negotiations with the EU and the

³⁸ Limited to the Pacific EPA signatories, global sourcing allows Pacific EPA countries to derogate from the standard rules of origin for transformed fish products by using non-originating fish (tuna) as raw material.

trade partner concerned. The agreements that have already been concluded would need to be amended to incorporate the OCTs and adapt them so as to cover the realities of the OCTs. Some trading partners may request concessions from EU to accommodate the inclusion of OCTs.

Option 3 would bring EU-OCT relations in line with the current EU policy agenda, incorporating new political priorities such as environment, climate change, biodiversity, sustainable management of natural resources and food safety, while ensuring the upgrading of EU-OCT trade relations.

The inclusion of OCTs in other EU trade agreements could stimulate these OCTs' integration in regional and world economies but would generate a multiplication of trade regimes and cooperation settings which would constitute a real challenge in implementation terms of the association between the EU and the OCTs as a group.

5. IMPACT ASSESSMENT OF POLICY OPTIONS

As a consequence of the absence of up-dated comparable and reliable statistics³⁹ regarding OCTs, assessing the impacts of the different policy options is challenging. External assessors have commented that the absence of data made it difficult if not impossible to assess the possible social, economic and environmental impacts that certain EU measures may have on the OCTs. Therefore, the assessment of different policy options is focusing on quality rather than on quantitative impacts (for a more detailed analysis of the impacts of the different policy options in the fields of environment and climate change and the trade and trade related aspects of the OAD, see Annex 11 chapter 5 and Annex 12 section 7.3).

5.1. Assessment policy option 1

Social and economic impacts

Deterioration of EU market access for OCTs: any trade-related impact would stem from increased competition which OCTs might face on the EU market as a consequence of EU third partners gaining better market access for their goods and services (e.g. through an FTA or via a multilateral agreement). An OCT loss in competitiveness might translate in weakened EU-OCT economic ties. Policy option 1 might also be an option in which the trade rules would not offer enough incentives to those OCTs that currently do not maintain strong economic relations with the EU to start doing so. It is therefore unlikely that the trade rules under policy option 1 would promote OCT economic diversification. Regional integration of the OCTs would be undermined as the set of rules of origin would not offer additional opportunities for OCTs to source inputs from their neighbours, and thus trade more with them (a detailed analysis is provided in Annex 12 section 7.3.2).

Environmental impact

Maintaining the status quo would fail to impulse greater positive impact of the EU-OCT association on the OCTs' environment. The absence of the recognition of environmental and climate change issues as an area of mutual interest for the EU and the OCTs undermines progress in these fields in which only a few OCTs decide to cooperate with the EU.

³⁹ See section 1.4 above.

Furthermore, policy option 1 would not allow the EU to promote its political agenda and its international commitments⁴⁰ regarding biodiversity, green energy, climate change and disaster risk reduction in the OCTs, and the OCTs would not help to promote EU's values and standard in these fields in the wider world.

Administrative impact

This option would not influence the administrative burden of neither the EU nor the OCTs. The programming cycle would remain the same, as would the legal framework. Under this option, it would be difficult to respond positively to the requests/recommendations expressed by the external evaluators in relation with the promotion of the cooperation between OCTs and their neighbouring countries, amongst others through a better coordination of the respective financial instruments available to OCTs, ACP States and the Outermost Regions of the EU (European Regional Development Fund - ERDF). Furthermore, option 1 would not allow adapting rules and procedures of the programming of financial assistance.

5.2. Assessment policy option 2

Social and economic impacts

Policy option 2 is likely to have a positive social and economic impact on OCTs due to the improvement of the market access conditions for OCT goods, a greater EU openness to OCT services operators and investors, and the possibility of more focused capacity building measures. Option 2 thus carries the potential for greater economic diversification and job creation in sectors such as renewable energies, ecosystems management, innovation etc. The proposed changes to the rules of origin are likely to result in a more effective use by OCTs of the export opportunities offered by the OCT trade regime.

Simplifying and relaxing conditions, strengthening transparency and coherence with the rules of origin of other trade partners is likely to result in efficiency gains, increase the attractiveness and legal certainty for investments in economic sectors that depend on preferential market access and reduce administrative burdens for OCT companies and authorities. The diversification of cumulation possibilities would allow for an improvement of sourcing opportunities for OCT companies, which could have a positive influence on their competitive position and could stimulate the development of economic relations between OCTs and other third countries.

Through technical assistance and capacity building OCTs could be supported in complying with technical, sanitary and phyto-sanitary rules which constitute the most important obstacles which OCT exports face in accessing the EU market.

In the services sector, the benefits for OCTs would be considerable. In a first instance, the EU's market openness to OCTs' service operators would be aligned with the EU's most favourable treatment and would thereafter be automatically increased every time the EU would grant more favourable treatment to other third partners. Whereas the weighted average openness of the EU corresponds to a factor 34 for modes 1,2 and 3 under GATS, it

⁴⁰ Communication COM(2010)2020final of 3.3.2010 "Europe 2020 – a strategy for smart, sustainable and inclusive growth" and Communication COM(2011) 500 final of 29 June 2011 "A budget for EU 2020 .

corresponds to a factor 57 (and 74 for establishment) under a preferential agreement such as the EPA with CARIFORUM⁴¹.

Weighted Openness Index

The weighted openness index is the count of weighted average commitments by all EU divided by the number of sectors that can be listed.

$$Open_{mi} = \frac{\sum_{j=1}^{155} \frac{\sum_{i=1}^{27} N_i + w \sum_{i=1}^{27} P_i}{27}}{155}, \text{ for } m=1,3; i=1,\dots,27; j=1,\dots,155,$$

Where m, i and j are indices for mode of supply, EU member state and services sector respectively, N is None's and P is partial commitments (bounds) and w is the given weight.

The services sectors which would benefit most from removing limitations would be the construction services, environmental services, and recreational services; all of which are of interest to OCTs. By further opening its services sectors to OCTs' operators, the EU would stimulate the further development of new or existing sectors by offering additional opportunities for exports, including for cross-border trade through modern communication technologies. Those OCTs which highly depend on financial services would get the opportunity to diversify their economy by proposing a wider range of services. In addition, policy option 2 would open the non-services investment (establishment) to OCTs, which is currently not covered. It would also contribute to OCTs becoming more attractive destinations of foreign direct investment. Ensuring that OCTs automatically extend to the EU the treatment they give to major economies such as US or China would respect the spirit of the special relationship between EU and OCTs and would be a translation of the principle of reciprocity.

Within a bilateral dialogue, the EU might encourage OCTs to promote principles of Corporate Social Responsibility (CSR) among the companies investing and operating in their territory. This would positively impact social and environmental standards in OCTs.

The continued, targeted and coordinated support to OCT strategies, capacities, legislative and institutional frameworks proposed under policy option 2 is likely to increase the EU's involvement in OCT policies, regulatory models and the like. An avenue for doing so is offered by the new provisions concerning EU-OCT cooperation on trade which option 2 envisages.

The EU support to OCTs' capacity building could also concern the elaboration and/or implementation of social policies (e.g concerning unemployment or professional training) in order to accompany their strategies towards economic growth.

Environmental Impacts

⁴¹ See Annex 12 on trade and trade related aspects of the OAD.

The emphasis on regional allocation (suggested under option 2) in view of better responding to issues that emerged in the last decade, and are of common interest to all OCTs and the EU would ensure that the specific characteristics of the OCTs regarding environment, climate change and biodiversity issues, are dealt with more appropriately. The allocation of a specific envelope to environment and climate change would be in line with the EU policy agenda priorities and promote EU values. Furthermore, investment in improved natural environments and improvements in environmental quality would also result in substantial economic and health impacts.

Administrative impact

The automatic granting by the EU of the most favourable treatment in services would mean that the implementation of this policy option would not put additional strains on the limited administrative capacities of OCTs as long and complex negotiations would be avoided. The proposal to define the technical assistance for the entire period would ensure a more coherent identification period and a subsequently more efficient administration of the strategies and programmes chosen for cooperation. This would ensure coherence and exchange of know-how between the local administrations and external experts.

Shorter lead-in times for EU financial assistance and faster implementation of the EU assistance would lead to further development of OCTs capacities in the field of policy formulation and legislation.

Option 2 is expected to have a positive impact also in terms of timely programming thanks to the possibility which is proposed in relation with "comprehensive territorial development plans" or "comprehensive development plans" agreed between the OCT and their Member States and would be taken into account for defining the strategy of cooperation between OCTs and the EU.

5.3. Assessment policy option 3

Social and economic impacts

The impact of policy option 3 would depend on the results of the negotiations between the OCTs, the EU and the third partner(s) concerned. Thus, the impact would vary from one negotiation to another. In general, under this option OCT trade flows with the third partner(s) might gain in importance. On the other hand, their industries could face stronger competition in the OCTs' domestic markets as cheaper imported products could become available. Consumers would gain in this development. Where the cheaper products would serve as input to processing industries, the latter may benefit and become more competitive as costs would drop. The most sensitive products could be excluded from liberalisation. Customs revenues could go down and OCTs would then have to develop alternative sources of revenue that are less dependent on goods trade. The option could therefore have a serious impact on public spending in OCTs.

The social and economic impact of a possible inclusion of the Pacific OCTs in an EPA could stimulate the development of processing industry (for example fish/tuna), which might attract more foreign investment, at the expense of other partners (GSP+ and ACP countries). It could also lead to a vertical integration of the different industries. The EU's relevant processing industry could benefit from these developments if it would lead to a steady supply of these products to the EU. However, the EU industry could also be negatively affected by the

stronger competition which they would face. In the most negative scenario, this could lead to job loss and the cessation of activities in certain EU Member States⁴².

OCTs opening their market in services and establishment to their neighbours might bring in more foreign direct investment or temporary service providers as well as open markets for OCT service providers and investors. However, this depends on the outcome of the negotiations with third countries and the sectors every OCT would choose to liberalise. Due to limited administrative capacity for negotiations on the OCTs side, close cooperation and support would be needed during negotiations so as to avoid a premature liberalisation of sectors where domestic regulation has not been sufficiently developed to ensure consumer protection. Where the partner countries' interest for OCT markets is not very high, adding OCTs to EU FTAs (possibly including a multilateral negotiation in services and establishment) may mean that the EU will be asked by its FTA partners to compensate with further commitments. This would risk unbalancing the deal reached between EU and the partner country/ies.

Those OCTs that would join EPAs could gain access to nominally larger amounts of trade related financial assistance under the 11th European Development Fund, but they would have no guarantee that sufficient financial resources be dedicated to their needs as the interests of the bigger partners and the developing countries may prevail. This effect may be counteracted if the OCTs would ally themselves within their region with ACP States such as Antigua and Barbuda, Fiji, Guyana and Palau, which are Small Island Developing States and face similar challenges as the OCTs⁴³. While gaining access to these funds, the OCTs would be cut off from other potential sources of financing from which they benefitted under the OAD, such as the internal horizontal programmes and budget lines of the EU. This would be the case as well for OCTs which would be integrated or associated to other free trade agreements. However, for them this loss would not be compensated by access to additional funds under external programmes covering their region.

Environmental impact

Given the size of OCTs, the environmental impact of including some of them in other trade agreements is likely to be limited and would not add to the environmental impact already identified for those agreements. The environmental impact of opening to a neighbouring country might also be higher than when opening to the EU alone, as one could expect that this would lead to an increase of transport related impacts, although these neighbours would tend to be located closer to the OCT than the EU. The net impact (compared to the status quo and the improved arrangements under option 2) would differ by OCT, the agreement to which it would be annexed and the situation in the OCTs in specific sectors prior to negotiations. For those OCTs that would remain in the trade regime under the OAD, the environmental impact would correspond to the one identified for policy options 1 or 2. Negative environmental impacts might be mitigated through cooperation with the EU on environmental issues.

⁴² See Annex 12.

⁴³ For the UN list of Small Island Developing States, see: <http://www.un.org/special-rep/ohrls/sid/list.htm>.

Administrative impact

The negotiation and implementation of policy option 3 would be heavy and complex for OCTs, their Member States, the EU trade partner(s) and the EU alike. This process would have to be reiterated for every single trade agreement that would need to be amended to include specific OCTs.

6. COMPARING AND WEIGHING THE POLICY OPTIONS

6.1. Comparing the policy options

Policy option 1

Maintaining the status quo could legitimately be considered as a valid option for the future EU-OCT association as current arrangements were found to have been beneficial for the OCTs' social and economic development, amongst others by providing free access to the large EU market and the possibility of support for exploiting the export opportunities this represents. The EU-OCT cooperation in the period 1999-2009 was considered by external studies to have been coherent with both the association's objectives and the OCTs' political priorities and concluded that no marked contradictions or inconsistencies had occurred between EU-OCT cooperation and other EU policies. Though consistent with Part Four of the TFEU and its Preamble, option 1 would not accomplish the shared ambition of OCTs, their Member States and the European Commission to reshape and modernise the EU-OCT relations on a reciprocal basis. Rather than modernising the relations and introducing a more reciprocal partnership, in which mutual interests could be better taken into account, the donor/beneficiary rationale which has traditionally underpinned EU-OCT relations would be maintained.

OCT goods and services access to the EU would remain subject to the existing rules and would lead to loss of market access for the OCTs (due to preference erosion). This would have a negative impact on the social and economic position of OCTs.

Policy option 2

Policy option 2 would enhance an EU-OCT cooperation based on the mutual interests the stakeholders identified throughout the consultation process. It would also promote a more efficient cooperation through a more focus and coordinated action between the EU, the OCTs and their Member States. Areas of cooperation recognized as priorities by the OCTs would receive an enhanced support from the EU (e.g.: conservation of biodiversity and ecosystem services, research and innovation).

Under policy option 2, the EU would support the OCTs to address sensitive issues undermining their sustainable development, such as climate change which they cannot tackle alone. For such challenges, insular territories cannot develop successful measures alone, they need to find partners and be integrated in global responses.

Policy option 2 would offer to the OCTs a modernised trade regime with the EU that would 1) entail improved rules and origins and 2) guarantee a treatment for trade in services and establishment that would not be less favourable than the one given by the EU to other third partners, which is not the case under the current framework.

Policy option 2 would be consistent with Part Four of the TFEU and its Preamble. It would also translate the political orientations of the Council of the EU on the three objectives of competitiveness, resilience and cooperation. Under policy option 2, the association framework would take into account recent policy developments and would take stock of discussions that emerged in the last decade. Policy coherence would be ensured under this option and would be strengthened. The social, economic and environmental impacts would be more positive than under options 1.

Policy option 2 would better reflect the notion of mutual interests than it is currently the case. It would allow the integration of EU policy agenda priorities in the relations between the EU and the OCTs and the EU added value as a global partner in emerging global issues would be enhanced. In doing so, the OCTs better promote EU's values and standards in the wider world.

Policy option 3

By integrating or associating OCTs to other trade agreements, some of the objectives of the OCT/EU association could be met. However, this would be done outside of the association as such. Furthermore, option 3 may not be fully adapted to the needs and realities of most or even all OCTs. There may be negative impacts also for the EU itself if significant compensation is required in order to incorporate the OCTs into existing agreements. By integrating OCTs in other trade agreements the associated countries and territories with constitutional links to Member States would legally and effectively cease to be OCTs. As the implementation of policy option 3 may result in the EU having to work out solutions for setting up different types of relations with each of the OCTs, the legal process would be very complicated and would need to be reiterated for every OCT. It would likely increase confusion as regards to their status and that of their inhabitants. Certain rules currently contained or being considered in the different agreements may not apply to OCT inhabitants to the extent that they are EU citizens.

Coherence

The three policy options are coherent with Part IV of the TFEU.

Policy options 2 and 3 will allow for consistency with the policy agendas and the political priorities that emerged in the last ten years, while policy option 1 would not align the association with these latest developments and would not fully integrate the three central objectives of competitiveness, resilience and cooperation that were proposed by the Commission and politically endorsed by the Council of the EU (cf. Section 1.3 above).

Effectiveness

Policy option 1 does not allow a definition of goals and objectives in conformity with the political priorities defined by the Commission in its Communication⁴⁴ on the elements for a new partnership between the EU and the OCTs and endorsed by the Council⁴⁵. Indeed, policy option 1 does not foresee the revision of the Association Decision in order to integrate the new challenges faced by both the EU and the OCTs. Furthermore, the inability of the OAD to take into consideration the changes in the context of EU trade agreements with third partners

⁴⁴ Com(2009) 623 final of 6 November 2009

⁴⁵ Council conclusions 17801/09 of 22 December 2009 on the EU's relations with the OCTs

would diminish the capability under option 1 for the EU to attain the goal of a modernised EU-OCT framework.

On the contrary, policy option 2 proposes to revise the association framework and thus take full account of the association's purpose and objectives as defined in Part IV of the TFEU, of the political priorities that have emerged since 2001 as well as of the three central objectives of competitiveness, resilience and cooperation. This would allow closer cooperation on environment and climate issues, creating synergies and therefore increasing the environmental resilience of the OCTs with a positive impact on their social and economic development and on an increased competitiveness.

Policy option 3 would theoretically allow to provide a "tailor made" response to OCTs in the field of trade but would fail to set a comprehensive framework for a holistic partnership between the EU and all OCTs.

Efficiency

As mentioned above, the Commission has indicated its intention to propose the modernisation of the EU-OCT association. In that respect, policy option 1 does not seem to constitute the most appropriate decision. Indeed, option 1 is not addressing in an efficient manner the need to renovate the partnership between the OCTs and the EU since it would fail to take into consideration the ongoing liberalisation of international trade, the potential of OCTs as proponents of the EU's values or the ability to pinpoint areas of mutual interest and to give special attention to areas like the environment and regional integration.

Policy option 2 provides the most appropriate response to the commitment of the Commission to propose a modernised association framework between the EU and the OCTs. In addition, policy option 2 would set more flexible and lighter administrative requirements and procedures in the field of trade relations.

The efficiency of policy option 3 could be affected by the co-existence of two parallel frameworks of cooperation (trade relations under the EPA or FTA on the one hand and OAD for other areas on the other hand), as it would put additional administrative burden. Putting it into place would be a heavy and complex process for the OCTs, their Member States, the EU trade partner(s) and the EU alike. These drawbacks are likely to have a cost incidence on administrative expenditure for both the EU and the OCTs.

6.2. Weighing the policy options

Effects	Option 1	Option 2	Option 3
Global objectives of the OAD			
OCTs' economic & social development	=	++	-
Close economic EU-OCT relations	=	++	-
Further the interests and prosperity of the inhabitants of the OCTs	=	++	-
OCT benefitting from the same trade treatment the Member States accord to each other	=	=	-
OCTs' environmental development	=	++	-
Specific objectives of partnership			
Promotion of EU's values and standards in the wider world	-	++	-
Establishment of a more reciprocal relation based on mutual interests	-	++	-
OCTs' competitiveness	=	++	-
OCTs' resilience	=	++	-
OCTs' cooperation with other partners	=	+	++
Integration of EU political agenda priorities	-	++	-
Taking into account changes in global trade patterns	-	++	+

Effects	Option 1	Option 2	Option 3
Policy Context			
Alignment with developments in EU policies	-	++	+
Promotion of mutual interests & reciprocity	-	++	+
Facilitation of the EU-OCT dialogue	=	+	-
Adaptation to the particularities of the OCTs	-	+	+
Legislation			
EU administrative burden	=	+	-
Conformity with TFEU	=	=	=
Coherence, Effectiveness & Efficiency			
Coherence	=	+	+
Effectiveness	-	++	+
Efficiency	-	+	-

++ indicates a very positive response in relation with the objective(s) + denotes a moderate positive response in relation with the objective(s), - a negative one, and = a neutral or minor impact compared to the current situation.

- (1) *Coherence* means possibilities to create synergies with other decisions and policy agendas, with the aim of achieving the agreed objectives and to avoid negative consequences and overlaps between different decisions and policies.
- (2) *Effectiveness* means setting the right goals and objectives and making sure they are attained.
- (3) *Efficiency* means providing the most appropriate decision for the defined purpose and to ensure that the resources allocated are administered in an efficient manner.

6.3. Preferred option

Based on the analysis and comparison of the different policy options, **option 2** is the **preferred option** since it would best reflect:

- (a) the shared ambition of the European Commission, the OCTs, their Member States and the EU to review and revise the EU-OCT association, and to establish a more reciprocal partnership, based on mutual interests and taking into account the various challenges OCTs face;
- (b) the purpose and general objectives of the EU-OCT association as set out in Part Four of the TFEU on the EU's relations with OCTs;
- (c) the specific objectives of the next association framework defined in section 3.2 above.

Option 2 would thus lead to the modernisation and alignment of the OAD with the current EU policy framework. Subsequently, option 2 makes possible to better focus on the three pillars of sustainable development (economic, social and environmental) and to give more emphasis to the international political priorities, such as climate change, environment and energy, which emerged in the last ten years.

Concerning trade rules, option 2 would permit to continue to give OCTs duty free and quota free access to the EU market and at the same time (contrary to option 1) to introduce improved conditions under which OCTs would access the market (by revising the preferential rules of origin e.g. deletion of the requirement regarding the nationality of the crew manning vessels fishing outside territorial waters and the inclusion of new or clearer definitions of wholly obtained goods and minimal operations, lighter administrative requirements regarding evidence of direct transport of OCT goods between the OCTs' territory and the EU, new possibilities for cumulation, more flexible administrative procedures for granting derogations to the rules of origin with period of validity determined on a case by case basis, etc.). In addition, under option 2 it is proposed to revise the arrangements for trade in services and establishment and grant the OCTs the "Most Favoured Nation" (MFN) treatment, where they currently receive only basic third country treatment (i.e. GATS).

Concerning the financial assistance, option 2 suggests increasing the share of the regional allocation within the total financial allocation reserved for the OCTs under the 2014-2020 period. This would allow to financially supporting the efforts of the OCTs in addressing issues that emerged in the last decade, and are of common interest to all OCTs and the EU. In parallel, option 2 would serve the objective for an enhanced cooperation between OCTs and their neighbouring partners as well as the objective aiming at expanding the EU's sphere of influence via the OCTs and to promote EU's policy agenda as a global player.

7. MONITORING AND EVALUATION

The Overseas Association Decision is the legislative act by which the Council sets the legal framework for the association of the OCTs with the EU. It is by nature a text defining the EU external relations with these countries and territories and as such, its implementation cannot be assessed through core indicators.

As far as the EU financed cooperation is concerned, the effectiveness of the association will be monitored through audits and evaluations. The detailed provisions for this monitoring will be laid down in a Commission regulation implementing the Council Decision. Input and output indicators will be defined in the framework of each programme relating to the EU financed cooperation that will be concluded between the Commission and each OCT. These evaluations will be in line with the provisions that will concern the implementation of the 11th EDF.

ANNEX 1 – LIST OF REFERENCES

Council Decisions and Conclusions

- Council Decision (2001/882/EC) of 27 November 2001 on the association of the OCTs with the European Community (OJ L 314 of 30 November 2001) as amended by Council Decision (2007/249/EC) of 19 March 2007 (OJ L 109 of 26 April 2007)
- 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 of 27 July 2006)
- Council conclusions 17801/09 of 22 December 2009 on the on the EU's relations with Overseas Countries and Territories (OCTs)

Commission Documents (Communications, Green Papers, Working Documents)

- Commission Green Paper COM(2008) 383 of 25 June 2008on Future relations between the EU and the Overseas Countries and Territories .
- Commission Staff working document SEC(2008) 2067 of 25 June 2008 accompanying the green paper “Future relations between the EU and the Overseas Countries and Territories” COM (2008) 383
- Commission Communication COM(2009) 623 of 6 November 2009 on Elements for a new partnership between the EU and the OCTs
- Commission Communication COM(2010) 2020 of 3 March 2010 on Europe 2020: a Strategy for Smart, Sustainable and Inclusive Growth
- Commission Communication COM(2010)612 of 9 November 2010 on Trade, Growth and World Affairs: Trade Policy as a Core Component of the EU's 2020 Strategy
- Commission Communication COM(2011) 837 of 7 December 2011 on Preparation of the multiannual financial framework regarding the financing of EU cooperation for African, Caribbean and Pacific States and Overseas Countries and Territories for the 2014-2020 period (11th European Development Fund)
- Commission Staff working document SEC(2011) 1459 of 7 December 2011 on Preparation of the multiannual financial framework regarding the financing of EU cooperation for African, Caribbean and Pacific States and Overseas Countries and Territories for the 2014-2020 period (11th European Development Fund) and covering the subsequent implementing and financial regulations of the 11th European Development Fund (EDF)
- Commission Staff working document SEC(2011) 1484 of 7 December 2011 Accompanying the document [draft] Council Decision on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other and covering the subsequent implementing regulation of the Decision on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other

Documents from other Stakeholders

- Joint Position Paper of the Governments of the Kingdom of Denmark, the French Republic, the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern

Ireland, and the Overseas Countries and Territories on the future relations between the Overseas Countries and Territories and the European Union, adopted at the Ministerial Conference of the Association of the Overseas Countries and Territories of the European Union, Nouméa, New Caledonia, 28 February 2011

- Message from La Réunion Island of July 2008: <http://www.reunion2008.eu/pages/en/en-home.html>
- Rio principles, Kyoto protocol: <http://unfccc.int/2860.php>

Studies

- BROOKS, P., STONEMAN, R. and RIOS, R. Enhancing Atlantic OCTs' Trade and Economic Activity (within their region and the European Union), EUROPEAID/11/9860/C/SV/multi - Lot N° 10, N° 2008/170783, February 2010
- BURKE, S.J., KIROSINGH, M., Overseas Countries and Territories Technical Assistance for the Mid Term Review (MTR) 2006, Final Report, Framework Contract Lot N° 4 – Sectoral and project evaluations – Specific Contract No 119860/C/SV/multi, 18 December 2006
- ECLAC, Review of CARIFORUM/EU EPA: Implications for the British and Dutch Caribbean OCTs, LC/CAR/M.176, 4 September 2008
- ECO Consult et al., Region Level Evaluation: Overseas Countries and Territories (OCT), Contract N° EVA 2007/geo-acp, draft Final Report, July 2011.
- HELLYER, M., CARICOM Single Market and Economy: Costs/Benefits Study, Final Report, June 2004
- KIRKPATRICK et al. (2011), A Trade Sustainability Impact Assessment Relating to the Negotiation of a Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada, Trade 10/B3/B06, Final Report, June 2011.
- LUFF, David et al., the Analysis of the Regional Economic Integration Processes (Caribbean, Pacific and Indian Ocean) and Recommendations Aiming at Enhancing Trade and Economic Activity of OCTs within their Region and with the EC, Framework Contract Beneficiaries– Lot 11, N° 2008/170791, February 2010
- SALMON Jean Michel, OCT Regional Integration Impact Study, Final Report, Framework Contract Beneficiaries - Lot 11 N°. 2006/123116, July 2007
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- NIRAS PINSISI Consortium partners, OCTs Environmental profiles, Service contract 2006/12146, January 2007

Main report:

http://ec.europa.eu/development/icenter/repository/environmental_profile_main_report_en.pdf

Caribbean region:

http://ec.europa.eu/development/icenter/repository/environmental_profile_caribbean_en.pdf

Pacific region:

http://ec.europa.eu/development/icenter/repository/environmental_profile_pacific_en.pdf

North Atlantic region:

http://ec.europa.eu/development/icenter/repository/environmental_profile_north_atlantic_en.pdf

South Atlantic region:

http://ec.europa.eu/development/icenter/repository/environmental_profile_south_atlantic_en.pdf

Indian Ocean region:

http://ec.europa.eu/development/icenter/repository/environmental_profile_indian_ocean_en.pdf

- Study on the current actions and initiatives in the field of civil protection in the Caribbean in order to promote, enhance and reinforce the regional cooperation mechanisms (final report of May 2010)

Other Sources

- EU legislation concerning protection of nature and biodiversity:

http://europa.eu/legislation_summaries/environment/nature_and_biodiversity/index_en.htm

- EU legislation regarding climate change:

http://europa.eu/legislation_summaries/environment/tackling_climate_change/128157_en.htm

- French initiative "Grenelle de l'Environnement" and consecutive legislative decisions concerning the French overseas entities (OCTs and outermost regions):

<http://www.legrenelle-environnement.fr/>

<http://www.legrenelle-environnement.fr/spip.php?rubrique2>

ANNEX 2 – GLOSSARY

Ad Valorem Equivalent (AVE): Rate of tariff or tax on an item that equals the amount payable if it was taxed on the basis of its value.

African, Caribbean and Pacific States: The European Union and the African, Caribbean and Pacific countries (ACP countries) enjoy special relations that can be traced back to the Union's beginnings. These political, economic and social relations are to be found mainly in the field of development cooperation. The Cotonou Agreement signed in 2000, follows on from the previous conventions (Yaoundé, Lomé) and currently provides the general framework for relations between the Union and the 79 ACP countries. This framework is reinforced by regional and national components and supplemented by a financial component represented mainly by the European Development Fund.

Common External Tariff (CET): The Common External Tariff (CET) comprises the tariff duties that are levied on any goods that are imported into the European Union. As indicated by the name, these tariffs are common to all EU Member States

Europe 2020 Agenda: Europe 2020 is the EU's growth strategy for the coming decade. In a changing world, we want the EU to become a smart, sustainable and inclusive economy. These three mutually reinforcing priorities should help the EU and the Member States deliver high levels of employment, productivity and social cohesion. Concretely, the Union has set five ambitious objectives - on employment, innovation, education, social inclusion and climate/energy - to be reached by 2020. Each Member State has adopted its own national targets in each of these areas. Concrete actions at EU and national levels underpin the strategy.

Economic Partnership Agreements (EPAs): The Economic Partnership Agreements (EPAs) between the EU and African, Caribbean and Pacific group of countries are aimed at promoting trade between the two groupings – and through trade development, sustainable growth and poverty reduction. Since 2002, six regional groupings negotiate EPAs with the EU to replace Cotonou trade chapters. These EPA aim at reciprocal free trade, comprising of tariff and quota free market access, asymmetric gradual market opening of ACP markets for EU exports and simpler rules of origins. Only one full EPA has been concluded so far with Cariforum, interim EPA are thus in place with Southern African Development Community, East and Southern Africa and key trading partners in the Pacific

European Development Fund (EDF): Created in 1957 by the Treaty of Rome, and first launched in 1959, the European Development Fund is the main instrument for providing EU development aid in the African, Caribbean and Pacific (ACP) countries.

European Investment Bank (EIB): The European Investment Bank (EIB) is the European Union's financing institution. Its shareholders are the 27 Member States of the Union, which have jointly subscribed its capital. The EIB's Board of Governors is composed of the Finance Ministers of these States. The EIB's role is to provide long-term finance in support of investment projects.

European Regional Development Fund (ERDF): The ERDF is a financial instrument of the cohesion policy of the EU, aiming at strengthening economic and social cohesion in the European Union by correcting imbalances in its regions.

Free Trade Agreement (FTA): Free trade Agreements are non tariff and non barrier trade agreements whose rules are set out in the WTO, Article XXIV of the GATT and Article V of the GATS. The EU negotiates comprehensive, new generation FTAs (with WTO members) which include services, FDI, IPR, public procurement, standards, competition... but also non trade concerns. Free trade Agreement can be pictured at the centre of the EU pyramid of trade preferences, after MFN treatment and Non reciprocal preferences (GSP-EBA) and less comprehensive than association agreements or internal market association.

General Agreement on Trade in Services (GATS): The General Agreement on Trade in Services states how much access foreign service providers are allowed for specific sectors. It also includes a list of types of services where individual countries say they are not applying the “most-favoured-nation” principle of non-discrimination.

Generalised System of Preferences (GSP): Generalised System of Preferences (GSP): The Generalised System of Preferences is a scheme under which the EU offers non-reciprocal trade preferences to support developing countries exporting to the EU. The GSP is based on the 1979 GATT enabling clause and is composed of three components with increasing benefits; GSP, GSP+ and EBA. The general arrangement of the GSP system allows for duty free access for non sensitive products, tariff reductions for sensitive products [...]. GSP+ presents more conditionality than the general GSP system, it is defined as a special incentive for sustainable development and good governance in which vulnerable countries can have duty free access to up to 90, 4 % of tariff lines. EBA is a special arrangement for least developed countries, offering duty free and quota free access for all products except arms.

Most Favoured Nation (MFN): The most favoured nation treatment is a fundamental non discrimination principle of the WTO trading system. It entails each member of the WTO to treat all other members equally as their most favoured trading partner. This principle ensures non discrimination between imported foreign products guaranteeing imports from lowest cost foreign suppliers. Free trade agreements sometimes also contain MFN clauses. Via such clauses the parties commit themselves to granting each other the most favourable treatment they give to any third partner with which they have a free trade agreement separate from the one they conclude amongst themselves.

Preference Erosion: Preference erosion is the phenomenon by which the relative value of trade preferences which major trading partners traditionally granted to certain beneficiaries decreases as a consequence of the unilateral or bilateral trade liberalisation conducted by the same trading partners.

Rules of Origin: Within the context of international trade, the notion of origin refers to the "economic nationality" of goods. Origin determines whether or not goods which are imported into a certain market benefit from preferential access (reduced or zero rate of duty). The rules that are followed to determine the origin of an imported product are laid down in preferential trade agreements or arrangements. The rules of origin that apply to OCT exports to the EU market are laid down in Annex III to the OAD.

Sanitary and Phytosanitary Measures (SPS): Measures dealing with food safety and animal and plant health. With regards to the OCTs the cost of complying to certain Sanitary and Phytosanitary rules is high and acts as a disincentive.

ANNEX 3 – SERVICES THAT PARTICIPATED IN THE IMPACT ASSESSMENT

Agriculture and Rural Development (AGRI)

Climate Action (CLIMA), Competition (COMP)

Economic and Financial Affairs (ECFIN)

Education and Culture (EAC)

Employment, Social Affairs and Inclusion (EMPL)

Enterprise and Industry (ENTR)

Environment (ENV)

Health and Consumers (SANCO)

Home Affairs (HOME)

Information Society and Media (INFSO)

Maritime Affairs and Fisheries (MARE)

Internal Market and Services (MARKT)

Justice (JUST)

Legal Service (SJ)

Mobility and Transport (MOVE)

Regional Policy (REGIO), Research and Innovation (RTD)

Secretariat General (SG)

Trade (TRADE)

European Anti-Fraud Office (OLAF)

Budget (BUDG)

Taxation and Customs (TAXUD).

Furthermore, EU Delegations in Mauritius, Fiji, Barbados, Guyana and Jamaica, European Investment Bank (EIB), as well as thematic and geographical units of Directorate General for Development and Cooperation – EuropeAid were associated to this exercise.

ANNEX 4 – STRUCTURE OF THE OVERSEAS ASSOCIATION DECISION

Part One: General Provisions of the Association of the OCTs with the Community	
Chapter 1	General provisions: purpose, objectives, principles, basic elements, least developed OCTs
Chapter 2	Actors of cooperation
Chapter 3	Principles and procedures: dialogue and partnership, ACP/EU Parliamentary Assembly, Management
Part Two: Areas of Cooperation	
Articles 10 -17	Productive sectors, trade development, trade in services, trade related areas, social sectors, regional cooperation and integration, cultural and social cooperation
Part Three: Instruments of OCT/EU Cooperation	
<i>Title I</i>	Development finance cooperation (rules governing the use of development finance cooperation)
Chapters 1-8	General provisions Objectives (support and promote OCT efforts to achieve sustainable development, economic diversification, encourage inter-OCT and OCT/ACP regional cooperation etc.); principles (partnership, complementarity and subsidiarity), Single Programming Documents, scope of financing, eligibility for financing, programming and implementation, resources available, implementation procedures etc.
<i>Title II</i>	Economic and trade cooperation (rules regarding trade in goods and services, establishment and trade related areas)
Chapters 1 - 5	Objectives (OCT economic & social development, OCT/EU economic ties, economic integration), arrangements for trade in goods (EU measures, OCT measures, transshipment, surveillance, safeguard), trade in services and establishment, trade related areas (payments and capital movement, competition, intellectual property rights, standardisation/certification, trade and environment, trade and labour standards, consumer policy and consumer health protection), monetary and tax matters, vocational training, programmes open to OCTs etc.
Part Four: Final Provisions	
Annexes	
Annex I A - B	List of OCTs and list of OCTs considered to be the least developed
Annexes II A - F	Rules and conditions for OCT eligibility to funding from internal and external financial instruments: 9 th and 10 th EDF, loans from EIB Own Resources, EIB Investment Facility, support in case of fluctuations in export earnings, budgetary aid for developing countries (DCI, Instrument for Stability etc.), participation in Community programmes (Competitiveness and Innovation Framework, Research Framework etc.)
Annex III	Rules of origin
Annex IV	Transshipment facility

ANNEX 5 – PUBLIC CONSULTATION GREEN PAPER

The Green Paper launched a public consultation that ran from 1 July to 17 October 2008¹, and the Commission organised a stakeholder conference in Brussels on 3 October 2008² to present the issues raised in the Green Paper. Moreover, the Commission, the OCTs and the Member States to which the OCTs are linked discussed the Green Paper at the annual OCT Forum on 28 and 29 November 2008³.

The contributions received in response to the Green Paper, as well as the discussions during the stakeholder conference and the 2008 OCT Forum, revealed a broad consensus between the parties directly concerned on a number of general issues. A common opinion is that the current anti-poverty focus in the relations between the EU and the OCTs no longer corresponds to the reality in the field and should be replaced by a new approach. The unique relationship between the OCTs and the EU should be the cornerstone of such a new logic. It should take due account of the OCTs' specificities, in particular their economic and social development, diversity and vulnerability, as well as their environmental importance. It should also aim to strengthen their resilience and enhance their competitiveness, especially in the regions where they are located. One key message is that the OCTs, as outposts of Europe all over the world, should be seen as assets for the EU and not a burden.

Many contributions stressed that the solidarity between the EU and the OCTs should be based on the fact that all inhabitants of the OCTs are in principle⁴ EU citizens, as nationals of the related Member States, and on the close links resulting from common history and constitutional traditions. They argue that the new association should focus on the potential of the OCTs, while addressing their vulnerability, rather than the fight against poverty. According to some contributions, this also means that the OCTs should not be 'worse off' in the future in terms of Community financial assistance, and that the OCTs' access to funding in general should be facilitated.

Furthermore, the public consultation confirmed the OCTs' challenges and potential from an environmental point of view, and the mutual interests of the EU and the OCTs in this field. Many contributions demonstrate the importance of the OCTs and their rich biodiversity as a global environmental heritage. They also suggest that the OCTs could usefully be seen as laboratories for examining the impacts of climate change or as testing grounds for environmental pilot projects. A large number of stakeholders suggested making available specific — and additional — resources for environmental protection in the OCTs, the fight against climate change and disaster risk reduction.

There is a general demand for more 'partnership' between the EU and the OCTs, but only a few contributions provided input on the actual responsibilities that this should entail for the OCTs themselves. On the other hand, a lot of reactions call for the OCTs to be taken better

¹ <http://ec.europa.eu/development/how/consultation/index.cfm?action=viewcons&id=3841>

² http://ec.europa.eu/development/geographical/regionscountries/regionscountriesocts_en.cfm

³ http://ec.europa.eu/development/geographical/regionscountries/regionscountriesoctsforum_en.cfm

⁴ Accordingly to Article 17 of the EC Treaty, every person holding the nationality of a Member State shall be a citizen of the Union. As a matter of fact, all nationals of Greenland, and the French and the Dutch OCTs also have the nationality of the related Member States automatically and are therefore EU citizens. 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.

into account and even involved more directly in EU policy-making in areas that are likely to affect them.

Several contributions point to the need for supporting the OCTs to become more competitive, for example through the creation of centres of excellence, the reinforcement of regional cooperation and integration, strengthening of the role that OCTs could play as outposts of the EU in their respective regions, the simplification of rules of origin and sanitary and phytosanitary requirements for import into the Community, etc. Notwithstanding the importance attached to regional cooperation, it appears that the degree of an OCT's participation in regional integration processes, where possible, depends on the actual advantages this would bring for each partner.

Nearly all contributions call for a new framework able to take due account of the OCTs' diversity. In particular with regard to trade issues, the different situations in which OCTs find themselves are highlighted. Consequently, there is a strong demand for more flexibility to address an OCT's specific challenges. However, several contributions calling for greater diversification underline at the same time the importance of maintaining a coherent overall framework for all OCTs.

ANNEX 6 – EU FINANCED COOPERATION WITH OCTS

The European Development Fund

Since the Treaty of Rome, EU financial assistance to OCTs has been mainly delivered under the European Development Fund (EDF). The 10th EDF foresees a total amount of EUR 286 million for cooperation with the OCTs. This amount is divided as follows: EUR 195 million for territorial programmes and projects, EUR 40 million for a regional programme, EUR 30 million for an OCT investment facility managed by the EIB, EUR 6 million for technical assistance managed by the European Commission; and EUR 15 million for contingency aid (disasters, fluctuations in export earnings)¹.

Grants for programmable support for long terms development, humanitarian aid, emergency aid, refugee aid and additional support in the event of fluctuations in export earnings as well as for support for regional cooperation and integration Total: EUR 250 million	Territorial envelope: EUR 195 million This envelope is distributed among OCTs whose GDP does not exceed the EU average GDP. Only 13 OCTs are eligible to this envelope that must be programmed through a territorial Single Programming Document (SPD). The individual amounts delivered rank from 2 million Euros to 22.92 million Euros for the whole period. Greenland is not eligible to this envelope, bilateral cooperation with the EU being financed under the budget.
	Regional envelope: EUR 40 million This envelope is programmed through a regional SPD that contains five sub-programs. Two of them are thematic and concern all OCTs (territorial strategies for innovation and technical assistance to the OCT Association). The three other sub-programs concern the OCTs located in Caribbean, the Indian Ocean and the Pacific.
	Non allocated reserve: EUR 15 million humanitarian, emergency and refugee aid for the OCTs and, if necessary, the additional support in the event of fluctuations in export earnings new allocations in accordance with the development of the needs and performance of the OCTs
Investment Facility managed by the European Investment Bank (EIB) Total: EUR 30 million	
Technical assistance managed by the European Commission Total: EUR 6 million	

¹ In addition, EUR 176.6 million has been reserved within the EU General Budget (article 21 07 02) for cooperation with Greenland in non-fisheries sectors in the period 2007-2013. The EU-Greenland non-fisheries partnership focuses on education and vocational training. It has been the subject of a separate impact assessment. See: Commission Staff Working Paper SEC(2011) 1484 of 7 December 2011. The EU-Greenland Fisheries Agreement also foresees specific sectoral support mechanisms to promote the implementation of sound and sustainable fisheries policies and governance in Greenland. An ex-post Evaluation of the EU-Greenland Fisheries Partnership Agreement was completed in August 2011.

In its Communication of December 2011 on an Internal Agreement between Member States regarding the 11th EDF the European Commission proposes to reserve EUR 343.4 million to finance territorial and regional programmes, technical assistance and interventions in case of contingency situations in the period 2014-2020². EUR 5 million would be allocated to the European Investment Bank (EIB) to finance interest subsidies and technical assistance in the context of EIB projects.

EU budget lines and horizontal programmes

Articles 25.2 and 58 of the current OAD stipulate that OCTs can benefit from certain actions under EU programmes, subject to the rules and objectives of the programmes and the arrangements applicable to the Member State to which the OCT is linked. OCTs are eligible for the following actions adopted for developing countries within the general budget of the EU: thematic programmes financed by the Development Cooperation Instrument³, rehabilitation and reconstruction operations financed under the Instrument for Stability⁴ and Humanitarian Aid⁵.

² See the Communication of the Commission "Preparation of the multiannual financial framework regarding the financing of EU cooperation for African, Caribbean and Pacific States and Overseas Countries and Territories for the 2014-2022 period (11th European Development Fund)" – COM(2011) 837 final of 7.12.2011.

³ Regulation (EC) N° 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing Instrument for Development Cooperation (DCI) – OJ L 378, 27.12.2006, p. 41

⁴ Regulation (EC) N° 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability – OJ L 327, 24.11.2006, p. 1

⁵ Council Regulation (EC) N° 1257/96 of 20 June 1996 concerning humanitarian aid – OJ L 163, 2.7.1996, p.1. Regulation a last amended by Regulation (EC) N° 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p.1)

ANNEX 7 – OCT REMOTENESS – LINER SHIPPING CONNECTIVITY

Most OCTs are remote and/or at great distance from the European continent and their neighbouring markets, with low freight transport connectivity, irregular shipping and air transport services and high transport costs as a consequence. This forms a major obstacle to the OCTs' participation in those markets. UNCTAD' Liner Shipping Connectivity Index (LSCI) ECO Consult et al. (2011) gives an indication of the OCTs' weak integration into global liner shipping networks.

Evolution of shipping lines connectivity index 2004-2009

	2004	2005	2006	2007	2008	Growth p. a 2004 – 2008	2009	Growth 2009/2008	Rank 2009 (161 countries)
Aruba	7.37	7.52	7.53	5.09	5.09	- 0.57	3.52	- 1.57	144
Cayman Islands	1.90	2.23	1.79	1.78	1.78	- 0.03	1.76	- 0.02	158
Greenland	2.32	2.32	2.27	2.27	2.36	- 0.01	2.27	- 0.09	156
French Polynesia	10.46	11.14	8.91	8.60	9.01	- 0.36	8.39	- 0.62	95
Netherlands Antilles	8.16	8.23	7.82	9.22	8.56	- 0.10	8.57	0.01	92
New Caledonia	9.83	10.34	9.00	8.81	9.23	- 0.15	8.74	- 0.49	90
France	67.34	70.00	67.78	64.84	66.24	- 0.28	67.01	0.77	13
Netherlands	78.81	79.95	80.97	84.78	87.57	2.19	88.66	1.09	4
United Kingdom	81.69	79.58	81.53	76.77	77.99	- 0.92	84.82	6.83	6

Source: ECO Consult et al. (2011) p. 71.

ANNEX 8 – EU 27 GOODS IMPORTS FROM ALL OCTs IN 2010 (VALUES IN 1,000 EUR)

HS	Description	totals (A)	% (A/B)
03	Fish & crustaceans, molluscs & other aquatic invertebrates	340.914	34.5%
16	Preparations of meat, of fish or of crustaceans, molluscs	91.567	9.2%
27	Mineral fuels, mineral oils and products of their distillation	35.774	3.6%
71	Natural or cultured pearls, precious or semi-precious stones	75.854	7.6%
72	Iron & steel	158.556	16%
75	Nickel & articles thereof	175.079	17.7%
	Total value of main EU 27 imports from OCTs	877.744	88.6%
	Total value of all EU 27 imports from OCTs*	987.543	

(A) Value of EU27 imports (at 2-digit level of the HS) from OCTs representing at least 1% of all EU27 imports from OCTs

(B) Total value of all EU27 imports from OCTs

EU 27 Goods Exports to all OCTs in 2010 (values in 1,000 EUR)

HS	Description	totals (A)	% (A/B)
04	Dairy produce; birds' eggs; natural honey	51.000	1.7%
19	Preparations of cereals, flour, starch or milk	50.410	1.7%
21	Miscellaneous edible preparations	61.449	2.1%
22	Beverages, spirits & vinegar	119.445	4.1%
27	Mineral fuels, mineral oils & products of their distillation	219.503	7.6%
30	Pharmaceutical products	179.710	6.2%
39	Plastics & articles thereof	71.317	2.4%
48	Paper & paperboard; articles of paper pulp	43.412	1.5%
73	Articles of iron or steel	101.083	3.5%
84	Nuclear reactors, boilers, machinery & mechanical appliances	422.780	14.6%
85	Electrical machinery and equipment & parts thereof	295.648	10.2%
87	Vehicles other than railway or tramway rolling-stock	250.756	8.6%
90	Optical, photographic, measuring, precision, medical instruments	96.063	3.3%
94	Furniture; bedding, mattresses, mattress supports, cushions	68.780	2.3%
	Total value of main EU 27 exports to OCTs	2.031.355	69.8%
	Total value of all EU 27 exports to OCTs *	2.884.688	

(A) Value of EU27 exports (at 2-digit level of the HS) to OCTs representing at least 1% of all EU27 exports to OCTs

(B) Total value of all EU27 exports to OCTs

ANNEX 9 – TREATMENT OF OCT GOODS IMPORTED INTO THE EU UNDER CET RATES

OCT (all figures for 2010)	Imports* (A) (€1000)**	Dutiable Imports (B) (€1000)	CET Duties (C) (€1000€)	AVE CET*** Total (C/A) %
Cayman Islands	872,367	2,808	63	0.01
New Caledonia	343,875	7,350	461	0.13
Greenland	316,672	297,796	37,587	11.87
Virgin Islands (British)	155,862	5,762	223	0.14
(former) Netherlands Antilles	144,533	56,487	9,105	6.30
Falkland Islands	112,444	110,740	7,696	6.84
French Polynesia	23,028	12,683	1,268	5.51
Mayotte	5,016	1,766	143	2.86
Aruba	3,993	2,172	119	2.99
Saint Helena	1,608	252	25	1.56
Saint-Pierre et Miquelon	1,314	1,311	194	14.78
Montserrat	1,222	410	15	1.24
Pitcairn	592	490	18	3.09
Turks and Caicos Islands	344	207	15	4.46
Anguilla	289	17	0	0.17
Wallis and Futuna Islands	50	34	2	4.57
Total	1,983,211	500,285	56,937	2.87

* Total value of EU imports

** Thousands of Euros

*** Ad Valorem Equivalent

The average rate is calculated by dividing dutiable exports by total exports. Pitcairn, Turks and Caicos and Wallis and Futuna exports are so small that all three OCTs combined would face duties between EUR 35,000 and 14,000, taking into account that their combined exports to the EU represent only EUR 1million.

ANNEX 10 – OVERVIEW PER OCT

Caribbean OCTs

Anguilla (UK)	
<i>Constitutional relations with Member State</i>	British Overseas Territory. UK remains responsible for external affairs, offshore finance, defence and internal security (including the police force) and the public service. Citizens can renounce British nationality if they wish. Debate ongoing on the future of Anguilla's status vis-à-vis the UK. Recently, political tensions arose between the UK & Anguilla governments over the balance of the latter's budget.
<i>Capital</i>	The Valley
<i>Geography</i>	91 km ² island located in the upper part of the arch formed by the Leeward Islands
<i>Industries</i>	Tourism, construction, government service, international financial services, banks and insurance.
<i>Trading partners</i>	North America (mainly US), Caribbean Region (CARICOM, St Martin/St Maarten and other Caribbean countries).
Aruba (NL)	
<i>Constitutional relations with Member State</i>	Country within the Kingdom of the Netherlands, together with the Netherlands, Curaçao and Sint-Maarten. Autonomy in internal affairs. Common interests of the Kingdom of the Netherlands, such as defence and foreign affairs, are promoted jointly.
<i>Capital</i>	Oranjestad
<i>Geography</i>	180 km ² island located in the Lesser Antilles, north of Venezuela.
<i>Industries</i>	Tourism, international financial services, oil refining and storage.
<i>Trading partners</i>	US, NL, PA, CO, VZ, Netherlands Antilles
British Virgin Islands (UK)	
<i>Constitutional relations with Member State</i>	British Overseas Territory. UK remains responsible for external affairs, offshore finance, defence and internal security (including the police force) and the public service. Citizens can renounce British nationality if they wish.
<i>Capital</i>	Road Town, Tortola
<i>Geography</i>	Group of islands with a total land area of 153 km ² .located at the extreme northern point of the arch formed by the Leeward Islands.
<i>Industries</i>	Tourism, international financial services.
<i>Trading partners</i>	VI (US) & US.

Cayman Islands (UK)	
<i>Constitutional relations with Member State</i>	British Overseas Territory. UK remains responsible for external affairs, offshore finance, defence and internal security (including the police force) and the public service. Citizens can renounce British nationality if they wish.
<i>Capital</i>	George Town, Grand Cayman
<i>Geography</i>	3 islands with a total land area of 260 km ² island, located south of Cuba and east of Jamaica
<i>Industries</i>	Tourism, international financial services, real estate sales and development.
<i>Trading partners</i>	US.
Montserrat (UK)	
<i>Constitutional relations with Member State</i>	British Overseas Territory. UK remains responsible for external affairs, offshore finance, defence and internal security (including the police force) and the public service. Citizens can renounce British nationality if they wish.
<i>Capital</i>	Plymouth (now destroyed by the volcano)
<i>Geography</i>	102 km ² island, located in the upper part of the arch formed by the Leeward islands
<i>Industries</i>	2/3 of the island uninhabitable following volcano eruptions in 1995 & 1997. Limited economic activity including mining and quarrying, construction, international financial services, professional services and tourism.
<i>Trading partners</i>	US, UK, JP, TT, PR.
(Former) Netherlands Antilles (NL)	
<i>Constitutional relations with Member State</i>	Former Country of the Kingdom of the Netherlands. Dissolved on 10 October 2010 and replaced by two new countries (Curaçao and Sint-Maarten) and three special municipalities (Bonaire, St-Eustatius and Saba - BES). Curaçao and Sint-Maarten have autonomy in internal affairs. The BES islands are attached to the Netherlands. All islands continue to have OCT status and for EU law purposes the Netherlands Antilles still exist.
<i>Capitals</i>	Curaçao: Willemstad, Sint-Maarten: Philipsburg
<i>Geography</i>	Curaçao (444 km ²) & Bonaire (288 km ²) are located north of Venezuela; Sint-Maarten (34 km ²), Saba (13 km ²) & Sint-Eustatius (21 km ²) are located in the upper part of the Leeward Islands.
<i>Industries</i>	Tourism, petroleum refining, international financial services.
<i>Trading partners</i>	US, EU.

Saint-Barthélemy (FR)	
<i>Constitutional relations with Member State</i>	The island used to be part of the overseas department of Guadeloupe, before becoming in 2007 an overseas collectivity of the French Republic. This evolution in internal law led the island to be ruled by Art. 74 of the French Constitution which provides for legislative speciality (French laws are not automatically applicable) and an <i>ad hoc</i> status for the overseas collectivities sharing the competences with the States. Nevertheless, legislative speciality (French laws automatically applicable) remains in all competences of the State, excepting the texts regulating the entry and residence of foreigners that must explicitly be applicable to Saint-Barthélemy. The island became an OCT associated with the EU on 1 January 2012.
<i>Capital city</i>	Gustavia
<i>Geography</i>	Island of 21 km ² (25 km ² including the islets) located at the extreme North-East of the Caribbean sea.
<i>Industries</i>	Up-market and residential tourism,
<i>Trading partners</i>	FR
Turks and Caicos Islands (UK)	
<i>Constitutional relations with Member State</i>	British Overseas Territory. UK remains responsible for external affairs, offshore finance, defence and internal security (including the police force) and the public service. Citizens can renounce British nationality if they wish. TCI's elected government and parliament were dissolved in August 2009 after it became apparent that the incumbent government had indulged in fraud and maladministration practices. The UK governor is now in charge of the Turks and Caicos Islands government. The UK government has made a return to normalcy conditional to sufficient progress in the achievement of a set of constitutional, electoral, political and financial reforms.
<i>Capital</i>	Cockburn Town, Grand Turk
<i>Geography</i>	Island grouping with a total area of 430 km ² located north of Haiti and the Dominican Republic.
<i>Industries</i>	Tourism, property development, real estate, international financial services and fishing. The combined effect of the financial, economic and political crisis as well as the passage of tropical storm Hanna & Hurricane Ike in 2008 led to the deterioration of the archipelago's economy.
<i>Trading partners</i>	US

Atlantic Ocean

Falkland Islands (UK)	
<i>Constitutional relations with Member State</i>	British Overseas Territory. UK remains responsible for external affairs, offshore finance, defence and internal security (including the police force) and the public service. Citizens can renounce British nationality if they wish.
<i>Capital</i>	Stanley
<i>Geography</i>	Group of islands with a total area of 12 173 km ² located in the South Atlantic, east of the Argentine province of Tierra de Fuego
<i>Industries</i>	Fisheries, tourism, agriculture. Potential for the hydrocarbon industry. Oil drilling activities are taking place in the waters surrounding the Falkland Islands
<i>Trading partners</i>	UK, ES, CL
Greenland (DK)	
<i>Constitutional relations with Member State</i>	Greenland is an autonomous community within the Kingdom of Denmark. Status governed by the 2009 Self Governance Act, which recognises the Greenlanders as a separate people with a right to self-determination. The Kingdom of Denmark remains responsible for foreign policy, but Greenland has received great autonomy to negotiate entries on behalf of the Kingdom in areas where Greenland has full competence.
<i>Relations with EU</i>	1973 – 1985: Part of the EU territory 1985 - ...: Greenland Treaty; Greenland Decision & Greenland/EU Fisheries Partnership Agreement
<i>Capital</i>	Nuuk
<i>Geography</i>	Largest island in the world with a total land area of 2 166 086 km, located between the Arctic Ocean and the North Atlantic Ocean, northeast of Canada and northwest of Iceland
<i>Industries</i>	Main sectors: Fishing, tourism and minerals. Greenland is potentially one of the biggest sources of rare earth elements (REE), crucial for technological appliances such as cell phones. Restrictions on exploitation of these resources, because of zero tolerance for uranium (side-product of REE). Ban followed the crash of a US air bomber with nuclear heads at the Thule airbase in 1968, causing wide spread radioactive contamination. Exploratory oil drilling activities are taking place in the waters surrounding Greenland.
<i>Trading partners</i>	EU (DK, UK, DE), US, JP, CN & RU.

Saint Helena, Ascension Island and Tristan da Cunha (UK)	
<i>Constitutional relations with Member State</i>	British Overseas Territory. UK remains responsible for external affairs, offshore finance, defence and internal security (including the police force) and the public service. Citizens can renounce British nationality if they wish.
<i>Capital</i>	Jamestown
<i>Geography</i>	Disparate group of islands with a total area of 122 km ² located in South Atlantic. The main island lays about 1200 miles from the south west coast of Africa.
<i>Industries</i>	The territory has few natural resources. Agriculture, fishing and tourism are the main economic activities, apart from retail and construction.
<i>Trading partners</i>	US, TZ, ID, UK, JP, NL, NG, PL & ES.

Saint Pierre et Miquelon (FR)	
<i>Constitutional relations with Member State</i>	Overseas collectivity of the French Republic with partial legislative speciality: i.e. French laws are applicable except in areas where the collectivity has specific competence (customs, taxes, urban development etc.)
<i>Capital city</i>	Saint-Pierre
<i>Geography</i>	Archipelago of 8 small islands in the North Atlantic Ocean, south of Newfoundland. Total area: 242 km ²
<i>Industries</i>	Fish and fish products, soybeans, animal feed, molluscs and crustaceans, fox and mink pelts.
<i>Trading partners</i>	CA, UE (FR, PT, NL, ES, DE), CN, US

Pacific Ocean

French Polynesia (FR)	
<i>Constitutional relations with Member State</i>	Overseas collectivity of the French Republic with legislative speciality: i.e. French laws are applicable to the territory only if they explicitly provide for this and the share of competences with the State is provided for in an <i>ad hoc status</i> .
<i>Capital city</i>	Papeete
<i>Geography</i>	Grouping of 118 islands in the South Pacific, with a total area of 3 600 km ² scattered over a maritime area as vast as Europe (2.5 million km ²). The islands are grouped in 5 archipelagos: the Society Islands, the Tuamotu Islands, the Marquesas Islands, the Gambier Islands & the Austral Islands.
<i>Industries</i>	Tourism, pearls, fisheries, copra.
<i>Trading partners</i>	EU (mostly FR), SG, US, CN, NZ, AU, JP.
New Caledonia (FR)	
<i>Constitutional relations with Member State</i>	Sui generis collectivity of the French Republic. Some State competences have been progressively and irreversibly transferred to New Caledonia, formed by the three provinces of Province Nord, Province Sud and Province des Iles Loyauté.
<i>Capital city</i>	Nouméa
<i>Geography</i>	Archipelago of 18 575 km ² in the Pacific Ocean
<i>Industries</i>	Nickel, tourism.
<i>Trading partners</i>	EU (mostly FR), SG, AU, NZ, JP, US.
Pitcairn (UK)	
<i>Constitutional relations with Member State</i>	British Overseas Territory. UK remains responsible for external affairs, offshore finance, defence and internal security (including the police force) and the public service. Citizens can renounce British nationality if they wish.
<i>Main town</i>	Adamstown
<i>Geography</i>	Pitcairn is situated in the South Pacific, mid-way between New Zealand and Panama. It is approximately 2 miles by 1 mile. There are 3 other (uninhabited) islands in the Pitcairn group, Oeno, Ducie & Henderson.
<i>Industries</i>	The Territory has few natural resources. Tourism is the main economic activity.
<i>Trading partners</i>	None. Developing low-level market garden exports to French Polynesia.

Wallis et Futuna (FR)	
<i>Constitutional relations with Member State</i>	Overseas collectivity of the French Republic with legislative speciality: i.e. French laws are applicable to the territory only if they explicitly provide for this and the share of competences with the State is provided for in an <i>ad hoc statuts</i> .
<i>Capital city</i>	Mata-Utu
<i>Geography</i>	Archipelago in the South Pacific composed of Wallis, Futuna and Alofi
<i>Industries</i>	Barter economy
<i>Trading partners</i>	FR, SG, AU, NZ, FJ, NC

Indian Ocean

Mayotte (FR)	
<i>Constitutional relations with Member State</i>	Overseas department of the French Republic since March 2011 ruled under Article 73 of the French Constitution (French laws are automatically applicable). France has requested the evolution of Mayotte from an OCT associated with the EU to an Outermost Region of the EU as from 2014 onwards.
<i>Capital city</i>	Dzaoudzi
<i>Geography</i>	Located in the Indian Ocean (Channel of Mozambique). Eastern part of the Comoros archipelago.
<i>Industries</i>	Ylang-Ylang, aquaculture, vanilla, tourism.
<i>Trading partners</i>	Imports: UE (FR, DE), CN, TH, MY, JP Exports: FR, KM, MG, MU.

ANNEXE 11 – THEMATIC REPORT ON ENVIRONMENTAL AND CLIMATE CHANGE ISSUES

Introduction

The non-European Overseas Countries and Territories (OCTs) which have special relations with Denmark, France, the Netherlands and the United Kingdom are associated with the European Union, accordingly with Part IV of the Treaty on the Functioning of the European Union (TFEU). The detailed rules and the procedure for this association are laid down by the Council in the Overseas Association Decision (OAD)¹ that will expire on 31 December 2013. The revision process of this Decision, conducted within the limits of the TFEU, is underway and should lead by July 2012 to a legislative proposal for a new OAD, expected to enter into force on 1 January 2014.

An impact assessment was carried out in order to assess different policy options for the revision of the OAD. According to this framework, environmental issues in the OCTs, including climate change impacts, were subject to a specific analysis.

Chapter 1: Procedural Issues and Consultation of Interested Parties

1.1. Procedural issues

The impact assessment has been prepared by Directorate General for Development and Cooperation - EuropeAid. Inter-service cooperation was ensured through the OCT Inter-Service Group (ISG), acting as the impact assessment steering group. A working group on environmental and climate change issues was set up in September 2011 in which all interested DGs participated.

1.2. Consultation and Expertise

Consultation process: In June 2008, the Commission issued a **Green Paper** on the future relations between the EU and the OCTs², which launched a broad public consultation from 1 July until 17 October 2008 via 'Your voice in Europe'. Thirty contributions were received, emanating from the OCTs, their Member States, a Member of the European Parliament, Non-Governmental Organizations and private individuals.

To question number 4 "*What are, in your view, the most important domains of mutual interest for cooperation between the OCTs and the EU?*", 84% of the contributions answered that environmental, climate change and disaster risk reduction issues should constitute a major concern for the future EU-OCT relations: sustainable use and protection of OCTs biodiversity and natural resources, environmental security, energy and renewable energy, ecosystems conservation, fight against climate change impacts and mitigation, preparedness and response to disasters, invasive species, sustainable

¹ 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 314/1, 30.11.2001), amended by Decision 2007/249/EC (OJ L 109/33, 26.04.2007).

² COM(2008) 383 final of 25 June 2008

fisheries. The importance of international and regional engagement in those matters was underlined.

In July 2008 a **conference on "The European Union and its Overseas Entities: Strategies to counter Climate Change and Biodiversity Loss"** was held in La Réunion Island under the French Presidency of the European Union. This event gathered the European Commission, Members of the European Parliament and public authorities and civil stakeholders from the OCTs, the outermost regions of the EU and from the Member States of the EU. A message – *"the message from La Réunion Island"* – was issued at the end of the conference, paragraph 13 of this document stated: *"There is an urgent need for EU Member States and the European Commission, together with the ORs and OCTs, to establish a voluntary scheme for the protection of species and habitats, inspired by the Natura 2000 approach. This scheme should be easily accessible, flexible, adapted to the local situation, balance conservation and development needs, as well as take into account existing mechanisms and tools. The implementation of the scheme should be based on local commitment and shared financing"*. As a follow up of the message from La Réunion Island, the services of the European Commission (DG Environment) developed a programme called the **BEST scheme** (Voluntary scheme for Biodiversity and Ecosystem Services in Territories of the EU Outermost Regions and Overseas Countries and Territories) and supported by EU funds³.

In the framework of the consultation process, the Commission organized a **stakeholders conference** in October 2008 in Brussels. The event gathered around over 100 interested parties from the OCTs' authorities, Member States, the EU's institutions and bodies and civil society at large, both in the OCTs and in the EU. On this occasion, the role of the OCTs as representatives of a global environmental heritage and rich biodiversity was pointed out as a possible focal point for future EU-OCT partnership and policy framework.

The outcome of the consultation process as well as the Commission's opinion on essential elements for the future partnership between the EU and the OCTs were presented in the Communication from the Commission of 6 November 2009⁴. Environmental, climate change and disaster risk reduction issues were recognized as areas of mutual interests and as axes of cooperation that could contribute to attain the three central objectives that were identified for the future partnership: (i) enhancing OCTs' competitiveness, (ii) strengthening their resilience and (iii) promoting their cooperation with regional, national, EU and international partners.

Since 2005, the future relations between the EU and the OCTs have been the central themes of a partnership working party gathering representatives of the OCTs, their Member States and the European Commission. The future relations are also systematically discussed during the annual EU-OCT Forums at high political level (President of the executive power in the OCTs, Members of Governments of the Member States and EU Commissioner).

The latest annual EU-OCT Forum was organized in March 2011. On this occasion, the OCTs and their Member States endorsed a **Joint Position Paper** on the future EU-OCT

³ See section 2.1.3 b) of Annex 11.

⁴ COM(2009) 623 final of 6 November 2009 "Elements for a new partnership between the EU and the overseas countries and territories"

relations in which they identified environmental issues, climate change mitigation and disaster risk reduction as main concerns. They requested a partnership in which the assets of the OCTs as well as the challenges they face in these areas could be taken into account.

Expertise: In 2006, an independent study was commissioned from external consultants⁵ in order to assess the **environmental profiles of the OCTs**. The final report, delivered in January 2007, identified the following main concerns in the OCTs:

- climate change,
- natural disasters,
- threats to wildlife and biodiversity, habitat destruction
- illegal, unregulated and unreported fishing,
- waste management,
- water supply and sanitation.

In 2010, the Commission contracted an independent study⁶ to evaluate the strategies of cooperation between the EU and the OCTs and their implementation during the period 1999-2009. The results of the evaluation were presented to the stakeholders on the occasion of the annual EU-OCT Forum in March 2011. The evaluation concluded that environment and climate change adaptation are regarded as matters of vital importance to the OCTs. However, increased awareness in these issues has not been met with a relevant increase in EU funds or interventions for this sector. The main findings on environmental, climate change and disaster risk reduction issues are presented in more details in section 2.2.

Chapter 2: Problem Definition

2.1. Description of the current framework

2.1.1. Objectives of the association of the OCTs with the EU

According to the TFEU, the purpose of the association shall be to promote the economic and social development of the OCTs and to establish close economic relations between them and the EU as a whole. The association shall serve primarily to further the interests and prosperity of the inhabitants of the OCTs in order to lead them to the economic, social and cultural development to which they aspire (Article 198 TFEU).

The OAD stipulates that the association shall pursue the objectives laid down in the Treaty, by focusing on the reduction, prevention and, eventually, eradication of poverty and on sustainable development.

⁵ Study executed by the Joint-Venture of NIRAS PINSISI Consortium partners. The main report can be consulted on the following web page:

http://ec.europa.eu/development/icenter/repository/environmental_profile_main_report_en.pdf

⁶ The study was carried out by a Consortium composed by ECO Consult, AGEF, APRI, Euronet, IRAM and NCG.

2.1.2. Structure of the current Overseas Association Decision⁷

The current structure of the OAD does not address environmental and climate change issues as such and does not identify areas of cooperation specifically dedicated to environmental issues, climate change, prevention/preparedness/response to natural disasters. The provisions of the OAD concerning these areas are contained in articles, chapters or sections relating to productive sectors, trade in services, trade-related areas, social sectors, regional cooperation and integration, development finance cooperation.

Furthermore, the current OAD does not confer any responsibilities on the OCTs to engage effectively in climate change action, environmental protection and conservation activities according to EU standards, in the monitoring 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. Finally, the OCTs are not always eligible to EU specific mechanisms or programs in these domains (Life + for example).

2.1.3. EU financial assistance to OCTs

a) The European Development Fund

Since the Treaty of Rome, the EU financial assistance to OCTs has been delivered under the European Development Fund (EDF). The repartition of the amount of 286 million Euros dedicated to OCTs under the 10th EDF is specified in annex I of the current OAD as follows:

⁷ See Annex 4 of the Impact Assessment.

<p>Grants for programmable support for long terms development, humanitarian aid, emergency aid, refugee aid and additional support in the event of fluctuations in export earnings as well as for support for regional cooperation and integration</p> <p>Total: 250 million Euros</p>	<p>Territorial envelope: 195 million Euros</p> <p>This envelope is distributed among OCTs whose GDP does not exceed the EU average GDP. Only 13 OCTs are eligible to this envelope that must be programmed through a territorial Single Programming Document (SPD). The individual amounts delivered rank from 2 million Euros to 22.92 million Euros for the whole period. Greenland is not eligible to this envelope, bilateral cooperation with the EU being financed under the budget.</p>
	<p>Regional envelope: 40 million Euros</p> <p>This envelope is programmed through a regional SPD that contains five sub-programs. Two of them are thematic and concern all OCTs (territorial strategies for innovation and technical assistance to the OCT Association). The three other sub-programs concern the OCTs located in Caribbean, the Indian Ocean and the Pacific.</p>
	<p>Non allocated reserve: 15 million Euros</p> <ul style="list-style-type: none"> - humanitarian, emergency and refugee aid for the OCTs and, if necessary, the additional support in the event of fluctuations in export earnings - new allocations in accordance with the development of the needs and performance of the OCTs
<p>Investment Facility managed by the European Investment Bank (EIB)</p> <p>30 million Euros</p>	
<p>Technical assistance managed by the Commission</p> <p>6 million Euros</p>	

The criteria applied for the distribution of territorial allocations under the 10th EDF were the size of the population, the level of GDP per capita. Territorial allocations were increased for least developed OCTs and remote OCTs – located in areas not included in one of the three regional subprograms for Caribbean, Indian Ocean and Pacific.

The regional envelope was increased by 80%, compared to the 9th EDF, rising from 8 to 40 million Euros whereas the non allocated reserve decreased from 35 to 15 million Euros (- 57%).

Territorial and regional allocations are programmed in a Single Programming Document (SPD). Due to the limited amount of each allocation, the OCTs are requested to choose a unique focal sector.

Greenland is not eligible for an EDF territorial allocation but receives financial assistance of the EU under budget line 21 07 02 amounting 176.6 million Euros for the current period. The EU-Greenland partnership focuses on education and vocational training.

Greenland also concluded a fisheries agreement with the EU in which it perceives 17.8 million Euros per year.

b) EU budget lines and horizontal programs

Article 25.2 of the current OAD stipulates that OCTs can benefit from certain actions adopted for developing countries within the general budget of the EU and participate in some programmes, subject to the rules and objectives of the programmes and the arrangements applicable to the Member State to which the OCT is linked.

Only one of the three budget lines⁸ identified in Annex II E of the OAD was mobilized for the OCTs. The Instrument for Development Cooperation (DCI) funded actions in the OCTs under the environment and sustainable management of natural resources including energy (ENRTP):

- In 2009, a call for proposals specifically targeted actions in favour of biodiversity conservation and fighting against invasive species in Small Islands Developing States and in OCTs. The projects proposed by organisms from OCTs were not selected. The only selected project that concerned OCTs was an action against invasive species in French Polynesia, New Caledonia, Fiji, Palau, Cook Islands and Western Samoa for which Bird Life International was granted 1 163 984 Euros in 2010.
- In May 2011, a technical seminar was organised in French Polynesia in order to raise awareness on environmental issues and the possibilities offered by the ENRTP. Pacific OCTs and ACPs participated in this seminar which was co-financed by the ENRTP with 150 000 Euros.

Additional support:

The Global Climate Change Alliance

The OCTs **are not eligible** for the Global Climate Change Alliance (GCCA). Despite this situation, the European Commission took the decision to associate the Pacific OCTs with the joint EU-Pacific initiative on climate change. The GCCA financed the participation of the representatives of these OCTs in the political dialogue, the ministerial

⁸ Thematic programmes covered by Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing **Instrument for Development Cooperation** (DCI) and providing direct support for the European Community development and cooperation policy. **Rehabilitation and reconstruction** operations as covered by Regulation (EC) No 1717/2006 of the European Parliament and the Council of 15 November 2006 establishing an Instrument for Stability. **Humanitarian aid** as provided for by Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid.

conference and the GCCA training workshops that took place in Vanuatu in March 2011. In 2012, a specific training workshop for all OCTs will be organised in Brussels, back-to-back with the annual EU-OCT Forum, and the Caribbean OCTs will be invited to participate in the regional workshop. In total, the participation of the OCTs to these different workshops might not exceed 50 000 Euros, but the important information is that even though GCCA cannot finance projects in the OCTs, it fosters their integration within regional networks.

The BEST Scheme

As a follow-up to the conference "The European Union and its Overseas Entities: Strategies to counter Climate Change and Biodiversity Loss" that was held in July 2008 in La Réunion Island under the French Presidency of the EU, the services of the European Commission (DG Environment) developed a programme called the **BEST scheme** (Voluntary scheme for Biodiversity and Ecosystem Services in Territories of the EU Outermost Regions and Overseas Countries and Territories). This programme intends to promote the conservation and sustainable use of biodiversity and ecosystem services in European overseas entities, drawing on the experience gained with EU conservation programmes such as Natura 2000, from which the Overseas Countries and Territories and most outermost regions of the EU are excluded.

In 2011, the European Parliament took the initiative of a preparatory action of 2 million euros⁹. The specific objectives of the preparatory action are:

- (1) promote the establishment and effective management of marine and terrestrial protected areas (PAs) in the EU Outermost Regions and Overseas Countries and Territories, also taking into account already existing PAs;
- (2) implement sustainable management of marine and terrestrial resources, which contribute to protecting important species, habitats and ecosystem functions outside PAs;
- (3) strengthen conservation and sustainable use of biodiversity and ecosystem services in the EU Outermost Regions and OCTs by:
 - addressing the wider ecosystem challenge of climate change by maintaining healthy, resilient ecosystems and fostering green infrastructure and ecosystem-based approaches to climate change adaptation and mitigation which often bring multiple benefits;
 - strengthening capacities at a local and regional scale, including the neighbouring countries, by promoting exchange of information and best practice amongst all stakeholders including local administration, landowners, private sector, researchers and civil societies etc... ;
 - strengthening existing nature conservation programmes and related efforts within and outside conservation areas;
 - broadening the knowledge base and filling the knowledge gaps, including quantifying the value of ecosystem functions and services;

⁹ The programme is financed under the budget line 07 03 27, accordingly with Commission Decision C(2011) 1258 final of 1 March 2011.

- (4) encourage and facilitate transboundary working; addressing issues such as invasive alien species, the impacts of climate change and the implementation of international conventions;
- (5) develop mechanisms to lever resources including ‘payments for ecosystem-services’(PES).

2.2. Lessons Learnt

The evaluation of the strategies of cooperation between the EU and the OCTs and their implementation during the period 1999-2009 identified the following sectors supported by the EU under the EDF:

- management of water resources (both fresh water as well as marine, as the first has a direct impact on the second);
- OCTs disaster preparedness (only within their own regional context);
- OCTs environmental policy formulation and management capacities;
- local biodiversity monitoring;
- scientific research on biodiversity issues taking into consideration the unique setting of the OCTs and their location in areas of ecological fragility and high biodiversity.

The evaluation study underlined that despite the recognition of the importance of the environment, the reality of climate change and the importance of disaster preparedness, only few concrete results of the EU-OCT cooperation were found in this field. According to the study, this situation is due to limited funding. The evaluation has concluded that environment and climate change adaptation are considered by the OCTs as matters of vital importance, as well as disaster preparedness. However, increased awareness in these issues has not been met with a relevant increase in EU funds or interventions for this sector.

The study recommends that for the post 2013 EU-OCT partnership the association framework should be revisited in order to better respond to new and emerging priorities in the OCTs, such as energy and climate change challenges and to address new objectives such as sustainable management of natural resources and conservation of biodiversity.

The necessity to foster cooperation with neighbouring countries was also identified as a means to reach efficiency. In this respect, the study highlights that cooperation between the OCTs and their neighbours (third countries, ACP States or outermost regions of the EU) is insufficiently supported by the EU, notably because the partners must mobilize different EU funds: the European Regional Development Fund (ERDF) for the outermost regions and the EDF for the ACP States and the OCTs. The main difficulties encountered are due to the fact that these instruments are ruled by different programming and implementation procedures, according to their positioning inside or outside the EU budget, and to the insufficient knowledge of these procedures from the different stakeholders. Only two projects supported by the EU could be successfully carried out under the 9th EDF in the Caribbean and the Indian Ocean, involving OCTs, ACP States and outermost regions. One of them focused on biodiversity conservation but did not involve OCTs.

2.3. The environmental situation in the OCTs

This section is mainly based on information contained in the OCTs environmental profiles¹⁰.

2.3.1. Biodiversity

All the OCTs are characterised by a biodiversity that is much richer than in continental Europe as a whole. These insular and remote countries and territories constitute privileged locations for the development of endemic species, whether animal or vegetable, terrestrial or marine. The OCTs are also important places for migrating species (eg.: black-browed albatrosses in the Falkland Islands, in South Georgia and in the French Southern and Antarctic Territories; humpback whales in French Polynesia). Thus, the OCTs are of major importance for world biodiversity balance.

Biodiversity and ecosystem services are the basis of many island economies, which often heavily depend on tourism and fisheries. Without the protection through coastal ecosystems such as mangroves and coral reefs, coasts and perhaps entire islands risk becoming inhabitable. The conservation and sustainable use of biodiversity and development of ecosystem services as well as the development and use of ecosystem based approaches to climate change adaptation and mitigation contribute to a green economy through the provisions of jobs and business opportunities. Most OCTs are located in regions where many communities depend directly on natural resources for their livelihoods.

Besides the significance of the OCTs' environmental sustainability for their own well-being, the preservation of the OCTs' biodiversity is of major importance to the EU 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. The OCTs also play an important role for the EU as they help to achieve the EU's global biodiversity targets as well as commitments under other relevant Multilateral Environmental Agreements (MEA).

The OCTs' potential as regards biodiversity is already recognised at an 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 instance, by the introduction of non-endemic species that destroy existing habitats or supplant endemic vegetation, or by the impact of climate change on corals. The international community feels increasingly concerned about the loss of biodiversity.

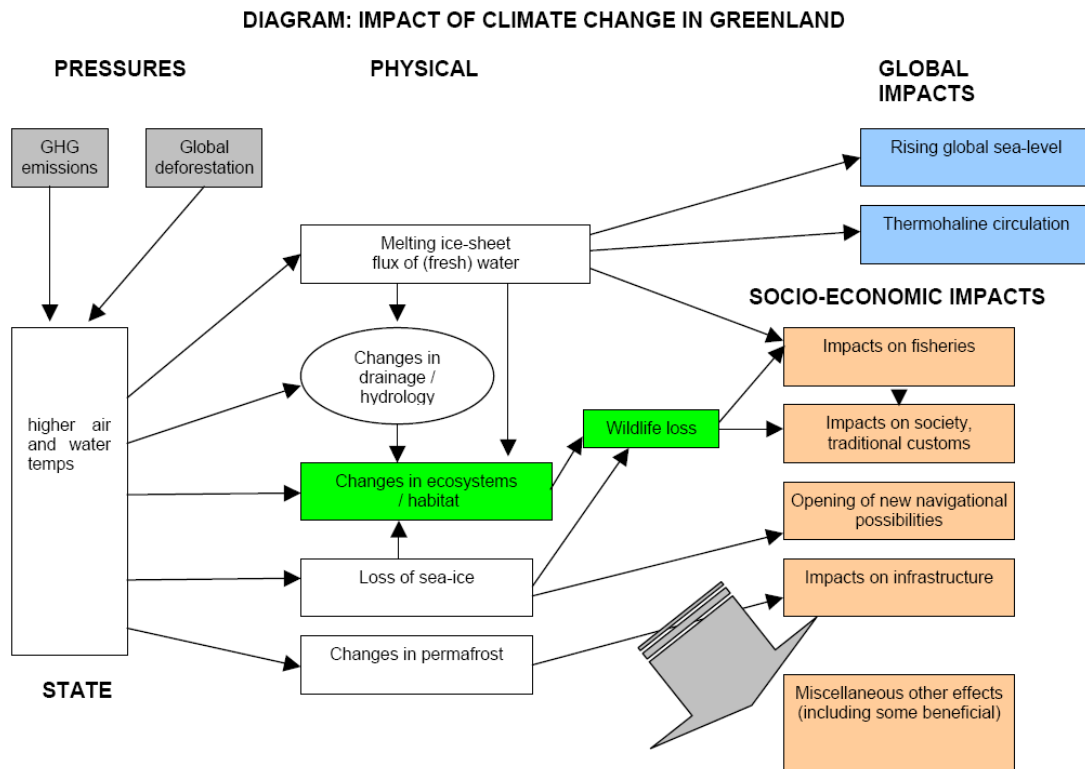
¹⁰ Study executed by the Joint-Venture of NIRAS PINSISI Consortium partners. The main report, delivered in January 2007, can be consulted on the following web page:
http://ec.europa.eu/development/icenter/repository/environmental_profile_main_report_en.pdf

2.3.2. Climate Change

OCTs are amongst the insular countries that have to face the impacts of climate change. The OCTs environmental profiles assessed these impacts. Depending on the geographical location of the OCTs, the effects of climate change will be different:

In Greenland:

- Melting of sea-ice will deprive some important species, notably seals and polar bears of habitat. This is likely to have harmful effects on the communities of these species and on local people who depend on them for food and livelihood.
- The increased melting of land-ice will affect drainage and hydrology, and this will also have an effect on landscapes and habitats on the territory. It will also have an effect on sea salinity, and therefore possibly marine habitats and fisheries.
- Melting of the permafrost will lead to damage of buildings and infrastructure which used the permafrost as bedrock on the assumption that, as its name implies, permafrost is permanent.
- Finally the increased temperature of the seas, together with changes in its salinity and in the flux of nutrients as a result of changes in sea currents may generate changes in fish stocks; an issue of great importance to a territory dependent on its fisheries income.



Source: OCTs environmental profiles – Main report – January 2007

In Antarctic OCTs:

Compared to Greenland, the temperatures in the Antarctic OCTs are colder and no significant melting of the grounded ice is expected. On the contrary, expected increased precipitation due to climate change will induce an increase of the ice-sheet. The most important impact of climate change that has been identified so far is a change in marine life in the Southern Ocean for similar reasons to those applying to Greenland (warming of the sea), which could have consequences for the important fisheries in this region.

In temperate islands:

According to the study, these OCTs will be the least affected by sea-level rise as most of them have steep rocky perimeters. The main effects of climate change identified in these territories are:

- changes to fisheries;
- unpredictable changes in flora and fauna, including the threatened and endemic species. Biodiversity on small islands may find adaptation to climate change more difficult than continental flora and fauna because there is no opportunity for species to gradually migrate latitudinally in order to compensate;
- the arrival and thriving of more non-native species in polar regions, some of which may place pressures on endemic species.

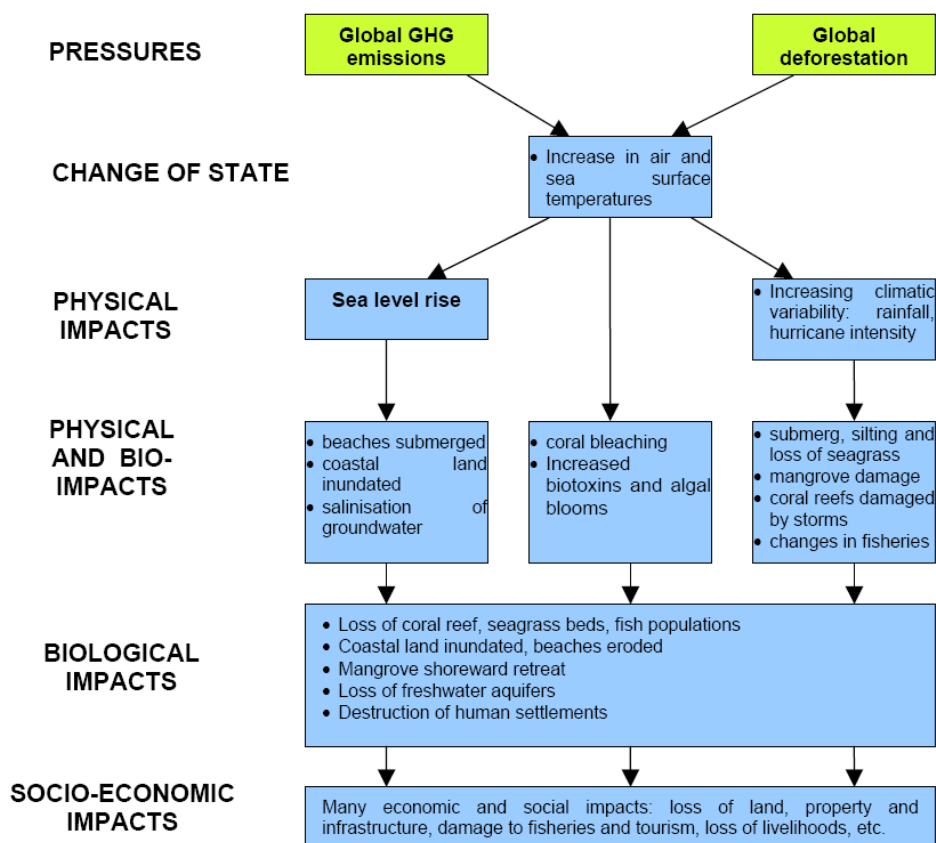
In tropical islands:

The study assessed that tropical OCTs are particularly vulnerable, physically and economically, to the effects of climate change:

- Increase of the frequency and the force of natural disasters linked to adverse impacts of climate change: hurricanes, cyclones, floods, landslides and more generally hydro-meteorological, geophysical and oceanographic triggers events. Impacts of natural disasters on human beings and economic activities (see paragraph 2.3.3).
- Coral reefs bleaching due to the increase of the surface temperature of the sea and increase of CO₂ concentration in the sea water. This phenomenon threatens the ecosystem itself and thus the population (food resources), the local economy (fishing, tourism). Threats on coral reefs also have impacts on shorelines as coral reefs have a coastal protection role. Ocean acidification is also a problem.
- Salinisation of freshwater aquifers due to the intrusion of seawater.
- Destruction or shoreward retreat of mangroves.

To this identified threats must be added climate-induced migrants and related threats of mass displacement.

TYPICAL EFFECTS OF CLIMATE CHANGE IN OCTS



Source: OCTs environmental profiles – Main report – January 2007

The conclusions of the study are presented in the following box:

OCTs and Climate Change: Conclusions

- ↪ Some OCTs are amongst the most vulnerable territories in the world to climate change. All will be significantly affected.
- ↪ OCTs need to take all possible measures to impress on the world community the need for strong action to reduce GHG emissions.
- ↪ They need to ensure that their own emissions of greenhouse gases are defensible.
- ↪ At the same time, adaptation needs to be mainstreamed into development planning.
- ↪ Possible actions include:
 - form alliances with regional and international groupings to make sure the voice of the OCTs is heard by the world community;
 - participate in research projects for which they are suited in regional or global partnerships, so as to reduce uncertainties;
 - maintain credibility by setting a good example;
 - public awareness campaigns.

2.3.3. Natural disasters

The insular characteristics of the OCTs make them particularly exposed to environmental shocks as well as natural disasters whose frequency could be influenced by climate change. The OCTs are particularly vulnerable to climatic, seismic and volcanic risks and

to tsunamis. Such natural disasters can easily destroy the infrastructures and hamper the economic activities. Besides the risk of economic paralysis, these phenomena can cause a heavy human toll and lead to the displacement of populations, and are thus likely to disrupt the economic and social organisation of the OCTs.

Against this background, the OCTs and the Member States to which they are linked have consistently indicated that the Overseas Association Decision should take better account of the OCTs' vulnerability and that specific criterion and instruments should be identified in line with their specific situation. In the context of the revision of the Overseas Association Decision in 2007, the Council and the Commission stressed that greater coordination between support at regional and territorial level could contribute to enhancing the resilience of the OCTs towards the challenges that they are facing regardless of the level of per capita GNP or other elements used to determine the territorial allocations. Nonetheless, the Commission did not propose a fundamental revision of the existing criteria and instruments, because it felt that such issues should be discussed in the context of a wider dialogue on the overall philosophy underpinning the OCT/EU association that could take place in view of the revision for the post 2013 period. Moreover, if it were accepted that allocation criteria should be more vulnerability-oriented, the ancillary challenge of quantifying vulnerability in an objective way on the basis of other elements than those already taken into account today would require further reflection.

2.3.4. Energy

The OCTs are heavily reliant on fossil fuels imported at high transport costs, which makes them extremely vulnerable to economic external shocks. Moving towards a greener economy, resource efficiency and sustainable consumption and production would contribute to one of the objectives indicated in the Communication from the Commission of 6 November 2009¹¹, namely to increase the OCTs competitiveness. While the transformation may be hard-fought, a greener society would be expected to result in new economic activities, new jobs and increased competitiveness on the market, creating a more efficient and sustainable economy.

Energy could be one of the possible drivers of the renewed partnership between the EU and the OCTs, by promoting both EU's interest, such as research activities, investment opportunities, and those of the OCTs, such as development of local know-how and labour.

2.3.5. Water

Unsustainable agricultural practices, industrial expansion and rising urban population are generating demand well beyond the capacity of most OCTs to provide access to safe water.

Safe drinking water and basic sanitation is of crucial importance to the preservation of human health. Households with improved services suffer less from water-related diseases and water-caused mortalities. Improved water services reduce health-related costs and save time that can be invested in other income generation activities, thus offering more

¹¹ COM(2009) 623 final of 6 November 2009 "Elements for a new partnership between the EU and the overseas countries and territories"

productive lives. Water projects may help to empower the powerless to participate in community decision-making.

Capacity building of administrations and local organisations will be needed to sustain water services. More effort is needed to boost the OCTs water catchment, storage, treatment and distribution capacity. OCTs should put more emphasis on good environmental management. Complete and enforced legislative framework for environmental conservation and management is needed to address environmental problems adequately.

2.3.6. Waste

The OCTs environmental profiles reflected a general lack of data on the situation regarding waste in the OCTs (volumes, trends and management). Nevertheless, the study could assess that the main method of waste disposal is dumping the waste on waste dumps, which are full or nearly full in at least half the territories. Consequently, informal and unauthorised dump sites have developed. Furthermore, the absence of toxic and hazardous waste disposal facilities encourages their dumping with normal waste. The situation has damaging effects on surface and groundwater sources, rivers and the marine environment, but also on public health. The study stipulates that bad waste management practises in the OCTs have degraded ecosystems such as mangroves, salt ponds and marine and fresh water wetlands. In addition, both the industrial expansion and the intensification of tourism represent a pressure on local waste management.

The main problems faced by the OCTs are:

- Lack of the critical size to reach necessary economies-of-scale necessary for modern waste management techniques - sanitary landfills, safe incinerators - economic. A rule-of thumb in industrialised countries is that a minimum waste catchment population of 50,000 is needed to make such facilities economic. Many OCTs do not have this minimum population, but there is further fragmentation between different islands, with inter-island transport of waste not being feasible.
- Lack of facilities, critical size, markets to make recycling and composting feasible.
- Lack of public awareness about waste, need for prevention and reduction.
- Lack of facilities for dealing with hazardous waste including infectious clinical waste.
- Lack of suitable space for building waste management infrastructures and resistance by inhabitants.

2.4. Definition of the problem

The European Commission, the OCTs and their Member States recognized environmental, climate change and disaster risk reduction issues as being of major concerns in the OCTs¹². The OCTs continue to face difficulties to integrate environmental issues within their local development policies and as far as the environmental pillar of sustainable development is concerned, the objectives of the association of the OCTs with the EU have not been fully achieved.

¹² See sections 1.2 and 2.7 of Annex 11

2.5. Underlying Drivers of the Problem

- Insufficient legal and political basis/framework for action
 - Constitutional / Institutional links with the Member States
 - Depending on the competences national Constitutions procure to OCTs, they might not have the ability to adhere to international agreements (eg: Kyoto protocol) and thus to the mechanisms created in the framework of these international agreements.
 - Restricted constitutional capacities of OCTs in certain areas (eg. illegal, unreported and unregulated fishing).
 - Weak local framework
 - Low administrative capacities of the OCTs.
 - Lack of local legislative framework/standards and of strategies/policies in these areas. Need for an improved environmental governance.
 - Low regional cooperation with their neighbours.
- Structural weaknesses
 - Small-sized territories
 - Small territories suffering from double insularity (remoteness and archipelagic characteristics) facing difficulties to create scale economies, which makes it difficult to create structured activities in certain issues (eg: waste).
 - Small market economies where it is difficult to develop green energy/economic activities for a reasonable cost.
 - Extreme vulnerability
 - to external shocks (eg: OCTs highly dependent on fossil energies imports);
 - to natural disasters and impacts of climate change, even though the OCTs have a low share in greenhouse gas emissions;
 - to threats on terrestrial/marine biodiversity. The OCTs host rich endemic ecosystems that are extremely vulnerable (eg: invasive species, impacts of climate change and natural disasters on economic activities).
- Limitations of the EU/OCT association
 - Lack of visibility of mutual interests in these issues
 - Potential and assets of the OCTs not taken into account at EU level. The OCTs themselves do not exploit or communicate on these potentials and assets.
 - Lack of coordinated intersectoral management of environmental issues. The issue of Environment is scattered over the current AOD, thus diminishing the

visibility of the need and importance of adequately addressing environmental and climate issues. No visible link is introduced between the environment and increased competitiveness of OCTs based on green economy.

- EU policies in these areas are not always applicable to the OCTs, thus EU interests are not visible nor pursued.

Insufficient accessibility to EU mechanisms

- The OCTs are not eligible to all relevant EU horizontal programs and budget lines.
- OCTs are not eligible to the global funds (eg. GCCA) and/or the different sources of funds are difficult to coordinate (eg. EDF/ERDF), which hamper their integration in global initiatives.

2.6. Legal Basis for EU Action and Policy Framework

Part IV of the treaty on the functioning of the EU.

2.7. EU Added Value

An enhanced partnership with the OCTs in the field of environment, climate change adaptation and mitigation and disaster risk reduction will reinforce the role of the EU as a global player. This positioning of the EU was underlined by the Commission in its Communication of 29 June 2011.¹³ This Communication outlines the main elements of the action of the EU as a global player for the period 2014-2020 and underlines the European Commission's view that the instruments can "*facilitate the EU's engagement (...) on issues that are of global concern, such as **climate change, environmental protection, irregular migration and regional instabilities, and allow the EU to respond rapidly and effectively to **natural and manmade disasters*****".

Chapter 3: Objectives

3.1. General and Specific Objectives

3.1.1. The general objectives

Article 198 of the TFEU specifies that the purpose of the association shall be to promote the economic and social development of the OCTs and to establish close economic relations between them and the EU as a whole. The association shall serve primarily to further the interests and prosperity of the inhabitants of the OCTs in order to lead them to the economic, social and cultural development to which they aspire.

In its Communication of 6 November 2009¹⁴, the Commission considered that the purpose of the association specified by the Treaty implies that the EU should promote the

¹³ COM(2011)500 final- A Budget for Europe 2020

¹⁴ COM(2009) 623 final of 6 November 2009 "Elements for a new partnership between the EU and the overseas countries and territories"

OCTs' sustainable development, in its economic, social and environmental dimensions. The Commission identified the three following objectives that should underlie the future EU-OCT partnership: (i) enhancing OCTs' competitiveness, (ii) strengthening their resilience and (iii) promoting their cooperation with regional, national, EU and international partners.

The Commission also underlined that since the OCTs are closely linked to the EU by way of their constitutional links with their Member States, the future EU-OCT relations should also ensure the promotion of the EU's values and standards in the wider world. In this Communication, the Commission considered that the *rationale* of the future relationship should be more reciprocal and based on mutual interests.

3.1.2. The specific objectives

As far as the environmental pillar of sustainable development is concerned, the legislative proposal relating to the next OAD should:

- Support the OCTs' sustainable development by ensuring a coordinated partnership in the field of environment, climate change and disaster risk reduction, which would (i) enable the OCTs to elaborate policies and strategies, (ii) enhance their integration in regional networks and initiatives.
- Enhance the visibility of the EU-OCT partnership on environmental, climate change and disaster risk reduction issues.
- Help the OCTs to promote the conservation and sustainable use of biodiversity and ecosystem service.

3.2. **Consistency with Other EU Policies**

The Lisbon Treaty reinforced the principle of the necessary coherence between the EU's internal and external policies. External action instruments and initiatives are expected to take into account EU concerns, values, interests and objectives that are dealt with within the EU's internal policies, by providing the possibility of giving them an external dimension. Issues such as climate change and environment have to be streamlined into EU external actions and should be an integral part of the EU's dialogue with third partners. Inversely, internal policies are expected to take into account the possible impacts certain measures and initiatives may have on the EU's partners.

The Europe 2020 Agenda adopted by the Commission in March 2010 provides the strategic framework against which the coherence of EU policies and the promotion of EU values, standards and interest need to be checked¹⁵. For OCTs, the principle of coherence is of particular importance as the inhabitants of OCTs possess the EU citizenship.

Integrating a specific part dedicated to environmental, climate change and disaster risk reduction issues in the next OAD will allow meeting the coherence with other EU

¹⁵ Commission Communication COM (2010) 2020, 3 March 2010.

policies. The OCTs are not eligible to the financing instruments of EU internal policies. Therefore, there is no risk of overlap.

Chapter 4: Policy Options

The different policy options are developed under the framework of the provisions of the TFEU.

4.1. Policy Option 1 'Zero Option' (No EU action for environmental and climate change issues nor for disaster risk reduction)

Under this option, no EU financial assistance will be delivered to OCTs to support their actions in the field of environment, climate change and disaster risk reduction.

4.2. Policy Option 2 'status quo'

Under this option, the future OAD will not comprise significant change comparing to the current OAD. The decision to use EU funds in order to tackle environmental and climate change issues as well as disaster risk reduction will depend on the willingness of the OCTs, as it is currently the case.

- Sub-option 2A: the structure of the future OAD will be the same as the current OAD.
- Sub-option 2B: the visibility of issues relating to environment, climate change and disaster risk reduction is enhanced in the structure of the future OAD.

4.3. Policy Option 3 'A specific programme dedicated to issues relating to environment, climate change and disaster risk reduction'

Under this policy option, the next OAD will be modified as presented in order the visibility of EU-OCT cooperation in these areas and to provide for a specific programme financed by EU funds dedicated environment, climate change and disaster risk reduction.

- Sub-option 4A: environmental, climate change and disaster risk reduction are tackled at individual OCTs level
- Sub-option 4B: environmental, climate change and disaster risk reduction are tackled at regional level
- Sub-option 4C: environmental, climate change and disaster risk reduction are a thematic subject

Chapter 5: Analysis of Impacts

Consequences of biodiversity loss

Loss of biodiversity and ecosystems has social, environmental and economic consequences, which are summarised briefly below.

There are strong ethical and moral arguments in favour of protecting biodiversity in its own right, for its intrinsic value, independent of its instrumental value to humans. In addition, biodiversity loss has economic costs that are only now starting to be fully appreciated.

Ecosystems provide a number of services that contribute directly and indirectly to human well-being. There are four main types of ecosystem services: provisioning services (e.g. food, water, fuel); regulating services (e.g. flood and disease control); supporting/habitat services (e.g. nutrient cycling); and cultural services (e.g. recreation). These services are of benefit locally, nationally or globally.

In general, the loss of ecosystems is equivalent to losing an important "natural" structural system whereas the loss of biodiversity is equivalent to losing a vital component of that structure. The former has direct human, social and economic costs whereas the latter is often more subtle – it makes ecosystems less stable and more vulnerable to collapse.

These economic impacts are, of course, associated with impacts on jobs. Some jobs are directly concerned with the conservation and management of biodiversity (e.g. in land management, protection of sites and species, provision of advice, and scientific research and monitoring activities). More numerous are jobs dependent on the provisioning, regulating and cultural services that biodiversity plays a role in delivering. Other social consequences include health, territorial cohesion, and social inclusion impacts.

Impacts of climate change

The OCTs are particularly vulnerable to climate change effects. Mostly tropical islands, they are generally small in size with limited resources; they are often isolated and largely exposed to cyclones and sea level rise. Insular ecosystems are particularly rich, with remarkable endemism rates, but they are also extremely fragile and often highly deteriorated; therefore, their resilience to new aggressions is limited. Furthermore, island economies strongly rely on the quality of their natural environment, notably through tourism, fishing and subsistence farming; a degradation of their environment could deeply affect local communities. European territories located in the Polar Regions are particularly threatened as well; rises in temperature projected in the Arctic are twice higher than the global average. In summary, the European Union overseas entities seem to be “sentinel territories” or indicators testifying to the effects of global changes on ecosystems and societies worldwide

Importance of the environment for the OCTs economies

The economies of tropical islands are highly dependent upon natural resources. Industrial activities are, as a general rule, poorly developed and subsistence agriculture plays an important role in the informal economy. Fishing and agricultural activities also occupy an important place in the balance of trade. Pearl farming has become the primary economic

activity in French Polynesia. A change in the state of the natural resources brought about by climate change could therefore have a particularly serious impact on the already fragile economies of these territories.

Finally, tourism has become an important driver of the economy in most of the overseas entities. For many, it has become the most important economic pillar and the one offering the greatest potential for development. In the tropical islands, tourism is directly dependent upon the quality of the environment, especially the beaches and the coral reefs. A degradation of these features as a result of climate change could make these less attractive destinations and put a brake on economic development. The repeated destruction of tourist infrastructure by ever more intense cyclones and the emergence of new infectious tropical diseases are likewise phenomena that could lead to a reduction in

Natural capital – our ecosystems, biodiversity, and natural resources – underpins economies, societies and individual well-being. However, the values of ecosystem services and underlying biodiversity are all too often overlooked or poorly understood. Rarely are they reflected in price signals in markets, and taken into account in day to day decisions by business and citizens. Nor are they reflected adequately in the economic accounts of society.

Decision-makers with better access to information on ecosystem service values and on economic policy tools will be better placed to make efficient, cost-effective and fair choices and to justify their reasons for taking action, or for choosing between policy options.

For example, biodiversity loss and land degradation is undermining food security. The collapse in fisheries and other food harvested from the wild is a major problem in this regard. The loss of diversity of the wild races of domesticated plants and animals as a result of habitat loss or of ancient domesticated varieties as farmers adopt fewer modern hybrids in their farming systems is similarly a serious concern.

It is difficult to quantify the economic and social impacts of the future OAD, but one could expect in absolute terms the following benefits, in case the next partnership provides tackles environment, climate change and disaster risk reduction:

- Environment, climate change and disaster risk reduction become priorities in the EU-OCT partnership.
- Substantial health impacts both from the investment in improved natural environments and from improvements in environmental quality.
- A sustainable management of natural resources and the conservation of ecosystems will have an impact on OCTs economies. For example, the conservation of lagoon ecosystems (coral reef) in small islands is essential to ensure fish resources and thus the economic activities relating to the exploitation of these resources.
- It is expected that a specific programme dedicated to environment, climate change and disaster risk reduction tends to create and retain employment in areas that are being depopulated and/or have lower relative incomes.

- Conservation of biodiversity and ecosystems could also develop a green tourism, allowing for the creation of employment in this economic sector.

Chapter 6: Comparison of Options

6.1. Policy Option 1 'Zero Option' (No EU action for environmental and climate change issues nor for disaster risk reduction)

Under this option, no EU funds from the 11th OCT-EDF will be dedicated to environmental, climate change and disaster risk reduction issues. No complementary funds could be mobilised from EU budget lines and programs.

As a consequence, the general and specific objectives identified in section 3.1 would not be attained and the solutions to the difficulties encountered by the OCTs will not be implemented with the support of the EU. There will be no EU added value in the field of environment, climate change and disaster risk reduction.

6.2. Policy Option 2 'Status quo'

This policy option proposes no substantial revision of the OAD regarding environment, climate change and disaster risk reduction.

Sub-option 2A: the structure of the future OAD will be the same as the current OAD

Under this sub-option, the current structure of the EU-OCT association will be renewed after 2013 and the future OAD will still not specifically address the environmental, climate change and disaster risk reduction issues.

The utilisation of the territorial and regional allocations being based on the principle of ownership, the amount of EU funds mobilised on this field will depend on the political willingness of the OCTs, as it is currently the case.

Unequal involvement of the OCTs in these issues with the support of the EU will continue and the achievement of the general and specific objectives in section 3.1 will largely depend on their willingness. The underlying drivers identified in section 2.5 will not be addressed, unless the OCTs decide to mobilize their allocations on these issues.

Mainstreaming will nevertheless be possible, but coordinated action will not be possible under this option, as a dedicated financial framework will not be set up.

Sub-option 2B: the visibility of issues relating to environment, climate change and disaster risk reduction is enhanced in the structure of the future OAD

This sub-option proposes that Part 2 of the future OAD is renamed '*The areas of OCT-EU partnership*' and consecrates a specific article to an EU-OCT partnership on the field environment, climate change and disaster risk reduction.

The changes (*in italics*) introduced will be the following:

Current OAD	Future OAD
PART 2: The areas of OCT-EC cooperation Article 10: Areas of Cooperation Article 11: Productive Sectors Article 12: Trade Development Article 13: Trade in Services Article 14: Trade-related Areas Article 15: Social Sectors Article 16: Regional Cooperation and Integration Article 17: Cultural and Social Cooperation	PART 2: The areas of OCT- <i>EU partnership</i> Article 10: Areas of <i>Partnership</i> Article 11: Productive Sectors Article 12: Trade Development Article 13: Trade in Services Article 14: Trade-related Areas <i>Article 15: Environment, climate change and disaster risk reduction</i> Article 16: Social Sectors Article 17: Regional Cooperation and Integration Article 18: Cultural and Social Cooperation

The provisions concerning the field of environment, climate change and disaster risk reduction currently contained in articles 11, 13, 14, 15 and 16 will be positioned in the future article 15.

Under this option, article 10 will remain unchanged and will still provide for a partnership *"in accordance with the priorities established in the development strategies for each OCT or, where appropriate, in the form of regional measures"*.

As a consequence, like in sub-option 2A, the utilisation of the territorial and regional allocations being based on the principle of ownership, the amount of EU funds mobilised in this field will depend on the political willingness of the OCTs, as it is currently the case.

Unequal involvement of the OCTs in these issues with the support of the EU will continue and the achievement of the general and specific objectives in section 3.1 will largely depend on their willingness. The underlying drivers identified in section 2.5 will not be addressed, unless the OCTs decide to mobilize their allocations on these issues.

Mainstreaming will nevertheless be possible, but coordinated action will not be possible under this option, as a dedicated financial framework will not be set up.

The main advantage of sub-option 2B compared to sub-option 2A will be to enhance the visibility in the field of environment, climate change and disaster risk reduction as an area of partnership between the OCTs and the EU. This sub-option will thus address driver number 3.a identified in section 2.5 above and specific objective number 2 describe in section 3.1.2.

6.3. Policy Option 3 ' A specific programme dedicated to issues relating to environment, climate change and disaster risk reduction '

Under this policy option, the visibility of EU-OCT cooperation in these fields will be enhanced **and** an amount of EU funds will be specifically allocated in order to address these issues.

Policy option 3 proposes to modify the next OAD in its Parts 2 and 3.

The changes (*in italics*) introduced in Part 2 of the OAD will be as described in sub - policy option 2A:

Current OAD	Future OAD
PART 2: The areas of OCT-EC cooperation	PART 2: The areas of OCT- <i>EU partnership</i>
Article 10: Areas of Cooperation	Article 10: Areas of <i>Partnership</i>
Article 11: Productive Sectors	Article 11: Productive Sectors
Article 12: Trade Development	Article 12: Trade Development
Article 13: Trade in Services	Article 13: Trade in Services
Article 14: Trade-related Areas	Article 14: Trade-related Areas
Article 15: Social Sectors	<i>Article 15: Environment, climate change and disaster risk reduction</i>
Article 16: Regional Cooperation and Integration	Article 16: Social Sectors
Article 17: Cultural and Social Cooperation	Article 17: Regional Cooperation and Integration
	Article 18: Cultural and Social Cooperation

The changes introduced in Part 3 of the OAD will be the following:

- The article relating to the objectives of the development finance cooperation (current Article 18) shall make a specific reference to the specific objectives identified in section 3.1.2 of the present report:
 - o Support the OCTs' sustainable development by ensuring a coordinated partnership in the field of environment, climate change and disaster risk reduction, which would (i) enable the OCTs, with the support of the EU, to elaborate policies and strategies, (ii) enhance their integration in regional networks and initiatives.
 - o Enhance the visibility of the EU-OCT partnership on environmental, climate change and disaster risk reduction issues.
 - o Help the OCTs to promote the conservation and sustainable use of biodiversity and ecosystem service.
- The article relating to the scope of financing (current Article 21) already includes institutional development, capacity building and integration of environmental aspects. This reference in the next OAD shall be enlarged to climate change and disaster risk reduction.

The current structure of Part 3 – Title 1 of the OAD will be modified in order to introduce a specific chapter dedicated to environmental, climate change and disaster risk reduction, as follows:

Current OAD	Indicative amendments
<p>PART 3: Instruments of OCT-EC cooperation</p> <p>TITLE 1: Development finance cooperation</p> <p>Chapter 1: General Provisions</p> <p>Article 18: Objectives</p> <p>Article 19: Principles</p> <p>Article 20: Single Programming Documents</p> <p>Article 21: Scope of Financing</p> <p>Article 22: Eligibility for Financing</p> <p>Article 23: Programming and Implementation</p> <p>Article 24: The EDF-OCT Committee</p> <p>Chapter 2: Resources Made Available to the OCTs</p> <p>Article 25: Financial Assistance</p> <p>Chapter 3: Private sector investment support</p> <p>Article 26: Investment Promotion</p> <p>Article 27: Investment Support and Financing</p> <p>Chapter 4: Additional Support in the Event of Fluctuations in Export Earnings</p> <p>Article 28: Additional Support</p> <p>Chapter 5: Support for Other Actors of Cooperation</p> <p>Article 29: Objectives and Financing</p> <p>Chapter 6: Support for Humanitarian and Emergency Aid</p> <p>Article 30: Objectives and Means</p> <p>Chapter 7: Implementation Procedures</p> <p>Article 31: Technical Assistance</p> <p>Article 32: Financial Control</p>	<p>PART 3: Instruments of OCT-<i>EU partnership</i></p> <p>TITLE 1: Development finance cooperation</p> <p>Chapter 1: General Provisions</p> <p>Article 18: Objectives</p> <p>Article 19: Principles</p> <p>Article 20: Single Programming Documents</p> <p>Article 21: Scope of Financing</p> <p>Article 22: Eligibility for Financing</p> <p>Article 23: Programming and Implementation</p> <p>Article 24: The EDF-OCT Committee</p> <p>Chapter 2: Resources Made Available to the OCTs</p> <p>Article 25: Financial Assistance</p> <p>Chapter 3: Private sector investment support</p> <p>Article 26: Investment Promotion</p> <p>Article 27: Investment Support and Financing</p> <p><i>Chapter 4: Promotion of activities in the field of environmental, climate change and disaster risk reduction</i></p> <p><i>Article 28: Objectives and Means</i></p> <p>Chapter 5: Additional Support in the Event of Fluctuations in Export Earnings</p> <p>Article 29: Additional Support</p> <p>Chapter 6: Support for Other Actors of Cooperation</p> <p>Article 30: Objectives and Financing</p> <p>Chapter 7: Support for Humanitarian and Emergency Aid</p> <p>Article 31: Objectives and Means</p> <p>Chapter 8: Implementation Procedures</p> <p>Article 32: Technical Assistance</p> <p>Article 33: Financial Control</p>

Within this framework, three sub-options can be identified:

Sub-option 3A: environmental, climate change and disaster risk reduction are tackled at individual OCTs level

This sub-option could imply the introduction of a new criterion for the distribution of the territorial envelope. This criterion could be based on some of the environmental indicators used by the European Commission in its annual environment policy review.¹⁶

Under this sub-option, environmental, climate change and disaster risk reduction activities will be funded within the territorial allocations of the OCTs.

The OCTs will mobilize one part of their territorial allocations to support the focal sector they will choose in the framework of the policy dialogue with the Commission, and will use the other part of their territorial allocation in order to support activities in the field on environment, climate change and disaster risk reduction.

In this hypothesis, two different approaches can be identified:

- The territorial Single Programming Documents will include two focal sectors maximum.
- There will be two Single Programming Documents per OCTs eligible to the territorial allocations: a first one dedicated to the focal sector identified in the framework of the policy dialogue between the OCTs and the European Commission, a second one for environmental, climate change and disaster risk reduction issues.

This hypothesis requires the modification of Article 10 of the current OAD (Part 2) in order to introduce an obligation to tackle environmental, climate change and disaster risk reduction in the strategies of each OCT.

Under this sub-option, eligibility to EU budget lines and programs shall be maintained or reinforced when possible (for example via targeted calls for proposals) in order to support cooperation with other partners and networking.

This sub-option could also provide for incentives in the form of additional funds to be released after the mid-term review on the basis of the performance of the OCTs in the implementation of the focal sector concerning environment, climate change and disaster risk reduction.

Sub-option 3A does not plead in favour of **simplification**.

In the event in which a Single Programming Document would include two focal sectors, the programming exercise will not progress at the same pace for the two sectors as different local administrations and/or interlocutors will be involved in the exercise.

In case of two separate Single Programming Documents, the administrative procedures on the Commission's side will be increased since all these documents will each require an adoption by the College.

Sub-option 3B: environmental, climate change and disaster risk reduction are tackled at regional level

¹⁶ More information on these indicators on the Commission's annual environment policy review on the website of DG Environment http://ec.europa.eu/environment/indicators/index_en.htm

Under this option, the **regional Single Programming Document** will integrate a specific regional sub-program dedicated to environment, climate change and disaster risk reduction will be proposed to **all OCTs**, including the OCTs which are not eligible to a territorial allocation as well as the uninhabited OCTs.

In order to address the drivers identified in section 2.5, this regional sub-programme should principally:

- accompany the OCTs in elaborating and implementing the necessary legal framework in domains identified as priorities: climate change mitigation, biodiversity conservation, preparedness and response to natural disasters, management of natural resources, waste and water management, green energy (driver 1);
- support the OCTs in joining regional initiatives (drivers 1 and 2).

In order to finance the perpetuation of the BEST scheme, the regional sub-programme would reserve an amount dedicated to calls for proposals that would allow for the involvement of civil society. Since the BEST scheme has the advantage to associate OCTs and Outermost regions of the EU and thus, foster cooperation between these regional partners, the reserved amount and the related calls for proposals should be managed by a service of the European Commission that can act for both the OCTs and Outermost regions.

This sub-option requires modifying Article 10 of the current OAD (Part 2) in order to introduce an obligation to tackle environmental, climate change and disaster risk reduction at the regional level.

Under this sub-option, eligibility to EU budget lines and programs shall be maintained or reinforced when possible (for example via targeted calls for proposals) in order to support cooperation with other partners and networking.

In terms of **simplification**, this sub-option allows reducing administrative procedures in integrating the environmental and climate change dimensions in already requested programming documents.

Sub-option 3C: environmental, climate change and disaster risk reduction are a thematic subject

Under this sub-option, a specific envelope will be created for environmental, climate change and disaster risk reduction issues. It will not be included within the territorial nor the regional allocations.

All OCTs, including uninhabited ones, will be eligible for this envelope.

This envelope would be implemented by the European Commission under the form of a Technical Cooperation Facility. This modality allows flexibility (for example, an OCT can rapidly join a regional initiative).

In order to finance the perpetuation of the BEST scheme, this envelope would reserve an amount dedicated to calls for proposals that would allow for the involvement of civil society. Since the BEST scheme has the advantage of associating OCTs and Outermost regions of the EU and thus, foster cooperation between these regional partners, the reserved amount and the related calls for proposals should be managed by a service of the European Commission that can act for both OCTs and Outermost Regions.

Under this sub-option, eligibility to EU budget lines and programs shall be maintained or reinforced when possible (for example via targeted calls for proposals) in order to support cooperation with other partners and networking.

In terms of **simplification**, the administrative tasks of the European Commission will be increased by the management of the contracts (preparation of terms of reference, calls, contracting procedures, disbursements, closure of contracts).

Main advantages of policy option 3

- Policy option 3, which proposes to use an amount of funds for environmental, climate change and disaster risk reduction activities, would enhance the EU added value as a global partner in the field of environment, climate change and disaster risk reduction.
- For the same reason, policy option 3 would enhance the visibility of the action of the EU in the OCTs in this field. This visibility would be greater under sub-options 3A and 3B which ensure a coordinated action through programming.
- Sub-option 3A allows addressing the environmental, climate change and disaster risk reduction challenges an individual OCT faces.
- Sub-options 3A and 3B allow addressing the environmental, climate change and disaster risk reduction challenges in a coordinated way and will pave the way for an integration of these issues in OCTs' public policies and strategies.
- Sub-option 3B does not increase the administrative procedures on the Commission's side as the programming and implementation of the sub-regional programme come within already existing procedures.
- Policy option 3B and 3C would foster regional cooperation and integration of the OCTs.
- Sub-options 3B and 3C allow for the continuation of the BEST scheme and builds on a dynamic initiated in 2008, developed by the European Commission, supported by the European Parliament and implemented for the first time by the European Commission in 2011.
- Sub-options 3A and 3B allow the implementation of the programs by the OCTs.
- Sub-option 3C allows a real flexibility since activities are not programmed in advance for the whole period.

Main drawbacks of policy option 3

- **Simplification** is not attained under sub-options 3A and 3C.
- Sub-option 3A, which tackles environmental, climate change and disaster risk reduction at the territorial level, will not allow for the perpetuation of the BEST scheme which notably aims to gather OCTs and Outermost Regions of the EU.
- Sub-option 3C will not allow a coordinated action of the EU in the OCTs in the field of environment, climate change and disaster risk reduction. Indeed, Technical Cooperation Facilities are managed under the principle: "First come, First served".

Impacts of the policy options on EU added value identified in section 2.7 of Annex 11:

Negative ranking from (---) to (-), Neutral (0), Positive ranking from (+) to (++++)

Option 1	Sub-option 2A	Sub-option 2B	Sub-option 3A	Sub-option 3B	Sub-option 43C
(---)	(-)	(0)	(++)	(+++)	(+++)

Impacts of the policy options on the underlying drivers identified in section 2.5 of Annex 11:

Negative ranking from (---) to (-), Neutral (0), Positive ranking from (+) to (++++)

Drivers	Option 1	Sub-option 2A	Sub-option 2B	Sub-option 3A	Sub-option 3B	Sub-option 3C
Insufficient legal and political basis/framework for action	(---)	(--)	(--)	(++)	(+++)	(++)
Structural weaknesses	(---)	(--)	(--)	(++)	(+++)	(++)
Limitations of the EU/OCT association	(---)	(---)	(---)	(++)	(++)	(++)

Impacts of the policy options on the objectives identified in section 3.1 of Annex 11:

Negative: ranking from (---) to (-), Neutral (0), Positive ranking from (+) to (++++)

Objectives	Option 1	Sub-option 2A	Sub-option 2B	Sub-option 3A	Sub-option 3B	Sub-option 3C
Promotion of close economic and social development	(---)	(0)	(0)	(+)	(++)	(++)
Serve the interests and prosperity of the inhabitants to lead them to the economic, social and cultural development to which they aspire	(---)	(+)	(+)	(+)	(++)	(++)
Enhancing competitiveness	(---)	(+)	(+)	(+)	(+)	(+)
Strengthening resilience	(---)	(+)	(+)	(+++)	(+++)	(+++)
Promoting cooperation with other partners	(---)	(+)	(+)	(---)	(+++)	(++)
Support the OCTs' sustainable development by ensuring a coordinated partnership in the field of environment, climate change and disaster risk reduction in order to enable the OCTs to elaborate policies and strategies and to enhance their integration in regional initiatives	(---)	(+)	(+)	(---)	(+++)	(++)
Enhance visibility of the EU-OCT partnership on these issues	(---)	(0)	(++)	(++)	(+++)	(+++)
Help the OCTs to promote the conservation and sustainable use of biodiversity and ecosystem services	(---)	(---)	(---)	(---)	(+++)	(+++)

ANNEX 12 - THEMATIC REPORT ON TRADE AND TRADE RELATED ASPECTS OF THE OVERSEAS ASSOCIATION DECISION

1. INTRODUCTION

The present paper regarding the trade and trade related aspects of the Overseas Association Decision has been prepared by a dedicated working group consisting of representatives of the European Commission in the context of the Impact Assessment of the revision of the Overseas Association Decision which the European Commission conducted between September 2011 and January 2012. Its purpose is:

- to provide a detailed analysis of the economic and trade challenges to which OCTs are confronted and their underlying drivers;
- to evaluate the trade regime which the EU offers OCTs as well as the assistance it provides to support OCT trade related activities; and
- to develop and compare possible options for EU policy towards OCTs in the field of trade and trade related issues.

Sources

The paper feeds into the Impact Assessment report prepared by the Commission Inter Service Group on Overseas Countries and Territories. It takes into account findings and recommendations of three kinds of sources:

(a) EU official Documents

- Council, Conclusions (16710/09) on the EU's relations with Overseas Countries and Territories (OCTs), 22 December 2009;
- Commission, Green Paper COM(2008) 383 on Future relations between the EU and the Overseas Countries and Territories reference, 25 June 2008;
- Commission, Staff working document accompanying the green paper "Future relations between the EU and the Overseas Countries and Territories" COM (2008) 383, SEC(2008) 2067, 25 June 2008;
- Commission, Communication COM(2009) 623 on Elements for a new partnership between the EU and the OCTs, 6 November 2009;

(b) External studies

- BROOKS, P., STONEMAN, R. and RIOS, R. Enhancing Atlantic OCTs' Trade and Economic Activity (within their region and the European Union), EUROPEAID/11/9860/C/SV/multi - Lot 10, No 2008/170783, February 2010 (hereafter: BROOKS, P., STONEMAN, R. and RIOS, R. (2010));
- ECO Consult et al., Region Level Evaluation: Overseas Countries and Territories (OCT), Contract N° EVA 2007/geo-acp, draft Final Report, July 2011 (hereafter: ECO Consult et al. (2011));
- LUFF, D. et al., the Analysis of the Regional Economic Integration Processes (Caribbean, Pacific and Indian Ocean) and Recommendations Aiming at Enhancing

Trade and Economic Activity of OCTs within their Region and with the EC, Framework Contract BENEf – Lot 11, No 2008/170791, February 2010 (hereafter: LUFF et al. (2010));

- SALMON J.M., OCT Regional Integration Impact Study, Final Report, EC Project No. FWC BENEf Lot 11– Specific Contract No. 2006/123116, July 2007 (hereafter: SALMON (2007));
- SPANNEUT, C., Analysis of the Statistical Systems in the OCTs and Recommendations Aiming at Enhancing Statistical Systems of OCTs, Framework Contract Beneficiaries – Lot 11, N° 2010/253401/1, Draft Final Report, September 2011 (hereafter: SPANNEUT (2011)).

(c) Stakeholder consultations

Following the publication of Green Paper COM(2008) 383 on Future relations between the EU and the Overseas Countries and Territories on 25 June 2008, a public consultation was held from 1 July to 17 October 2008. This included a stakeholder conference in Brussels on 3 October 2008. Subsequently consultations of stakeholders, notably the OCTs and their Member States, continued to be organised on a regular basis via different channels and means. A more extensive discussion of these consultations is provided in Chapter 5 of Annex 12.

A list of references is provided at the end of this paper.

Statistical Data

The analysis is based on both qualitative and quantitative data, where available. An important reservation needs to be made regarding the latter. The analysis below mainly draws on data directly available to the European Commission, such as the imports of the EU from OCTs or its exports to OCTs (see Annex 12.1). Whereas extensive data are available as far as the OCT/EU trade is concerned, this is not always the case where OCT trade with other third countries is concerned. LUFF et al. (2010) observed that with regard to the latter there is a general lack of reliable and harmonised trade and tariff data regarding OCTs in international databases such as the United Nations' Commodity Trade Statistics (COMTRADE) database, the World Bank's World Integrated Trade Solutions (WITS) database or the International Trade Centre's Market Access Map (MacMap) database². Statistical capabilities of most OCTs were deemed to be insufficient to allow for a systematic analysis of trade flows.

The problems encountered above were confirmed by a later study, SPANNEUT (2011), specifically dedicated to OCT statistical systems and capabilities. The study found that whereas all of the OCTs that responded to its survey produced statistics relative to trade (exports and imports in broad categories, volume and value), these were not always

¹ See: http://ec.europa.eu/development/icenter/repository/OCT_Impact_Study_RegInt_and%20EPA_2007_0907_EN.pdf (accessed: 07/11/2010)

² LUFF et al. (2010), p. 23. For the COMTRADE database, see: <http://comtrade.un.org/db/default.aspx>. For the WITS database, see: <http://wits.worldbank.org/wits/>. For the MacMap database, see: <http://www.macmap.org/> (accessed: 07/11/2011).

publicly available (through websites, hard copies and/or CD-ROM)³. Among the reasons given to explain the lack of public availability of certain statistics (not only trade related) the following four were most cited: lack of demand, provision only on demand, lack of financial resources and unreliability or non-conformity with international standards. Where statistics were publicly available, their publication was not always timely and the reference periods not up to date. Also, the available statistics were not always in conformity with internationally agreed nomenclatures. Spanneut found that often different versions and combinations were used, at different levels of analysis, of national and international classification systems such as the Harmonised System (World Customs Organisation), the Standard International Trade Classification (UN) and the Broad Economic Classification (UN)⁴.

2. PROBLEM DEFINITION

2.1. Purpose and Objectives of the OCT/EU Association

Non-European Overseas Countries and Territories (OCTs) with constitutional links to four EU Member States (Denmark, France, the Netherlands and the United Kingdom) are associated to the EU. The legal basis for the association has been laid down in Part Four (Articles 198-204) of the Treaty on the Functioning of the European Union (TFEU) and has been implemented by consecutive Overseas Association Decisions (OAD)⁵. The purpose of this association relationship is to foster the OCTs' economic and social development and to create close economic ties between them and the EU as a whole (Art. 198 TFEU). The association is intended to primarily further the interests and prosperity of the inhabitants of the OCTs, supporting them in achieving the economic social and cultural development they aspire to.

The general objectives of the association's trade and economic cooperation part, as defined in the TFEU and the OAD are:

- to ensure OCTs' access to the EU market (Arts. 199 – 202 TFEU);
- to contribute to the necessary investment for the economic development of OCTs (ibid.);
- to put OCTs on a sustainable development path, tackle poverty and gradually integrate them in world economies (Art. 1 OAD);
- to support the effective integration of OCTs in the global economy and the development of their trade in goods and services to regional and world markets (Art. 34 OAD).

³ SPANNEUT (2011), pp. 43-44. Where statistics are publicly available, but only in paper or CD ROM version, this may mean that access to relevant is *de facto* limited as it implies that the user has to physically go to the relevant agency/government department to retrieve the data or contact it and await the data.

⁴ Idem, p. 52.

⁵ Currently by the Council Decision of 27 November 2001 (2001/822/EC), OJ L 314 of 30.11.2001 as amended by the Council Decision of 19 March 2007 (2007/249/EC), OJ L 109 of 26.4.2007.

The general objectives of the trade related development assistance under the association, as defined in Article 18 of the OAD are amongst others to support and promote the OCTs' own efforts to achieve sustainable social, cultural and economic development, by supporting:

- OCT efforts to achieve economic diversification;
- OCT private investment and private sector development;
- inter-OCT and OCT/ACP regional cooperation and integration;
- the establishment of more balanced economic and social relations between the OCTs, ACP countries, the EU and the rest of the world.

2.2. Problem to be Addressed

The purpose and objectives of the OCT/EU association have not been fully achieved. OCTs continue to face economic and social problems and/or struggle to found their economies on a sustainable basis. They are confronted with a number of challenges related to their insular character, remoteness and rich, but vulnerable environments. For some OCTs, economic ties with the EU are of great importance, but in general OCT/EU trade tends to be one-sided, and with little diversification. For other OCTs, the economic ties between them and the EU remain underdeveloped.

2.3. Challenges for the Future

The main challenge that the OCTs need to address consists in putting their economies and societies on a sustainable development path by:

- increasing their competitiveness;
- reducing their vulnerability; and
- cooperating with their neighbours and integrating in the regional and world economies.

To achieve this goal, the OCTs will have to be able to fully exploit the opportunities which their regional and international economic environments have to offer. Indeed, the regional and international economic environment of the OCTs has considerably changed over the last few years. This is partly due to the multiplication of bilateral free trade agreements (FTAs) by leading trade powers such as the US, Canada and the EU. OCTs will need to adopt the necessary trade and industrial policies, develop the required expertise, capacities and infrastructure and be instrumental to the creation of an enabling/business environment that is supportive of trade activities, so as to be able to cope with these challenges.

For the EU, the challenge resides in supporting the OCTs with the accomplishment of these goals, via the framework of an OCT/EU association relationship that is adapted to OCT needs, realities and particularities.

2.4. Underlying Drivers

The underlying drivers of the problems and challenges which the OCTs face relate to:

- Increasing divergence between OCTs in terms of wealth, prospects for economic development, natural resources endowment and the correlating potential for economic development, demographic dynamics
- Geographic characteristics of inhabited OCTs⁶: Arctic, subtropical and tropical locations, remoteness, size of land mass and of exclusive economic zone
- Micro-economies with structural weaknesses, a small production base, with exports concentrated in a few sectors
- Changes in trade patterns, including an increasing number of FTAs by the EU, the US and Canada (main destination markets for some OCTs), resulting in erosion of trade preferences for OCTs and increased competition for their exports
- Changing international regulatory environment
- Size and capacities of OCT economic operators and OCT authorities
- Absence of industrial and trade policies
- Limited capacities, expertise and infrastructure in trade and trade related areas
- Limited participation in regional cooperation and integration processes, amongst others due to their specific constitutional status, which sometimes impedes OCTs to take part in international agreements and initiatives

Annex 12.2 provides a schematic representation of the problem to be addressed and the underlying drivers in the form of a problem tree of the OCT trade regime.

3. OCT TRADE POSITION

3.1. Commonalities between OCT Economies and Trade Positions

From the literature it appears that OCTs have a number of economic and commercial commonalities⁷. They all constitute small island economies that are vulnerable to external shocks. Most OCTs are remote and/or at great distance from the European continent and their neighbouring markets, with low freight transport connectivity, irregular shipping and air transport services and high transport costs as a consequence. This forms a major obstacle to the OCTs' participation in those markets. UNCTAD' Liner Shipping Connectivity Index (LSCI) ECO Consult et al. (2011) gives an indication of the OCTs' weak integration into global liner shipping networks.

Evolution of shipping lines connectivity index 2004-2009

⁶ Of the 21 OCTs associated to the EU, mentioned in Annex II to the TFEU, four are uninhabited: the British Antarctic Territory, the British Indian Territory, South Georgia and the South Sandwich Islands, and the French Southern and Antarctic Territories

⁷ The present chapter draws from the following studies: LUFF et al. (2010), BROOKS, STONEMAN and RIOS (2010) and SALMON (2007) studies. See list of references in Annex 1 of the Impact Assessment.

	2004	2005	2006	2007	2008	Growth p. a 2004 – 2008	2009	Growth 2009/2008	Rank 2009 (161 countries)
Aruba	7.37	7.52	7.53	5.09	5.09	- 0.57	3.52	- 1.57	144
Cayman Islands	1.90	2.23	1.79	1.78	1.78	- 0.03	1.76	- 0.02	158
Greenland	2.32	2.32	2.27	2.27	2.36	- 0.01	2.27	- 0.09	156
French Polynesia	10.46	11.14	8.91	8.60	9.01	- 0.36	8.39	- 0.62	95
Netherlands Antilles	8.16	8.23	7.82	9.22	8.56	- 0.10	8.57	0.01	92
New Caledonia	9.83	10.34	9.00	8.81	9.23	- 0.15	8.74	- 0.49	90
France	67.34	70.00	67.78	64.84	66.24	- 0.28	67.01	0.77	13
Netherlands	78.81	79.95	80.97	84.78	87.57	2.19	88.66	1.09	4
United Kingdom	81.69	79.58	81.53	76.77	77.99	- 0.92	84.82	6.83	6

Source: ECO Consult et al. (2011) p. 71.

The production bases of OCTs are generally small and as net importers most of them face structurally negative trade balances, even if between 2004 and 2008 OCT exports have been growing 9% annually from USD 1.2 billion to USD 1.8 billion. In the same period, however, OCT imports increased with 10% every year from USD 3.4 billion to USD 5.9 billion⁸. With an account surplus of EUR 5.8 million in 2007 (data ECO Consult et al. (2011), the Falkland Islands are an exception to this trend.

The tendency for OCTs to run trade deficits is also reflected in OCT/EU trade flows. In 2010 the OCT/EU export ratio was approximately 1/2, with the value of EU27 exports to the OCTs amounting to over EUR 2 billion and the value of OCT exports to the EU27 amounting less than EUR 1 billion. The two tables below give an overview of the main products which the OCTs and the EU trade with each other⁹. While OCTs export mainly fishery and other mineral and natural products to the EU, the EU primarily exports industrial products and some agro-food products to the OCTs.

Within the tables, main exports or imports are understood as those products representing more than 1% of the total value of exports or imports¹⁰. The products are represented at 2-digit level of the Harmonised Commodity Description and Coding System (or Harmonised System – HS). Annex 12.1 provides an overview (at HS 2 digit level) of all EU27 goods imports from OCTs and EU27 goods exports to OCTs, including those representing less than 1 % of the imports and exports. It provides also additional information regarding the geographic distribution of EU27 goods imports and exports by the OCT concerned.

⁸ ECO Consult et al. (2011), pp. 75-76. These conclusions were confirmed by the results of a trade questionnaire that the European Commission sent to OCTs and their Member States in the Summer of 2011. See below.

⁹ Source: European Commission data, Directorate General for Trade.

¹⁰ The tables disregard the EU27 imports from OCTs of boats, ships and other floating structures as well as aircraft, spacecraft, and parts thereof (HS Codes 89 and 88 at 2 digit level). Though they represent 24.6 % of the total value of EU 27 imports from the OCTs at 2 digit HS level, they do not constitute real export activities of OCTs, but rather re-exports. See discussion of Caribbean OCTs' exports in section 3.2 of Appendix 2.

EU 27 Goods Imports from all OCTs in 2010 (values in 1,000 EUR)

HS	Description	totals (A)	% (A/B)
03	Fish & crustaceans, molluscs & other aquatic invertebrates	340.914	34.5%
16	Preparations of meat, of fish or of crustaceans, molluscs	91.567	9.2%
27	Mineral fuels, mineral oils and products of their distillation	35.774	3.6%
71	Natural or cultured pearls, precious or semi-precious stones	75.854	7.6%
72	Iron & steel	158.556	16%
75	Nickel & articles thereof	175.079	17.7%
Total value of main EU 27 imports from OCTs		877.744	88.6%
Total value of all EU 27 imports from OCTs*		987.543	

(A) Value of EU 27 imports (at 2-digit level of the HS) from OCTs representing at least 1% of all EU 27 imports from OCTs

(B) Total value of all EU 27 imports from OCTs

EU 27 Goods Exports to all OCTs in 2010 (values in 1,000 EUR)

HS	Description	totals (A)	% (A/B)
04	Dairy produce; birds' eggs; natural honey	51.000	1.7%
19	Preparations of cereals, flour, starch or milk	50.410	1.7%
21	Miscellaneous edible preparations	61.449	2.1%
22	Beverages, spirits & vinegar	119.445	4.1%
27	Mineral fuels, mineral oils & products of their distillation	219.503	7.6%
30	Pharmaceutical products	179.710	6.2%
39	Plastics & articles thereof	71.317	2.4%
48	Paper & paperboard; articles of paper pulp	43.412	1.5%
73	Articles of iron or steel	101.083	3.5%
84	Nuclear reactors, boilers, machinery & mechanical appliances	422.780	14.6%
85	Electrical machinery and equipment & parts thereof	295.648	10.2%
87	Vehicles other than railway or tramway rolling-stock	250.756	8.6%
90	Optical, photographic, measuring, precision, medical instruments	96.063	3.3%
94	Furniture; bedding, mattresses, mattress supports, cushions	68.780	2.3%
Total value of main EU 27 exports to OCTs		2.031.355	69.8%
Total value of all EU 27 exports to OCTs *		2.884.688	

(A) Value of EU 27 exports (at 2-digit level of the HS) to OCTs representing at least 1% of all EU 27 exports to OCTs

(B) Total value of all EU 27 exports to OCTs

As the OCT/EU export trade flows described above demonstrate, OCT exports of goods and services tend to be concentrated in a few specific sectors and generally target high

value niche segments (tourism, pearls, natural essences, oil refinery, nickel) in industrialised or industrialising countries. In some OCTs, with large reserves of natural and mineral resources there is a strong potential for developing exports of these materials. For instance, in Greenland the development of the mineral extraction industry, if successful, has the potential to alter the structure of this OCT's economy and its exports. Services represent an important part of the economy in all OCTs, though the actual percentage varies.

Tourism is an element of interest to almost all of the OCTs. For those OCTs that are located in the Caribbean, Indian Ocean and Pacific ACP regions, LUFF et al. (2010) found that the impact that the conclusion of Economic Partnership Agreements (EPAs) and interim EPAs would have on their economies and trade environment was likely to be small. OCTs were thought to gain potential benefits from the impulse that the EPAs are likely to give to the different economic integration processes in their regions through the emergence of new export markets.

Various external studies pointed out that few OCTs have really engaged in developing trade and export oriented policies. Concerning the British Caribbean OCTs, LUFF et al. (2011) commented that "no trade policy *per se* currently exists, and trade policy amounts to a laissez faire approach, except with regard to the collection of tariff revenue, where the government imposes certain disciplines"¹¹. The Dutch OCTs were found to have been more active in developing a trade and industrial policy and to have engaged in some degree of bilateral trade liberalisation¹². Concerning the trade and economic policies of the French Pacific OCTs, LUFF et al. (2010) commented that their trade policy tended towards protection of domestic product and import substitution through tariffs and that no real export oriented policies were developed¹³. BROOKS, STONEMAN and RIOS (2010) came to similar conclusions for the isolated Atlantic OCTs.

Both of the above mentioned studies, commissioned by the Association of Overseas Countries and Territories of the European Union (OCTA), formulated a number of concrete recommendations and steps for OCTs to develop trade and export oriented policies. In their evaluation study of OCT/EU cooperation in the period 1999-2009, ECO Consult et al. (2011) came to the conclusion that one year after its publication the LUFF et al. (2010) study "stays totally unknown by governments and professional organizations"¹⁴.

3.2. Dutch and British OCTs in the Caribbean

3.2.1. Economic Structure, Trade Partners, Exports

The Dutch and British Caribbean OCTs rely heavily on services for their economy, notably tourism and the financial, banking and business services. In these territories, public services have a lesser importance than for instance in the French OCTs in the Pacific and Indian Ocean regions or in the isolated Atlantic OCTs of which the regional economic hinterland is very limited (see below).

¹¹ LUFF et al. (2010), pp. 160-161, 184-185.

¹² Idem, pp. 176-180, 192-193.

¹³ Idem, pp. 83-101.

¹⁴ ECO Consult et al. (2011), p. 73.

In the case of the Cayman Islands and the British Virgin Islands, financial services are key to the economy. With an estimated value of USD 2.8 billion and USD 1.215 billion in 2008¹⁵, the respective GDPs of these two islands are high for the size of their territories and populations. Their economies attract a lot of foreign investments (USD 10.9 billion and USD 3 billion respectively in 2008), the bulk of which goes to the financial sector. Investment outflows are important as well. By contrast, productive investments in the real economy are modest, especially when compared with other OCTs such as New Caledonia¹⁶.

British OCTs in the Caribbean are generally oriented towards third markets for both their imports and exports, rather than to the EU. Dependency on the US is high, particularly for imports. In the case of the Turks and Caicos Islands, almost all of its trade takes place with the US. The degree to which the OCTs in this region trade with their neighbours varies. Being part of the CARICOM, Montserrat is the OCT which is the most oriented towards its neighbours, at least for its exports.

Of all the OCTs, the Caribbean OCTs are the least affected by the problems relating to remoteness and insufficient transport freight connectivity¹⁷. In comparison to other OCTs, they are better connected with their main destination market, i.e. the US, which is closely located. Also, given the prominence of services in Caribbean OCTs, transport freight connectivity is a less determinant factor for the Caribbean OCTs' trade.

In most cases the products exported by these OCTs, notably the British OCTs, are in fact re-exports¹⁸. For instance, some of Anguilla's main exports products are transmission apparatus for radio-telephony and vehicles. For the Dutch OCTs, oil and by-products from oil refining still have a certain importance. LUFF et al. (2010) identifies possible opportunities for British and Dutch OCT goods exports in third markets, including the EU, in amongst others: fisheries and marine products (lobster, crab, conch, salt etc.), live stock, vegetables and fruit preparations, cosmetics, essential oils and other artisanal products (garments, art work etc.), beverages and spirits such as mineral water, rum and rum products as well as all kinds of services (financial services, educational services, professional and business support services, recreational, health care services, culture and sport services, environmental services etc.)¹⁹.

¹⁵ Source: UN Statistics Division, Country Profiles for Cayman Islands and British Virgin Islands. See: <http://data.un.org/>.

¹⁶ LUFF et al. (2010), pp. 163-65

¹⁷ ECO Consult et al. (2011), pp. 70-72.

¹⁸ LUFF et al. (2010), pp. 153-54. This observation is corroborated by the findings about OCT/EU trade flows discussed in section 3.1. As mentioned, boats, ships and other floating structures and aircraft, spacecraft, and parts thereof represent the bulk of OCT exports to the EU in terms of value. However, this does not represent real trade activity, but merely re-exports. OCT/EU trade statistics indicated that the largest re-exporters of boats are Caribbean OCTs: Cayman Islands (EUR 735.6 million) and the British Virgin Islands (EUR 249 million).

¹⁹ Idem, pp. 180-83.

3.2.2. *Market Access and Business Environment*

In 2007, Salmon estimated that tariffs on imports in most of these OCTs lay between 10% and 20% of the value of imports²⁰. The British Virgin Islands and the former Netherlands Antilles maintained tariffs below 1%. According to the study, the Caribbean OCTs in general did not impose non-tariff barriers on imports, except for Montserrat which had compulsory import licenses. Luff's follow-up study commissioned in 2010 noted that in the British OCTs, businesses complained about the lack of transparency regarding the OCTs' domestic rules and regulations that apply to imports into the territories and/or exports to third countries (e.g. arbitrary application of tariff rates, complicated and little known rules of the duty drawback system etc.)²¹. In general, the Caribbean OCTs seem to have fewer restrictions on foreign investment than other OCTs.

3.2.3. *Regional Economic Perspectives*

The perspective on regional economic integration (see Annex 12.5 for an overview of OCT membership to regional organisations) varies according to the different OCTs. For instance, the political authorities of Aruba and Curaçao, the two Dutch OCTs located just above Venezuela, tend to look towards South America and the US for exports.

Previously, Montserrat expressed the wish to further integrate in the region and participate in the CARICOM Single Market and Economy (CSME)²². A 2004 external study commissioned by the government of Montserrat concluded that Montserrat's integration in the CSME was likely to have a positive impact on the OCT's development in the long run, dependent on the policies the government of Montserrat would adopt²³. It was concluded that in the short run, Montserrat's integration in the CSME would lead to substantial adaptation costs (increased government expenditure and reduced revenues) in the short term (7-8 years). Increased investment and exports through lower costs of production in Montserrat and an increased economic efficiency were identified as potential positive benefits of Montserrat's participation in the CSME. For the time being, Montserrat does not participate either in the Economic Union that the sovereign members of the Organisation of Eastern Caribbean States (OECS) are in the process of setting up²⁴.

Though only an associate member, Anguilla has largely harmonised its tariffs with the common external tariff of the CARICOM. In the British Virgin Islands and the Cayman Islands there seems little interest to participate in the existing regional integration schemes as the territories seem to have little to gain in such schemes. In the past, the Turks and Caicos Islands, though (associate) member of several Caribbean organisations, have shown little interest in pursuing regional integration with their neighbours. As they are currently facing a major political and financial crisis, it is unlikely that this theme may move up the political agenda.

²⁰ SALMON (2007), pp. 37-68.

²¹ LUFF et al. (2010), p. 17.

²² An authorisation to that purpose was requested from the UK government, but was not granted

²³ HELLYER, M., CARICOM Single Market and Economy: Costs/Benefits Study, Final Report, June 2004

²⁴ The establishment of the OECS Economic Union is foreseen in the revised Treaty of Basseterre, founding text of the organisation. Signature of the revised text occurred on 1 January 2011

Article 246 of the EPA which the EU concluded with CARIFORUM foresees the possibility of OCTs being brought within the scope of the agreement²⁵. The impact of an accession of the Caribbean OCTs to the EPA was assessed by different external studies. In 2007, Salmon came to the conclusion that the Caribbean OCTs had no immediate incentive neither to pursue membership of the EPA under negotiation nor to integrate the CSME and that it would be more prudent for those OCTs to adopt a wait-and-see attitude vis-à-vis both integration processes²⁶.

A 2008 study of the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) confirmed these conclusions, putting forward three reasons²⁷. First, it was deemed that the growth of the Caribbean OCTs' main wealth creating sectors (tourism) was independent from joining an EPA. Second, it was suggested that signing up to the EPA might result in a loss of autonomy by Caribbean OCTs with regard to their offshore financial policy, as the EPA includes general commitments to reinforce transparency dialogue and collaborative action in areas such as tax policy, anti-corruption and the financing of terrorism. Third, the study thought it likely that if Caribbean OCTs expressed an interest in joining the EPA, the ACP partners were likely to make accession conditional on a liberalisation of the OCTs' markets.

The perspective of further integration of the Caribbean OCTs in the CSME was discouraged for similar reasons. Due to the small size of their economies OCTs lacked the necessary critical mass to gain from acceding to the regional market. Accession to the CSME would also mean the Caribbean OCTs granting CARICOM nationals free access to their labour markets; a condition which would likely increase immigration to the territory of qualified workers attracted by the prospect of high wages offered in the territories. The ECLAC (2008) study therefore concluded that a functional cooperation as associate members of the CSME was likely to be more beneficial for the Caribbean OCTs²⁸.

3.3. The Isolated Atlantic OCTs

3.3.1. Economic Structure, Trade Partners and Exports

In the isolated Danish, French and British OCTs located in the Southern and Northern Atlantic Ocean, activities related to manufacture and (processed) food products remain important²⁹. These OCTs are generally oriented towards the EU market for both imports and exports. The public services sector tends to be important. This reflects the importance of budget transfers from the Member States (e.g. the block grant from Denmark to Greenland representing approximately EUR 460 million p.a.). The Falkland Islands, being self sufficient, are an exception in this respect. Fish and fisheries products (shrimps, squid, cod, finfish, mackerel, lobster, scallop etc.) represent 96 % of total exports by the Falkland

²⁵ For the full text of the Economic Partnership Agreement with the CARIFORUM States, see: http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc_137971.pdf (accessed 04/11/2011).

²⁶ SALMON (2007), pp. xiv-xv.

²⁷ ECLAC, Review of CARIFORUM-EU EPA: Implications for the British and Dutch Caribbean OCTs, LC/CAR/L.176, September 2008, pp. 5-6.

²⁸ Idem, p. 9.

²⁹ The analysis of the Atlantic OCTs' economies in this section draws from BROOKS, STONEMAN and RIOS (2010), unless otherwise mentioned.

Islands, 88.2 % of exports by Greenland, 94 % of total exports by Saint-Pierre et Miquelon, and 9 % of Saint Helena³⁰. Whereas in the case of the Falkland Islands, the fisheries sector is a major contributor to the Falkland Islands' GDP, contributing on average USD 200 million per year or 60 % of the territory's GDP³¹, fisheries make less important contributions to the GDP of Saint-Pierre et Miquelon. There, the sector contributes 4 % to the GDP and its exports almost 2 %³². Workers in the fisheries sector make up 5 to 7% of the total workforce. In Greenland, exports of fishery products contribute 17.2 % to the GDP and 4.3 % to the labour force in 2007³³.

Liner shipping connectivity is not measured for OCTs such as the Falkland Islands, St Helena, Ascension Island and Tristan da Cunha, but if it were, it is likely that the resulting figure would be on the lower end of the Liner Shipping Connectivity Index, as is the case for Greenland³⁴. In the case of Saint Helena, for instance, freight and passenger ships only make a stopover on the territory every six weeks or more. As export flows are low, cargo ships that pass by the Atlantic OCTs often return empty. As a consequence, port operations in those OCTs remain expensive³⁵.

3.3.2. *Market Access and Business Environment*

Except for a couple of products, the Falkland Islands do not seem to levy tariffs on their imports³⁶. They do maintain some non-tariff barriers to protect local agricultural production. There are no restrictions on foreign investment, except for landownership. In contrast with the Falkland Islands, Greenland and Saint-Pierre et Miquelon have rather high average tariffs on imports, which are in excess of 20% of their value. Saint-Helena, Ascension Island and Tristan da Cunha maintain tariff levels within the average range of 10 – 20 %.

3.3.3. *Regional Economic Perspectives*

Possibilities for regional integration and cooperation for the isolated OCTs are limited. The North Atlantic OCTs of Greenland and Saint-Pierre et Miquelon have relatively close ties and cooperate with Canada, but they still mainly look towards the EU. This situation might change for Greenland in the near future due to raw materials and oil explorations. The situation of the Falkland Islands is somewhat complicated due to the Argentine policy of

³⁰ Source: European Commission data, Directorate General for Maritime Affairs and Fisheries.

³¹ Source: Falkland Islands government, presentation "EU Rules of Origin (RoO) Issues, Trade and Regional Integration Workshop, 8th OCT/EU Forum, Brussels, 23 March 2010.

³² KIRKPATRICK et al. (2011), A Trade Sustainability Impact Assessment Relating to the Negotiation of a Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada, Trade 10/B3/B06, Final Report, June 2011, pp. 106-108 (hereafter: KIRKPATRICK et al. (2011)).

See: http://trade.ec.europa.eu/doclib/docs/2011/september/tradoc_148201.pdf (Accessed: 26/10/2011).

³³ Based on Statistics Greenland, Greenland in Figures, 6th and 8th edition, June 2009 and May 2011. See: [http://www.stat.gl/dialog/main.asp?lang=en&theme=Greenland in Figures&link=GF](http://www.stat.gl/dialog/main.asp?lang=en&theme=Greenland%20in%20Figures&link=GF) (accessed: 26/10/2011).

³⁴ ECO Consult et al. (2011), p. 70.

³⁵ Idem, pp. 70-72.

³⁶ SALMON (2007), pp. 103-114

claiming sovereignty over the islands. Economic cooperation with Argentina is not possible. Oil exploration activities are taking place here as well. The prospects for regional integration and cooperation of Saint-Helena, Ascension Island and Tristan da Cunha located several thousands of kilometres from the closest neighbouring African country are slim, given poor transportation connections and infrastructure.

The EU's FTA negotiations with Canada may impact on the economic situation of Greenland and Saint-Pierre et Miquelon as Canada has indicated that it wishes a full removal of tariffs on fish and seafood (mostly in frozen seafood). A sustainable impact assessment study of the ongoing negotiations with Canada that was conducted in 2011 put forward that a full fisheries liberalisation could have a negative impact the fisheries sectors of the two territories as Canada is one of their main competitors in certain products³⁷. Given the limited economic diversification of both territories and their dependency on fisheries, the losses to the economies of Saint-Pierre et Miquelon and Greenland could be substantial.

3.4. The Pacific OCTs

3.4.1. Economic Structure, Trade Partners and Exports

As with the isolated OCTs, the Pacific OCTs are oriented towards the EU market. The importance of public services also tends to be high and reflects substantial budget transfers from the respective Member States.

The production and exports of the French Pacific OCTs, in particular French Polynesia and New Caledonia, seem less concentrated in one sector and include for instance jewellery products, natural pearls and cultured pearls, oils and essential oils (French Polynesia), nickel and nickel derivatives (New Caledonia) as well as products of animal origin (French Polynesia and New Caledonia)³⁸. The production and exports of the third French OCT, Wallis and Futuna, and the only UK OCT in the region, Pitcairn, are modest.

As the French Pacific OCTs export manufactured goods, their remoteness and isolation from the international shipping routes and their main export markets impacts on their competitiveness. Like the isolated Atlantic OCTs, the Pacific OCTs are confronted with high transport and freighting costs, multiple connections, lack of economy of scale and other like problems³⁹.

According to LUFF et al. (2010), possible opportunities in third markets, including the EU, for the French Pacific OCTs may lie in amongst others: fisheries, crustaceans and sea products, textile, wood (by-) products, vanilla, textile products, air transportation, engineering, mining services.

3.4.2. Market Access and Business Environment

Of all OCTs, French Polynesia and New Caledonia constitute the biggest markets, due to the relatively big size of their respective populations (over 200.000 each) Both OCTs

³⁷ KIRKPATRICK et al. (2011), pp. 105-119.

³⁸ LUFF et al. (2010), pp. 78-81, 102-107.

³⁹ ECO Consult et al. (2011), pp. 70-72.

pursue an industrial policy aimed at stimulating local production. In 2007 New Caledonia made use of relatively high average tariff barriers in excess of 20% to stimulate its food processing, plastics, wood and agricultural sectors, with an aim to satisfy internal market needs⁴⁰. At the time, New Caledonia did not have a Value Added Tax system yet, but was considering its introduction. Goods imported from the EU, ACP countries and OCTs are exempted from customs duties. New Caledonia maintains non-tariff barriers as well, which mainly target agricultural and food products. Restrictions on investments also exist. French Polynesia's maintains lower tariff barriers which are within the 10 – 20% range. Since the introduction of a Value Added Tax system, the territory is less dependent on customs duties for government revenues than New Caledonia is. Goods from the EU benefit from certain exemptions. French Polynesia regularly makes use of non-tariff barriers to protect the most sensitive sectors. However, imports from the EU are no longer targeted.

3.4.3. *Regional Economic Perspectives*

Both New Caledonia and French Polynesia play an active role in the regional cooperation and integration schemes in the Pacific (see Annex 12.5), albeit it mainly in non-commercial areas such as environment and civil protection, research, education and transportation. SALMON (2007) indicated that regional economic integration with their neighbours through trade liberalisation, by joining the Pacific Island Countries Trade Agreement (PICTA) or by negotiating separate trade agreements with its members, could have advantages for the two territories if such liberalisation would include trade in services, where the territories have comparative advantages⁴¹. Such a scenario would only be possible, though, if New Caledonia and French Polynesia would be prepared to abandon (in part or in full) the protectionist aspects of their customs policies, unless exceptions or safeguards could be negotiated for specific products. The latter scenario would entail that the negotiations between PICTA members regarding the extension of agreement's scope to trade in services would be concluded⁴². LUFF et al. (2010) confirms these findings and recommendations⁴³. A variation on the integration scenario would consist in French Polynesia and New Caledonia joining the Pacific Agreement on Closer Economic Relations (PACER), a regional trade agreement driven by Australia and New Zealand and intended to be supportive of PICTA members' economic development through greater regional trade and economic integration. As with the PICTA, an extension of the PACER to include trade in services is being negotiated.

With regard to the possibility of French Polynesia and New Caledonia joining the Pacific EPA⁴⁴, SALMON (2007) suggested that more caution was warranted as such a scenario would lead to increased competition from European companies⁴⁵. Unlike in the EPA with CARIFORUM, the Pacific interim EPA does not contain a provision which allows for bringing the region's OCTs within the agreement's scope. According to LUFF et al. (2010)

⁴⁰ SALMON (2007), pp. 69-95.

⁴¹ Idem, pp. 123-125.

⁴² The sixth round of negotiations between PICTA members took place in August 2011.

⁴³ LUFF et al. (2010), p. 206.

⁴⁴ For the full text of the EPA in the Pacific Region (Fiji and Papua New Guinea), see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:272:0002:0715:EN:PDF> (accessed 04/11/2011).

⁴⁵ SALMON (2007), p. 128.

the possible impact of the interim EPA with the Pacific ACP countries (Fiji and Papua New Guinea) on the region's OCTs would likely be low, if the latter choose to remain outside of the agreement⁴⁶. The territories may experience an increase in competition from their neighbours in the fisheries and the pearls sectors. Regarding fisheries, global sourcing might increase supply of raw materials from third parties to Papua New Guinea and Fiji and it might have adverse consequences for the OCTs' potential to supply fish to these countries. In practice, the increase in exports by the two ACP States might not be so substantial⁴⁷. As French Polynesia only exports 10% of its pearls to the EU market, the increase of competition might not be so much felt.

3.5. Indian Ocean OCT: Mayotte

As of 31 March 2011 Mayotte has become a French Overseas Department within the French internal order. On 26 October 2011, France officially requested the European Council that the process be engaged to change territory's status to that of an Outermost Region. France suggested 1 January 2014 as a tentative date for this change to enter into force⁴⁸. Until such time, Mayotte will remain associated to the EU as an OCT.

3.5.1. Economic Structure, Trade Partners and Exports

As in other French OCTs, public services represent an important share in both Mayotte's GDP and the territory's employment. Like for most of the isolated Atlantic OCTs, this represents important budget transfers from France to the territory. The potential of tourism related services remains largely unexploited as Mayotte mainly attracts touristic visitors from its expatriate community and their friends. Farming still represents an important part of economic activity, but mainly takes the form of subsistence farming; thus contributing little added value. Fisheries and aquaculture have been on the rise in the last few years and constituted the mainstay of the territory's exports in 2008⁴⁹. Traditional export products such as essential oils based on ylang ylang and vanilla come second. In 2008 the EU remained Mayotte's single most important trading partner, both for exports and imports. According to LUFF et al. (2010), third markets may offer opportunities for Mayotte in the following areas: fisheries products and crustaceans, miscellaneous edible preparations and essential oils⁵⁰.

3.5.2. Market Access and Business Environment

Though in 2007 Mayotte on average applied customs duties between 0% and 15%, the actual imposition rate of imports was around 30% of the value of imports due to the existence of a consumption tax levied on imported luxury products or products in

⁴⁶ LUFF et al (2010), p. 78.

⁴⁷ SALMON (2007), p. 178.

⁴⁸ Article 355:6 of the Treaty on the Functioning of the European Union foresees in the possibility for the Danish, Dutch and French OCTs to change status to Outermost Region and vice versa. Such change is decided upon by the European Council with unanimity, after consultation of the European Commission. It is up to the Member State to which an OCT is associated to submit a formal request to the European Council.

⁴⁹ LUFF et al. (2010), Annex 8, p. 1.

⁵⁰ Idem, p. 139.

competition with local products⁵¹. With no Value Added Tax system in place, these taxes represented approximately 68% of Mayotte's local tax revenues.

3.5.3. *Regional Economic Perspectives*

Mayotte's regional environment is characterised by a proliferation of regional cooperation and integration organisations such as the Southern African Customs Union (SACU), Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA) or the Indian Ocean Commission. Mayotte's participation in these processes has been limited, to a large extent due to the existence of a bilateral dispute which opposes the Comoros and France over the sovereignty over the territory.

Anticipating a French request for a change of the territory's status under EU law, a 2010 external study assessed the potential impact the EPAs in the Southern and Eastern African region could have on the island's economy once these agreements have come into force and after Mayotte would have joined the EU customs territory. The study found that as Mayotte has relatively little trade with its immediate neighbours, the impact would all in all be relatively small. Inclusion of Mayotte on the European side of the EPAs could bring the territory benefits in the area of services, mainly transport services and would allow for its fisheries sector to take part in regional production chains⁵².

3.6. **OCTs and Multilateral Trade Liberalisation**

The OAD trade regime has been notified at the General Agreement on Tariffs and Trade (GATT) before the World Trade Organisation (WTO) was established. OCTs are not members of the WTO in their own rights, although they may be covered by the commitments taken by their Member States. According to Communication COM(1999) 163, those OCTs that were covered by GATT 1947 at the time of the creation of the WTO were included in the General agreement of 1994⁵³. The Kingdom of Denmark, for instance, has included Greenland in its WTO membership and most of the WTO multilateral and plurilateral agreements (see 12. 6). Aruba and the (former) Netherlands Antilles are members of the WTO through the Kingdom of the Netherlands. Aruba is part of the Government Procurement Agreement (GPA). Neither the WTO Agreement nor the multilateral agreements apply to the British OCTs, but the plurilateral Agreement on Trade in Civil Aircraft applies to the Falkland Islands, Pitcairn St Helena, Ascension Island and Tristan da Cunha, South Georgia and the South Sandwich Islands and the Turks and Caicos Islands⁵⁴. As far as the French OCTs are concerned, the WTO Agreement, GATT 1994, GATS and the TRIPS Agreement apply⁵⁵.

There is a certain degree of uncertainty on the extent to which multilateral and plurilateral trade rules and disciplines apply to OCTs. It would seem that in general the advantages of

⁵¹ SALMON (2007), p. 99.

⁵² LUFF et al. (2010), p. 137.

⁵³ Commission, Communication COM(1999) 163, p. 42.

⁵⁴ Source: Foreign and Commonwealth Office, reply to Commission trade questionnaire sent to OCTs and their Member States, September 2011

⁵⁵ Source: French Overseas Ministry, reply to Commission trade questionnaire sent to OCTs and their Member States, October 2011.

successive rounds of trade liberalisation only accrue to them indirectly. It appears that OCTs would only benefit directly from these advantages on the condition that they acquire full competence to enter into agreements as separate customs territories. All in all, the interest of OCTs to become fully engaged in the WTO seems to be limited or non-existent and thus the debate regarding the legal implications of such a move may be theoretical in nature. It has been suggested that unilateral harmonisation of OCT trade policies with the rules, disciplines and even tariff reductions agreed upon within the WTO in selected areas may be advisable for OCTs, although this would require substantial efforts from their side⁵⁶. Such autonomous changes could have positive impact on the OCT trade activities. Tariff reductions, for instance, would contribute to reducing the price of finished products for exports and thus increase OCT competitiveness. Attracting investments in key services such as financial, telecommunication and transport services would not only contribute to raising the competitiveness of these sectors, but also of OCT economies in general. LUFF et al. (2010) identified the following possible consequences from a successful conclusion of the negotiations of the Doha Development Agenda (DDA):

- more certain and possibly increased market access in other markets than the EU as far as trade in goods is concerned due to the generalised binding or lowering of Most Favoured Nation (MFN) tariff rates in all WTO members, and more disciplines with regard to none-tariff barriers (NTB), technical barriers to trade (TBT) and sanitary and phytosanitary SPS issues;
- possible opportunities in the following sectors: fisheries and fisheries products, forest products, gems and jewellery, raw material, tropical/exotic fruits and vegetables, pepper, organic coffee, tea, rice, rubber, and environmental goods and services;
- possibly greater protection for quality products produced in OCT through advances in the protection of intellectual property rights (Tahitian pearl and monoi etc.);
- possible impact on agricultural subsidies.

4. THE OCT TRADE REGIME AND EU TRADE RELATED SUPPORT

4.1. Legal Framework and Characteristics

4.1.1. Part IV TFEU: OCT/EU Association

The historical ties between the EU on the one hand and the Overseas Countries and Territories on the other are invoked in the Preamble to the Treaty on the Functioning of the European Union (TFEU), which refers to the contracting parties' intent to "confirm the solidarity which binds Europe and the overseas countries and [desire] to ensure the development of their prosperity".

Part IV of the TFEU lays the basis for the OCT/EU association and the corresponding trade regime. In Articles 199 to 202 the Treaty offers OCTs a single, comprehensive and asymmetric trade regime. OCT exports to the EU benefit from duty free and quota free (DFQF) access to its market while EU exports to OCT markets may still be subjected to both duties and quantitative restrictions for reasons set out in the Treaty. The resulting trade arrangements applied by an OCT to the EU may not be any less favourable than those

⁵⁶ LUFF et al. (2010), p. 9.

it applies to third countries, in accordance with the Most Favoured Nation (MFN) principle, unless another OCT or developing country is involved. These arrangements may not give rise to any discrimination between Member States. This means that the treatment that an OCT grants to the EU Member State to which it is linked should be extended to all other EU Member States.

The detailed rules and procedures of the association are laid down in an *Overseas Association Decision* (OAD) which, according to Article 203 of the TFEU, is adopted by the Council with unanimity, following the special legislative procedure, upon proposal of the Commission and after consultation of the European Parliament.

4.1.2. *Part V, Title II: EU Trade Policy*

The OCT trade regime is part of the EU's trade policy, as defined in Title II of Part V of the TFEU, which concerns the Union's External Action. According to Article 206, the EU's trade policy should contribute to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign investment, and the lowering of customs and other barriers. Article 207 states that the EU's trade policy "shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property right, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies". In addition, the EU trade policy "shall be conducted in the context of the principles and objectives of the Union's external action".

4.1.3. *Overseas Association Decision: Trade Arrangements*

The arrangements for goods and services and establishment are laid down in Part III (Instruments of OCT-EC Cooperation), Title II (Economic and Trade Cooperation) of the OAD. Article 34 defines the general objectives of the association's economic and trade cooperation as follows:

- to promote the economic and social development of the OCTs, in particular by establishing close economic relations between them and the EU as a whole;
- to support the effective integration of OCTs in the global economy and the development of their trade in goods and services to regional and world markets.

Trade arrangements for goods and services are respectively contained in chapters 1 and 2 of this Title. The rules regarding trade related areas, such as competition policy, protection of intellectual property rights, trade and environment and trade and labour standards are dealt with in chapter 3 of the OAD (Trade related areas). Chapter 4 deals with monetary and tax matters.

The extent to which OCT products enjoy access to the EU is defined by the rules of origin laid down in Annex III to the OAD "concerning the definition of the concept of 'originating products' and methods of administrative cooperation". An exception is provided via the special transshipment facility that is foreseen by the OAD, the specific rules of which are laid down by Annex IV to the OAD on the "conditions for entry into the Community of

products not originating in the OCT, but which are in free circulation in the OCT, and methods of administrative cooperation.

4.1.4. Overseas Association Decision: Trade and Trade Related Cooperation

Areas of Cooperation

Alongside trade rules the OAD also foresees in trade and trade related OCT/EU cooperation in its Part 3 (Areas of Cooperation). This cooperation takes financial and non-financial forms and concerns: trade development (Art. 12), trade in services (Art. 13), trade related areas (Art. 14) and regional cooperation and integration (Art. 16). Chapter 3 (Trade Related Areas) of Title II (Economic and Trade cooperation) of Part III foresees cooperation in the areas of current payment and capital movements (Art. 47), competition policies (Art. 48), protection of intellectual property rights (Art. 49), standardisation and certification (Art. 50), trade and environment (Art. 51), trade and labour standards (Art. 52), consumer policy and consumer health protection (Art. 53).

These Articles cover a wide range of possible cooperation activities in numerous fields, which are not necessarily limited to trade. The provisions foresee in supporting and cooperation activities that can help OCT public and private actors to develop the policies, strategies, legal and institutional frameworks necessary for developing, regulating and exploring markets, developing products and encouraging investments. They also foresee cooperation with OCTs to help OCT public and private develop the necessary skills, capacities and infrastructure that they need to take full advantage of trade opportunities presented to them. Such cooperation not only covers trade in goods and services, but also specific themes such as competition, the protection of intellectual property rights; consumer, animal and plant health; trade and labour standards; trade and environment and standardisation and certification. In services, emphasis is put on sustainable tourism and trade related services such as maritime and air traffic transport as well as telecommunication and information technology services. The latter services relate to the OCTs' connectivity and accessibility and are not studied in detail in the context of this paper. A more detailed overview of the elaborate list of specific objectives for and possible types of cooperation that can be envisaged under Articles 12, 13 and 14 goes in Annex 12.4 of the present paper.

Financial Assistance

OCT/EU cooperation in trade and trade related areas is mainly financed from the **European Development Fund (EDF)** following the principles and rules laid down in Title I (Development Finance Cooperation) of Part III of the OAD and Annexes II A to II D regarding the 9th and 10th EDF, the investment facility of the European Investment Bank (EIB) and additional support in the event of short term fluctuations in export earnings.

Traditionally, the EDF constitutes the main source of funding for EU financial assistance to the OCTs under the Overseas Association Decision (OAD). The EDF is outside to the EU general budget and is constituted on the basis of contributions to which the EU Member States agree between themselves in the context of Internal Agreement concluded within the Council⁵⁷. These Agreements establish the total resources and the broad sub-

⁵⁷ The Internal Agreement for the 10th EDF was signed in July 2006 (OJ L 247, 9.9.2006, p32) and remains into force until 31 December 2013.

categories for a given programming period and lays down provisions regarding its implementation and financial monitoring. The specific Greenland/EU partnership is funded from the EU general Budget (Chapter 4 of the EU budget, article 21 07 02)⁵⁸.

In line with the principle of partnership, the use of the financial resources available under the European Development Funds has been jointly decided by the OCTs and the EU on the basis of the political priorities of OCTs. Since the 9th EDF, the EU's bilateral interventions (i.e. at the level of the territory) have been based on cooperation strategies and multiannual programmes which take the form of Single Programming Documents. In conformity with the principle of concentration which the EU's financial assistance needs to respect and in view of increasing their impact and effectiveness, such interventions have been concentrated on one to two sectors only.

Article 58 of the OAD lays down the principle of OCT eligibility under **horizontal external and internal programmes**. As regards the other external instruments to which OCTs are presently eligible, Annex II E to the OAD mentions the following instruments and programmes:

- the thematic programmes under the Development Cooperation Instrument;
- the rehabilitation and reconstruction operations under the Instrument for Stability;
- the EU humanitarian aid.

Annex II F to the OAD provides a non-exhaustive list of internal programmes to which OCT nationals are eligible within the framework of the quota for the Member State to which the OCT is linked:

- education and training programmes (lifelong learning, youth in action)
- the Competitiveness and Innovation Framework;
- programmes under the seventh Framework Programme of the EU for research and development
- cultural and audio-visual programmes (MEDIA and other cultural programmes);
- the Human Resources Training programme in Japan.

Annex 12.3 of the present paper provides an overview of the trade and trade related provisions in the OAD and its Annexes.

4.1.5. Overseas Association Decision: Dialogue on Trade and Trade Related Issues

Alongside technical assistance, the OAD allows for the OCTs to regularly engage with the EU on trade and trade related issues that are of concern to them via the dialogue and partnership instances which it provides for in its Article 7. This provision allows for a

⁵⁸ This partnership is the subject of a separate impact assessment. See: Staff Working Paper SEC(1484) of 7 December 2011, Impact Assessment accompanying the document “Council Decision on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other” (COM(2011)846).

broad-based exchange of views on the implementation of the OCT-EU association. Since 1991, such dialogues have been systematically held on a trilateral basis, i.e. between the EU, the OCTs and the related Member States. The main platforms in which the state of association is discussed are the annual OCT/EU Forums, which gather representatives of the OCTs, the Member States and the Commission at ministerial or high official level, regular trilateral meetings between the OCTs, their Member States and the Commission as well as four thematic Partnership Working Parties, one of which is dedicated to trade and regional integration. Such meetings are complementary to the various bilateral meetings which the European Commission has with an individual OCT and its Member State.

4.2. Justification of EU Intervention

The Treaty on the Functioning of the European Union (TFEU) provides the legal basis for the set-up of EU's policies vis-à-vis the OCTs. In the first place, the laying down of the detailed arrangements of the provisions in Part IV of the TFEU necessarily have to take place at EU level as the purpose of the association, the social and economic development and close economic ties between the OCTs and the *EU as a whole*, could not be achieved via actions at Member States level. Moreover, as regards the OCT trade regime, Member States actions would not be possible as the EU's common commercial policy, as laid down in Title II of Part V of the TFEU, falls within the domain of the EU's exclusive competence.

4.3. Evolving Policy Context

4.3.1. EU Policy Agenda: External Relations and Europe 2020

Coherence between Internal and External EU Policies

With the entry into force of the changes the Lisbon Treaty made to the Treaties on the European Union and on the Functioning of the European Union, the principle of the necessary coherence between the EU's internal and external policies has been more firmly established. Both types of policies are expected to take into account each other's objectives. This means, for instance, that the EU's development cooperation under the 11th European Development Fund (EDF) should be coherent with and complementary to other types of external cooperation financed from other external instruments, such as the Development Cooperation Instrument (DCI), the Instrument for Nuclear Safety (INSC) and the Partnership Instrument (PI).

In addition, external action instruments and initiatives are expected to take into account of the EU concerns, values, interests and objectives that are dealt with within the EU's internal policies, by providing the possibility of giving them an external dimension. In other words, this means that issues such as climate change, environment, energy (including access to sustainable energy), fair and sustainable production and trade of raw materials, employment and social policy (including promotion of decent work, development of social protection systems and respect internationally recognised labour standards), immigration, fisheries, agriculture, health, research and innovation for smart, inclusive and sustainable growth have to be streamlined into EU external actions and should be an integral part of the EU's dialogue with third partners.

Inversely, internal policies are expected to take into account the possible impacts certain measures and initiatives may have on the EU's partners.

EU Values and Interests

Besides the promotion of the fundamental interests of the EU, the reinforcement of the principle of coherence which governs the EU's external, also means that the EU's normative agenda has gained in importance. Through its external action, the EU intends to project the values and principles which define it. Article 21 of the Treaty on the European Union states that "[t]he Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law". As a consequence of this evolution, the inclusion of the principles of good governance has become a standard element of EU cooperation with third partners and partnership, responsibility and accountability have become key words in the EU's cooperation frameworks.

The Europe 2020 Agenda that was adopted by the Commission in March 2010 and subsequently endorsed by the Council of the EU, provides the benchmark against which

the coherence of EU policies and the promotion of EU values, standards and interest needs to be checked⁵⁹. For OCTs, the principle of coherence is of particular importance as the territories and their inhabitants have a special status vis-à-vis the European Union. On the one hand, the OCTs are located outside of the EU territory and customs union and the EU legislation does not apply. As indicated above the OCT trade regime is part of the EU's trade policy and thus the relevant chapter of the EU's external action applies. From this perspective, OCTs are external stakeholders of the relevant EU policies. On the other hand, the inhabitants of OCTs have the nationality of their Member States and thus EU citizenship is conferred upon them⁶⁰. From this perspective, the OCTs are internal stakeholders of the relevant EU policies and actions.

In terms of support to the OCTs, its citizens, companies, civil society and other organisation, this double-natured relationship with the EU translates itself in the eligibility for funding outside of the European Development Fund (EDF) from horizontal and thematic programmes and budget lines under external action instruments such as the, Partnership Instrument, the Development Cooperation Instrument and internal policy instruments such as those dedicated to research and innovation. A coordinated use of the different financial instruments to which the OCTs are eligible, is likely to contribute to reaching the objectives of the OCT/EU association because of the synergies it creates and the larger impact it has. It is likely that such use of EU funds will also contribute to obtain other EU goals and objectives. For instance, having interested OCTs such as Greenland participate in the raw materials strategy may benefit Greenland through an intensified bilateral cooperation (see 4.3.3), contribute to the achievement of the EU's aim to ensure fair and sustainable production and trade of raw materials as well as to provide show cases of the EU model of management of raw materials, which includes strong innovation and recycling components.

The sustainable management of fisheries is another important area of action for the EU. The reform of the Common Fisheries Policy (CFP) which is underway aims to ensure sustainable exploitation of marine living resources while working towards robust economic performance, inclusive growth and enhanced cohesion in coastal regions. In July 2011, the Commission adopted a Communication on the external dimension of the CFP, which may be relevant to OCTs and which translates the principles of the proposed CFP reform at international level⁶¹. Building on existing initiatives such as the comprehensive strategy to combat illegal, unreported and unregulated (IUU) fishing in EU and international waters it adopted in 2008⁶², the Commission proposes amongst others to further the global and multilateral agenda promoting sustainable fisheries, to strengthen the performance of Regional Fisheries Management Organisations in terms of the conservation and

⁵⁹ Commission Communication COM (2010) 2020, 3 March 2010.

⁶⁰ According to Article 20 of the Treaty on the Functioning of the European Union, every person holding the nationality of a Member State shall be a citizen of the Union. As a matter of fact, all nationals of Greenland, and the French and the Dutch OCTs also have the nationality of the related Member States automatically and are therefore EU citizens. 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.

⁶¹ Commission, Communication COM (2011) 424 final, 13 July 2011.

⁶² Through, amongst others, the setup of elaborate systems of surveillance and certification and prevention and deterrence. The prevention and deterrence system has been set up by Council Regulation (EC) N° 1005/2008 of 29 September 2008.

management of marine living resources and to base Fisheries Partnership Agreements (FPAs) on the best available scientific advice and ensuring that fisheries agreements support better governance of the fisheries sector in the partner country.

4.3.2. *Developments in EU Trade Policy*

The OCT trade regime, as it stands, is a vector of EU trade policy. Over the years, this policy has evolved into a diverse and multifaceted policy, intervening at multilateral, inter-regional and bilateral levels. There have traditionally been strong parallels between the OCT trade regime and the regime for African, Caribbean and Pacific (ACP) countries under the Lomé Conventions and Cotonou Agreement, which served development purposes. Since 2008 Economic Partnership Agreements (EPAs) are in place between the EU and several ACP countries and regions with a view to furthering their sustainable development and regional integration. The only comprehensive regional EPA so far (in the Caribbean) contains a clause enabling OCTs to be brought within the scope of the Agreement.

At the same time, on-going negotiations and agreements with different regions and countries (MERCOSUR, Central America, Colombia and Peru, Canada, etc.) have become two way streets based on mutual interests and benefits and on the recognition that all actors have rights as well as duties. In this context, OCTs are taken into account in the on-going negotiations and in the finalized agreements via the Impact Assessments. These agreements go beyond trade in goods and embrace also regulatory aspects in different areas, including services and investment, public procurement, intellectual property rights and sustainable development (i.e. decent work, labour standards, environmental protection and other trade-related aspects, including in the area of fisheries).

In addition, in May 2011 the Commission adopted a proposal for a new Regulation on the Generalised System of Preferences (GSP)⁶³. The new GSP will grant specific tariff preferences to fewer countries and it will aim to focus the benefits on those countries most in need and on those which effectively implement international labour standards and principles of human rights, environmental protection and good governance. The OCTs will no longer be eligible to the new GSP because they have already their own trade regime with the EU, which is embedded in a far-reaching association relationship with a developed block of countries. This exclusion is important from the point of view of the EU's international legal obligations. Granting OCTs GSP preferences treatment would mean that the territories would OCTs receive preferences despite the fact that they are integrated in the structure of a *developed* country. Yet, the WTO allows GSP preferences only for *developing* partners. Under the current OAD, OCTs benefit from free access to the EU market (duty free quota free) and therefore do not need to benefit from GSP.

In November 2010, the Commission adopted a Communication on "Trade, Growth and World Affairs"⁶⁴ by which it announced the following set of policy initiatives:

⁶³ Commission Proposal COM(2011) 241 of 10 May 2011 for a Regulation of the European Parliament and the Council applying a scheme of generalised tariffs.

⁶⁴ COM(2010) 612 of 9 November 2010.
See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0612:FIN:EN:PDF>
(accessed: 26/09/2011).

1. a legislative proposal for an EU instrument to secure access in government procurement in developing and large emerging markets;
2. the completion of the internal EU debate on a new investment policy;
3. the presentation of proposals on how to strengthen the links and coherence between Internal Market regulations and external trade policy;
4. the adoption of a Communication on Trade and Development;
5. a legislative proposal on the reform of the Generalised System of Preferences;
6. the presentation of a Communication on possible support measures to help SMEs that want to develop their international activities;
7. the adoption of a Green Paper on how to improve the EU's export control system;
8. the launch of an annual trade and investment barriers report in view of providing a basis on which enforcement actions can be taken;
9. the revision of the EU's strategy on the protection and enforcement of intellectual property rights.

Of these initiatives, OCTs might have some interest in following the question of links and coherence between Internal Market regulations and external trade policy, which has not yet reached the stage of presenting proposals.

4.3.3. Additional Support in Trade and Trade Related Areas in EU Policies

As the EU's trade policy agenda evolved over the years, going beyond trade in goods to incorporate various other themes, so did related policy fields, by foreseeing trade supporting measures available to economic operators from the EU and/or third countries. OCTs being in principle eligible for financing from external and internal horizontal programmes and budget lines, some of these measures also apply to OCTs or consideration could be given to extending their scope to OCTs. Some of the measures that may be of interest to OCTs are listed below.

Market Access

A strategy for increasing market access for European businesses in important third markets is one of such supporting initiatives⁶⁵. Through increased cooperation and coordination between business, Member State and Commission services, it seeks to tackle trade barriers in third markets.

For producers from developing countries and territories which export to the EU, an Export Helpdesk is made available which provides information on tariffs, import measures and requirements, internal taxes from the EU and its Member States⁶⁶. OCTs could investigate possibilities to make use of both initiatives, either directly or via their Member States (in the case of the market access strategy). While the Export Helpdesk potentially constitutes a good source of market intelligence for OCTs, they seem little aware of its existence.

⁶⁵ COM(2007)183 of 18 April 2007.

⁶⁶ See: http://exporthelp.europa.eu/index_en.html (accessed: 08/11/2010).

Raw Materials

In the last few years, raw materials have attracted increased political interest as access to these materials are often key to industrial production. The issue of raw materials touches upon a wide range of policy strands, including regulatory frameworks for production, environment, protection, development policy, international trade and research and innovation. In 2008, the Commission adopted a Raw Materials Initiative which aimed at bringing together the available policy tools in a coherent manner⁶⁷. This initiative was further developed with the adoption in February 2011 of the Raw Materials Strategy⁶⁸. The strategy is built on three pillars (1) fair and undistorted access to raw materials on the global markets (2) sustainable supply from domestic courses and (3) resource efficiency and recycling. This strategy could offer opportunities for bilateral cooperation to those OCTs that either produce and export raw materials or have the potential to do so. In Greenland and New Caledonia, for instance, deposits of raw materials critical to the EU were found (aluminium, nickel, gold, rare earth elements, aluminium, gold etc.). Cooperation with the EU could include e.g. assistance in governance of natural resources, access to EU environmental laws enforcement expertise, assistance in geological mapping and development of geological skills and knowledge. The latter already comprises cooperation with third countries and developing countries, the cooperation with the African Union being a case in point. Cooperation could either take place via the OCT's Member State within the internal/domestic dimension of the strategy and/or within the raw materials diplomacy if the strategy's external dimension,

Business Support

The “Competitiveness and Innovation Framework Programme” (CIP) adopted in 2006 and covering the period 2007-2013 supports innovation activities, provides better access to finance and delivers business support services in the regions, with SMEs as main target. Two of its three sub-programmes, the EIP (Entrepreneurship and innovation programme), which also includes the Enterprise Europe Network (EEN), and the ICT policy support programme, are examples of existing EU instruments for which the OCTs are already eligible and which are relevant for trade related and accessibility issues.

The Enterprise Europe Network (which replaces the Euro Info Centres and Innovation Relay Centres set up under the predecessor programme), brings together more than 580 business support organisations (chambers of commerce and industry, technology centres, research institutes and development agencies) from 49 countries with a view to help European Small and Medium Enterprises (SMEs) to develop their business in markets within and outside of the European Single Market⁶⁹. The objective of the EEN is to offer information and support on EU matters to SMEs, to obtain feedback from them, and to provide business cooperation, technology transfer and innovation services.

The EIP and EEN are the main EU instruments to implement actions in favour of SMEs, including entrepreneurship, access to finance, tourism and business support. The OAD (Arts. 13 and 14) already covers possible actions in the field of tourism and e-Business. In

⁶⁷ COM(2008) 699 of 4 November 2008,

⁶⁸ COM(2011)25 of 2 February 2011

⁶⁹ See: http://www.enterprise-europe-network.ec.europa.eu/index_en.htm (accessed: 08/11/2010).

its Article 59, the current OAD refers to the possibility of Euro-Info Correspondence Centres being set up in OCTs. This Article was not updated following the setup of the Enterprise European Network and OCTs never made use of the provision, though recently OCTs have shown interest in this kind of EU initiatives. Though OCTs are in theory already eligible to the programme, they have not been associated in practice.

The EEN was established in 2008, following a call for proposal to business support organisation in the different Member States and partner countries concerned. The present EEN will remain operational until 2014. Calls for proposals for the next operational period (2014-2020) are likely to be organised in the course of 2013.

OCTs could gain benefit from the EEN, either by cooperating with EEN members from the Member States to which they are linked and/or respond to the next call for proposals by submitting a work programme in line with the specifications contained in them. Thus, the OCTs could follow the example of Outermost Regions such as Réunion, Martinique and Guadeloupe which have business support organisations that already participate in the EEN.

With the CIP expiring in 2013, new programmes are being prepared. The Innovation part of the programme will be covered by the future "Horizon 2020" (successor to the 7th Research Framework Programme) while Entrepreneurship and access to finance policies will be covered by a new programme "Business Competitiveness and SME Programme".

Sector Support

Additional support for third partners in developing countries and territories in policy areas other than but related to trade is available as well. In the field of food and consumer safety, for instance, the EU provides through the "Better Training for Safer Food" (BTSF) programme trainings in the areas of food law, feed law, animal health and animal welfare rules, as well as plant health rules⁷⁰.

Other examples of support to third countries and territories in these areas are some facilities targeting ACP countries within the Aid for Trade agenda such as the TradeCom Facility or the Strengthening Fishery Products Health Conditions in ACP/OCT Countries⁷¹.

4.3.4. Communication on Elements for a Revised OCT/EU Partnership

The EU wishes to use the revision of the Overseas Association Decision (OAD) as an opportunity to redesign and modernise the association arrangements, so as to bring them more in line with OCT needs and realities. Over the last ten years discussions about this revision have taken a central place in the OCT/EU policy dialogue, since the adoption on 20 May 1999 of the Commission Communication COM(1999) 163 on "the status of OCTs associated with the EC and options for OCT 2000", which led to current OAD. On 6 November 2009, the Commission adopted a new Communication on elements for a new partnership between the EU and the OCTs, COM (2009) 623, in view of the expiry of the current OAD on 31 December 2013 and following extensive consultations of stakeholders

⁷⁰ See: http://ec.europa.eu/food/training_strategy/index_en.htm (accessed: 08/11/2010).

⁷¹ For the TradeCom Facility, see: <http://www.tradecom-acpeu.org/> (accessed 11/05/2011). For project entitled the Strengthening Fishery Products Health Conditions in ACP/OCT Countries, see: <http://sfp.acp.int/> (accessed 11/05/2011)

(cf. below). The conclusions and orientations of the Communication were politically endorsed by the Council on 22 December 2009 in its conclusions (16710/09). These documents identified the following three general objectives for the future OCT/EU partnership:

1. to enhance OCT competitiveness,
2. to reduce OCT vulnerability, and
3. to stimulate regional cooperation and integration.

These three objectives are to be translated in five principles and axes, notably:

- to contribute to the development of OCTs as centres of excellence;
- to stimulate trade and economic cooperation;
- to promote EU rules and standards;
- to cooperate on environmental issues and disasters;
- to contribute to OCT connectivity to the outside world.

According to these documents, the professed goal of the EU is to make use of the opportunity of the revision of the OAD to better adapt the association relation to the specific situation of OCTs, which implies moving away from the classic development cooperation approach to adopt a reciprocal partnership in support the OCTs' sustainable development, and whereby OCTs are expected to contribute to the promotion of European values in the wider world. Key words in this light are: partnership, mutual interests, reciprocity, rights and obligations and the OCTs as outposts of the EU in the world. A more comprehensive description of the political orientations given by the Council is provided in the Impact Assessment report to which the present paper is attached.

5. EVALUATIONS OF OCT/EU ASSOCIATION AND STAKEHOLDER CONSULTATIONS

The OCT/EU association has been the subject of different evaluation exercises by different types of actors. In addition, it has been the topic of various stakeholder consultations in different formats and at different times. As described in Chapter 4 of this paper, the OCT/EU association foresees a wide range of platforms for dialogue and cooperation in which the OCTs, the Member States to which they are constitutionally linked and the EU can discuss trade and trade related issues: annual Forums, regular trilateral meetings, the partnership working party on trade and regional integration and other ad hoc meetings. These instances of discussion have often provided the setting in which the OCTs as main stakeholders of the OCT/EU association could be consulted. This chapter analyses the content of the different consultation moments that took place as well as the different assessments that were made. This analysis integrates elements of the assessment and evaluation exercises of the OCT/EU association the Commission has conducted.

Availability of statistical data

As was mentioned in the introduction to this paper (see Chapter 1), the analysis and evaluation of the OAD has been complicated by the paucity, reliability and lack of harmonisation of trade statistics concerning OCTs. Whereas data concerning OCT/EU trade flows (OCT exports to the EU, OCT imports from the EU), this is often not the case where OCT trade with other third countries is concerned. The respective international databases of the United Nations, the World Bank and the International Trade Centre, COMTRADE, WITS, MacMap, contain little information on OCT tariffs and trade flows. As was experienced by evaluators and the European Commission statistical data, where available, was sometimes fragmentary and incomplete. Responding to European Commission queries, individual OCTs have indicated that their weak statistical capabilities prevented them from providing information on certain issues.

5.1. Stakeholder Consultations

5.1.1. Public Consultation

In 2008 the OCT/EU association was subject of a public consultation that ran from 1 July to 17 October 2008, including a stakeholder conference in Brussels on 3 October 2008. The public consultation took place following the adoption on 25 June 2008 of the Green Paper COM(2008) 383 on future relations between the EU and the Overseas Countries and Territories. Ten questions (questions 7.1. to 10.3. of the Green Paper) were submitted on trade and trade related issues⁷². These took the purpose and objectives of the association as a starting point and covered various issues related to the OCT trade rules and trade related support. The questions addressed issues such as:

- possible benefits to OCTs of the progressing world trade liberalisation and regional economic integration and the way in which the EU could facilitate OCT participation in regional trade;
- suggestions for the modernisation of the rules of origin applicable to OCT products and the added value and use of OCT-ACP cumulation of origin,
- the added value of cooperation with the OCTs in trade-related areas and possible improvements;
- the relevance or the added value of the transshipment facility and possible alternatives that could promote the development of transport infrastructure.

The 2008 Green Paper was instrumental to framing and giving focus to the OCT/EU dialogue on the trade and trade related issues which ensued in the following years. The results of the public consultation were summarised in Communication (2009) 623 (pp. 2-4).

Generally speaking, the OCTs called for a stronger OCT/EU partnership, based on reciprocity and taking due account of the OCT specificities, in particular their economic and social development, diversity and vulnerability, as well as their environmental

⁷² COM(2008) 383, pp. 14-15.

importance. It was deemed that such a partnership would have to contribute to enhancing their competitiveness, notably in the regions where they are located. Contributions put forward the idea of OCTs being outposts of the EU in the world. As part of the partnership, contributions asked that OCTs would be given a greater involvement in EU policy making. With regard to trade and regional integration, contributions highlighted the diversity of the OCTs and expressed the wish of the OCT trade regime being more flexible so that specific challenges could be taken into account. At the same time, it was also deemed necessary to maintain a coherent overall framework for all OCTs. More specifically, several contributions called for a simplification of the OCT rules of origin and the sanitary and phyto-sanitary requirements for OCT exports to the EU.

5.1.2. OCT/EU Forums: High Level Discussions

The Green Paper was extensively discussed at the 7th OCT/EU Forum which took place on 28 and 29 November 2008 in the Cayman Islands. The results of the consultation were subsequently summarised in the Commission Communication COM(2009) 623 on Elements for a new partnership between the EU and the overseas countries and territories, which was subsequently discussed at the 8th OCT/EU Forum which took place in March 2010.

At the OCTA Ministerial Conference which took place in New Caledonia on 28 February 2011, the OCTs and their Member States adopted a Joint Position Paper, a substantial part of which was dedicated to the trade and trade related aspects of the OCT/EU association⁷³. This document was substantially discussed in the days following the Conference at the 9th OCT/EU Forum which also took place in New Caledonia. Members of the European Parliament took part in the Forums of 2010 and 2011.

Joint Position Paper of OCTs and their Member States

In their Joint Position Paper, the OCTs and their Member States subscribe to the three objectives of competitiveness, resilience and cooperation put forward by the Commission in Communication COM(2009) 623 and endorsed by the Council, as well as the underlying philosophy of building a partnership based on mutual rights and obligations, shared values and the principle of good governance. OCTs and their Member States see the revision of the OCT/EU association as an opportunity to reaffirm the OCTs' belonging to the European family and to allow them to play a role as outposts for the EU in the world.

The Joint Position Paper acknowledges the benefits that the OCT/EU association has been beneficial to the OCTs' social and economic development, identifying the trade arrangements as one of the main benefits. Support under the European Development Fund (EDF) is also deemed to have contributed to the OCTs' development. The EU support to OCT innovation strategies and to Caribbean Small and Medium Sized Enterprises (SMEs) part of the 10th EDF regional programme are named as good examples of the cooperation initiatives in support of the competitiveness of OCTs which the EU is invited to replicate

⁷³ Joint Position Paper of the Governments of the Kingdom of Denmark, the French Republic, the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Ireland, and the Overseas Countries and Territories on the future relations between the Overseas Countries and Territories and the European Union, adopted at the Ministerial Conference of the Association of the Overseas Countries and Territories of the European Union, Nouméa, New Caledonia, 28 February 2011 (hereafter: Joint Position Paper).

under the future association framework. Reminding of the structural problems and challenges they face, the OCTs stress that continued EU assistance is needed for formulating policies and strategies, for strengthening their markets, as support to regulatory reform processes and to stimulate OCT compliance with international and EU rules and standards, notably in the field of food safety and consumer health and to support the setup and maintenance of necessary infrastructures. The paper suggests that this assistance takes the form of continued financial and technical assistance, information exchange and dialogue, capacity building activities access to capital and financing opportunities outside of the EDF (internal and external horizontal programmes).

In the field of the trade, the OCTs and their Member States express their concern about the erosion of the theoretical benefits which the asymmetric trade arrangements offer them, due to the on-going process of trade liberalisation. They ask for improved market access, amongst others through modernised and flexible rules of origin and regular exchange of information and market intelligence. The paper asks that OCT interests be taken into account in EU trade negotiations with neighbours of the OCTs.

5.1.3. Partnership Working Party: Technical Discussions

Throughout 2008-2011, and even before that time, the trade and trade related aspects of the Association were also discussed at technical level within the context of the partnership working party (PWP) dedicated to trade and regional Integration. In this context and as a follow-up to the discussions which took place at the 9th OCT/EU Forum, the European Commission sent out a questionnaire in the Summer of 2011, which covered the following topics:

- economic sectors and products of interests to OCTs (current and prospective);
- access, opportunities and possible obstacles to OCT access to third markets (including the EU);
- existing support to OCT exporters and additional needs for support;
- OCT interest in selected topics of the EU trade policy;
- OCT position in light of international trade law.

Of the twenty inhabited OCTs that were queried, eleven OCTs located in the Atlantic, Caribbean and Pacific responded to the questionnaire; which corresponds to a reply rate of 55 %. An overview of the answer to the questionnaire goes in Annex 12.7. They were discussed with OCTs and Member States at the meeting of the PWP on trade and regional integration that took place on 14 October 2011. The results confirmed the main findings of the external studies.

Interest in Export Markets

It was found that OCT interests in third markets reflected trends in international trade, the European-North American axis being a strong focal point for OCT interest, followed by the industrialised and industrialising countries in Asia and Latin America and the neighbouring countries of the Caribbean and Pacific OCTs. This trend also translates itself by the OCTs' geographic interest in EU trade agreements, which extends beyond their ACP neighbours.

Interest in Goods Exports

From the replies to the questionnaire, it could be deduced that OCTs had a marked interest in exporting agro-food products⁷⁴, in particular fishery products and beverages. This is valid for present markets as well as prospective markets and also applies to OCTs which traditionally are not associated with fisheries sectors. Interests in this sector related to several species: cod, scallops, shrimps, mussels, halibut, tuna, molluscs, crab and lobsters. To a lesser extent materials (earth, stones, construction materials etc.), chemicals and plastics and ores, metals, minerals, precious metals, fuels and oils were marked as products of interest to the OCTs.

Interest in Services Exports

The results also confirmed the services sectors as a potential for growth for OCT. Tourism and related sectors (culture, recreation and sports) came out as drawing the most attention. Other sectors being considered by OCTs were: (renewable) energy (consulting, engineering etc.) and environment services (environment protection etc.) as well as business, telecommunication and other supporting services (telephone support services, data storage, internet traffic relay etc.).

Obstacles to Market Access in Third Countries and the EU

The questionnaire confirmed that the main problems that OCTs face in accessing non-EU and EU markets relate to their remoteness and isolation on the one hand, and the small size and capacities of their enterprises on the other hand. To help their economic operators to overcome the challenges with which they are confronted, the OCT authorities indicated that they mainly provided public support in the form of public aids and support programmes. Support by the Member States was mentioned for only a number of OCTs.

Policies and Support

Little mention was made of the existence of export strategies, but some OCTs indicated that they were considering adopting such strategies. OCTs seemed to agree that additional support could be foreseen in the form of capacity building and technical assistance, notably in fields such as food safety and consumer health (SPS) as well as other fields submitted to technical regulations (TBT), access to capital (commercial and concessional loans from the

⁷⁴ In this context, the notion of agro-food products is understood to cover products such as fishery products, meat, fruits and fruit preparations, vegetables, beverages, mineral water, rum, dairy products, tobacco, coffee, tea and animal and vegetable oils.

EIB and other financial instances) and continued support programmes. One OCT highlighted the need for assistance for building the OCTs' statistical capacities.

5.1.4. Ad hoc Bilateral Meetings with Individual OCTs and their Member States

In addition to consultations of OCTs, their Member States and other stakeholders, the European Commission has held ad hoc meetings with individual OCTs and their Member States, to discuss issues of individual concern to them. Such discussions dealt with the progress of the EU's trade negotiations with selected partners, derogations to the rules of origin applicable to OCT products and autonomous trade measures of the EU.

5.2. Overall Assessment Economic and Trade Cooperation of the OAD

5.2.1. External Assessment

In their overall assessments of the OCT trade regime, OCTs, their Member States as well as external evaluators all agree that the trade and economic component of the OCT/EU association has contributed to the sustainable social and economic development of OCTs by providing OCTs a secure access to the large EU market, providing numerous export opportunities, and supporting local economies. Echoing the conclusion of an earlier external evaluation of the 9th EDF⁷⁵, ECO Consult et al. (2011) stated that OCT/EU cooperation programmes and projects under the 8th and 9th EDF had been highly relevant to the individual OCTs' needs as well as coherent with both the association's objectives and the OCTs' own priorities⁷⁶. As regards coherence between EU support to the OCTs and other EU policies (migration, trade, fisheries etc.) ECO Consult et al. (2011) found no marked contradictions or inconsistencies⁷⁷.

5.2.2. OCT Trade Regime

Overall Impact

With a duty free and quota free access to the EU market since the 1991 revision of the OAD, the OCTs have benefitted from the most generous tariff regime that the EU has offered, with larger preferential margins than those traditionally granted to developing countries; at least until full implementation of the Everything But Arms initiative and the Economic Partnership Agreements from 2008-2009 on.

The evolution of fishery exports from Greenland, Saint-Pierre et Miquelon and Falkland Islands to the EU are an example of the positive impact that the OCT trade regime has had on OCTs⁷⁸. In the period from 2002 to 2010, exports of fishery products from Greenland to the EU steadily increased from 94,000 tonnes to 112,000 tonnes, amounting to EUR 280 million in export value in 2010. EU exports of fisheries products to Greenland, on the other hand, represented only 436 tonnes in 2010 or EUR 3 million in export value. 90 % of the fish exports of Greenland target the EU market (notably Denmark). In the same fashion,

⁷⁵ BURKE et al. (2006)

⁷⁶ ECO Consult et al. (2011), p. 38.

⁷⁷ Idem, pp. 81-83.

⁷⁸ Data provided by the European Commission, Directorate General for Maritime Affairs and Fisheries.

exports of fishery products from Saint-Pierre et Miquelon to the EU rose from 142 tonnes in 2002 to 1,407 in 2008 (or EUR 6 million in value) to go down to 856 tonnes in 2009, even though the derogation of 1,290 tonnes for fishery products that entered into force in 2007 applies until 2013. The EU, however, is not the only trade partner of Saint-Pierre et Miquelon regarding fisheries; Saint-Pierre et Miquelon fish is also exported to Canada (4 %) and the United States (17 %). As indicated above, the value of the total catches in the Falkland Islands fishing conservation zone average USD 200 million a year and greatly contribute to the Falkland Islands' GDP. Most of the Falkland Islands' fishery exports target the EU. With exports worth EUR 70 million, the Falkland Islands are the EU's fourth largest provider of frozen *Loligo* squid after India (EUR 130 million), Thailand (EUR 90 million) and China (EUR 90 million)⁷⁹.

To support existing economic activities and stimulate the creation of new industries in OCTs, the OCT trade regime has included certain flexibilities in its trade rules, which have allowed OCTs to take advantage of the export opportunities offered by the regime. With derogations to the rules of origin granted to Saint-Pierre et Miquelon, Greenland and the Falkland Islands for their fishery products the EU has showed willingness to support these territories (see below).

Considering the evolution of OCT exports and imports, ECO Consult et al. (2011) found an encouraging growth in exports (from USD 1.2 billion in 2004 to USD 1.8 billion in 2008), which it linked to emerging OCT strategic thinking on economic diversification, stimulated by OCT/EU policy dialogue and EU support operations in the form of sector or general budget support⁸⁰. Despite this positive development, OCT problems with trade balances that are structurally in deficit were not resolved as OCT imports grew as well and at a faster pace (from USD 3.5 billion in 2004 to USD 5.9 billion in 2008).

Possible Improvements

Even if the OCT trade regime has provided levers for the OCTs' economic development, certain areas of improvement were identified. LUFF et al. (2010) and others have pointed out that while the EU offers OCT wide market access, this has not always translated in actual trade opportunities, as OCTs faced several challenges to effectively exploit the market access that was offered. The challenges not only relate to structural difficulties OCTs face, such as the size of their economies and their enterprise, the remoteness of their territories or even the absence of OCT trade policies, but also have to a certain extent to do with the EU rules and conditions which define the OCTs' actual market access. The studies also point out that the relative worth of the OCTs' duty free and quota free market access is decreasing as a result of progressive trade liberalisation on a global and regional scale. Finally, the studies highlighted that compared to the arrangements for trade in goods, the OAD arrangements for trade in services were relatively underdeveloped. The following chapter contains a more comprehensive discussion of the points just raised

In its Green Paper COM(2008) 383 and Communication COM(2009) 623, the European Commission indicated that the OCT trade regime could be improved in certain areas, so as to increase its utility as a lever for the OCTs' social and economic development. For the EU the expiry of the OAD provides an opportunity to bring the OCT trade regime in line

⁷⁹ Idem.

⁸⁰ ECO Consult et al. (2011), p. 75.

with the latest developments in EU trade policy and other related policies, while respecting the specific nature of the OCT/EU association. Translating the notion that the OCT/EU association should be based on reciprocity, mutual interests, rights and obligations, and ensuring policy coherence between EU external and internal policies and with the Europe 2020 Agenda, mean that a number of other issues with the present OAD other than the ones discussed in the next chapter are addressed as well.

The OCT asymmetric trade regime is not fully aligned on other EU unilateral (GSP) trade arrangements or bilateral agreements (FTAs, EPAs) as regards measures that ensure the effective application of tariff treatment and prevent/combat fraud and irregularities. In addition, the OCT trade regime is not explicit about the consequences and liabilities relating to administrative errors in the application of the trade regime where these errors lead to losses of import duties. Standard EU policy for the management of all preferential regimes is to include strong provisions on administrative cooperation, management of errors and temporary withdrawal of preferences, so as to avoid and combat fraudulent use of the arrangements and loss of EU own resources⁸¹. Such provisions are indispensable for the proper management of EU trade preferences, and ultimately allow for the temporary suspension of tariff preferences for goods on which beneficiaries are not providing the necessary cooperation as regards origin verification or assistance with enquiries. Preferential trade arrangements already containing provisions on the temporary withdrawal of preferences include the GSP (Article 16 of the current regulation, Article 21 of the post-2014 proposal)⁸², and the Market Access Regulation for ACP countries having negotiated EPAs (Article 5)⁸³. Such provisions are also contained in the Economic Partnership Agreement between the CARIFORUM States and the EU and its Member States (Article 20) and in all other EPAs negotiated/under negotiation.

5.2.3. *OCT/EU Trade and Trade Related Cooperation*

As was mentioned above, the current Overseas Association Decision provides a wide range of cooperation possibilities with OCTs in the provisions concerning trade and trade related areas; i.e. Articles 12, 13, 14 and 16 as well as Chapter 3 of Title II of Part 3. This cooperation has non-financial and financial aspects. The present section will focus on the non-financial cooperation in these areas. The next section will be dedicated to the financial cooperation.

OCT/EU cooperation and consultation on trade and trade related generally takes place in the context of the various instances of dialogue provided for under the OAD in its Article 7 (See Chapter 4): annual Forums, trilateral meetings between OCTs, Member States and the EU and the EU and the partnership working party on trade and regional integration. As

⁸¹ Basis for the standard policy is based on Commission Communication COM(97) 402 of 23 July 1997 on the Management of Preferential Tariff Arrangements.

⁸² Council Regulation (EC) N° 732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011 and amending Regulations (EC) No 552/97, (EC) No 1933/2006 and Commission Regulations (EC) No 1100/2006 and (EC) No 964/2007. Commission Communication COM(2011) 241 of 10 May 2011 on a proposal for a regulation from Council and Parliament applying a scheme of generalised tariff preferences.

⁸³ Council Regulation (EC) N° 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements

described above, such meetings have provided the OCTs the opportunity to express possible concerns they may have had with regard to the trade and economic cooperation part of the OAD.

However, the OCT/EU dialogue in this context has somewhat lacked focus as the agendas of these meetings were in general defined on a case by case basis, depending on what was the topic of interest for OCTs at a given moment. In general, no systematic follow-up has been given by OCTs to these topics whenever they were raised. In addition, the OCT/EU dialogue on trade and trade related issues has had the tendency to focus on aspects of the EU trade policy which the EU undertakes independently from the OCT/EU association. In particular the EU's trade negotiations and its unilateral trade measures have been prone to dominate OCT/EU discussions on trade and trade related issues.

These discussions have also tended to lack interaction between the different actors. Although the meetings of the partnership working party on trade and regional integration are supposed to be attended by technical experts, the OCTs usually are represented by generalists based in Europe (Brussels or the capitals of their Member States), rather technical experts from their home administration. As a consequence, the OCT/EU dialogue has lacked certain depth as well.

Given its tendency to go one way, rather than two ways, the OCT/EU dialogue has not always provided the context in which mutual trade interests, such as raw materials, could be taken into account. Thus, it has not always been an instance based on reciprocity, partnership and mutual interests.

In addition, the provisions contained in Chapter 3 of Title II (Trade Related Areas) of Part 3, which foresee in administrative cooperation between the EU and OCTs in the fields of current payments and capital movements, competition policies, protection of intellectual property rights, standardisation and certification, trade and environment, trade and labour standards and consumer policy and consumer health protection have not been used, monitored or been the subject of dialogue or cooperation for the most part.

The reasons for this are probably manifold. The theoretical justification for including the relevant articles during the 2001 revision of the Decision seems sound, as the areas mentioned are increasingly impacting on trade in goods while traditional trade tools (i.e. tariffs and quotas) keep losing relevance. Furthermore, while the articles were inspired by novel wording in the 2000 Cotonou Partnership Agreement, at the same time they were adapted to the OCT context where the legal basis was not an international agreement but an EU Council decision. However, in the process the relevant provisions became very much best-endeavour clauses, with cooperation foreseen but not really integrated into existing cooperation instruments (notwithstanding the requirement that development finance cooperation and trade and economic cooperation under the OAD should be mutually supportive).

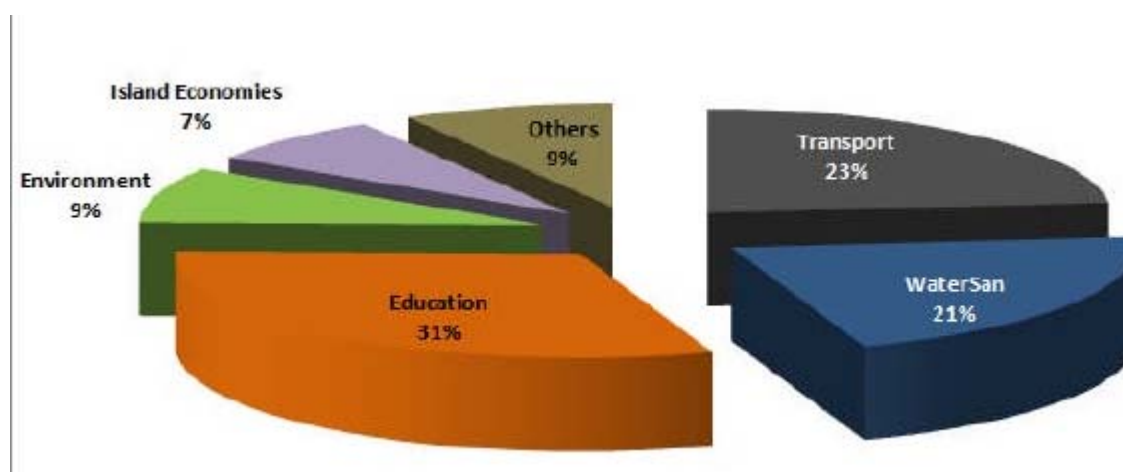
To a large extent, the problems mentioned above relate to the limited administrative resources and technical expertise available to OCTs as well as the absence of OCT trade policies.

5.2.4. EU Financial Support to OCTs in Trade and Trade Related Areas

The present section focuses on the financial cooperation in trade and trade related areas in the last decade. The non-financial cooperation on trade and trade related aspects are covered in a separate section.

8th-9th EDF

In a preliminary report, external evaluators reviewing the financial resources committed and allocated to OCT/EU cooperation in the period 1999-2009 (under the 8th and 9th European Development Funds and the budget lines for cooperation with Greenland in education and fisheries) found that, at a prima facie basis, trade and trade related areas, were part of only a small minority of EU financed projects and programmes (see figure below)⁸⁴. Out of the EUR 380 million committed, 31 % was dedicated to education (reflecting the high allocation to Greenland), 23 % to transport infrastructure, 21 % to water and sanitation infrastructure, 9 % to environment (management and protection of resources, disaster preparedness and waste management), 7 % to a category entitled "island economies" and 9 % to miscellaneous activities such as technical assistance and cooperation on trade and trade related areas. What the difference is between what the authors consider as trade and trade related assistance and assistance to the island economies is difficult to know as they do not provide a definition for the latter and actually only use it once in their study.



Source: ECO Consult et al. (2011), pp. 25-26

Examples of projects and programmes with a link to trade and trade related matters were:

- the support to the development of trade in services in Montserrat under the 9th EDF (allocation: EUR 17.2 million, sector budget support): private sector development, development of tourism products and repositioning of Montserrat as a tourism

⁸⁴ ECO Consult et al. (2011), pp. 25-26. The data provided exclude regional programming, indicative allocations for the 10th EDF and funding for disaster relief. The consultants looked at output rather than at the precise source of financing, as, until the 10th EDF, it was possible to transfer unused funds from one EDF to another. The data provided were extracted from Commission databases.

destination, development of institutional and regulatory framework and ICT infrastructure⁸⁵;

- the trade development support to the Falkland Islands under the 9th EDF (allocation: EUR 4.547 million, sector budget support): private sector development, develop key export sectors such as fisheries and aquaculture, meat production and tourism⁸⁶;
- the reallocation to the 9th EDF of resources previously allocated to Falklands Islands under the STABEX scheme of past EDFs to mitigate the harmful consequences of instability in wool export earnings (reallocation EUR 2.466 million –sector budget support): improvement in the quality and returns from agricultural production through training programmes and product development and development of aquaculture activities in view of diversifying the Falkland Islands economy⁸⁷;
- STABEX funds allocated to Mayotte (EUR 380,486) for the development of vanilla and ylang-ylang essential oils marketing chains.

Even if trade and trade related areas were little in focus in OCT/EU cooperation projects and programmes under the 8th and 9th EDF, the EU support activities in other fields were found to have positively contributed to the development of trade related activities in the OCTs, notably in the tourism sector. Interventions such as support to the rehabilitation and extension of harbours, airports and/or road infrastructures in Saint-Pierre et Miquelon, St Helena, Ascension Island and Tristan da Cunha, Anguilla, New Caledonia, Turks and Caicos and Montserrat contributed to increase OCT connectivity to the world, mainly improving passenger traffic conditions, which is likely to be conducive to a greater influx of tourists⁸⁸. Likewise, the vocational and education training interventions in New Caledonia and Greenland contributed to increasing employment opportunities for OCT inhabitants and strengthening the skills base, notably in economic sectors with high export potential such as the mining industry (e.g. nickel extraction in New Caledonia)⁸⁹. Interventions in the field of environment such as the water sanitation project on the French Polynesian island of Bora Bora in order to preserve its lagoons or the development of the Arikok national park in Aruba contributed to the attractiveness of both territories as a tourism destination.

⁸⁵ Single Programming Document for Overseas Countries and Territories Submitted to the European Community by the Government of Montserrat, Montserrat 27 July 2004.

⁸⁶ Falkland Islands – European Community: Single Programming Document and Indicative Programme for the Period 2004-2007, Brussels, 21 June 2004.

⁸⁷ Framework of Mutual Obligation (FMO) between the European Commission and the Government of Falkland Islands, STABEX Transfers Application Years 1990-1994, Stanley 18 July 2007.

⁸⁸ ECO Consult et al. (2011), pp. 48-50.

⁸⁹ Idem, pp. 59-60.

10th EDF

Under the 10th EDF, EUR 286 million have been reserved for cooperation with the OCTs: EUR 195 million for territorial programmes and projects: EUR 40 million for a regional programme; EUR 30 million for an OCT investment facility managed by the EIB, EUR 6 million for technical assistance managed by the European Commission; and EUR 15 million for contingency aid (disasters, fluctuations in export earnings). In addition, EUR 175 million (2006 prices) has been reserved for cooperation with Greenland in non-fisheries sectors and EUR 77 million for cooperation in the fisheries sector (2007-2012). The territorial and regional programmes and projects are either being implemented or in the process of being committed.

The areas on which EU support will concentrate under the 10th EDF will roughly follow the same orientations as under the previous EDFs, with a strong focus on education (Aruba, Greenland and New Caledonia), infrastructure (former Netherlands Antilles, Anguilla, Turks and Caicos Islands, Saint Helena, Ascension Island and Tristan da Cunha, French Polynesia and Wallis and Futuna) and environment (French Polynesia, Pacific and Indian Ocean projects). Trade and trade related matters will be given more attention via the general budget EDF operations in Montserrat, Saint-Pierre et Miquelon and the Falkland Islands in support of general government policies, all of which include trade components, as well as the Caribbean project targeting the development of the capacities of the Dutch and British OCT SMEs and business support organisations. In addition, the two horizontal projects covering all OCTs that are foreseen, entitled "Technical assistance to the Association of Overseas Countries and Territories (OCTA)" and "Territorial Strategies for Innovation" are likely to bring benefits to the OCTs in the field of trade and trade related economic activities, amongst others by improving the OCTs' access to the EU's horizontal programmes and budget lines to which they are eligible.

The various external studies provide some explanations for the relatively low interest that OCTs generally had in cooperating with the EU on trade, trade related areas and regional cooperation under the previous EDFs, notably:

- the fact that regional economic integration with ACP countries does not necessarily bear much interest to OCTs (see SALMON (2007) and the analysis in chapter 3);
- the absence of capacities, infrastructure and political will to engage in structural reforms and liberalisation (LUFF et al. (2010), ECO Consult et al. (2011)).

As indicated above, ECO Consult et al. (2011) noticed that OCT attitudes seemed to be changing as a consequence of the more generalised use of general and sector budget support operations, which have stimulated OCTs to think about economic diversification in a more strategic way, trade and trade related issues being part thereof⁹⁰. Concerning the Atlantic OCTs, for which trade issues are generally more important, BROOKS, STONEMAN and RIOS (2010) concluded that in future these OCTs would continue to need EU financial assistance to support their process of economic diversification, in the form of development aid, facilitated participation in the EU horizontal programmes and

⁹⁰ ECO Consult et al. (2011), p. 75.

budget lines, and access to concessional and commercial loans from the EIB and other financial instances⁹¹.

EU Horizontal Programmes and Budget Lines

As was demonstrated above with the example of OCT involvement in the Enterprise Europe Network, OCT participation in horizontal programmes and budget lines in support of trade development and related activities to which they are in principle eligible often turns out to be very limited in reality. Another example of a programme of interest to the OCTs is the current Competitiveness and Innovation Framework Programme. The statement above holds true for both the internal and external instruments to which the OCTs are eligible. In part, the limited participation of OCTs can be related to the limited capacities of their businesses, organisations and authorities, but other factors play as well.

For instance, cooperation with the relevant organisations and instances of Member States, which are supposed to cover the OCTs is often complicated because no real links exist between them and the organisations and instances of OCTs. In those programmes where funding is made conditional to the submission of proposals by consortia of organisations and instances from at least three different Member States or associated States, the absence of well-developed OCT networks plays against their participation as well. Often, OCT businesses, organisations and authorities have links with counterparts in their Member States only. Cooperation between OCTs associated to different Member States is, for the time being, not a practice that is established enough in order for OCT businesses, organisations and other instances to exploit eligibility in those cases. Thus, the absence of established cooperation networks in the Caribbean between the Dutch and the British OCTs and the French Outermost Regions excludes from certain parts of the Seventh Framework Programme where the rule of the consortia composed of organisations from three Member States applies.

As a consequence of the limited OCT participation in the EU horizontal programmes and budget lines to which they are eligible, the EDFs has to a certain extent been used for financing activities that could have been financed via other financial instruments. Thus, the notion that financial assistance through the EDF should be complementary to territorial, national and other EU financing has not been put in practice and the potential synergies that could have been created by combining different financial sources have not come about.

The problems mentioned above relate to a certain extent to particular nature of OCT/EU relations. Whereas the territories themselves are outside the customs territory and the internal market, their citizens benefit from EU citizenship and the rights associated to it. This has led to a certain confusion about and tension between the territorial and personal scope of the EU law⁹².

Some of the projects and programmes under consideration for the 10th EDF intend to address the problems identified above. For instance, under the regional programme technical assistance will be provided to the Association of Overseas Countries and Territories of the European Union. Through this association the OCTs wish to reinforce

⁹¹ BROOKS, STONEMAN and RIOS (2010)

⁹² Communication COM(1999) 163, p. 41.

cooperation amongst themselves and develop networks within the EU institutions and with other third partners. The technical assistance will also support OCTs in formulating proposals for financing under horizontal programmes.

11th EDF

According to the Commission proposal for an Internal Agreement between Member States regarding the 11th EDF (envisaged for adoption in December 2011), EUR 338.4 million would be reserved to finance territorial and regional programmes, technical assistance and interventions in case of contingency situations in the period 2014-2020. EUR 5 million would be allocated to the European Investment Bank (EIB) to finance interest subsidies and technical assistance in accordance with the Overseas Association Decision.

5.3. Recommendations External Literature

As mentioned above, between 2007 to 2010, the Association of the Overseas Countries and Territories of the European Union made use of technical assistance provided for by the European Commission to finance external studies (SALMON (2007), LUFF et al. (2010), BROOKS, STONEMAN and RIOS (2010) dedicated to the impacts of the changes to the OCTs' trade environments as a consequence of free trade and/or economic integration negotiations negotiations at bilateral (FTAs), regional (EPAs) and multilateral (WTO) level. An additional external evaluation of OCT/EU cooperation from 1999 to 2009 was conducted by ECO Consult et al. A specific study (SPANNEUT (2011) was dedicated to OCT statistical systems and capacities. Several of these studies' findings have fed into the present paper. The list below concentrates on their recommendations relating to the OCT trade regime and the EU trade related support.

The external studies recommend that the revised OCT/EU association would:

- review the trade in services treatment (in Part III, Title II, Chapter 2) of the OAD, so as to bring them in line with the trade in goods treatment of the OAD;
- review the rules of origin contained in Appendix 2 to Annex III to the OAD, so as to bring them in line with the rules of origin granted in the context of the Pacific EPA, in particular for fisheries products, and possibly for other products;
- foresee enough possibilities for trade and regulatory reform related technical assistance supportive of the streamlining trade in OCT government policies (formulation of trade and industrial policies, improve and harmonise statistics gathering and analysis capacities, institutional support to trade actors, studies, etc.);
- provide trade related technical assistance to authorities and economic operators in areas related to tariff policy, rules of origin, services trade liberalisation, compliance with international and/or European norms and standards concerning technical, food safety and consumer health regulations (harmonisation with TBT and SPS agreements), subsidies, protection of intellectual property rights, competition policy, foreign direct investments.
- assist with the set up and costs related to the implementation of the dispositions related to the EU's food safety and consumer health regulations;
- support the economic adjustment of OCTs through the setup of a fisheries adaptation programme similar to the Sugar Adaptation programme for ACPs, which would aim at

- improving the competitiveness of the OCT fisheries sector, assist displaced workers and encourage diversification;
- refocus support projects in the field of trade from infrastructure to business development;
 - facilitate OCT access to and knowledge about EU horizontal programmes and budget lines to which OCTs are in principle eligible, amongst others through technical assistance and capacity building;
 - facilitate OCT participation in other external programmes, such as ProInvest for the development of the OCTs' touristic potential;
 - ensure that OCT interests are taken into account in the context of EU trade negotiations;
 - continue the direct dialogue between the European Commission and the OCTs on inter alia trade and trade related issues.

6. IDENTIFICATION AND ANALYSIS OF SPECIFIC ISSUES

6.1. Preference Erosion

6.1.1. Main Issues

One of the concerns often expressed by OCTs is that the EU's active policy of free trade negotiations as well as autonomous trade measures (e.g. tariff quotas for shrimps) are decreasing the relative value of the trade preferences of which the OCTs have traditionally been benefitting⁹³. Fisheries products are the prime subject of such concerns. Targeted free trade negotiations are those with Canada (Comprehensive Economic and Trade Agreement, CETA). If the negotiations with MERCOSUR pick up, those may come to be targeted as SALMON (2007) pointed out that South American countries are competitors of Saint-Pierre et Miquelon for scallops. The Falkland Islands are also concerned as they compete with Argentina over the same resources: squid.

6.1.2. OCT Requests

The OCTs are of the opinion that they are entitled to the best possible treatment under the OAD and that this means that the EU should take into account OCT sensitivities when negotiating free trade agreements, including by taking them into consideration in impact assessment exercises concerning such agreements⁹⁴. Greenland has argued that the EU should compensate for the possible losses that OCTs have due to the phenomenon of preference erosion.

6.1.3. Commission Analysis of OCT Requests

The ongoing liberalisation of world trade, in which the EU takes part and plays an active role, may potentially have consequences for the competitive position of OCTs on the EU market as regards imports into the EU, because an increasing number of the EU's trade

⁹³ See: Joint Position Paper of OCTs and their Member States, p. 3.

⁹⁴ Ibidem.

partners are obtaining improved access to the EU market. This transition is part of the EU trade policy, as defined in Article 206 of the Treaty on the Functioning of the European Union (cf. above) and is a process that cannot be put on halt. It should be pointed out that the issue of preference erosion should not be exaggerated. It does not affect all OCTs and internal research by Commission services indicates that for the time being OCT products have not been affected by EU trade measures (cf. analysis of Greenland and Saint-Pierre et Miquelon exports to the EU in Chapter 5 of Annex 12).

For those OCT products where there may be an issue in the future, the Commission entertains a dialogue with the concerned OCTs and derogations from the rules of origin have been granted on several occasions and for several OCTs (see below). The Commission has upon occasion assured his OCT interlocutors that it would continue to take into account OCT sensitivities in the EU's trade negotiations. At present, the Commission already includes OCTs in the Impact Assessment and Sustainability Impact Assessment exercises it conducts in the context of free trade negotiations. However, the process by which the theoretical benefits offered to the OCTs under the current OCT trade regime in terms of preferential access to the EU market are eroding as a result of progressive trade liberalisation on a global and regional scale must be considered inevitable.

6.2. Rules of Origin and Derogations

6.2.1. Main Characteristics and Issues

For a number of OCTs, rules of origin applicable to OCT products and in particular the derogations from these rules can play a positive role in relation with the continuation of their exports to the EU, the development of existing industries and/or the creation of new industries. Within the context of international trade, the notion of origin refers to the "economic nationality" of goods. Origin determines whether or not goods which are imported into a certain market benefit from preferential access (reduced or zero rate of duty). The rules that are followed to determine the origin of an imported product are laid down in preferential trade agreements or arrangements. The rules of origin that apply to OCT exports to the EU market are laid down in Annex III to the OAD.

General Provisions and Product Specific Rules

The OAD's *general provisions on the rules of origin* applicable to OCT products are based on the EU's *standard general provisions*, which stipulate with which conditions and requirements products need to comply in order for them to acquire the origin of a beneficiary country. In complementing its general provisions on rules of origin for OCT products, the OAD also provides for *product specific rules*. The conditions and requirements in the general and product specific rules are amongst others:

- goods need to be either wholly obtained or sufficiently worked or processed in OCTs (cf. Articles 3 and 4 of Annex III to the OAD and the list mentioned in its Appendix 2 on the product specific rules);
- goods need to be transported directly from the OCT's territory to the EU's and this direct transport condition needs to be proved systematically by relevant documentary evidences (Article 12 of Annex III to the OAD);

- fish caught beyond the territorial waters of the OCTs needs to be caught by vessels fulfilling four cumulative criteria (Article 3 of Annex III to the OAD);
- the value of the use of non-originating materials mentioned in the list of Product Specific Rules is allowed up to a limit of 15% of the ex-works price of the final product, provided that specific percentages given in the list of Specific Product Rules are not exceeded by the application of this value tolerance.

Certification of origin is done by customs authorities of the OCTs, unless the exporter has been formally approved by the same customs authorities. For the purposes of the OAD, OCTs are treated a single territory.

OAD Specificities

The OAD also includes *specificities*. For instance, the possibilities of cumulation are extensive (Article 6 of Annex III to the OAD). Cumulation allows originating products of a country A which are further processed or/and incorporated into products of a country B, to be considered as products originating from B, if the processing goes beyond minimal operations. It allows the final product manufactured in the country B to fulfil more easily the applicable criteria. The OAD not only provides for bilateral cumulation with the EU, but also for diagonal and full cumulation with the OCTs and ACP States. Such cumulation does not apply to agricultural products, which fall within Chapters 1 to 24 of the Harmonised Commodity Description and Coding System, (Harmonised System – HS), originating in the EU and are covered by an export refund system. In addition, special cumulation provisions apply on sugar and sugar products (HS Chapter 17, 1806 1030 and 1806 1090) and rice (heading HS 1006).

Derogations

Apart from the tolerance level for non-originating material mentioned above, the OAD foresees additional flexibility by providing the possibility for Member State or OCT authorities to request *derogations* from the rules of origin. Such derogations consist in temporary relaxations of the rules, allowing preferential treatment to be accorded to products which may not be able to satisfy the usual criteria. According to Article 37 of Annex III to the OAD derogations may be granted where the development of existing industries or the creation of new ones justify them. The same Article imposes the EU to consider OCT requests with a positive bias, stating that it "*shall respond positively* to all the requests which are duly justified in conformity with [it] and which cannot cause serious injury to an established [EU] industry". The Article also facilitates the acceptance of the request by the EU, by stipulating that derogations “shall be granted where the value added to the non-originating products used in the OCT concerned is at least 45 % of the value of the finished product”.

In the past, the EU has positively responded to requests to accommodate OCT needs and has granted derogations to the rules of origin for several products. Recent examples are:

- the (former) Netherlands Antilles to allow them to import non-originating sugar and perform small processing for the production and export of crystal sugar and sugar lumps until 2013⁹⁵;
- the Falkland Islands allowing for more flexible vessels conditions until 30 November 2012⁹⁶;
- Greenland so as to allow it to be able to import and process non-originating shrimps and prawns from third countries until 31 December 2013⁹⁷;
- Saint-Pierre and Miquelon to import and process non originating sprats, shell-on scallops and scallop meat, lobsters, mackerel, herring, mussels from third countries/Canada until at least 31 December 2013⁹⁸.

6.2.2. OCT Requests

In the Joint Position Paper, OCTs put strong emphasis on the rules of origin, which they deem to be instrumental to regional integration and sustainable development. Particular attention was given to the rules of origin applicable to fisheries products. In the Joint Position Paper the OCTs invited the Commission to consider the possibility of:

- simplifying the existing rules of origin and greater flexibility, even if no specific request has been made by OCTs;
- replicating innovations related to rules of origin, notably those that were negotiated in the context of the Pacific and African EPAs, respectively global sourcing on one hand and automatic derogation (for tuna and tuna loins) and extended possibilities of cumulation on the other⁹⁹;
- longer durations for the derogation (e.g. ten years and more);

⁹⁵ Commission Decision 2011/47/EU of 20 January 2011 on a derogation from the rules of origin set out in Council Decision 2001/822/EC as regards sugar from the Netherlands Antilles. The decision foresees in quota that progressively decrease until 2013: 5,000 tonnes for 2011, 3,000 tonnes for 2012, 1,500 tonnes for 2013. The derogation was requested, as the sugar it used to import from ACP countries did no longer meet the quality requirements and because ACP States preferred to export their sugar directly to the EU causing a supply problem for raw sugar.

⁹⁶ Commission Decision 2007/767/EC of 15 November 2007 derogating from the rules of origin set out in Council Decision 2001/822/EC as regards certain fishery products imported from the Falkland Islands.

⁹⁷ Commission Decision 2009/776/EC of 16 October 2009 on a derogation from Council Decision 2001/822/EC, as regards the rules of origin for prepared and preserved shrimps and prawns from Greenland. The Decision foresees in a quota of 2,100 tonnes p.a.

⁹⁸ The derogations granted to Saint Pierre et Miquelon are covered by three different Commission Decisions: Decision 2005/578/EC of 27 July 2005 as regards meat of scallops of the genus *Placopecten magellanicus* (250 tonnes p.a.); Decision 2007/167/EC of 15 March 2007 as regards cod, coalfish, haddock, redfish, hake and plaice (1,290 tonnes p.a. for each species) and Decision 2011/122/EU of 22 February 2011 as regards lobster (225 tonnes p.a.), herring (600 tonnes p.a.) and mussels (205 tonnes p.a.). It is worth mentioning that Saint-Pierre et Miquelon also asked for additional derogations for some other products of headings 0303 to 0305 (mackerel and herrings), but these requests were rejected by the EU as it was considered that the operations carried out in Saint-Pierre et Miquelon on these products were minimal and did not create enough value added and employment opportunities.

⁹⁹ Joint Position Paper, p. 4.

- less cumbersome procedures while applying for derogations, for which technical assistance should be available.

The OCT requests mentioned above relate to specific problems which OCTs have encountered with the application of the rules of origin, in particular with regard to fishery products. Currently, the general provisions of the rules of origin determine that in order for the fish caught beyond the territorial waters of the OCTs to acquire OCT origin (and hence preferential treatment), the vessels and factory ships concerned need to fulfil four conditions. In Article 3.2 of Annex III to the OAD these are listed as vessels and factory ships:

- which are registered or recorded in an OCT, in a Member State or in an ACP State;
- which sail under the flag of an OCT, of an EU Member State or of an ACP State;
- which are owned to an extent of at least 50 % by OCT, Member State or ACP nationals, or by a company with its head office in the OCT or one of these States, of which Chairman of the Board of Directors or the Supervisory Board, and the majority of the members of such boards are OCT, Member State, or ACP nationals and of which, in addition, in the case of partnerships or limited companies, at least half the capital belongs to Member States or ACP States or to public bodies or nationals of the said States, or of an OCT; and
- of which at least 50 % of the crew, master and officers included, are OCT, Member State, or ACP nationals.

Some OCTs have difficulties to fulfil these conditions. This is the case, in particular, for the Falklands Islands as regards the crew requirement. A derogation was needed to allow the territory to export its fish to the EU free of duty. In addition, the crew requirement and the ownership requirement have often caused problems of interpretation and it has proven to be difficult to verify that these requirements are met in practice.

Another concern relates to the general provision on direct transport, which is relatively burdensome as it implies that OCT exporters should systematically prove, with relevant documentary evidences, that the goods have been transported directly from the OCTs to the EU without being altered. The requirement that OCT customs authorities certify the origin of OCT exports sometimes is also perceived as time consuming and generating additional compliance costs.

As already mentioned, the trade rules of the present OAD only allow for cumulation with all ACP States. This provision is relevant for OCTs which maintain regular trade relations with ACP countries, which is potentially the case for French Polynesia and New Caledonia with Fiji or Papua New Guinea and, the (former) Netherlands Antilles and British Virgin Islands with CARIFORUM EPA countries. However, for a number of OCTs trade relations with ACP States are non-existent or represent only a small part of their trade. Consequently, cumulation with ACP States is not always relevant for these OCTs, which are more interested in cumulation with some of their non-ACP neighbours, including developed countries. For example, French Polynesia has significant exchanges with ASEAN countries, with India, with Canada and with MERCOSUR; the former Netherlands Antilles exchange with Canada, Colombia, Peru, Central America and MERCOSUR.

With regard to derogations to the rules of origin, OCTs such as Saint-Pierre et Miquelon and the Falkland Islands have argued that the temporary character of this flexibility did not provide the necessary incentives for significant long term investment as derogations are generally granted for short time spans (five years in general) and their prolongation is not guaranteed. In addition, procedures to grant derogations are considered to be burdensome.

6.2.3. *Commission Analysis of OCT Requests*

Since 1st January 2011, the EU implements, with its beneficiary countries new rules of origin which are more modern, simpler and more development friendly. The policy of the EU is to promote relaxation, simplification, transparency and coherence between the different sets of EU rules of origin. For instance, some EPAs were concluded before the revised GSP rules of origin came into force and thus do not apply this new set of rules. Nevertheless, most of the EPAs now include a review clause which foresees that the rules of origin will be reviewed in order to take on broad improvements such as those introduced in the GSP rules of origin.

As indicated in Communication COM(2009) 623, taking into account the on-going reform process and the importance of simplification, transparency and manageability, modernisation of the OCT rules of origin could give rise to an OCT-specific set of rules of origin that would in principle apply to all OCTs. As was pointed out by the Commission Staff Working Document accompanying the 2008 Green Paper, the revised rules of origin should provide leverage for the OCTs' sustainable development, by allowing OCTs to exploit the opportunities offered by their duty free and quota free access to the EU market¹⁰⁰. This goal will not be accomplished if the rules of origin would lead to OCTs merely becoming a platform for products of other countries trying to reach the EU market under the OCT preferences.

When considering different solutions, it is worth reminding that differences between OCTs are significant, for example in terms of relative wealth, actual population size, natural resources, geographical characteristics, physical isolation, climate, possibilities for economic diversification, etc, even within a same region. These differences should be taken into account, whilst recognizing that OCTs could also have similar interests. Some elements of differentiation could then be foreseen.

Improved rules of origin could help OCTs to diversify their exports. Products that OCTs may be able to export are: agricultural products (vanilla, coffee, sugar), fisheries, aquaculture and marine products present in the waters in proximity (lobster, crab, conch, salt, shrimps, squid, cod, finfish, mackerel, scallop etc.), some processed agricultural products (jams, fruit juices), raw materials (salt, nickel, copper), essential oils and other artisanal products (garments, art work), rum and rum products, wool, apparel, wood pulp, pearls, ferro-alloys, some machinery. However, it is important to note that, for certain products, the impact of the rules of origin on the potential volume of exports is limited as the territories either manufacture them entirely in their territory (e.g. mutton for the Falklands Islands; reindeer meat, raw materials or water for Greenland; vanilla or pearls for French Polynesia, vegetable and fruits for New Caledonia) or because the products involved enter the EU duty free, irrespective of the preferential origin (e.g. precious metal or seaweed produced by Greenland).

¹⁰⁰ Commission, SEC(2008) 2067, p. 33.

As was suggested by the analysis of the trends in fisheries exports by Greenland, Saint-Pierre et Miquelon and the Falkland Islands in section 5.2, the existing EU-OCT rules of origin do not seem to pose insurmountable problems for the exports of fisheries products from the OCTs to the EU. As mentioned in section 6.2.1. these territories, as well as the (former) Netherlands Antilles, benefit from derogations to the rules of origin. In the case of Greenland and Saint-Pierre et Miquelon, the annual quota granted under the different derogations are relatively under-utilised. For instance, in the period 2008-2011, Saint-Pierre and Miquelon did not make any use of its annual quota for sprats, shell-on scallops and scallop meat (250 tonnes p.a.). It does not make much use of its derogation for cod, coalfish, haddock, redfish, hake and plaice either (1,290 tonnes p.a. for each species). The authorities of Saint-Pierre and Miquelon have suggested that this is because the quotas are too low for reaching a production level that is significant enough to be viable (2,000 tonnes of cod would only allow the processing of 700 tonnes of final product).

Nevertheless, the low utilisation rates seem to indicate that neither of the two territories are entirely dependent on these derogations for maintaining their position on the EU market. As far as Saint-Pierre et Miquelon is concerned, one could ask whether the territory's problems with regard to competitiveness could be addressed by derogations as these do not seem to be in line with the actual needs of its industry. The utilisation rates of the derogations suggest that an update and simplification of the procedures for granting derogations to rules of origin, including the possibility of longer application periods in order to increase predictability for economic operators, could contribute to address OCT concerns. A condition for adopting such a simplification would be that the Commission would keep the possibility to carefully examine requests for derogations and their renewals in the light of economic considerations that justify them. It is also important to bear in mind that, though useful, derogations to the rules of origin are by definition meant to provide exceptional flexibilities and not to create unlimited and permanent rules.

An OCT concern which seems justified relates to the requirement, for OCT exporters, to systematically prove that goods have been directly transported from the OCTs to the EU, without being altered, which the OCTs deem too burdensome. The necessity to reduce the administrative burden in this field would be in line with the current EU policy to facilitate trade.

The extent to which the EU can take into consideration OCT requests for extending the global sourcing for processed fishery products accorded within the framework of the Economic Partnership Agreement (EPA) of the Pacific region is determined, amongst others, by whether or not granting such extension is coherent with other EU policies, notably the EU's development cooperation. The global sourcing is a very sensitive matter for the EU, considering the controversies that emerged within the EU following the granting of this flexibility and considering that this rule is contested by various EU stakeholders. In addition, it is worth mentioning that those rules of origin were negotiated in a specific bilateral setting, where the EU's partners provided a number of guarantees to the EU. For example, the fisheries chapter that is being negotiated in the context of the comprehensive EPA with the ACP Pacific region will contain provisions supporting conservation and management of fisheries resources as well as provisions promoting responsible and sustainable fishing practices. Monitoring and surveillance provisions will be an essential part of the proposal.

Also, the special rules of origin applying to the Economic Partnership Agreement of the Pacific region do not cover all fishery products. They concern solely processed prepared or preserved fish and fishery products (HS Headings 1604 and 1605) which need to be manufactured in on-land premises from non-originating fish, crustaceans, molluscs and other aquatic invertebrates (HS chapter 03). It has been clearly established that they do not constitute a precedent for future free trade agreement negotiations with third countries.

6.3. OCT Compliance with EU Standards and Regulations

6.3.1. Main Characteristics and Issues

All OCTs have difficulties complying with EU standards, rules and regulations in sector of interest to them. Both LUFF et al. (2010) and BROOKS, STONEMAN and RIOS (2010) found that exports in the fisheries sector may be - to diverging degrees - of interest to all OCTs, but that OCTs faced difficulties with complying with the requirements of the EU's regulatory framework in the area of food safety, because of the relatively large expenses they entail and the absence of the necessary knowledge and expertise, capacities and/or infrastructure (including legislation) in OCTs. For example, with regard to the possibility of Anguilla, Turks and Caicos and the British Virgin Islands exporting lobsters and conch to the EU, the cost of complying with the EU sanitary and phyto-sanitary rules and regulations (SPS) was mentioned as a disincentive. Accreditations and certifications, the financing of testing laboratories, the registering of freezer and factory vessels, compliance with demands concerning Illegal, Unregulated and Unreported fishing activities and traceability are some of the concerns with regard to SPS and fisheries mentioned by OCTs. Both external studies put forward that in order for the OCTs to be able to exploit the export opportunities which the EU has to offer in the area of fisheries products, targeted technical and financial assistance to businesses from (territorial, national and/or European) public authorities would be needed.

6.3.2. OCT Requests

In the Joint Position Paper the OCTs called for increased access to information and technical and financial assistance in view of:

- possibly updating of OCT legislative framework with regard to food safety and consumer health;
- supporting the necessary skills, expertise, capacities and infrastructure in OCTs in order for them to be able to setup and maintain testing laboratories and certification authorities.

In addition, regularly provided information and increased OCT participation in programmes such as Strengthening Fishery Products Health Conditions in ACP/OCT Countries is requested.

6.3.3. Commission Analysis of OCT Requests

With regard to OCT concerns about supposed non-tariff barriers related to technical regulations and regulations regarding food safety and consumer health, no easy solution can be provided to overcome these obstacles and reduce the costs or efforts needed to overcome them. It would be difficult and counter- to provide rules for EU and third

country operators on the one hand and separate, more lenient rules for OCTs on the other productive, as nobody would want to buy sub-standard produce. Compliance with the health and safety rules, standards and regulations governing the access of products on the EU market cannot be put into question.

Rather than trying to bring down the EU standards, rules and regulations for OCTs, support activities that could help OCTs with bringing up the quality of their products and that would provide the necessary expertise, capacity and infrastructure to comply with these standards and rules in areas of particular interest to them may be envisaged. Given the marked interest that OCTs have shown in agro-foods, in particular fisheries products, it could be considered to focus the EU's assistance on these sectors. Such assistance should, in principle, be provided for under the dedicated EU horizontal programmes available to OCTs, both internal and external. Under the 11th European Development (EDF), financial resources could also be mobilised to finance complementary actions.

Under the 10th EDF, financial resources could already be used for such purposes as the targeted areas are included as possible areas for cooperation under the OAD. The impression that not enough resources were available for cooperation and support in the field of food safety and consumer health is the consequence of the fact that the total available resources for territorial and regional programmes and projects as well as technical assistance are committed on the basis of an OCT/EU dialogue on joint priorities. As indicated above, the principle of concentration obliges the EU's financial assistance to OCTs to be concentrated on a limited set of sectors. If this principle is maintained for the next EDF, then the EDF resources available for cooperation on sanitary and phyto-sanitary issues will depend on whether or not OCTs would decide to give priority to it.

6.4. Transshipment

6.4.1. Main Characteristics and Issues

The current OAD foresees a provision that allows for transshipment activities which enables a product not originating in an OCT, but which is put in free circulation in that OCT, to be re-exported to the EU duty and quota free, provided that the OCT in question applied the EU's common external tariff (but on a slightly lower "cost, insurance, freight" basis); and it did not waive or repay any duties or taxes due (Article 36 OAD).

This provision dates back to 1991. At the request of some Member States, the 2011 OAD added the possibility for the Commission to authorise public financial aid to those operating the transshipment procedure. The OAD also included a committee procedure for dealing with related OCT requests (Article 37 OAD). In following years, following OCT requests, the Commission clarified the conditions and criteria for transshipment. One OCT actually requested Commission authorisation for public financial aid but withdrew its request after in-depth discussion, including in meetings of the partnership working party on trade and regional integration, both relating to the request itself and to an earlier, unsuccessful attempt to implement the transshipment article of the 1991 Council Decision. Both the new request and the earlier case were characterised by the absence of actual transshipment activity.

The Committee foreseen by Article 37 OAD has never met as there have been no OCT requests for authorisation of public financial aid to be examined.

6.4.2. *OCT Requests*

Some OCTs remain convinced of the facility's relevance and wish that it is maintained in the revised OAD. Interested OCTs view it as an instrument which can help them with developing trade and transforming their territories in regional hubs.

6.4.3. *Commission Analysis of OCT Requests*

In the Commission Staff Working Paper accompanying the 2008 Green Paper, it was pointed out that transshipment had not yielded the expected results¹⁰¹. The original aim of the transshipment procedure was to promote the exploitation of existing infrastructures and create local economic growth, but in practice it has led to creating purely artificial trade routes that present no added value for third-country economic operators or OCTs.

The transshipment facility has also been subject to fraud involving refund/drawback of duties, the effective charging of which was a condition of importation of the goods concerned into the EU without further application of duties. Until now no legal transshipment has taken place since the procedure was created in 1991 or since it was updated in 2001.

6.5. Trade in Services and Establishment

6.5.1. *Main Characteristics and Issues*

As indicated above, the OAD provisions on trade in services are limited. The TFEU refers to services and establishment in Articles 199:1-2 and 199:5 TFEU, which lay the basis for trade between Member States and OCTs, including trade in services and for the right of establishment of nationals, companies or firms. The detailed rules are subjected to specific conditions laid out in the OAD.

The relevant Article 45:2:b of the OAD states that the EU shall apply GATS treatment to OCTs and that EU Member States are not entitled to discriminate between OCTs. At the same time, OCTs are expected to give to EU nationals, companies and enterprises no less favourable than the treatment accorded to the nationals, companies and enterprises of third countries (Article 45:2:b). As GATS only covers establishment in services sectors, the current OAD does not accord any rights as regards to establishment in non-services sectors.

SALMON (2007) pointed out that there was a discrepancy between the treatment in the field of the trade in goods (Article 40 OAD) on the one hand and the trade in services (Article 45 OAD) on the other, notably in respect of what in an FTA would be called the MFN clause. Whereas the goods treatment allows the OCTs to grant preferential treatment to other partners than the EU - developing countries and other OCTs, with a view to promoting regional and South-South integration - the services treatment excludes this option. The study therefore suggests that this situation be remedied.

Furthermore, the EU trade negotiations with third countries, including those with EPA regions, go further than the existing GATS commitments which stem mostly from Uruguay round (1995), and also cover establishment commitments in non-services sectors. Hence,

¹⁰¹ Commission Staff Working Paper SEC(2008) 2067, p. 38.

the treatment given to EU trading partners with whom an FTA or an EPA has been concluded generally exceeds that provided to OCTs.

LUFF et al. (2010) makes a further comment as regards OCT's service providers access to EU services market and in particular that OCTs service providers are mostly in a better position than their competitors in developing countries as regards temporary presence of natural persons to provide services within the context of a services contract (mode 4)¹⁰². The study claims that the OCTs have already extensive market access in mode 4.

In their replies to the trade questionnaire which the European Commission sent to them in the course of the Summer of 2011, the OCTs showed considerable interest in developing economic activity and exports in their services sectors as a way to diversify their economies. Within the list of services to be developed, tourism related services ranks high. Amongst others, such services comprise cruises, food serving and lodging services. Contingent services, likely to increase the OCTs' attractiveness as touristic destination, such as the recreational, sports and cultural services, is also frequently considered. A second cluster of services of interest to OCTs is formed by the consulting and engineering services in the field of renewable energy and environmental (protection) services, which relate to their environmental assets. A third cluster consists of business, computer and telecommunication services such as internet traffic relaying, data storage and telephone support services (call centres). Finally, medical and education services are also considered for development, alongside transport, distribution and financial services.

6.5.2. *OCT Requests*

OCTs request a revision of the trade in services treatment within the OAD, so that OCTs would be allowed to be able to take part in regional services markets in their respective regions, without having to grant Most Favoured Nation (MFN) treatment to the EU.

6.5.3. *Commission Analysis of OCT Requests*

On the issue of the MFN clause, the Commission already indicated in the 2008 Green Paper that it was prepared to look at it in more detail. Furthermore, the treatment accorded to ACPs in the framework of EPAs as regards services and establishment is indeed more favourable than that accorded to OCTs under the current OAD. Regarding mode 4, those OCT service providers that have EU citizenship indeed do have an advantage over their third country competitors, as they do not need a visa or a work permit to be able to be active on the EU's service market. However, access for OCTs to the EU services markets does not only depend on such formalities only.

In light of this background the treatment of OCT services and establishment could be brought in line with the treatments that have been negotiated in recent trade agreements.

¹⁰² LUFF et al. (2010).

7. OPTIONS FOR A RENEWED OCT TRADE REGIME AND EU TRADE RELATED SUPPORT

7.1. Policy Objectives

Based on the analysis and evaluations made above, the outcome of consultations and the political orientations given by the Council, and taking into account the provisions of Part IV of the Treaty on the Functioning of the European Union, the following **overall objectives** can be formulated for the next **OCT/EU association framework**:

- to promote the OCT's sustainable economic development;
- to strengthen the economic ties of the OCTs with the EU;
- to enhance OCT competitiveness;
- to strengthen OCT resilience;
- to promote cooperation

Within this framework, the **general objectives of the OCT/EU trade and economic cooperation regime** can be resumed as follows:

- to stimulate the OCT's integration in their regional economic environment;
- to support the process of diversification of OCT economies;
- to support OCT export/trading capacity;
- to support OCT efforts to converge their local legislation with the EU acquis in relevant policy areas (notably in such areas as consumer and food safety);
- to provide possibilities for targeted trade and economic cooperation

The trade and economic cooperation component of the revised OCT/EU association framework will need to translate these objectives in conformity with the principle of **policy coherence** between the **EU's internal and external policies**, taking into account its strategic interests and values. This would mean the incorporation or strengthening of the following principles:

- the alignment of the OCT trade and economic cooperation regime with recent developments in the EU common commercial policy and other preferential regimes;
- the promotion of joint interests through a more reciprocal, but asymmetrical relationship, that takes into account the development level of OCTs;
- the facilitation of synergies with other EU policies
- the adaptation of the trade and economic cooperation regime to the particularities of the OCT/EU relations;
- the facilitation of the OCT/EU dialogue on trade and trade related matters

7.2. Policy Options

In light of the problems and challenges OCT face, the evolution of the policy context and, the policy objectives presented above could be translated the following four policy options can be envisaged:

Policy option 1 would consist in a **discontinuation** of the current **preferential trade relations**, without them being replaced by others.

Policy option 2 would consist in keeping the status quo, i.e. a **roll-over** of the current **preferential trade relations** under the OAD.

Policy option 3 would consist in an upgrade of the current trade regime, with the EU foreseeing in **improved preferential relations**. While asymmetric, the improvement of the trade relations would also encompass a better representation of mutual interests in areas such as raw materials, amongst others by given these interests more prominence in the trade and trade related cooperation.

Policy option 4 would consist in replacing the current trade arrangements by **including OCTs in other trade agreements** (FTAs or EPA's). This could imply that OCT products would get the same treatment as the EU trade partner(s) and that OCTs would necessarily have to grant reciprocal access. It might also mean taking OCTs outside of the scope of Part IV of the TFEU, to the extent that there would be any contradiction between the relevant provisions of the FTA and Part IV of the TFEU.

These policy options are compared below and concentrate on a set of relevant trade issues highlighted in external studies and OCT positions, in particular:

1. **trade in goods;**
2. **rules of origin;**
3. **services and establishment;**
4. **support to trade related activities;**
5. **legal and policy framework**

For each of the policy options, the implications on the legal and policy framework are also indicated.

The policy options were developed on the basis of available qualitative and quantitative data. As was mentioned in the introduction to this paper (see Chapter 1), the **paucity, reliability and lack of harmonisation of trade statistics** concerning OCTs have been a complicating factor both for the analysis of the OCTs' trade situation and the evaluation of the OCT/EU trade relations and cooperation as for the assessment of the impacts of the different policy options. Some of the problems with regard to the latter will be discussed in the dedicated section below.

7.2.1. Policy Option 1: Discontinuation of Preferential Trade Relations

Policy option 1 would consist in a discontinuation of the present preferential trade relations, without new preferential relations being put into place. It would mean that OCT goods and services would be given basic third-country treatment for OCT goods and services. No institutionalised dialogue on trade and trade related matters would be organised between OCTs and the EU as both would not maintain privileged trade relations. OCTs would be considered as external stakeholders only.

Trade in Goods

In this option, OCTs would not have duty free, quota free access to the EU market and no specific trade-facilitation measures would be foreseen for them.

This would mean that OCT exports would be given basic third-country treatment consisting in the application of the EU's Common External Tariff¹⁰³. The "transshipment" facility of Article 36 OAD would be discontinued, as would the provision stating that OCTs do not discriminate neither between EU Member States nor between EU and developed third countries. OCTs retain the right to decide about any further liberalisation of their imports and the application of duties or quotas to EU imports.¹⁰⁴

Rules of Origin

Policy option 1 would not necessitate that preferential rules of origin be foreseen. OCT exports would fall under the non-preferential rules of origin defined in the EU Customs Code.

Services and establishment

Discontinuing the present preferential relations in the OCT/EU trade in services would imply that:

- companies established in OCTs would no longer benefit from GATS level commitments for services;
- those nationals of OCTs, who are EU citizens, would continue to benefit from the right of establishment in the EU market both for services and non-services, but no longer from commitments as regards cross-border trade in services;
- companies and nationals of EU Member States would no longer benefit in OCTs of most-favoured treatment for services and establishment.

Trade Related Cooperation and Support

Policy option 1 would also imply that the OCT/EU cooperation on trade and trade related issues would end and that no EU financial assistance would be given to OCTs. They would need to develop their trade strategies, capacities, infrastructure and legal frameworks on their own, or with the help of their Member States. No technical assistance, capacity building operations or support to sector policies or territorial development plans would be granted. OCTs would only be eligible to those EU horizontal programmes and budget lines which cover all possible third partners and which are open to EU citizens on an individual basis. There would be no framework for cooperating with the EU in the trade related areas listed in Chapter 3 of Title II (current payments, competition policies, intellectual property rights, standardisation, trade and the environment, trade and labour standards, consumer policy). EU involvement in the development of relevant OCT policies would be non

¹⁰³ Based on Council Regulation (EEC)N° 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 07/09/1987, p. 1), as last amended by Council Regulation (EC) No 254/2000 of 31 January 2000 (OJ L 28, 03/02/2000, p. 16).

¹⁰⁴ As explained above in section 4.3.2, under Commission proposal COM (2011) 241, OCTs will no longer be eligible to the Generalised System of Preferences. Nevertheless, for the sake of completeness, this document includes figures relating to the theoretical impact that GSP treatment would have on OCTs.

existent. The EU's capacity to promote its interests and values via the OCT/EU relations would thus disappear. Where the EU would have an interest in developing cooperation with OCTs in new areas, such as raw materials (see section 4.3.3), this would not be possible.

Legal and Policy Framework

Discontinuing the present OCT/EU trade relations would entail that the present OAD expires on 31 December 2013 without it being renewed or replaced. This would mean that Part IV of the Treaty on the Functioning of the European Union would not be given translation in the EU's secondary legislation. Part IV and the Preamble to the Treaty may need to be changed. Other legislative acts applying to the OCTs, notably concerning the 11th EDF might need to be amended as well.

7.2.2. Policy Option 2: Roll Over of Present Preferential Trade Relations

Policy option 2 would consist in keeping the status quo, i.e. a roll over of the current preferential trade relations under the OAD. OCT goods and services would continue to receive access to the EU market under the same conditions.

Trade in Goods

The rules concerning the trade in goods would continue to provide duty free, quota free access to EU market for goods originating in the OCTs. The individual territories would retain the right to decide about any further liberalisation of their imports and the application of duties or quotas to EU imports. However, discrimination between EU Member States or between EU and third countries or territories would still not be allowed; unless the latter are developing countries or OCTs. OCTs would continue to have the possibility, at least in theory, to apply the "transshipment" facility of Article 36 OAD to products not originating in OCTs but in free circulation there and re-exported as such to the EU. The EU would retain the right to apply surveillance and safeguard provisions.

Rules of Origin¹⁰⁵

Rolling over the current OCT trade regime would imply that the current rules of origin be maintained. OCTs would continue to be considered as one single territory and an identical single set of rules will apply to all of them. The **product specific rules** would also remain as stringent as is the case today. Concerning the **general provisions**, no change would occur. For instance, for fishery products based on *fish caught beyond the territorial waters of the OCTs* to acquire origin, it would still be necessary for the vessels to fulfil four conditions: registration, flag, ownership and nationality of the crew (see section 6.2.2.).

Cumulation opportunities between all OCTs and with ACP States would be kept in place. The rules of origin applicable to inputs sent from ACP States to OCTs would be the ones applicable within the context of the bilateral relationship between the ACP State concerned and the EU. No provision on cumulation with neighbouring countries other than

¹⁰⁵ A comparison of the differences between policy options 2-4 in terms of rules of origin is provided in Annex 10.

ACP States would be foreseen and such cumulation would only be possible by derogation from the rules of origin under Article 37:6 of the OAD. No changes would be made to the present rules and procedures for granting **derogations** from the rules of origin.

Services and Establishment

In terms of the OCT/EU trade in services and establishment, policy option 2 would consist in the EU continuing to grant OCTs its GATS commitments, while OCTs would continue to give to EU the most favourable treatment given to any third country or territory, both on non-discriminatory basis. OCTs would not have to further liberalise their services sectors and could continue to limit EU access to them but only as far as no trade commitments are taken in any trade agreements with third countries/territories. No commitments would exist as regards establishment in non-services areas.

Trade Related Cooperation and Support

The OCT/EU dialogue on trade and trade related issues would continue to take place primarily in the context of the trilateral meetings of OCTs, Member States and the Commission, the OCT/EU Forums and the meetings of the partnership working party on trade and regional integration. The agendas of these meetings would continue to be defined on an ad hoc basis.

The OCT/EU association would continue to provide a wide range of possibilities for trade and trade related EU cooperation and assistance. These would correspond to the topics and themes presently covered in the OAD under Articles 12 (trade development), 13 (trade in services), 14 (trade related areas) and 16 (regional cooperation) and which include themes that relate to areas contingent to trade (e.g. safety of harbours, airports etc.), as well as the provisions of Chapter 3 of Title II ("Trade Related Areas).

EU support to formulation and implementation of trade and export strategies, development of trade capacities and infrastructure and legal frameworks could take the form of support to regional cooperation strategies, territorial development strategies or sector policies. It could also take the form of a specific project as is the case with a project that will be funded under the 10th European Development Fund (EDF) with the support that will be provided to business intermediaries of Dutch and British OCTs in the Caribbean under the regional programme for OCTs.

Under policy option 2, OCTs would remain eligible in principle to the relevant EU horizontal programmes and budget lines relevant to trade and trade related areas. Specific assistance to facilitate OCT participation could be provided at the request of individual or groups of OCTs, as is the case under the 10th EDF.

As is presently the case, the coherence between EU and Member State support would be guaranteed through an indirect coordination via the OCT authorities themselves. No active coordination would be sought.

OCTs would mainly be considered as external stakeholders, not fully as outpost of the EU

Legal and Policy Framework

Rolling over the current OCT/EU relations would imply that only minor changes be made to the governing legal texts. Amendments would need to be made to the present OAD and the Commission Regulation implementing the OAD in order to extend their duration and adapt them to the setup of the 11th EDF.

7.2.3. Policy Option 3: Improved Preferential Trade Relations

Policy option 3 would consist in an upgrade of the current OCT/EU preferential trade arrangements. Where possible, OCT goods and services would access the EU market under better conditions and more opportunities would be offered, while the overarching trade rules would be modernised and brought in line with the latest developments in EU trade policy.

Trade in Goods

Originating OCT goods would continue to benefit from duty free, quota free access to the EU market. As in the previous scenario, the individual territories would retain the right to decide about any further liberalisation of their imports and the application of duties or quotas to EU imports. No discrimination between EU Member States or between EU and third countries or territories would be allowed; unless the latter would be developing countries or OCTs.

The transshipment facility of Article 36 OAD would be deleted and could be replaced by support measures aimed at overcoming sanitary, phyto-sanitary or technical barriers to trade, and at capacity-building in interested OCTs. The EU would retain the right to apply surveillance and safeguard provisions, as well as provisions dealing with administrative errors and fraud.

Rules of Origin¹⁰⁶

Policy option 2 would entail that improved rules of origin be introduced based on those introduced in the GSP scheme. The latter are the most modern and development friendly that the EU has to offer. As none of the OCTs appear in the list of Least Developed Countries (LDCs) drawn up by the United Nations Conference on Trade and Development (UNCTAD), the rules of origin applicable to non-LDCs would serve as basis as the introduction of differentiated rules could not be justified on the basis of the level of development of the OCTs. For reasons of simplification and coherence, only one set of rules would apply to all OCTs. The flexibilities of the rules of origin in the GSP are likely to sufficiently address the main concerns of the vast majority of OCTs.

The new **product specific rules** would offer extended possibilities of sourcing through higher thresholds of non-originating materials (including sugar). The relaxations could increase the export potential of OCTs in goods that they already produce such as: coffee, chocolate, jam, fruit juices, rum, oil, essential oils, processed base metals, ammonia, articles of plastics, pottery, aluminium, machinery and mechanical appliances, handicraft and furniture.

¹⁰⁶ A comparison of the differences between policy options 2-4 in terms of rules of origin is provided in Annex 11.

The **general provisions** of the rules of origin would see a number of improvements and simplifications:

1. With regard to exports of fishery products based on *fish caught outside OCT territorial waters*, the requirement regarding the nationality of the crew would be deleted. The requirement regarding ownership would be clarified so as to remedy problems with interpretation.
2. To improve transparency and user friendliness of the new set of rules of origin, the list of *wholly obtained products* would be amended to include a new definition of aquaculture products, which so far are treated as other live animals, as well as new provisions for products obtained from slaughtered animals.
3. In the same fashion, the list of *minimal operations* would be changed to update existing minimal operations or include new ones regarding sugar products, chemical products and textile and clothing.
4. The *general tolerance* applicable to non-originating materials would remain at 15%. However, the value would now be calculated in percentage of the weight of the product for agricultural products, whilst for industrial and fishery products it would continue to be calculated on the basis of the value of the final product. The specific tolerance applying to textile and clothing would also remain the same.
5. The requirement on the *direct transport* of OCT goods would be reviewed and documentary evidence that OCT goods imported in the EU are exactly the same as the ones which OCTs exported would only be requested from OCT exporters when customs authorities would have reason to believe that the requirement was not respected.

Certification of origin of the final product by OCT customs authorities could be replaced by a system of self-certification by registered exporters. This would imply that exporters wanting to export to the EU would register with the customs authorities and ask that their data would be included in a database available to EU importers. Via this database, the latter would be able to verify whether the trade partner with whom they consider doing business is registered and entitled to deliver proofs of origin to be presented at the EU border. The implementation of this system however, will require a transitory period, as it involves the creation, by the EU, of an electronic database complying with the principles of confidentiality. Its creation could be tentatively be expected for 2017. In the mean time, the current system of certification would be maintained.

The improved rules of origin would foresee several possibilities for **cumulation** with different types of partners. Cumulation *between OCTs* and *with EPA States* would be maintained, though with the specific exclusions for products originating from South Africa and high sugar content products required to prevent trade circumvention. No specific provision would be foreseen allowing for cumulation with *neighbouring non-ACP countries*, but the GSP type rules of origin would nevertheless provide additional sourcing possibilities for OCTs by granting, upon request, cumulation for industrial products originating in countries with which the EU has concluded an FTA (extended cumulation). Products within Chapters 1 to 24 of the Harmonised System (agricultural products, fishery products and processed agricultural products) would be excluded from this possibility. OCT rules regarding **derogations** would be based on those in the GSP scheme, but would also be adapted to extend the basis on which a derogation could be granted. The administrative framework of the procedure would be more flexible and the period of validity of the

derogation would be established on a case by case basis. In addition, the EU would be allowed to propose a derogation on its own initiative if it deems it necessary. Granting derogations would be justified when: (a) internal or external factors temporarily deprive an OCT of the ability to comply with the rules of origin where it previously could do so; (b) an OCT requires time to prepare itself to comply with the rules of origin; or (c) the development of existing industries or the creation of new industries call for them.

Lastly, **additional flexibilities** could be foreseen, on a case by case basis, upon request, within the framework of the derogations, in support of diversification efforts by OCTs and to stimulate investment in their productive sectors. They could be used to address, for example, the wish from Saint-Pierre et Miquelon, to take better advantage of its specific relationship with Canada for fishery products. A similar opportunity could be foreseen for Greenland.

Services and Establishment

Under policy option 3 OCTs would be guaranteed a treatment for trade in services and establishment that would be similar but more favourable than the one given to the EU's EPA partners via the inclusion of a simple asymmetrical MFN clause. This would mean on the one hand that the EU would give OCTs the most favourable treatment for trade in services and establishment that it offers or has offered to any of its other trade partners. It would apply to all services sectors and all modes of supply as well as to non-services establishment. On the other hand, OCTs would grant the EU the most beneficial treatment they give to other major trading economies¹⁰⁷, but would not need to extend to the EU the preferential treatment they give to OCTs or developing countries that are not major trading economies.

By including an asymmetrical MFN clause in the OCT/EU trade regime, OCTs would always benefit from the EU's best possible treatment in any given sector and mode, without the need to negotiate the conditions (as would be the case in FTA negotiations) nor the need for harmonisation with EU legislation (which would be needed for Internal Market purposes). For example, if in a trade negotiation EU would give best treatment in cross-border service provision to partner A, but not to partner B, while giving a better treatment in establishment in another sector to partner B but not to partner A, the OCTs would benefit from both best treatments.

Trade Related Cooperation and Support

The OCT/EU dialogue and cooperation on trade and trade related issues would continue to take place in the context of the annual OCT/EU Forums, the regular trilateral meetings between the OCTs, their Member States and the Commission and the partnership working party on trade and regional Integration. However, rather than defining agendas on a case by case basis, a joint work programme would be agreed upon by OCTs, Member States and the Commission. Such a work programme would provide the framework for the dialogue

¹⁰⁷ "Major trading economy" would mean any country accounting for a share of world merchandise exports above 1 % in the year, or any group of countries acting individually, collectively or through an economic integration agreement accounting collectively for a share of world merchandise exports above 1.5 % in the year. For this calculation official data by the WTO on leading exporters in world merchandise trade (excluding intra-EU trade) would be used. Merchandise trade would be used as data on trade in services in not available for many countries or not collected based on comparable methodology.

and cooperation between the three parties on trade and trade related issues by listing the specific topics and themes on which discussions would have to focus within a given timeframe. This dialogue would also envisage exchange of views concerning the implementation of the OCT/EU association. Taking into account the principles of reciprocity and mutual accountability on which the renewed OCT/EU partnership would be based, the work programme should provide room for discussion of trade and trade related of mutual interest, such as for instance raw materials. A work programme could be adopted for either the whole operational period 2014-2020 or for only part of it (e.g. 2014-2016).

Rather than maintaining the wide range of possibilities for cooperation as presently listed in Articles 12, 13 and 14 of the OAD, as well as Chapter 3 of Title II (Trade Related Areas), a more limited set of areas would be retained, based on the specific interests expressed by OCTs. In this light, topics and themes relating to contingent areas, such as the safety of harbours, road and airports or the setup of telecommunication and information networks would not be part of the OCT/EU dialogue and cooperation on trade and trade related issues, but would fall under a different component of the OCT/EU association. EU policy initiatives such ongoing trade negotiations could continue to be part of the work programme, the focus of the latter would be placed on topics that would be more directly relevant to OCT efforts to develop trade activities. These could include the following elements:

- macro-economic policies, trade strategies and the corresponding legislative and institutional frameworks, including the creation of enabling business environments in OCTs;
- development of trade related capacities, human resources and professional skills
- support to SMEs and intermediaries
- trade and business promotion;
- market development and exploration and marketing and branding measures;
- standardisation and certification and convergence with international and/or EU norms; with specific attention to quality management and conformity assessment;
- specific attention for products such as agriculture and fishery products, services such as tourism, business services and environment and energy services
- specific attention for sector specific issues such as compliance with international and EU rules regarding food safety and consumer health.

Under policy option 3 the different types of trade and trade related EU assistance available to OCTs under the 11th European Development Fund (EDF) and EU horizontal programmes would be better coordinated. The principle of the complementary and additional nature of the 11th EDF would be strengthened and more explicitly put forward. This would mean that activities for which funding would be available for OCTs in horizontal programmes and budget lines to which they are eligible, would in principle not be financed under the EDF. This could apply to certain types of support to OCTs relative to private sector development, tourism promotion, innovation, development of skills, expertises, capacities and infrastructure in specialised fields such as food safety and consumer health. Under the 11th EDF technical assistance could be made available to OCTs in support of the development of their capacities to submit competitive proposals for financing under the relevant programmes and budget lines.

In addition, part of the resources for technical assistance and which the European Commission manages directly would be reserved for a limited set of intervention areas relating to trade and trade related issues. The joint work programme(s) could serve as a basis to define these intervention areas. Such targeting would mean that technical assistance activities which would not be on the list of chosen intervention areas, would not be able to be financed by the technical assistance resources managed by the Commission.

Via sector or general budget support operations, the EU would support the OCTs efforts to develop their trade related policies at a macro-level. Such operations would support the formulation and implementation of trade and export strategies, development of trade capacities and legal frameworks based on the OCTs' own sector policies, territorial development strategies or regional cooperation strategies of OCTs. This would only be possible if the OCTs would make trade and trade related issues a political priority for their cooperation with the EU.

Within the financial envelope reserved for regional cooperation, resources would be allocated to supporting OCT participation in trade and trade relevant cooperation programmes targeted at their neighbours. This could for instance cover cooperation with ACP countries and/or Outermost regions regarding trade development and facilitation, capacity building, food safety and consumer health and like topics.

The adoption of a joint work programme under policy option 3 would serve as a basis to engage with the Member States in a discussion about a possible distribution of labour in terms of trade and trade related support to OCTs.

Legal and Policy Framework

Upgrading the current OCT/EU relations would imply that the legal texts governing them would be substantially changed. A new OAD and the Commission Regulation implementing the OAD would need to be adopted. It would involve making changes to the provisions presently contained in the OAD in the following subdivisions:

- Part II of the OAD (Areas of Cooperation);
- Part III (Instruments of OCT-EC Cooperation), Title I (Development Finance Cooperation) and Title II (Economic and Trade Cooperation), Chapters 1 to 4;
- Annexes II A to F (financial assistance)
- Annexes III (rules of origin) and IV (Transshipment)

The new OAD would enter into force after expiry of the present one on 31 December 2013.

Certain of the changes proposed under this policy option would not necessitate modifications to the legal bases as such. The choice of the intervention areas, for instance, would have to be determined on the basis of discussions with OCTs and their Member States at the onset of the operational period.

7.2.4. Policy Option 4: Inclusion in Other Trade Relations

Policy option 4 would consist in overhauling the current trade relations by including or associating OCTs to other bilateral or regional trade relations (FTAs or EPAs), essentially by negotiating tri- or plurilateral agreements with OCTs as separate parties of an agreement already existing or under negotiation. This could imply that OCT products would get the same treatment as the EU trade partner(s) and that OCTs would necessarily have to grant reciprocal access.

Based on the OCTs' location and main trading interests, the following theoretical opportunities exist:

- integration or association of the British and Dutch OCTs located in the Caribbean to the EPA with CARIFORUM;
- integration or association of the Dutch OCTs located in the Caribbean to the trade agreements with Central America or the Andean countries;
- integration or association of the French OCTs located in the Pacific (French Polynesia, New Caledonia and Wallis et Futuna) to the Pacific EPA;
- integration or association of Mayotte to the EPAs with ESA or EAC;
- integration or association of Saint Helena, Ascension Island and Tristan da Cunha to the EPA under negotiation with SADC;
- integration or association of Greenland and Saint-Pierre et Miquelon to the CETA under negotiation;
- integration or association of the Falkland Islands to the FTA with MERCOSUR under negotiation.

A number of scenarios seem purely theoretical, at least for the time being. Those OCTs for which it would not be possible to integrate into one of the other trade agreements, third country/GATS treatment would be granted if the EU choose not to replace the OAD. In case the EU would want to maintain specific trade relations with OCTs which would not be able to be integrated in other trade regimes, policy options 2 or 3 could also apply.

Trade in Goods

In the case of Economic Partnership Agreements (EPAs) with African, Caribbean and Pacific (ACP) States and regions, duty free quota free access applies to both ACPs and OCTs. In the case of other free trade agreements (FTAs), there are two sub-options at least in theory:

1. OCT access to the EU market is aligned with the access of the EU trading partners involved; or, where this is found to be incompatible with Part IV of the TFEU;
2. OCT duty free quota free access is maintained but with restrictions on OCT exports based on goods imported from the EU's trading partner.

In addition, OCTs would gain access to the markets of the EU's trading partners. OCTs that would opt into an FTA/EPA would participate in trade liberalisation under the agreement, including by liberalising imports. The precise degree of OCT liberalisation vis-à-vis the EU and the EU's trading partner would be subject to negotiation. Under this scenario,

OCTs would have to provide preferential access to the EU without discriminating between EU Member States.

The transshipment facility in Article 36 of the present OAD would disappear but the trade facilitation provisions of the FTA/EPA would apply. Under the respective agreements in which the OCTs would be integrated or associated, the EU and OCTs would be allowed to apply the surveillance and safeguard measures provisions included in the specific FTA/EPA.

Rules of Origin¹⁰⁸

Integrating OCTs in trade relations other than the ones provided under Part IV of the TFEU, would also mean that OCTs would no longer be considered as a single territory for the purposes of EU customs policy. In other words, they would receive differentiated treatment.

OCTs would no longer benefit from the same set of rules of origin as the ones that apply in the EU's trade agreements differ from one trade partner to another. These are typically the result of specific negotiations between the trade partners trying to accommodate and take into account their different sensitivities.

As far as the **product specific rules** are concerned, the rules of origin negotiated in the context of the EPAs currently provide for a number of relaxations of the conditions which applied previously, compared to what exists in the OAD. Relaxations have been introduced for fishery products (e.g. new definition of aquaculture), products in the agricultural sector (e.g. products with a high sugar content) and textiles (e.g. single stage transformation which allows for the manufacturing of garments on the basis of imported fabrics).

If OCTs were to join an EPA today, they would benefit from the simplifications that were introduced in the **general provisions**. For fishery products, the requirement that products based on *fish caught outside territorial waters* comply with the nationality condition regarding the crew manning the vessels has been deleted. In addition, the criterion regarding *ownership* of the vessels was clarified. As regards the definition of *wholly obtained products*, the rules of the EPA would include a new definition specific to aquaculture. Under the current definition of the OAD OCT aquaculture products have to comply with the conditions applicable to other live animals. Under EPAs OCTs would also benefit from the improved general provision on *minimal operations*. The *general tolerance* applicable to non-originating materials would remain at the same level (15% in value of the final product). The specific tolerance applying to textile and clothing would also remain the same.

The procedure of **certification by customs authorities** and the **direct transport rule** would remain the same as currently in the OAD.

OCTs which would join the Pacific EPA would have access to the global sourcing provision, allowing them to import non-originating fish, crustaceans, molluscs and other invertebrates (HS Chapter 03) for further processing into pre-cooked, packaged or canned

¹⁰⁸ A comparison of the differences between policy options 2-4 in terms of rules of origin is provided in Annex 10 of Appendix 2.

products (HS headings 1604 and 1605) and benefit from preferential treatment upon importation in the EU.

In terms of **cumulation**, integration or association to EPAs would offer the OCTs to continue to apply the full range of cumulation possibilities they currently have: cumulation with the EU, with other OCTs, with the ACP countries covered by the EPA to which the OCTs would have acceded, as well as cumulation with ACP countries covered by other EPAs. Some EPAs (Pacific and Caribbean) also include provisions that allow cumulation with neighbouring countries belonging to a coherent geographical entity; a possibility which is not provided by the current OAD.

After they enter into force, the EPAs that are currently being negotiated will also offer the signatory ACP States the possibility to cumulate materials which enter the EU duty free quota free under MFN, GSP or an FTA (for the production of industrial goods). This possibility is not offered under the previously concluded EPAs in the Caribbean and the Pacific, but it may be included when the rules of origin of the EPAs are reviewed.

Depending on the EPA which they would join, the conditions under which OCTs could obtain **derogations** from the rules of origin may change. Currently, Article 37:6 of the OAD stipulates that the EU shall accept requests for derogation when the value added by OCTs to the non-originating products represents at least 45 % of the total value of the finished product. In addition, some EPAs (West Africa, Eastern and Southern Africa, East African Community) include the possibility of an automatic derogation for fixed quantities of tuna products. However, no OCT would be well placed to join any of these EPAs.

Services and Establishment

Under policy option 4 OCTs would be granted the treatment for trade in services and establishment that is given to the EPA or FTA partners concerned. The treatment given by OCTs would have to be negotiated for every single OCT separately, both for what is given to the EU or to the other trading partner(s). Furthermore, the trade regime between the EU and the other Party to the agreement would most likely have to be renegotiated to balance the fact that the other Party would extend its treatment to territories which may not necessarily be of great economic interest to them. In particular, the treatment for the so called mode 4 – movement of natural persons for business purposes – might require compensation from EU.

Finally, though trade negotiations in services and establishment do not require countries or territories to liberalise their services sectors or privatise public services companies, any trade in services agreement will have to comply with article V of GATS meaning that it cannot exclude any modes of supply and has to have substantial sectoral coverage. Assuming that substantial coverage means a majority of sectors, this may mean that OCTs, could find themselves in a position in which they would have to negotiate commitments and binding trade liberalisation levels in over 80 services sectors.

Trade Related Cooperation and Support

Integrating OCTs in the other trade agreements would imply that the OCT/EU trade related cooperation would be channelled via the specific institutional set up of the agreements in which the OCTs would be integrated. In case OCTs would join the Economic Partnership Agreement with CARIFORUM, the OCT/ACP/EU dialogue would take place in the

context of the Joint CARIFORUM/EU Council (Art. 227 of the Agreement), the Trade and Development Committee (Art. 230), the CARIFORUM/EU Parliamentary Committee (Art. 231), the CARIFORUM/EU Consultative Committee (Art. 232) and the Special Committee on Customs Cooperation and Trade Facilitation (Art. 36).

Some of the general priorities of OCT/ACP/EU cooperation, as set out in Article 8 of the EPA, would be:

- the building of human, legal and institutional capacity;
- the promotion of private sector and enterprise development, in particular SMEs and enhancing the international competitiveness of firms and the diversification of the OCT/ACP economies;
- the diversification of OCT/ACP exports of goods and services through new investment and the development of new sectors;
- the enhancement of technological and research capabilities of the OCTs/ACP States, to facilitate development of and compliance with internationally recognised sanitary and phyto-sanitary measures and technical standards;
- the development of OCT/ACP innovation systems and technological capacities

In addition to such general priorities, the specific priorities for sectoral cooperation set out in the different chapters of the EPA would apply. These include amongst others cooperation with regard to:

- cooperation and dialogue regarding tariff matters, customs legislation and procedures, mutual administrative assistances, customs matters, rules of origin and administrative cooperation (Arts. 35-36 of the Agreement);
- the improvement of the competitiveness of ACP/OCT agricultural and fishery products, the development of ACP/OCT export marketing capabilities in this area and compliance with international quality standards (Art. 43);
- the promotion of ACP/OCT enterprises to meet regulatory and market requirements related to technical regulations (Art. 51);
- the provision of training and expertise and the exchange of information regarding sanitary and phyto-sanitary measures and the development of ACP/OCT enterprises in this area (Art. 59);
- cooperation and technical assistance for internet marketing strategies for ACP/OCTs as touristic destination, the promotion of ACP/OCT participation in international standard setting bodies for tourism and in tourism exchange and training programmes (Art. 117);
- cooperation and assistance to OCT/ACP competition and innovation policies (Arts. 130 and 135)

As the free trade agreements of interest to OCTs (mainly Canada for Saint Pierre et Miquelon and Greenland) are still under negotiation, the institutional setup of these agreements is not known yet. With those OCTs for which integration or association to a trade agreement would not be an option, the OCT/EU trade related dialogue and

cooperation would be organised along either of the proposals suggested in policy options 1 to 3.

In the case where OCTs would join an EPA or FTA, the EU would foresee support to OCTs to help it with the implementation of the agreement. Separate financing would be foreseen for those OCTs that would not join a trade agreement in case policy options 2 or 3 would be retained for them. If policy option 1 would be withheld, then no financing would be foreseen for these OCTs.

All types of support would be financed from the 11th European Development Fund, but the envelope reserved for cooperation with OCTs under this financial instrument would be split into two or three different envelopes corresponding to the different types of trade relations which the OCTs would maintain with the EU.

As regards internal horizontal programmes and budget lines of the EU, those OCTs that would join a trade agreement would only be eligible to the programmes and budget lines in which all possible third partners can participate. They would continue to be eligible to the external horizontal programmes and budget lines as well as those geographic programmes and budget lines that cover the region in which they would be integrated. The OCTs which would not join a trade agreement would continue to be eligible in principle to all possible internal horizontal programmes and budget lines of the EU and the thematic components of external programmes and budget lines. To the extent that natural persons can apply for financing from internal horizontal programmes and budget lines, inhabitants of OCTs would remain eligible because they would continue to have EU citizenship regardless of the relation of their territory vis-à-vis the EU.

Legal and Policy Framework

Integrating or associating OCTs to other trade agreements would imply legal changes. It might mean that OCTs would want to join another bilateral agreement, would have to leave the framework of Part IV of the TFEU. This would then mean that their Member States would have to request that the OCTs concerned be removed from Annex II to the TFEU, which lists the OCTs associated to the EU, if the substantive FTA provisions would be incompatible with it. Inclusion of OCTs within the scope of EU trade agreements would be subject to negotiations between the EU's trade partners, representatives of the OCTs themselves and the EU.

After the Council would have given negotiating directives to the Commission, negotiations would have to be conducted to extend the trade agreements concerned to the OCTs involved. Negotiations would involve not only the OCTs, the EU trade partner(s) concerned and the Commission, but also the Member States to which the OCTs are linked. As OCTs are not sovereign States, the Member States would have to act as the agents of their territories and represent them in their negotiations with the EU and the trade partner concerned. The agreements that have been concluded would need to be amended to incorporate the OCTs and adapt them so as to cover the realities of the OCTs.

For services and establishment, the treatment that OCTs would give to the EU or to the other trading partner(s) would have to be negotiated separately, while the EU's treatment of the other trading partner(s) would probably also have to be renegotiated to compensate for the inclusion of OCTs.

In case policy option 1 would apply to those OCTs for which integration or association would not be an option, policy option 4 would imply that the present OAD and its Annexes would expire on 31 December 2013 without being renewed nor replaced. The Treaty might then have to be amended to delete Part IV and the relevant Annexes and Protocols of the TFEU. If not, changes would need to be made to the legal bases as described in the sections on policy options 2 and 3.

In case three different types of trade relations (OCT trade regime, EPA, FTA) would be foreseen, it is likely that the legal bases for the 11th European Development would need to be adapted, including the Internal Agreement between Member States.

7.3. Impact Assessment of the Different Policy Options

The four options presented above need to be assessed in the light of: (a) Art. 198 TFEU (centred on the objective of social and economic development of OCTs) and (b) the three objectives which the Commission has put forward in Communication COM(2009) 623 and which were endorsed by the Council in its Conclusions (16710/09): strengthening OCT competitiveness, enhancing their resilience and promoting cooperation.

Methodological Considerations

As was mentioned in the introduction to this paper (See Chapter 1), the lack of comparable and reliable statistics regarding OCT tariffs and trade flows with (non-EU) third countries has complicated the analysis of this paper. One OCT admitted that as far as its trade flows were concerned, it did not have any statistical data itself. As a consequence of this situation, assessing the impacts of the different policy options is challenging. The external assessors that conducted an external study on the sustainability impacts of a possible EU agreement with Canada, commented that the absence of data made it impossible to assess the possible social, economic and environmental impacts of this agreement on the OCTs most concerned (Greenland and Saint-Pierre et Miquelon) through economic modelling¹⁰⁹.

The number and disparity of OCT economic profiles adds a layer of complexity. As discussed in Chapter 3 of this paper, not every OCT maintains close economic relations with the EU. In fact the majority of OCTs, i.e. those located in the Caribbean, hardly export to the EU. For those OCTs, exporting goods to the EU is more a potentiality than a reality. Consequently, assessing the impacts of the proposed changes can only be hypothetical.

For those OCTs for which currently the trade relations with the EU are important, fisheries is often the single most import export sector. The analysis below takes this sector as *case study* of the **social and economic impacts** that the different policy options could have on OCTs as far as the goods arrangements are concerned.

It should be pointed out that OCT production and exports in the fishery and aquaculture sectors are not homogenous either. Exports vary from white fish, to crustaceans and to molluscs. Two OCTs account for more than 90 % of all OCT exports of fishery products to

¹⁰⁹ KIRKPATRICK et al. (2011), p. 105.

the EU¹¹⁰. In terms of value, the most important OCT supplier is Greenland. Greenland accounts for roughly 67 % of all the OCT exports of fishery products to the EU. The Falkland Islands represent 25 %. The remaining percentage is composed of the (former) Netherlands Antilles followed by the rest of the OCTs.

Concerning specific fishery products, shrimps represent 66 % of the Greenland exports of fishery products to the EU. The remaining 33 % is taken up by white fish. Squid accounts for 80 % of the exports of the Falkland Islands to the EU.

Regarding the economic and social impact for the EU of the various OCT fishery and aquaculture products imported by the EU, although the overall EU impact could be established to a certain level, any impact will not be homogenous, as it will vary from OCT to OCT, and within a given OCT from harvesters to processors. Such impact could even affect differently processors in a given OCT depending on the fishery product in question. Some industries in some EU Member States use OCT imports as raw material. Other Member States and industries use it as a final product, directly intended for final consumers and not or hardly for processing. Thus, for some fishery products imported from the OCTs there is major EU production of like or directly competing products. For other products EU production is, to a certain extent, favoured by the consumers' and processors' preferences (for example, chilled over frozen). This applies to certain product and market segments in some countries. In any event, it is unlikely that the impact on the EU producers and the EU processing industry of fishery products of the different policy options would be alike.

The assessment of possible **environmental impacts** equally poses a problem as the problem regarding the paucity of statistical data on OCTs also concerns CO₂ emissions in OCTs¹¹¹. Consequently, it is difficult, if not impossible to assess quantitatively the possible environmental impact that the different policy options may have. Instead, certain assumptions could be made.

For instance, where policy options are likely to stimulate production and export of goods and services, these are likely to have a greater environmental impact, amongst others due to the emission of additional CO₂ in the production process and the transport from OCTs to the EU or other third countries or vice versa (where tourism is concerned). This rule of thumb may not fully apply to all cases. For instance, the environmental impact related to transport is likely to be null in the case of isolated OCTs such as Saint-Helena, Ascension and Tristan da Cunha, from where presently cargo ships often return empty.

Where policy options would have a negative environmental impact, this impact could be mitigated by OCT/EU cooperation and EU financial assistance, of which environmental issues are an integral part. Where possible and relevant, the assessment of policy options will indicate the possible environmental impacts of the different policy options.

7.3.1. Assessment Policy Option 1: Discontinuation of Preferential Trade Relations

Trade in Goods

¹¹⁰ All data contained in this section is based on data available to the European Commission, Directorate General for Maritime Affairs and Fisheries.

¹¹¹ SPANNEUT (2011) found that statistics about greenhouse gas emissions were collected in only one OCT (p. 44).

The possible impact of replacing OCT duty free, quota free access to the EU market by access based on the EU's Common External Tariff (CET) varies per OCT because it depends on their exports to the EU¹¹². A simulation of the impacts which the introducing of CET duties would have on the goods of selected OCTs (see 12.8), at current exports, shows that this would result in OCTs having to make duty payments of EUR 56.9 million. The average CET duty rate applicable to OCT goods would range from 14.78 % (for Saint Pierre et Miquelon) to 0.01 % (for Cayman Islands).

The OCTs most affected would be: Falkland Islands, French Polynesia, Greenland, Netherlands Antilles and Saint Pierre et Miquelon. In fact, these OCTs would be paying 98 % of the above mentioned total OCT duty payments under CET. Other OCTs would hardly be affected as they mainly export products for which the average rate is zero or almost zero. The OCTs for which dutiable exports are negligible are: British Virgin Islands, New Caledonia, Cayman Islands and Anguilla. In other cases, the amount of duty would be a small part of the value of their exports. Hence, they would not be much affected. This is the case for Aruba, Mayotte, Montserrat, Saint Helena, Pitcairn, Turks and Caicos and Wallis and Futuna, where the average duty rate would range from 4.57 % (for Wallis and Futuna) to 1.29 % (for Montserrat).

When considering how the main OCT exports would be affected under CET rates, OCT exports of fish and processed fish, sugar, industrial products and crude coconut oil come out as the products most likely to face significant customs duties. The OCTs most affected would be: Greenland, Saint-Pierre et Miquelon, Falkland Islands, the (former) Netherlands Antilles, and French Polynesia. Annex 12.9 shows this by indicating what duties would have to be paid on the main goods exports of OCTs under CET conditions as well as the average CET rates that apply to those products. Main goods exports are defined as totalling over EUR 100,000 in value.

For Greenland fish and processed fish represent 89 % of total exports to the EU and are the products that would attract most of the CET duties of its exports to the EU. 99% of total CET duties would be paid on fish and processed fish products. Among these, shrimp exports would be affected by the highest CET rates. For Saint-Pierre et Miquelon cod exports (51% of total exports to the EU) would attract approximately 50% of all duties under CET rates. For the Falklands Islands, fish and processed fish, representing 96.2 % of total Falkland Islands exports to the EU, would also be subjected to most of the CET duties (99% of total duties). Among those, some products such as frozen hake and frozen saltwater fish would face considerable rates. In the case of the former Netherlands Antilles, the sampled products only amount to 26 % of exports to the EU, but would attract most of the duties under CET (92 %). Tuna and raw cane sugar would be the products most affected by CET rates. French Polynesian products that would be affected by CET duties are fish and crude coconut oil, on which 73 % of the CET duties would be paid¹¹³.

The increase of tariffs duties for OCTs exporting fishery products to the EU is likely to have important **social and economic impacts** on the OCTs. These are likely to be

¹¹² For the sake of completeness, the impact of relegating OCTs to GSP treatment has been examined alongside the impact of MFN treatment to explore the –negative– impact both would have compared to the current situation. Full results are included in Annexes 6 and 7. However, as explained above in section 4.3.2, the specific status of OCTs means that their GSP eligibility should be discontinued.

¹¹³ Fisheries, the main OCT export sector, is a clear case where the impact of CET and GSP treatment is very close as both CET and GSP duties are relatively high.

negative. OCTs would be exposed to increased competitiveness by other EU trade partners exporting similar products to the EU at CET or reduced duties (e.g. Norway in the context of the European Economic Area). The loss in competitiveness may be even more pronounced if direct competitors of OCTs (e.g. Canada) would gain better market access in the context of an EU trade agreement.

It is therefore likely that policy option 1 would result in a decrease of OCT exports, which is likely to negatively impact employment in the fishery sectors. As mentioned above (Chapter 3 of the present paper), these sectors Saint-Pierre et Miquelon represent 5 to 7 % of the total workforce, but 11.4 to 16 % of the privately employed workforce (2007 figures)¹¹⁴. In Greenland the fishery sectors represent 4.3 % of the total workforce, but 8.1 % of the privately employed workforce (2007 figures)¹¹⁵.

Given the strong importance both territories attach to these traditional activities – with Greenland considering it as an integral part of the traditional Inuit way of living – any small decrease in employment opportunities may be perceived to be far more substantial than what the figures indicate. In addition, where jobs would be lost in the fishery sector, the territorial authorities are likely to have to increase social expenditure in the form of unemployment benefits (where available). Thus, policy option 1 is likely to negatively affect the territorial budgets as well. Where OCTs would try to compensate for the loss in competitiveness and maintain their position on the EU, they may be tempted to adopt a number of measures which may negatively impact on the working conditions of the sector's employees.

For those OCTs which are not dependent from access to the EU market or the fishery sector, the impact of policy option 1 would be either null or very marginal. Potential levers for economic and social development might be lost to them. Indirectly, policy option 1 may have a positive impact on the extent to which OCTs cooperate with their neighbours as they may want to replace the OCT/EU association by cooperation schemes with other third partners. The most vulnerable OCTs might not be able to benefit from this situation for lack of sufficient assets which would make them interesting as a partner to cooperate with.

On the EU side, policy option 1 would have diverse effects. The EU could benefit from it as it would generate new revenues for the EU. Policy option 1 could generate a theoretical maximum of some EUR 57 million of revenue for the EU via the duties levied on the major OCT exports referred to above¹¹⁶, but only if one were to assume that current OCT export levels would be maintained. On the other hand, where policy option 1 would lead to a deterioration of the economic, social and fiscal situation of the OCTs, the governments of the four Member States might be impacted as well as this situation could force them to

¹¹⁴ Public employment in Saint-Pierre et Miquelon represent 44% of total employment. See: Institut des Emissions des Départements d'Outremer, Saint-Pierre et Miquelon: Rapport Annuel 2010, Paris, 2011, p. 28.

¹¹⁵ Public employment in Greenland represent 47 % of total employment. Based on Statistics Greenland, Greenland in Figures, 6th and 8th edition, June 2009 and May 2011. See: [http://www.stat.gl/dialog/main.asp?lang=en&theme=Greenland in Figures&link=GF](http://www.stat.gl/dialog/main.asp?lang=en&theme=Greenland%20in%20Figures&link=GF) (accessed: 26/10/2011).

¹¹⁶ See Annex 8 of Appendix 2

increase their financial transfers to the OCTs; an effect which could be aggravated by the fact that OCTs would no longer benefit from EU financial assistance.

If major trade deflection would occur as a consequence of OCTs losing in competitiveness on the EU market in the fishery sector, this may have an impact on the EU's fishery sector. EU producers (harvesters) of like products (notably shrimps, squid and white fish) could gain from this and fill the gap left by reduced OCTs imports. In addition to this, there could be an upward pressure on EU prices due to the reduced supply, depending on the country, product, market and the form in which the fish products are presented. Policy option 1 may also lead to a reduction of competitive raw materials available to EU processors of fishery products, notably for shrimps, but also for white fish, and this could have a negative impact on production and employment in the EU processing industries in a number of EU Member States¹¹⁷, depending on the product and the form in which it is presented.

The **environmental impacts** of policy option 1 are likely to be small. On the OCT side, the environmental impact of OCT/EU trade may actually decrease as e.g. CO² emission would reduce with the decrease of production and exports to the EU. This effect may be annulled where EU producers and operators would replace OCT suppliers. Depending on the respective scales of production, the degree to which the production processes are polluting in both the EU and the OCTs and depending how polluting transport from OCTs to the EU is, the overall balance may be positive or negative.

Rules of Origin

In the absence of preferential rules of origin, rules of origin are not a factor that would affect the OCTs' economic and trade position.

Services and Establishment

The practical impact of discontinuing the current OCT/EU trade relations in the services sectors may be limited at first glance as in trade in services the autonomous liberalisation (i.e. the basic third country treatment as it is given in practice vs. the one to which a trade partner has internationally committed) may be and often is more liberal than the trade commitments. This may mean that discontinuing the preferential trade relations does not lead to great change in actual market access.

However, the legal certainty for businesses would be considerably reduced as both sides could unilaterally worsen the trade treatment of the other. This is most important for investments (establishment both in services and non-services sectors), where long-term financial commitments may have been taken by businesses. Unilateral changes in regulation that would worsen the market access or national treatment conditions could be adopted for reasons of legitimate policy objectives, but also for protectionism. While within the GATS framework, Article XXI allows for the possibility of withdrawing certain

¹¹⁷ The United Kingdom is one such Member State that is dependent of shrimp imports from Greenland to sustain its processing industry. See: DÖRING, R. and GUILLEN, J. (ed.), Report of the Working Group on the evaluation of data collected on the fish processing sector (SGECA 10-04), Joint Working Group on Economic Affairs (SGECA), of the Scientific, Technical and Economic Committee for Fisheries (STECF), Ispra, 11-15 October 2010, pp. 166-7.

commitments provided that compensation be given so as to ensure similar level of trade openness, OCTs would not benefit from such compensation.

Policy option 1 would also mean that there would not be any regulation of trade in services and establishment between the EU and the OCTs other than that in the respective Member State legislation and would hence not fulfil the objectives set in the Article 199 of the TFEU.

Trade Related Cooperation and Support

Discontinuing OCT/EU cooperation is likely to negatively impact on the OCT capacities to exploit the remaining market access opportunities in the EU and possibly other markets. The sustainable social and economic development of OCTs would not be actively promoted by the EU and the objective of establishing close economic ties between the OCTs and the EU would thus be difficult to achieve. OCT competitiveness and resilience to economic shocks would not be strengthened and are likely to reduce under this policy option as they would face stronger competition in the EU market, with having being able to prepare for this situation and without additional support to their limited administrative and trade capacities being available.

Though this policy option may give an impulse to regional cooperation and integration as OCTs may look to their developed and developing neighbours to replace the OCT/EU cooperation, it is likely to do so, based on a negative motivation.

Discontinuing OCT/EU cooperation in trade and trade related matters is likely to result in a loss of EU involvement in OCT economic policies, regulatory models and the like. The absence of financial and administrative cooperation, such as currently provided (but not used) under Chapter 3 of Title II of Part 3 of the OAD may also lead to a deterioration of the environment of OCTs as they may develop trade policies which take little account of environment. The idea of OCTs as outputs of the EU in the world would not be achieved in this policy option. It would result in a situation in which EU interests and values would not be actively promoted.

Legal and Policy Framework

Discontinuing preferential relations for OCTs may be contrary to the Preamble and Part IV of the TFEU, which emphasise the solidarity between the EU and the OCTs and which stipulate that the purpose of the association is the sustainable social and economic development of the OCTs. This policy option could therefore necessitate a Treaty change.

Policy coherence would not be an issue as in principle no specific policy towards OCTs would be foreseen. OCTs would benefit from EU policies only to the extent that third partners without any privileged relation with the EU can take part in them.

However, such a stance would not be consistent with the political orientations regarding the revision of OCT/EU relations in its conclusions the Council laid down in its conclusions (16710/09) of 22 December 2009 and which endorsed the three objectives proposed by the Commission in its Communication COM(2009) 623.

7.3.2. Assessment Policy Option 2: Roll Over of Present Preferential Trade Relations

Trade in Goods

In the status-quo scenario, all applicable provisions would remain unchanged. Therefore, any impact would stem from the improved market access to the EU for non-OCT exporters, e.g. the EU's FTA partners ("preference erosion"). Analysis of the products exported by the OCTs and recent EU FTA negotiations (see above) shows that fish and processed fish are the products most at risk of such preference erosion. The OCTs potentially most affected are: Falkland Islands, French Polynesia, Greenland, Saint Pierre et Miquelon and the (former) Netherlands Antilles. The increased competition of non-OCT exporters could lead to similar **economic and social impacts** (job loss, increased social expenditure) as described in policy option 1, though to a lesser extent.

No major impact on the EU producers or the EU processing industry would occur as the present competitive positions of OCT suppliers and EU producers would be maintained. Where OCTs would lose in competitiveness to the benefit of other trade partners, this is likely to result in a status quo for the EU producers. This would for instance be the case if the EU free trade negotiations with Canada would result in the Comprehensive Economic and Trade Agreement (CETA) being concluded. According to KIRKPATRICK et al. (2011), this agreement will have no noticeable impact on employment in the EU, even if it might have some negative impact in some specific industries in specific EU Member States. As the EU's fishery processing industry is concerned, a positive impact is expected as it would gain access to raw materials at more competitive prices.

In terms of **environmental impacts**, the status quo under policy option 2 is unlikely to lead to an increase of such impacts. If policy option 2 would be implemented during the next operational period, increases of e.g. CO² emissions are likely to be the consequence of factors independent from EU interventions (e.g. government policy). Where the OCT partner would choose to use EU financial resources in support of trade and trade related priorities, the streamlining of environmental issues in the EU's financial assistance is likely to have a mitigating effect (see below).

Rules of Origin

As far as rules of origin are concerned, the status quo would avoid adaptation costs as OCT economic operators would not have to get used to a new set of rules of origin and the possible uncertainties that may accompany them.

OCT trade flows, in particular to the EU, are likely to remain either the same or to decrease as no new incentive for investment would be provided. In the mean time, as the EU would continue to conclude FTAs with new trade partners who could possibly be OCT competitors (e.g. Canada versus Saint-Pierre et Miquelon and Greenland), the effect of erosion of preferences would become more marked.

In the absence of a relaxation of the **product specific rules** the prospects of diversification of OCT exports would be limited.

As no changes would be made to the **general provisions**, the procedures would remain burdensome, mainly as regards with the *certification* by the customs authorities and the documentary evidences to be submitted as proof that the goods have been transported

directly from the country of origin to the EU. Compliance costs (i.e. costs incurred for the delivery of a proof of origin) would also remain the same.

Though **cumulation** possibilities with OCTs and ACPs would be maintained, trade opportunities are likely to decrease with EPAs granting ACP signatories the same tariff treatment as the OCTs, thus reducing their incentive to send their products to OCTs for further processing (sugar products for example). In the absence of a provision on cumulation with non-ACP neighbouring countries, the prospects to strengthen the relationships with these countries would not be furthered.

As no changes would be made to the rules and procedures for granting **derogations**, the issue of predictability would remain.

Services and Establishment

Maintaining the present OCT/EU trade relations would entail the automatic improvement of the treatment the EU gives to OCT services if and when it would upgrade its commitments under GATS following WTO negotiations.

However, as the status and progress of the ongoing DDA negotiations is unclear, so is the ambition of the current GATS commitments which were made in 1994. Moreover, the treatment accorded in WTO to all WTO 153 members is not reflecting the special relationship between EU and OCTs as foreseen by Part IV of the TEU. Furthermore, since 2000 the EU has entered into several bilateral preferential trade agreements which also cover trade in services and establishment and which accord a treatment more favourable than the one the EU offers under the GATS.

In the context of the Economic Partnership Agreement (EPA) that was concluded with CARIFORUM and the ongoing negotiations regarding with other ACP regions a more favourable treatment has been or will be granted to neighbouring countries of OCTs. Even if autonomous liberalisation in Member States presently rarely differentiates between service providers and investors on the basis of country of origin, except for EU Internal Market purposes and in the context of the European Economic Area, the possibility for such differentiation to happen in the future or in particular sensitive sectors still exists. Thus, the main issue at hand is again the legal certainty for investments, but also cross-border trade in services some of which are very important to certain OCTs (such as financial services to British Virgin Islands or Cayman Island).

As pointed out in previous studies, the current OAD regime is not balanced as EU grants the OCTs GATS treatment, while OCTs are giving the EU full MFN including the treatment they accord between themselves and to developing partners. In the status quo option (option 2) it would not be possible to redress this problem, which has been raised as the most serious problem in the area of trade in services.

As GATS does not foresee a specific treatment for OCT services, policy option 2 would not allow the OCTs to benefit from liberalisation driven economic development in sectors of interest to them, unless they would decide to adopt a development strategy based on autonomous trade liberalisation and attracting investment. They would have the same treatment as the other 153 WTO members. For non-services establishment, no trade regime would be foreseen at all.

Consequently, the **economic and social impacts** of the services and establishment component of this option would be limited or non-existent. Furthermore, the impact on OCTs would partly depend on the trade agreements, if any, OCTs conclude with other partners as currently they are committed to give to EU the best treatment they give to any other third country. This would mean that OCT South/South agreements with neighbouring countries would all have to be extended to EU.

Under policy option 2, EU funding could be used in support of the implementation of the relevant strategies for the development of OCT services sectors, should that be the wish of the OCT governments concerned. If the sectors relevant for tourism would be marked as sectors for development, their increased attractiveness as a touristic destination may have an **environmental impact** as it could lead to increased pollution through air and transport by ships. Here as well, EU financial assistance may be a mitigating factor as it could influence OCT policies through its obligation to take into account environmental issues.

Trade Related Cooperation and Support

By rolling over the present cooperation and support arrangements the EU would continue to support the reinforcement of OCT capacities to exploit the generous market access opportunities in the EU and possibly in other third countries, in those instances of cooperation where trade and trade related areas are in focus. Thus, the EU would continue to promote the sustainable social and economic development of OCTs.

As the agenda for the OCT/EU dialogue on trade and trade related issues would continue to be defined on an ad hoc basis, it would likely lack focus. Maintaining the wide range of topics covered by Articles 12, 13, 14 and 16 of the OAD would likely contribute to the diffuseness of the OCT/EU trade and trade related dialogue and cooperation.

For OCT/EU cooperation under the 11th European Development Fund (EDF) to have an impact on OCT trade and trade related issues, the political priorities would need to be translated by dedicated financial allocations as 11th EDF operation would continue to be linked to OCT priorities. In such a scenario EU interventions in trade and trade related areas would have a more lasting impact if they would be integrated in regional, territorial or sector (development) strategies. Cooperation in the form of ad hoc projects or technical assistance would have a more limited impact.

By continuing to provide financial assistance to OCTs in the area of trade and trade related matters, the EU would continue to actively support OCT efforts to put in place measures in these areas which are intended to strengthen the competitiveness of their economies and decrease their vulnerability to external shocks.

Coordination of EU and Member State interventions through OCT authorities would continue to have beneficial impacts, but potential synergies might not be exploited.

The extent to which OCTs would be able in practice to benefit from these programmes and budget lines would to a large extent be dependent of the capacity of their beneficiaries to formulate competitive proposals. The success rate of OCT beneficiaries' participation in these programmes would likely remain low. By providing technical assistance on demand, the EU might indirectly have a positive impact on this.

As a consequence of the low utilisation by OCTs of the EU horizontal programmes and budget lines, it is likely that the 11th EDF would remain the main source for financial assistance in support of OCT efforts to develop their private sectors, to formulate innovation strategies and to develop their capacities and infrastructure in specialised fields such as food safety and consumer health. Thus, rather than being supportive of OCT participation in EU horizontal programmes, the EDF might in effect continue to function as substitute to those programmes. The potential for synergies between the two types of financial instruments would remain underused.

By continuing to support the development of OCT strategies, capacities, infrastructure and legislative frameworks, the EU would continue to exert an influence on their policies, regulatory models and the like. In case the provisions concerning trade related areas such as environment and labour states foreseen in Chapter 3 of Title II, Part 3 of the OAD would be put into effect, the OCT/EU administrative cooperation could have a positive **social and environmental impact** by influencing the relevant OCT policies. Thus, the EU would continue to actively contribute to the promotion of EU interests and values in the world. Such support may stimulate convergence of OCT legislation with the EU acquis.

Legal and Policy Framework

A roll over of the present OCT/EU relations would be consistent with Part IV of the Treaty on the Functioning of the European Union and its Preamble, but not with the shared ambition of OCTs, their Member States and the Commission to reshape and modernise the OCT/EU relations.

Policy coherence would be assured under this option, but the OAD would not incorporate any of the policy evolutions in trade and trade related provisions over the last ten years.

The option would not be consistent with the political orientations regarding the revision of OCT/EU relations in its conclusions the Council laid down in its conclusions (16710/09) of 22 December 2009 and which endorsed the three objectives proposed by the Commission in its Communication COM(2009) 623 of 6 November 2009.

7.3.3. Assessment Policy Option 3: Improved Asymmetric Trade Relations

Trade in Goods

As the room for improving duty free, quota free access is very small, the impact on OCT exports in this scenario would depend on:

1. the degree to which the simplification and relaxation of the rules of origin would contribute to developing OCT trade;
2. the degree to which the further opening of the EU's services market to OCT operators would increase actual business opportunities for these operators;
3. the effectiveness of support measures that could be put in place to help OCTs in overcoming problems they face complying with sanitary, phyto-sanitary or technical

rules that apply to their goods exports, in particular their fish and processed fish exports¹¹⁸.

The discontinuation of the transshipment facility mentioned in Article 36 of the OAD would have no practical effect as the provision has never been implemented successfully. In other words, transshipment operations have never given rise to EU duties being waived, because the provision's conditions have never been fully met. Similarly, the Commission has never approved any OCT transshipment scheme under paragraph 2 of that Article. The feasibility of a functioning transshipment scheme under Article 36 of the OAD has never been demonstrated.

Rules of Origin

The proposed changes to the rules of origin under policy option 3 would likely result in a more effective use by OCTs of the export opportunities which the OCT trade regime offers them, by improving the conditions under which OCT goods access the EU market. This would have a positive **social and economic impact** on the OCT, notably in the fishery sector. In doing so, the economic ties between the OCTs and the EU would be strengthened and the OCTs' competitiveness stimulated. Simplifying and relaxing conditions, strengthening transparency and coherence with the rules of origin of other trade partners is likely to result in efficiency gains and **reduce administrative burdens**.

The new **product specific rules** would likely increase market opportunities for OCTs by providing additional sourcing opportunities through higher thresholds of non-originating materials. The relaxations could increase the export potential of OCTs in goods that they already produce, chocolate (New Caledonia), jam (British Virgin Islands), fruit juices (French Polynesia), rum (British Virgin Islands), oil (Greenland), essential oils (French Polynesia), processed base metals (New Caledonia, Greenland, British Virgin Islands), ammonia (Greenland), articles of plastics (French Polynesia), pottery (British Virgin Islands), aluminium (Greenland), machinery and mechanical appliances (New Caledonia), handicraft (British Virgin Islands, Saint Helena, Ascension Island and Tristan da Cunha) and furniture (British Virgin Islands).

The changes to the definition of *wholly obtained products*, as part of the changes to the **general provisions**, would contribute to making the rule more transparent and user friendly. The inclusion of operations relating to textiles and clothing in the list of minimal operations could have an impact for the determination of the country of origin of the product within the **cumulation** context. Nevertheless, exports from OCTs of processed textiles products are very low and consequently the impact would be limited (the main export interest for textile and clothing involves wool, so cumulation would not be used for these products and, in addition, these materials enter the EU at CET-zero, so the preferential rules of origin would not be used anyway).

¹¹⁸ The OCTs that stand to benefit most from provisions aimed at overcoming sanitary, phyto-sanitary or technical barriers would be Falkland Islands, Greenland, Saint-Pierre et Miquelon, Netherlands Antilles and French Polynesia.

While changes to the rules of origin proposed under policy option 3 is likely to have positive **social and economic impacts** on OCTs in the fishery sector, the impact on EU producers and processing industries of fishery products would vary. The most important impact would likely be the elimination of the crew requirement, notably for Falkland Islands. On the EU side, the impact would be more felt by the EU processing industry than for the EU producers. However, as the Falkland Islands currently benefit from a derogation for the crew requirement, the impact in the short-term may not differ from the status quo offers. Similarly the improved text on the vessel's ownership could facilitate trade for OCTs. The social and economic impact on the EU would likely be negligible taking into account the number of cases where this question was raised in the past.

More difficult to assess is the possible impact more flexible derogations would have. It would depend on the duration of the derogations, the products concerned, the producers' and customers' preferences (chilled, frozen or processed) and the volumes as well as the actual utilisation rates. Here as well, the impact would vary between EU producers and EU processors, with EU processors being able to gain access to raw materials at more competitive prices and being able to maintain production, and jobs and EU producers witnessing the entry of competitive products in case of the EU production of like products.

Diversification of the cumulation possibilities would allow an improvement of the sourcing opportunities. Cumulation with EPA countries will allow maintaining significant trade links with some EPA countries. For example French Polynesia with Fiji Islands, Papua New Guinea or Ghana, the (former) Netherlands Antilles and British Virgin Islands with CARIFORUM EPA countries, New Caledonia with Pacific EPA. In the same fashion, extended cumulation would allow OCT countries to take better advantage of the current trade flows, for example French Polynesia has significant exchanges with ASEAN countries, with India, with Canada and with Mercosur; the (former) Netherlands Antilles have exchanges with Canada, Colombia, Peru, Central America and Mercosur; Greenland is interested by sourcing in ASEAN.

Services and Establishment

The inclusion of an asymmetrical MFN clause would mean that the current services and establishment treatment of OCTs would be considerably improved, while at the same time OCTs would be allowed to have greater autonomy regarding the type of treatment they would give to the EU. OCTs have stressed the importance of the latter point (see chapter 6), as it is instrumental to enabling South/South agreements in trade in services. The services and establishment treatment would also be more favourable than the treatment given to ACP partners in EPAs, as it would cover both past and future EU agreements (while CARIFORUM agreement for example covers only future agreements).

The benefits which would accrue to the OCTs under policy option 3 would be considerable and would increase with every new further trade liberalisation of the EU commitments in a bilateral or multilateral context. In comparison to the current GATS commitments, policy option would result in almost doubling the EU's market openness to OCTs. Taking into account both the sectors for which commitments have been taken and the limitations that were introduced (see box below), the weighted average openness of the EU under GATS corresponds to a factor 34 for modes 1, 2 and 3. Under the EPA with CARIFORUM it corresponds to a factor 57 (and 74 for establishment).

The weighted openness index is the count of weighted average commitments by all EU divided by the number of sectors that can be listed.

$$Open_{mi} = \frac{\sum_{j=1}^{155} \frac{\sum_{i=1}^{27} N_i + w \sum_{i=1}^{27} P_i}{27}}{155}, \text{ for } m=1,3; i=1,\dots,27; j=1,\dots,155,$$

Where m, i and j are indices for mode of supply, EU member state and services sector respectively, N is None's and P is partial commitments (bounds) and w is the given weight.

Weighted Openness Index

The sectors which would benefit most from removal of limitations (the number of sectors committed remains the same as EU commits almost all sectors) would be the construction services, environmental services, recreational services and other services. The lowest opening would occur in the health and educational services, as these are sensitive for the EU for consumer (patient) protection reasons.

By opening its services sectors to OCT operators, the EU would stimulate the further development of new or existing sectors by offering additional opportunities for exports, including for cross-border trade through modern communication technologies. Thus, the **social and economic impacts** of this policy option would likely be positive. Ensuring that OCTs automatically extend to the EU the treatment they give to major economies such as US or China would respect the spirit of the special relationship between EU and OCTs and would be a translation of the principle of reciprocity. It would also give legal certainty for EU investors, which, in turn, could contribute to attracting Foreign Direct Investment (FDI) to the OCTs.

EU funding could be used in support of the implementation of the relevant commitments to further increase the services capacity and infrastructure as well as to ensure a legal environment that would support the investments. Most importantly, as improvements of OCT treatment would be granted automatically when the EU would upgrade the services treatment in other of its agreements, the implementation of this policy option would not put additional strains on the limited administrative capacities of OCTs, which would not have to face the prospect of long and complex negotiations. EU financial assistance, if directed to sectors where commitments are taken, could be a mitigating factor for any **environmental impact** through its obligation to take into account environmental issues.

Trade Related Cooperation and Support

Upgrading the present OCT/EU trade related cooperation and support would likely reinforce OCT capacities to exploit the improved access to the EU. Thus, the EU would continue to promote the establishment of close economic ties between the OCTs and the EU. Via policy option 3 the EU would also likely contribute to strengthening the OCTs' position in other third markets. The trade related cooperation and support under policy

option 3 would therefore contribute to the promotion of the sustainable social and economic development of OCTs.

The revision of the areas of cooperation, presently covered by Articles 12, 13, 14 and 16 of the OAD, and their limitation to a specific set of areas would increase focus of the OCT/EU trade related cooperation and support and to facilitate the monitoring of its impact. The adoption of the joint work programme, the concentration of EU technical assistance in selected areas of intervention related to trade could have a similar effect. Where possible and relevant the coordination of EU and Member State interventions would increase the impact of both. By strengthening the principle that the 11th European Development Fund be complementary to funding available to OCTs under the horizontal programmes and budget lines relevant to trade, duplication would be avoided and potential synergies between the two types of financing would be exploited.

Where the 11th EDF financial assistance to OCTs would be foreseen in trade and trade related areas, this assistance would have a more lasting and systemic effect where it would take the form of general or sector budget support.

The continued, targeted and coordinated support to OCT strategies, capacities, legislative and institutional frameworks proposed under policy option 3 would likely increase the involvement that the EU would have in OCT policies, regulatory models and the like. Such involvement could extend to the OCT's labour policies and the environmental aspects of their trade policies and activities by activating the provisions concerning OCT/EU cooperation on trade and labour standards and trade and environment. Thus, policy option 3 would have a positive **social and environmental impact**. The inclusion of trade and trade related issues of mutual interest, such as raw materials, would be an active contribution to the promotion of EU interests and values in the world. Such support may stimulate convergence of OCT legislation with the EU acquis.

Under this option, OCTs would not only be considered as external stakeholders, but also as internal stakeholders and could play to a certain extent a role as outpost of the EU.

Legal and Policy Framework

Policy option 3, which would consist in upgrading the current asymmetric trade relations, would be consistent with Part IV of the TFEU and its Preamble.

It would also translate the political orientations regarding the revision of OCT/EU relations which the Council laid down in its conclusions (16710/09) of 22 December 2009 in endorsement of the three objectives proposed by the Commission in its Communication COM(2009) 623 of 6 November 2009.

Policy coherence would be ensured under this option would be strengthened.

7.3.4. Assessment Policy Option 4: Inclusion in other Preferential Trade Relations

The impact of OCTs adhering to EU FTAs or EPAs depends to a large extent on:

1. The proximity and interest of the EU's trading partners in developing trade relations with OCTs.
2. The duties and/or quotas applicable to the OCTs involved. Even if one assumes that access to the EU would remain duty free, quota free, access to the EU's trading partners would be subject to negotiation and vary by partner. This would give rise to unspecified new export opportunities, but which are currently constrained by limits to OCT export capacity and diversification.
3. The precise degree and definition of OCT liberalisation vis-à-vis the EU and the EU's trading partner. This would also be subject to negotiation and vary from case to case. One would have to distinguish competition/competitiveness and net revenue effects. Cheaper imports would put pressure on OCT local industry, some of which might suffer negative consequences, but they would lead to lower costs for consumers and producers as a whole. Customs revenues might go down while alternative sources of revenue collection could increase, especially if revenue reform can be implemented.
4. The effectiveness of any capacity building measures.

An overview of the factors determining the likeliness of individual OCTs being included another EU trade agreement is given in 12.10.

Rules of Origin

The integration or association of OCTs to EU trade agreements that have been concluded or are under negotiation is likely to promote OCT insertion in their regional economic environments, as the rules of origin applicable to OCTs would be the same as those applying to their neighbouring countries or regions, within the joint set-up of the FTA or EPA in question. Trade between the countries and territories included in the agreement is likely to increase as cumulation possibilities could provide an incentive to set up regional production chains. Such benefits would most likely accrue to larger OCTs, such as New Caledonia, French Polynesia, Aruba and Curaçao.

However, these beneficial effects may not come about if the rules of origin are not adapted to the specific needs and sensitivities of the OCTs concerned. When joining an EPA or FTA, OCTs would be submitted to a set of rules of origin which were negotiated without them in mind. Thus, and unless the OCTs would be able to reach an understanding with other trade partners and address a common request to the EU for a review of the rules of origin that were negotiated, the OCTs would have to comply with rules of origin which may not be fully adapted to their specific situation. However, a few strategic adaptations might go a long way in meeting OCT interests given the limited range of their exports.

The improved **product specific rules** under the EPAs would offer OCTs improved or new export opportunities in the fishery, agricultural and textile sectors. In its reply to the trade questionnaire on specific trade interests, which the European Commission sent to OCTs and their Member States in the Summer of 2011, the British Virgin Islands indicated to have an interest in developing textile and garment production. However, for other products of interest to the OCTs, the EPA rules may still be too stringent. Consequently, regional integration in an EPA may therefore offer only limited advantages and might not compensate the adjustment costs and other costs attached to membership of these agreements (reform of tariff and revenue policy, etc.).

Some of the conditions laid down in the **general provisions** would be improved under the regime of an EPA or FTA. Under the EPAs the definitions of *wholly obtained products* and *minimal operations* would also be improved for OCTs. Neither change would have a major impact, apart from the increased transparency and user friendliness they have introduced. For *fish caught outside of territorial waters* it would no longer be necessary for the crew to have the nationality of an OCT, an ACP country or an EU Member State. This would make it easier for OCTs to comply with the rules in the case of EPAs or other relevant FTAs where such a rule exists. As the **certification of origin** would still be undertaken by OCT authorities, OCT exporters would continue to face high compliance costs. However, the alternative system of exporter certification might also be introduced, at least under rules of origin review for the EPAs. In any event it will remain untested until 2017.

It remains to be seen whether by including them in the Pacific EPA the OCTs in the region would be able to really benefit from the global sourcing provision. In order for this to happen, French Polynesia and New Caledonia, the two OCTs most likely to benefit from this provision, would need to invest in the development of fish processing industries. The profits which such operations could generate may not be substantial enough to offset the costs of setting up the industries themselves and/or the costs linked to membership of the EPA.

Where the Pacific OCTs would be able to maximize the opportunities offered by the EPA and develop a fisheries and processing sector, the **social and economic impact** of their inclusion on the EU is likely to follow the same trends as the ones previously identified for this specific EPA. The inclusion of OCTs in the Pacific EPA could contribute to attracting EU investment in the Pacific OCTs and the region. Such investment may lead to a decrease in investment in other markets where the EU is established (GSP+ and ACP countries) in order to create liquidity for investment and reinforce the shifting trend in supply for the EU industry.

The EU's tuna processing industry could benefit from policy option 4 if it would lead to more favourable supply conditions of raw materials (OCTs and Pacific ACP countries would be competing for the same supply in a scenario of limited tuna stocks), a competitive workforce in the OCTs and a certain vertical integration of the different industries. If policy option 4 would lead to these developments, it could result in a controlled flow of tuna exports to the EU, notably of tuna loins, that would supply the EU processing industry. Thus, the impact on employment for the EU tuna processing industry would be limited as the situation in this sector depends on the degree of concentration of the loins processing and the economies of scale that could be created. However, these developments might negatively affect the EU fleet (operating in the Atlantic and Indian Oceans) providing frozen tuna to the EU processing industry (as opposed to tuna loins).

In a more negative scenario, the EU's tuna harvesting and processing industries could both be negatively impacted through job loss and the closing of factories in certain EU Member States and the cessation of production activities.

The wide range of **cumulation** possibilities under the EPA would not only allow the OCTs to maintain and develop their current trade links with ACP countries and the EU, but also may offer the opportunity to develop economic relations outside of this group (e.g. Central and Latin America) and engage in regional production of goods aimed at the EU market, at the condition that this possibility is explicitly foreseen in the EPA. However, the two EPAs

which are of most interest to the OCTs, the Caribbean and Pacific EPAs, do not include such possibility. Thus, the potential benefits of this kind of measure would only materialise for OCTs if and when in the future the parties to these EPAs would decide to have it included in their agreement. Until that date, the Caribbean EPA offers the possibility of cumulation with neighbouring developing countries (in Latin America) on request.

The effects of a possible, but currently unlikely inclusion of Saint-Pierre et Miquelon in the CETA with Canada, would have no noticeable impact beyond the one described in the Sustainability Impact Assessment that was made of the CETA negotiations¹¹⁹. As indicated above, the impact of this agreement on EU overall employment is likely to be limited.

The impact of including Greenland in the same agreement might have a bigger impact. Although Greenland already has duty free quota free access to the EU market seemingly it has resorted in the past to derogations on rules of origin in order to have access to more competitive Canadian raw materials. Taking into account that Greenland has a consolidated performing shrimp industry, the EU as its primary market for fishery products, a large volume of competing fishery exports to the EU, a vertically integrated industry, economies of scale, a large share of the EU imports for some fishery products, existing EU distribution networks in combination with the additional advantage of its relatively close proximity to the EU market, the social and economic impacts on the EU of a possible cumulation with Canada could be larger than the ones estimated in the external study mentioned above. In this regard, in terms of employment, the impact could be negative for the EU producers of like products. This impact may be more pronounced in a number of EU Member States which are already experiencing difficulties as a consequence of such imports (including full cessation of activity in some sectors, reduction of production activities in other countries combined with drop in prices). Inversely, the impact for the EU fish processing industry is likely to be positive in terms of supply and probably in terms of employment depending of the presentation of the final product.

As regards **derogations**, the absence in the Caribbean EPA of the provision allowing the granting of the derogation when the threshold of 45 % OCT/ACP added value to the non-originating materials is met, is likely to make it more difficult for Caribbean OCTs to be granted the derogations, compared to the current rules of origin.

Services and Establishment

The inclusion of OCTs in EPAs or FTAs would entail OCT-specific services commitments both vis-à-vis third countries and the EU. Apart from legal considerations, capacity constraints both for negotiations as well as for implementation of the commitments would be a real concern for most OCTs as negotiations regarding trade in services and establishment are very burdensome and time consuming.

The treatment given by OCTs would have to be negotiated with multiple partners (EU and third partners) and for each OCT separately. This would mean double negotiations for OCTs as they would have to decide which treatment they give to the EU as well as which treatment they would give in every sector for the other partner(s). Furthermore, as the third partner(s) would have to extend to the OCTs the treatment it gives the EU – an amendment

¹¹⁹ KIRKPATRICK et al. (2011).

to the initial agreement in which it may not have a high interest – this treatment would probably have to be renegotiated as well to compensate for the inclusion of OCTs.

This means that three sets of negotiations would have to be foreseen regarding:

- the concession OCTs would need to make towards the EU
- the concessions they would need to make towards the other partner(s)
- the concessions the EU would need to make towards the other partner(s) in exchange of the inclusion of OCTs

Market access commitments would probably improve both for OCTs and their FTA/EPA partners. As the negotiating leverage of OCTs would be low, it could be that OCTs would have to take more extensive commitments than the other partner – unless the concerned Member States would agree to compensate for this themselves; which is unlikely given the already far reaching liberalisations they have offered in bilateral contexts.

Hence, the **economic and social impacts** of this option would depend on the outcome of a hypothetical negotiation and actual additional market opening occurring in addition to current autonomous liberalisation. OCTs would benefit from further opening of the EU market and other markets their service providers and investors both in the services and non-services are as. However, implementing these commitments in the long list of services sectors could be very costly. Also, as the interest of investors of neighbouring countries in OCT markets is likely to be higher than the interest of EU investors, OCTs opening their market for the neighbours might bring in more foreign direct investment or temporary service providers, depending on which and how many sectors every OCT will choose to liberalise.

As mentioned above, OCTs suffer from low administrative capacity for negotiations and low negotiating leverage, meaning that close cooperation and support with the Member States to which they are linked would be needed also during negotiations with neighbouring partners in order to ensure WTO compatibility of all agreements and to avoid liberalisation of sectors where domestic regulation has not been sufficiently developed to ensure consumer protection in sectors such as financial services, health, education, tourism etc.

The **environmental impact** of opening to a neighbouring country could also be potentially higher than when opening to the EU alone, as for the latter one could expect that the preferred mode of supply would be the so called mode 1, i.e. cross-border trade over communication channels, while for neighbouring countries actual movement of people and resulting transport related impacts can be expected. The net impact (compared to the status quo and the improved arrangements under option 3) would differ by OCT, the agreement to which it would be associated and the situation in the OCTs in specific services sectors prior to negotiations.

Trade Related Cooperation and Support

While this policy option 4 may stimulate the integration of OCTs in regional cooperation, it could lead to OCT priorities and needs being given less attention as the trade agreements were conceived with other trade partners in mind. The concerns of the bigger trade partner(s), and in case of the EPAs, the developing partners would likely dominate the

trade related cooperation. For those OCTs that would join or would be associated to a trade agreement, policy option 4 would come down to the end of the privileged relations between the OCTs and the EU. This would be the case for all OCTs if policy option 1 would be retained for those for which integration into another agreement would not be possible.

Those OCTs that would join EPAs would gain access to nominally larger amounts of financial assistance under the 11th European Development Fund, but they would have no guarantee that sufficient financial resources be dedicated to cover their needs as, here as well, the interests of the bigger partners and the developing countries may prevail. This effect may be counteracted if the OCTs would ally themselves within their region with the ACP States such as Antigua and Barbuda, Fiji, Guyana and Palau, which are Small Island Developing States and face similar challenges as the OCTs¹²⁰. While gaining access to these funds, the OCTs would be cut off from potential other sources of financing from which they benefitted under the OAD, such as the internal horizontal programmes and budget lines of the EU. This would be the case as well for OCTs that would be integrated or associated to trade agreements. However, for them this loss would not be compensated by access to additional funds under external programmes covering their region.

Policy option 4 might therefore not be conducive to strengthening the OCT capacities to exploit market access opportunities in the EU and thus to close economic ties between the OCTs and the EU. It could have a positive impact on the OCTs' trade relations with their developing and developed countries, but these benefits might be offset by the costs which adhering to the agreement might bring.

Via the inclusion of the OCTs in the trade and trade related dialogue with other trade partners and providing support, the EU could continue to have influence on OCT policies, regulatory models and the like, albeit in a less direct manner. Implementation of policy option 4 would mean that OCTs would mainly be considered as external stakeholders and not as outposts of the EU in the world.

Legal and Policy Framework

By integrating or associating OCTs to other trade agreements, some of the objectives of the OCT/EU association might be met. However, this would be done outside of the association as such. If for those OCTs for which integration into another trade agreement would not be an option, policy option 1 would be retained, then the combined effect of both policy options would be the end of the OCT/EU association.

By integrating OCTs in other trade agreements the associated countries and territories with constitutional links to Member States would legally and effectively cease to be OCTs. As the implementation policy option might result in the EU having to work out solutions for setting up three different types of relations of a group of more than twenty entities, the legal process would be very complicated and is also likely to result in confusion as regards to their status and that of their inhabitants. Certain rules currently contained or being considered in the different agreements might not apply to OCT inhabitants to the extent that they are EU citizens. Thus, the implementation of policy option 4 could amplify the tension that exists between the territorial and personal scope of the TFEU.

¹²⁰ For the UN list of Small Island Developing States, see: <http://www.un.org/special-rep/ohrlls/sid/list.htm> (accessed 04/11/2011).

While some OCTs might win in the process, those OCTs for which integration is not an option could lose out, if the alternative option is discontinuation of the association. However, if option 2 or 3 could apply to those OCTs remaining outside the EU's agreements, the impacts would be as described above.

Implementing this policy option might translate some of the political orientations regarding the revision of OCT/EU relations which the Council laid down in its conclusions (16710/09) of 22 December 2009 in endorsement of the three objectives proposed by the Commission in its Communication COM(2009) 623, but not in the form foreseen.

7.4. Weighing of the Policy Options

Effects	Option 1 Discontinuation		Option 2 Roll Over		Option 3 Improved Asymmetric Relations		Option 4 Other Trade Relations	
Overall objectives of the OAD								
OCT sustainable social & economic development	Mark	--	Mark	0 / -	Mark	++	Mark	+ / -
	Loss of privileged EU market access may adversely affect the OCTs' socioeconomic development; no clear impact on the environment; no support to mitigate the impacts		Free market access to the EU & untargeted cooperation & support are maintained; but this may not be sufficient to prevent stagnation or worsening of the OCTs' socioeconomic development no clear impact on the environment unless dedicated support is foreseen		Improved market access conditions (amongst others through simplified trade rules) for goods & services & targeted support could contribute to maintaining OCT growth & socioeconomic development; no clear impact on the environment unless dedicated cooperation & support is foreseen		OCTs inserted in regional economic environment, cooperating with the EU & neighbouring countries; may have positive impacts on the socioeconomic development of the OCTs involved but not for those OCTs left or staying outside such arrangements; no clear impact on the environment unless dedicated cooperation is foreseen in the FTA	
OCT/ EU economic ties	Mark	--	Mark	+ / 0 / -	Mark	++	Mark	+ / -
	Loss of preferences is likely to affect OCT exports to the EU, thus weakening economic ties		OCTs continue to benefit from export opportunities in the EU market; increase of exports and economic ties possible if trade is a political priority for cooperation; risk of stagnation & worsening of relative position viz. their competitors (preference erosion)		Improved market access conditions may allow OCTs to better exploit existing export opportunities & explore new economic activities; targeted cooperation & support facilitate this process of strengthening OCT/EU economic ties		OCT insertion in an agreement with the EU & third partner(s) likely to affect & alter OCT/EU economic ties, depending on the effects of trade reciprocity with the EU & third partners respectively: substitution of OCT trade with the EU by regional trade or increase of OCT trade with the EU	

Effects	Option 1 Discontinuation		Option 2 Roll Over		Option 3 Improved Asymmetric Relations		Option 4 Other Trade Relations	
Overall objectives of the OAD (ctd.)								
OCT competitiveness	Mark	--	Mark	+ / 0	Mark	++	Mark	+ / -
	Increased loss of competitiveness due to loss of both preferences and cooperation with the EU		Possibility to maintain or increase competitiveness if trade is a political priority for cooperation, but not because of improved market access conditions		Increased competitiveness through improved market access conditions & targeted cooperation & support		Positive or negative effects on competitiveness depending on whether or not FTA allows them to exploit their advantages & adapt to increased competition from both EU and third countries, which may work with lower wages and standards	
OCT resilience	Mark	--	Mark	+ / 0	Mark	++	Mark	+ / -
	Increased vulnerability to economic shocks due to loss of both preferences and cooperation with the EU		Possibility to stimulate resilience if trade is a political priority		Improved market access & cooperation & support may contribute to OCT capacity to deal with economic shocks		OCT insertion in an agreement with the EU & third partner(s) may diversify export markets and products, but greater trade openness may also increase vulnerability or lead to adjustment	
General objectives trade and economic cooperation								
OCT regional integration	Mark	+ / -	Mark	+ / 0 / -	Mark	+	Mark	++
	May lead to OCT/EU trade relations being replaced by other trade relations including regional ones		No real stimulus for OCTs to engage with their neighbours, unless dedicated cooperation & support is foreseen		Aligning of OCT rules of origin with other sets of rules of origin & dedicated cooperation & support may stimulate regional integration		OCTs fully inserted in a coherent integration scheme	

Effects	Option 1 Discontinuation		Option 2 Roll Over		Option 3 Improved Asymmetric Relations		Option 4 Other Trade Relations	
General objectives trade and economic cooperation (ctd.)								
OCT economic diversification	Mark	--	Mark	+ / 0 / -	Mark	++	Mark	+ / -
	Reduced export opportunities are a disincentive to develop new sectors; no support available to do so		No fresh incentive for OCTs to make use of existing market access opportunities in the EU & other markets to develop new sectors & products to be exported to the EU; unless dedicated cooperation & support is foreseen		New export opportunities in the EU would present themselves to OCTs, allowing them to explore & possibly develop new sectors; with possible EU support		Positive impacts where the insertion of OCTs in the regional economic environment & increased reciprocity lead to the OCTs being able to develop new markets & products; possibly negative impacts if there is no regional demand for OCT products & increased competition on other products following regional liberalisation	
OCT export/trading capacity	Mark	--	Mark	+ / 0	Mark	+	Mark	+ / -
	Reduced market access may affect OCT export & trading capacity, which would be no longer supported		No fresh impetus for OCT trading capacity; unless dedicated cooperation & support is foreseen		Targeted cooperation & support may positively impact OCT trading capacity		Depends on the content of the cooperation & support provided by the EU and possibly arrangements negotiated with the third partner(s)	
Convergence with EU acquis	Mark	--	Mark	+ / 0	Mark	+	Mark	+
	In the absence of cooperation & support, no EU involvement in OCT policies or legal frameworks		Where trade & trade related matters become part of the OCT/EU cooperation, the EU may stimulate convergence of OCT legislation with the EU acquis		Targeted support could be made available to help OCTs to upgrade legislation in relevant areas in line with the EU acquis		Targeted support could be made available to help OCTs to upgrade legislation in relevant areas in line with the EU acquis, which may also be promoted through the trade agreements involved	

Effects	Option 1		Option 2		Option 3		Option 4	
	Discontinuation		Roll Over		Improved Asymmetric Relations		Other Trade Relations	
Policy Context								
Alignment trade & economic cooperation/developments EU trade policy	Mark	--	Mark	-	Mark	++	Mark	++
	Third country treatment would go against the trend in EU trade policy to strengthen trade & economic cooperation with its privileged partners		OCT trade & economic cooperation may not be in tune with the latest developments in EU trade policy		OCT trade & economic cooperation would be in tune with the latest developments in EU autonomous trade policy		OCT trade & economic cooperation in tune with the latest developments in EU bilateral trade policy	
Promotion of mutual interests & reciprocity	Mark	--	Mark	0	Mark	+	Mark	++
No mutual interests defined		Notions of mutual interests & reciprocity would remain underdeveloped due to lack of focus		Activation of certain parts of the association's trade & economic cooperation, as well as greater targeting of that cooperation through the adoption of a work programme could lead to greater reciprocity, better identification of mutual interests (e.g. raw materials)		EU trade agreements provide a coherent framework for dialogue & cooperation regarding mutual interests on a reciprocal basis		
Facilitation of the OCT/EU dialogue on trade	Mark	--	Mark	+ / 0	Mark	+	Mark	+ / -
No dialogue mechanisms would be foreseen		Dialogue on an ad hoc basis would be maintained		Joint work programme would provide focus & facilitate exchanges		OCT concerns may or may not be well reflected in the dialogue in foreseen in the relevant trade agreements		
Adaptation to particularities of the OCT/EU relations	Mark	--	Mark	0	Mark	+	Mark	+ / -
	Unadjusted treatment, given the socio-economic difficulties & fragility of OCTs		Concerns about OCT/EU association not being enough adapted to OCT particularities		Particularities of OCT/EU relations would be better reflected		OCT insertion in an agreement with the EU & third partner(s) and reciprocity would reflect regional realities but would not be adapted to the needs of most OCTs; OCTs included in a regional trade agreement would have to compete for attention	

Effects	Option 1 Discontinuation		Option 2 Roll Over		Option 3 Improved Asymmetric Relations		Option 4 Other Trade Relations	
			Policy Context (ctd.)					
	Mark	--	Mark	+ / 0	Mark	+	Mark	+
Facilitation of synergies with other EU policies	No synergies with other EU policies		Policy coherence would be ensured through OAD implementation; ad hoc synergies through OCT participation in horizontal programmes		Policy coherence would better be ensured through the OAD text and implementation; active facilitation synergies through promoting OCT participation in horizontal programmes		Coherence with the EU's bilateral trade policy would be actively pursued. No OCT participation in internal horizontal programmes, except for those open to individual EU citizens, OCT eligibility for external horizontal programmes	

7.5. Preferred Option

Based on the analysis and comparison of the different policy options above, **policy option 3** seems to be the policy option that, for OCTs as a whole, would best reflect:

- (a) the purpose and overall objectives of the OCT/EU association as set out in Part IV of the TFEU and as suggested in Council Conclusions (16710/09) on the EU's relations with OCTs;
- (b) the general objectives for OCT/EU trade and economic cooperation into which the association's purpose and overall objectives are translated;
- (c) the shared ambition of OCTs and the EU to modernise the OCT/EU association, and to establish a more reciprocal partnership, based on mutual interests and taking into account the various structural challenges OCTs face (see Chapter 2).

Other policy options would not translate these objectives as well as policy option 3. Neither would they present as good a balance of social, economic and environmental impacts as policy option 3.

Policy Option 1: Possibly Contrary to OCT sustainable development

Contrary to policy option 3, policy option 1 is unlikely to contribute to achieving the overall objectives of the OAD and the general objectives of OCT/EU trade and economic cooperation; unless one would assume that these objectives would be reached by the sudden exposure of OCT economies to increased competition by discontinuing trade preferences and cooperation, which would force OCT governments to review their economic policies in view of maintaining the competitiveness of OCT businesses. The inherent structural problems OCTs face, such as the size of their populations and economies and the limited capacities available to them, suggest that such a scenario is unrealistic.

Instead, it is more likely that policy option 1 would negatively impact the position of OCTs in global, regional and EU markets. Due to the loss of preferential access to the EU market, OCT exports to the EU are likely to fall, with all possible negative impacts on employment that this might entail. Thus, rather than providing the necessary levers for promoting the sustainable social and economic development of OCTs, policy option 1 would more likely result in a declining social and economic trend for OCTs.

Indirectly, policy option 1 could have a positive impact on regional cooperation as OCTs might want to replace the OCT/EU association by cooperation schemes with other third partners. Where this would occur, the most vulnerable OCTs could be left in the cold for lack of sufficient assets which would make them interesting as a partner to cooperate with. In the absence of a framework for OCT/EU dialogue, policy option 1 would also entail that the EU would not be able to promote its values and interests in the world via its relations with OCTs. As it would not actively engage with OCTs, the EU would not be involved in OCT trade related policies in which it may have a particular interest, such as the access to raw materials or the respect of labour standards.

Policy Option 2: Likely to Lead to Stagnation

As was discussed in Chapter 5, the present OCT/EU association arrangements have proven to be beneficial for OCT social and economic development, by providing free access to the large EU market and the possibility of support for exploiting the wide range of export opportunities this represents. An external evaluation study that was conducted in 2011 found that the OCT/EU cooperation in the period 1999-2009 to have been coherent with both the association's objectives and the OCTs' political priorities and concluded that no marked contradictions or inconsistencies had occurred between OCT/EU cooperation and other EU policies. In light of this assessment, policy option 2 could legitimately be considered as a valid option for the future OCT/EU association relation.

However, the present arrangements for the OCT/EU association date back to 2001, and underwent only some small amendments in 2007. Since then, the trade and economic environments in which OCTs operate have been changing substantially with the multiplication of free trade negotiations and agreements by major trading countries and blocks such as the EU, the US and Canada (thus contributing to OCT preference erosion) and the corollary progress of international cooperation of trade related areas such as public procurement, intellectual property rights and sustainable development. While the present OCT/EU association arrangements already provide opportunities for the OCTs and the EU to cooperate on these issues, these are either rudimentary or largely remain inactive.

Rolling over the present OCT/EU arrangements might not also be fully consistent with the increased emphasis that has been put on the necessary coherence between EU external and internal policies following the entry into force in December 2009 of the amendments to the Treaties on the European Union and on the Functioning of the European Union that were introduced by the Lisbon Treaty. Policy option 2 would not be fully in line with the Europe 2020 Agenda that was adopted in March 2010 as it would mean that rather than introducing a more reciprocal partnership, in which EU interests could be better taken into account, the donor/beneficiary rationale which has traditionally underpinned OCT/EU relations would be maintained.

While it would be possible to work towards the achievement of the three central objectives of competitiveness, resilience and cooperation under policy option 2, this would have to be done without OCTs being able to benefit from some of the innovative elements that were recently introduced or are considered to be in other fields of EU trade policy: improved market access conditions through a reform of the rules of origin, a reduction of non-tariff barriers or further EU market opening in the services sectors. While OCTs would not benefit from these innovations, other EU partners, including OCT competitors would. Consequently, the positive effects that for instance OCT/EU cooperation on trade and trade related issues may have on OCT competitiveness may be cancelled out by the OCTs' loss of relative competitiveness vis-à-vis other EU trade partners. Hence, policy option 2 could be an option in which OCTs would stagnate economically and socially, rather than maintaining the status quo.

Policy Option 4: Theoretically Possible Only for a Few

Though it would be a possibility to consider policy option 4 for structuring the future OCT/EU trade relations, it is unlikely that it could constitute a systemic solution covering

all OCTs. Instead, it would likely be a policy option that would benefit only a few OCTs. Implementation of this policy option would be subject to the following conditions:

- (a) OCT political commitment to regional cooperation and integration and their long term anchoring in their regional economic environment;
- (b) OCT economic interest in regional cooperation and integration;
- (c) legal and institutional limits to OCT integration;
- (d) EU and third partner political will to promote OCT inclusion in other EU trade agreements.

As discussed in Chapter 3 of this paper, OCT engagement with their neighbours and interest in further regional cooperation and integration is uneven. Montserrat, for instance, is deeply involved in regional cooperation and integration processes in the context of the OECS and CARICOM and has repeatedly expressed an interest to take further steps. However, other OCTs have no opportunities and/or interest in taking part in regional cooperation, amongst others due to their remoteness (e.g. Saint Helena, Ascension Island and Tristan da Cunha) or for other reasons, including political reasons (Falkland Islands).

The OCTs' own economic analysis would also be determinant in their choice in favour of inclusion in other EU trade agreements. OCTs might, at the end of the day, come to the conclusion that the costs of membership of another EU trade agreement outweigh the benefits of this membership. In those cases where OCT and third partner political interests and economic analyses would meet, policy option 4 may effectively contribute to the overall objectives of the OCT/EU association and its trade and economic cooperation component; even if it would be implemented by other means than the type of arrangements currently provided in the OAD.

As explained in the sections of this chapter regarding policy option 4, its implementation would be a heavy and complex process for OCTs, their Member States, the EU trade partner(s) and the EU alike. This process would have to be reiterated for every single trade agreement that would need to be amended to include specific OCTs. Those OCTs that would be included in one of the EU's other bilateral agreements might run the risk of facing heavy competition by the larger trade partner(s) for having their voices heard and concerns taken into account.

In addition, the compatibility of policy option 4 with EU and international law would need to be checked. The substantial overhaul of OCT/EU relations that this option would imply might mean that an effective end would be put to the current association to the EU of the OCTs concerned. Thus, policy option 4 may lead to a multiplication of the types of trade relations the EU would maintain with OCTs; even if this would be mitigated by their insertion in existing trade agreements.

Finally, a variant of this option, which would combine the possible benefits of policy options 3 and 4. It would consist of the OCTs, represented by their Member States, negotiating free trade agreements with the EU's trade partner(s), independently from the agreement the latter has with the EU. This would create a trilateral trade configuration, wherein the OCTs would continue to benefit from the treatment grants them on the one hand and the one they get from the other third partner(s) on the other. In this scenario, OCT concessions would only have to be made towards the third partner(s). Such

negotiations would not involve the EU and thus the ramifications of this scenario have not been taken into account in the context of this paper.

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ANNEX 12.1: OCT/EU IMPORTS & EXPORTS (2010)

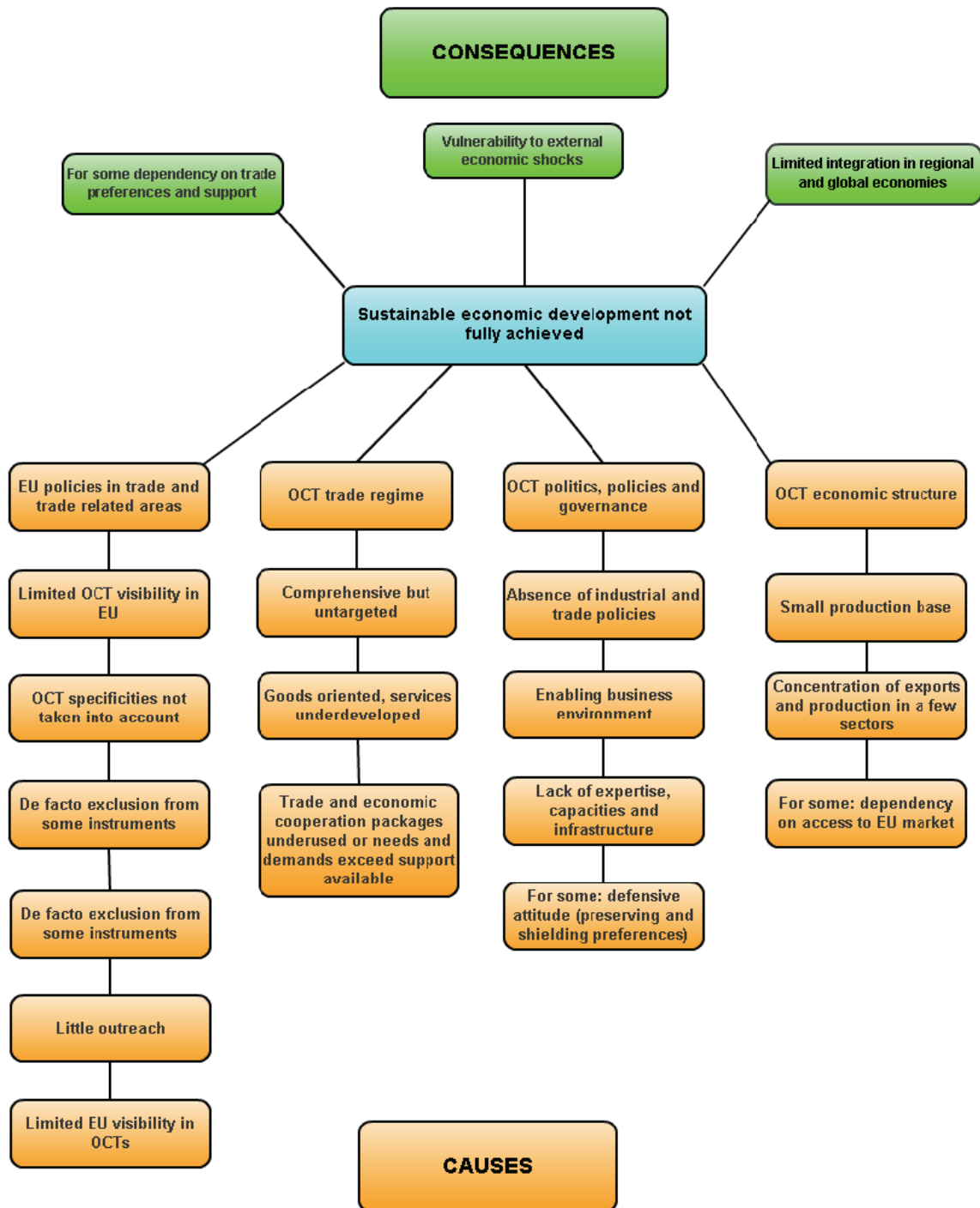
EU 27 IMPORTS FROM OCTs IN 2010 (values in 1000 EUR)

	tariff line	Anguilla	Aruba	Cayman Islands	Falkland Islands	French Polynesia	Greenland	Mayotte	Montserrat	Netherland Antilles	New Caledonia and dependencies	Pitcairn	Saint Helena and dependencies	Saint Pierre and Miquelon	Turks and Caicos	Virgin Islands (British)	Wallis and Futuna
01	live animals					2	1			5	9						
02	meat and edible meat (...)				1.226	0	142				564						
03	fish and crustaceans, molluscs and other aquatic invertebrates			25	108.564	2.573	203.022	2.767		20.878	1.666		91	1.328			
04	dairy produce; birds' eggs; natural honey;(...							0			0	24					
05	products of animal origin (...)					9	66	1						1			
06	live trees and other plants; bulbs, roots and the like (...)			1		18					7				4		
07	edible vegetables and certain roots and tubers					16		21	2	19	0				2		
08	edible fruit and nuts; peel of citrus fruits or melons		11			10	0			1							
09	coffee, tea, maté and spices					952				34	61				3	14	
10	cereals		62							1							
11	products of the milling industry; malt; starches; inulin (...)							12		1							
12	oil seeds and oleaginous fruits; miscellaneous grains (...)					19				0	31						
13	lac; gums, resins and other vegetable saps and extracts			25		26										33	
14	vegetable plaiting materials; vegetable products (...)					0											
15	animal or vegetable fats and oils and their cleavage products (...)					4.196	1										
16	preparations of meat, of fish or of crustaceans, molluscs (...)					1	91.566				0						
17	sugars and sugar confectionery									5.429							
18	cocoa and cocoa preparations		0							0	1						
19	preparations of cereals, flour, starch or milk (...)		0	2		0	1			9	7						
20	preparations of vegetables, fruit, nuts or other parts of plants		3			1.092				6	9						
21	miscellaneous edible preparations		0	30		0				31							
22	beverages, spirits and vinegar	303	51	0		360	159	0		801	85					0	
23	residues and waste from the food industries (...)		6														
24	tobacco and manufactured tobacco substitutes			0						0							
25	salt; sulphur, earths and stone; plastering materials (...)		0		3	11	4.542	1		1.504	0				111	31	
26	ores, slag and ash										125					65	
27	mineral fuels, mineral oils and products of their distillation (...)		1.379	14			3	13		31.519						2.847	
28	inorganic chemicals (...)						0			220	1		14				
29	organic chemicals		0							2	1					539	
30	pharmaceutical products		189		0	10	4	13	1	52	68					3	
31	fertilisers		3													288	
32	tanning or dyeing extracts; tannins and their derivatives (...)		112	16		0				17	1					76	
33	essential oils and resinoids; perfumery, cosmetic preparations		1			998		288		384	1.436		5			1.021	
34	soap, organic surface-active agents, washing preparations (...)		0	0		14	3			515	9					70	
35	albuminoidal substances; modified starches; glues; enzymes									205							
36	explosives; pyrotechnic products; matches; pyrophoric alloys (...)							9									
37	photographic or cinematographic goods					7	0	10		1	31						
38	miscellaneous chemical products		149		0	2	5	10	67	127	37					16	
39	plastics and articles thereof	0	21			23	16	3	17	14	50		32	2		92	
40	rubber and articles thereof		0	2		5	18	2	8	17	292		3			33	
41	raw hides and skins (other than furskins) and leather						73				36					9	
42	articles of leather; saddlery and harness; travel goods (...)		44	0		0	25			39	19	4			3	47	
43	furskins and artificial fur; manufactures thereof						784										
44	wood and articles of wood; wood charcoal	1	46			8		1		16	67		2			19	
45	cork and articles of cork																
46	manufactures of straw, of esparto or of other plaiting materials (...)					2					1						
47	pulp of wood or of other fibrous cellulosic material (...)		6													3.502	
48	paper and paperboard; articles of paper pulp (...)		1	2		11	1	1		9	15					69	
49	printed books, newspapers, pictures and other products (...)	1	2	15		73	48	20		37	27	0	4		4	23	0
50	silk																
51	wool, fine or coarse animal hair; horsehair yarn and woven fabric				1.339	1	37										
52	cotton						3										
53	other vegetable textile fibres; paper yarn (...)																
54	strip and the like of man-made textile materials					0							4				
55	man-made staple fibres										1						
56	wadding, felt and nonwovens; special yarns; twine, cordage (...)										16				2	19	
57	carpets and other textile floor coverings										0						
58	special woven fabrics; tufted textile fabrics; lace; tapestries (...)			0												1	
59	impregnated, coated, covered or laminated textile fabrics (...)									0	0		6			4	
60	knitted or crocheted fabrics														0		

EU 27 EXPORTS TO OCTs IN 2010 (values in 1000 EUR)

	tariff line	Anguilla	Aruba	Cayman Islands	Falkland Islands	French Polynesia	Greenland	Mayotte	Montserrat	Netherland Antilles	New Caledonia and dependencies	Pitcairn	Saint Helena and dependencies	Saint Pierre and Miquelon	Turks and Caicos	Virgin Islands (British)	Wallis and Futuna Islands
01	live animals		5	7	3	7	0	92		5	45		1				
02	meat and edible meat (...)		1.580	1	468	4.699	12.714	9.643			5.435	289	237	18	1	278	1.027
03	fish and crustaceans, molluscs and other aquatic invertebrates		565	29	54	883	9.659	397		20.878	1.027		4	0		1	2
04	dairy produce; birds' eggs; natural honey;(...)		6.686	163	326	14.022	10.959	5.632			11.482		116	1.137	86	299	93
05	products of animal origin (...)		5	0		167	21	30			125						0
06	live trees and other plants; bulbs, roots and the like (...)		127	61	11	45	186	0			177					1.072	
07	edible vegetables and certain roots and tubers		854	50	206	228	4.419	449		19	1.044		7	17		186	2
08	edible fruit and nuts; peel of citrus fruits or melons		44	5	20	187	4.422	510		1	1.035			7	30	3	5
09	coffee, tea, mat+ and spices		252	101	24	1.869	3.520	177	1	34	1.854		12	64	2	755	18
10	cereals		10		15	15	519	688		1	39			2			12
11	products of the milling industry; malt; starches; inulin (...)		550	17	22	4.261	1.903	878		1	1.527			3		12	16
12	oil seeds and oleaginous fruits; miscellaneous grains (...)		20	17	8	193	168	131		0	322		1	5		55	
13	lac; gums, resins and other vegetable saps and extracts		0		10	9	5	1	43		55						
14	vegetable plaiting materials; vegetable products (...)		7			27	19				11						
15	animal or vegetable fats and oils and their cleavage products (...)	2	108	23	55	4.566	1.062	1.251			3.743		43	17		22	80
16	preparations of meat, of fish or of crustaceans, molluscs (...)	9	1.312	117	284	6.486	9.456	1.543	10		13.983		185	421		53	491
17	sugars and sugar confectionery		753	29	92	2.351	5.049	212		5.429	1.484		6	46		28	27
18	cocoa and cocoa preparations	7	309	81	1.154	3.413	3.647	756		0	2.870		395	166	2	92	82
19	preparations of cereals, flour, starch or milk (...)	14	2.357	399	613	13.050	11.629	5.937	4	9	15.159		538	144	20	209	329
20	preparations of vegetables, fruit, nuts or other parts of plants	5	1.495	76	438	5.019	7.776	2.893	5	6	9.767		73	123	3	1.358	321
21	miscellaneous edible preparations	9	2.199	225	915	17.202	12.011	2.649	19	31	22.630		228	1.830	18	1.026	456
22	beverages, spirits and vinegar	819	39.912	6.130	1.510	18.191	11.744	6.345	386	801	25.520		279	1.466	1.801	3.981	562
23	residues and waste from the food industries (...)		821		87	3.872	960	718			3.404		32	7		133	15
24	tobacco and manufactured tobacco substitutes	1	350	25	389	1.707	6.173	2.209		0	1.689		55	8		3	349
25	salt; sulphur; earths and stone; plastering materials (...)		96	0	2.075	804	741	221	10	1.504	966		170	4	9	51	14
26	ores, slag and ash				1		75				33					1	
27	mineral fuels, mineral oils and products of their distillation (...)		153	503	15.593	1.094	146.992	1.189		31.519	3.161		18.413	5		879	3
28	inorganic chemicals (...)		41		234	993	887	867		220	750			5	12	125	23
29	organic chemicals		69	9	23	649	289	174		2	455		5	6		256	1
30	pharmaceutical products	48	5.247	2.284	642	64.542	11.931	17.471	12	52	72.842		448	1.782	1.070	613	727
31	fertilisers	22	91	70	142	574	280	24			804			4			0
32	tanning or dyeing extracts; tannins and their derivatives (...)	66	565	89	233	7.317	3.811	1.975	9	17	8.492	31	146	179		61	41
33	essential oils and resinoids; perfumery, cosmetic preparations	7	3.453	533	150	11.775	2.559	2.055	22	384	16.160		19	388	24	1.505	475
34	soap, organic surface-active agents, washing preparations (...)	16	689	53	172	8.970	8.088	2.991		515	9.946		155	414	11	159	333
35	albuminoidal substances; modified starches; glues; enzymes		227	2	1	561	285	102	0	205	677			19	3	781	2
36	explosives; pyrotechnic products; matches; pyrophoric alloys (...)		25		55	147	1.662	105			198		4			5	0
37	photographic or cinematographic goods	1	86		27	628	295	356		1	952			15		69	
38	miscellaneous chemical products	1	924	72	1.104	7.456	1.537	3.655		127	11.072		84	257	27	284	278
39	plastics and articles thereof	53	2.103	493	964	17.440	13.731	5.125	32	14	26.178	242	378	837	20	3.522	185
40	rubber and articles thereof	68	189	107	246	2.979	2.157	2.312	0	17	7.483		317	18	7	3.338	1
41	raw hides and skins (other than furskins) and leather		0		5	25	30	0			0			81			
42	articles of leather; saddlery and harness; travel goods (...)	1	2.332	142	26	1.007	678	220		39	2.540		6	31	2	435	17
43	furskins and artificial fur; manufactures thereof						127				1					16	
44	wood and articles of wood; wood charcoal	3	367	4	366	4.689	10.290	2.011	1	16	5.607		130	314	0	113	24
45	cork and articles of cork		0	0	4	13	28	1			16		0		7	4	
46	manufactures of straw, of esparto or of other plaiting materials (...)		1			13	16	4			33			3			
47	pulp of wood or of other fibrous cellulosic material (...)		0				5				0						
48	paper and paperboard; articles of paper pulp (...)	11	1.080	223	201	10.784	9.165	3.650	1	9	13.890		158	265	5	3.783	187
49	printed books, newspapers, pictures and other products (...)	100	843	874	243	8.513	3.929	2.086	11	37	10.814		7	268	154	685	7
50	silk						0				2						3
51	wool, fine or coarse animal hair; horsehair yarn and woven fabric				7	4	47				12						3
52	cotton		10	8	3	240	372	21			311			1		38	17
53	other vegetable textile fibres; paper yarn (...)					4	3	2	29		17						
54	strip and the like of man-made textile materials		11	44		170	46	2			119				2	37	
55	man-made staple fibres		16	4	9	309	79	3			203		1			142	
56	wadding, felt and nonwovens; special yarns; twine, cordage (...)		17	19	285	731	2.764	259			1.415		6	11	10	132	8
57	carpets and other textile floor coverings		3	38	53	174	311	95			800		8	25	84	81	1
58	special woven fabrics; tufted textile fabrics; lace; tapestries (...)		45	7	13	75	114	18			66			6		112	4
59	impregnated, coated, covered or laminated textile fabrics (...)		11	15		349	842	28		0	505			1	46	70	
60	knitted or crocheted fabrics	1	1			3	422	6			47						7

ANNEX 12.2: PROBLEM TREE OF THE OCT TRADE REGIME



Annex 12.3: OAD Provisions and Annexes Relevant to the OCT Trade Regime

Part./Title/Chapter	Article
Part II: Areas of Cooperation	
	Art.12: Trade development Art. 13: Trade in Services Art. 14: Trade Related Areas Art. 16: Regional Cooperation & Integration
Part III: Instruments of OCT-EC Cooperation	
Title II: Economic & Trade Cooperation	Art. 34: Objective
Chapter 1: Arrangements for trade in goods	Art. 35: Free Access for Originating Products Art. 36: Transshipment of Non-Originating Products Art. 37: Committee Procedure Art. 38: Quantitative Restrictions and Measures Art. 39: Waste Art. 40: Measures by OCTs Art. 41: Surveillance Clause Art. 42: Safeguard Measures Art. 43: Committee Procedure
Chapter 2: Trade in Services & Rules of Establishment	Art. 44: General Objective Art. 45: General Principles of Establishment and the Provision of Services Art. 46: Maritime Transport
Chapter 3: Trade-Related Areas	Art. 47: Current Payments and Capital Movements Art. 48: Competition Policies Art. 49: Protection of Intellectual Property Rights Art. 50: Standardisation & Certification Art. 51: Trade & the Environment Art. 52: Trade & Labour Standards Art. 53: Consumer Policy & Consumer Health Protection Art. 54: Prohibition of Disguised Protectionism
Chapter 4: Monetary & Tax Matters	Art. 55: Tax Carve-Out Clause Art. 56: Tax & Customs Arrangements for EU Funded Contracts
Chapter 5: Vocational Training, Eligibility	Art. 58: Programmes Open to OCTs (notably those listed in Annex II F) Art. 59: Euro Info Correspondence Centres

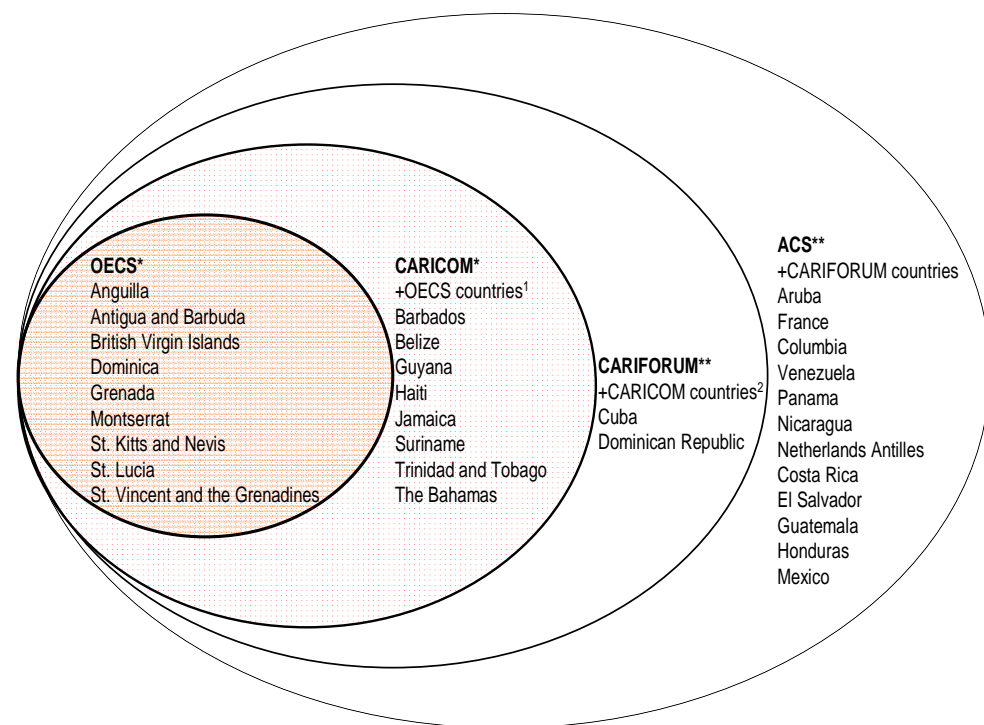
for EU Programmes & Other Provisions	Art. 60: CDE & CTA
Annex II: EU Financial Assistance to OCTs	
Annex III: Rules of Origin	
Annex IV: Transshipment	

ANNEX 12.4: TRADE AND TRADE RELATED AREAS OF COOPERATION IN ARTICLES 12, 13 AND 14 OF THE OAD

Trade Development (Art. 12)	Trade in Services (Art. 13)	Trade Related Areas (Art. 14)
Support for developing the necessary macroeconomic policies, trade strategies and the corresponding legislative frameworks	Support to developing trade related services: maritime transport, air traffic and telecommunications*	Support OCT capacities to handle all areas related to trade, including the institutional framework
Support to the development of trade related infrastructure, capacities, human resources, professional skills and intermediaries	Support to the formulation of sustainable tourism policies and the development of information systems on tourism	Cooperate on the promotion and protection of investments, support the formulation and development of policies and legal frameworks in the areas of competition and the protection of intellectual property (a.o. geographical indications)
Support to market development and exploration, product quality improvement	Support to the development in the field of tourism of markets, human resources & professional management capacities, marketing and branding measures, tourism infrastructure and tourism products, to measures encouraging investments	Support OCT efforts with regard to standardisation and certification, based on internationally agreed standards and norms, with specific attention to: quality management, metrology, conformity assessment and standardisation
Support to measures aimed at encouraging investments		Support OCT public and private capacity with regard to human, animal and plant health measures
Support to Least developed OCTs' participation in international trade fairs		Support OCT policies and capacities relative to consumer health protection
		Cooperate with OCTs on the mutual supportiveness of trade and environment policies and on trade and labour standards Support public and private sector efforts deployed in the field of information technology and telecommunications*
* Issues related to the OCTs' connectivity (transport infrastructure, telecommunications etc.) are subject of the part of the Impact Assessment dedicated to accessibility issues		

ANNEX 12.5: OCT MEMBERSHIP TO REGIONAL ORGANISATIONS

CARIBBEAN REGIONAL ARCHITECTURE



OECS: Organisation of Eastern Caribbean States

CARIFORUM: Forum of Caribbean ACP States

*Regional Integration Organisations

**Regional Cooperation Organisations

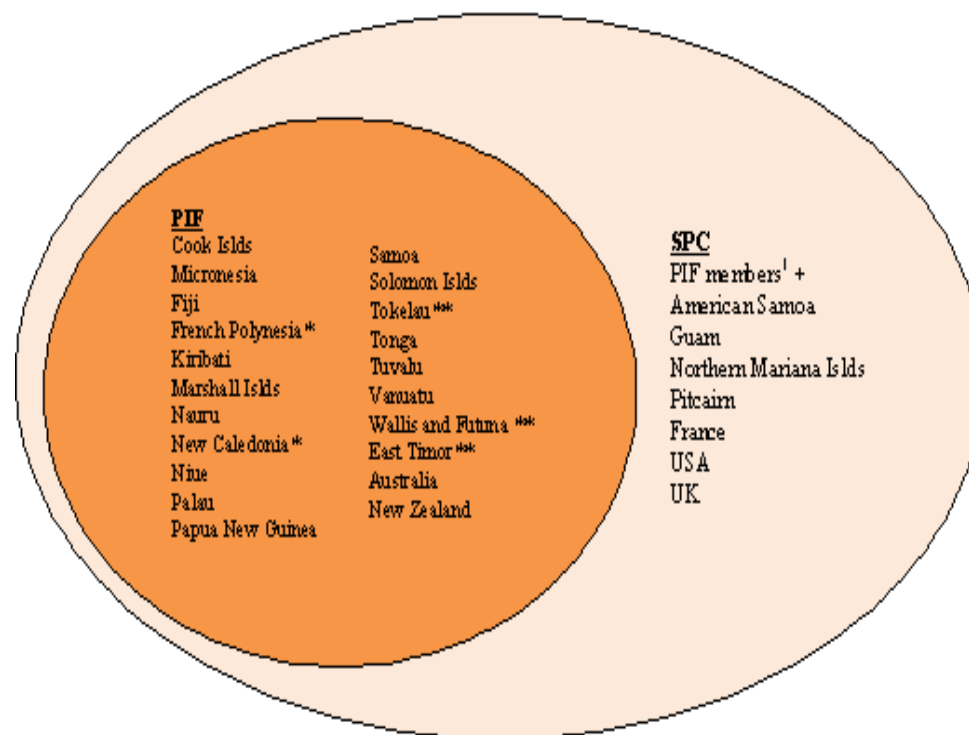
CARICOM: The Caribbean Community and Common Market

ACS: Association of Caribbean States

¹except Anguilla and British Virgin Islands

²except Montserrat

PACIFIC REGIONAL ARCHITECTURE:



PIF: Pacific Islands Forum

* Associate member

¹: Except East Timor

** observer

SPC: Secretariat of the Pacific Community

Source: European Community – Caribbean Region, *Regional Strategy Paper and Regional Indicative Programme 2008-2013*; Strasbourg, 15 November 2008

Source: Association of the Overseas Countries and Territories

INDIAN OCEAN AND ISOLATED TERRITORIES

Falkland Islands

None

Greenland

Member of the Nordic Council

Member of the Nordic Atlantic Cooperation and the West Nordic Foundation

Participant in the Arctic Council

Member of the Inuit Circumpolar Conference

Mayotte

None

Saint Pierre et Miquelon

None

Saint Helena, Ascension Island and Tristan da Cunha

None

ANNEX 12.6: WTO OBLIGATIONS OF OCTs - GREENLAND

Treaty	Denmark	Greenland
Marrakesh Agreement establishing the World Trade Organisation	x	x
Annex 1A: Multilateral Agreement on Trade in Goods	x	x
General Agreement on Tariffs and Trade 1994	x	x
Agreement on Agriculture	x	x
Agreement on the Application of Sanitary and Phytosanitary Measures	x	x
Agreement on Textiles and Clothing	x	x
Agreement on Technical Barriers to Trade	x	x
Agreement on Trade related Investment Measures	x	x
Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994	x	x
Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994	x	x
Agreement on Preshipment Inspection	x	x
Agreement on Rules of Origin	x	x
Agreement on Import Licensing Procedures	x	x
Agreement on Subsidies and Countervailing Measures	x	x
Agreement on Safeguards	x	x
Annex 1B: General Agreement on Trade in Services	x	x
Annex 1C: Agreement on Trade related aspects of Intellectual Property Rights	x	x
Annex 2: Understanding on Rules and Procedures Governing the Settlement of Disputes	x	x
Annex 3: Trade Policy Review Mechanism	x	x
Annex 4: Plurilateral Trade Agreements	x	x
Agreement on Trade in Civil Aircraft	-	-
Agreement on Government Procurement	x	-
International Bovine Meat Agreement	-	-

x: Covered by the Agreement

- not covered by the Agreement

Source: Denmark, Ministry of Foreign Affairs, reply to Commission trade questionnaire to OCTs and their Member States, October 2011

ANNEX 12.7: OCT TRADE INTERESTS

Current Markets	Respondents	% Respondents	Future Markets	Respondents	% Respondents
EU	9	82%	EU	9	82%
US	9	82%	US	8	73%
Caribbean	5	46%	Latin America	4	36%
Far East		36%	Far East	4	36%
Japan	3	27%	China	3	27%
Far East (other)	3	27%	Caribbean	3	27%
Pacific	2	18%	Canada	3	27%
China	2	18%	Japan	2	18%
Latin America	2	18%	Far East (other)	2	18%
Canada	2	18%	Pacific	1	9%
Europe (other)	1	9%	Europe (other)	1	9%
Oceania	1	9%	Oceania	1	9%
			Middle East	1	9%
			Africa	1	9%

Current Goods Exports	Respondents	% Respondents	Future Goods Exports	Respondents	% Respondents
Agro-food	9	82%	Agro-food	8	73%
Fisheries	6	55%	Fisheries	7	64%
Beverages	5	45%	Beverages	6	55%
Materials	4	36%	Fruit preparations	3	27%
Chemicals & plastics	3	27%	Animal/veg prods (other)	3	27%
animal/veg prods (other)	2	18%	Metals, minerals, ores, fuels, oils	3	27%
Live animals	2	18%	Handicraft, household	1	9%
Handicraft, household	2	18%	Live animals	1	9%
Fruits and vegetables	2	18%	Materials	1	9%
Metals, minerals, ores, fuels, oils	2	18%			
Machinery	2	18%			
Textiles	2	18%			
Fruit preparations	1	9%			

Current Services Exports	Respondents	% Respondents	Future Services Exports	Respondents	% Respondents
Tourism Services	6	55%	Tourism	9	82%
Construction Services	2	18%	Recreation, sports, culture	6	55%
Transport Services	2	18%	(renewable) energy	5	45%
Business Services	1	9%	Business services	5	45%
Financial Services	1	9%	Telecommunication	5	45%
Distribution Services	1	9%	Education	4	36%
Recreation, sports, culture	1	9%	Transport services	3	27%
			Medical Services	3	27%
			Distribution Services	3	27%
			Environment Services	2	18%
			Computer Services	2	18%
			Financial Services	2	18%
			Construction Services	1	9%

Obstacles non-EU	Respondents	% Respondents	Obstacles EU	Respondents	% Respondents
Logistics	8	73%	Logistics	6	55%
Transport, freighting costs	7	64%	Transport, freighting costs	5	45%
Connectivity	4	36%	Standards/rules (SPS/TBT)	5	45%
Access to capital	4	36%	Marketing/branding	4	36%
Marketing/branding	4	36%	Access to capital	4	36%
Cooperation 3rd countries	3	27%	Administrative procedures	4	36%
Standards/rules (SPS/TBT)	3	27%	Connectivity	3	27%
Administrative procedures	3	27%	Infrastructure	2	18%
Infrastructure	2	18%	Size/capacity companies	2	18%
Exchange rate	2	18%	Labour costs	1	9%
Size/capacity companies	2	18%	Visibility	1	9%
Labour costs	1	9%	Labour skills	1	9%
Labour skills	1	9%	Cooperation EU/ EU MS	1	9%
Visibility	1	9%			

Support provided by territories, Member States, others

Public aids/ support programmes	6	55%
Trade promotion/ business support	5	45%
Support participation fairs	3	27%
Support to intermediaries	3	27%
Economic representations	3	27%
SME support	2	18%
Legislative/ regulatory framework	2	18%
Dedicated training	2	18%
Export certification	1	9%
Infrastructure	1	9%
Export strategy (under development)	1	9%
Market intelligence	1	9%

Possible additional support

Technical assistance, training, capacity building	7	64%
Public aids/ support programmes	4	36%
Access to capital/ investments	4	36%
Marketing/branding	3	27%
Market intelligence, info on calls for tenders	3	27%
Participation in trade fairs	2	18%
Infrastructure	2	18%
Conformity international/EU standards	2	18%
Legislative/regulatory framework	1	9%
Facilitation market access	1	9%
Support intermediaries, participation business networks	1	9%

Interest in EU trade negotiations

Caribbean	4	36%
CETA	2	18%
Central America	2	18%
Andes	2	18%
Chile	2	18%
Mexico	2	18%
Pacific	1	9%
ASEAN	1	9%

Areas of Interest in EU trade negotiations

Preference erosion (Caribbean, Pacific, CETA)	3	27%
Regional integration (Caribbean)	2	18%
SPS/TBT (Pacific)	1	9%
Rules of Origin (Pacific)	1	9%
Cooperation (Pacific)	1	9%
Development dimension (Pacific)	1	9%
Tariff liberalisation and method (Pacific)	1	9%
Reciprocity	1	9%
Tax and development	1	9%
Special Differential Treatment	1	9%

ANNEX 12.8: TREATMENT OF OCT GOODS IMPORTED INTO THE EU UNDER CET/GSP RATES

OCT (all figures for 2010)	Imports* (A) (€1000)**	Dutiable Imports (B) (€1000)	CET Duties (C) (€1000€)	GSP Duties (D) (€1000)	AVE CET*** Total (C/A) %	AVE GSP Total (D/A) %
Cayman Islands	872,367	2,808	63	11	0.01	0.00
New Caledonia	343,875	7,350	461	205	0.13	0.06
Greenland	316,672	297,796	37,587	21,247	11.87	6.71
Virgin Islands (British)	155,862	5,762	223	125	0.14	0.08
Netherlands Antilles	144,533	56,487	9,105	7,176	6.30	4.97
Falkland Islands	112,444	110,740	7,696	3,529	6.84	3.14
French Polynesia	23,028	12,683	1,268	814	5.51	3.54
Mayotte	5,016	1,766	143	64	2.86	1.28
Aruba	3,993	2,172	119	27	2.99	0.68
Saint Helena	1,608	252	25	17	1.56	1.04
Saint Pierre et Miquelon	1,314	1,311	194	172	14.78	13.12
Montserrat	1,222	410	15	5	1.24	0.39
Pitcairn	592	490	18	4	3.09	0.70
Turks and Caicos Islands	344	207	15	9	4.46	2.54
Anguilla	289	17	0	0	0.17	0.04
Wallis and Futuna Islands	50	34	2	1	4.57	2.22
Total	1,983,211	500,285	56,937	33,406	2.87	1.68

*: Total value of EU imports

** : Thousands of Euros

***: Ad Valorem Equivalent

The average rate is calculated by dividing dutiable exports by total exports. Pitcairn, Turks and Caicos and Wallis and Futuna exports are so small that all three OCTs combined would face duties between EUR 35,000 and 14,000, taking into account that their combined exports to the EU represent only EUR 1million.

ANNEX 12.9: MAIN DUTIABLE OCT PRODUCTS ON IMPORT IN THE EU

Greenland (Fish and processed fish)	Imports (A) (€1000)	CET Duties (B) (€1000)	GSP Duties (C) (€1000)	AVE CET (B/A) %	AVE GSP (C/A) %
frozen shrimps and prawns (...)	85,526	10,263	3,592	12	4,20
shrimps and prawns in packaging > 2 kg (...)	57,042	11,408	3,993	20	7,00
frozen lesser or Greenland halibut (...)	55,995	4,200	4,200	7.50	7,50
shrimps and prawns in airtight container (...)	32,586	6,517	6,517	20	20,00
frozen fillets of cod (...)	15,084	1,131	392	7.50	2,60
frozen fillets of saltwater fish (...)	14,985	1,708	1,184	11.40	7,90
fish livers and roes, dried, smoked (...)	7,390	813	554	11	7,50
frozen crabs (...)	5,809	436	151	7.51	2,60
frozen redfish (...)	2,772	208	208	7.50	7,50
frozen fillets of haddock (...)	1,430	107	107	7.48	7,48
shrimps and prawns in packaging < 2 kg (...)	1,372	274	96	19.97	7,00
frozen saltwater fish, edible (...)	1,205	149	63	12.37	5,23
frozen fillets of coalfish (...)	652	49	49	7.52	7,52
Sub total of fish and processed fish	281,848	37,263	21,106		
% of total EU imports from Greenland	89	99	99		

Saint Pierre et Miquelon (fish)	Imports (A) (€1000)	CET Duties (B) (€1000)	GSP Duties (C) (€1000)	AVE CET (B/A) %	AVE GSP (C/A) %
cod (...) salted or in brine only (excl. fillets)	683	89	89	13,03	13,03
Sub total	683	89	89		
% of total EU imports from SPM	51	45	51		

Falkland Islands (Fish and processed fish)	Imports (A) (€1000)	CET Duties (B) (€1000)	GSP Duties (C) (€1000)	AVE CET (B/A) %	AVE GSP (C/A) %
squid 'loligo patagonica' (...)	65,445	3,927	1,636	6	2,50
squid 'loligo spp.', frozen (...)	22,504	1,350	563	6	2,50
frozen saltwater fish, edible (...)	8,263	1,025	430	12.40	5,20
illex spp.', with or without shell (...)	4,804	384	216	7.99	4,50
frozen argentine hake (...)	4,720	708	543	15	11,50
frozen pink cusk-eel (...)	1,118	84	29	7,51	2,59
frozen fillets of saltwater fish (...)	817	93	65	11.38	7,96
frozen meat (...)	231	17	6	7.36	2,60
frozen cape hake (...)	160	24	18	15	11,25
frozen fillets of argentine hake (...)	132	10	5	7.58	3,79
Sub total of fish and processed fish	108,194	7,622	3,511		
% of total EU imports from Falkland Islands	96.2	99	99		

(Former) Netherlands Antilles	Imports (A) (€1000)	CET Duties (B) (€1000)	GSP Duties (C) (€1000)	AVE CET (B/A) %	AVE GSP (C/A) %
jet fuel, kerosene type	16,404	771	0	4.70	0,00
frozen yellowfin tunas (...)	9,738	2,142	1,802	22.00	18,50
raw cane sugar (...)	5,418	4,139	4,139	76.39	76,39
frozen skipjack or bonito (...)	4,505	991	833	22.00	18,49
frozen bigeye tunas (...)	1,161	255	215	21.96	18,52
parts of gas turbines (...)	684	28	0	4.09	0,00
waters, incl. mineral and aerated (...)	438	42	27	9.59	6,16
Sub total	38,348	8,368	7,016		

% of total EU imports from N. Antilles	26	92	97	
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French Polynesia	Imports (A) (€1000)	CET Duties (B) (€1000)	GSP Duties (C) (€1000)	AVE CET (B/A) %	AVE GSP (C/A) %
crude coconut oil	4,133	264	91	6.39	2,20
fresh or chilled fillets and other fish	1,470	265	213	18.03	14,49
vanilla	943	57	20	6.04	2,12
frozen fish fillets (...)	905	163	131	18.01	14,48
fruit and other edible parts of plants (...)	797	166	138	20.83	17,31
articles of jewellery and parts (...)	616	15	0	2.44	0,00
Sub total	8,864	930	593		
% of total EU imports from F. Polynesia	35	73	73		

ANNEX 12.10: PROSPECTS FOR INCLUSION OF OCTs IN OTHER TRADE AGREEMENTS

OCTs	EU trade partner(s)	State of play negotiations	Prospects inclusion OCT	Possible impact
Greenland Saint-Pierre et Miquelon	Canada	Well advanced	Small: outstanding legal questions	Access to Canadian market, with reciprocity
Caribbean OCTs	Caribbean	EPA concluded; provisional application, pending full ratification	EPA Article 246: possibility of bringing OCTs within the scope of the EPA	Access to 15 countries, with reciprocity
	Central America; Colombia, Peru	Negotiations concluded; agreements moving towards signature and ratification	Small: outstanding legal questions	Access to Central American and 2 Andean countries, with reciprocity
Falkland Islands	MERCOSUR	FTA negotiations ongoing	Slim: political reasons (Argentina)	-
Mayotte	Eastern and Southern Africa	Interim EPAs negotiated; but not applied EPA negotiations well advanced	Perspective disappears if and when Mayotte becomes an Outermost Region	-
New Caledonia French Polynesia Wallis et Futuna	Pacific	Interim EPA applied with Papua New Guinea; pending with Fiji; regional negotiations ongoing	If interim EPA membership is widened, OCTs could be included; idem for possible regional EPA.	Access ranging from 2 to 15 countries, with reciprocity

ANNEX 12.11: COMPARISON RULES OF ORIGIN UNDER POLICY OPTIONS 2-4

Option 2: Status Quo		Option 3: Improved Treatment	Option 4: Other Trade Relations
General provisions			
Vessels conditions	4 criteria (flag, registration, ownership, nationality of the crew)	3 criteria (flag, registration, ownership)	3 criteria (flag, registration, ownership)
Tolerance non-originating materials	15% in value (except textile and clothing)	15% in value or weight depending on products (except textile and clothing)	15% in value (except textile and clothing)
Direct transport	Direct transport rule	Non-manipulation clause	Direct transport rule
Derogations (excluding possible derogations to the PSR granted through separate annexes)	<ul style="list-style-type: none"> - OCT or Member State initiative - For the development of existing industries or the creation of new industries - EU accepts requests by OCTs that are duly justified and when the value added by OCTs exceeds 45 % of the finished product 	<ul style="list-style-type: none"> - OCT, Member State or Commission initiative - Granted when necessary for the development of existing industries or the creation of new industries - When OCT cannot fulfil the rule for temporary reasons or needs time to prepare itself to comply with the rules 	<ul style="list-style-type: none"> - Existence of an automatic derogation for fishery products for some EPAs (cf. EAC, Central Africa...), under quota - EPA country initiative - Granted when necessary for the development of existing industries or the creation of new industries - EU shall respond positively to all requests by ACP States which are duly justified - In some EPAs, the EU accepts request when the value added by OCTs is higher than 45% of the finished product
Certification	OCT authorities	Self certification from 2017	OCT authorities

	Option 2: Status Quo	Option 3: Improved Treatment	Option 4: Other Trade Relations
Cumulation			
Cumulation	<ul style="list-style-type: none"> - Full cumulation with the EU, all OCTs and all ACP countries, but with certain exclusions 	<ul style="list-style-type: none"> - Bilateral cumulation with the EU; - Full cumulation with all OCTs and with ACP countries under EPAs, but with certain exclusions - Diagonal cumulation upon request with EU FTA partners, for industrial products 	<ul style="list-style-type: none"> - Full cumulation with the EU, all OCTs, with countries of the same EPA and with other EPA countries, but with certain exclusions - Diagonal cumulation upon request with neighbouring countries for EPAs concluded - cumulation with materials which enter the EU DFQF under MFN, or under GSP or EBA for the EPA under negotiations, but with certain exclusions - Diagonal cumulation for products which enter the EU DFQF under an FTA, upon request, with exclusions

	Option 2: Status Quo	Option 3: Improved Treatment	Option 4: Other Trade Relations
Product Specific Rules			
agricultural products	“old type’ standard rules (i.a. with allowance of non-originating sugar up to 30% value of the final product)	Modern GSP list rules (i.a with allowance of non-originating materials up to 40% based on weight for sugar, milk, etc.)	“old type’ standard rules (i.a. with allowance of non-originating sugar up to 30% value of the final product), with the review clause the list rules will be updated.- Relaxations for specific agricultural products under separate annexes, dependent on the specific EPAs.
industrial products	Max. 40 % non-originating materials	Max. 50 % - 70 % non-originating materials, depending of the products	Max. 40 % non-originating materials
Textile and clothing	Double transformation rule	Double transformation rule, but with modern drafting	Single transformation rule

ANNEX 12.12: GLOSSARY

African Caribbean and Pacific Group of States (ACP): The denomination ACP States refers to a group of developing countries located in Africa, the Caribbean and the Pacific regions, with which the EU has maintained special formal relations since its establishment in 1957. The group mainly consists of countries that formerly were colonies of individual Member States of the EU. The term ACP States was coined by the Georgetown Agreement of 1975 which formally established the ACP Group of States. The ACP/EU Partnership Agreement or Cotonou Agreement of 2000 provides the basis for ACP/EU cooperation and political dialogue. Under the Cotonou Agreement it is foreseen that the economic and trade component of ACP/EU relations will be enshrined in Economic Partnership Agreements (EPAs)

Caribbean Community (CARICOM): The Caribbean Community and Single Market and Economy (CARICOM) was first established in 1973 and is composed of 15 Caribbean countries. CARICOM aims to promote economic integration and cooperation between its members in view of improving standards of living, attaining full employment of labour, coordinating and sustaining economic development; expanding trade and economic relations with third States; enhancing levels of international competitiveness, production and productivity; . The five associate members to the CARICOM are all British overseas territories (Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Turks and Caicos); although it is a British overseas territory, Montserrat is a full member of CARICOM.

CARICOM Single Market and Economy (CSME): With the CARICOM Single Market and Economy (CSME), the members of the Caribbean Community (CARICOM) seek to establish a customs and economic union between themselves by ensuring freedom of goods, services, labour and capital, the right of establishment, the setup of a common trade policy and a common external tariff and through coordinated and harmonised policies and legislation.

Common External Tariff: The Common external Tariff is the tariff rate agreed by all members of a customs union on imports of a product from outside that same customs union.

Competitiveness and Innovation Framework Programme (CIP): The Competitiveness and Innovation Framework Programme (CIP) is an EU programme funded under the EU general budget 2007-2013 which provides support innovation activities (including eco-innovation) by European small and medium sized enterprises (SMEs), provides better access to finance and delivers business support services. It encourages a better take-up and use of information and communication technologies (ICT) and helps to develop the information society. It also promotes the increased use of renewable energies and energy efficiency. The CIP runs from 2007 to 2013 with an overall budget of €3621 million.

Duty Drawback System: One of the two variants of the inward processing procedure under which the import duties are paid at release for free circulation and refunded when the processed products or the goods in the unaltered state are re-exported. Many free-trade agreements do not allow drawback if a preferential proof of origin is issued.

Doha Development Agenda: The Doha Round is the latest round of multilateral trade negotiations within the WTO membership. Its aim is to achieve major reform of the

international trading system through the introduction of lower trade barriers and revised trade rules. The work programme covers about twenty areas of trade. The Round is also known as the Doha Development Agenda based on the fact that a fundamental objective is to improve the trading prospects of developing countries.

Economic Partnership Agreements: The Economic Partnership Agreements (EPAs) aim at promoting trade between the between the EU and groups of countries that are member of the group of African, Caribbean and Pacific States through trade development, sustainable growth and poverty reduction. Since 2002, six regional groupings negotiate EPAs with the EU to replace the trade chapters of the Cotonou Agreement. These EPAs aim at reciprocal free trade, comprising of duty free and quota free market access, asymmetric gradual market opening of ACP markets for EU exports and simpler rules of origins. Only one full EPA has been concluded so far with CARIFORUM, interim EPA are thus in place with the ACP countries of the Southern African Development Community, East and Southern Africa and key trading partners in the Pacific.

Enterprise Europe Network: The Enterprise Europe Network (EEN) is a network of more than 580 business support organisations (chambers of commerce and industry, technology centres, research institutes and development agencies) from 49 countries with a view to help European Small and Medium Enterprises (SMEs) to develop their business in markets within and outside of the European Single Market. The objective of the EEN is to offer information and support on EU matters to SMEs, to obtain feedback from them, and to provide business cooperation, technology transfer and innovation services.

Export Helpdesk: The Export Helpdesk is an online service, provided by the European Commission, to facilitate market access in particular for developing countries to the European Union.

Free Trade Agreement (FTA): Free trade agreements (FTAs) are international agreements by which two or more countries or customs territories agree to substantially open their respective markets to one another and improve the conditions under which the products of their partner(s) access their markets. Free trade agreements are an exception to the WTO principle of the Most Favoured Nation, which states that any concession that WTO members cannot discriminate between WTO members when granting trade concessions. Article XXIV of the GATT and Article V of the GATs allow exemptions for customs unions and free trade areas, provided that the members of such entities have liberalised substantially all the trade between them.

Traditionally, FTAs focused on reducing the barriers to trade in goods, both of a tariff and non tariff (NTB) nature. Since the 1990's, the trade agenda has expanded to include services and other topics such as investments, intellectual property rights, public procurement, standards, but also trade related areas such as competition policy, trade and environment and labour rights. The comprehensive FTAs that the EU has negotiated or is negotiating encompass this agenda.

General Agreement on Tariffs and Trade (GATT): the General Agreement on Tariffs and Trade (GATT) is an international trade agreement by which the contracting parties commit to progressively liberalise the trade in goods by reducing tariffs and abolish quota on trade in goods. The GATT is one of several multilateral agreements attached to the Marrakesh Agreement or Agreement Establishing the World Trade Organisation (WTO). All members of the WTO are contracting party of the GATT. The agreement contains a set of rules and

disciplines regarding the use of restrictive measures such as tariffs and quota, which all of the WTO members need to respect. It also contains a list of commitments for each of the WTO members, which indicates the extent to which they are prepared to open their markets to foreign goods on a non-discriminatory basis

General Agreement on Trade in Services (GATS): The General Agreement on Trade in Services (GATS) is one of the multilateral agreements that are annexed to the Agreement Establishing the World Trade Organisation (WTO). It states to which extent foreign service providers have access to specific sectors of the services markets of WTO members. It also includes a list of types of services of individual WTO members to which individual member the Most Favoured Nation principle of non-discrimination does not apply.

Generalised System of Preferences (GSP): The Generalised System of Preferences is an autonomous trade measure of the EU through which the EU offers non-reciprocal trade preferences to support developing countries exporting to the EU. The GSP is based on the 1979 GATT enabling clause and is composed of three components with increasing benefits: GSP, GSP+ and EBA. The general arrangement of the GSP system allows for duty free access for non sensitive products and tariff reductions for sensitive products. GSP+ gives wider market access to developing countries, with duty free access to up to 90 % of tariff lines, but this access is conditioned to the respect of certain basic principles and legal texts regarding sustainable development and good governance. Everything But Arms (EBA) is a special arrangement for least developed countries, offering duty free and quota free access to all their products except for arms.

Government Procurement Agreement (GPA): The Agreement on Government Procurement is one of the plurilateral agreements of the World Trade Organisation. This means that not all WTO members are a signatory to it. The GPA contains a number of rules and disciplines which the signatory members need to obey in the procurement procedures of their national and sub-national government bodies (see public procurement).

Harmonised System: The Harmonised Commodity Description and Coding System is an international nomenclature developed by the World Customs Organisation, which is arranged in six-digit codes allowing all participating countries to classify traded goods on a common basis. Beyond the six-digit level, countries are free to introduce national distinctions for tariffs and many other purposes. The Combined Nomenclature of the EU integrates the HS Nomenclature and comprises additional 8-digit subdivisions and legal notes specifically created to address the needs of the EU.

International Labour Standards : Since 1919, the International Labour Organization has maintained and developed a system of international labour standards aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity. The WTO recognise ILO's international labour standards as set of internationally recognized “core” standards and the ILO as the competent body to set and deal with these standards.

Liner Shipping Connectivity Index (LSCI): The Liner Shipping Connectivity Index (LSCI) aims at capturing how well countries are connected to global shipping networks. The Index takes into account: a) number of ships; (b) the container-carrying capacity of those ships; (c) the maximum vessel size; (d) the number of services; and (e) the number of companies that deploy containerships on services from and to a country's ports.

Mercado Común del Sur/Mercado Comum do Sul (MERCOSUR/ MERCOSUL): The Mercado Común del Sur is an international agreement between Argentina, Brazil, Paraguay and Uruguay. Ratification of Venezuela's accession to the customs union is still pending. Bolivia, Chile, Colombia, Ecuador and Peru have associate member status. Alongside free trade, the MERCOSUR seeks to promote political cooperation between its members. The agreement foresees in the free movement of goods, services and factors, the establishment of a common external tariff and the adoption of a common trade policy as well as the coordination of economic and other policies.

Most Favoured Nation (MFN): The most favoured nation (MFN) treatment is a fundamental non discrimination principle of the WTO trading system, it entails that each member of the WTO to treat all other members equally as their most favoured trading partner. This principle ensures non discrimination between imported foreign products guaranteeing imports from lowest cost foreign suppliers.

Non-Tariff Barriers (NTB): The notion of Non-Tariff Barriers (NTBs) refers to restrictions that result from prohibitions, conditions, or specific market requirements that make importation or exportation of products difficult and/or costly. NTBs also include unjustified and/or improper application of Non-Tariff Measures (NTMs) such as Sanitary and Phyto-Sanitary (SPS) measures and other technical barriers to Trade (TBT).

OECS Economic Union: In January 2011, the revised OECS founding treaty came into force, laying the foundation for an Economic Union between the sovereign members of the OECS. It foresees in freedom of goods and services, labour and capital between the different members of the OECS.

Organisation of Eastern Caribbean States (OECS): The Organisation of Eastern Caribbean States is a regional organisation set up by six sovereign States and three British OCTs of the Caribbean with an aim to foster cooperation and solidarity between its members, to coordinate and harmonise foreign policies and to promote economic integration. Anguilla, the British Virgin Islands and Montserrat are members or associate members of the OECS. The Eastern Caribbean Dollar is the common currency for seven out of the nine OECS members or associate members. All nine OECS members share a judiciary: the Eastern Caribbean Supreme Court.

Pacific Agreement on Closer Economic Relations (PACER): The Pacific Agreement on Closer Economic Relations is a framework agreement between all members of the Pacific Islands Forum (PIF), including Australia and New Zealand that foresees in the gradual establishment of a regional single market within the Pacific region. As a stepping stone towards this goal, it foresees the establishment of a regional free trade agreement covering all Pacific Islands Forum members. In the meantime, regional economic integration between the members that are developing countries takes place within the context of the Pacific Island Countries Trade Agreement (PICTA)

Pacific Island Countries Trade Agreement (PICTA): The Pacific Island Countries Trade Agreement (PICTA) is a free trade agreement set up between the fourteen members of the Pacific Islands Forum that are developing countries: Cook Islands, Fiji, Kiribati, Marshall Islands, Micronesia, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Not all of the countries involved have signed and ratified the agreement. It mainly covers goods, but negotiations on services are ongoing.

Pacific Islands Forum (PIF): The Pacific Islands Forum is an international organisation that seeks to promote cooperation between the different countries and territories of the Pacific region. It includes both developing and developed countries and territories amongst its membership: Australia, Cook Islands, Fiji, Kiribati, Marshall Islands, Micronesia, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. New Caledonia and French Polynesia are associate members. Wallis and Futuna is an observer. The Pacific Islands Forum Secretariat is located in Nouméa, New Caledonia. Two free trade agreements have been set up between PIF members: the Pacific Island Countries Trade Agreement (PICTA), covering only developing countries, on the one hand, and the Pacific Agreement on Closer Economic Relations (PACER), covering all PIF members, on the other.

ProInvest: PROINVEST is a support programme to ACP countries, which is financed by the EU under the 8th European Development Fund and which has as an objective to promote investment and technology flows to enterprises operating within key sectors in ACP countries. This will be achieved through the support to Intermediary Organisations and professional associations and through the development of north-south and south-south inter-enterprise partnerships.

Public Procurement: The purchase of goods and services and the ordering of works by a public authority such as a national government, a local authority or their dependent bodies, are public contracts.

Rules of Origin: Within the context of international trade agreements and unilateral trade preference schemes, rules of origin are essential to ensure that preferences (lower or reduced tariff rates) are only extended to those goods coming from countries for which the preferences were initially foreseen. The rules of origin determine the economic nationality of a good on the basis of a set of general and product specific criteria and conditions with which imported goods need to comply.

Sanitary and Phyto Sanitary (SPS): Measures dealing with food safety and animal and plant health.

Small and Medium Enterprises (SMEs): The EU qualifies as small and medium-sized enterprises (SMEs) those enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

STABEX (Système de Stabilisation des Recettes d'Exportation): Stabex was previously a financial scheme from the EU which could provide additional support to ACP States and OCTs to remedy the harmful effects of instability of export revenue from agricultural products. The SYSMIN (Système pour les Minerais) fulfilled a similar function for products from the mineral extraction industry.

Strengthening Fishery Products Health conditions in ACP/OCT Countries: The purpose of the project is to improve the access of ACP/OCT countries fish and fishery products to the world market and help these countries to fall in line with the EU's complex regulations. The SFP Programme provides support in the (export) health control and in improving production conditions of fishery products. The beneficiary countries of the SFP Programme are ACP countries (Africa, Caribbean & Pacific), signatories to the Lomé Convention, and Overseas Countries and Territories (OCT) of The Netherlands and the United Kingdom. The overall

amount of EU financing for the Programme is EUR 44 860 000, including EUR 2 184 800 funded by The Netherlands and the United Kingdom for their OCTs.

Technical Barriers to Trade (TBT): The notion of technical barriers to trade refers to technical regulations, standards, testing and certification procedures with which products need to conform before they can be placed in a given market and which could obstruct trade. The WTO's TBT Agreement aims to ensure that these do not create unnecessary obstacles.

TradeCom Facility: The TradeCom programme, also referred to as the TradeCom Facility, is an ACP Group Programme financed by the European Development Fund. It is divided in three main, complementary, components, each with its specific beneficiaries and results: (1) formulation of trade policies, (2) trade negotiations and (3) implementation of trade policies and international trade agreements.