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PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 14 June 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: Proposal for a COUNCIL DECISION on the Association of the Overseas
Countries and Territories with the European Union including relations
between the European Union on the one hand, and Greenland and the
Kingdom of Denmark on the other ('Overseas Association Decision')

Delegations will find attached document COM(2018) 461 final.

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Brussels, 14.6.2018
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2018/0244 (CNS)

Proposal for a

COUNCIL DECISION

**on the Association of the Overseas Countries and Territories with the European Union
including relations between the European Union on the one hand, and Greenland and
the Kingdom of Denmark on the other
(‘Overseas Association Decision’)**

{SWD(2018) 337 final} - {SEC(2018) 310 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal comes in the context of the 2021-2027 Multiannual Financial Framework outlined in the Communications from the Commission to the European Parliament, the European Council and the Council, the European Economic and Social Committee and the Committee of the Regions on a Modern Budget for a Union that Protects, Empowers and Defends¹. The Communications set the main priorities and overall budgetary framework for EU external action programmes under the heading ‘Neighbourhood and the World’. One such priority is a Council Decision on the Association of the Overseas Countries and Territories with the European Union, including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other.

Overseas Countries and Territories (OCTs) have been associated with the European Union (EU) since the entry into force of the Treaty of Rome. These 25 islands located in the Atlantic, Antarctic, Arctic, Caribbean, Indian Ocean and Pacific regions² are not sovereign countries, but depend on four EU Member States: Denmark, France, the United Kingdom and the Netherlands.

This proposal provides for a date of application as of 1 January 2021 and is presented for a Union of 27 Member States, in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union received by the European Council on 29 March 2017. It therefore does not apply to the 12 OCTs linked to the United Kingdom. The association of the 13 remaining OCTs with the Union flows from the constitutional relations that these countries and territories have with the three Member States: Denmark, France, and the Netherlands.

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 usually remain within the remit of the Member States. The OCTs are not part of the Union’s customs territory and are outside the internal market. Union legislation therefore does not apply. As nationals of European Union Member States to which their countries and territories are constitutionally linked, OCTs inhabitants hold EU citizenship.

Council Decision EU/2013/755³ - the Overseas Association Decision - covers relations between the OCTs (including Greenland), the Member States to which they are linked and the European Union. It outlines the special relationship that OCTs have with the EU as part of the ‘EU family’ and the specific legal framework which applies to them. The main financial source of the current Overseas Association Decision is the 11th European Development Fund (EDF), covering the programming and funding of territorial and regional programmes for OCTs other than Greenland, for which there is a specific decision funded from the EU budget.

Prior to 1982 Greenland was considered part of the EU through Denmark, meaning that EU vessels could fish in Greenlandic waters. Subsequently, Greenland withdrew from the EU and

¹ COM (2018) 98 final, 14.2.2018; COM (2018) 321 final, 2.5.2018.

² Annex II Treaty on the Functioning of the European Union.

³ Decision (EU) No 2013/755 of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision'), OJ L 344, p. 1, 19.12.2013.

became associated as an OCT through the Greenland Treaty⁴. The Treaty emphasised the need to maintain the close relationship between the EU and Greenland, notably in terms of Greenland's development needs and EU fishing rights.

A fisheries agreement⁵ was signed on 13 March 1984. Following the mid-term review of the fourth fisheries protocol, in 2003 the European Council concluded that an arrangement should take into account the importance of fisheries and the structural development problems in Greenland. The 2006 Joint Declaration⁶ between the Union, Greenland and Denmark set out the common objectives of a new partnership. It formed the political basis for Council Decision 2006/526/EC⁷, which defined the framework for cooperation for 2007-2013. The Council Decision 2014/137/EU⁸ now covers the period 2014 to 2020 and is in line with the subsequent 2015 Joint Declaration between the EU, Greenland and Denmark, which reaffirms the close relations between the parties.

The current Greenland Decision complements the Overseas Association Decision but outlines some features specific to relations with Greenland.

The mid-term review report (December 2017)⁹ on 10 external financing instruments, including the Greenland Decision¹⁰ and the 11th EDF, which includes the programming for the other OCTs, concluded that the external financing instruments were 'fit for purpose'. However, both the report and the consultations conducted highlighted the need for increased flexibility, simplification, coherence and performance. This has led to a proposal for a future Neighbourhood, Development and International Cooperation Instrument, which will draw on lessons learned to help streamline the Union's external action architecture.

The Overseas Association Decision and the Greenland Decision cannot be included in the new Neighbourhood, Development and International Cooperation Instrument or in any other legal act subject to the ordinary legislative procedure. This is because they both have a specific adoption procedure: a Council Decision by unanimity, following consultation of the European Parliament¹¹. However, to streamline the number of programmes it is proposed that both Decisions be merged into a single Decision regrouping all OCTs, including Greenland.

Moreover, Article 203 in the Treaty on the Functioning of the European Union (TFEU) is the legal basis for the Overseas Association Decision and for the Greenland Decision. Following the proposal to budgetise the EDF, the financing both for Greenland and for the other

⁴ Treaty amending, with regard to Greenland, the Treaties establishing the European Communities, OJ L 29, 1.2.1985, p. 1.

⁵ Agreement on fisheries between the European Economic Community, on one hand, and the Government of Denmark and the local Government of Greenland, on the other, OJ L 29, 1.1.1985, p. 9.

⁶ Joint declaration by the European Community, on the one hand, and the Home Rule Government of Greenland and the Government of Denmark, on the other, on partnership between the European Community and Greenland, OJ L 208, 29.7.2006, p. 32.

⁷ Decision (EC) 2006/526 of 17 July 2006 on relations between the European Community on the one hand, and Greenland and the Kingdom of Denmark on the other, OJ L 208, 29.7.2006, p.28.

⁸ Decision (EU) 2014/137 of 14 March 2014 on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other ('Greenland Decision'), OJ L 76, p. 1, 15.3.2014.

⁹ The mid-term review report was based on 10 staff working documents, one per instrument (list in link below), which in turn were based on 10 independent evaluations. All the documents can be found at: https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en.

¹⁰ OJ L 76, 15.3.2014, p. 1.

¹¹ Article 203 of the Treaty on the Functioning of the European Union (OJ C 326, 26.10.2012, p. 1).

Overseas Countries and Territories should come from the new budget heading 6 'Neighbourhood and the World'.

A new legislative act for all OCTs that covers the political and legal framework and with how cooperation is implemented will deliver:

- unity of management — having all the OCTs under the same source of financing (the EU budget) will create synergies in programming and implementation;
- consolidation of shared objectives;
- simplification and coherence in the legal framework;
- higher profile for the OCTs as a group.

As both decisions have been deemed 'fit for purpose', the guiding principle is to preserve what works well, while improving what hinders the partners' ability to deliver effectively on their policies and priorities. On the other hand, the Member States concerned have firmly insisted on retaining the structure and *acquis* of the current Overseas Association Decision.

- **Consistency with existing policy provisions in the policy area**

The current rules and procedures of the EU-OCT association are laid down in Decision 2013/755/EU of 25 November 2013¹² on the association of the OCTs with the European Union. Those concerning the relations with Greenland are laid down in Decision 2014/137/EU of 14 March 2014¹³ on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other.

- **Consistency with other Union policies**

'Europe 2030'¹⁴ provides a benchmark for consistency across all policy areas as regards energy efficiency and its contribution to energy security and to the 2030 Framework for climate and energy policy. Coherence with the Paris Agreement on Climate Change will also be ensured.

The integrated European Union policy for the Arctic¹⁵ reflects the Union's strategic interest in playing a key role in the Arctic region. Building on previous initiatives, it sets out the case for a Union policy that focuses on advancing international cooperation in responding to the impacts of the climate change on the Arctic's fragile environment, and on promoting and contributing to sustainable development, particularly in the European part of the Arctic. Greenland plays an important part in the vision of this policy as part of the Kingdom of Denmark.

Actions funded under this proposal should be coherent with those carried out under the Common Foreign and Security Policy and the newly proposed European Peace Facility.

¹² OJ L 344, 19.12.2013, p. 1.

¹³ OJ L 76, 15.3.2014, p. 1.

¹⁴ Communication from the Commission to the European Parliament and the Council on energy efficiency and its contribution to energy security and the 2030 Framework for climate and energy policy, COM (2014) 520 final.

¹⁵ JOIN (2016) 21.

Humanitarian actions should not be funded under this proposal as they will continue to be funded through the Humanitarian Aid instrument¹⁶.

The Commission proposal for the 2021-2027 Multiannual Financial Framework set a more ambitious goal for climate mainstreaming across all EU programmes, with an overall target of 25% of EU expenditure contributing to climate objectives. Actions under this Programme are expected to contribute 20 % of the overall financial envelope of the Programme to climate objectives. The contribution of this Programme to the achievement of this overall target will be tracked through an EU climate marker system at an appropriate level of disaggregation, including the use of more precise methodologies where these are available. The Commission will continue to present the information annually in terms of commitment appropriations in the context of the annual draft budget.

To support the full utilisation of the potential of the programme to contribute to climate objectives, the Commission will seek to identify relevant actions throughout the programme preparation, implementation, review and evaluation processes.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The Overseas Association Decision is based on Part Four of the TFEU. The detailed rules and procedures of the association are laid down in Council decisions based on Article 203 of the TFEU, under which such acts are adopted through a special legislative procedure.

Articles 198-204 of the TFEU apply to Greenland, subject to the specific provisions set out in the Protocol No 34 on special arrangements for Greenland annexed to the TFEU.

• Subsidiarity (for non-exclusive competence)

The detailed arrangements of the provisions in Part Four of the TFEU have to be made at Union level, as the purpose of the association — social and economic development and close economic ties between the OCTs and the Union as a whole — cannot be achieved via action at Member State level. Moreover, Member States would not be able to take action with regard to the OCT trade regime, as the EU alone is responsible for common commercial policy (Part Five, Title II of the TFEU).

The approach towards cooperation with the OCTs contained in the Commission's legislative proposal respects the principles of partnership, complementarity and subsidiarity. It proposes that the EU financial assistance to OCTs be based on programming documents, for which the competent OCT authorities and the Commission would be jointly responsible and which would define the cooperation strategies between the Union and the OCTs. These cooperation strategies would be based on the development objectives, strategies and priorities adopted by the competent OCT authorities. The Commission, the OCTs and their Member States would work closely together to decide on activities, with full respect for each partner's institutional, legal and financial powers.

Without prejudice to the Commission's prerogatives, the OCT authorities would have primary responsibility for implementing the operations agreed on under the cooperation strategy. The Commission would be responsible for establishing the general rules and conditions for these programmes and projects.

The partnership between the European Union, Greenland and Denmark will facilitate consultations and policy dialogue on the objectives and areas of cooperation established

¹⁶ To be updated.

through this Decision. In particular, it will define the framework providing the basis for broad cooperation and dialogue in areas of mutual interest.

- **Proportionality**

Under Articles 198 and 199 of the TFEU, the association will continue to provide a comprehensive partnership comprising an institutional framework and trade arrangements and covering many areas of cooperation, as well as the basic principles governing Union financial assistance to OCTs.

Considering the specificities of the OCTs and their special relationship with the EU, a new legislative act for all OCTs that covers the political and legal framework and how cooperation should be implemented will ensure effectiveness, consolidation of shared objectives and coherence, as well as more visibility for the OCTs as a group. This proposal puts forward an approach that is flexible and tailored to the situation of each OCT.

For the sake of consistency and effectiveness, and unless otherwise specified, the proposed Decision will apply the implementation, evaluation and monitoring provisions of the Neighbourhood, Development and International Cooperation Instrument (NDICI).¹⁷

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Retrospective evaluations/fitness checks of existing legislation**

Article 7 of the Greenland Decision on implementation requires a mid-term evaluation report at the latest by June 2018 to inform future work on the Decision and its actions. The 11th EDF, which includes the programming of the other OCTs, refers to the need for a performance review by the end of 2018. Therefore, the Greenland Decision (2014/137/EU) and the 11th EDF were included in an evaluation with eight other external financing instruments, all of which, based on Article 17 of the Common Implementing Regulation¹⁸, required a mid-term review report by the end of 2017.

The report, adopted by the Commission in December 2017¹⁹, assessed whether these 10 instruments remained fit for purpose, with a view to ensuring the effective implementation of EU assistance. It consisted of an overall analysis and 10 individual Staff Working Documents, which assessed each financing instrument based on evaluations conducted by external consultants during 2016-2017.

The Staff Working Document on the Greenland Decision²⁰ concluded that its main objective — preserving the close and lasting links between the parties, while supporting sustainable development in Greenland — has been and is being achieved. The strong partnership and cooperation with the European Union has enabled Greenland to increase capacity-building, to develop stronger governance and financial systems, and to strengthen its education system — and, as a result, its workforce.

¹⁷ [NDICI Regulation]

¹⁸ Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014, OJ L 77, 14.3.2014, p. 95.

¹⁹ The mid-term review report was based on 10 staff working documents, one per instrument (list in link below), which in turn were based on 10 independent evaluations. All the documents can be found at: https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en.

²⁰ https://ec.europa.eu/europeaid/mid-term-review-report-external-financing-instruments_en

The Greenland Decision was designed in such a way as to cover and better deliver on the wider political aims of the partnership with the European Union. As such, it can continue to deliver on its objectives towards 2020.

The Staff Working Document on the 11th EDF²¹ concluded that it was relevant. It was an efficient mechanism overall, with proven added value and satisfactory internal coherence. Some inefficiencies in implementation procedures for the OCTs were found to have consequences on the effectiveness of cooperation.

Overall, the mid-term review report concluded that the external financing instruments were fit for purpose, relevant, largely in line with EU objectives and partner countries' needs and flexible enough to support and enable implementation of an evolving policy framework. However, the multiplicity of instruments and processes was found to be undermining the overall coherence and visibility of EU external action, with synergies and complementarities not fully exploited.

To respond to the policy and operational challenges set out in the evaluations, the EU budget's external action heading will need to increase its focus on four key cross-cutting issues: flexibility, simplification, coherence and performance.

The Greenland Decision is integrated into the Overseas Association Decision, which also covers Greenland, and the financial resources for both Greenland and the other OCTs will now come from the same EU budget heading. Merging the two decisions will therefore make for simplification, flexibility and coherence, as the political relations with all OCTs and the financial resources will be brought together under a single instrument. This will underline and strengthen the OCTs' special status and further sharpen the focus on the specificities of the OCTs as opposed to other development partners and highlight that the focus in the cooperation with OCTs is their sustainable development.

- **Stakeholder consultations**

Relations with the OCTs, including Greenland, were discussed at a thematic session on post-2020 during the 16th EU-OCT Forum in Brussels on 23 February 2018 and in a background paper on the post-2020 debate and its implications for OCTs²², commissioned by the OCTs Association (OCTA).

Furthermore, during the external evaluation of the external financing instruments, including the Greenland Decision and the 11th EDF, an open public consultation took place over 12 weeks, closing on 3 May 2017²³. The consultation also gathered preliminary inputs for future external financing instruments. The consultation took the shape of (i) an online survey, which included some guiding questions to facilitate feedback, and (ii) face-to-face meetings with key stakeholders.

The following issues were highlighted during this consultation:

The background paper commissioned by OCTA outlined how, in general, the OCTs consider the current Overseas Association Decision to have brought them much progress and to be a good legal tool in no need of significant modification. Future OCT-EU cooperation would gain from focusing on achieving the Sustainable Development Goals. Future relations could operate through a stand-alone, in-budget OCT instrument, with appropriate rules, allowing for

²¹ https://ec.europa.eu/europeaid/mid-term-review-report-external-financing-instruments_en

²² The report is not yet public but is approved by the Commission.

²³ https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en

simple, flexible and fluid programming. Incorporating the EDF into the EU budget would be welcomed, if certain EDF flexibility features could be maintained. Some OCTs called for increased financial support in recognition of their specific geographical features and of their belonging to the EU family.

This view was supported by the Member States, which consider that the Overseas Association Decision provided the right basis for OCT-EU cooperation, even though significant changes in implementation were expected. The background paper also found that the Member States were open to a specific in-budget instrument as long as the attached provisions remained appropriate, and more specifically that the budget support modality and the multiannual principle are preserved.

During the public consultation on the evaluation of the Greenland Decision there was overall agreement that the Decision had proven relevant and effective in pursuing and fulfilling its general and specific objectives and in reflecting its general principles as regards facilitating policy dialogue on global and Arctic issues. When considering financial assistance post-2020, the procedures for programming and implementing financial assistance for Greenland could usefully be compared with the EDF procedures available to other OCTs. The Greenland Decision was seen as a valuable instrument for maintaining and strengthening the strong ties between Greenland and the Union. The political aspects of the relationship had very much evolved over the years.

- **External expertise**

The external evaluation of the Greenland Decision and of the 11th EDF was used as the basis for the mid-term review report and its accompanying Staff Working Documents. In addition, a background paper on the post-2020 debate and its implications for OCTs was commissioned by the OCTs and conducted externally.

- **Impact assessment**

In 2018 the Commission carried out an impact assessment covering all instruments under the 'Global Europe' heading of the 2014-2020 Multiannual Financial Framework (MFF). The impact assessment focused on the major changes proposed for external action in the 2021-2027 MFF. These changes included the streamlining of several instruments into one broad instrument and the integration of the EDF into the EU budget.

The analysis concluded that the advantages of integrating the EDF in the budget would outweigh the disadvantages as long as certain pre-conditions could be met. For instance, the amount allocated to external action should not be less than the sum of the EDF and the other external instruments combined; the flexibilities of the EDF should be transferred to the extent possible; and the military operations financed under the EDF's African Peace Facility should continue through another off-budget mechanism.

The impact assessment also concluded that most instruments, aside from those with a very specific legal basis or objectives, could be merged. The instruments that could be merged included the Development Cooperation Instrument, the European Development Fund, the European Neighbourhood Instrument, the European Instrument for Democracy and Human Rights, the Instrument contributing to Stability and Peace and the Partnership Instrument. Those that should remain separate include: Humanitarian Aid; the common foreign and security policy budget; part of the Instrument for Nuclear Safety Cooperation; Overseas Countries and Territories, including Greenland; Union Civil Protection Mechanism;

Instrument for Pre-accession Assistance; the EU aid volunteers scheme; support to the Turkish Cypriot community; the Emergency Aid Reserve and the European Peace Facility.

As noted by the Commission²⁴ and supported by feedback from partners during the public consultation, the current architecture of the external financing instruments is too complex. Streamlining a number of instruments into a broad instrument would provide an opportunity to rationalise their management and oversight systems, thereby reducing the administrative burden on EU institutions and Member States. Having a simplified oversight system would allow the relevant institutions to have a better, more comprehensive view of EU external expenditure.

On 25 April 2018 the impact assessment was examined by the Regulatory Scrutiny Board and received a positive opinion with comments.

- **Simplification**

In terms of simplification, the streamlining of the legal architecture aims to reduce the administrative burden compared to the current instruments. Currently, the relations with OCTs and their financial resources (including programming and implementing rules) are covered by four instruments: (i) the Overseas Association Decision, (ii) the 11th EDF regulation, (iii) the Greenland Decision and (iv) the Common Implementing Regulation.

The proposed Decision offers a single instrument which covers both the political aspects and the specific relations between the Union and the OCTs. It includes specific provisions where required guiding the relationship with Greenland, the financial resources consolidated under one heading of the EU budget and implementing rules, which will largely follow the Neighbourhood, Development and International Cooperation Instrument ensuring coherence and simplification. Where necessary, the proposed Decision will provide for the specific, simplified rules for OCTs, as in matter of programming.

Furthermore, the transfer (to the extent possible) of EDF features such as the multiannual principle will provide for even simpler and more flexible procedures that were previously unavailable to Greenland. Thus, the proposed Decision will simplify the management and oversight architecture of the current set of instruments.

4. BUDGETARY IMPLICATIONS

The financial resources for Greenland will come from budget heading 6 of the EU budget: 'Neighbourhood and the World'. Given the intention to transfer some features of the EDF such as the multiannual principle to the EU budget, this will simplify the current procedures for allocating funds to Greenland.

Concerning the other OCTs, their financial allocations will be moved from the EDF to the 'Neighbourhood and the World' budget heading.

With the Commission Communications on a modern budget for a Union that protects, empowers and defends²⁵, under the 'Neighbourhood and the World' heading EUR 500 million is earmarked for cooperation with the OCTs.

²⁴ In particular the reflection paper on the future of EU finances (June 2017) and the Communication from the Commission to the European Parliament and the Council; COM (2018) 98 final 14.2.2018.

²⁵ COM (2018) 98 final, 14.2.2018; COM (2018) 321 final, 2.5.2018.

This Decision provides for a total amount of EUR 500 000 000 (in current prices) to be allocated to the association with the OCTs. Of this amount, EUR 225 000 000 is to be allocated to Greenland, EUR 225 000 000 for other OCTs, which comprise EUR 159 000 000 for territorial programmes and for EUR 66 000 000 to regional programmes. In addition an intra-regional financial envelope of EUR 15 000 000 is open to all the OCTs, including Greenland. Moreover an amount of EUR 22 000 000 for technical assistance is foreseen in accordance with the new Decision as well as a non-allocated amount of EUR 13 000 000.

5. OTHER ELEMENTS

• **Implementation plans and monitoring, evaluation and reporting arrangements**

The implementation, the monitoring, evaluation and reporting arrangements will follow the rules set out in the Neighbourhood, Development and International Cooperation Instrument, unless otherwise specified in the Decision.

• **Detailed explanation of the specific provisions in the draft Decision**

As the Overseas Association Decision and the Greenland Decision will be merged, all areas which are similar or have synergies are merged. The structure of the current Overseas Association Decision and most provisions in it will be maintained, where needed, the specificities of the Union's relations and cooperation with Greenland will be highlighted, such as the aim of preserving the close and lasting links between the Union, Greenland and Denmark; the acknowledgement of the geostrategic position of Greenland; policy dialogue and potential cooperation on Arctic issues; and food security. As a result, the positive achievements of the Greenland Decision will be maintained.

The new Overseas Association Decision should consist of the same structure with the same political, trade and cooperation pillars as the current Decision. The main changes include:

- The proposed Decision will take into account the consequences of the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the fact that the special regime set out in Part Four of the TFEU would no longer apply to the 12 British OCTs.
- From a formal point of view, a general updating of the text and its annexes is undertaken, notably to take into account the latest changes in taxation and trade legislation.
- With the EDF being integrated into the EU budget, Annexes IV and V of the *current* Decision will be repealed. Moreover, Annex I on isolated OCT has been integrated in the Decision. Annex III on EIB own resources management will be repealed.
- Addition and updating of provisions reflecting the state of play of relations with Greenland under Article 3 (objectives, principles and values), Article 5 (mutual interests, complementarity and priorities), Article 13 (guiding principles for dialogue), Article 23 (new article on raw materials), Article 31 (cooperation in research and innovation), and Article 35 (public health and food security).

- Part IV on Financing Cooperation includes a dedicated financial envelope under the budget heading 6 "Neighbourhood and the World" for the OCTs. It provides also:
 - A general referral clause to the Neighbourhood, Development and International Cooperation Instrument for implementing the financial cooperation of the proposed Decision. Nevertheless, the proposed Decision will continue to provide for a specific and simplified programming exercise for the OCTs;
 - The OCTs will also remain eligible under the next Multiannual Financial Framework to participate in Union programmes as a matter of principle. They will be eligible for the thematic programmes and rapid response actions of the Neighbourhood, Development and International Cooperation Instrument.
 - A specific provision/facility allows the Commission to promote in an active way intra-regional projects between OCTs, ACP and non ACP States or territories, and the Union's outermost regions.

Proposal for a

COUNCIL DECISION

on the Association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other ('Overseas Association Decision')

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 203 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Parliament²⁶,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) This Decision establishes the rules and the procedure for the association of the EU with Overseas Countries and Territories (OCTs), including Greenland, and replaces Council Decision 2013/755/EU²⁷ ('Overseas Association Decision') and Council Decision 2014/137/EU²⁸ ('Greenland Decision').
- (2) Pursuant to Article 204 of the Treaty on the Functioning of the European Union (TFEU), the provisions of Articles 198 to 203 TFEU apply to Greenland, subject to the specific provisions set out in Protocol No 34 to the TFEU on special arrangements for Greenland. In accordance with the Greenland Treaty²⁹, the relations between the Union on the one hand, and Greenland and the Kingdom of Denmark on the other are governed by Council Decision 2014/137/EU³⁰ that highlights the close historical, political, economic and cultural connections between the Union and Greenland and defines a specific partnership and cooperation. Decision 2014/137/EU expires on 31 December 2020.
- (3) From 1 January 2021, the Union assistance to OCTs previously financed by the European Development Fund (EDF) should be financed from the general budget of the Union.
- (4) In order to streamline the number of External Financing Instruments and their performance, the relations with all OCTs, including Greenland, should be regrouped by replacing the Overseas Association Decision and the Greenland Decision by a single Decision.

²⁶ Opinion of xx/xx/xxxx (not yet published in the Official Journal).

²⁷ Decision No 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision'), OJ L 344, 19.12.2013, p. 1.

²⁸ Decision No 2014/137/EU of 14 March 2014 on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other ('Greenland Decision'), OJ L 76, 15.3.2014, p. 1.

²⁹ Treaty amending, with regard to Greenland, the Treaties establishing the European Communities, OJ L 29, 1.2.1985, p. 1.

³⁰ OJ L 76, 15.3.2014, p. 1.

- (5) The partnership pursuant to this Decision should allow for the continuation of strong relations between the Union on the one hand, and all the OCTs on the other.
- (6) This new Decision should highlight the specificities concerning the cooperation with Greenland, such as the objective to preserve the close and lasting links between the Union, Greenland and Denmark, the acknowledgement of the geostrategic position of Greenland, the importance of policy dialogue between Greenland and the Union, the existence of a Fisheries Partnership Agreement between the Union and Greenland and the potential cooperation on Arctic issues. It should respond to the global challenges allowing for the development of a proactive agenda and the pursuit of mutual interests, in particular, the increasing impact of climate change on human activity and the environment, maritime transport, natural resources, including raw materials and fish stocks, as well as research and innovation.
- (7) The TFEU and its secondary legislation do not automatically apply to the OCTs, with the exception of a number of provisions which explicitly provide for the contrary. Although not third countries, the OCTs do not form part of the single market and must comply with the obligations imposed on third countries in respect of trade, particularly rules of origin, health and plant health standards and safeguard measures.
- (8) The special relationship between the Union and the OCTs is moving from a development cooperation approach to a reciprocal partnership to support the OCTs' sustainable development. Moreover, the solidarity between the Union and the OCTs should be based on their unique relationship and their belonging to the same European family.
- (9) The 2030 Agenda for Sustainable Development ('2030 Agenda'), adopted by the United Nations in September 2015, is the international community's response to global challenges and trends in relation to sustainable development. With the Sustainable Development Goals ('SDGs'), the Paris Agreement on Climate Change and the Addis Ababa Action Agenda – at its core, the 2030 Agenda is a transformative framework to eradicate poverty and achieve sustainable development globally. It is universal in scope, providing a comprehensive shared framework for action that applies both to the Union and to its partners. It balances the economic, social, and environmental dimensions of sustainable development, recognising the essential interlinkages between its goals and targets. The 2030 Agenda aims to leave no one behind. Its implementation will be closely coordinated with other international commitments. Actions implemented under this Decision will pay particular attention to interlinkages between SDGs and to integrated actions that can create co-benefits and meet multiple objectives in a coherent way.
- (10) The association between the Union and the OCTs should continue to be based on the three key pillars of enhancing competitiveness, strengthening resilience and reducing vulnerability, and promoting cooperation and integration between the OCTs and other partners and neighbouring regions.
- (11) Union financial assistance allocated through the partnership should bring a European perspective to the development of OCTs and should contribute to the strengthening of the close and long lasting ties with it, while strengthening the position of OCTs as advanced outposts of the Union, based on the common values and history which link the partners.
- (12) Given the OCTs' geographical position, and despite the different status vis-à-vis Union law of each actor in a given geographical area, cooperation between them and their neighbours should be pursued in the interests of all sides with a particular focus on areas of common interest and the promotion of the Union's values and standards.
- (13) Many OCTs are neighbours to outermost regions, referred to in Article 349 TFEU and to African, Caribbean and Pacific (ACP) States and other third territories and countries and share

common needs with their neighbours from climate change adaptation and mitigation and the preservation of biodiversity to oceans-related issues, economic diversification and disaster risk reduction.

- (14) The Commission Communication of 24 October 2017 ‘A stronger and renewed strategic partnership with the Union's outermost regions’³¹, the Conclusions of the 15th and 16th OCT-EU Forums and the Commission recommendations for the negotiations on a Partnership Agreement between the European Union and ACP countries³² call for a reinforcement of regional cooperation programmes involving OCTs and their neighbours.
- (15) The OCTs are host to wide terrestrial and marine biodiversity. Climate change is impacting on OCTs’ natural environment and constitutes a threat undermining their sustainable development. Actions in the fields of conservation of biodiversity and ecosystem services, disaster risk reduction, sustainable management of natural resources and promotion of sustainable energy contributes to adaptation and mitigation of climate change in the OCTs. The association should aim at ensuring the conservation, restoration and sustainable use of biological diversity and ecosystem services as a key element for the achievement of sustainable development.
- (16) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Programme will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 25 % of the Union’s budget expenditures supporting climate objectives. Actions under this Programme are expected to contribute 20 % of the overall financial envelope of the Programme to climate objectives. Relevant actions will be identified during the Programme's implementation and reassessed in the context of its mid-term evaluation and review processes.
- (17) The significant role which OCTs could play in contributing to the EU’s commitments under Multilateral Environmental Agreements should be recognised in the relations between the Union and the OCTs.
- (18) The Union and the OCTs recognise the special importance of education and vocational training as a lever for the OCTs’ sustainable development.
- (19) The association between the Union and the OCTs should take into account and contribute to the preservation of the cultural diversity and identity of OCTs.
- (20) Trade and trade-related cooperation between the Union and the OCTs should contribute to the objective of sustainable economic development, social development and environmental protection.
- (21) This Decision should provide for more flexible rules of origin, including new possibilities of cumulation of origin. Cumulation should be possible not only with OCTs and Economic Partnership Agreement (EPA) countries, but under certain conditions also for products originating in countries with which the Union is applying a free trade agreement as well as for products entering the Union duty-free and quota-free under the Union’s General System of Preferences, also subject to conditions. These conditions are necessary to prevent trade circumvention and ensure the proper functioning of the cumulation arrangements.
- (22) The procedures for certification of OCT origin should be updated, in the interests of the operators and administrations concerned in the OCTs. Provisions on administrative cooperation between the Union and the OCTs should also be updated accordingly.

³¹ COM (2017) 623 final, 24.10.2017

³² COM (2017) 763 final, 12.12.2017

- (23) In addition, sufficiently detailed safeguard and surveillance provisions should be laid down. This would allow OCTs' and Union competent authorities as well as economic operators to rely on clear and transparent rules and procedures. Finally, it is a matter of common interest to ensure the proper application of the procedures and arrangements that allow the OCTs to export goods to the Union duty-free and quota-free.
- (24) Taking into account the aims of integration and the developments of global trade in the area of services and establishment, it is necessary to support the development of services markets and investment possibilities by improving the market access of OCTs' services and investment to the Union market. In this regard the Union should offer to OCTs the best possible treatment offered to any other trading partner through comprehensive most favoured nation clauses, while ensuring more flexible possibilities for trade relations for OCTs by limiting the treatment offered by OCTs to the Union to what has been offered to other major trading economies.
- (25) Cooperation in the area of financial services between the Union and OCTs should contribute to building a safer, sounder, more transparent financial system that is essential to enhance global financial stability and to underpin sustainable growth. Efforts in that area should focus on convergence with internationally agreed standards and approximation of OCTs' legislation with Union *acquis* on financial services. Adequate attention should be paid to strengthening administrative capacity of OCTs' authorities, including in the area of supervision.
- (26) Union financial assistance should focus on areas where it has most impact, having regard to its capacity to act on a global scale and to respond to global challenges such as poverty eradication, sustainable and inclusive development or the worldwide promotion of democracy, good governance, human rights and the rule of law, its long-term and predictable engagement in development assistance and its role in coordinating with its Member States.
- (27) In the interest of efficiency, simplification and recognition of the management capacities of the OCTs' authorities, the financial resources granted to the OCTs should be managed on the basis of a reciprocal partnership. Moreover, the authorities of the OCTs should assume the responsibility for the formulation and implementation of those policies agreed upon between the parties as cooperation strategies. The limited administrative and human resources of the OCTs should be taken into account in the programming and implementation process.
- (28) This Decision lays down a financial envelope for the association of the OCTs with the Union, the 'Overseas Association Decision', which is to constitute the prime reference amount, within the meaning of point 16 of the Interinstitutional Agreement of [---] between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management for the European Parliament and the Council during the annual budgetary procedure.
- (29) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Decision. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective Union funding.
- (30) The types of financing and the methods of implementation under this Decision should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use

of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.

- (31) The Union should seek the most efficient use of available resources in order to optimise the impact of its external action. That should be achieved through coherence and complementarity between the Union's external financing instruments, as well as the creation of synergies with other Union policies and Programmes. In order to maximise the impact of combined interventions to achieve a common objective, this Decision should allow for the combination of funding with other Union Programmes, as long as the contributions do not cover the same costs.
- (32) This Decision should make reference, where required, to [NDICI Regulation] (Neighbourhood, Development and International Cooperation Instrument) for the purpose of the implementation of the cooperation and thus ensuring coherence in the management across instruments.
- (33) In order to take into account developments and changes in customs and trade legislation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the content of Annex II, III and IV to enable the Commission to translate into the Decision these changes. Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016³³, there is a need to evaluate this Programme on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Programme on the ground. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016³⁴. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (34) The references to the external assistance instruments in Article 9 of Council Decision 2010/427/EU³⁵ should be read as reference also to this Decision. The Commission should ensure that this Decision is implemented in accordance with the role of the EEAS as provided in that Decision.
- (35) In order to ensure uniform conditions for the implementation of Article 10(6) and 16(8) of Annex II, Article 2 of Annex III, Article 5 and 6 of Annex IV of this Decision, implementing powers should be conferred on the Commission. Those powers should be *exercised* in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (36) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council³⁶, Council Regulation (EC, Euratom) No 2988/95³⁷,

³³ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1.

³⁴ idem

³⁵ Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

³⁶ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, OJ L248, 18.9.2013, p. 1.

³⁷ Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests, OJ L 312, 23.12.95, p.1.

Council Regulation (Euratom, EC) No 2185/96³⁸ and Council Regulation (EU) 2017/1939³⁹, the financial interests of the Union are to be protected through effective and proportionate measures, including the prevention, detection, correction and investigation of irregularities, including fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council⁴⁰. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests and grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights. For this reason, agreements with third countries and territories and with international organisations, and any contract or agreement resulting from the implementation of this Decision should contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct audits, on-the-spot checks and inspections, according to their respective competences and ensuring that any third parties involved in the implementation of Union funding grant equivalent rights.

- (37) By virtue of this Decision, the Council should be able to give an innovative response to all the factors mentioned above, which is both consistent and tailored to the variety of situations,

HAS ADOPTED THIS DECISION

PART I

GENERAL PROVISIONS OF THE ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES WITH THE UNION

³⁸ Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, OJ L292, 15.11.96, p.2.

³⁹ Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), OJ L283, 31.10.2017, p.1.

⁴⁰ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, OJ L 198, 28.7.2017, p. 29.

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter

1. This Decision establishes an association of the overseas countries and territories (OCTs) with the Union (the ‘association’), which constitutes a partnership, based on Article 198 TFEU, to support the OCTs’ sustainable development as well as to promote the values and standards of the Union in the wider world.
2. The partners to the association are the Union, the OCTs and the Member States to which they are linked.
3. This Decision establishes, in its Article 73, the funding programme for the association with all the OCTs for the period 2021 to 2027 (the ‘Programme’). It lays down the objectives of the Programme, the forms of Union funding and the rules for providing such funding, as set out in Annex I of this Decision.

Article 2

Territorial application

The association shall apply to the OCTs listed in Annex II to the TFEU.

Article 3

Objectives, principles and values

1. The association between the Union and the OCTs shall be based on objectives, principles and values shared by the OCTs, the Member States to which they are linked and the Union.
2. The partners recognise each other’s rights to determine their sustainable development policies and priorities, to establish their own levels of domestic environmental and labour protection, and to adopt or modify accordingly the relevant laws and policies, consistently with commitment to the internationally recognised standards and agreements. In doing so, they shall strive to ensure high levels of environmental and labour protection
3. In implementing this Decision, the partners shall be guided by the principles of transparency, subsidiarity and the need for efficiency and shall equally address the three pillars of OCTs’ sustainable development: economic development, social development and environmental protection.
4. The general objective of this Decision is to promote the economic and social development of the OCTs and to establish close economic relations between them and the Union as a whole. The association shall pursue this general objective by the enhancing the OCTs’ competitiveness, strengthening the OCTs’ resilience, reducing their economic and environmental vulnerability and the promoting of cooperation between them and other partners.
5. In accordance with Articles 3(5) and 21 of the TEU, the specific objectives of this Decision are the following:
 - (a) to foster and support cooperation with OCTs,

- (b) to support and to cooperate with Greenland in addressing its major challenges as the raising of education level and to contribute to the capacity of the administration of Greenland to formulate and implement national policies.
6. In pursuing those objectives, the association shall respect the fundamental principles of liberty, democracy, human rights and fundamental freedoms, the rule of law, good governance and sustainable development, all of which are common to the OCTs and the Member States to which they are linked.

Article 4

Management of the association

Management of the association shall be conducted by the Commission and the OCTs' authorities and, where necessary, by the Member State to which the OCT is linked, in accordance with their respective institutional, legal and financial competences

Article 5

Mutual interests, complementarity and priorities

1. The association is the framework for policy dialogue and cooperation on issues of mutual interest.
2. Priority shall be given to cooperation in areas of mutual interest, such as:
 - (a) the economic diversification of OCTs' economies, including their further integration in world and regional economies; in the specific case of Greenland, the need to increase the skills of its labour force.
 - (b) the promotion of green and blue economy;
 - (c) the sustainable management of natural resources, including the conservation and sustainable use of biodiversity and ecosystem services;
 - (d) climate change mitigation and adaptation to the impacts of climate change;
 - (e) the promotion of disaster risk reduction;
 - (f) the promotion of research, innovation and scientific cooperation activities;
 - (g) the promotion of social, cultural and economic exchanges between the OCTs, their neighbours and other partners;
 - (h) Arctic issues.
3. Cooperation in the areas of mutual interest shall aim at the promotion of OCTs' self-reliance and of the development of OCTs' capacities to formulate, implement and monitor strategies and policies set out in paragraph 2.

Article 6

Promotion of the association

1. With an aim to strengthen their mutual relations, the Union and the OCTs shall endeavour to make the association known among their citizens, in particular by promoting the development of the links and cooperation between the authorities, academic community, civil society and businesses of OCTs on the one hand and their interlocutors within the Union on the other.
2. OCTs shall make efforts to strengthen and promote their relations with the Union as a whole. The Member States shall support these efforts.

Article 7

Regional cooperation, regional integration and cooperation with other partners

1. Subject to Article 3 of this Decision, the association shall support the OCTs in their efforts to take part in relevant international, regional and/or sub-regional cooperation initiatives as well as regional or sub-regional integration processes, in line with their own aspirations and in accordance with objectives and priorities defined by the competent OCTs' authorities.
2. To this end, the Union and the OCTs may exchange information and best practices or establish any other form of close cooperation and coordination with other partners in the context of the OCTs' participation in regional and international organisations, where appropriate by means of international agreements.
3. The association aims at supporting cooperation between the OCTs and other partners in the areas of cooperation set out in Parts II and III of this Decision. In that respect, the objective of the association is to promote the cooperation between the OCTs and the outermost regions, referred to in Article 349 TFEU, their neighbouring ACP and non ACP states and territories. In order to achieve that objective, the Union shall improve coordination and synergies between the relevant Union programmes. The Union shall also endeavour to associate OCTs in its instances of dialogue with their neighbouring countries, whether they are ACP or non-ACP States or territories, and with the outermost regions, where appropriate.
4. The support to OCTs' participation in relevant regional integration organisations shall focus in particular on:
 - (a) capacity building of relevant regional organisations and institutions of which OCTs are members;
 - (b) regional or sub-regional initiatives such as the implementation of sectoral reform policies relating to the areas of cooperation identified in Parts II and III of this Decision;
 - (c) the awareness and knowledge of the OCTs on the impacts of regional integration processes in different areas;
 - (d) OCTs' participation in the development of regional markets within the context of regional integration organisations;
 - (e) cross-border investment between OCTs and their neighbours.

Article 8

Participation in European Groupings of Territorial Cooperation

In the application of Article 7(1), (2) and (3) of this Decision, the cooperation initiatives or other forms of cooperation shall also mean that governmental authorities, regional and sub-regional organisations, local authorities and, where appropriate, other public and private bodies or institutions (including public service providers) from an OCT may participate in a European Grouping of Territorial Cooperation (EGTC) subject to the rules and objectives of the cooperation activities of this Decision and those of Regulation (EU) No 1302/2013⁴¹ and in accordance with the arrangements applicable to the Member State to which the OCT is linked.

⁴¹ Regulation (EU) No 1302/2013 of the European Parliament and of The Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings, OJ L 347, 20.12.2013, p. 303.

Article 9
Specific treatment

1. The association shall take into account the diversity of the OCTs in terms of economic development and capacity to fully benefit from regional cooperation and regional integration referred to in Article 7.
2. A specific treatment shall be established for isolated OCTs.
3. In order to enable isolated OCTs to overcome structural and other obstacles to their development, this specific treatment shall take account of their specific difficulties, *inter alia*, when determining the volume of financial assistance and the conditions attached thereto.
4. The OCT which shall be considered to be isolated is St Pierre et Miquelon.

CHAPTER 2
COOPERATION

Article 10
General Approach

1. The association shall be based on a broad dialogue and consultations on issues of mutual interest between the OCTs, the Member States to which they are linked and the Commission, and, if appropriate, the European Investment Bank (EIB).
2. The OCTs shall organise, where appropriate, a dialogue and consultations with authorities and bodies such as:
 - (a) the competent local and other public authorities;
 - (b) the economic and social partners;
 - (c) any other appropriate body representing civil society, such as, environmental partners, non-governmental organisations, and bodies responsible for promoting equality between men and women.

Article 11
Actors of cooperation

1. Actors of cooperation in the OCTs shall include:
 - (a) the OCTs' governmental authorities;
 - (b) the local authorities within the OCTs;
 - (c) public service providers and civil society organisations, such as social, business, employers' and trade union associations, and local, national or international non-governmental organisations;
 - (d) regional and sub-regional organisations.
2. The Member States to which the OCTs are linked shall inform the Commission of the governmental and local authorities referred to in points (a) and (b) of paragraph 1.

Article 12

Responsibilities of the non-governmental actors

1. Non-governmental actors may play a role in the exchange of information and consultations concerning the cooperation, and in particular for the preparation and implementation of cooperation assistance, projects or programmes. They may receive a delegation of financial management powers for implementing such projects or programmes for the purpose of supporting local development initiatives.
2. Non-governmental actors eligible for decentralised management of projects or programmes shall be identified by agreement between the OCT authorities, the Commission and the Member State to which the OCT is linked, taking into account the subject concerned, their expertise and field of activity. The process of identification shall be conducted in each OCT as part of the broad dialogue and consultations referred to in Article 10.
3. The association aims at contributing to the efforts of the OCTs to strengthen civil society organisations, concerning in particular their creation and development, and the development of the arrangements necessary for opening their involvement in the design, implementation and evaluation of development strategies and programmes.

CHAPTER 3

INSTITUTIONAL FRAMEWORK OF THE ASSOCIATION

Article 13

Guiding principles for dialogue

1. The Union, the OCTs and the Member States to which they are linked shall regularly engage in a comprehensive and political dialogue.
2. The dialogue shall be conducted in full compliance with the respective institutional, legal and financial powers of the Union, of the OCTs and of the Member States to which they are linked. The dialogue shall be conducted in a flexible manner. It may be formal or informal, at an appropriate level or format, and shall be conducted within the framework referred to in Article 14.
3. The dialogue shall enable the OCTs to take a full part in the implementation of the association.
4. The dialogue shall focus, *inter alia*, on specific political issues of mutual concern or of general significance for the attainment of the objectives of the association.
5. The dialogue with Greenland shall, in particular, provide the basis for broad cooperation and dialogue in areas concerning, *inter alia*, energy, climate change and environment, natural resources, including raw materials and fish stocks, maritime transport, research and innovation, as well as the Arctic dimension of those issues.

Article 14

Instances of the association

1. The association shall establish the following instances of dialogue:
 - (a) an OCTs-EU forum for dialogue (the 'OCT-EU Forum'), shall meet annually to bring together OCTs' authorities, representatives of the Member States and the Commission.

Members of the European Parliament, representatives of the EIB, and representatives of the outermost regions shall, where appropriate, be associated with the OCTs-EU Forum;

- (b) on a regular basis, the Commission, the OCTs and the Member States to which they are linked shall hold trilateral consultations. These consultations shall be organised at least three times a year on the initiative of the Commission or at the request of the OCTs and of the Member States to which they are linked;
 - (c) in agreement between the OCTs, the Member States to which they are linked and the Commission, working parties, acting in an advisory capacity, shall be set up to follow the implementation of the association, in a form appropriate to the issues to be addressed. These working parties may be convened at the request of the Commission, of a Member State or of an OCT. They shall provide for technical discussions on matters which are of specific concern to the OCTs and the Member States to which they are linked, complementing the work that is being done in the OCTs-EU Forum and/or in the trilateral consultations.
2. The Commission shall chair the OCTs-EU Forum, the trilateral consultations and the working parties and shall provide their secretariat.

PART II

AREAS OF COOPERATION FOR SUSTAINABLE DEVELOPMENT IN THE FRAMEWORK OF THE ASSOCIATION

CHAPTER 1

ENVIRONMENTAL ISSUES, CLIMATE CHANGE, OCEANS AND DISASTER REDUCTION

Article 15

General principles

In the context of the association, cooperation in the field of environment, climate change and disaster risk reduction may concern:

- (a) support to the OCTs' efforts to define and implement policies, strategies, action plans and measures;
- (b) support to the OCTs' efforts to integrate in regional networks and initiatives;
- (c) the promotion of sustainable resource use and resource efficiency, and encouragement to the decoupling of economic growth from environmental degradation; and;
- (d) support to the OCTs' efforts to act as regional hubs and centres of excellence.

Article 16

Sustainable management and conservation of biodiversity and ecosystem services

In the context of the association, cooperation in the field of sustainable management and conservation of biodiversity, and ecosystem services may concern:

- (a) the promotion of the establishment and effective management of marine and terrestrial protected areas and improved management of existing protected areas;
- (b) the encouragement of sustainable management of marine and terrestrial resources, which contribute to protecting species, habitats and ecosystem functions outside protected areas, in particular, endangered, vulnerable and rare species;
- (c) the strengthening of conservation and sustainable use of marine and terrestrial biodiversity and ecosystems by:
 - (i) addressing the wider ecosystem challenge of climate change by maintaining healthy, resilient ecosystems and fostering green and blue infrastructure and ecosystem-based approaches to climate change adaptation and mitigation which often bring multiple benefits;
 - (ii) strengthening capacities at a local, regional and/or international scale, by promoting exchange of information, knowledge and best practice amongst all stakeholders including public authorities, landowners, private sector, researchers and civil society;

- (iii) strengthening existing nature conservation programmes and related efforts within and outside conservation areas;
- (iv) broadening the knowledge base and filling the knowledge gaps, including quantifying the value of ecosystem functions and services;
- (d) the encouragement and facilitation of regional cooperation in order to address issues such as invasive alien species or the impacts of climate change;
- (e) the development of mechanisms to lever resources including payments for ecosystem services.

Article 17

Sustainable forest management

In the context of the association, cooperation in the field of sustainable forest management may concern the promotion of the conservation and sustainable management of forests, including their role in the conservation of the environment from erosion and desertification control, afforestation and management of timber exports.

Article 18

Integrated coastal zone management

In the context of the association, cooperation in the field of integrated coastal zone management may concern:

- (a) the support to the efforts of the OCTs towards an effective sustainable management of marine and coastal zones in defining strategic and integrated approaches to marine and coastal zone planning and management;
- (b) conciliation of economic and social activities such as fisheries and aquaculture, tourism, maritime transports and agriculture with the potential of marine and coastal zones in terms of renewable energy, raw materials, whilst taking into account impacts of climate change and human activities.

Article 19

Oceans

1. In the context of the association, cooperation in the field of international ocean governance may concern:
 - (a) the strengthening of the dialogue on issues of common interest in that field;
 - (b) the promotion of marine knowledge and biotechnology, ocean energy, maritime surveillance, coastal zone management and an ecosystem-based management;
 - (c) the promotion of integrated approaches at international level;
 - (d) the active promotion of good governance, best practices and responsible fisheries management in the conservation and sustainable management of fish stocks, including fish stocks of common interest and those managed by regional fisheries management organisations;
 - (e) dialogue and cooperation regarding the conservation of fish stocks including measures to fight illegal, unreported and unregulated fishing and effectively cooperating with and within regional fisheries management organisations. Dialogue and cooperation shall include control

and inspection schemes, incentives and obligations for a more effective management of fisheries and coastal environments in the long term.

2. In the context of the association, and while ensuring consistency and complementarity with existing Fisheries Partnership Agreements, cooperation referred to in paragraph 1 (d) and (e) shall be based on the following principles:
 - (a) commitment to responsible fisheries management and fishing practices;
 - (b) refraining from measures or activities that are inconsistent with the principles of sustainable exploitation of fisheries resources;
 - (c) taking into account existing or possible future bilateral Fisheries Partnership Agreements between the Union and the OCTs, the Union and the OCTs shall aim to regularly consult each other on the conservation and management of the living marine resources and to exchange information on the ongoing state of resources within the context of the relevant instances of the association provided for in Article 14.

Article 20

Sustainable water management

1. In the context of the association, the Union and the OCTs may cooperate in the area of sustainable water management through water policy and institution building, protecting water resources, water supplies in rural and urban areas for domestic, industrial or agricultural purposes, storage, distribution and management of water resources and waste water management.
2. In the field of water supply and sanitation sector, particular attention shall be given to access in under-served areas to drinking water supply and sanitation services and those particularly exposed to natural disasters, which contribute directly to human resources development by improving the state of health and increasing productivity.
3. Cooperation in these areas shall be guided by the principle that the continuing need to extend the provision of basic services in water and sanitation to both urban and rural populations must be addressed in environmentally sustainable ways.

Article 21

Waste management

In the context of the association, cooperation in the field of waste management may concern the promotion of the use of the best environmental practice in all operations related to waste management, including the reduction of waste, recycling or other processes of recovery, e.g. energy recovery and waste disposal.

Article 22

Energy

In the context of the association, cooperation in the field of sustainable energy may concern:

- (a) sustainable energy production, distribution and access, in particular the development, promotion, use and storage of sustainable low-carbon energy from renewable energy sources;
- (b) energy policies and regulations, in particular the formulation of policies and adoption of regulations guaranteeing affordable and sustainable energy tariffs;
- (c) energy efficiency, in particular the development and introduction of energy efficiency standards and implementation of energy efficiency measures in different sectors (industrial,

commercial, public and households), as well as accompanying educational and awareness activities;

- (d) transport, in particular the development, promotion and use of more environmentally friendly public and private transport means such as hybrid, electric or hydrogen vehicles, carpooling and cycling schemes;
- (e) town planning and construction, in particular the promotion and introduction of high environment quality standards and high energy performance in urban planning and construction; and
- (f) tourism, in particular the promotion of energy self-sufficient (renewable energy based) and/or green tourism infrastructures.

Article 23

Raw materials

In the context of the association, cooperation in the field of raw materials, including rare earths may concern the promotion of a raw material sector which is sustainable in respect of all operations related to mining, and which aims at:

- (a) a resources efficiency;
- (b) the promotion of recycling;
- (c) the development and strengthening of environmental protection;
- (d) environmentally friendly handling and exploitation;
- (e) the strengthening of capacities, training, innovation, research and business measures for raw material exploitation and extraction on a local, regional and national level.

Article 24

Climate change

In the context of the association, cooperation in the field of climate change shall aim to support the initiatives of the OCTs concerning climate change mitigation and adaptation to the adverse effects of climate change, and may cover:

- (a) the development of evidence; identification of key risks and territorial, regional and/or international actions, plans, or measures in view of adapting to climate change or mitigating its adverse effects;
- (b) contributing to partners countries' efforts to pursue their commitments on climate change in line with the Paris Agreement on Climate Change
- (c) the integration of adaptation to climate change and its mitigation in public policies and strategies;
- (d) the elaboration and identification of statistical data and indicators, essential tools for policy making and implementation; and
- (e) the promotion of the participation of the OCTs in regional and international dialogue in order to foster cooperation, including exchange of knowledge and experience.

Article 25

Disaster risk reduction

In the context of the association, cooperation in the field of disaster risk reduction may concern:

- (a) the development or perfection of systems, including infrastructures, for disaster prevention and preparedness, including prediction and early-warning systems, with a view to reducing the consequences of disasters;
- (b) the development of detailed knowledge of the exposure to the disasters and the current response capacities in the OCTs and in the regions where they are located;
- (c) the strengthening of existing measures of disaster prevention and preparation at local, national and regional levels;
- (d) the improvement of response capacities of the actors concerned, to render them more coordinated, effective and efficient;
- (e) the improvement of awareness-raising and information to the population regarding the exposure to risks, prevention, preparation and the response in the event of disaster, with due attention to the specific needs of persons with disabilities;
- (f) the strengthening of collaboration between key actors involved in civil protection; and
- (g) the promotion of the participation of the OCTs in regional, European and/or international instances in order to allow a more regular exchange of information and a closer cooperation among the different partners in the event of disaster.

CHAPTER 2

ACCESSIBILITY

Article 26

General objectives

1. In the context of the association, cooperation in the field of accessibility shall aim to:
 - (a) ensure greater access of OCTs to global transport networks; and
 - (b) ensure greater access of OCTs to information and communication technologies and services.
2. Cooperation in the context referred to in paragraph 1 may encompass:
 - (a) policy and institution building;
 - (b) transport by road, rail, air, sea or inland waterway; and
 - (c) storage facilities in sea- and airports.

Article 27

Maritime transport

1. In the context of the association, cooperation in the field of maritime transport shall aim to the development and promotion of cost-effective and efficient maritime transport services in the OCTs and may concern:
 - (a) the promotion of efficient shipments of cargo at economically and commercially viable rates;
 - (b) the facilitation of greater participation of the OCTs in international shipping services;
 - (c) the encouragement of regional programmes;
 - (d) the support to local private sector involvement in shipping activities; and

- (e) the development of infrastructure.
- 2. The Union and the OCTs shall promote shipping safety, security of crews and the prevention of pollution.
- 3. The Union and the OCTs shall promote maritime safety and security, protection of the marine environment, living-working conditions on board in line with the relevant international conventions and EU legislative framework.

Article 28
Air transport

In the context of the association, cooperation in the field of air transport may concern:

- (a) the reform and modernisation of the OCTs' air transport industries;
- (b) the promotion of the commercial viability and competitiveness of the OCTs' air transport industries;
- (c) the facilitation of private sector investment and participation; and
- (d) the promotion of exchange of knowledge and good business practice.

Article 29
Air transport safety and security

In the context of the association, cooperation in the fields of air transport safety and security shall aim to support the OCTs in their efforts to comply with the relevant EU and international standards and may cover *inter alia*:

- (a) the implementation of the EU aviation safety system, and of international standards where relevant;
- (b) the implementation of airport security and strengthening of the capacity of civil aviation authorities to manage all aspects of operational security placed under their control; and
- (c) the development of infrastructures and human resources.

Article 30
Information and communication technologies services

In the context of the association, cooperation in the field of information and communication technology (ICT) services shall aim to spur, in the OCTs, innovation, economic growth and improvements in daily life for both citizens and businesses, including the promotion of accessibility for persons with disabilities. Cooperation shall, in particular, be directed at enhancing OCTs' regulatory capacity and may support the expansion of ICT networks and services through the following measures:

- (a) creation of a predictable regulatory environment that keeps pace with technological developments, stimulates growth and innovation and fosters competition and consumer protection;
- (b) dialogue on the various policy aspects regarding the promotion and monitoring of the information society;
- (c) exchange of information on standards and interoperability issues;
- (d) promotion of cooperation in the field of ICT research and in the field of ICT-based research infrastructures;

- (e) development of services and applications in domains of high societal impact.

CHAPTER 3

RESEARCH AND INNOVATION

Article 31

Cooperation in research and innovation

In the context of the association, cooperation in the field of research and innovation may cover science, energy, climate change, disaster resilience, natural resources including raw materials, and sustainable use of living resources.

It may also cover technology, including information and communication technologies, with the aim of contributing to the OCTs' sustainable development and to promoting the OCTs' role as regional hubs and centres of excellence as well as their industrial competitiveness. In particular, cooperation may concern:

- (a) dialogue, coordination and creation of synergies between OCTs and Union policies and initiatives with regard to science, technology and innovation;
- (b) policy and institutional building within OCTs and concerted actions at local, national or regional level, with a view to developing science, technology and innovation activities and their application;
- (c) cooperation between legal entities from the OCTs, the Union, the Member States and the third countries;
- (d) participation of individual OCTs researchers, research bodies and legal entities from OCTs in the European Framework Programmes for Research and Innovation and the Programme for the Competitiveness of Enterprises and small and medium size enterprises (COSME), also linking them to already supported activities of these programmes with the aim to ensure complementarity of activities; and
- (e) training and international mobility of OCTs researchers and exchange.

CHAPTER 4

YOUTH, EDUCATION, TRAINING, HEALTH, EMPLOYMENT, SOCIAL SECURITY, FOOD SAFETY AND FOOD SECURITY

Article 32

Youth

1. The Union shall ensure that natural persons from OCTs, as defined in Article 50, can participate in initiatives of the Union concerning youth on the same basis as nationals of Member States.
2. The association aims at strengthening the ties between young people living in the OCTs and the Union, among others by promoting learning mobility of OCTs youth and by fostering mutual understanding between young people.

Article 33
Education and training

1. In the context of the association, cooperation in the field of education and training may cover:
 - (a) the provision of high quality, inclusive education at primary, secondary and higher education level and in the area of vocational education and training; and
 - (b) the support to the OCTs in defining and implementing education and vocational training policies.
2. The Union shall ensure that natural persons from the OCTs, as defined in Article 50, can participate in education and vocational training initiatives of the Union on the same basis as nationals of Member States.
3. The Union shall ensure that educational bodies and institutes from OCTs can take part in education related cooperation initiatives of the Union on the same basis as the educational and vocational training bodies and institutes of the Member States.

Article 34
Employment and social policy

1. The Union and the OCTs shall maintain dialogue in the area of employment and social policy in order to contribute to the economic and social development of the OCTs and the promotion of decent work in the OCTs and regions where they are located. Such a dialogue shall also aim at supporting the efforts of the OCTs' authorities to develop policies and legislation in this area.
2. The dialogue shall mainly consist of exchange of information and best practices relating to policies and legislation in the area of employment and social policy that are of mutual interest to the Union and the OCTs. In this regard, areas such as skills development, social protection, social dialogue, equal opportunities, non-discrimination and accessibility for persons with disabilities, health and safety at work and other labour standards shall be taken into consideration.

Article 35
Public health, food safety and food security

In the context of the association, cooperation in the field of public health and food safety shall aim, *inter alia*, to reduce the burden of communicable and non-communicable diseases and, in particular, to develop, strengthen, and maintain the OCTs' capacity for epidemiological surveillance, monitoring, early warning, risk assessment and response to serious cross-border health threats through measures including:

- (a) actions to strengthen preparedness and response planning against health emergencies such as outbreaks of communicable diseases including through the implementation of the International Health Regulations, ensure interoperability between the health sector and other sectors, and continuous delivery of critical services and products;
- (b) capacity building through strengthening public health networks at regional level, facilitating exchange of information among experts and promoting adequate training, including in the field of food safety;
- (c) development of tools and communication platforms, including rapid alert systems, as well as e-learning programs adapted to OCTs' particular needs;

- (d) actions to prevent and reduce food related outbreaks and address food safety and food security issues;
- (e) actions to reduce the burden of non-communicable diseases in the framework of achieving the sustainable development goals.

CHAPTER 5

CULTURE AND TOURISM

Article 36

Cultural exchanges and dialogue

1. In the context of the association, cooperation in the field of cultural exchanges and dialogue may concern:
 - (a) the self-reliant development of the OCTs, this being a process centred on people themselves and rooted in each people's culture;
 - (b) the support to the policies and measures adopted by the competent authorities of OCTs to enhance their human resources, increase their own creative capacities and promote their cultural identities;
 - (c) the participation by the population in the process of development;
 - (d) the development of a common understanding and enhanced exchange of information on cultural and audio-visual matters through dialogue.
2. Through their cooperation the Union and the OCTs shall seek to stimulate cultural exchanges between each other through:
 - (a) cooperation between the cultural and creative sectors of all partners;
 - (b) promotion of the circulation of cultural and creative works and operators between them;
 - (c) policy cooperation in order to foster policy development, innovation, audience building and new business models.

Article 37

Audio-visual cooperation

1. In the context of the association, cooperation in the audio-visual field aims at promoting each other's audio-visual productions and may cover the following actions:
 - (a) cooperation and exchange between the respective broadcasting industries;
 - (b) encouraging exchange of audio-visual works;
 - (c) exchange of information and views on audio-visual and broadcasting policy and regulatory framework between competent authorities;
 - (d) encouraging visits to and participation in international events held in each other's territory as well as in third countries.
2. Co-produced audio-visual works shall be entitled to benefit from any scheme for the promotion of local or regional cultural content set up in the Union, the OCTs and the Member States to which they are linked

Article 38
Performing arts

In the context of the association, cooperation in the field of performing arts may concern:

- (a) the facilitation of increased contacts between practitioners of performing arts in areas such as professional exchanges and training including participation in auditions, development of networks and promotion of networking;
- (b) the encouragement of joint productions between producers of one or several Member States of the Union and one or several OCTs; and
- (c) the encouragement of the development of international theatre technology standards and the use of theatre stage signs, including through appropriate standardisation bodies.

Article 39
Protection of cultural heritage and historic monuments

In the context of the association, cooperation in the field of tangible and intangible cultural heritage and historic monuments aims at allowing the promotion of exchanges of expertise and best practices through:

- (a) the facilitation of exchanges of experts;
- (b) the collaboration on professional training;
- (c) the awareness of the local public; and
- (d) the counselling on the protection of the historic monuments and protected spaces and on the legislation and implementation of measures related to heritage, in particular its integration into local life.

Article 40
Tourism

In the context of the association, cooperation in the field of tourism may include:

- (a) measures aiming at defining, adapting and developing sustainable tourism policies;
- (b) measures and operations to develop and support sustainable tourism;
- (c) measures aiming at integrating sustainable tourism into the social, cultural and economic life of OCTs citizens.

CHAPTER 6

FIGHT AGAINST ORGANISED CRIME

Article 41

Fight against organised crime, trafficking in human beings, child sexual abuse and sexual exploitation, terrorism and corruption

1. In the context of the association, cooperation in the field of organised crime may include:
 - (a) the development of innovative and effective means of police and judicial cooperation, including cooperation with other stakeholders such as civil society, in the prevention of and

fight against organised crime, trafficking in human beings, child sexual abuse and sexual exploitation, terrorism and corruption; and

- (b) support in order to increase the efficiency of OCTs' policies to prevent and fight against organised crime, trafficking in human beings, child sexual abuse and sexual exploitation, terrorism and corruption, as well as the production, distribution and trafficking of all kinds of narcotic drugs and psychotropic substances, preventing and reducing drug use and drug-related harms, taking into account work carried out in these areas by international bodies, through *inter alia*:
- (i) training and capacity building in preventing and fighting organised crime, including trafficking in human beings, child sexual abuse and sexual exploitation, terrorism and corruption;
 - (ii) prevention including training, education and health promotion, treatment and rehabilitation of dependent drug users, including projects for the reintegration of dependent drug users into work and social environments;
 - (iii) development of effective enforcement measures;
 - (iv) technical, financial and administrative assistance on the development of effective policies and legislation on trafficking in human beings, in particular awareness raising campaigns, referral mechanisms and victim protection systems, involving all relevant stakeholders and civil society;
 - (v) technical, financial and administrative assistance relating to the prevention, treatment and reduction of harms related to drug use;
 - (vi) technical assistance to support the development of legislation and of policy against child sexual abuse and sexual exploitation; and
 - (vii) technical assistance and training to support capacity building and encourage compliance with international anti-corruption standards notably those set out in the UN Convention against Corruption.
2. In the context of the association, the OCTs shall cooperate with the Union as regards combatting money laundering and the financing of terrorism in accordance with Article 70.

PART III

TRADE AND TRADE RELATED COOPERATION

TITLE I GENERAL PROVISIONS

Article 42

Specific objectives

The general objectives of the trade and trade-related cooperation between the Union and the OCTs are to:

- (a) promote the economic and social development of the OCTs by establishing close economic relations between them and the Union as a whole;
- (b) stimulate the OCTs' effective integration in the regional and world economies and the development of trade in goods and services;
- (c) support OCTs in creating a favourable investment climate to support social and economic development of OCTs;
- (d) promote the stability, integrity and transparency of the global financial system, and good governance in the tax area;
- (e) support the process of diversification of OCTs economies;
- (f) support OCTs capacities to formulate and implement policies necessary for the development of their trade in goods and services;
- (g) support the OCTs' export and trading capacities;
- (h) support OCTs' efforts to align or converge their local legislation with Union legislation, where relevant;
- (i) provide possibilities for targeted cooperation and dialogue with the Union on trade and trade-related areas.

TITLE II ARRANGEMENTS FOR TRADE IN GOODS AND SERVICES AND ESTABLISHMENT

CHAPTER 1

ARRANGEMENTS FOR TRADE IN GOODS

Article 43

Free access for originating goods

1. Products originating in the OCTs shall be imported into the Union free of import duty.
2. The definition of originating products and the methods of administrative cooperation relating thereto are laid down in Annex II.

Article 44

Quantitative restrictions and measures having equivalent effect

1. The Union shall not apply to imports of products originating in the OCTs any quantitative restrictions or measures having equivalent effect
2. Paragraph 1 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality or public policy, the protection of health and life of humans, animals and plants, the protection of national treasures possessing artistic, historic or archaeological value, the conservation of exhaustible natural resources or the protection of industrial and commercial property.
3. Prohibitions or restrictions referred to in the first subparagraph shall in no case constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction of trade generally.

Article 45

Measures adopted by the OCTs

1. The authorities of the OCTs may retain or introduce, in respect of imports of products originating in the Union, such customs duties or quantitative restrictions as they consider necessary in view of their respective development needs.
2. For the fields covered by this Chapter, the OCTs shall grant to the Union a treatment no less favourable than the most favourable treatment applicable to any major trading economy as defined in paragraph 4.
3. Paragraph 2 shall not preclude an OCT from granting certain other OCTs or other developing countries more favourable treatment than that accorded to the Union.
4. For the purposes of this Title, a 'major trading economy' means any developed country, or any country accounting for a share of world merchandise exports above one per cent, or, without prejudice to paragraph 3, 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 %. For this calculation, the latest available official data by the WTO on leading exporters in world merchandise trade (excluding intra-Union trade) shall be used.
5. The authorities of the OCTs shall communicate to the Commission the customs tariffs and lists of quantitative restrictions which they apply in compliance with this Decision. The authorities of the OCTs shall also communicate to the Commission any subsequent amendments to such measures as and when they are adopted.

Article 46

Non-discrimination

1. The Union shall not discriminate between OCTs and the OCTs shall not discriminate between Member States.
2. In compliance with Article 64, the implementation of the specific provisions in this Decision and in particular its Article 44(2), Articles 45 and 48, 49 and 51 and Article 58 (3) shall not be deemed to constitute a discrimination.

Article 47

Conditions for movements of waste

1. Movements of waste between the Member States and the OCTs shall be controlled in accordance with international law, in particular the Basel Convention⁴², and Union law. The Union shall support the establishment and development of effective international cooperation in this area with a view to protecting the environment and public health.
2. As regards those OCTs, which, due to their constitutional status, are not Party to the Basel Convention, their relevant authorities shall expedite adoption of the necessary internal legislation and administrative regulations to implement the provisions of the Basel Convention in those OCTs.
3. The Member States to which OCTs are linked shall promote the adoption by the OCTs of the necessary internal legislation and administrative regulations to implement relevant Union law concerning waste and waste shipments.
4. An OCT and the Member State to which it is linked may apply their own procedures to export of waste from the OCT to that Member State. In such cases, the Member State to which the OCT is linked shall notify to the Commission of the applicable legislation as well as any subsequent amendments to such legislation.

Article 48

Temporary withdrawal of preferences

Where the Commission considers that there are sufficient grounds to question whether this Decision is being correctly implemented, the Commission shall enter into consultations with the OCT and the Member State with which the OCT has special relations, in order to ensure the proper implementation of this Decision. In case the consultations do not lead to a mutually acceptable way of implementing this Decision, the Union may temporarily withdraw preferences from the OCT concerned in accordance with Annex III.

Article 49

Safeguard and surveillance measures

In order to ensure the proper implementation of this Decision, the Union may take the safeguard and surveillance measures set out in Annex IV.

CHAPTER 2

ARRANGEMENTS FOR TRADE IN SERVICES AND FOR ESTABLISHMENT

Article 50

Definitions

For the purposes of this Chapter:

⁴² Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, signed on 22 March 1989.

- (a) ‘natural person from an OCT’ means a natural person ordinarily resident in an OCT who is a national of a Member State or who enjoys a legal status specific to an OCT. This definition is without prejudice to the rights conferred by citizenship of the Union within the meaning of the TFEU;
- (b) ‘legal person of an OCT’ means a legal person of the OCT set up in accordance with the laws applicable in a given OCT, and having its registered office, its central administration, or its principal place of business in the territory in this OCT. Should the legal person have only its registered office or central administration in the OCT, it shall not be considered as a legal person of the OCT, unless it engages in an activity which has a real and continuous link with the economy of that country or territory;
- (c) the respective definitions laid down in the economic integration agreements referred to in Article 51 (1) shall apply to the treatment accorded between the Union and the OCTs.

Article 51

Most favourable treatment

1. With respect to any measures affecting trade in services and establishment in economic activities:
 - (a) the Union shall accord to natural and legal persons of the OCTs a treatment no less favourable than the most favourable treatment applicable to like natural and legal persons of any third country with whom the Union concludes or has concluded an economic integration agreement;
 - (b) an OCT shall accord to the natural and legal persons of the Union a treatment no less favourable than the most favourable treatment applicable to like natural and legal persons of any major trading economy with whom it has concluded an economic integration agreement after 1 January 2014.
2. The obligations provided for in paragraph 1 of this Article shall not apply to treatment granted:
 - (a) in the framework of an internal market or economic integration agreement requiring the parties thereto to significantly approximate their legislation with a view to removing non-discriminatory obstacles to establishment and to trade in services;
 - (b) under measures providing for recognition of qualifications or licences. This is without prejudice to OCTs specific measures under this Article;
 - (c) under any international agreement or arrangement relating wholly or mainly to taxation;
 - (d) under measures benefiting from the coverage of a most-favoured nation exemption listed in accordance with Article II.2 of the GATS.
3. Nothing in this Decision shall prevent either the Union or the OCTs from adopting or maintaining measures for prudential reasons, including for:
 - (a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; or
 - (b) to ensure the integrity and stability of a Party's financial system.
4. The authorities of an OCT may with a view to promoting or supporting local employment, adopt regulations to aid their natural persons and local activities. In this event, the OCT authorities shall notify the Commission of the regulations they adopt so that it may inform the Member States thereof.

TITLE III

TRADE RELATED AREAS

CHAPTER 1

TRADE AND SUSTAINABLE DEVELOPMENT

Article 52

General approach

Trade and trade-related cooperation under the association aims at contributing to sustainable development in its economic, social and environmental dimensions. In this context, the domestic environmental or labour laws and regulations of OCTs shall not be lowered in order to encourage trade or investment.

Article 53

Environmental and climate change standards in trade

1. Trade and trade-related cooperation under the association aims at enhancing the mutual supportiveness between trade and environmental policies and obligations. For those purposes, trade-related cooperation under the association shall take into account the principles of international environmental governance and multilateral environmental agreements.
2. Trade-related cooperation shall aim to support the ultimate objectives of the United Nations Framework Convention on Climate Change (UNFCCC) and the implementation of the Paris Agreement. It may also extend to cooperation on other trade related multilateral environmental agreements, such as the Convention on Trade in Endangered Species.

Article 54

Labour standards in trade

1. The association aims at promoting trade in such a way that it is conducive to full and productive employment and decent work for all.
2. The internationally recognised core labour standards, as defined by the relevant International Labour Organisation Conventions, shall be respected and implemented in law and practice. Such labour standards include in particular respect for freedom of association, right to collective bargaining, abolition of all forms of forced or compulsory labour, elimination of the worst forms of child labour, the minimum age for admission to employment and non-discrimination in respect to employment. The OCTs shall ensure effective labour inspection, effective measures for occupational safety and health, consistent with relevant ILO Conventions and decent working conditions for all, with regard to, inter alia, wages and earnings, working hours and other conditions of work.

Article 55

Sustainable trade in fisheries products

The association may include cooperation to promote the sustainable management of fish stocks, as well as to combat illegal, unreported and unregulated fishing and related trade. Cooperation in this field should aim at:

- (a) facilitating cooperation between OCTs and regional fisheries management organisations, in particular with respect to the development and effective implementation of control and inspection schemes, incentives and measures for effective long term management of fisheries and marine ecosystems;
- (b) promoting the implementation of measures to combat illegal, unreported and unregulated fishing and related trade in OCTs.

Article 56

Sustainable timber trade

In the context of the association, cooperation in the field of timber trade aims at promoting trade in legally harvested timber. Such cooperation may include dialogue on regulatory measures as well as exchange of information on market-based or voluntary measures such as forest certification or green procurement policies

Article 57

Trade and sustainable development

1. In the context of the association, cooperation in the field of trade and sustainable development may be pursued by:
 - (a) facilitating and promoting trade and investment in environmental goods and services including through the elaboration and implementation of local legislation, as well as in those goods that contribute to the improvement of social conditions in OCTs;
 - (b) facilitating the removal of obstacles to trade or investment regarding goods and services of particular relevance for climate change mitigation, such as sustainable renewable energy and energy efficient products and services, including through the adoption of policy frameworks conducive to the deployment of best available technologies and through the promotion of standards that respond to environmental and economic needs and minimise technical obstacles to trade;
 - (c) promoting trade in goods that contribute to enhanced social conditions and environmentally sound practices, including goods that are the subject of voluntary sustainability assurance schemes such as fair and ethical trade schemes, eco-labels, and certification schemes for natural resource-based products;
 - (d) promoting internationally recognised principles and guidelines in the area of responsible business conduct and corporate social responsibility, encouraging companies operating in the territory of OCTs to implement them and exchanging information and best practices.
2. In the design and implementation of measures aimed at protecting the environment or labour conditions that may affect trade or investment, the Union and the OCTs shall take account of available scientific and technical information, and relevant international standards, guidelines or recommendations, including the precautionary principle.

3. The Union and the OCTs shall develop, introduce and implement in a transparent manner measures aimed at protecting the environment and labour conditions to promote trade or investment.

CHAPTER 2

OTHER TRADE RELATED ISSUES

Article 58

Current payments and capital movements

1. No restrictions shall be imposed on any payments in freely convertible currency on the current account of balance of payments between residents of the Union and of the OCTs.
2. With regard to transactions on the capital account of balance of payments, the Member States and the OCTs authorities shall ensure free movement of capital relating to direct investments in companies formed in accordance with the laws of the host Member State, country or territory and shall ensure that the assets formed by such investment and any profit stemming therefrom can be realised and repatriated.
3. The Union and the OCTs shall be entitled to take the measures referred to in Articles 64, 65, 66, 75, 143, 144 and 215 TFEU in accordance with the conditions laid down therein *mutatis mutandis*.
4. The OCT authorities, the Member State concerned or the Union shall inform one another immediately of any such measures and submit a timetable for their elimination as soon as possible.

Article 59

Competition policies

The OCTs shall adopt or maintain a competition law which applies to all undertakings in all sectors of the economy and which addresses, in an effective manner, all of the following practices:

1. horizontal and vertical agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;
2. abuses by one or more undertakings of a dominant position;
3. concentrations between undertakings which would significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position; and
4. aid granted through state resources by an OCT which distorts or threatens to distort competition by favouring certain undertakings in so far as it has a significant negative effect on trade or investment.

Article 60

Protection of intellectual property rights

1. An adequate and effective level of protection of intellectual property rights, including means for enforcing such rights, shall be ensured in line with the highest international standards, where appropriate, with a view to reducing distortions and impediments to bilateral trade.

2. In the context of the association, cooperation in this field may concern the preparation of laws and regulations for the protection and enforcement of intellectual property rights, the prevention of the abuse of such rights by right holders and of the infringement of such rights by competitors and support for regional intellectual property organisations involved in enforcement and protection, including the training of personnel.

Article 61

Technical barriers to trade

The association may include cooperation in the fields of technical regulation for goods, standardisation, conformity assessment, accreditation, market surveillance and quality assurance with a view to removing unnecessary technical barriers to trade between the Union and the OCTs and to reduce differences in those areas.

Article 62

Consumer policy, consumer health protection and trade

In the context of the association, cooperation in the field of consumer policy, consumer health protection and trade may include the preparation of laws and regulations in the area of consumer policy and consumer health protection, with a view to avoiding unnecessary barriers to trade.

Article 63

Sanitary and phyto-sanitary measures

In the context of the association, cooperation in the field of sanitary and phyto-sanitary measures aims at:

- (a) facilitating trade between the Union and the OCTs as a whole and between OCTs and third countries, whilst safeguarding human, animal and plant health or life in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the 'WTO SPS Agreement');
- (b) addressing trade-related issues arising from sanitary and phyto-sanitary measures;
- (c) ensuring transparency as regards sanitary and phyto-sanitary measures applicable to trade between the Union and the OCTs;
- (d) promoting the harmonisation of measures with international standards, in accordance with the WTO SPS Agreement;
- (e) supporting the effective participation of OCTs in organisations that set international sanitary and phyto-sanitary standards;
- (f) promoting consultation and exchanges between OCTs and European institutes and laboratories
- (g) establishing and enhancing OCTs technical capacity to implement and monitor sanitary and phyto-sanitary measures;
- (h) promoting technology transfer and rapid exchange of information in the area of sanitary and phyto-sanitary measures.

Article 64

Prohibition of protectionist measures

The provisions of Chapters 1 and of this Chapter shall not be used as a means of arbitrary discrimination or a disguised restriction on trade.

CHAPTER 3

MONETARY AND TAX MATTERS

Article 65

Tax carve out

1. Without prejudice to the provisions of Article 66, the most favoured nation treatment granted in accordance with this Decision shall not apply to tax advantages which the Member States or OCTs authorities are providing or may provide in the future on the basis of agreements to avoid double taxation or other tax arrangements, or domestic tax legislation in force.
2. Nothing in this Decision may be construed so as to prevent the adoption or enforcement of any measure aimed at preventing tax fraud or avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements, or domestic tax legislation in force.
3. Nothing in this Decision shall be construed so as to prevent the respective competent authorities from distinguishing, in the application of the relevant provisions of their tax legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence, or with regard to the place where their capital is invested.

Article 66

Tax and customs arrangements for Union funded contracts

1. The OCTs shall apply to contracts funded by the Union tax and customs arrangements no less favourable than those applied by them to the Member State to which the OCT is linked or to the states to which the most-favoured nation treatment is granted, or to international development organisations with which they have relations, whichever treatment is the most favourable.
2. Without prejudice to paragraph 1, the following arrangements shall apply to contracts financed by the Union:
 - (a) the contract shall not be subject in the beneficiary OCT to stamp or registration duties or to fiscal charges having equivalent effect, whether such charges already exist or are to be instituted in the future; however, such contracts shall be registered in accordance with the laws in force in the OCTs and a fee corresponding to the service rendered may be charged for it;
 - (b) profits and/or income arising from the performance of contracts shall be taxable according to the internal fiscal arrangements of the beneficiary OCT, provided that the natural persons or legal persons who realise such profit and/or income have a permanent place of business in that OCT, or that the performance of the contract takes longer than six months;

- (c) enterprises which must import equipment in order to carry out works contracts shall, if they so request, benefit from the system of temporary admission as laid down by the legislation of the beneficiary OCT in respect of that equipment;
 - (d) professional equipment necessary for carrying out tasks defined in a service contract shall be temporarily admitted into the beneficiary OCT free of fiscal, import and customs duties and of other charges having equivalent effect where these duties and charges do not constitute remuneration for services rendered;
 - (e) imports under supply contracts shall be admitted into the beneficiary OCT without customs duties, import duties, taxes or fiscal charges having equivalent effect. The contract for supplies originating in the OCT concerned shall be concluded on the basis of the ex-works price of the supplies, to which may be added such internal fiscal charges as may be applicable to those supplies in the OCT;
 - (f) fuels, lubricants and hydrocarbon binders and all materials used in the performance of works contracts shall be deemed to have been purchased on the local market and shall be subject to fiscal rules applicable under the legislation in force in the beneficiary OCT;
 - (g) personal and household effects imported for use by natural persons, other than those recruited locally, engaged in carrying out tasks defined in a service contract and members of their families, shall be exempt from customs or import duties, taxes and other fiscal charges having equivalent effect, within the limits of the legislation in force in the beneficiary OCT.
3. Any contractual matter not covered by paragraphs 1 and 2 shall remain subject to the legislation of the OCT concerned.

CHAPTER 4

TRADE CAPACITY DEVELOPMENT

Article 67

General approach

With a view to ensuring that OCTs derive the maximum benefit from the provisions of this Decision and that they may participate under the best possible conditions in the Union's internal market as well as regional, sub-regional and international markets, the association aims at contributing to the development of the OCTs' trade capacities by:

- (a) increasing the OCTs' competitiveness, self-reliance and economic resilience, through diversifying the range and increasing the value and volume of OCTs trade in goods and services and by strengthening the OCTs' ability to attract private investments in various sectors of economic activity;
- (b) improving cooperation in trade in goods, services and establishment between the OCTs and neighbouring countries.

Article 68

Trade dialogue, cooperation and capacity development

In the context of the association, trade dialogue, cooperation and capacity development initiatives may include:

- (a) strengthening the OCTs' capacities to define and implement policies necessary for the development of trade in goods and services;
- (b) encouraging the efforts of OCTs to put into place appropriate legal, regulatory and institutional frameworks as well as the necessary administrative procedures;
- (c) promoting private sector development, in particular SMEs;
- (d) facilitating market and product development, including product quality improvement;
- (e) contributing to the development of human resources and professional skills relevant to trade in goods and services;
- (f) enhancing the capacity of business intermediaries to provide OCTs enterprises services pertinent to their exporting activities, such as market intelligence;
- (g) contributing to the creation of a business climate conducive to investment.

CHAPTER 5

COOPERATION IN THE AREA OF FINANCIAL SERVICES AND TAXATION MATTERS

Article 69

Cooperation on international financial services

With a view to promoting the stability, integrity and transparency of the global financial system, the association may include cooperation on international financial services. Such cooperation may concern:

- (a) the provision of effective and adequate protection of investors and other consumers of financial services;
- (b) the prevention and combat of money laundering and financing of terrorism;
- (c) the promotion of cooperation between different actors of the financial system, including regulators and supervisors;
- (d) the setup of independent and effective mechanisms for supervision of financial services.

Article 70

International standards in financial services

The Union and the OCTs shall make their best endeavours to ensure that internationally agreed standards for regulation and supervision in the financial services sector and for the fight against tax evasion and avoidance are implemented and applied in their territory. Such internationally agreed standards are, inter alia, the Basel Committee's 'Core Principle for Effective Banking Supervision', the International Association of Insurance Supervisors' 'Insurance Core Principles', the International Organisation of Securities Commissions' 'Objectives and Principles of Securities Regulation', the OECD's 'Agreement on exchange of information on tax matters', the G20 'Statement on Transparency and exchange of information for tax purposes', the Financial Stability Board's 'Key Attributes of Effective Resolution Regimes for Financial Institutions'.

The OCTs shall adopt or maintain a legal framework for the prevention of the use of their financial systems for the purpose of money laundering and financing of terrorism, taking particular account of

the instruments of international bodies active in this field, such as the Financial Action Task Force's 'International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - the FATF Recommendations'.

Where the European Commission issues Decisions authorising a Member State to conclude an agreement with an OCT for transfer of funds between this OCT and the Member State to which it is linked, this transfer shall be treated as a transfer of funds within the Union under the Funds Transfer Regulation (EU) 2015/847 and this OCT shall comply with the terms of that Regulation.

This Article shall be without prejudice to Article 155 of the Financial Regulation.

Article 71

Cooperation in taxation matters

The Union and the OCTs shall recognise and commit themselves to effectively implement the principles of good governance in the tax area, including the global standards on transparency and exchange of information, fair taxation and the minimum standards against Base Erosion and Profit Shifting. They will promote good governance in tax matters, improve international cooperation in the tax area and facilitate the collection of tax revenues.

PART IV

FINANCIAL COOPERATION

CHAPTER 1

PRINCIPLES

Article 72

Financial resources

The Union shall contribute to the achievement of the association's overall objectives through the provision of:

- (a) adequate financial resources and appropriate technical assistance aimed at strengthening the OCTs' capacities to formulate and implement strategic and regulatory frameworks;
- (b) long term financing to promote private sector growth;
- (c) where appropriate, other Union Programmes may contribute to actions established under this Decision, provided that the contributions do not cover the same costs. This Decision may also contribute to measures established under other Union Programmes, provided that the contributions do not cover the same costs. In such cases, the work programme covering those actions shall establish which set of rules shall be applicable.

Article 73

Budget

- 1. The financial envelope for the Programme for the period 2021-2027 shall be set at EUR 500 000 000 in current prices.
- 2. The indicative distribution of the amount referred to in paragraph 1 shall be detailed in Annex I.
- 3. The amount referred to in paragraph 1 is without prejudice to the application of provisions providing for flexibility in Regulation [the new Multiannual Financial Framework Regulation], [Regulation (EU) No. [...]] and the Financial Regulation.

Article 74

Definitions

For the purposes of this Part, the following definitions shall apply:

- (a) 'programmable aid' means the non-repayable aid allocated to the OCTs in order to finance territorial, regional and intra-regional strategies and priorities set out in programming documents;
- (b) 'programming' means the process of organisation, decision-making and allocation of indicative financial resources intended to implement, on a multi-annual basis, in an area referred to in Part II of this Decision, the action to achieve the association's objectives for the sustainable development of the OCTs;

- (c) ‘programming document’ means the document which sets out the OCT’s strategy, priorities and arrangements and translates the objectives and targets of the OCT for its sustainable development in an effective and efficient way to pursue the objectives of the association;
- (d) ‘development plans’ means a coherent set of operations defined and financed exclusively by the OCTs in the framework of their own policies and strategies of development, and those agreed upon between an OCT and the Member State to which it is linked;
- (e) ‘territorial allocation’ means the amount allocated to individual OCTs for the programmable aid in order to finance territorial strategies and priorities set out in programming documents;
- (f) ‘regional allocation’ means the amount allocated for the programmable aid in order to finance regional cooperation strategies or priorities common to several OCTs and set out in programming documents;
- (g) ‘intra-regional allocation’ means an amount - within the regional allocation - allocated for the programmable aid in order to finance intra-regional cooperation strategies and priorities involving at least one OCT and one or more outermost regions referred to in Article 349 TFEU and/or one or more ACP States and/or one or more non-ACP States or territories.

Article 75

Principles of financial cooperation

1. Union financial assistance shall be based on the principles of partnership, ownership, alignment on territorial systems, complementarity and subsidiarity.
2. Operations funded within the framework of this Decision can take the form of programmable or non-programmable aid.
3. Union financial assistance shall:
 - (a) be implemented with due regard to the OCTs respective geographical, social and cultural characteristics, as well as their specific potential;
 - (b) ensure that resource flows are accorded on a predictable and regular basis;
 - (c) be flexible and tailored to the situation in each OCT; and
 - (d) be conducted in full compliance with the respective institutional, legal and financial powers of each of the partners.
4. The authorities of the OCT concerned shall be responsible for implementing operations without prejudice to the powers of the Commission to ensure sound financial management in the use of Union funds.

CHAPTER 2

SPECIFIC PROVISIONS FOR THE FINANCIAL COOPERATION

Article 76

Subject-matter and scope

Within the framework of the strategy and priorities established by the OCT concerned at local or regional level, financial support may be given to the following:

- (a) sector policies and reforms as well as projects that are in coherence with them;

- (b) institutional development, capacity building and integration of environmental aspects;
- (c) technical assistance.

Article 77

Capacity development

1. Financial assistance may contribute to, among other things, supporting the OCTs with developing the necessary capacities to define, implement and monitor territorial and/or regional strategies and actions in view of achieving the general objectives for the areas of cooperation mentioned in Parts II and III.
2. The Union shall support the efforts of the OCTs in developing reliable statistical data regarding those areas.
3. The Union may support OCTs in their efforts to improve comparability of their macroeconomic indicators.

Article 78

Technical assistance

1. On the initiative of the Commission, Union financing may cover support expenditure for the implementation of the Decision and for the achievement of its objectives, including administrative support associated with the preparation, follow-up, monitoring, control, audit and evaluation activities necessary for such implementation, as well as expenditure at headquarters and Union delegations for the administrative support needed for the programme, and to manage operations financed under this Decision, including information and communication actions, and corporate information and technology systems.
2. On the initiative of the OCTs, studies or technical assistance measures may be financed in relation to the implementation of the activities scheduled in the programming documents. The Commission may decide to finance such action either from the programmable aid or from the envelope earmarked for technical cooperation measures.

CHAPTER 3

IMPLEMENTATION OF THE FINANCIAL COOPERATION

Article 79

General principle

Unless otherwise specified in this Decision, Union financial assistance shall be implemented in accordance with the objectives and principles of this Decision, the Financial Regulation, and [NDICI Regulation] in particular, Title II, Chapter I with the exception of Articles 13, 14(1), 14(4), and 15, Chapter III with the exception of Articles 21(1), 21(2) (a) and (b) and 21(3), and Chapter V with the exception of Articles 31(1), 31(4), 31(6), 31(9) and 32(3). The procedure laid down in Article 80 of this Decision shall not apply to the cases referred to in Article 21 (2) (c) of [NDICI Regulation].

Article 80

Adoption of multiannual indicative programmes, action plans and measures

The Commission shall adopt, under this Decision, in the form of 'single programming documents', multiannual indicative programmes as referred to in Article 12 of [NDICI Regulation] together with the corresponding action plans and measures referred to in Article 19 of [NDICI Regulation] in accordance with the examination procedure referred to in Article 88(5) of this Decision. That procedure shall also apply to reviews referred to in Article 14 (3) of [NDICI Regulation] which have the effect of significantly modifying the content of the multiannual indicative programme.

In the case of Greenland, action plans and measures as referred to in article 19 of [NDICI Regulation] may be adopted separately from the multiannual indicative programmes.

Article 81

Eligibility for territorial financing

1. The OCTs public authorities shall be eligible for financial support provided for in this Decision.
2. Subject to the agreement of the authorities of the OCTs concerned, the following entities or bodies shall also be eligible for financial support provided for in this Decision:
 - (a) local, national and/or regional public or semi-public agencies, departments or local authorities of the OCTs and in particular their financial institutions and development banks;
 - (b) companies and firms of the OCTs and of regional groups;
 - (c) companies and firms of a Member State, so as to enable them, in addition to their own contribution, to undertake productive projects in the territory of an OCT;
 - (d) OCTs or Union financial intermediaries promoting and financing private investments in the OCTs; and
 - (e) actors of decentralised cooperation and other non-governmental actors from OCTs and from the Union, to enable them to undertake economic, cultural, social and educational projects and programmes in the OCTs in the framework of decentralised cooperation, as referred to in Article 12 of this Decision.

Article 82

Eligibility for regional financing

1. A regional allocation may be used for operations benefiting and involving:
 - (a) two or more OCTs regardless of their location;
 - (b) the OCTs and the Union as a whole;
 - (c) two or more OCTs regardless of their location and at least one of the following:
 - (i) one or more outermost regions referred to in Article 349 TFEU;
 - (ii) one or more ACP States and/or one or more non-ACP States or territories;
 - (iii) one or more regional bodies of which OCTs are members;
 - (v) one or more entities, authorities or other bodies from at least one OCT, being members of an EGTC in accordance with Article 8 of this Decision, one or more outermost regions and one or more neighbouring ACP and/or non-ACP States or territories.

2. Within the regional allocation mentioned in Article 74, an intra-regional allocation may be used for operations benefitting and involving:
 - (a) one or more OCTs and one or more outermost regions referred to in Article 349 TFEU;
 - (b) one or more OCTs and one or more neighbouring ACP and/or non-ACP States or territories;
 - (c) one or more OCTs, one or more outermost regions and one or more ACP and/or non-ACP States or territories;
 - (d) two or more regional bodies of which OCTs are members;
 - (e) one or more entities, authorities or other bodies from at least one OCT, being members of an EGTC in accordance with Article 8 of this Decision, one or more outermost regions and one or more neighbouring ACP and/or non-ACP States or territories.
3. The funding to enable participation of the ACP States, outermost regions and other countries and territories to OCT regional cooperation programmes shall be additional to funds allocated to the OCTs under this Decision.
4. The participation of ACP States, outermost regions and other countries to programmes established pursuant to this Decision shall be envisaged only to the extent that:
 - (a) equivalent provisions exist in the framework of relevant Union's programmes or in the relevant funding programmes of the third countries and territories not covered by Union programmes; and
 - (b) the principle of proportionality is respected.

Article 83

Eligibility for other Union programmes

1. Natural persons from an OCT, as defined in Article 50, and, where applicable, the relevant public and/or private bodies and institutions in an OCT, shall be eligible for participation in and funding from Union programmes, subject to the rules and objectives of the programmes and possible arrangements applicable to the Member State to which the OCT is linked.
2. OCTs shall also be eligible for support under programmes and instruments of the Union for cooperation with other countries, such as [NDICI Regulation], subject to the rules, objectives and arrangements of those programmes.
3. The OCTs shall report to the Commission on this participation in the Union programmes, every year starting in 2022.

Article 84

Reporting

The Commission shall examine the progress made in implementing the financial assistance provided to the OCTs under this Decision and shall submit a report to the Council every year starting in 2022 on the implementation and results of that financial cooperation. The report shall be sent to the European Parliament, the European Economic and Social Committee and the Committee of the Regions.

Article 85

Financial controls

1. OCTs shall bear primary responsibility for the financial supervision of the Union funds. This shall be carried out, where appropriate, in coordination with the Member State to which the OCT is linked in accordance with the applicable national legislation.

2. The Commission shall be responsible for:

(a) ensuring that management and control systems exist and function properly in the OCTs concerned so as to ensure that the Union funds are used correctly and effectively; and

(b) in the event of irregularities, sending recommendations or requests for corrective measures to remedy those irregularities and rectify any management shortcomings found.

3. The Commission, the OCTs and, where appropriate, the Member State to which they are linked, shall cooperate on the basis of administrative arrangements at annual or biannual meetings to coordinate programmes, methodologies and the implementation of controls.

4. With regard to financial corrections:

(a) the OCTs concerned shall be responsible in the first instance for detecting and correcting financial irregularities;

(b) however, in the event of shortcomings by the OCT concerned, if the OCT fails to remedy the situation and attempts at conciliation are unsuccessful, the Commission shall take action to reduce or withdraw the balance of the overall allocation corresponding to the financing decision of the Programming Document.

PART V

FINAL PROVISIONS

Article 86

Delegation of powers to the Commission

The Commission shall be empowered to adopt delegated acts in accordance with Article 87 in order to amend Annexes II, III and IV for the purpose of taking into account technological development and changes in customs and trade legislation.

To ensure effective assessment of progress of this Decision towards the achievement of its objectives, the Commission shall be empowered to adopt delegated acts in accordance with Article 87 in order to amend Article 3 of Annex I to review or complement the indicators where considered necessary and to supplement this Decision with provisions on the establishment of a monitoring and evaluation framework.

Article 87

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 86 shall be conferred on the Commission for a period of five years from 1 January 2021. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 86 may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of power specified in that Decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it to the Council.
5. A delegated act adopted pursuant to Article 86 shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of the act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by two months at the initiative of the Council.

Article 88

Committee procedure

1. The Commission shall be assisted by a committee (the 'OCT Committee'). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011⁴³.

⁴³ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13.

2. For the purpose of Articles 10(6) and 16(8) of Annex II, the Commission shall be assisted by the Customs Code Committee established by Article 285(1) of Regulation (EU) No 952/2013 of the European Parliament and of the Council⁴⁴. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
3. For the purpose of Article 2 of Annex III and Article 5 and 6 of Annex IV, the Commission shall be assisted by the Committee established by Article 4(1) of Council Regulation (EC) No 260/2009⁴⁵. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
4. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
5. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
6. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.
7. Where the opinion of the committee is to be obtained by a written procedure, the procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so requests.

Article 89

Information, communication and publicity

1. The recipients of Union funding under this Decision shall acknowledge the origin and ensure the visibility of the Union funding, in particular when promoting the actions and their results by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Programme, and its actions and results. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.

Article 90

European External Action Service clause

This Decision shall apply in accordance with Council Decision 2010/427/EU⁴⁶.

Article 91

Repeal and transitional provisions

1. Council Decision 2013/755/EU is hereby repealed with effect from 1 January 2021.
2. This Decision shall not affect the continuation or modification of the actions concerned, until their closure, under Council Decision 2013/755/EU which shall continue to apply to the actions concerned until their closure.

⁴⁴ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, OJ L 269, 10.10.2013, p. 1.

⁴⁵ Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports, OJ L 84, 31.3.2009, p. 1.

⁴⁶ Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service, OJ L 201, 3.8.2010, p. 30.

3. The financial envelope for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under its predecessor, the Council Decision [2013/755/EU](#).
4. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 78 to enable the management of actions not completed by 31 December 2027.

Article 92

Entry into force

This Decision shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned (*programme cluster*)
- 1.3. Nature of the proposal/initiative
- 1.4. Grounds for the proposal/initiative
- 1.5. Duration and financial impact
- 1.6. Management mode(s) planned

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. *Summary of estimated impact on expenditure*
 - 3.2.2. *Estimated impact on appropriations of an administrative nature*
 - 3.2.3. *Third-party contributions*
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Decision on the association of the Overseas Countries and Territories with the European Union including the relations between the European Union on one hand and Greenland and the Kingdom of Denmark on the other ('Overseas Association Decision')

1.2. Policy area(s) concerned (*Programme cluster*)

The Decision is a merger of the current Overseas Association Decision (2013/755/EU) and of the current Greenland Decision (2014/137/EU).

The policy area is the following:

15. External Action

15.05. Overseas Countries and Territories (including Greenland).

1.3. The proposal/initiative relates to:

a new action

a new action following a pilot project/preparatory action⁴⁷

the extension of an existing action

a merger or redirection of one or more actions towards another/a new action

1.4. Grounds for the proposal/initiative

1.4.1. *Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative*

The long-term objective of the Instrument is to promote the economic and social development of the OCTs and to establish close economic relations between them and the Union as a whole. The association shall pursue this in the short term by the enhancement of the OCTs' competitiveness, the strengthening of the OCTs' resilience, the reduction of their economic and environmental vulnerability and the promotion of cooperation between them and other partners.

1.4.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

Reasons for action at European level (ex-ante)

Overseas Countries and Territories (OCTs) have been associated with the European Union since the entry into force in 1958 of the Treaty of Rome. The association of the OCTs with the Union flows from the constitutional relations that these countries and territories have with three Member States. The OCTs are not part of the Union's customs territory and are outside the Internal Market. In addition, most of the OCTs face particular challenges due to their size, location, remoteness and narrow economic base. On this background, the EU has funded EDF territorial and regional

⁴⁷ As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

programmes in OCTs in the past decades, the most recent financial support being channeled through the 11th EDF and should further continue providing such.

With regard to Greenland, following a referendum, it exited from the EU in 1985 to become an OCT. As part of the exit agreement with Denmark and Greenland (Greenland Treaty), the latter received a compensation for the loss of EU funding via a Fisheries Agreement. In 2006 the Council decided to establish a dedicated instrument to support the development of Greenland, besides the Fisheries Agreement, after the financial compensation for the latter was reduced.

The EU approach for the future steps on a reciprocal relation focused on mutually beneficial cooperation with the OCTs and Greenland and places special emphasis on priorities which are relevant to them, such as the enhancement of their competitiveness, the strengthening of their resilience and reduction of their vulnerability, and promotion of the cooperation between OCTs and their regional, European and international partners.

The EU can provide added value based on the amount of resources channelled through its instruments, the relatively flexible modes of management and the predictability of resources over the MFF period.

The EU has significant expertise in key areas of need and interest for the OCTs (for instance, regional cohesion, economic integration, climate change), including from its successful policies (such as the expertise in food security gained through the Common Agricultural Policy). In some areas where Member States have decided not to act or are impeded, the EU remains the main or sometimes the only actor to intervene.

The EU has a global presence through its delegations, which ensures a vast network of information on the developments experienced by countries and regions worldwide. This allows the EU to be constantly aware of new needs and problems and, therefore, to re-allocate resources accordingly. Complementarities between the EU action and the actions carried out by the Member States exist and are increasing. This enhances the political dialogue and the cooperation, which is increasingly channelled through joint programming with Member States.

The EU is also able to complement Member States activities in dealing with potentially dangerous situations or in case of particularly costly interventions, such as crisis due to climate change to which the OCTs are frequently exposed.

Expected generated Union added value (ex-post):

The expected value added generated by the new Overseas Association Decision should follow from the findings of the mid-term review of the external financing instruments. In the case of OCTs and Greenland concluded that both instruments were fit for purpose and that the association with OCTs and the partnership with Greenland delivered on the different parameters evaluated (efficiency, etc.). It is expected that the proposed Instrument will continue favouring this positive trend.

More specifically and considering the specificities of the OCTs and their special relationship with the EU, a new financial instrument covering all OCTs will ensure:

unity of management - having all the OCTs under the same source of financing (the Budget) will create synergies in programming and implementation;

consolidation of shared objectives;

simplification and coherence in the legal framework;

increased visibility for the OCTs as a group.

The proposed instrument takes account of the exit of the United Kingdom of Great Britain from the European Union on 29 March 2019 effective with the expiration of the transition period on 1 January 2021 and thus does not apply to British OCTs.

1.4.3. *Lessons learned from similar experiences in the past*

Mid-term review of the 11th EDF and the Greenland Decision:

11th EDF-OCT: during 2014-2020 and as per the Overseas Association Decision, OCTs have access to three funding sources: the 11th EDF, the EU budget (principle of eligibility to all EU programmes and instruments including e.g. the thematic ‘leg’ of the DCI) and the EIB. Under the 11th EDF, OCTs benefit from EUR 364,5 million;

The financial support to OCTs is not limited to the EDF broad objective of poverty eradication as the objective of the association between the OCTs and the EU is to “promote the economic and social development of the countries and territories and to establish close economic relations between them and the Union as a whole.” The sectors supported in OCTs under the 11th EDF cover a large spectrum of policies with a particular focus on environment/biodiversity/climate adaptation and mitigation, renewable energies, education, telecommunications/digital connectivity and tourism. The 11th EDF was found to be a relevant and effective instrument to support the objectives of the association EU-OCTs. Nevertheless, some of the OCTs regularly advocate for simpler programming and implementation procedures arguing that their administrative capacities are limited. In addition, existing provisions favouring regional cooperation among the different categories of regional actors (OCTs, ACP countries and their neighbouring Outermost Regions/OR and non-ACP developing countries) have not sufficiently been used until now.

The Greenland Decision: The Decision 2014-2020 allocates EUR 217.8 million to the underlying Budget Support Programme, the equivalent of EUR 31 million per year, is the EU's main financing instrument and regulative framework within the EU budget forming the basis for the relations between the EU and Greenland. It is complementary to the Overseas Association Decision. The Greenland Decision is further complementary to the Fisheries Partnership Agreement and the 2014 Joint Declaration on relations between the EU and Greenland. The aim of the Greenland Decision is to preserve the close and lasting links between the partners, while supporting the sustainable development of Greenland. The two main objectives are to support Greenland in addressing its major challenges (especially the diversification of its economy) and to contribute to the capacity of its administration to formulate and implement national policies. The underlying Programming Document for the Sustainable Development of Greenland 2014-2020 supports the Greenland Decision objectives by creating smart growth through investments in education and research, and inclusive growth through provision of qualifying education to a larger part of the population in order to secure jobs, reduce poverty and create a sustainable basis for economic growth.

The Budget Support Programme for Education shows positive progress as the majority of targets (74.12 %) were either met or exceeded in 2016. However, measuring the impact of the economic objectives of the Greenland Decision has proven being more complicated as they are long-term and therefore not immediately

visible. Nevertheless, there are positive trends emerging in terms of the development of new sectors (e.g. opening of mines), rising completion rates in education and the increased capacity of the Government in formulating long term policies. Furthermore, the continuous formal and informal policy dialogue has promoted a mutual understanding between the partners and a strong cooperation in important areas such as the Arctic, where Greenland is a part of the 2016 EU Arctic Policy and supports the EU's application for an observer seat in the Arctic Council. Such trends are expected to continue post-2020 and even develop further.

The Greenland Decision provides a “fit for purpose” instrument for the EU and Greenland to continue deepening the relations and cooperation post-2020.

The objectives of the association with OCTs, including Greenland, as mentioned in Articles 198 and 199 TFEU, call for a comprehensive partnership, which comprises an institutional framework and trade arrangements and covers many areas of cooperation as well as the basic principles governing Union financial assistance to OCTs. This calls for a wide ranging and far reaching legal instrument.

Considering the specificities of the OCTs and their special relationship with the EU, a new financial instrument covering all OCTs both concerning the political and legal framework as well as the implementation of the cooperation will ensure effectiveness, consolidation of the shared objectives and coherence as well as more visibility for the OCTs as a group. The proposal puts forward an approach that is flexible and tailored to the situation of each OCT.

1.4.4. Compatibility and possible synergy with other appropriate instruments

The updated Overseas Association Decision (OAD) aims at ensuring full complementarity with the most relevant post-2020 legislative acts particularly:

The Neighbourhood, Development and International Cooperation Instrument (NDICI): In order to ensure coherence and effectiveness, the Decision will, unless otherwise specified, apply the implementation, evaluation and monitoring provisions of the NDICI. The draft regulation foresees that OCTs will be eligible to thematic programmes under this regulation and to pillar 3 of the rapid response actions. The NDICI regulation and updated OAD also include a provision giving the possibility of establishing intra-regional initiatives between OCTs, partner countries and EU outermost regions.

Regional policy regulations: the updated OAD and the proposed regional policy regulations have been drafted with the aim of reinforcing provisions favouring the establishment of intra-regional initiatives involving OCTs, partner countries and EU outermost regions.

Other EU policies and programmes: OCTs will remain eligible to all EU policies and programmes except if stated otherwise in relevant regulations. They shall therefore be eligible to ERASMUS +, Horizon 2020, COSME, etc.

1.5. Duration and financial impact

limited duration

in effect from [DD/MM]YYYY to [DD/MM]YYYY

Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

unlimited duration

Implementation with a start-up period from 2021 onwards

1.6. Management mode(s) planned⁴⁸

Direct management by the Commission

by its departments, including by its staff in the Union delegations;

by the executive agencies

Shared management with the Member States

Indirect management by entrusting budget implementation tasks to:

third countries or the bodies they have designated;

international organisations and their agencies (to be specified);

the EIB and the European Investment Fund;

bodies referred to in Articles 70 and 71 of the Financial Regulation;

public law bodies;

bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the Treaty on European Union, and identified in the relevant basic act.

If more than one management mode is indicated, please provide details in the 'Comments' section.

Comments

| |
|---|
| External expenditure requires the ability to use all foreseen management modes, as relevant and decided during the implementation |
|---|

⁴⁸ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:
<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The Commission's monitoring and evaluation systems are increasingly focussed on results. They involve internal staff as well as implementing partners and external expertise.

Task Managers in Delegations and Headquarters continuously monitor the implementation of projects and programmes, using the information provided by implementing partners as part of their regular reporting and including wherever possible through field visits. Internal monitoring provides valuable information on progress; it helps managers to identify actual and potential bottlenecks, and to take corrective action.

In addition, external independent experts are contracted to assess the performance of EU external actions through three different systems. These assessments contribute to accountability, and to the improvement of ongoing interventions; they also draw lessons from past experience to inform future policies and actions.

The monitoring and reporting rules proposed in the NDICI regulation will be used in the context of the OCT instrument (New OAD, article 84).

The Commission shall examine the progress made in implementing the measures of the Union external funding and, from 2021 onwards, shall submit to the European Parliament and to the Council an annual report on the implementation of the actions financed and that report shall also be submitted to the European Economic and Social Committee and to the Committee of the Regions.

In addition, all internal monitoring (e.g. ROM), evaluation and reporting tools of the Commission will be applicable to the updated OAD post-2020.

2.2. Management and control system(s)

2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

Methods of implementation:

Regarding the management modes, there are no fundamental changes are foreseen and the experience acquired by the Commission services and implementing actors under the predecessor programmes will contribute to better results in the future.

The actions to be financed under this Decision will be implemented under direct management by the Commission from headquarters and/or through the Union delegations and under indirect management by any of the entities listed in article 62(1) c) of the new Financial Regulation in order to better achieve the objectives of the Decision.

Concerning indirect management, as stated in Article 154 of the new Financial Regulation, such entities must ensure a level of protection of the EU's financial interests' equivalent to the one under direct management. An ex ante pillar assessment of the entities' systems and procedures will be carried out, in accordance with the principle of proportionality and with due consideration for the nature of the action and the financial risks involved. Where the implementation requires so or there have been reservations expressed in Activities Reports, action plans with

specific mitigation measures will be defined and implemented. Besides, appropriate supervisory measures imposed by the Commission may accompany the implementation.

Internal Control architecture

The internal control / management process is designed to provide reasonable assurance regarding the achievement of objectives in the effectiveness and efficiency of its operations, the reliability of its financial reporting and compliance with the relevant legislative and procedural framework.

Effectiveness and efficiency

To ensure the effectiveness and efficiency of its operations (and to mitigate the high level of risk in its external assistance environment), in addition to all the elements of the Commission wide Strategic Policy and Planning process, internal audit environment and other requirements of the Commission's Internal Control Framework, the implementing services will continue to have a tailored aid management framework in operation under all its instruments which will include:

- A devolved management of the majority of external assistance by Union delegations in the field.
- Clear and formalised lines of financial accountability (from the Delegated Authorising officer (Director General)) by means of a subdelegation from the Subdelegated Authorising Officer (Director) at headquarters to the Head of Delegation;
- Regular reporting from Union delegations to headquarters (External Assistance Management Reports) including an annual Statement of Assurance by the Head of Delegation;
- Provision of a substantial programme of training for staff both at headquarters and in delegations,
- Significant headquarters/delegation support and guidance (including via internet);
- Regular supervision visits to delegations every 3 to 6 years;
- A project and programme cycle management methodology including: quality support tools for the design of the intervention, its delivery method, financing mechanism, management system, assessment and selection of any implementing partners, etc; programme and project management, monitoring and reporting tools for effective implementation including regular external on-the-spot monitoring of projects; and significant evaluation and audit components.
- Simplifications will be sought by extending the use of simplified cost options (SCOs) and cross-reliance on audit work of partner organisations. There will be a continuation of a risk-differentiated controls approach in accordance with the underlying risks.

Financial Reporting and Accounting

The implementing services will continue to pursue the highest standards of accounting and financial reporting using the Commission's accruals based accounting

system (ABAC) as well as external aid specific tools such as the Common Relex Information System (CRIS) and its successor (OPSYS).

In relation to compliance with the relevant legislative and procedural framework, compliance control methods are set out in section 2.3 (measures to prevent fraud and irregularities).

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

Risk environment

The operational environment of aid under this instrument is characterised by the following risks of not achieving the instrument's objectives, suboptimal financial management and/or of not complying with the applicable rules (legality and regularity errors):

- economic/political instability and/or natural disaster may lead to difficulties and delays in the design and implementation of interventions, particularly in fragile states;
- lack of institutional and administrative capacity in partner countries may lead to difficulties and delays in the design and implementation of interventions;
- geographically dispersed projects and programmes (covering approximately many states/territories/regions) may pose logistical/resource challenges to monitoring - particularly any 'on-the-spot' follow-up of activities;
- diversity of potential partners / beneficiaries with their diverse internal control structures and capacities can fragment and therefore reduce the effectiveness and efficiency of the Commission's available resources to support and monitor implementation;
- poor quality and quantity of available data on the outcomes and impact of external aid / national development plan implementation in partner countries may hinder the Commission's ability to report on and be accountable for results;

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

The internal control / management cost represent approximately 4 % of the estimated annual average of EUR 12.78 billion planned for the overall (operational + administrative) commitments on the expenditure portfolio financed by the General Budget of the EU for the period 2021-2027. This cost of control calculation refers only to the costs of the Commission, excluding Member States or entrusted entities. Entrusted entities can withhold up to 7 % for the administration of funds, which could partially be used for control purposes.

These management costs take into account all staff at headquarters and in delegations, infrastructure, travel, training, monitoring, evaluation and audit contracts (including those launched by beneficiaries).

The management / operational activities ratio could be reduced over time under the improved and simplified arrangements of the new instrument, building on changes to be introduced by the new Financial Regulation. The key benefits of these management costs are realised in terms of meeting policy objectives, efficient and

effective use of resources, and the exercise of robust cost-effective preventative measures and other checks to ensure the legal and regular use of funds.

While improvements in the nature and targeting of management activities and compliance checks in relation to the portfolio will continue to be pursued, these costs are globally necessary to effectively and efficiently achieve the objectives of the instruments at a minimal risk of non-compliance (below 2 % residual error). They are significantly less than risks involved in removing or scaling back internal controls in this high risk area.

Expected level of risk of non-compliance with applicable rules.

The compliance objective for the Instrument is to maintain the historic level of risk of non-compliance (error rate) which is an overall residual 'net' level of error (on a multi-annual basis after all planned controls and corrections have been executed on closed contracts) of less than 2 %. This has traditionally implied an estimated error range of 2-5 % in terms of an annual randomised sample of transactions undertaken by the European Court of Auditors for the purposes of the annual Statement of Assurance (DAS). The Commission considers this to be the lowest risk of non-compliance achievable in relation to its high-risk environment and taking into account the administrative burden and necessary cost effectiveness of compliance controls. Where weaknesses are identified, targeted corrective measures will be implemented in the light of ensuring minimum error rates.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

Given the high risk environment, the systems need to anticipate a significant occurrence of potential compliance errors (irregularities) in transactions and build in a high level of prevention, detection and correction controls as early as possible in the payment process. This means in practice that compliance controls will place most reliance on significant ex-ante checks on a multi-annual basis by both external auditors and Commission staff in the field before final project payments (while still executing some ex-post audits), going well beyond the financial safeguards required by the Financial Regulation. Compliance framework is made up *inter alia* of the following significant components:

Preventative measures:

- Compulsory core training covering fraud issues for aid management staff and auditors;
- Provision of guidance (including via internet) including the Practical Guide to Contracts, DEVCO Companion and the Financial Management Toolkit (for implementing partners);
- Ex-ante assessment to ensure that appropriate anti-fraud measures to prevent and detect fraud in the management of EU funds are in place in the authorities managing the relevant funds under joint and decentralised management);
- Ex-ante screening of the anti-fraud mechanisms available in the partner country as part of the assessment of the eligibility criterion of public finance management for receiving budget support (i.e. active commitment to fight fraud and corruption, adequate inspection authorities, sufficient judicial capacity and efficient response and sanction mechanisms);

- Detective and corrective measures;
- External audits and verifications (both mandatory and risk based) including the European Court of Auditors;
- Retrospective checks (on a risk basis) and recoveries;
- Suspension of EU funding where there is a serious fraud case, including large scale corruption, until the authorities have taken appropriate action with a view to correcting and preventing such fraud in the future;
- EDES (Early Detection Exclusion System);
- Suspension/termination of contract;
- Exclusion procedure

Anti-fraud strategies of the services concerned, which are regularly revised, will be adapted as necessary once the Commission's new version of its anti-fraud strategy (CAFS) will have been published in order to ensure *inter alia* that:

Internal anti-fraud related controls are fully aligned with the CAFS;

The fraud risk management approach is geared to identify fraud risk areas and adequate responses;

The systems used for spending EU funds in third countries enable relevant data to be retrieved with a view to feeding this data into fraud risk management (e.g. double funding);

Where necessary, networking groups and adequate IT tools dedicated to analysing fraud cases related to the external aid sector could be set up.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading of the multiannual financial framework and new expenditure budget line(s) proposed

| Heading of multiannual financial framework | Budget line | Type of expenditure | Contribution | | | |
|--|---|-------------------------------|-----------------------------------|--|----------------------|--|
| | | | from EFTA countries ⁵⁰ | from candidate countries ⁵¹ | from third countries | within the meaning of Article [21(2)(b)] of the Financial Regulation |
| | Number 15 External Action [VI][Heading VI] | Diff./Non-diff. ⁴⁹ | | | | |
| VI | 15 01 05 Support expenditure for the Overseas Countries and Territories (including Greenland) | Non-diff. | NO | NO | NO | NO |
| VI | 15 05 01 Overseas Countries and Territories | Diff. | NO | NO | NO | NO |
| VI | 15 05 02 Greenland | Diff. | NO | NO | NO | NO |

⁴⁹ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

⁵⁰ EFTA: European Free Trade Association.

⁵¹ Candidate countries and, where applicable, potential candidates from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

| HEADING OF MULTIANNUAL FINANCIAL FRAMEWORK | <6> | [Heading VI Neighbourhood & the world] |
|--|-----|--|
|--|-----|--|

| | | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | Post 2027 | TOTAL |
|--|--|--------|--------|--------|--------|--------|--------|--------|-----------|---------|
| Operational appropriations (split according to the budget lines listed under 3.1) | Commitments | 65,927 | 67,252 | 68,604 | 69,984 | 71,391 | 72,827 | 74,292 | | 490,275 |
| | Payments | 14,811 | 28,930 | 38,801 | 48,039 | 55,861 | 60,659 | 63,888 | 179,286 | 490,275 |
| Appropriations of an administrative nature financed from the envelope of the programme ⁵² | Commitments = Payments | 1,329 | 1,349 | 1,369 | 1,389 | 1,409 | 1,429 | 1,449 | | 9,725 |
| | TOTAL appropriations for the envelope of the programme | =1+3 | 67,256 | 68,601 | 69,973 | 71,373 | 72,800 | 74,256 | 75,741 | |
| | Payments | 16,140 | 30,279 | 40,170 | 49,429 | 57,270 | 62,089 | 65,338 | 179,286 | 500,000 |

EUR million (to three decimal places)

| Heading of multiannual financial framework | 7 | 'Administrative expenditure' |
|--|---|------------------------------|
|--|---|------------------------------|

This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the [Annex to the Legislative Financial Statement](#) , which is uploaded to DECIDE for interservice consultation purposes.

⁵²

Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

EUR million (to three decimal places)

| | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | Post 2027 | TOTAL |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-----------|---------------|
| Human resources | 1,712 | 1,712 | 1,712 | 1,712 | 1,712 | 1,712 | 1,712 | | 11,986 |
| Other administrative expenditure | 0,116 | 0,116 | 0,116 | 0,116 | 0,116 | 0,116 | 0,116 | | 0,811 |
| TOTAL appropriations under HEADING 7 of the multiannual financial framework | 1,828 | 1,828 | 1,828 | 1,828 | 1,828 | 1,828 | 1,828 | | 12,797 |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| (Total commitments = Total payments) | | | | | | | | | |

EUR million (to three decimal places)

| | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | Post 2027 | TOTAL |
|--|---------------|---------------|---------------|---------------|---------------|---------------|---------------|-----------|----------------|
| TOTAL appropriations across HEADINGS of the multiannual financial framework | 69,084 | 70,429 | 71,801 | 73,201 | 74,628 | 76,084 | 77,569 | | 512,797 |
| Commitments | 17,968 | 32,107 | 41,998 | 51,257 | 59,098 | 63,917 | 67,166 | 179,286 | 512,797 |
| Payments | | | | | | | | | |

3.2.2. Summary of estimated impact on appropriations of an administrative nature

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

| Years | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | TOTAL |
|-------|------|------|------|------|------|------|------|-------|
|-------|------|------|------|------|------|------|------|-------|

| HEADING 7 of the multiannual financial framework | | | | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|
| Human resources | 1,712 | 1,712 | 1,712 | 1,712 | 1,712 | 1,712 | 1,712 | 11,986 |
| Other administrative expenditure | 0,116 | 0,116 | 0,116 | 0,116 | 0,116 | 0,116 | 0,116 | 0,811 |
| Subtotal HEADING 7 of the multiannual financial framework | 1,828 | 1,828 | 1,828 | 1,828 | 1,828 | 1,828 | 1,828 | 12,797 |

| Outside HEADING 7 ⁵³ of the multiannual financial framework | | | | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Human resources | 0,829 | 0,829 | 0,829 | 0,829 | 0,829 | 0,829 | 0,829 | 5,805 |
| Other expenditure of an administrative nature | 0,500 | 0,520 | 0,540 | 0,560 | 0,580 | 0,600 | 0,620 | 3,920 |
| Subtotal outside HEADING 7 of the multiannual financial framework | 1,329 | 1,349 | 1,369 | 1,389 | 1,409 | 1,429 | 1,449 | 9,725 |

| | | | | | | | | |
|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|
| TOTAL | 3,158 | 3,178 | 3,198 | 3,218 | 3,238 | 3,258 | 3,278 | 22,523 |
|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|

⁵³ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.2.1. Estimated requirements of human resources

The proposal/initiative does not require the use of human resources.

The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

| Years | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 |
|--|-------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| • Establishment plan posts (officials and temporary staff) | | | | | | | |
| Headquarters and Commission's Representation Offices | 11 | 11 | 11 | 11 | 11 | 11 | 11 |
| Delegations | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Research | | | | | | | |
| • External staff (in Full Time Equivalent unit: FTE) - AC, AL, END, INT and JED ⁵⁴ | | | | | | | |
| Heading 7 | | | | | | | |
| Financed from HEADING 7 of the multiannual financial framework | - at Headquarters | 6 | 6 | 6 | 6 | 6 | 6 |
| | - in Delegations | 6 | 6 | 6 | 6 | 6 | |
| Financed from the envelope of the programme ⁵⁵ | - at Headquarters | | | | | | |
| | - in Delegations | | | | | | |
| Research | | | | | | | |
| Other (specify) | | | | | | | |
| TOTAL | 24 | 24 | 24 | 24 | 24 | 24 | 24 |

Description of tasks to be carried out:

| | |
|-------------------------------|--|
| Officials and temporary staff | The tasks will be the same as currently (policy, programming, finance and contracts, other horizontal tasks) |
| External staff | The tasks will be the same as currently (policy, programming, finance and contracts, other horizontal tasks) |

⁵⁴ AC= Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

⁵⁵ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.3. Third-party contributions

The proposal/initiative:

does not provide for co-financing by third parties

provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

| Years | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | TOTAL |
|----------------------------------|------|------|------|------|------|------|------|-------|
| Specify the co-financing body | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| TOTAL appropriations co-financed | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |

3.3. Estimated impact on revenue

The proposal/initiative has no financial impact on revenue.

The proposal/initiative has the following financial impact:

- on own resources

- on other revenue

please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

| Budget revenue line: | Impact of the proposal/initiative ⁵⁶ | | | | | | |
|----------------------|---|------|------|------|------|------|------|
| | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 |
| Article | | | | | | | |

⁵⁶ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.