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The European Archipelago
Rebranding the Strategic
Significance of EU Overseas
Countries and Territories

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The European Archipelago

Rebranding the Strategic Significance of EU Overseas Countries and Territories

I. Forming a strategic maritime interest of the EU: France takes the lead

On June 28, 2018, the morning before he attended yet another European Council meeting dealing with the highly complex and extensively divisive migration agenda and launching an EU intervention initiative, French President Emmanuel Macron outlined his view of France as a global archipelago. Without really being noticed by German (or outside of France any other European) media, he presented the “Overseas Blue Book” (“livre bleu outre-mer”) in which the overseas policy of his government is outlined.¹ After several months of consultation with contributions of 26,000 of the more than 2.7 million citizens in the French overseas territories and hundreds of public workshops, the “Overseas Blue Book” mentions 28 topics constituting the French government’s road map on overseas matters.

1 République Française/Assises des outre-mer, Livre Blue Outre-Mer. Version intégrale, online at: https://assets.ctfassets.net/xx83r0rav05e/2fFvmCeGTq8sc6uwwA4WOa/20e3c42d716f56bfa8e7faa2e2474152/Livre_Bleu_Inte_gral_28JUI_N.pdf; for French media coverage see Outre-mer: un ‘Livre bleu’ pour définir la politique du gouvernement, in: Le Monde, 28 June 2018, online at: Outre-mer: la stratégie de Macron pour l’archipel France’, in: Le Monde, 29 June, 2018, online at: www.lemonde.fr/politique/article,2018/06/29/outre-mer-la-strategie-de-macron-pour-l-archipel-france_5323062_823448.html.

Internet resources, last date of access: September 2, 2019.

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The overarching fundamentals in the eyes of French overseas citizens were summarized as follows:

- Infrastructure
- Economic development
- Employment
- Health
- Environmental protection
- Advancing the youth
- Culture
- Security
- Protection of citizens

The “Overseas Blue Book” underlines essential priorities guiding the implementation of future government projects initiated in the French overseas territories:

- Enhancing economic activities in order to develop employment locally.
- Anchoring the overseas territories in their respective region.
- Supporting green and blue economies.
- Recognizing the differences among the territories.

When presenting the “Overseas Blue Book”, President Macron reiterated the ambition of his government to pursue project-oriented cooperation, an acceleration in implementing what has been identified as necessary, and a distinction between short-term crises management and long-term strategy. For the French President, the overseas territories are much more than “imperial confetti”. President Macron underlined the ambition of France to do more and to do better in enhancing a maritime strategy in research and innovation aimed at safeguarding the unique biodiversity of France through its overseas territories. Maritime France is sixteen times larger than mainland France with 97 percent of its maritime territory located overseas. With eleven million square kilometers of sea territory and 18,000 kilometers of coastline under French sovereignty, France is the second largest maritime territory on earth after the United States. As a land power, France is the 41st largest

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country on earth. As a land-and sea power combined, France is the sixth largest among all nations, after Brazil but prior to China and India. As much as France is a constitutive part of the European Union, the European Union also is what France contributes to its identity and global presence.

In Papeete on March 1, 2019, the French Minister for Overseas Territories, Annick Girardin, repeated the key ideas of the “Overseas Blue Book” while addressing the 17th EU-OCT Forum, the annual meeting of the European Union with all Overseas Countries and Territories associated with the EU.² For some time, media had speculated whether President Macron himself would attend the relatively unknown EU-OCT Forum. Consolidating his power base at home against the tide of violent-prone, Rousseauist-like (“volonté générale”) “Gilets jaunes”, he had to leave yet another chance to advance the concept of European sovereignty. Instead, his minister gave a more pragmatic statement on matters of marine protection and biodiversity. Personally, President Macron has addressed geostrategic questions of maritime security and freedom of navigation on several occasions.³ France, as its President sees it, combines sovereign overseas presence and global socio-economic responsibility with a resolute geopolitical power projection.

The strategic return of Europe via France – and to a lesser degree via the United Kingdom – to the theatre of Asia-Pacific geopolitics includes a rebranding of the region by France and the United Kingdom: For some time, both countries talk of the “Indo-Pacific”, primarily in an “unusually firm stand on China’s expansion in the South China Sea and elsewhere”.⁴ Since 2001, France’s Indo-Pacific Strategy includes annual naval exercises with India (“Varuna”). Since 2014, French and British naval vessels regularly

2 The English term “Overseas Countries and Territories” (OCT) corresponds with the French “Pays et Territoires d’Outre-Mer” (PTOM) and the German “Überseeische Länder und Hoheitsgebiete” (ÜLH).

3 His visits to French Guiana in October 2017 and to New Caledonia in May 2018, to Martinique, Guadeloupe, Saint-Martin and St. Barthélemy in September 2018, and to Mayotte and La Réunion in October 2019, but likewise his visits to China in January 2018, to India in March 2018, to Australia in May 2018 and to Japan in June 2019 send a coherent message.

4 Erik Brattberg, Can France and the UK Pivot to the Pacific?, 5 July 2018, online at: www.carnegieendowment.org/2018/07/05/can-france-and-uk-pivot-to-pacific-pub-76732.

patrol the South China Sea as part of the Joint French-British Jeanne d'Arc Naval training and patrol task force. More assertive than ever before, the French aircraft carrier "Dixmude" travelled through the South China Sea in May 2018, challenging China's claim over the Spratley Islands (named Nansha by China) and its understanding of the South China Sea being an Chinese inland lake.⁵ In August 2018, three Rafale fighter jets and other French military planes participated in the Australian military exercise "Pitch Black" in Darwin, along with several other stops en route to India.⁶ The message from Paris is loud and clear: Unilateral claims to sovereignty in the Indo-Pacific – by China or any other country – are not acceptable. The strong security partnership of France with Australia and Japan includes a substantial supply of arms.⁷ France supports "Quad" (Quadrilateral Security Dialogue), a strategic initiative of Australia, Japan, India and the United States based on a proposal by Japans Prime Minister Shinzo Abe in 2016. It is the objective of "Quad", as President Macron stated, to avoid a hegemonic order in the Indo-Pacific region. After repair work in Toulon, France's only aircraft carrier, the "Charles de Gaulle" was ready to travel to the Pacific in 2019. The United Kingdom will follow in 2021 with its newest aircraft carrier, the "Queen Elizabeth", ready to go to Asia in 2021.⁸

France definitely sees itself as a Pacific power: More than 500,000 French citizens live in the French Pacific territories New Caledonia, French Polynesia and Wallis et Futuna. France maintains seven military installations

5 See Till Fährnders, *Gegen Hegemonie. Frankreich und Großbritannien engagieren sich im Südchinesischen Meer*, in: *Frankfurter Allgemeine Zeitung*, 21 June 2018. Later in 2018, the British military ship HMS Albion was brushed off by the Chinese navy when traversing the South China Sea near the Paracel Islands. Since the ruling of the International Court of Justice in 2016 according to which Chinese claims over sovereignty of much of the South China Sea, the disputes over how to balance the rising military presence in the region have aggravated.

6 Armée de l'Air, *Pitch Black 2018: des Rafale français s'entraînent en terre australienne*, 21 August 2018, online at: <https://www.defense.gouv.fr/air/actus-air/pitch-black-2018-des-rafale-francais-s-entraiment-en-terre-australienne>.

7 Beside producing six atom-driven submarines of the Barracuda class for the French army until 2029, France has sold twelve of these submarines to Australia, to be built until 2030; see: *Frankfurter Allgemeine Zeitung*, 13 July 2019.

8 Björn Müller, *Europäische Flugzeugträger im Pazifik*, in: *Frankfurter Allgemeine Zeitung*, 28 January 2019.

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in the region with roughly 3,500 military personnel. Thirteen military ships are deployed to the region. French Polynesia alone covers a maritime territory the size of Europe. France understands its vocation as global, supported with military operations in eleven countries. Projecting a global presence in the shaping of world affairs and translating global presence into a countervailing force against others are inextricably linked elements of France's external policy. Even cruise ship tourism through South Pacific waters is an expression of French presence and mission ("savoir vivre"), a cultural form of soft power à la française.

At the center of France's strategic interest is the demand to maintain freedom of navigation across all global sea routes. No rule-based global trade can exist without full recognition of freedom of navigation. This French position is fully shared by all European trading nations and the European Union at large. Already back in 2015, the High Representative of the Union for Foreign Affairs and Security Policy, Federica Mogherini, addressed the South China Sea agenda at the Shangri La Dialogue, a high-level conference on Asian security in Singapore organized by the International Institute for Strategic Studies (IISS): "[O]ur engagement with Asia goes well beyond trade, investment and aid. It is political, it is strategic and it needs to develop more also in the security field."⁹ The EU Global Strategy of 2016 describes "principled pragmatism" as the EU's approach to global security.

Hence, all related efforts – including the position taken by the French President – should be read as pragmatic contributions to a strategic dialogue, especially with China in light of maritime disputes in Northeast Asia.¹⁰ The Asian region is of prime importance for the future of globalization. By 2050, fifty percent of the global economy will be produced in Asia, a region that, according to the Asian Development Bank, generated sixty percent of the

9 Speech by High Representative/Vice-President Federica Mogherini at the IISS Shangri-La Dialogue 2015, Brussels: European External Action Service, 31 May 2015, online at: https://eeas.europa.eu/headquarters/headquarters-homepage/6254/speech-high-representativevice-president-federica-mogherini-iiss-shangri-la-dialogue-2015_en.

10 See Elena Atanassova-Cornelis/Ramon Pacheco Pardo/Eva Pejosa, *Pride and prejudice. Maritime disputes in Northeast Asia*, Issue Report No. 23, Paris: European Union Institute for Security Studies, 2015.

global economy in 1700. Today, ninety percent of all global trade takes place on the sea routes of the planet, according to the London-based “International Chamber of Shipping”.¹¹ The strategic claims of China – including claims on atolls in the South China Sea and the projection of China’s trade ambition via the “One Belt, One Road” initiative – impact power equations and counter-reactions around the Indian and the Pacific Oceans in multiple forms. In an unprecedented way, China’s President Xi and United States Vice-President Pence clashed at the 2018 APEC Summit in Port Moresby over their respective economic policies, regional strategies and political systems.¹² These disputes were a telling example how regional economic cooperation (with APEC, the intergovernmental Asia-Pacific Economic Cooperation, as a prime example), regional political integration (the Pacific Island Forum and its loyalties across the South Pacific) and geopolitical ambitions of external players increasingly overlap and influence each other – a phenomenon not only known in the Indo-Pacific region. The European Union cannot shy away any longer. Instead of blaming other powers, the EU needs to develop its own comprehensive global strategy with a strong maritime dimension.

For France, more than for any other EU member state, safeguarding the well-being of its citizens in France’s overseas territories and engaging with geopolitics in the Pacific are two unalterable sides of the same coin.¹³ Until now, the European Union as a whole is complementing this national French strategy with its genuine, yet limited approach towards EU Overseas Countries and Territories (OCTs). At the 17th EU-OCT Forum on March 1, 2019 held in Papeete, EU Commissioner Neven Mimica summarized the prevailing EU’s intention and global impact: “As EU outposts in some of the

11 See International Chamber of Shipping, *Shaping the future of shipping*, online at: <http://www.ics-shipping.org/shipping-facts/shipping-and-world-trade>.

12 See Tom Westbrook, Charlotte Greenfield, Philip Wen, *U.S.-China discord dominates APEC summit in Papua New Guinea*, in: Reuters, 17 November 2018, online at: <https://www.reuters.com/article/us-apec-summit-malaysia/u-s-china-discord-dominates-apec-summit-in-papua-new-guinea-idUSKCN1NM009>.

13 See Rudy Bessard/Nathalie Mrgudovic, *Horizons régionaux et variations océaniques des territoires français*, in: *Journal de la Société de Océanistes*, no. 140 (1), 2015, pp. 5-20.

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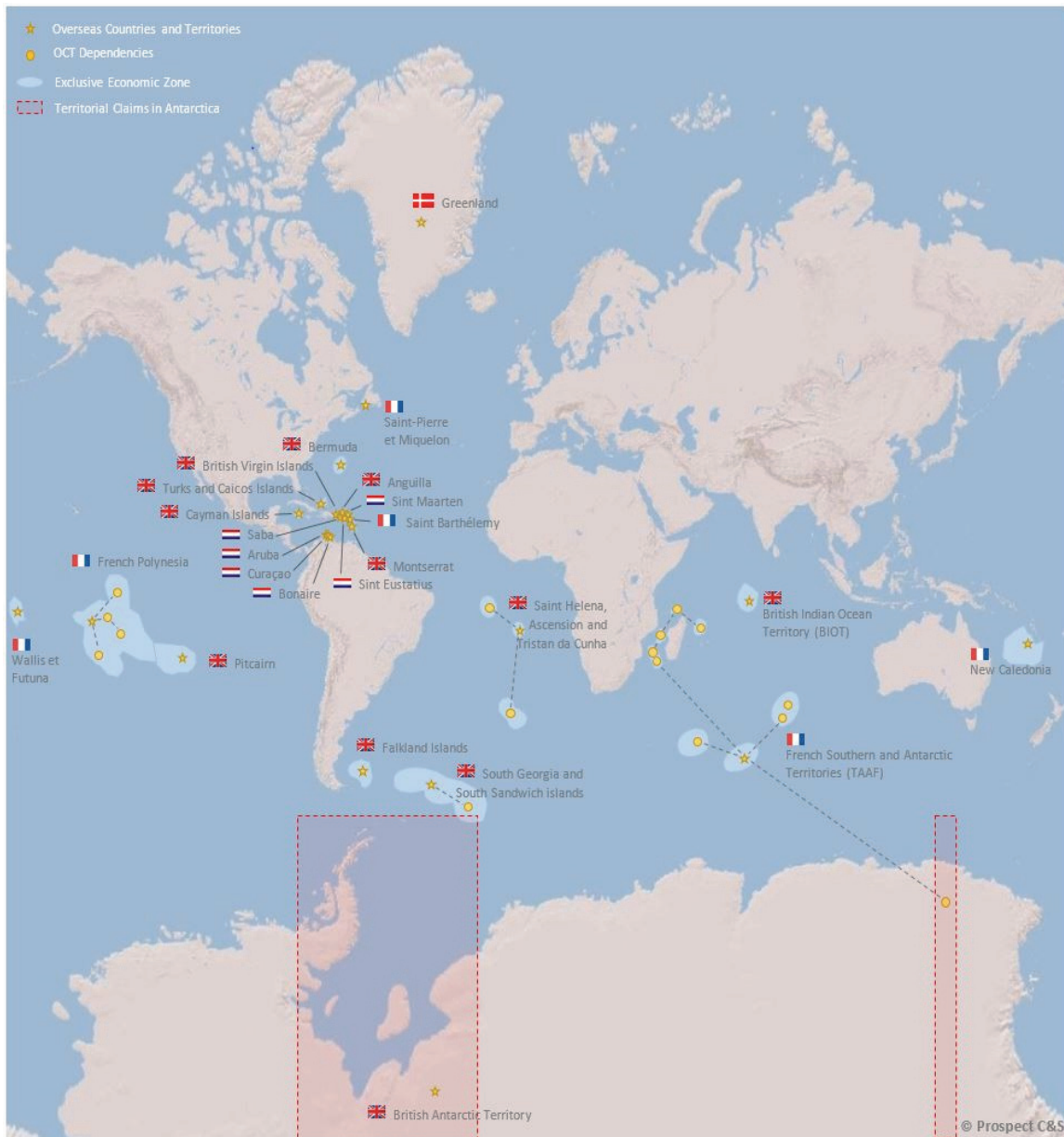
remotest parts of the world, the EU Overseas Countries and Territories are of strategic importance for our planet's sustainable development and the biodiversity conservation in particular. Today we jointly launched new programs to tackle climate change, increase people's living standards and create sustainable job opportunities.”¹⁴

The annual EU-OCT Forum is as little known in the EU as anywhere else in the world. It is one of the undiscovered instruments of global Europe. Since 2002, the EU-OCT Forum brings together leaders from all Overseas Countries and Territories (OCTs) associated with the European Union, representatives of the European Commission, the European Parliament, the European Investment Bank and the EU member states to which the OCTs belong.¹⁵ The EU-OCT Forum is one of three occasions of dialogue between the European Union and the overseas countries and territories associated with the EU. The other two instances are two to three tripartite meetings per year between the European Commission, the overseas countries and territories and the respective EU member states to which they belong; and partnership working parties in the same format on specific policy matters with a focus on discussing technical aspects related to the implementation of concrete cooperation projects and programs. The time has come for the European Union as a whole, this paper argues, to recognize the strategic significance of the overseas and maritime dimension for European sovereignty. The time has come to translate French leadership into a common, comprehensive and strategic maritime policy of the European Union, which makes better use of the Overseas Countries and Territories

14 European Commission. Press release, EU and Overseas Countries and Territories boost cooperation at annual Forum with €44 million, Brussels, 1 March 2019, online at: http://europa.eu/rapid/press-release_IP-19-1469_en.htm.; for details of the environmental challenge and the EU's engagement in OCTs see Jose de Bettencourt/Helena Imminga-Berends, *Overseas Countries and Territories: Environmental Profiles. Final Report*, Brussels: EuropeAid 2015, online at: https://ec.europa.eu/europeaid/sites/devco/files/octs-environmental-profiles-main-report-012015_en.pdf.

15 Past EU-OCT Forum meetings took place as follows: Bonaire 2002, Brussels 2003, French Polynesia 2005, Brussels 2005, Greenland 2006, Brussels 2007, Cayman Islands 2008, Brussels 2010, New Caledonia 2011, Brussels 2012, Greenland 2012, Brussels 2013, British Virgin Islands 2015, Brussels 2016, Aruba 2017, Brussels 2018. The next events are to be held in Brussels 2020 and in Curaçao 2021.

belonging to the European family. Time has come to rebrand the strategic status of European Overseas Countries and Territories.



Map 1: EU Overseas Countries and Territories, including those belonging to the United Kingdom. Copyright: Prospect C&S.

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II. EU-OCT reality: Technical association management and strategic neglect

The status of Overseas Countries and Territories (OCTs) associated with the EU is defined by the Treaty on the Functioning of the European Union (TFEU), Part IV, Article 198-204.¹⁶ The associated Overseas Countries and Territories are listed in Annex II to the TFEU: Greenland, belonging to the Danish Realm/Commonwealth of the Kingdom of Denmark; Aruba, Bonaire, Curaçao, Sint Maarten, Saba and Sint Eustatius belonging to the Kingdom of the Netherlands; Saint-Pierre et Miquelon, Saint-Barthélemy, French Polynesia, Wallis et Futuna, New Caledonia, and the uninhabited French Southern and Antarctic Lands (TAAF) belonging to the French Republic; Anguilla, British Virgin Islands, Cayman Islands, Montserrat, Turks and Caicos Islands, Bermuda, Falkland Islands, British Antarctic Territory, South Georgia and the South Sandwich Islands, Saint Helena, British Indian Ocean Territory and Pitcairn belonging to the United Kingdom of Great Britain and Northern Ireland.

According to the TFEU, the OCT group comprises of 25 countries and territories with a total of 1,126,383 citizens. The result of the 2016 Brexit referendum led to the assumption of a significant reduction of OCTs with a post-Brexit number of thirteen OCTs left inhabited by a total of 913,224 EU citizens.¹⁷ Except for three (British Antarctic Territory, South Georgia and the South Sandwich Islands, French Southern and Antarctic Lands), OCTs are inhabited and organized on the basis of wide-ranging self-rule. However, defense and foreign policy matters remain under the control of those EU

16 A comprehensive overview of colonial and post-colonial developments leading to the specific role of overseas countries and territories, but also of EU Outermost Regions is provided by Daniela Vogt, *Die Integration der ultra-peripheren Regionen in die Europäische Union. Wandel der europäischen Politik gegenüber den überseeischen Besitzungen von Rom (1957) bis Lissabon (2009)*, Baden-Baden: Nomos, 2011.

17 For detailed data see Association of the Overseas Countries and Territories of the European Union (OCTA), *The OCTs*, online at: <http://www.octassociation.org/-les-ptom-?lang=en>.

member states to which the OCTs belong. This group of (mostly) islands¹⁸, scattered around the world, are similar in some aspects: small population, small territory, vulnerable ecological conditions, not very resilient economies, but solid structures of rule of law and parliamentary governance. In other aspects, the OCTs differ: None of the OCTs belongs directly to the EU or the EU Single Market, including the customs union. EU law does not apply to OCTs, although OCT citizens are EU citizens, usually without the right to participate in EU elections (except for French OCTs). Some OCTs use the euro (Saint-Martin, Saint-Barthélemy, Saint-Pierre et Miquelon, the French Southern and Antarctic Lands), others the US dollar (Saba, Sint Eustatius, Bonaire) or local currencies (florin in Aruba, Antillean guilder in Sint Maarten and Curaçao, Change Franc Pacifique (CFP-Franc) in New Caledonia, Wallis et Futuna and French Polynesia).¹⁹ The OCTs center around huge maritime territories as defined by the United Nations Convention on the Law of the Sea (UNCLOS), to which the EU is a contracting party.²⁰ OCTs are highly relevant in all matters of maritime

18 Except for French Guiana with its strategic importance as seat of the Kourou Space Center and the British and French Antarctic Territories with their potential for mining, frozen until 2048 according to the Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol) signed in 1991 by the signatories to the original Antarctic Treaty of 1959.

19 The British Caribbean overseas territories Anguilla and Montserrat use the Eastern Caribbean dollar.

20 According to the United Nations Convention on the Law of the Sea, maritime sovereignty is attributed in the following order: The coastal sea includes 12 nautical miles (22.2 kilometers), the connecting zone 24 nautical miles, the exclusive economic zone 200 nautical miles and the continental shelf 350 nautical miles. The subsequent High Sea is free for the use of all states while all states are obliged to protect the High Sea. The European Union as contracting party is full member, along with EU member states, of nineteen international maritime organizations: UN Convention on the Law of the Sea; Convention on Environmental Impact Assessment in a Transboundary Context; Convention for the Protection of the Marine Environment of the North-East Atlantic; Helsinki Commission for the Protection of the Marine Environment of the Baltic Sea Area; Barcelona Convention for the Protection of the Marine Environment; UN Food and Agriculture Organization; United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks; General Fisheries Commission for the Mediterranean; International Baltic Sea Fishery Commission; Commission for the Conservation of Antarctic Living Resources; Convention on the Conservation of Migratory Species of Wild Animals; Convention on Biological Diversity; Agreement on the International Dolphin

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biodiversity and the prospects of the blue economy. However, beyond the agenda of sustainability, increasingly geopolitics frames the meaning of the OCTs, not the least in light of the emerging role of the Antarctic OCTs (which are not permanently populated).

The association status of overseas territories with the European integration project originated in the Rome Treaties (1957). Initially, the concept of association included colonies and overseas territories alike. With the decolonization of most European colonies and the evolution of the EU-ACP relationship, the remaining overseas territories were attached to this new political scheme as if they were an uncomfortable appendix. At the time, overseas entities still under the sovereignty of EU member states were often perceived as somewhat meaningless remnants of the wave of decolonization, remaining astonishingly loyal to their European motherlands while being too small to become viable independent states. Forcing these places into independence was not seen as a good idea, wherever such propositions were expressed (e.g. in the case of the Netherlands Antilles by some Dutch politicians²¹). In 1991, the European Council adopted the first Overseas Association Decision with genuine terms of reference for the overseas

Conservation Programme; Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; Rotterdam Convention on Certain Hazardous Chemicals and Pesticides in International Trade; Bonn Agreement on Action Plan to combat illegal and accidental pollution of the Greater North Sea; Convention on Transboundary Effects of Industrial Accidents; UN Convention of Illicit Traffic Narcotic Drugs; UN Convention on Transnational Organized Crime. As full member the EU is representing itself and all EU member states as contracting party to seven international maritime organizations: International Commission for the Conservation of Atlantic Tunas; Indian Ocean Tuna Commission; Western and Central Pacific Fisheries Commission; South East Atlantic Fisheries Organization; Northwest Atlantic Fisheries Organization; North Atlantic Salmon Conservation Organization; North East Atlantic Fisheries Commission. See: Michael Emerson et. al., *Upgrading the EU's Role as Global Actor. Institutions, Law and the Restructuring of European Diplomacy*, Brussels: Centre for European Policy Studies, 2011, pp. 86-88 and pp. 123f.

- 21 “Since 1990, successive Dutch governments have accepted the inability to impose independence on the islands against their will.” Gert Oostindie, *Postcolonial sovereignty games with Europe in the margins. The Netherlands, the Antilles, and Europe*, in: Rebecca Adler-Nissen/Ulrik Pram Gad (eds.), *European Integration and Postcolonial Sovereignty Games. The EU Overseas Countries and Territories*, London/New York: Routledge, 2013, p. 205.

countries and territories attached to member states of the (then) European Community.²² In spite of continuing overlaps with the ACP association approach, the overseas countries and territories were considered independent actors in a genuine partnership with the European Community, soon to be renamed European Union in 1993. By negotiating aid programs with the EU, the overseas countries and territories gained a certain actorness.

In 2001, a new Overseas Association Decision was adopted by the European Council.²³ This directive initiated the creation of the *Overseas Countries and Territories Association (OCTA)*, giving the OCTs a hitherto unknown visibility in Brussels.²⁴ The United Kingdom preferred that the British Antarctic Territory, South Georgia and the South Sandwich Islands, along with the British Indian Ocean Territory, stayed outside OCTA, although the first two of these British overseas territories were explicitly mentioned in the list of territories associated with the EU under the Lisbon Treaty. For citizens living in British OCTs, the result of the British referendum on EU membership on June 23, 2016, triggered immediate concern. Otherwise, EU officials, let alone the wider European public hardly took notice of the potential impact of Brexit on the association of OCTs with the European Union. But, as this analysis shows, it is not Brexit alone which makes a strategic overhaul of the very rationale of the OCT association necessary: Up until now, the objective of the EU-OCT association has been defined in line with the overall mantra of development policy. The Lisbon Treaty (2007, in force since 2009) is dominated by the development paradigm when stating the purpose of the association as “to promote the economic and social

22 European Economic Community, Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community, online at: <https://publications.europa.eu/en/publication-detail/-/publication/d8960ad6-4eea-43d5-9df6-ee03e0779554/language-en>.

23 European Union, Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community (“Overseas Association Decision”), online at: <https://publications.europa.eu/en/publication-detail/-/publication/76959936-3f70-4232-9e8c-b898933c009b>.

24 For details see the OCTA webpage under <http://www.octassociation.org/>. See also Ivan Hruškovič, Legal Aspects of the Association of Overseas Countries and Territories with the European Union, in: Danube. Law and Economics Review, vol. 5 (1) 2014, pp. 65-75.

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development of the OCTs and to establish close economic relations between them and the Union as a whole. In accordance with the principles set out in the preamble to the Lisbon Treaty, association shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire” (Article 198 TFEU).²⁵ As noble and relevant as this objective is, it is no longer sufficient as the defining frame for EU policies. In times of a revival of geopolitics and the need for a strategic repositioning of the EU as a global power, OCTs have gained a much more important political meaning.

A 2008 Green Paper of the European Commission on OCTs broadened the perspective for the first time.²⁶ It explicitly stated the benefits OCTs bring the EU. Aid was no longer the only focus. The subsequent 2013 Overseas Association Decision remained “a unilateral beneficial decision offered by the member states to these island communities”.²⁷ And yet, it was signed by the EU as a whole, thus redefining the sovereignty links between OCTs and the respective EU member states to which they belong. The Overseas Association Decision adopted in 2013 by the European Council and the European Parliament became the guiding framework for aid, trade and political relations of the EU with the OCTs for the next years.²⁸ In the words of the European Commission, the Overseas Association Decision, a

25 Lisbon Treaty, Treaty on the Functioning of the European Union (TFEU), Art. 198, online at: <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-the-functioning-of-the-european-union-and-comments/part-4-association-of-the-overseas-countries-and-territories/486-article-198.html>.

26 European Commission, International Cooperation and Development, Green Paper: Future relations between the EU and the Overseas Countries and Territories, Brussels, 1 June 2008, online at: https://ec.europa.eu/europeaid/green-paper-future-relations-between-eu-and-overseas-countries-and-territories-0_en.

27 See Ida Hannibal/Kristine Holst/Ulrik Pram Gad/Rebecca Adler-Nissen, European Union: Facilitating the OCTs in Brussels, in: Rebecca Adler-Nissen/Ulrik Pram Gad (eds.), *European Integration and Postcolonial Sovereignty Games. The EU Overseas Countries and Territories*, op. cit., p. 81f.

28 European Union, Council Decision 2013/755/EU, 25 November 2013 on the association of the overseas countries and territories with the European Union (‘Overseas Association Decision’), online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013D0755&from=EN>.

European legal act (directive), “lays down a new articulated and consolidated set of rules and procedures governing the political, commercial and financial relations between the EU and the OCTs”.²⁹ In reaction to past experiences and conceptual transformations, the 2013 Overseas Association Decision was said to reflect “a paradigm shift away from the focus on poverty reduction to a reciprocal relation focused on cooperation on mutual interests, and places special emphasis on priorities which are relevant for the OCTs, 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.”³⁰ In light of the genuine constitutional and strategic situation of Greenland, the Overseas Association Decision was complemented by a specific 2014 European Council Decision on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other.³¹

With the 2013 Overseas Association Decision, the EU agreed on detailed rules and procedures governing the relationship between the EU and its OCTs. EU resources channeled through the European Development Fund were made available in support of OCTs. Aid was matched with trade. At the core of trade-ties between the EU and all OCTs lies the tariff-free import of products from the OCTs into the EU Single Market. According to the 2013 Overseas Association Decision, the competitiveness of OCTs shall be enhanced, thus helping them to develop sustainable and resilient economies and to strengthen partnerships in the respective region of each OCT. The mechanisms of EU-OCT cooperation were outlined in detail. A one size-fits all program could never serve the purposes of all OCTs. As their diversity is as startling as their commonalities, individual OCT cooperation programs

29 European Commission, International Cooperation and Development, OCT-EU Association, online at: https://ec.europa.eu/europeaid/regions/overseas-countries-and-territories-octs/oct-eu-association_en.

30 Ibid.

31 European Union, Council Decision 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 hand, online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014D0137&from=EN>.

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had to be organized. The 2013 Overseas Association Decision, like any EU directive, is not only a legal instrument of the EU in itself. In unprecedented ways, it also triggered legal commentary and interpretation on the EU-OCT relationship.³²

	Indicative allocation 10th European Development Fund (2007-2013)	Indicative allocation 11th European Development Fund (2014-2020)
Territory (Population)	195.00 million	229.5 million
Aruba (101,484)	8.88 million	13.0 million
Bonaire (16,000)	3.00 million	3.9 million
Curaçao (142,180)	11.25 million	16.9 million
Saba (2,000)	3.00 million	3.5 million
St. Eustatius (3,700)	2.00 million	2.4 million
Sint Maarten (50,000)	4.75 million	7.0 million
New Caledonia (245,580)	19.81 million	29.8 million
French Polynesia (267,000)	19.79 million	29.9 million
Wallis et Futuna (13,445)	16.49 million	19.6 million
Saint-Pierre et Miquelon (6,125)	20.74 million	26.3 million
Mayotte (212,645)	22.92 million	-
Anguilla (15,962)	11.70 million	14.0 million
Montserrat (5,000)	15.66 million	18.4 million
Turks and Caicos (38,435)	11.85 million	14.6 million
Pitcairn (55)	2.4 million	2.4 million
Falkland Islands (2,500)	4.13 million	5.9 million
Saint Helena, Ascension, Tristan da Cunha (4,257)	16.63 million	21.5 million

32 See Dimitry Kochenov (ed.), *EU Law of the Overseas: Outermost Regions, Associated Overseas Countries and Territories, Territories Sui Generis*, Aalphen aan Rijn: Kluwer, 2011; Isabelle Vestris, *Le statut des régions ultraperiphériques de l'Union européenne*, Brussels: Bruylant, 2012; Henri de Waele, *Legal Dynamics of EU External Relations. Dissecting a Layered Global Player*, Berlin: Springer, 2017, pp. 134-136.

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Regional	40.00 million	100.00 million
Reserve B	15.0 million	21.5 million
European Investment Bank Investment Facility	30.00 million	5.00 million
Greenland (56,810)	175.00 million	217.8 million

Table 1: Contributions for Overseas Countries and Territories through the 10th European Development Fund (EDF) (2007-2013) and the 11th European Development Fund (2014-2020)³³.

On June 4, 2018, the European Commission presented the draft for a new Overseas Association Decision.³⁴ It is intended to be in place by January 1, 2021. The draft was prepared with the explicit intention of the Juncker Commission to simplify the legal instruments of the EU. The dedicated small OCT unit in the Directorate-General for International Cooperation and Development (DEVCO) formulated the text. According to Article 203 of the TFEU, the Overseas Association Decision must be adopted with unanimity in the Council of the European Union with consultation of the European Parliament. Two readings in the European Council were followed by a European Parliament resolution adopted on January 31, 2019,³⁵ and a third

33 European Commission, DG International Cooperation and Development, online at: https://ec.europa.eu/europeaid/regions/overseas-countries-and-territories-octs/oct-eu-association_en.; population figures from: Association of the Overseas Countries and Territories of the European Union (OCTA), The OCTs, op.cit.

34 European Commission, 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'), Brussels, June 14, 2018, online at: https://ec.europa.eu/commission/sites/beta-political/files/budget-may2018-other-territories-decision_en.pdf. Information on the ensuing procedures was obtained in an interview at the OCT unit of the European Commission, Brussels, 12 October 2018 and through subsequent email communications.

35 European Parliament, Legislative resolution of 31 January 2019 on the 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') (COM(2018)0461 – C8-0379/2018 – 2018/0244(CNS)), online at: http://www.europarl.europa.eu/doceo/document/TA-8-2019-0053_EN.html.

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reading in the European Council. According to the original time line of the OCT unit in DEVCO, the new Overseas Association Decision was to be adopted by the European Council in May 2019. By then, negotiations for the EU's multiannual financial frame for the period 2021-2027 were not yet concluded. Nor had Brexit happened. Hence, the finalization of a new Overseas Association Decision was postponed. This left more space for a principled discussion of its strategic meaning beyond the possible impact of Brexit.

With due respect to the authors and negotiators of the new Overseas Association Decision: The proposed new directive is not a strategic document but rather a non-political, technical paper. It does not address the geopolitical significance of the European overseas countries and territories in any reasonable way. It remains silent on the true impact of Brexit on the OCT construction. It does not link the future relationship of the European Union and its remaining overseas territories to the EU Global Strategy. In short: The matter lacks political leadership and guidance at the highest EU level producing a clearly strategic mandate for those responsible in drafting documents and implementing policies.

The most meaningful conceptual achievement of the 2018 draft Overseas Association Decision is related to internal EU reform efforts regarding the future budget of the European Union. With reference to the promise of a “Modern Budget for a Union that Protects, Empowers and Defends”, the European Commission's proposal for the 2021-2027 Multiannual Financial Framework has included a new heading (budget line 6) under its external action programs called “Neighborhood and the World”. With its innovative proposal for future funding of the OCTs, the European Commission, after many years of debating the budgetization of the European Development Fund, proposed the inclusion of the European Development Fund under its External Action activities. According to the proposal of the Juncker Commission, the respective budget line 6 “Neighborhood and the World” should not only be relevant for future aid programs under an EU-ACP post-Cotonou agreement. It should also provide the framework for future EU-OCT relations. The result of politically complex negotiations on these matters in the EU Council remained unclear at the time of writing of this

paper. In itself, this important budgetary reform would not constitute a fresh strategic look at OCTs. Should it be acceptable to all EU member states it would at least support the necessary strategic thinking: Under the proposed new budget concept, the European Parliament would gain a stronger oversight role in future program activities of the OCTs. This in itself would open opportunities for strengthening the focus on the strategic meaning of the OCTs. Impressively, the draft Overseas Association Decision has earmarked the multiannual budget for OCTs during the period 2021-2027 with an amount of 500 million euro (compared with 364.5 million euro for the period 2014-2020).³⁶ The draft new Overseas Association Decision is also a step forward in streamlining the EU's global presence by proposing to fully incorporating Greenland, thus resolving the existing dual structure for the legal management of EU-OCT relations (with one directive for OCTs and one for Greenland which is no less an OCT than the others named in the Lisbon Treaty).

The European Commission, in the explanation note to the draft Overseas Association Decision, rushed to recognize the strategic interests of the EU in the Arctic region.³⁷ However, it is surprisingly suboptimal that the draft Overseas Association Decision does not remain coherent in referring to the strategic meaning of the other OCTs. Instead, the draft Overseas Association Decision immediately talks of rather usual objectives, principles and values (Article 3). It leaves the term “interests” to a later stage (Article 5), alone to describe the association as “framework for policy dialogue and cooperation on issues of mutual interest.” These interests are defined around economic, climate change and research matters along with mentioning of “Arctic issues” – without reference to the Arctic's strategic relevance, as was done in the introductory remarks of the draft.³⁸ Clarity about the EU's interests in the strategic future of the OCTs would read differently.

36 See European Commission, DG International Cooperation and Development, *op. cit.*

37 European Commission, 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'), Brussels, 14 June 2018, p. 7.

38 *Ibid.*, p. 8.

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Three political bones of contention were explicit in mid-2019: First, Denmark, supported by Germany, Sweden and Finland was reluctant to merge the Greenland Decision with the new Overseas Association Decision. France, supported by the Netherlands, was interested in exactly doing so in the hope to use the upgrading of Greenland with its enormous strategic significance in the Arctic region as a driver to enhance the EU's strategic interest in French and Dutch overseas territories in the Pacific and in the Caribbean. Second, France and the Netherlands were opposing the proposed suggestions on streamlining competition law and state aid regulations with the overall EU policies, fearing negative implications for the economies of their OCTs. Third, Denmark, France and the Netherlands were demanding better access for OCTs to EU programs beyond the particular package proposed for the OCTs. The European Parliament, in turn, proposed that future OCT funding remain autonomous from the proposed linkage to future Neighborhood Policy Instruments. At the time of writing, it was unlikely that any package solution would emerge before the finalization of the next Multiannual Financial Framework of the EU for 2021-2027.

The 2018 draft directive describes the following core objectives for the EU-OCT association in the years ahead: "The partner's recognize each other's rights to determine their sustainable development policies and priorities, to establish their own levels of domestic environmental and labor protection, and to adopt or modify accordingly the relevant laws and policies, consistently with commitment to the internationally recognized standards and agreements." (Article 3, Objectives, principles and values). Greenland is mentioned specifically, but only in the context of challenges to education quality and capacity-building.³⁹ The draft directive is filled with concerns about getting program management right and to avoid any misspending of EU taxpayer money. As noble and relevant as these objectives are, they are constantly and confusingly mixed up with the thematic substance which the EU-OCT relationship wants to advance.

39 Ibid., p. 7f.

It takes until Article 5 of the draft Overseas Association Directive to find a comprehensive list of “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 labor 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 adaption 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 neighbors and other partners;
- (h) Arctic issues.”⁴⁰

Everything is said correctly and yet, nothing is said to strategically frame the objectives and interests of the partners in a future EU-OCT association. The Overseas Association Decision should be lauded for the emphasis it puts on supporting the OCT cooperation with ACP neighbors and related regional integration groupings as well as with EU Outermost Regions, wherever this applies (Article 7)⁴¹.

After a lengthy elaboration of the structure and mechanisms of the cooperation, the “areas of cooperation of sustainable development” (Part II) are enumerated:

- Environmental issues, climate change, oceans and disaster reduction (Chapter 1)
 - includes sustainable management and conservation of biodiversity and ecosystem services, sustainable forest management, integrated coastal zone management, oceans, sustainable water management, waste management, energy, raw materials, climate change, disaster risk management;

40 Ibid.,p. 8.

41 Ibid., p. 9.

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- Accessibility (Chapter 2) – includes maritime transport, air transport, safety and security, information and communication technologies services;
- Research and innovation (Chapter 3);
- Youth, education, training, health, employment, social security, food safety and food security (Chapter 4);
- Culture and tourism (Chapter 5) – includes cultural exchanges and dialogue, audio-visual cooperation, performing arts, protection of cultural heritage and historic monuments, tourism;
- Fight against organized crime (Chapter 6) – includes fight against trafficking in human beings, child sexual abuse and sexual exploitation, terrorism and corruption.⁴²

Part III elaborates on “trade and trade related cooperation”. In detail, the following headings are included:

- Arrangements for trade in goods (Title II, Chapter I) – includes free access for originating goods, quantitative restrictions and measures having equivalent effect, non-discrimination, conditions for movements of waste;
- Arrangements for trade in services and for establishment (Title II, Chapter II) – includes most favorable treatment;
- Trade and sustainable development (Title III, Chapter 1) – includes environmental and climate change standards in trade, labor standards in trade, sustainable trade in fisheries products, sustainable timber trade;
- Other trade related issues (Title III, Chapter 2) – includes currency payments and capital movements, competition policies and protection of intellectual property rights, technical barriers to trade, consumer policy, consumer health protection; sanitary and phyto-sanitary measures;
- Monetary and tax matters (Title III, Chapter 3) – includes tax and custom arrangements for Union funded contracts;
- Trade capacity development (Title III, Chapter 4) – includes trade dialogue, cooperation and capacity development;
- Cooperation in the area of financial services and taxation matters (Title III, Chapter 5) – includes international standards in financial services.⁴³

Finally, a lengthy Part IV and Part V deal with the financial mechanisms and procedures to generate, spend and evaluate financial resources allocated

42 Ibid., pp. 13-23.

43 Ibid., pp. 24-35.

under the EU budget.⁴⁴ Due to fear of corruption and embezzlement, every detail is outlined, guaranteeing further complaints about bureaucratic red-tape and excessive oversight procedures so ritualistically attached to the EU.

In sum: The draft for a new EU Overseas Association Decision gives meaning to the EU-OCT association as an important instrument in implementing the relevant Sustainable Development Goals. It is a timely advancement of past parameters defining the association. The draft directive realizes the specific thematic links that have to be enforced between OCTs and their respective regional environment. Thus, the draft OCT directive anticipated the scenario of Great Britain leaving the EU by way of opening options for future enhanced thematic cooperation with British overseas territories. Such cooperation should certainly include co-financing of Antarctic research and tailor-made arrangements for mutually beneficial trade⁴⁵ and aid activities. It should also upgrade the practically non-existent links of the OCTs with the regional groupings in their respective region. Finally, it should facilitate cross-regional cooperation beyond the bureaucratic definition of regions.

It is evident that development-related program activities will continue to define the politics of the EU-OCT association. However, program-driven politics is not equivalent to pursuing a comprehensive strategy. In fact, the EU-OCT association lacks such a comprehensive strategy, which would link the European Overseas Countries and Territories with the overall ambition of the 2016 EU Global Strategy.⁴⁶ As a geopolitical reality, the European Overseas Countries and Territories are both an expression and an instrument of global Europe. To reassess and rebrand the EU-OCT association would

44 Ibid., pp. 36-41.

45 It is indicative that the limited scholarly literature on OCTs is mostly concentrating on health, environmental and maritime issues. See, e.g. J. Jones et. al., Epidemiology, surveillance and control of infectious diseases in European overseas countries and territories, in: Eurosurveillance, 2011, online at: www.doi.org/10.2807/ese.16.29.19923-en.

46 European Union, Shared vision, common action: a stronger Europe. A global strategy for the European Union's Foreign and Security Policy, Brussels, 28 June 2016, online at: https://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf.

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be a highly desirable contribution to an enlightened European self-interest. It is both surprising and deplorable that it is not the EU but only some of its associated partners in the OCTs that indicate the evident geopolitical relevance of OCTs without any tiptoeing: “OCTs are spread across all four corners of the Earth,” the program of the Aruba Chairmanship of the Association of Overseas Countries and Territories (OCTA) for 2016-2017 stated, “providing the European Union with its most tangible geostrategic dimension.”⁴⁷ The Aruban government document continued: “In this way the OCTs add value and contribute to the development of the EU.”⁴⁸

Unfortunately, as Flora Goudappel has assessed with noticeable clarity, the set of OCT outposts based on European norms and values “in all corners of the world is an element not used enough” by the European Union.⁴⁹

With the British referendum on EU membership, the working hypothesis emerged that twelve of twenty-five overseas countries and territories would leave the association with the EU.⁵⁰ But it was regrettably superficial to only consider this a quantitative matter. In quantitative terms, the OCTs require a geostrategic rebranding – Brexit or not.

47 Programme for the Aruba Chairmanship of The Association of the Overseas Countries and Territories of the European Union, Aruba: Government of Aruba, 2016, p. 12.

48 Ibid.

49 Flora Goudappel, White paper of the OCTA chair on the Guiding Principles for a Future OCT-EU Partnership, Willemstad: University of Curaçao, 2017, p. 29.

50 The “Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as endorsed by leaders at a special meeting of the European Council on 25 November 2018” explicitly mentions the overseas countries and territories leaving the EU with the United Kingdom under Article 3 (1) Territorial Scope (e) (p. 9). Article 152 (3) specifically states: “The overseas countries and territories referred to in point (e) of Article 3 (1) shall benefit from the 11th EDF until its closure and from previous EDFs until their closure“ (p. 260); online at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759019/25_November_Agreement_on_the_withdrawal_of_the_United_Kingdom_of_Great_Britain_and_Northern_Ireland_from_the_European_Union_and_the_European_Atomic_Energy_Community.pdf.

III. The impact of Brexit on British overseas territories

The very idea of “Brexit” goes beyond the withdrawal of the United Kingdom from the European Union. The deeper meaning of “Brexit” can be understood as the unfinished mental struggle for decolonization in the United Kingdom of Great Britain and Northern Ireland. Decolonization, first and foremost, is a struggle of the mind between those who claim exceptionalism, supremacy and control over others and those who understand global human and societal relations as based on mutual respect, equality of human dignity, reciprocity and compromise. From this perspective, the struggle for Brexit is the expression of an ongoing dispute between British exceptionalists and “ordinary” British Europeans. British exceptionalism has never really been defeated in the physical wars of decolonization. From the secession of the United States of America to the independence of India and other colonies across the world, up to the hand-over of Hong Kong to the People’s Republic of China, the United Kingdom managed to turn defeat into victory. Part of this extraordinary history is related to the global success of the English language, nourishing the strategic special relationship between the United Kingdom and the United States of America with its roots in World War I and, more so, in World War II. The long Elizabethan age – with Queen Elizabeth II reigning since 1952 over the United Kingdom and Northern Ireland plus fifteen Commonwealth Realms and as head of the 53-state Commonwealth of Nations – has given the British imperial decline a continuous touch of success, dignity and serenity.⁵¹ The strategic relevance of the United Kingdom as one of the five permanent members of the UN Security Council, has supported the self-esteem of British uniqueness. And yet, to turn Brexit into the beginning of a new, postmodern “global Britain” with a revamped Commonwealth remains an uphill battle, divisive first and foremost in the United Kingdom itself.⁵² The 2016 Brexit referendum did

51 For context see David B. Abernethy, *The Dynamics of Global Dominance: European Overseas Empire 1915-1980*, Yale: Yale University Press, 2000; John Darwin, *Unfinished Empire. The Global Expansion of Britain*, London: Allen Lane, 2012.

52 On the aspiration see Peter Marshall, *Brexit in its Worldwide Aspect: An Opportunity to be Grasped*, in: *The Round Table. The Commonwealth Journal of International Affairs*, vol. 105 (5), 2016, pp. 451-461; Mark Langan, *Brexit and Trade Ties between Europe and Commonwealth*, *ibid.*, pp. 477-487;

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not resolve the matter. It only brought the identity controversy to center stage. The final Brexit decision also does not resolve the deep identity crisis in British society.

Among the neglected aspects of the consequences of Brexit is a set of issues related to the Southern hemisphere. The former colonial empires of European powers have been subject to several waves of decolonization. The intrinsic historic nexus between 20th century decolonization and the beginning of European integration is underestimated in historiography.⁵³ No less complex were the efforts to relink former colonial possessions under new conditions with the processes of European economic integration post-1945. The two refusals of British membership application by General de Gaulle in 1963 and 1967 (“England is not much anymore”) can only be understood in light of the long-standing overseas rivalry between France and the United Kingdom. Finally, the French gave in: The accession of the United Kingdom to the European Economic Communities in 1973 triggered a broader system of association mechanisms with overseas territories and former dependencies of European powers. Four Lomé Treaties (1975, 1980, 1985, 1990) and the Cotonou Agreement (2000) paved the way for a solid EU framework of development policy towards eighty countries in Africa, the Pacific and the Caribbean (ACP). These agreements also reflected historic compromises between France and the United Kingdom as global powers.

Sophia Price, *Brexit, Development Aid, and the Commonwealth*, *ibid.*, pp. 499-507; David Howell, *Brexit, the UK and the Commonwealth: Opportunities and Challenges*, *ibid.*, pp. 575-576; Kayode Soyinka, *UK’s Exit from the EU: Consequences for Africa and the Commonwealth*, *ibid.*, pp. 587-588. Fact of the matter is that more than forty percent of British exports go to the European Union while less than ten percent go into one of the many Commonwealth member states, which include, after all, such heavyweights as Australia, Canada, Singapore, India and South Africa – but also the EU member states of Malta and Cyprus. See: *Großbritannien umgarnt Commonwealth-Länder*, in: *Frankfurter Allgemeine Zeitung*, 17 April 2018.

53 Rare exceptions: Marie Thérèse Bitsch/Gerard Bossuat (eds.), *L’Europe unie et l’Afrique. De l’idée d’Eurafrrique à la Convention de Lome I*, Bruxelles: Bruylant, 2005; Peo Hansen/Stefan Jonsson, *Eurafrica. The Untold History of European Integration and Colonialism*, London/Oxford: Bloomsbury, 2014.

It is more than ironic that the 2016 Brexit referendum threatened to unravel this tightly knit web of post-colonial relations between the EU and so many partner countries in the Southern hemisphere. Immediately following the Brexit referendum, negotiations for a follow-up agreement to the Cotonou Agreement were in doubt as some key countries, especially in Africa, refused to continue the ACP group. Instead, they hoped to go it alone with the United Kingdom. In the end, reason prevailed and EU-ACP cooperation will continue: Negotiations for a follow-up agreement to the expiring Cotonou Agreement started in late 2018.

Another consequence of the Brexit referendum was the repercussions of the referendum result on non-European regional groupings, especially in the Caribbean. Since the beginning of Caribbean regional integration, Jamaica had been considered a reluctant integrationist. The Brexit referendum in the United Kingdom encouraged Jamaican integration-skeptics to reconsider the countries' membership in CARICOM, the Caribbean Community and Common Market.⁵⁴ Eventually, in this case reason also prevailed.⁵⁵

For almost 250,000 British citizens living in the United Kingdom Overseas Territories (UKOTs), which includes the twelve EU associated territories plus Gibraltar, the impact of the Brexit referendum on June 23, 2016, was felt immediately and almost physically.⁵⁶ In spite of being British and as thus EU citizens, most British people in British overseas territories were not asked their opinion about a matter, which would deprive them of EU citizenship.

54 See Patsy Lewis, The Repercussions of Brexit for CARICOM's cohesion, in: The Round Table. The Commonwealth Journal of International Affairs, Vol. 105/5 (2016), pp. 531-542.

55 Jamaica Prime Minister tables report on CARICOM in House of Representatives, in: CARICOM today, 7 February 2018, online at: <https://today.caricom.org/2018/02/07/jamaica-prime-minister-tables-report-on-caricom-in-house-of-representatives/>.

56 See a French article published several days ahead of the Brexit referendum: Brexit: Une sortie de l'Union Européenne devrait préjudiciable aux territoires ultramarins anglophones, in: *outremers360°*, 23 June 2016, online at: <http://outremers360.com/politique/brexit-une-sortie-de-lunion-europeenne-serait-prejudiciable-aux-territoires-ultramarins-anglophones/>.

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Only the citizens of Gibraltar, the only British overseas population being fully part of the EU⁵⁷, were allowed to participate in the Brexit referendum: Overwhelmingly (with 96 percent) they voted in favor of remaining in the EU. The citizens of Gibraltar have benefitted not only from preferential access to the EU Single Market. Gibraltar also has received EU regional cohesion funds and EU funds in support of diversifying its job market and improving its infrastructure, including for health care, broadband services and eco-tourism.⁵⁸ After the result of the 2016 Brexit referendum, citizens of British overseas territories were as worried as people in most member states of the British Commonwealth about the long-term effects of Brexit on future trade relations with the European Union.⁵⁹ Citizens in the most vulnerable Commonwealth member states were worried the most: e.g. in countries such as Lesotho, Fiji or St. Kitts and Nevis, for whom the United Kingdom has always been the main, if not only channel to export products into the EU Single Market. Unlike British citizens in overseas territories, the perspective of a post-Cotonou Agreement provides independent Commonwealth member states with new hope.⁶⁰ Commonwealth ACP states will benefit

57 Article 355 (3) of the Treaty of the Functioning of the European Union stipulates EU membership of Gibraltar with the exception of applying EU legislation relating to the Single Market, including the Value Added Tax System, the Common Agricultural Policy, the common customs territory and the Common Commercial Policy. On a daily basis, ten thousand Spaniards cross into Gibraltar for work, and ten million visitors enter the British territory as tourists annually via Spain.

58 See Chris Morris, What will Brexit mean for Britain's overseas territories?, in: BBC, 18 February 2018, online at: <https://www.bbc.co.uk/news/uk-politics-43126719>; Ellie Price, Brexit: What happens to Gibraltar after UK leaves the EU? in: BBC, 29 March 2018, online at: <https://www.bbc.co.uk/news/av/uk-politics-43586795/brexit-what-happens-to-gibraltar-after-uk-leaves-eu>.

59 The Commonwealth of Nations includes 53 sovereign member states, including EU member states Cyprus, until 1960 a British colony, and Malta, until 1964 a British colony. Sixteen sovereign member states of the Commonwealth of Nations constitute the Commonwealth Realms, recognizing the British monarch as their Head of State.

60 These negotiations were ongoing at the time of writing this analysis. For a concise analysis and conceptual ideas for the way ahead see Ludger Kühnhardt, *Maturing beyond Cotonou: Toward an EU-ACP Association Treaty for Development*. A proposal for reinventing EU relations with the African, Caribbean and Pacific (ACP) Group of States, ZEI Discussion Paper, C 235, Bonn: Zentrum für Europäische Integrationsforschung, 2016, 71 pages, online at: www.zei.uni-bonn.de/publikationen/zei-discussion-paper-2.

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from a new, comprehensive and legally binding agreement with the European Union.

With Brexit taking center stage in British politics, most citizens in British Overseas Territories felt badly neglected. In spite of some efforts of the British government to reach out to them via the United Kingdom's *Overseas Countries Association (UKOTA)*, the United Kingdom government was criticized by citizens and authorities in overseas territories for a state of denial as far as the future of British Overseas Territories and the economic well-being of people living in these territories is concerned. Right after the referendum results were announced, British overseas territories knew what could no longer be relied upon: After the end of the 11th European Development Fund in December 2020, they would be excluded from future financial contributions from the EU. The multiannual financial planning of the EU for 2021-2027 began to take place without them. This affected most the three British overseas territories who are and will definitely remain aid-dependent: Montserrat, Pitcairn and Saint Helena.

Montserrat, considerably destroyed after a gigantic volcanic eruption in 2010, had received 18.4 million euro under the 11th European Development Fund, fundamental for the basic recovery of the island of 5,000 inhabitants.

Pitcairn, with 55 only citizens, the smallest of all permanently populated overseas territories – and third biggest marine protected area in the world following a United Kingdom decision in 2015 – received 2.4 million euro through the 11th European Development Fund. The money helped build a second jetty to bring cruise ship tourists more easily to the island for several hours, one of the very few opportunities for the descendants of the *Mutiny on the Bounty* to sell local handicrafts and earn cash each year.

Saint Helena scrapped the planned construction of a new hospital which was planned with support of 21.5 million euro from the 11th European Development Fund right after the British EU referendum in June 2016. Instead the hospital in Jamestown, Saint Helena's capital, got a simple and rather superficial face-lift while the final EDF contribution was used to accelerate the connection to a new broadband cable. As of 2020, this cable will connect Saint Helena with South Africa and South America in the hope

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of a new lifeline for internet-induced economic activities. Without any doubt, Montserrat, Pitcairn and Saint Helena will remain heavily aid-dependent beyond 2020.

During the multiannual financial period 2014-2020 British overseas territories received 76.8 million euro via the 11th European Development Fund (EDF).⁶¹ These contributions were targeted at supporting economic diversification, small and medium enterprises, mitigating climate change effects and promoting sustainable energy availability. Even OCTs who do not receive bilateral British development assistance benefitted from the EU package with an explicit regional dimension (i.e. British Virgin Islands and Cayman Islands). If Brexit occurred, it was common knowledge that the future of financing development and welfare demands in British OCTs would depend on London alone: Hence, the British Department for International Development promised to cover future development and welfare-related financial needs in all British overseas territories post-Brexit.

For British overseas territories as for all others, an essential benefit of association with the European Union has been the ability of overseas territories to export tariff-free into the EU Single Market without being subject to EU legislation. The British are fittingly known for being resilient and pragmatic. They will be quick to reinvent life if necessary – carrying on and keeping calm. And yet, the Brexit referendum has made life opportunities in several British overseas territories complicated beyond means. UK overseas territories share one critical trade matter with the English speaking member states of the ACP group: The complicated ‘rules of origin’ as defined by the Cotonou Agreement and the 2013 EU’s Overseas Association Decision⁶² which affect a wide range of processed food and goods across British overseas territories. In the past, Falkland Islands businesses used Bulgarian and Czech tanneries to process wool whose

61 For details of EU programs under the 11th European Development Fund see the website of the European Commission, DG International Cooperation and Development, online at: https://ec.europa.eu/europeaid/regions/overseas-countries-and-territories-octs/oct-eu-association_en.

62 European Union, Council Decision 2013/755/EU, 25 November 2013 on the association of the overseas countries and territories with the European Union (‘Overseas Association Decision’), op. cit.

products were eventually sold across the EU. In doing so, rules of origin and phytosanitary standards within the EU were met. This avenue may continue after Brexit, as in this case the arrangement is permissible under WTO rules. But the biggest challenge for the Falklands Islands, as well as for other British overseas territories, was the uncertainty about future duty-free access for fish, meat – and where it applies, other agricultural products – to the Single Market. Following the Brexit referendum, creative entrepreneurs in the Falkland Islands began to explore avenues to sell *halal* lamb to Arab countries. For this purpose, they even favored the opening of a mosque in Port Stanley, where Christian churches no longer attract many churchgoers. Organizing religious conditions in line with *halal* slaughtering procedures might be easier than redirecting fish exports for the Falklands.

Over years, the EU has developed to be the largest market for fish (and in the case of the Falkland Islands also for meat) for some of the British overseas territories. The bulk of Saint Helena’s annual tuna fish export of around 120 tons (one cargo container per month) goes to the European Union via a South African port. Tristan da Cunha, one of the other two islands in the South Atlantic administered by the British governor in Saint Helena, has worked hard for years to gain access for its lobster to the EU market. Eventually, the fishermen on this island of 300 citizens succeeded. But, they questioned what would happen if Brexit brings higher tariffs, possibly eliminating a big share of the annual turnover which is limited in Saint Helena and Tristan da Cunha? Falkland fish and meat exports amount to around 200 million euro turn-over per year, a true bonanza for this South Atlantic fishing industry. The EU27, according to statistics of the Falkland government, is “destination for 94% of the Falkland Island’s exports of fishery products, by weight.”⁶³ Fish and meat exports amount on average (statistics for the period 2007-2015) to 43 percent of the GDP of the Falkland Islands.⁶⁴ As the Falklands Islands are not included under the WTO membership of the United Kingdom, at best the Most Favored Nations tariffs

63 Richard Hyslop, Potential longer-term impact of Brexit on the Falkland Islands main exports to the EU, Port Stanley: Falkland Islands Government, Policy and Economic Development Directorate, 2018, p. 2.

64 Ibid., p. 3.

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clause could apply to their export industries without tariff-free access to the EU market – provided a comprehensive EU-United Kingdom deal comes about. Falkland squid, like Saint Helena tuna, could face tariffs of up to 20 percent. In such a post-Brexit scenario, the Falkland Islands fishery industry was estimated to face revenue losses of 12 percent (equivalent of 6 to 22 million British pounds) annually, with effects on employment and government revenues amounting to 3 to 13 percent.⁶⁵ The arrangements the Falkland Islands fishing industry has developed with Spanish companies in order to enter into the EU and process their fish products via Spain are telling examples of globalization success under conditions of strict regional (EU) regulatory governance. Saint Helena's fishery industry falls under the same category. The difficulties to secure new investments for a modernized processing factory and a possible increase in the small fishing fleet off the coast of Saint Helena remains doubtful. The long shadow of Brexit will not disappear quickly over British South Atlantic territories.⁶⁶ It was not surprising that matters of fishing rights were among the most hotly disputed issues in EU-United Kingdom negotiations for a Brexit deal between 2016 and 2018 – in both directions. One third of the fishing rights of EU member states are assigned in British waters.⁶⁷ In the aftermath of the Brexit referendum, service providers' fear of Brexit consequences in British overseas territories was mixed. Bermuda, for instance, has developed a stable niche economy in providing a service industry for re-insurance companies operating in the EU Single Market. Bermuda-based operations account for forty percent of the European property catastrophe reinsurance market. The total amount of services exported into the EU amounts to 21.7 billion euro.⁶⁸

65 Ibid., p. 2 and p. 10.

66 Because of the sovereignty disputes over Falkland Islands, no comprehensive fishing regulatory mechanism has been developed in the South West Atlantic similar to existing schemes in other oceans – another liability for Falkland Islands fishing industry and their EU partners.

67 See Michael Stabenow, *Begehrte Fanggründe*, in: *Frankfurter Allgemeine Zeitung*, 24 November 2018.

68 According to Serge Zobéide, *Caraiibe-Brexit: les territoires d'outre-mer britanniques s'interrogent*, in: *la 1ere Martinique*, 19 November 2016, online at: <https://la1ere.francetvinfo.fr/martinique/caraiibe-brexit-territoires-outre-mer-britanniques-s-interrogent-418353.html>.

The rigid EU prudential regulatory system has granted Bermuda equivalence (Solvency II) which makes Bermuda in fact part of the EU Single Market “without complying with all EU rules”.⁶⁹ Informed observers were cautiously optimistic Bermuda could continue to benefit from an arrangement labelled “passport regime2” (by which Bermuda could deal with the EU27 directly) because of mutual post-Brexit interests. Nothing was certain without a comprehensive EU-United Kingdom trade deal, a never-ending story in 2018 and 2019.

Less certain was a post-Brexit future for those British overseas territories depending on service industries (e.g. luxury tourism), yet also have development needs and an urgency to enhance global visibility. Such is the situation for Anguilla and for Turks and Caicos. EU funding was made available in the past for these territories, mainly under joint thematic and regional programs. Environmental issues, related to marine biodiversity and ecosystem management, matters related to mitigating climate change, programs enhancing sustainable energy and reducing disaster risks were covered under the 11th European Development Fund by a regional package for the Caribbean OCTs in the amount of 40 million euro. For Turks and Caicos, the ability to chair the Overseas Countries and Territories Association (OCTA) in 2017-2018 was highly relevant as a tool to enhance global visibility, so much so that the Premier of Turks and Caicos revised an earlier decision to reject further EU funding for education sector reforms.⁷⁰ In recent years, a third of Anguilla’s budget has come from the EU. The island of 15,000 people borders the EU and is completely dependent on importing all commodities for daily life via the EU outposts of France and the Netherlands: the ports on the French and Dutch territories of Saint-Martin/Sint Maarten and the international airport in Sint Maarten, four miles

69 Peter Clegg, *Brexit and the Overseas Territories: Repercussions for the Periphery*, in: *The Round Table. The Commonwealth Journal of International Affairs*, vol.105/5 (2016), p. 546.

70 See *Caribbean News Now*, *Turks and Caicos premier accused of flip-flopping at OCTA forum*, in: *Caribbean News*, 25 February 2017, online at: <https://www.caribbeannewsnow.com/2017/02/25/turks-and-caicos-premier-accused-of-flip-flopping-at-octa-forum/>.

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away, are Anguillans only gateways to the world.⁷¹ An Anguilla government report sent an SOS message in 2017, recalling the strategic importance of the island as a gateway to the Panama Canal with twenty percent of the world's shipping passing through Anguilla's waters.⁷² In private conversation and undisclosed concept papers, Anguillan officials reflected on the post-Brexit possibility of becoming a "direct EU colony or dependency" – something unheard of in centuries. An arrangement for a common travel area with the EU will be the minimum solution to guarantee the future of Anguilla.

For years, British Caribbean territories benefitting from offshore financial services have been subject to robust pressure from the EU to advance transparency and legal cooperation in the fight against tax evasion and organized crime, especially money laundering. The Cayman Islands have developed into the fifth biggest financial service center on earth with good access via London and Miami. Both cities are also the gateway for the British Virgin Islands.⁷³ Initially, the perspective of quitting the rigid EU regulatory banking mechanisms following Brexit was received with joy in the financial sector of the British territories: In 2017 alone, 32,000 new companies registered in the British Virgin Islands, exempted from corporate tax in the territory of 9,000 citizens.⁷⁴ The decision, however, of the British House of Common – against the will of Theresa May's government – to introduce transparent company registers by the end of 2020 has led to an unprecedented

71 See Chris Morris, What will Brexit mean for Britain's overseas territories?, in: BBC, 18 February 2018, op. cit.

72 The Government of Anguilla London Office, Anguilla & Brexit. Britain's forgotten EU border, London: The Representative of the Government of Anguilla and The West India Committee, 2017, online at: <https://westindiacommittee.org/wp-content/uploads/2017/06/The-White-Paper-on-Anguilla-and-Brexit-1.pdf>, p. 3.

73 On the legal and political complexity of relations with the United Kingdom of Great Britain and Northern Ireland see William Vlcek, Sovereignty games and global finances. The Cayman Islands, in: Rebecca Adler-Nissen/Ulrik Pram Gad (eds.), European Integration and Postcolonial Sovereignty Games. The EU Overseas Countries and Territories, op. cit., pp. 115-129; Bill Maurer, Jurisdiction in dialect. Sovereignty games in the British Virgin Islands, in: Rebecca Adler-Nissen/Ulrik Pram Gad (eds.), European Integration and Postcolonial Sovereignty Games. The EU Overseas Countries and Territories, op. cit., pp. 130-149.

74 Steueroasen müssen ihre Geheimnisse lüften, in: Frankfurter Allgemeine Zeitung, 3 May 2018.

outrage in the overseas territories: The Prime Minister of the Cayman Islands threatened to question the longer term membership of his territory in the British family. Independence could become an option for Cayman Islands.⁷⁵ Surprisingly, the assumption that British rule of law would be the main competitive advantage for the success of the financial service sector has become a matter of debate since the Brexit referendum. As many investors in the Cayman Islands and the British Virgin Islands come from newly emerging markets – especially from China and Russia – global power shifts might sooner or later resonate in sovereignty debates in some Caribbean British territories.

Elsewhere, the sovereignty issue has returned to center stage in more consequential ways. One should not be surprised if the long forgotten UN “Committee of 24” – which, for instance, so far does not include the Chagos Archipelago (the traditional name for the British Indian Ocean Territory) as one of the “non-self-governing territories” under its supervision⁷⁶ – might receive a new workload. With the 2016 Brexit referendum, across the global South – and not only in the Caribbean basin – the overall geopolitical landscape has brought back sovereignty matters sometimes dating back to the 18th century, when British, French, Dutch, Danish and Swedish interests continuously clashed in the Caribbean. Most often the remaining territorial issues of “non-self-governing territories” have been frozen during the second half of the 20th century: This is explicitly the case for the “unincorporated” US overseas territories Puerto Rico⁷⁷, Guam, American Samoa and the US

75 Ibid.

76 “The Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence of Colonial Countries and Peoples (also known as the Special Committee on decolonization or C-24), the United Nations entity exclusively devoted to the issue of decolonization, was established in 1961 by the General Assembly with the purpose of monitoring the implementation of the Declaration (General Assembly Resolution 1514 (XV) of 14 December 1960)”, online at: www.un.org/en/decolonization/specialcommittee.shtml.

77 e.g. Efraín Vázquez Vera, Puerto Rico: ¿transición pacífica a la soberanía?, in: *Foreign Affairs Latinoamérica*, vol. 15, no. 4 (2015), pp. 76-82; Puerto Rico’s Catholic Archbishop Roberto Gonzalez Nieves has joined the chorus of those demanding sovereignty, bringing the case to the US Supreme Court: Colony or Commonwealth? Puerto Rico Status Argued at US Supreme Court, in: *America. The National Catholic Magazine*, 19 January 2016, online at: www.americamagazine.org

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Virgin Islands; and for the freely associated Realm of New Zealand territories Niue, Cook Islands and Tokelau. In the future, the Falklands Islands and Gibraltar, but over time also Pitcairn and Saint Helena might also face the return of the sovereignty issue. But first and foremost, the 2016 Brexit referendum has accelerated the return of the issue of sovereignty and self-rule in one particularly sensitive case: The British Indian Overseas Territory, also known as the Chagos Archipelago.

Diego Garcia, the core atoll of the British Indian Ocean Territory, is primarily known as an aircraft carrier, used by the United States and the United Kingdom for their operations into Afghanistan and Iraq in recent years. The historical name of Diego Garcia is Chagos Archipelago. Originally, these 55 atoll islands were united with Mauritius, prior to British policies of divide and rule in 1965. In the aftermath of the Brexit vote, the status of the Chagos Archipelago has returned as a dispute over an unresolved issue of decolonization. Surprisingly detailed, the 2016 Summit of the ACP Group of States explicitly referred to the islands under their traditional, pre-colonial name – Chagos Archipelago – defining them as an unresolved matter of urgent decolonization.⁷⁸ In June 2017, the United Nations General Assembly voted in favor of a resolution, tabled by Mauritius, seeking an advisory opinion from the International Court of

/issue/colony-or-commonwealth-puerto-rico-status-argued-us-supreme-court. The Court's ruling has not laid the case to rest – just the opposite, see: Richard Wolf, Puerto Rico not sovereign, Supreme Court says, in: USA TODAY, 9 June 2016, online at: <http://www.usatoday.com/story/news/politics/2016/06/09/supreme-court-puerto-rico-independent-sovereign/85155382/>. Puerto Rico continuously makes headlines with its lack of economic competitiveness and high degree of indebtedness, which confronts the US administration with bail-out requirements.

78 The “Port Moresby Declaration – Declaration of the 8th Summit of ACP Heads of State and Government of the ACP Group of States” from June 1, 2016 (shortly before the Brexit referendum) reads as follows under Article 21: “We recognise that the Chagos Archipelago, including Diego Garcia, which was unlawfully excised by the former colonial power from the territory of Mauritius prior to its independence in violation of international law and UN Resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965, forms an integral part of the territory of the Republic of Mauritius and are resolved to support Mauritius in its efforts to effectively exercise its sovereignty over the Chagos Archipelago”, online at: www.acp.int/content/declaration-8th-summit-acp-heads-state-and-government-acp-group-states.

Justice (ICJ) in The Hague on the legal status of the Chagos Archipelago. Most EU member states abstained, leaving the United Kingdom pretty surprised, to say the least.⁷⁹ In the same year, Great Britain lost its seat of a judge on the International Court of Justice for the first time since 1945 when the British candidate was defeated by an Indian judge in the UN General Assembly and withdrew prior to the subsequent UN Security Council vote on the matter. In September 2018, a lengthy hearing on the Chagos Archipelago matter took place at the ICJ. The case: Mauritius vs. United Kingdom.⁸⁰ On February 25, 2019, the International Court of Justice published the Advisory Opinion on the matter: “The Court having found that the decolonization of Mauritius was not conducted in a manner consistent with the right of peoples to self-determination, it follows that the United Kingdom’s continued administration of the Chagos Archipelago constitutes a wrongful act entailing the international responsibility of that State.” And: “Accordingly, the United Kingdom is under an obligation to bring an end to its administration of the Chagos Archipelago as rapidly as possible, thereby enabling Mauritius to complete the decolonization of its territory in a manner consistent with the right of peoples to self-determination.”⁸¹ This humiliation for Great Britain was just the beginning: On May 22, 2019 by an unprecedented majority of 116 to 6 with 56 countries abstaining, the United Nations General Assembly voted “in support of a motion setting a six-month deadline for Britain to withdraw from the Chagos island chain and for the islands to be reunited with neighboring Mauritius”.⁸² The “Guardian” titled its report in dramatic terms: “UK suffers crushing defeat in UN vote on

79 See Owen Bowcott, EU members abstain as Britain defeated in UN vote on Chagos Islands, in: The Guardian, 23 June 2017, online at: www.theguardian.com/world/2017/jun/22/un-vote-backing-chagos-islands-a-blow-for-uk.

80 Roland Oliphant, International Court of Justice begins hearing on Britain’s separation of Chagos islands from Mauritius, in: The Telegraph, 3 September 2018, online at: <https://www.telegraph.co.uk/news/2018/09/03/mauritius-disputes-uk-acquisition-chagos-islands-international/>.

81 International Court of Justice, Legal Consequences of the separation of the Chagos Archipelago from Mauritius in 1965, The Hague, 25 February 2019, online at: <https://www.icj-cij.org/files/case-related/169/169-20190225-01-00-EN.pdf>.

82 Owen Bowcott/Julian Borger, UK suffers a crushing defeat in UN vote on Chagos Islands, in: The Guardian, 22 May 2019, online at: <https://www.theguardian.com/world/2019/may/22/uk-suffers-crushing-defeat-un-vote-chagos-islands>.

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Chagos Islands”. While only the United States, Israel, Hungary, Australia and the Maldives backed the British position, Austria, Greece, Ireland, Spain, Sweden and Switzerland were among the countries voting in favor of the Mauritius motion, while France, Germany, the Netherlands, Portugal, Poland and Romania were among those countries who abstained. While the UN vote was non-binding, “the strategic consequence of the Diego Garcia dispute” was undeniable “at a time when the Royal British Navy has begun conducting freedom of navigation operations in the South China Sea...in a time of great power contestation.”⁸³

“Global Britain” did not seem to become what Brexiteers had in mind when they were advocating to leave the EU. The EU’s solidarity umbrella has already been increasingly porous before the British withdrawal from the EU even happened. One may only speculate on further long-term consequences, especially in the context of the dispute over sovereignty in the Falkland Islands. The Falkland Islands’ government, more than anybody else, is concerned that EU solidarity in support of the British sovereignty claim over the strategically important territories in the South Atlantic might vanish sooner rather than later. China’s aggressive fishery expansion in the uncharted waters around the Falkland Islands and Argentina’s incessant claims of sovereignty over what they call Malvinas requires European strength and unanimity. Concerns are justified that some EU member states might shift loyalty from the United Kingdom to Argentina’s position on the matter. France, Spain, Italy and Portugal are mentioned in the Falkland Islands as possible candidates for a shift of position driven by calculated interests placing good relations with Argentina and other Latin American countries first. Moreover, in the French language, the Falkland Islands were always known as “les Malouines”: The first settlers, after all, came from St. Malo, giving the South Atlantic islands its historical name.

As for now, it is only a matter of speculation whether and to which degree linkages might arise between the Falkland/Malvinas issue and future disputes over Gibraltar sovereignty. In the Brexit negotiation mandate which

83 Bec Strating, The Strategic Consequence of the Diego Garcia Dispute, in: The Maritime Executive, 28 March 2019, online at: <https://www.maritime-executive.com/editorials/the-strategic-consequence-of-the-diego-garcia-dispute>.

the European Council agreed upon in 2016, Spain was granted an explicit individual veto right by the other EU member states to any Brexit arrangement should it not comply with Spain's expectations regarding the future relationship between Spain and Gibraltar: Thorny issues on the Gibraltar airport, on taxes, smuggling and workers have been well known for a long time.⁸⁴ Although last-minute negotiations led to an approval of the "EU-United Kingdom Withdrawal Treaty" by Spain, the simple and most obvious solution, to give Gibraltar membership in the EU customs union and single market, did not materialize. Hence, the Gibraltar sovereignty matter remains a potential bone of contention.

Since Spain ceded Gibraltar to the United Kingdom in the Treaty of Utrecht (1713) under Article X, ending the War of Spanish Succession, the dispute had never been fully resolved. But, all in all, since the United Kingdom joined the EU, a comfortable cohabitation between Spain, the United Kingdom and Gibraltar took place. Under Article XIII of the Treaty of Utrecht, the United Kingdom forced Spain to preserve the historic rights of Catalonia. A year later, in 1714, the Spanish Bourbon monarchy occupied Catalonia, an event ever present among autonomists and separatists in today's Catalonia (and remembered during every soccer game of FC Barcelona). Given the escalation of tensions over the place of Catalonia in today's Kingdom of Spain, a revitalization of the issue of sovereignty of Gibraltar might emerge at any time – or some sort of linkage with the Falkland/Malvinas dispute. Following the Brexit referendum, the then

84 The European Council guidelines for Brexit negotiations agreed upon on 29 April 2017 stated: "24. After the United Kingdom of Great Britain and Northern Ireland leaves the Union, no agreement between the EU and the United Kingdom of Great Britain and Northern Ireland may apply to the territory of Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom." Text available online at: <http://www.consilium.europa.eu/en/press/press-releases/2017/04/29/euco-brexite-guidelines/>; on the issue see Josep Garcia, *Brexit: A View from Gibraltar*, in: *The Round Table. The Commonwealth Journal of International Affairs*, op. cit., pp. 585-586; Rémi Laurent, *Gibraltar, 'Détail' du Brexit*, in: *Taurillon*, 7 April 2017, online at: <https://www.taurillon.org/gibraltar-detail-du-brexit>; Gibraltar is going to be an ever bigger Brexit problem than Ireland – so why does no one want to talk about it?, in: *The Independent*, 1 March 2018, online at: <https://www.independent.co.uk/voices/gibraltar-brexit-northern-ireland-border-spain-theresa-may-a8234516.html>.

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Spanish Foreign Minister immediately recalled Spain's claim to shared sovereignty with the Spanish flag also rising over "The Rock".⁸⁵ Upon leaving the EU, the United Kingdom would certainly need to expect further pressure to re-open the Gibraltar sovereignty issue.

In this context, it should also be noted that the African Union (AU) has always considered Saint Helena as a part of Africa in need of decolonization. The AU's claim for African independence includes the French départements La Réunion and Mayotte, Portugal's Madeira and the Azores, the Spanish Canary Islands and, of course, Ceuta and Melilla.⁸⁶ No legally explicit sovereignty claims have been tabled in these cases yet – but they cannot be excluded forever. Escalating conflicts over migration or a revival of the Western Sahara issue could also bring Saint Helena and the Canary Islands back on the radar of unfulfilled claims of sovereignty. There is one aspect, lawyers would argue, which makes those claims legally untenable: Neither the Canary Islands nor Saint Helena were settled before Europeans took possession of these islands. Hence, the principle of *uti possidetis* would apply. But the same has always been said for the Falkland Islands, not preempting the escalation of the Falklands/Malvinas issue which was not been laid to rest by the British victory in the Falklands War of 1982. Once dubbed "the world's most useless airport"⁸⁷, the airport on Saint Helena –with costs of 285 million British pounds and operational since late 2017 – might one

85 Tom Batchelor, Gibraltar sovereignty shock: Spain unleashes post Brexit power claim over Rock, in; The Express, 6 October 2016, online at: <https://www.express.co.uk/news/uk/718010/Gibraltar-sovereignty-Spain-makes-case-for-joint-sovereignty-of-the-Rock-to-UN>;

Quel avenir pour Gibraltar après Brexit?, in: Toute l'Europe.EU, 29 May 2018, online at: <https://www.touteurope.eu/actualite/quel-avenir-pour-gibraltar-apres-le-brexit.html>; Lucía Abellán, Spain hopeful of closing Gibraltar Brexit deal with UK by October, in: El País, 21 September 2018, online at: https://elpais.com/elpais/2018/09/21/inenglish/1537521278_926151.html.

86 See Annex 3, List of African countries/territories under foreign occupation, in: African Union, Strategic Plan of the African Union Commission, vol. 1: Vision and Mission of the African Union, Addis Ababa 2004, p. 43, online at: https://cisp.cachefly.net/assets/articles/attachments/01300_austratplanvol1.pdf

87 Simon Calder, Saint Helena: World's most useless airport finally gets scheduled flight, in: Independent, 25 July 2017, online at: <https://www.independent.co.uk/travel/news-and-advice/st-helena-flights-most-useless-airport-south-atlantic-johannesburg-airlink-windshear-a7858581.html>.

day serve strategic purposes initially unthought-of. Publicly, the airport in Saint Helena was primarily considered as opening avenues for tourism and facilitating interactions between the Saints, as the 4.500 locals are called, with the wider world (their motto: “Loyal and Unshakeable”). Access by air to Saint Helena remains subject to unpredictable weather conditions in the South Atlantic. The potential for tourism and business remains extremely limited in a place almost stopped in time with its 1950s atmosphere and the empty tomb of Napoleon, which remains the national property of France, along with Longwood House, where the fallen emperor died in exile in 1821.⁸⁸ Nevertheless, in the meantime the Saint Helena airport operates and can serve long-term strategic purposes of the United Kingdom. It should not be excluded from becoming an auxiliary base for the larger military operation in Ascension, northwest of Saint Helena and administered by the Governor residing in Jamestown. The completion of repair work on the airport of Ascension Island with a long and relevant military history during World War I and World War II surely has strategic meaning for “Global Britain”: the United Kingdom is preparing to face a world without natural EU solidarity.

The airports in Ascension and Saint Helena are gateways to the Falkland Islands, which in turn are the British gateway to Antarctica, most likely the continent of future disputes and scrambles.⁸⁹ They are also strategic assets in the fight against maritime piracy along the West African coast or possible springboards to engage in crises on the African continent. Ascension’s Wideawake Airfield has always been a stronghold of the British military and security cooperation with the US, which flew 25,000 military planes to North Africa and Europe during World War II via Ascension. Under the 2003 US-

88 France maintains a national domain at the sites where Napoleon lived in Saint Helena, taken care of by an Honorary Consul. For good reading see his book: Michel Dancoisne-Martineau, *Je suis le gardien du tombeau vide*, Paris: Flammarion, 2017.

89 The strategic importance of both airports became evident when transportation was restricted in Ascension due to repair needs on the runway: Henry Bodkin/Simon Pipe, British Antarctic scientists among those stranded as crumbling Ascension Island runway closed to big aircraft, in: *Daily Telegraph*, 17 April 2017, online at: <https://www.telegraph.co.uk/news/2017/04/17/british-antarctic-scientists-among-stranded-crumbling-ascension/>.

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United Kingdom Agreement (revised and renewed in 2008), the US is currently operating an NSA unit on Ascension.⁹⁰ Ascension's large airport for sure, but also Saint Helena's new airport will be relevant in any scenario affecting the long-term balance of power in the oceans around Africa. The United Kingdom has always understood British overseas territories to be strategic assets in the context of defense and security. This stands in sharp contrast to the European Union, which has always organized overseas countries and territories under its policy of international cooperation and development. Of course, also in the United Kingdom, development funds in support of overseas territories are channeled through the Department of International Development. But the 2002 British Overseas Territories Act has re-defined former overseas dependencies or colonies as overseas territories, thus alluding to strategic political interests beyond development cooperation. The primacy of the Foreign and Commonwealth Office (FCO) in taking care of the interests of overseas territories⁹¹ coincides with an unequivocal understanding of the strategic meaning of British overseas territories. Never was this made more explicit than in a 2012 paper published by the Foreign and Commonwealth Office (FCO) under the title "The Overseas Territories: security, success and sustainability".⁹² The six

90 United States. Department of Defense, Agreement between the Government of the United States of America and the Government of the United Kingdom of The United Kingdom of Great Britain and Northern Ireland of Great Britain and Northern Ireland and Northern Ireland concerning the use of Wideawake Airfield on Ascension Island by civil aircraft not engaged in scheduled international air services, online at: <https://www.state.gov/documents/organization/165387.pdf>; see also Ian Hendry /Susan Dickson, *British Overseas Territories Law*, Oxford: Hart Publishing, 2018 (2nd edition).

91 In the British government, the FCO is responsible for all overseas territories except for the Falkland Islands, Gibraltar and the Sovereign Base Areas of Akrotiri and Dhekelia (Cyprus) who are under the responsibility of the (junior) Minister of State for Europe and the Americas with a strong influence of the Ministry of Defense.

92 Foreign and Commonwealth Office (ed.), *The Overseas Territories: Strategy, Success and Sustainability*, presented to Parliament by the Secretary of State for Foreign and Commonwealth Affairs by Command of Her Majesty, London: Foreign and Commonwealth Office, 2012, online at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/14929/ot-wp-0612.pdf; for a rare theoretical reflection see Fiona McConnell/Jason Dittmer, *Liminality and the diplomacy of the British Overseas Territories: An Assemblage approach*, in: *Society and Space*, vol. 36 (1), 2018, pp. 139-158.

priorities outlined in this paper differ fundamentally in language and priorities from any past EU Overseas Association Decision or the latest 2018 draft. The structure alone of the FCO report is telling:

- Defense, security and safety of the territories and their people.
- Successful and resilient economies.
- Cherishing the environment.
- Making government work better.
- Vibrant and flourishing communities.
- Productive links with the wider world.

The United Kingdom has begun to react to possible new sovereignty claims over its OCTs with a smart strategic projection of soft power claims: The United Kingdom pursued the idea of establishing Exclusive Economic Zones and Marine Protected Areas around the Chagos Archipelago, but also around Tristan da Cunha and Pitcairn. While in principle this is possible under the UN Convention of the Law of the Sea (UNCLOS), the unilateral British decision to create a maritime protected area around the Chagos Archipelago was already met in 2011 with resistance from Mauritius disputing the right of the United Kingdom to do so. The matter became the subject of an arbitral tribunal case under Annex VII of UNCLOS, initiated by Mauritius on the grounds of the ongoing dispute over sovereignty of the Chagos Archipelago, to which the United Kingdom is not a direct neighbor as required by UNCLOS.⁹³

The question of the current and future legal status of Pitcairn was already raised in 2003, in the context of a legal case in which several Pitcairn men were accused of sexual misconduct. While the court rulings following an exceptional prosecution reinforced the concept of British possession acquired by settlement (based on the British Settlement Act of 1887), excessive legal considerations were given to the long-term impact of territorial sovereignty on an island whose – only policeman is from New Zealand, which uses the New Zealand dollar as its main currency and whose support ship is regularly loaded in New Zealand. “Does the Pitcairn case,”

93 See Bec Strating, *The Strategic Consequence of the Diego Garcia Dispute*, in: *The Maritime Executive*, 28 March 2019, op. cit.

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Sue Farran has asked already more than a decade before the Brexit referendum, “mark the first step in a process by which Pitcairn will be brought in line with other Pacific island countries in the Realm of New Zealand?”⁹⁴ What will it take from the United Kingdom of Great Britain and Northern Ireland in the long run to maintain loyalty on an island whose only mailbox still shows the insignia of King George VI, with the Duke of Edinburgh in 1971 being the last member of the Royal family to visit Pitcairn? So far, introducing renewable energy for the whole island has faced serious economic problems, which the United Kingdom has not yet resolved. Nor has marketing of Pitcairn honey led to viable economic effects to make Pitcairn sustainable. More than any other British overseas territory, Pitcairn is confronted with a unique sovereignty challenge: Depopulation. Children are rarely born on Pitcairn. Young Pitcairners tend to leave the island for New Zealand (or do not return after attending boarding school there). Efforts to attract migration to Pitcairn has not led to any visible effects yet. The United Kingdom, of course, wants to maintain its strategic presence in the Pacific for which Pitcairn is meaningful: Declaring unilaterally the complete Exclusive Economic Zone of Pitcairn a marine protected area in 2015 (one of the largest in the world) was a strategic step taken by the British government to enhance the legitimacy of its sovereignty claim over Pitcairn. The dispute over the Chagos Archipelago on the same issue nurtures caution for the long-term success of this strategy. One fact is certain: Strategically, Pitcairn remains relevant as it lies on the sea routes from the Panama Canal to Antarctica.

94 See Sue Farran, The ‘Recolonising’ of Pitcairn, in: Victoria University of Wellington Law Review, vol. 27 (2007), online at: <http://www8.austlii.edu.au/nz/journals/VUWLawRw/2007/27.html>; “The facilitation of the trials through the Pitcairn Trials Act 2002 (NZ), put in place as a consequence of Anglo-New Zealand agreement, has embroiled New Zealand in the affairs and governance of Pitcairn in a new and more formalized way and potentially brings Pitcairn more closely under the vicarious administration of New Zealand. The agreement allows for New Zealand laws to be applied to Pitcairn trials held in New Zealand, for the appointment of New Zealand judges and the support of New Zealand police and prison authorities.” The article discusses the possibility to replace British territorial claims with, among other options, a free association status of Pitcairn with New Zealand.

Ludger Kühnhardt

For the United Kingdom, overseas territories never were an appendix to a benevolent development agenda. According to the FCO report cited above, overseas territories are strategic pillars in a system of global presence, norm diffusion and power projection. The European Union could learn a lot from studying this legacy of British foreign policy. Once the overseas component is included, it becomes evident that the exit of the United Kingdom from the European Union will also be a big loss for the EU: It will make the EU more parochial and less strategic – unless decisive and creative consequences are drawn from Brexit. The future of EU relations with the overseas territories – with or without the British one’s – is a test-case for a comprehensive evolution of the EU global strategy.

The Brexit paradox is pertinent. In terms of territorial and maritime possessions, the European Union was about to shrink at a time when it has accelerated the ambition to go global, while the United Kingdom claims to re-invent “Global Britain” while exposing British overseas territories to greater uncertainties without the umbrella – and if only the umbrella of last resort – of “natural” EU solidarity.

IV. OCTs: Between Europe's post-colonial past and the EU's geostrategic future

Any informed look at a global map makes it evident: The European Union is a global archipelago. No other global power can claim what the EU can: the territory of its member states is spread across all continents and oceans. With or without Brexit, the assets defining this global European archipelago remain important. In fact, the return of maritime geopolitics enhances their strategic importance exponentially. Yet, across the European Union as a whole, the significance of the European archipelago is clearly neglected. Efforts are desirable and, in fact, urgently needed, to enhance the perception of the European archipelago as a pillar of the global role of the European Union. To do so requires more than a technical and financial directive issued and implemented by the EU.

The EU-OCT association is based on experience and history. It has proven to be beneficial in the pursuit of the principles outlined and shall continue to do so. However, the reasoning of the EU-OCT association – in fact: its long-term rationale and legitimization – have to be reinforced and rebranded. To understand the meaning and implication of the European archipelago, the European Union as a whole – that is all its institutions and all its member states – must realize the strategic value and better utilize the common good, which the EU overseas countries and territories provide.

In turn, those EU member states to which OCTs belong should help their EU partners to understand, recognize and embrace the unique assets their OCTs contribute to the process of forming the European archipelago. A graduation of the Overseas Countries and Territories under the EU roof would simplify EU policy instruments. The notion of a global European archipelago as the basis for the global strategy of the EU has strategic and thematic, territorial and institutional implications. Hence, the graduation of EU Overseas Countries and Territories is a test-case for the projection of European external interests. Most importantly, such a graduation of EU OCTs is a test-case for global strategic thinking in the EU. Global strategic thinking cannot longer neglect the maritime dimension of globalization.

Starting point for a strategic rebranding of EU Overseas Countries and Territories is the maritime dimension OCTs represent for EU policy making. The OCTs frame the global maritime presence of the European Union. Strategists might even argue that they define the EU as a global maritime power. Fact of matter is: In terms of maritime boundaries, the EU – due to the Overseas Countries and Territories associated with the EU – is the second largest maritime power.⁹⁵ The European Union has shown its capability to advance its potential for norm projection towards the association with the Overseas Countries and Territories.

The interests covered by the EU-OCT association embrace key themes relevant for furthering the EU's soft power projection:

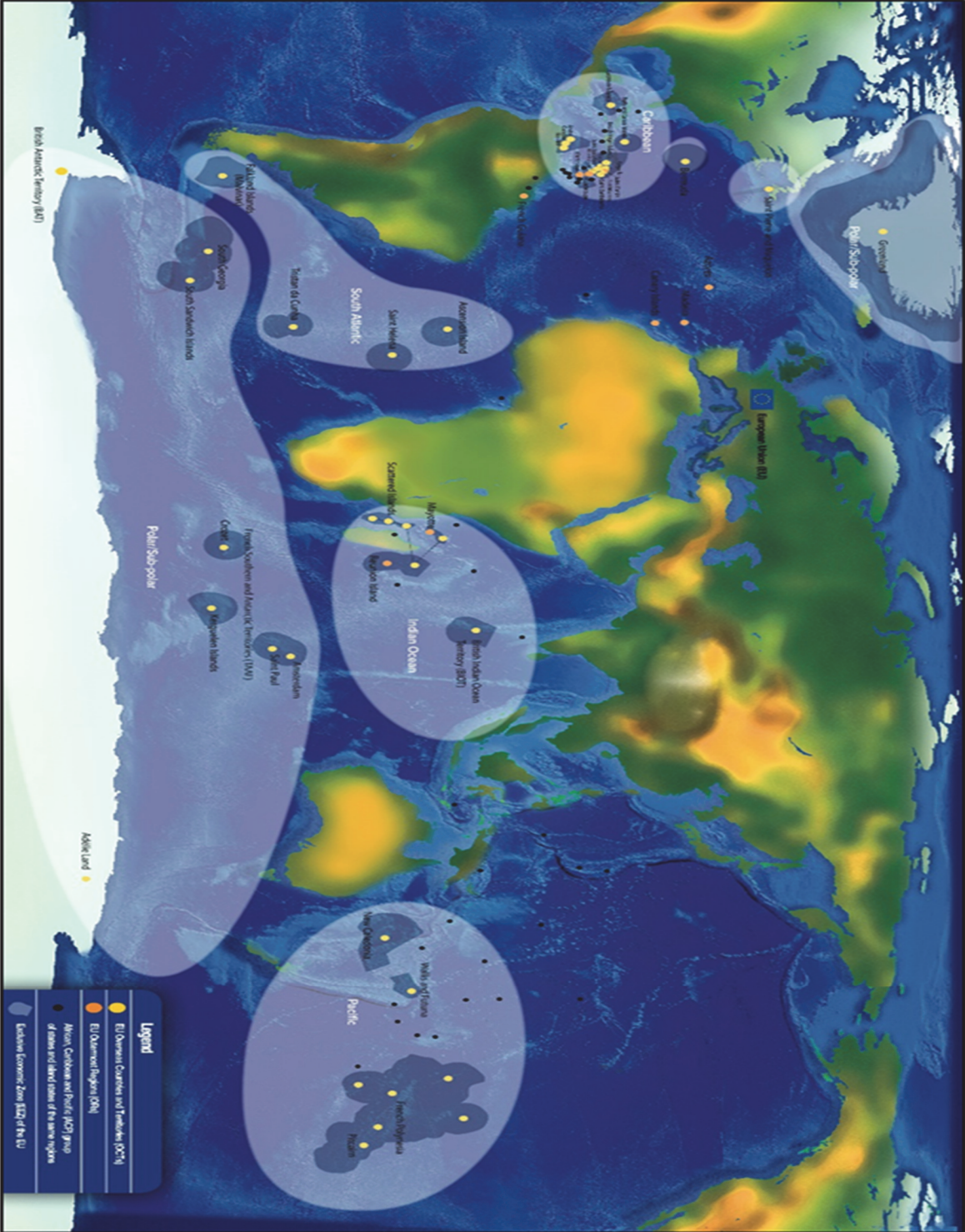
- Fishing regulation⁹⁶, trade and infrastructure management;
- Climate change and disaster risk reduction;
- Oceanic research and maritime biodiversity protection.⁹⁷

95 This is not merely a phantasy of the French left as indicated by Wolf Lepenies, *Maritime Macht-Träume der französischen Linken*, in: *Die Welt*, 19 December 2014, online at: <https://www.welt.de/geschichte/article135551548/Maritime-Macht-Traeume-der-franzoesischen-Linken.html>.

96 Specific fishing matters related to OCTs are overlapping with the EU fishing policy, which includes fishing access agreements with developing countries around the globe. Limited by overfishing local stocks, the EU has continuously expanded the use of the Exclusive Economic Zones of other countries. The public fees paid and the private business effects are studied in detail by Frédéric Le Manach et. al., *European Union's fishing Access Agreements in Developing Countries*, in: *PLOS ONE*, vol. 8/11 (2013), pp. 1-10, online at: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0079899>.

97 The EU is understood to be the biggest initiator of maritime research worldwide. At the center of EU activities in this field lies the voluntary scheme for Biodiversity and Ecosystem Services in Territories of European overseas (BEST), for strategy and details see the BEST webpage, online at: http://ec.europa.eu/environment/nature/biodiversity/best/index_en.htm#. From 2021 onwards, BEST is planned to be continued under another EU environmental program, named LIFE. For details on LIFE see <http://ec.europa.eu/environment/life/bestprojects/index.htm>.

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Map 2: Territory covered by BEST, the voluntary scheme for Biodiversity and Ecosystem Services in Territories of European overseas (BEST). Copyright: © IUCN, design by UnitGraphics.

By insisting on the freedom of maritime navigation and the freedom of sea routes, including the unchallenged use of submarine cables, the EU at least rhetorically combines norm projection with economic interests. In terms of global economic interests, the EU strongly argues – with or without the associated OCTs – the importance of open skies and freedom of maritime navigation. In the field of environmental protection and climate change the EU has contributed to global governance.⁹⁸ In line with the reasoning of the EU, OCTs can indeed provide best practices in these policy areas and set meaningful global standards. This goes way beyond public policy approaches in pursuit of protecting global commons. Private research at the cross-roads of economic interests and the value of maritime biodiversity (and its appreciation by European customers) has embraced the potential of some OCTs and of the Outermost Regions of the EU, too: French cosmetic companies have engaged in research for new health and skin products with a Caribbean or a Pacific flavor. Tourism and service industries have always thrived in some OCTs – and will most likely never become meaningful in others.

Since the United Nations Convention on the Law of the Sea (UNCLOS) was finalized in 1982, the European Union as a contracting party has supported UNCLOS norms and contributed to their re-interpretation. However, the status of the EU as a global economic power has not necessarily reinforced the EU's ability to project its soft power norms into the most sensitive and

98 This might include surprising new dimensions such as the discussion on “climate refugees”. In 2017, New Zealand was confronted for the first time with the request by a family from Tuvalu to receive refugee status due to deteriorating living conditions in the South Pacific state. A New Zealand court rejected the demand. In 2018, the New Zealand government reportedly was preparing a climate change refugee visa program, which in turn was rejected by Tuvalu and other Pacific island states. Their prime objective is to alleviate the damage done by climate change without being finger pointed as refugee-producing states; see: Thomas Manch, Humanitarian visa proposed for climate change refugees dead in the water, in: stuff, 29 August 2018, online at: <https://www.stuff.co.nz/environment/106660148/humanitarian-visa-proposed-for-climate-change-refugees-dead-in-the-water>. The environmental protection agenda includes other particularly dramatic dimensions in the South Pacific where there is the highest density of plastic garbage in the world and where the weather phenomenon *El Niño* impacts prices for food products. Often one is inclined to conclude that South Sea is a sad sea.

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far-reaching global maritime spheres. A geopolitical reconsideration of the European archipelago has to go beyond the current agenda of OCT association. It has to recognize long-term prospects – challenges and opportunities alike. Three issues stand out: (a) long-term sovereignty matters, (b) the future of Antarctica, and (c) freedom of the sea, including the protection of submarine cables.

(a) Any meaningful EU global strategy has to be aware of the unknown and the unexpected. Geopolitical developments or events might arise in years or decades to come, which seem to be a matter of fantasy today.⁹⁹ Strategic foresight requires to face those possibilities as early as possible. The EU, as an advocate of a global multilateral rule-based order cannot neglect trends and scenarios, which might currently be of low priority or of interest to only a few. Without sounding alarmist, it has become evident that the 2016 Brexit referendum in itself – as discussed above – has already reactivated sovereignty claims, which were unheard of for years. Historic experience would warn against underestimating long-term sovereignty matters.

One variant is related to sovereignty claims from within. Different experiences can be recalled. Greenland and St. Barthélemy provide the smartest examples for secession from the EU without giving up the advantages of association. Like few other Caribbean overseas territories, St. Barthélemy strongly benefits from luxury tourism and financial services. Limited by its scope of action with the need to connect with France via the regional French airport in Saint-Martin and/or directly via the international Dutch airport in Sint Maarten, St. Barthélemy exercised sufficient leverage in recent years to change its overall status within France and hence the wider European family. St. Barthélemy wanted to retain fiscal autonomy in an effort to position the island as an offshore center for financial services. At the same time, St. Barthélemy did not want to pay welfare subsidies in order

99 For a sober assessment see Heinz Dieter Jopp/Roland Kaestner, Eine globale Übersichtsanalyse von möglicher politisch oder ökonomisch motivierter maritimer Gewalt in den nächsten 20 Jahren, PiraT-Arbeitspapiere zur Maritimen Sicherheit, Nr. 15, Hamburg: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg, 2012, online at: http://maritimesecurity.eu/fileadmin/content/news_events/workingpaper/PiraT_Arbeitspapier_Nr15_2012_Jopp_Kaestner.pdf.

to curb migration to the island of the happy few. In a 2003 referendum, the inhabitants of St. Barthélemy voted for secession from the jurisdiction of Guadeloupe. This happened in 2007 in accordance with the French constitution. By 2012, St. Barthélemy had completed transformation from an Outermost Region (as part of Guadeloupe) to an overseas territory associated to the EU but without the legal obligations of EU membership arising from customs union and the Single Market.¹⁰⁰ At the same time, however, based on a special arrangement with France, St. Barthélemy was able to retain the euro as its sole currency, thus benefitting from the best of both worlds. Without touching on the sovereignty matter as such, St. Barthélemy changed the parameters of how sovereignty is applied. After Greenland and before the United Kingdom, St. Barthélemy was the second territory to leave the European Union.

The Greenland case is the better known example for a soft change of sovereignty parameters from within.¹⁰¹ In 1985, the rising quest for Inuit identity and the rejection of EU fishery policies led to the first ever withdrawal of a territory from the EU – and the subsequent need to redefine the relationship between Greenland and Denmark. Unlike Greenland, the Faroe Islands never entered the European Union with Denmark. To this day, they continue to struggle for more autonomy directly with Copenhagen. It was only after the Brexit referendum that the Faroe Islands felt its dependency on the EU Single Market for the export of its fish.¹⁰² As a matter of long-term precaution, Faroese fishermen looked for other options: In the meantime, Russians have become the biggest buyers of Faroese fish. In spite of Denmark's strict policies against Russia after the annexation of the Crimea in 2014 (fully in line with the EU as a whole), Denmark closed an eye as the Faroe Islands replaced the British market with exports to Russia

100 For details see Phoebus Athanassiou/Stéphanie Laulhé Shaelou, EU Accession from Within? An introduction, in: *Yearbook of European Law*, vol. 33, no. 1 (2014), pp. 370-373.

101 See Christan Rebhan, *North Atlantic Euroscepticism. The rejection of EU membership in the Faroe Islands and Greenland*, Tórshavn: Faroe University Press, 2016.

102 On the broader issue of Faroese identity see Hans Andrias Sølvará, *The rise of Faroese Separatism*, Tórshavn: Faroe University Press, 2016.

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(which Greenland had already practiced for much longer). The fact that Russia has become the biggest export partner for the Faroe Islands raises questions concerning Faroese dependency and of the cohesion of Denmark's Russia policy – yet another untold story of the immediate effects of the 2016 Brexit referendum.

New Caledonia experienced the most radical other extreme – and it is not over yet. The 1988 Matignon Agreements and the 1998 Noumea Accord ended a lengthy period of violent uprising among the Kanak people in New Caledonia. Hatred and anti-French resentment was slow to disappear among many indigenous Kanaks. Only almost a generation later, those eligible among the 270,000 citizens of New Caledonia were asked in a referendum to reassess the situation and decide on their future status. On 4th November 2018, 56,4 percent voted in favor of remaining part of the French Republic, 46.6 percent voted in favor of independence.¹⁰³ But the constitutional debate was not over yet. In May 2019, while provincial elections were won by pro-French loyalists, elections for the New Caledonian congress were won by pro-independence groups. In line with the Noumea Accord, two more referenda with the option of acquiring full independence will be held in 2020 and in 2022.¹⁰⁴ Prospects for the post-referendum development of New Caledonia include the option of becoming an “associated state” of France, fully independent, but delegating some of its competences (especially in the field of security and foreign policy) to France. Another option is defined by the concept of a “federated state” that is a political entity with a constitution of its own but remaining part of France.¹⁰⁵ In spite of the 2018 referendum

103 See La Nouvelle-Calédonie vote à 56% pour rester française, in: *Le Monde*, 5 November 2018, online at: https://www.lemonde.fr/politique/article/2018/11/04/nouvelle-caledonie-un-taux-de-participation-au-referendum-de-41-81-a-la-mi-journee_5378556_823448.html.

104 See *Le Figaro avec AFP*, Nouvelle-Calédonie: un sénateur LR appelle à un deuxième référendum «le plus tôt possible», in: *Le Figaro*, 6 June 2019, online at: <http://www.lefigaro.fr/flash-actu/nouvelle-caledonie-un-senateur-lr-appelle-a-un-deuxieme-referendum-le-plus-tot-possible-20190606>.

105 See Gaétan Trillat, Nouvelle-Calédonie: le référendum sur l'indépendance en cinq questions, in: *Sudouest*, 3 May 2018, online at: <https://www.sudouest.fr/2018/05/03/nouvelle-caledonie-le-referendum-sur-l-independance-en-cinq-questions-5025975-710.php>.

result, the situation in New Caledonia remains tense. Strong migration from Wallis et Futuna to New Caledonia has complicated coherent solutions. While working class citizens from Wallis et Futuna are mostly loyal to France, young Kanaks tend to increasingly define their identity as distinct and separate from France.

In all three French Pacific OCTs, the issue of independence is overshadowed by a growing strategic concern – if not outright fear – about the rising influence of China in the South Pacific. Against the background of this strategic challenge (including for New Caledonia’s nickel industry), a stronger European contextualization of the future status of New Caledonia (considered an overseas collectivity *sui generis* with a high degree of autonomy) must be considered a reasonable option. In Wallis et Futuna and in French Polynesia, this European perspective has included the desire by some leaders to fully introducing the euro as local currency for many years, while the appetite for the euro is less strong in New Caledonia. The introduction of the euro in all three French Pacific OCTs would require an EU Treaty revision not to be excluded as part of a strategy of Europeanizing the Pacific French OCTs.

In the Dutch Antilles the fire over status and sovereignty has been ignited from both ends. In 2010, the Netherlands Antilles were dissolved with Sint Maarten, Aruba and Curaçao becoming “countries” (landen), and Saba, St. Eustatius and Bonaire becoming “special communities” (bezondere gemeenten) of the Kingdom of the Netherlands. The new status and its impact have not been met with satisfaction by all parties involved. On the one hand, Dutch politicians time and again are on record for wanting to “get rid” of the Caribbean countries and territories belonging to the Kingdom of the Netherlands. Royal visits to the Antilles only partially alleviate tensions and remain a matter of symbolic politics. Some years ago, Prime Minister Mark Rutte was said to have let Dutch Caribbean leaders know that they could have independence if they really wished so within a fortnight. This provocative statement was meant to extinguish criticism over alleged neglect and denial, especially by aid-dependent Saba and St. Eustatius. Like French and British territories in the Caribbean, Dutch OCTs have a highly problematic record of human and drug trafficking into the European Union.

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This situation was exacerbated by reports that IS recruits could enter the EU or the United States via the Caribbean. Lately, the efforts of Sint Maarten to enforce more rigid migration controls have received positive reactions in The Hague. They were explicitly lauded by Prime Minister Rutte during a 2018 visit to the Dutch OCTs. In the aftermath of the shocking devastations caused by hurricane Irma in 2017, complaints about the mismanagement of public subsidies from the Dutch government have calmed down.¹⁰⁶ Sint Maarten, flourishing with tourism, continuously lives with a split identity: As recently as in 2016, the majority of members of the parliament of Sint Maarten were on the record demanding sovereignty and independence.¹⁰⁷

The issue of sovereignty looms over the Dutch territories Aruba, Bonaire and Curaçao (ABC islands) from the outside, too. Ever since Venezuela became independent, it has claimed the ABC islands as a legitimate part of its territory. The political radicalization in Venezuela over the past two decades has not occurred without concern in the Dutch OCTs. For them, it is impossible to present their international interests via a representation of their own, let alone to defend their territorial borders. In turn, the Netherlands offers all relevant diplomatic and security ties to the ABC islands. In 2006, the amphibious sea landing operation “Sea Lion” took place in response to the vulnerability of Aruba, Bonaire and Curaçao in light of a possible invasion from Venezuela. Whether in the worst case scenario, individual NATO member states, NATO as a whole or rather the European Union via an extended solidarity clause might become active on behalf of ABC freedom and territorial integrity, remains a theoretical matter for now – but

106 Hilbert Haar, Praise Dutch Prime Minister Rutte for government SXM, in: Caribbean Network, 17 May 2018, online at: <https://caribbeannetwork.ntr.nl/2018/05/17/praise-dutch-prime-minister-rutte-for-government-sxm/>. New efforts are being made to enhance investment in the Dutch OCTs and of OCT companies in the wider Caribbean and Latin America; see Annika, Export incentives for Dutch Caribbean companies, in: Free Zone Aruba, 22 March 2018, online at: <https://www.freezonearuba.com/mebers/export-incentives-for-dutch-caribbean-companies/>.

107 Lena D., St. Maarten Parliamentarians Call for Independence from the Kingdom of the Netherlands, in: Atlanta Black Star, 8 September 2016, online at: <http://atlantablackstar.com/2016/09/08/st-maarten-parliamentarians-call-independence-kingdom-netherlands/>.

is fervently discussed in Aruba, Bonaire and Curaçao.¹⁰⁸ The escalating crisis in Venezuela has brought ABC security into the limelight of global interest in 2019: When humanitarian aid for Venezuela was stored in Curaçao, the Maduro government immediately imposed an embargo for ships leaving Curaçao for Venezuela. Speculation runs high as to which other threatening measures could follow from a beleaguered regime dependent on support of the military. Even when the sovereignty matter is not triggered on principle from within or by external pressure, the semi-sovereign linkages between European and overseas territories in all their forms can produce problems. This is particularly the case when welfare and migration issues are affected. While citizens of OCTs as well as citizens of those overseas territories which are fully integrated into the legal order of the EU can travel visa free to the EU, the implication for migration matters can differ substantially. Dutch Caribbean OCTs have been confronted with demands to enhance control of migration. Mayotte, no longer an OCT but a French département and as such fully integrated into the legal order of the EU, has been struggling with illegal migration from the Comoros and other African countries for years. The Comoros continuously claims sovereignty over Mayotte, an idyllic former part of the overall historic Comoros archipelago. France, and hence the EU, are confronted with migration pressure not completely different from the one the EU has faced in the Mediterranean: People are being smuggled by boat into Mayotte, among them a substantial number of pregnant mothers which then give birth to illegal immigrants in Mayotte. The number of births in Mayotte has increased by 45 percent between 2013 and 2016, with 9,500 babies born in 2016. While in the whole of France, the fertility rate is 12 per thousand, in Mayotte it has increased to 40 per thousand. Giving birth to a child in Mayotte used to immediately imply French and hence EU citizenship. In response, President Macron supported certain limitations of French citizenship rights issued in Mayotte. On 26 July 2018, the National Assembly followed the French Senate in a second reading and voted in favor of a clause requiring a parent to have lived in Mayotte for more than three months before the birth of her or his child

108 The Lisbon Treaty solidarity clause (Article 222 TFEU) refers to terrorist attacks only and not to an outright invasion as reason for EU solidarity.

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would automatically acquire French citizenship.¹⁰⁹ In French Guiana with its 235,000 citizens France remains torn between the need to cope with social unrest rooted in post-colonial welfare dependency and the geopolitical vocation which is related beyond any doubt to the spaceport Kourou, in existence since 1964. France has struggled for a long time to include outer space policy onto the list of objectives and competences of the European Union. The Lisbon Treaty includes this policy area as an objective of the EU, hence opening possible new avenues to co-financing the highly expensive Kourou spaceport. In spite of Kourou being heavily guarded, frustrated labor union leaders were able to occupy the spaceport in April 2017 for three weeks. Subsequent efforts of the French government to calm social tensions in the territory with high unemployment, startling poverty levels and dilapidated public infrastructure achieved cosmetic results, at best. Given demographic pressures, with a majority of (poor) people younger than 25 years old, it should not be excluded that social unrest as seen in 2017 could easily spill over and reignite the sovereignty matter. During a contentious visit in October 2017, President Macron insisted that continuous subsidies without a sustainable domestic effort to enhance the living standard and cope with social problems would no longer work under his presidency. This clear message to demand ownership while remaining loyal to France was not well received in French Guiana.¹¹⁰

109 See Patrick Roger, *Macron apporte son soutien à un projet de limitation du droit du sol à Mayotte*, in: *Le Monde*, 26 June 2018, online at: https://www.lemonde.fr/politique/article/2018/06/19/une-breche-dans-le-droit-du-sol-a-mayotte_5317526_823448.html; Corinne Laurent, *Mayotte, Emmanuel Macron soutient une limitation du droit du sol*, in: *La Croix*, 28 June 2018, online at: <https://www.la-croix.com/France/Politique/Mayotte-Emmanuel-Macron-soutient-limitation-droit-sol-2018-06-28-1200950951>; *Mayotte: les députés approuvent la limitation du droit du sol*, in: *Le Parisien*, 26 July 2018, online at: <http://www.leparisien.fr/politique/mayotte-les-deputes-approuvent-la-limitation-du-droit-du-sol-26-07-2018-7834707.php>. For background on Mayotte see Karis Muller, *Between Europe and Adrica. Mayotte*, in: Rebecca Adler-Nissen/Ulrik Pram Gad (eds.), pp. 187-202. *European Integration and Postcolonial Sovereignty Games. The EU Overseas Countries and Territories*, op. cit.

110 Emmanuel Macron en Guyane: „Je ne suis pas venu faire des promesses, ce temps-là est fini“, in: *Le Monde*, 26 October 2017, online at: https://www.lemonde.fr/politique/article/2017/10/26/emmanuel-macron-en-guyane-je-ne-suis-pas-venu-faire-des-promesses-ce-temps-la-est-fini_5206508_823448.html.

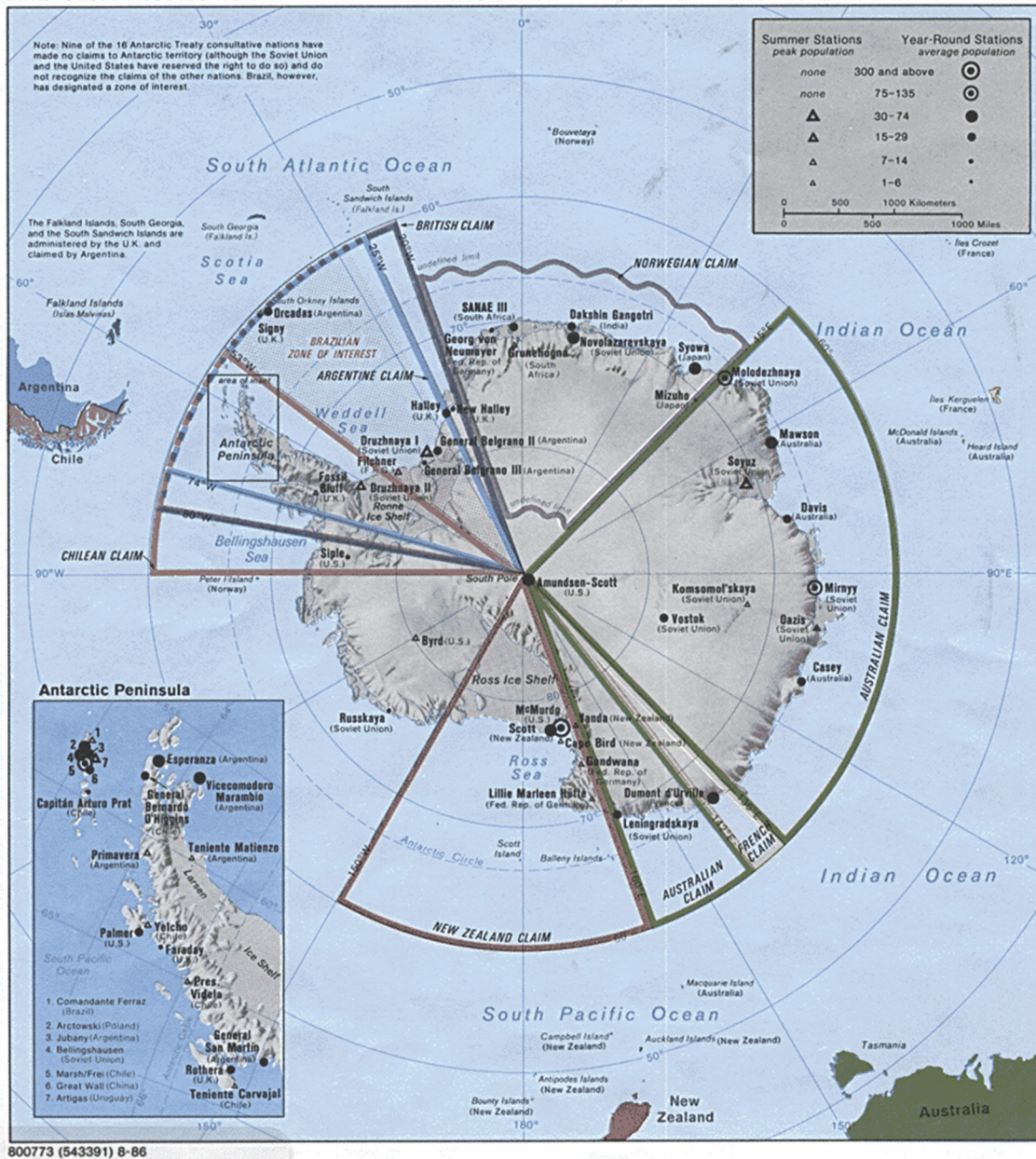
Decolonization purists might still argue that all the remaining territories of the European archipelago should become independent and free. In recognizing colonial guilt, Europe should continue to subsidize development as it has done in many other former colonies. Such a perspective is old thinking. It does not take into account the enormous socio-cultural transformations, which have taken place across former colonies of European states but also in the European overseas countries and territories.¹¹¹ Not all of them have gone through the same cycle of transformation – be it cultural, constitutional or economic. Today, no overseas country and territory can be compared to the situation they were all in when the wave of decolonization took place and the era of post-colonialism unfolded.

(b) A generation later, overseas countries and territories have to be re-evaluated as part of a European archipelago in a world of changing geopolitical parameters. In no area can this be exemplified better than with regard to the relevance European overseas countries and territories have in the future of Antarctica. Nowhere is the need for close EU cooperation with the United Kingdom and its overseas territories as relevant. A reasonable anticipation of a meaningful direction post-Brexit is the promotion of regional integration activities mentioned in the 2018 draft for a new EU Overseas Association Decision. This formula implies the potential to continue EU financial contributions to British research units such as the those on the Falkland Islands and in the British Antarctic Territory, used also by researchers from EU countries. As reasonable as this formula is in response to the 2016 Brexit referendum, the language in the draft new EU Overseas Association Decision is non-committal and hence non-strategic.

111 For the wider context of the debate see Elizabeth Buettner, *Europe after Empire. Decolonization, society and culture*, New York/Cambridge: Cambridge University Press, 2016.

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Antarctica: Research Stations and Territorial Claims



Map 3: Antarctica: Research Stations and Territorial Claims. Copyright: United States Central Intelligence Agency.

Any time after 2041, an international revision conference regarding the Environmental Protocol attached to the Antarctic Treaty (signed in 1991 and in force since 1998) is possible.¹¹² The Environmental Protocol has a duration of fifty years, meaning that it will expire in 2048 at the latest, unless renewed in the due course of time. The initial Antarctic Treaty, signed in 1959 and in force since 1961, had a duration of thirty years.¹¹³ In 1991, it was thematically broadened by the Environmental Protocol. At the same time, the very duration of the Antarctic Treaty was extended for fifty years, hence coupled to the duration of the Environmental Protocol. Since the revision and renewal of the Antarctic Treaty in 1991, any single consultative state signatory to the Antarctic Treaty can request a revision of the treaty at

112 “The Protocol on Environmental Protection to the Antarctic Treaty was signed in Madrid on October 4, 1991 and entered into force in 1998. It designates Antarctica as a “natural reserve, devoted to peace and science” (Art. 2). Article 3 of the Environment Protocol sets forth basic principles applicable to human activities in Antarctica and Article 7 prohibits all activities relating to Antarctic mineral resources, except for scientific research. Until 2048 the Protocol can only be modified by unanimous agreement of all Consultative Parties to the Antarctic Treaty. In addition, the prohibition on mineral resource activities cannot be removed unless a binding legal regime on Antarctic mineral resource activities is in force (Art. 25.5)”, online at: <https://www.ats.aq/e/ep.htm>.

113 “The Antarctic Treaty was signed in Washington on 1 December 1959 by the twelve countries whose scientists had been active in and around Antarctica during the International Geophysical Year (IGY) of 1957-58. It entered into force in 1961 and has since been acceded to by many other nations. The total number of Parties to the Treaty is now 53. Some important provisions of the Treaty: Antarctica shall be used for peaceful purposes only (Art. I). Freedom of scientific investigation in Antarctica and cooperation toward that end ... shall continue (Art. II). Scientific observations and results from Antarctica shall be exchanged and made freely available (Art. III). Among the signatories of the Treaty are seven countries – Argentina, Australia, Chile, France, New Zealand, Norway and the United Kingdom of Great Britain and Northern Ireland - with territorial claims, sometimes overlapping. Other countries do not recognize any claims. The US and Russia maintain the right for territorial claims but have not expressed them yet. All positions are explicitly protected in Article IV, which preserves the status quo: No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.”, online at: <https://www.ats.aq/e/ats.htm>.

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any moment in time.¹¹⁴ Such a revision would require approval by the other consultative states. Yet, the option to reconsider the overall Antarctic Treaty system at any moment in time is on the table. The Antarctic Treaty and the subsequent emergence of a broader Antarctic Treaty system¹¹⁵ have framed a genuine system of Antarctic governance and regulation without, however, resolving any possible sovereignty issue and without eliminating possible disputes over economic interests in Antarctica and its surrounding waters. In the long run, Antarctica issues cannot be disconnected from the wider agenda of maritime biodiversity, deep sea mineral resources and global maritime security matters – and vice versa.¹¹⁶ The activities of the satellite “CryoSat-

114 Poland has become a consultative member state in 1977, Germany in 1981, Brazil in 1983, China in 1985, Uruguay in 1985, Italy in 1987, Sweden in 1988, Spain in 1988, Finland in 1988, Peru in 1989, South Korea in 1989, Ecuador in 1990, the Netherlands in 1990, Bulgaria in 1998, Ukraine in 2004 and the Czech Republic in 2014. So far, the United States, founding member of the Antarctic Treaty, has not placed territorial claims in Antarctica – like Russia, which demands since 1950 to be involved should any territorial negotiation take place. Back in 1948, the United States suggested to place Antarctica under supervision of the United Nations. Since a few years, the US stations special deputy US Marshals in Antarctica as an expression of law enforcement presence; see online at: www.usmarshals.gov/history/antarctica.

115 The Antarctic Treaty has been extended by Agreed Measures for the Conservation of Antarctic Fauna and Flora (signed 1964, entered into force in 1982), the Convention for the Conservation of Antarctic Seals (signed 1972), the Convention for the Conservation of Antarctic Marine Living Resources (signed 1982), and the Protocol on Environmental Protection to the Antarctic Treaty (signed in 1991, entered into force in 1998). The Convention of the Regulation of Antarctic Mineral Resource Activities was signed in 1988, but never came into force, because France and Australia withdrew in 1989, thus leading to the eventual negotiation of the comprehensive Environmental Protocol signed in 1991 and in force since 1998. It is also relevant to note that France, Australia, New Zealand and the United Kingdom of Great Britain and Northern Ireland exchanged notes on aerial navigation in the Antarctic in 1938; France and Australia signed a treaty on cooperation in the maritime areas adjacent to the French Southern and Antarctic Lands (TAAF), one of the EU's associated OCTs, in 2003; and France and Australia signed an agreement on cooperative enforcement of fishery laws in the maritime areas adjacent to the French Southern and Antarctic Lands (TAAF) in 2007.

116 See, for example, McGrath, Matt, World's largest marine protected area declared in Antarctica, in: BBC, 28 October 2016, online unter: <http://www.bbc.com/news/science-environment-37789594>. The long-term potential of Antarctica has gone as far as considering Antarctica as a place to prepare food production in the service of manned expeditions to Mars: Reiche Gurken-Ernte in der Antarktis, in: Frankfurter Allgemeine Zeitung, 14 September 2018.

2” installed by the European Space Agency (ESA) to observe the ice caps of the world, has long shed an eye on Antarctica’s melting ice cap.¹¹⁷ But any satellite is also an instrument in the service of sublime power projection by those operating it. It is hard to believe that geopolitical innocence will prevail in Antarctica.

Under the Antarctic Treaty, weapons are banned from Antarctica, mining of mineral resources is banned¹¹⁸, and the issue of territorial sovereignty on the third largest continent south of the 60th longitude is frozen. But will this remain so forever? If it will, this would require long-term commitment of the international community to advance rule-based global governance beyond all current forms of sovereignty. It would require to replace the concept of sovereignty with a rigid mechanism to enforce the concept of „Common Heritage of Mankind“.¹¹⁹

117 See Frankfurter Allgemeine Zeitung, Das ewige Eis schmilzt dahin, 15 June 2018; for details see the Cryosat-Webpage: http://www.esa.int/Our_Activities/Observing_the_Earth/CryoSat.

118 “The Protocol on Environmental Protection to the Antarctic Treaty was signed in Madrid on 4 October 1991 and entered into force in 1998. It designates Antarctica as a “natural reserve, devoted to peace and science” (Art. 2). Article 3 of the Environment Protocol sets forth basic principles applicable to human activities in Antarctica and Article 7 prohibits all activities relating to Antarctic mineral resources, except for scientific research. Until 2048 the Protocol can only be modified by unanimous agreement of all Consultative Parties to the Antarctic Treaty. In addition, the prohibition on mineral resource activities cannot be removed unless a binding legal regime on Antarctic mineral resource activities is in force (Art. 25.5)”, online at: <https://www.ats.aq/e/ep.htm>.

119 The concept of „Common Heritage of Mankind“ was first mentioned in the preamble to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. In 1970, the Declaration of Principles Governing the Seabed and Ocean Floor, adopted as United Nations General Assembly Resolution 2749, defined the deep seabed which should be preserved for peaceful purposes as the “Common Heritage of Mankind.” In 1982, the United Nations Law of the Sea Treaty (UNCLOS) defined “the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction” (Article 136) as the “Common Heritage of Mankind”. One of the architects of the principle was Alfred Pardo, Malta’s Permanent Representative to the United Nations between 1964 and 1971. He summarized his life-long work in a lecture subsequently published as: Alfred Pardo, Ocean and mankind, in: *Third World Quarterly*, vol. 6/3, 1984, pp. 559-572, online at: <https://www.tandfonline.com/doi/abs/10.1080/01436598408419785>.

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UN member states have developed consensus on matters of environmental protection, animal and plant protection and environmental assessment procedures. To this day, this consensus is the basis for the peaceful organization of almost forty research stations across Antarctica, more than half of them permanently manned. However, hardly anybody believes that the countries maintaining these stations do not, at least sometimes and in some cases, cross red lines demarcated by the Antarctic Treaty system.

Are the rumors about military surveillance visits of submarines from various countries into the waters south of the 60th longitude only rumors? Why does waste management governance remain so poorly enforced in the oceans of the world, including in the waters around Antarctica?

How can fishing regulations and fish breeding protection cope with the ever increasing fishing activities in the unregulated waters close to Antarctica, especially but not only in the regions around and south of the Falkland Islands?

The failure of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) to find consensus on creating a marine sanctuary in the Wedell Sea, which would be the world's largest of its kind five times the size of Germany, rings alarm bells. In spite of strong backing by the large majority of the 24 CCAMLR member states and the European Union, the veto pronounced by Russia, China and Norway at the annual CCAMLR conference in November 2018 was more than a backlash for environmentalists concerned about sustainable fishing in the Antarctic waters.¹²⁰ The lack of consensus on protecting key species in the Wedell Sea is indicative for the increasing geo-economic and geopolitical scramble for Antarctica.

Among the few existing publications on the matter in relation to Antarctica, see: Jennifer Frakes, *The Common Heritage of Mankind Principle and the Deep Seabed, Outer Space, and Antarctica. Will Developed and Developing Nations Reach a Compromise?*, in: *Wisconsin International Law Journal*, vol. 21/20003, pp. 409, online at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/wisint21&div=18&id=&page=>.

¹²⁰ See *The Telegraph*, *Plans for world's largest ocean sanctuary in Antarctic blocked*, 3 November 2018, online at: <https://www.telegraph.co.uk/news/2018/11/03/plans-worlds-largest-ocean-sanctuary-antarctic-blocked/>.

Antarctic mineral resources below the ice cap of 1.7 kilometer depth (on average, in various Antarctic regions the ice cap is much lower) are abundant. 45 barrels of oil, 115 million cubic meters of gas, titanium, chrome, iron, copper, coal, platinum and gold activate human fantasy and resource hunger.¹²¹ Competing territorial claims are already manifold now.¹²² One should add that Kerguelen (since 1772 a territory of France), although belonging geographically to Antarctica, is not covered by the Antarctic Treaty because it lies north of the 60th longitude. Kerguelen, without an airport, is part of the French Southern and Antarctic Lands (TAAF), an EU associated OCT.¹²³ Likewise, South Georgia and the Southern Sandwich Islands (claimed by Great Britain since 1775, claimed by Argentina since 1927) are not covered by the Antarctic Treaty, but constitute a British overseas territory, accessible only by ship from the Falkland Islands. For the time being, the EU agenda for Antarctica and the oceans north of it is primarily about biospheres, environmental protection, climate change, cruise ship tourism, waste control, especially plastic garbage.¹²⁴ But whale watching and the protection of penguins and seals will not remain the only issues related to Antarctica: Most likely, in the years and decades ahead geopolitics will increasingly effect the southern oceans and Antarctica, the third largest continent on the planet. European overseas countries and territories might become strategic pawns in the global European archipelago. The strategic significance of overseas territories –

121 Data from the Wikipedia-article 'Antarktis-Vertrag', online at: <https://de.wikipedia.org/wiki/Antarktis-Vertrag>.

122 Especially relevant are those between The United Kingdom of Great Britain and Northern Ireland of Great Britain and Northern Ireland, Argentina, Chile and Brazil on the Antarctic Peninsula and in surrounding territories. For details *ibid*.

123 The strategic accessibility of these territories enhances the role of the French départements Mayotte and La Réunion, but likewise the military cooperation of France with India and Australia. See: Frank van Rooyen, Africa and the Geopolitics of the Indian Ocean, South African Institute of International Affairs, Occasional Paper, no. 78, 2011, online at: https://www.files.ethz.ch/isn/145975/saia_sop_78_vanrooyen_20110225.pdf.

124 Much in line with NGO positions, e.g. World Wildlife Fund for Nature, WWF Global, Threats to oceans and coasts, online at: https://wwf.panda.org/our_work/oceans/problems/.

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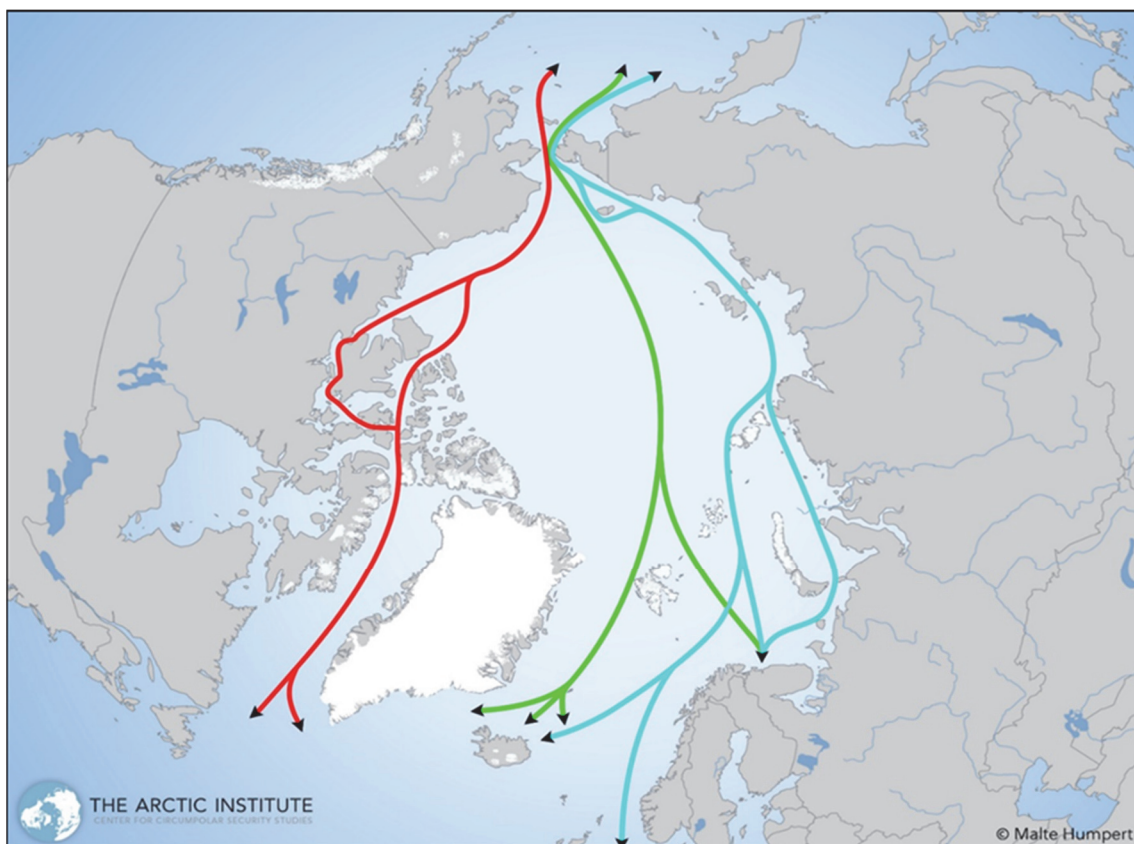
OCTs and French territories with a different nomenclature (La Réunion, Mayotte, French Polynesia, Wallis et Futuna, and New Caledonia as well as all French territories in the Caribbean are equipped with good airports) – will be measured by the quality of air connectivity to Europe and to European allies in the global South. The projection of military power is already an element in the strategic interpretation of the meaning of the European archipelago. This includes the uninhabited French territory of Clipperton which is sometimes visited by French military ships. Clipperton could potentially be extended to serve as an auxiliary service station in defending freedom of navigation through the Panama Canal and into the South Pacific.

(c) Not every power projection is about the militarization of the globe. But power projection is also a way to anticipate and possibly balance power ambitions of other countries – and hence avoid conflicts from escalating militarily. In this sense, the geostrategic future of a re-interpreted European archipelago might have only just begun. Freedom of the sea, including freedom of navigation and the protection of submarine cables, is of the essence in understanding the strategic challenge ahead. Taken together, the planet's oceans constitute seventy percent of the surface of the earth, generating five percent of all global economic activities.¹²⁵ The United Nations has recognized 38 countries as Small Island Developing States (SIDS). With a population of less than two million people, these states are strongly exposed to the consequences of remoteness and climate-related vulnerabilities. However, these island states are also treasurers of gigantic ocean resources and hence the potential of blue economy. Tony de Brum, the late former foreign minister of the Marshall Islands and one of the key actors in bringing about the Paris Climate Convention in 2015, used to speak of big ocean states.¹²⁶ Each of them has a vote in the United Nations. Engaging with

125 According to World Bank estimates, the value generated via exploration of and production in the world's oceans amounts to more than \$2.5 billion. Were the oceans one territory, this would make them the seventh biggest country on earth, before Brazil, Italy, Russia or India; see: Die Bewirtschaftung der Meere fängt jetzt erst an, in: Frankfurter Allgemeine Zeitung, 17 February 2017.

126 On his legacy see Lisa Friedman, Tony de Brum. Voice of Pacific Islands on Climate Change. Dies at 72, in: New York Times, 22 August 2017,

them makes sense for any country or regional grouping with a global ambition. In the European Union, it seems that only France pursues such a vocation: In 2018, French President Macron announced a global meeting of Small Island Developing States to be held in Paris in 2020. Maritime issues are returning to the global agenda. The disputes over China's ambitions in the South China Sea are not a singular phenomenon. For the European Union, how to strategize the complexity of the maritime agenda in a comprehensive way is an ever increasing and genuine aspect in the EU commitment to a rule-based multilateral global order.¹²⁷



Map 4: The Arctic Region and New Sea Routes. Copyright: Malte Humpert, The Arctic Institute.

online at: <https://www.nytimes.com/2017/08/22/world/tony-de-brum-dead-climate-change-advocate.html>.

127 For the historical context see the pioneering study by Jürgen Elvert, *Europa, das Meer und die Welt. Eine maritime Geschichte der Neuzeit*, Munich: DVA, 2018. Elvert convincingly shows how Europe's dominance of the seas of the world has been an important, if not the central reason for the global leadership of Europe in modern history (p. 340).

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The European Union is still struggling with its strategic myopia, slow and bureaucratic responses to realities shaped elsewhere. Other powers, Russia and China especially, have projected their strategic interests beyond the struggle to cope with climate change. Russia is attempting to obtain United Nations recognition for its claim of a huge extension of the Russian continental shelf. In order to support the strategic significance of its Arctic claims, Russia has expanded the world's largest fleet of ice-breaking vessels. By 2035, nine of them shall be atomic driven. In September 2018, China presented the country's second heavy ice-breaking vessel, the first of genuine Chinese production. The North-East-passage is already labeled "Ice Silk Road".¹²⁸ While Russia has planted the country's flag on the sea-floor of the North Pole, China also claims to be an Arctic power.

The number of commercial vessels traversing the North-East-passage is constantly growing. While 18,000 ships still travel the 21,000 kilometer route from Rotterdam via the Suez Canal to Tokyo, the North-East-passage reduces costs enormously with only a 14,000 kilometer of sea voyage. The North-West passage along the northern coasts of Canada, reduces the shipping route from Rotterdam to Tokyo to 15,900 kilometer. In 2009, In August 2008, both the North-East-passage and the North-West-passage were ice-free at the same time. The world has come along way since Adolf Erik Nordenskiöld traversed the North-East-passage during two summers in 1978/79 and Roald Amundsen traversed the North-West-passage between 1903 and 1906.

Germany is running the biggest container fleet in the world and claims to maintain one of the most modern research fleets worldwide – potential assets for a substantial Franco-German conversation on global maritime burden sharing.¹²⁹ Freedom of navigation will not come from good-will and technical solutions to the Arctic conditions alone. Enforceable regulatory measures are of the essence to benefit from long-term maritime opportunities

128 See Frankfurter Allgemeine Zeitung, Das Arktis-Eis schmilzt – ein neuer Seeweg entsteht, 2 May 2019, p. 16.

129 See Bundesministerium für Bildung und Forschung (ed.), Umwelt und Klima. Küsten-, Meeres- und Polarforschung, Berlin 2016, online at: <https://www.bmbf.de/de/kuesten-meeres-und-polarforschung-339.html>.

around the Arctic Circle. Since its creation in 1996, the Arctic Council is working on this agenda, supporting the management of Arctic affairs and its related international law.¹³⁰ But European naiveté will not be enough to respond to the evolution of powerful geo-economic trends and their geopolitical ramifications. To balance the sustainability agenda with thorough strategic thinking is of the essence for the European Union to be taken seriously as a global maritime player.

The Arctic agenda on sustainability is echoed in maritime matters around the oceans of the world. Economic interests focus primarily on deep seabed energy resources (e.g. manganese), preservation of biodiversity and freedom of navigation. Sustainable developments in the planet's oceans requires regulatory cooperation, which in turn depends on the readiness of actors to politically cooperate and accept legally binding mechanisms. All experience considered, this will not come about through good will alone.¹³¹ Hence, the maritime presence and geopolitical claims of the European Union will give weight to the sustainability agenda central to the EU's maritime policy objectives. A geopolitical reconsideration of the maritime presence will also reflect, and possibly support, the economic interests of EU member states in search for raw materials.¹³² Up until now, the European Union has been blocked from becoming even an observer member of the Arctic Council. In 2013, the EU requested observer status in the Arctic Council. Canada vetoed EU observer status because of the EU ban on seal hunting. According to

130 See Kristina Schönfeldt (ed.), *The Arctic in International Law and Policy*, Oxford/Portland: Hart, 2017.

131 In a surprising initiative, in 2016 several international companies with fishing interests in the Arctic region have agreed on voluntary protection zones surrounding Spitsbergen (Svalbard archipelago). In accordance with a Greenpeace initiative, they agreed to stop industrial fishing in an area north of the 75 degree of latitude from the Barents Sea and the Greenland Sea all the way up to the North Pole, which is not scientifically studied yet. See Rudolf Hermann, *Grenzen für die Arktis-Fischerei*, in: *Neue Zürcher Zeitung*, 30 May 2016.

132 Even the modest media coverage on these matters in Germany indicates that the search for raw materials is already under way: government sponsored maritime research, for example, takes place off the coasts of Tanzania and Mozambique, where estimated gas resources of 5.2 billion cubic meters could serve Germany for decades: See: *Deutschland sucht Erdgas vor der ostafrikanischen Küste*, in: *Frankfurter Allgemeine Zeitung*, 28 February 2014.

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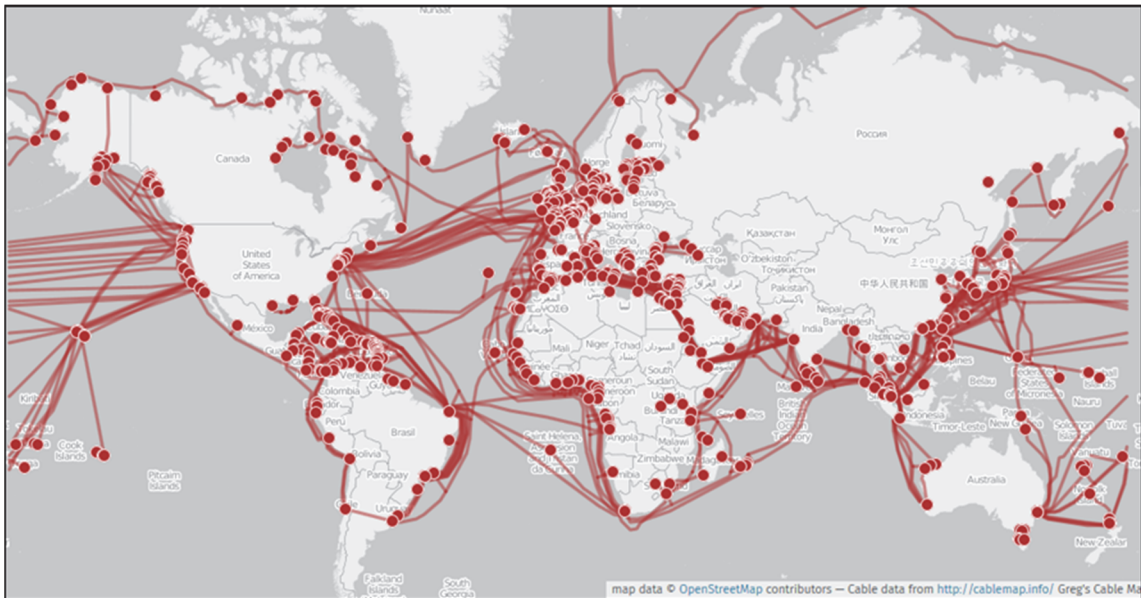
rumors, other parties to the Arctic Council also do not want to see the EU present there – including EU member states who are afraid of losing their own prerogative rights on the Arctic Council. Up until now, the EU bid for observer status is pending – another unfinished agenda to project the global role of Europe.¹³³

The projection of modern maritime power has been discussed in manifold ways since the days of Alfred Thayer Mahan.¹³⁴ His analysis distinguished between sea powers and land powers, much in accordance with strategic thinking since the days of ancient Greece. In the 21st century, China defines the challenge with its combined land- and sea-strategy (“One Belt, One Road”). The EU is not badly equipped to develop its own combined land- and sea-strategy. As a land power it has developed into the largest single market on earth. 471 navigable ports in Europe have an annual turn-over of 3.4 billion tons of cargo. 40 percent of all global commercial fleets – about 83,000 vessels responsible for 90 percent of global trade transportation – are owned by Europeans.¹³⁵ But as sea-power, the EU is still invisible. Freedom of navigation is not about the oceans alone. Maritime power in the 21st century includes the ability to protect the submarine cables, which enable the internet to work globally. Any sabotage of these cables could have disastrous effects for the global economy, and in fact the global society. A superficial look at the global map of submarine cables explains why France and Great Britain need to remain maritime military powers – and why they must be more actively supported by the European Union at large.

133 See Duncan Depledge, *The EU and the Arctic Council*, in: European Council on Foreign Relations, 20 April 2015, online at: https://www.ecfr.eu/article/commentary_the_eu_and_the_arctic_council3005.

134 Alfred Thayer Mahan, *Sea Power and World History. 1660-1783*, Boston: Little Brown and Company, 1890.

135 Data from European Commission, *The EU Maritime Security Strategy – Fact sheet 2017*, online at: https://ec.europa.eu/maritimeaffairs/sites/maritimeaffairs/files/docs/body/eu-maritime-security-strategy-facts_en.pdf.



Map 5: Submarine cable map, Copyright: Greg's Cable Map. OpenStreetMap contributors.

Based on the EU Maritime Security Strategy, adopted in 2014, the European Union has cautiously begun to develop a comprehensive action plan to implement its emerging strategy.¹³⁶ But the EU Maritime Security Strategy is definitely not strategic enough yet in the way it is being implemented. Moreover, as for now, the Overseas Countries and Territories associated with the EU do not play the role they deserve and demand.

136 Council of the European Union, European Union Maritime Security Strategy, Brussels, 24 June 2014, online at: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2011205%202014%20INIT>; Council of the European Union, European Union Maritime Security Strategy (EUMSS) – Action Plan, Brussels, 16 December 2014, online at: https://ec.europa.eu/maritimeaffairs/sites/maritimeaffairs/files/docs/body/20141216-action-plan_en.pdf.

V. The European archipelago: Transforming OCTs into the EU's Outermost Regions

The end of post-colonialism has not coincided with an all-out global dissemination of post-sovereignty orders. Region-building continues albeit not unchallenged. Among the relevant regional groupings around the world, the European Union is most advanced in terms of the supranational pooling of sovereignty. Inside the European Union, this innovative form of governance is coupled with an ongoing and solid, yet transformed reality of national sovereignty.

French President Emmanuel Macron has risen to conceptual leadership with his call for the development of European sovereignty.¹³⁷ The idea has to be developed further and it has to be implemented. European sovereignty differs from the traditional Westphalian concept of sovereignty. It recognizes the permeability of sovereignty in a world in which autonomous decision-making is mostly impossible for states and non-state entities in pursuing the ultimate, complete and unchallenged realization of their preferences. Interconnectedness and interdependence are new realities to be recognized when reflecting on an adequate notion of 21st century sovereignty. Gradualism is the new currency to define realism. Gradualism is also the new currency to define power in the 21st century. Absolute power, capable of imposing one's will fully, completely and lastingly on others has become impossible. Subtle forms of sublime power projection must be added to the rigid concepts of hard power and soft power developed in international relations theory.

Sublime power and sublime sovereignty – this is the formula to understand the European Union, the result of its evolution through gradualism. These experiences are all too often outnumbered by failure, detours – and new beginnings. In reality, its new post-sovereign sovereignty and post-power power makes the European Union innovative, and frustratingly difficult,

137 Emmanuel Macron, Initiative pour l' Europe – une Europe souveraine, unie, et démocratique, Paris, Sorbonne, 26 September 2017, online at: <http://www.elysee.fr/declarations/article/initiative-pour-l-europe-discours-d-emmanuel-macron-pour-une-europe-souveraine-unie-democratique/>.

often complicated and more often almost impossible to understand. And yet: since 1957, the processes and results of European integration have shown that this new model for governance and regulation, for statecraft and innovation can work – and continues to evolve. The EU has become a polity in its own right, a governance structure without government, and regulatory power based on rule of law and permanent political negotiation processes.

138

Striking the appropriate and acceptable balance between the different horizontal and vertical levels, organs and actors in the European Union remains at the heart of policy struggles in the European Union. It also constitutes the future evolution of European sovereignty. Other regional groupings have not yet matured to the EU level of balancing regional and national sovereignty. This current state of play does not preclude these groupings from advancing their search for best contingent ways to enhance the implementation of their regional preferences and commitments.¹³⁹ At the same time, new and old geopolitical trends have emerged in recent years, confirming the continuous strength, if not dominance, of state-centered sovereignty in global affairs. The European Union remains internally and externally challenged by the need to formulate priorities: regressing to the primacy of national autarkic decision-making in the pursuit of autonomous state centeredness; balancing national sovereignty and shared EU regional

138 In 1996, Thomas Risse-Kappen suggested to reverse the dominant theoretical perspective of understanding the EU primarily as a subject of studies in international relations, based on intergovernmental negotiation processes. Instead, the EU ought to be understood and studied as an element of comparative policy analysis: Thomas Risse-Kappen, *Exploring the Nature of the Beast: International Relations Theory and Comparative Policy Analysis Meet the European Union*, in: *Journal of Common Market Studies*, 1996, online at: <https://doi.org/10.1111/j.1468-5965.1996.tb00560.x>. In the meantime, it is time to re-balance the understanding of the EU as a subject of governance and policy studies with a fresh interpretation of a global EU as a subject of a transformed understanding of international relations. See also Christian Koenig/Bernhard von Wendland, *The Art of Regulation. Competitiveness in Europe – Wealth and Wariness*, Cheltenham: Edward Elgar, 2017; Christian Koenig/Ludger Kühnhardt (eds.), *Governance and Regulation in the European Union. A Reader*, Baden-Baden: Nomos, 2017.

139 See Ludger Kühnhardt, *Region-Building*, vol. II: *Regional Integration in the World: Documents*, Oxford/New York: Berghahn Books, 2010.

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sovereignty, based on continuously diverse positions among EU member states. One of the avenues as to what might make more sense is a pragmatic, thematic approach to define the balance between the national and the regional level. It should be assumed that this struggle will continue, in terms of concepts, power ambitions and legitimacy matters in the face of an ever more incoherent European society.

This situation has implications for the future of the European overseas countries and territories. The age of decolonization has not seen these territories achieving or wanting to achieve sovereign statehood. The arrangement of semi-sovereignty they found with the states, which dominated them as colonial powers for a long time, remains incoherent: they receive aid and subsidies in return for rejecting full-fledged sovereignty ambitions. From the perspective of the EU member states they belong to, the situation is of a reverse logic: They regain control and have to pay for it without explicitly defining mutual interests and shared commitments. In recent times France and the Netherlands have demanded their OCTs take over more responsibility and ownership – along the line of arguments all aid-recipient developing countries are facing. The ownership argument is also used by Denmark in regard to demanding better societal efforts in health care, education and job promotion from Greenland in return for continuous Danish (and strong EU) subsidies.

The arguments remain twisted and spectacularly dishonest in both directions. While France, the Netherlands and Denmark know that their OCTs cannot live on the basis of fully independent statehood, they have no leverage in reducing financial subsidies or economic benefits without facing the traditional blame-games of dishonesty and arrogance, of pseudo-colonial neglect. OCTs in turn, know that independence is no real option for them as long as they receive better financial support and economic conditions than otherwise. They may blame the countries they belong to of human, social and political neglect, but they know that the best option for them is to continue the way things have developed. Under new geopolitical constellations, a window of opportunity has opened to reshape the content and enhance the benefits they gain from being semi-sovereign. Until now, by and large OCTs face the classical development trap. The time has come

for a structural and strategic overhaul of this trap. The issue is particularly sensitive with regard to New Caledonia (where the independence movement still is strong), to French Polynesia (where the Mururoa legacy is still alive), to Wallis et Futuna (where local kingdoms prevail outside the French administration with a strong sense of identity) and to Greenland (where the trauma of leaving the EEC has not been fully overcome). More than other OCTs, New Caledonia, French Polynesia, Wallis et Futuna and Greenland insist on their precious and wide-ranging autonomy. And yet, the regular paycheck from the European Union is warmly welcomed in all these places.¹⁴⁰ In the end, it does not work to have the cake and eat it, too. To convincingly argue for the reciprocal strategic usefulness of enhancing relations of New Caledonia, French Polynesia, Wallis et Futuna and of Greenland with the European Union, the economic benefit for New Caledonia, French Polynesia, Wallis et Futuna and for Greenland must become evident while their respective sense of ownership is strengthened, too. Further economic benefits could indeed be facilitated by upgrading the OCT status and rebranding all OCTs “Outermost Regions of the EU”.

In the end, it might be more difficult to convince France and Denmark – which also could benefit from the EU-wide burden-sharing attached to a status change from OCT to Outermost Region – than New Caledonia, French Polynesia, Wallis et Futuna and Greenland. Certainly, the matter requires greater sensitivity in these cases than in relation with any other OCT. But: nowhere else – beside the British overseas territories in the South Atlantic – is the rebranding and upgrading of status strategically more important for the EU as a whole.

The OCTs, which are associated with the European Union via the countries they belong to, without being fully integrated into their legal and political order, differ in the arrangements they have established with the countries they belong to. Surprisingly, the arrangements the OCTs maintain with the

140 European Commission, Directorate-General for International Cooperation and Development, European Union reaffirms its commitment to a strong partnership with Greenland, Brussels, 20 July 2018, online at: https://ec.europa.eu/europeaid/news-and-events/european-union-reaffirms-its-commitment-its-strong-partnership-greenland_en.

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European Union as a whole are rather standardized and coherent. This is all the more important as the interest in overseas countries and territories is not widely spread beyond the United Kingdom, France, the Netherlands and Denmark – and even their interest is limited to experts and a few actors. As for most other EU member states, the paradox continues for now: They co-finance OCTs without having a say in the role they play. They embrace the interests of those member states, which maintain overseas territories without really looking at them or trying to shape them. If at all, most EU member states support OCTs without engaging beyond the multi-annual overhaul of the EU Overseas Association Decision.

It cannot come as a surprise that this situation does not favor strategic foresight. While in principle, France is open to a strategic projection of its full power potential, Germany remains a reluctant partner – often even remaining parochial in the study of wider global affairs.¹⁴¹ On the other hand, EU member states who maintain overseas territories have lost the ability to independently finance their ambition of strategic autonomy and global presence. The need to stabilize and enhance strategic autonomy and global presence requires them to cooperate with others via the EU as a whole.

OCTs cannot become independent and thrive as single nation-states. Even in the case of Greenland, speculation assumes that the proper management of an independent state might take fifty years or so. Experience shows that people might favor poverty over what they perceive as dependency. But in line with global trends for the past two-hundred years, those who still doubt eventually need to decide. It is the EU which could enhance its own leverage in this gamble of post-colonial traps by genuinely recognizing and empowering the strategic relevance of its OCTs, Greenland in particular. Is it so far-fetched to envisage an Arctic future in which EU civil-military surveillance systems could be stationed in Greenland with the consent of and beneficial to the Inuit population? The benefits of being recognized as an EU

141 As long as this situation prevails, it cannot come as a surprise that French military leaders question German strategic credibility and refuse to share the French national atomic dissuasion („force de frappe“) with Germany or the EU at large. See Michaela Wiegel, Frankreich will Atomstreitkraft nicht teilen, in: Frankfurter Allgemeine Zeitung, 14 February 2019.

Outermost Region might gradually evolve even in integration-skeptical Greenland.

The current undecidedness over semi-sovereignty needs to be overtaken by the insight in Greenland that it is suboptimal to guaranteeing a stable future; and for the EU that it is suboptimal to achieve EU interests in a comprehensive way without graduating OCTs. The insight has to grow on both sides that the concept of European sovereignty is beneficial for both if it were to apply to the OCTs, too. The post-Brexit overseas countries and territories of the European Union are not a relic of the European colonial past. They are rather important pieces in the puzzle that will define the global future of the European Union.

For the EU as a whole, it is particularly untimely that Germany is not better prepared and visible in the debate on the future of OCTs. The German deficit in strategic thinking, often lamented, is quite evident as far as interest in, knowledge of and conceptual reflection about OCTs is concerned. At best, OCTs are a matter of tourism interest in the media; so it seems, when considering the only article published in a national newspaper on the graduation of Mayotte to becoming a French *département* and hence an integral part of the EU in 2011.¹⁴² Beyond this, it remains difficult to find German publications on OCTs, let alone their strategic relevance for the EU. Germany is in urgent need to discover the maritime dimension of the European Union in all its strategic aspects, beyond ecological and civilian ones.

Time has come to upgrade the overseas countries and territories in their relevance of and status toward and within the European Union. This is a most urgent matter if the ambition of simplifying EU instruments shall be completed. It is even more urgent if considered through the prism of long-

142 Markus Schönherr, Ab dem 1. Januar hat die EU ein Inselparadies, in: Die Welt, 30 December 2013, online: <https://www.welt.de/politik/ausland/article123385184/Ab-dem-1-Januar-hat-die-EU-ein-Inselparadies.html>; see also a superficial overview defined by the same mind-set: Europa in Übersee – hier genügt noch der Personalausweis, in: Die Welt, 22 February 2015, online: <https://www.welt.de/print/wams/reise/article137697197/Europa-in-Uebersee-hier-genuegt-noch-der-Personalausweis.html>.

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term strategic interests of the EU. The upgrading of the OCTs will be reinforced by way of empowering the maritime-related agenda in EU policy discourses. But the future of the EU-OCT relationship has to go beyond functional thematic cooperation. A structural graduation of the Overseas Countries and Territories associated with the European Union has to bring the OCTs closer toward EU policy making and strategizing out of enlightened EU self-interest. The arguments developed in this paper support the idea of upgrading the relationship of the OCTs to that of Outermost Regions – the current status of the Canary Islands (population 2,135,722), of Madeira (population 256,424) and the Azores (population 245,766), of the French overseas collectivity Saint-Martin (population 35,684), and France’s départements Guiana (population 262,527), Guadeloupe (population 393,392) and Martinique (population 376,847) in the Caribbean, La Réunion (population 850,996) and Mayotte (population 235,132) in the Indian Ocean.¹⁴³ Outermost Regions enjoy a myriad of derogations from EU law. But nobody is in doubt that they belong as much to the European Union as any place between Lisbon and Helsinki. Outermost Regions of the EU qualify for support from the EU cohesion fund, the fund for regional development and the European social fund. Their citizens can vote in the elections to the European Parliament. In principle, the Outermost Regions are integral parts of the European Union with full application of the *acquis communautaire*. In reality, their status as far as the EU customs territory, trade regulation and passport rules (Schengen) are concerned, varies from place to place. This flexibility underlines that Outermost Regions are strongly benefitting from the overall EU solidarity concept. Outermost

143 Outermost Regions are governed in the EU on the basis of Article 349 and Article 355 of the Lisbon Treaty (TFEU), online at: <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-the-functioning-of-the-european-union-and-comments/part-7-general-and-final-provisions/592-article-349.html>. On their actorness see European Parliament. Think Tank, Outermost Regions of the EU: A stronger and renewed partnership, January 19, 2018, online at: http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI%282018%29614669; European Committee of the Regions, Outermost Regions are a land of opportunities for the European Union, 15 April 2018, online at: <https://cor.europa.eu/en/news/Pages/outermost-regions-are-a-land-of-opportunities-for-the-european-union.aspx>.

Regions, in other words, play a strategic role for the EU while at the same time they benefit from diverse commitments by the EU.

Outermost Regions matter for the EU as a whole and not only for the country they belong to. This formula might be a good perspective for overseas countries and territories of the European Union, too.¹⁴⁴ As much as Outermost Regions, the Overseas Countries and Territories could benefit from a coherent EU policy in support of their specific interests and derogations from EU law. A rebranded grouping consisting of all current Outermost Regions and all – or at least most – current Overseas Countries and Territories would definitely enhance the strategic significance of the overseas for the EU.

Together, European Outermost Regions and OCTs are home to 5.9 million EU-citizens (without Brexit) / 5.7 million EU citizens (post-Brexit). This figure is practically equivalent to the population of Denmark (5.77 million.), more than the population of Finland (5.5 million) or Slovakia (5.4 million.) and more than the five smallest EU member states (Malta, Luxemburg, Cyprus, Estonia, Latvia) together.¹⁴⁵

144 This formula clearly leaves all necessary space for the respective EU member states to pursue a differentiated internal constitutional relationship with their respective OCTs. France's overseas territories are organised as follows: Overseas departments and regions (*département et régions d'outre-mer*): Guadeloupe (since 1946); French Guiana (since 1946); Martinique (since 1946); La Réunion (since 1946); Mayotte (since 2011); Overseas collectivities (*collectivité d'outre-mer/COM*): St. Pierre et Miquelon (since 2003), Wallis et Futuna (since 2003), Saint-Martin (since 2007), St.Barthélemy (since 2007); Overseas country (*pays d'outre-mer*): French Polynesia (since 2004); Overseas territory: French Southern and Antarctic Lands (*Terres Australes et Antarctiques Françaises* or TAAF, since 1956; since 2007, the Scattered Islands in the Indian Ocean constitute the 5th district of TAAF), Overseas territory *sui generis*: New Caledonia (since 1999); state private property: Clipperton Island (since 2007). In the case of the Netherlands, overseas territories are organized as follows: Autonomous countries (*landen*): Aruba, Curaçao, Sint Maarten (since 2010); special municipalities (*bijzondere gemeenten*) or in legal terms: public bodies (*openbare lichamen*): Saba, St. Eustatius, Bonaire (since 2010). The overseas territories of the Realm of Denmark are self-governing autonomous constituent countries: Faroe Islands (since 1948) and Greenland (since 1979).

145 Outermost Regions account for 4,793,363 inhabitants, overseas countries and territories account for 913,224 inhabitants (without Brexit: plus 213,159) which adds to a total of 5,706,587 inhabitants (without Brexit: plus 213,159 inhabitants of British

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Funds allocated to Outermost Regions (2014-2020)	Euro
European Regional Development Fund (ERDF), including special allocations for Outermost Regions and for European Territorial Cooperation (ETC)	5 billion
European Social Fund (ESF), including Youth Employment Initiative (YEI)	1.9 billion
European Agricultural Fund for Rural Development (EAFRD)	1.5 billion
Program of Options Specifically Relating to Remoteness and Insularity (POSEI) programs, funded from the European Agricultural Guarantee Fund (EAGF)	4.6 billion
European Maritime and Fisheries Fund (EMFF)	0.3 billion
Total	13.3 billion

Table 2: Sixth European Structural and Investment (ESI) Funds allocated to the Outermost Regions of the European Union (2014-2020)¹⁴⁶.

Opting-in could therefore be a welcome opportunity for some OCTs to upgrade their visibility and relevance. It is worth comparing the different effects of OCTs and Outermost Regions of the EU have with regard to EU policies toward their respective neighbors. One of the benefits French Guiana has gained from its integral inclusion into the EU as a French département – and the EU has gained from incorporating French Guiana as an outermost territory – is the trade potential which has been generated with the construction of the Oyapock River Bridge connecting the département (and thus the EU) with Brazil. This infrastructure upgrading supports broadened regional perspectives.¹⁴⁷ On the other hand, the non-EU incorporated overseas territory Saint-Pierre et Miquelon in the North

OCTs – total 1,126,383 inhabitants in OCTs, total with Outermost Regions: 5,919,746 inhabitants). For details see European Parliament, Fact Sheets of the European Union. Outermost Regions, online at: <http://www.europarl.europa.eu/factsheets/en/sheet/100/outermost-regions-ors>; Association of the Overseas Countries and Territories of the European Union (OCTA), The OCTs, op. cit.

¹⁴⁶ European Parliament, Fact Sheets on the European Union. Outermost Regions, online at: <http://www.europarl.europa.eu/factsheets/en/sheet/100/outermost-regions-ors->.

¹⁴⁷ See David E. Lewis/Henry MacDonald/Jean-Yves Lacascade, The Guiana Shield: A Zone of Southern Caribbean Integration and Sustainable Development, Center for Strategic and International Studies, 28 November 2017, online at: <https://www.csis.org/analysis/guiana-shield>.

Atlantic was explicitly excluded from benefitting from the free trade agreement between the European Union and Canada, provisionally entering into force in September 2017. The status of an Outermost Region, incorporated into the EU customs union, would have been more beneficial for St. Pierre et Miquelon which is currently considered a third country by the CETA trade agreement.¹⁴⁸ Paradoxically and in spite of French lobbying, the widely acclaimed CETA agreement does not facilitate access to the Canadian market for its most immediate neighboring European territory, St. Pierre et Miquelon.¹⁴⁹ On monetary matters, win-win situations are feasible once OCTs were upgraded to the status of Outermost Regions. The debate on introducing the euro in New Caledonia, French Polynesia, and Wallis et Futuna, has a certain unsatisfactory history.¹⁵⁰ Citizen rights and voting rights without monetary rights is an odd combination indeed. Dutch OCTs are also outside the Eurozone, although the euro is the widely used currency there. In order to strengthen the euro as “the face and the instrument of a new, more sovereign Europe” – as EU Commission President Jean-Claude Juncker said in his State of the Union Address 2018¹⁵¹ – the euro introduction in all EU overseas countries and territories should happen sooner rather than later. Only those territories which prefer to stay outside the Eurozone would be granted the opt-out right already applying to Denmark.

148 Regulations defining EU or other CETA beneficiaries, in: Canada Gazette, part I, vol. 151, no. 28, p. 3220, online at: <http://www.lexsage.com/documents/Regulations%20Defining%20EU%20Country%20or%20other%20CETA%20Beneficiary.pdf>.

149 See Jean-Marie Paugam, *Impact de l'Accord Economique et Commercial Global (AECG) Union Européenne – Canada Sur l'économie de Saint- Pierre et Miquelon. Rapport de Mission*, Paris: Direction Générale du Trésor, 2017, online at: https://www.iedom.fr/IMG/pdf/rapport_de_mission_paugam.pdf.

150 See Bernard Poirine, *Will the EU and the euro lead to more sovereignty? French Polynesia*, in: Rebecca Adler-Nissen/Ulrik Pram Gad (eds.), *European Integration and Postcolonial Sovereignty Games. The EU Overseas Countries and Territories*, op. cit., pp.152-168; Peter Brown, *Negotiating postcolonial identities in the shadow of the EU. New Caledonia*, *ibid.*, pp. 169-186.

151 Jean-Claude Juncker, *State of the Union 2018. The hour of European sovereignty*, Brussels, 12 September 2018, online at: https://ec.europa.eu/commission/sites/beta-political/files/soteu2018-speech_en_0.pdf.

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Beyond the currency matter, the key to advancing the debate about future relations with the EU in Greenland and the Faroe Islands rests in the comprehensive recognition of the Arctic dimension by the EU. Labelling Greenland “strategic” is correct but does not go far enough. Recognizing that identity and security, autonomy and sovereignty will be better served from within instead of remaining on the sidelines of association will remain a daunting matter in the North Atlantic. The EU needs to become much more pro-active and demonstrate convincingly which benefits a graduation from the OCT status to that of an Outermost Region with strong autonomy rights, could effectively bring. Avenues of cooperation in maritime matters also need to overcome the geographical North-South divide in the Atlantic: Even before the Brexit referendum sent shock waves through the Atlantic, cooperation between Saint Helena and Greenland on biodiversity and ocean sustainability matters has not been possible under the existing OCT association regime. Traditional geographical regions were always closed bureaucratic boxes as far as the provision of EU funds is concerned. Should the term “strategic” genuinely mean for the EU what it implies, with or without Brexit, this cannot continue to be the case for European North-South cooperation in the Atlantic. Moreover, wide-ranging opting-out clauses and precise derogations might facilitate deliberations with Greenland on upgrading the association status to an EU Outermost Region without returning to full EU membership. The OCTs are a showcase for applying the EU principle of enhanced cooperation¹⁵² in creative new ways.

OCTs operating as EU Outermost Regions cannot produce more bureaucratic red tape than is the case already today without having the same status as Outermost Regions. Some bottlenecks would even disappear: Since the beginning of the planning period in 2014, the French Outermost Region Saint-Martin and the Dutch OCT Sint Maarten have failed to implement a common sewage plant on the Caribbean island shared by the two of them. The money for the Cole Bay Sewage Treatment Plant was earmarked under the rubric of regional funds for Saint-Martin, and under the rubric of the European Development Fund for Sint Maarten. Eventually, it was not EU

¹⁵² Treaty of Lisbon, Treaty on the Functioning of the European Union, Articles 326-334.

money from two different budgets but only the devastating shock of hurricane *Irma* in 2017, which accelerated idiosyncratic planning processes: However, getting the sewage system in place before the end of the fiscal period in 2021 is still a matter of hope at the time of writing this paper.

Surprisingly, the opportunities of Franco-German maritime cooperation materialize outside the EU: On Svalbard (Spitsbergen), in the strategic Arctic, the joint Franco-German research station AWIPEV operates since 2003. This cooperation in Ny-Ålesund, the first non-Norwegian research of its kind on Svalbard, is plausible and meaningful. The scientific interests of Norway overlap in substantial ways with the EU Arctic agenda. This agenda in turn is not different from national interests of France and Germany.¹⁵³ With this Arctic strategy and the implementing “communication” of 2016 the EU “is putting a soft footprint in the Arctic snow” as EU Commissioner Karmenu Vella has nicely described the current dominant ambition of the EU.¹⁵⁴ He emphasized the development of “innovative cold-climate technologies, ...farmed fish techniques for the Arctic region and clean energy advances” as the core of the EU’s strategic approach to Arctic matters.¹⁵⁵ In his view it is this “commitment in the Arctic to cooperation that brings safety, sustainability and prosperity to the Arctic”.¹⁵⁶

In accordance with this civilian and quintessentially non-conflicting approach, the EU has become signatory to the treaty signed on October 3, 2018 by nine states and the EU. The European Commission is considers the treaty “a landmark international agreement to prevent unregulated

153 European Commission/High Representative of the Union for Foreign Affairs and Security Policy, Joint Communication to the European Parliament and the Council. An integrated European Union policy for the Arctic, 27 April 2016, online at: http://eeas.europa.eu/archives/docs/arctic_region/docs/160427_joint-communication-an-integrated-european-union-policy-for-the-arctic_en.pdf.

154 Karmenu Vella, Arctic Press Conference, in: European Commission. Commission and its priorities, Brussels, 27 April 2016, online at: https://ec.europa.eu/commission/commissioners/2014-2019/vella/announcements/Arctic-press-conference_en.

155 Ibid.

156 Ibid.

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commercial fishing in the Arctic high seas".¹⁵⁷ This statement is unequivocal. Yet, the EU still falls short of recognizing the geopolitical dimension of current arctic developments beyond climate change, sustainability and matters of naval navigation.¹⁵⁸ The Norwegian host nation of the Franco-German research station AWIPEV show the way: The University Centre in Svalbard (UNIS) has broadened its scientific perspective beyond biology, marine geology and physics: UNIS, the most advanced research and study institute on Arctic matters is offering courses on Arctic safety, too. As of the academic year 2019/2020, the UNIS profile is complemented by a new study program on Arctic shipping, recognizing the logistical as well as the legal and geopolitical dimension of the Arctic Ocean.¹⁵⁹

Over the past decade, the European Union has made noticeable progress in linking its global economic interests with the fight against piracy, a serious problem affecting European maritime trading interests. Piracy has caused economic losses measured in billions of dollars per year, for a long time this primarily occurred in the region of the Horn of Africa. In the meantime, the main concern has shifted to the Gulf of Guinea, where piracy, drug smuggling and massive proliferation of small weapons are going hand in hand. Gradually, the EU maritime security strategy has been broadened to address the complex anti-piracy agenda holistically.¹⁶⁰

157 European Commission, Directorate-General for Maritime Affairs and Fisheries, EU and Arctic partners enter historic agreement to prevent unregulated fishing in high seas, Brussels, 3 October 2018, online at: https://ec.europa.eu/fisheries/eu-and-arctic-partners-enter-historic-agreement-prevent-unregulated-fishing-high-seas_en.

158 See Margaret Blunden, Geopolitics and the Northern Sea Route, in: *International affairs*, vol. 88/1 (2012), pp. 1115-129, online at: <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1468-2346.2012.01060.x>.

159 For further details see the webpage of UNIS: <https://www.unis.no/>.

160 For an early wake-up call see Hella Engerer, Piraterie und maritimer Terrorismus. Entwicklung und Bedeutung des Seehandels, PiraT-Arbeitspapiere zur Maritimen Sicherheit Nr. 3, Hamburg: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg, 2011, online at: <http://www.maritimesecurity.eu/de/publikationen/workingpapers.html>.

And yet: The European Union remains in urgent need to fully strategize its global maritime policy. Overseas Countries and Territories cannot be neglected any longer as an important element in this strategy. They must graduate to become more relevant to EU-wide discourses and decision-making. An adequate approach will always leave room for practical derogations and pragmatic adjustments. While today, an upgrading and rebranding of the OCTs is desirable, it shall be noted that in the past the opposite also happened in the spirit of good-will and principled pragmatism: A swap from being an Outermost Region fully integrated into the European legal *acquis communautaire* to the status of an associated OCT with less obligations under EU law. St. Barthélemy paved the way, demonstrating that flexibility is possible under the French constitution.

Under new geopolitical circumstances, flexibility must also be defined in the opposite direction, by granting OCTs greater visibility and actorness in the wider EU world. Such flexibility is certainly feasible under the umbrella of the European Union, the embodiment of a genuine European form of federalism. As a first pragmatic step, a permanent EU delegation should be established in each OCT. Constitutional provisions based on institutional arrangements require a priority shift toward a thematic-centered constitutionalism, meaning that themes and not institutional arrangements as such define constitutional status, loyalty and scope of autonomy. Graduating OCTs to the status of EU Outermost Regions would represent such a – necessary and far-sighted – spatial turn.

The consequence of this turn would give life, meaning and flexible development potential to the European archipelago. National prerogatives of France, the Netherlands and Denmark ought not to be hampered. Likewise, autonomous aspirations of any Outermost Region – e. g. Greenland or New Caledonia – will remain possible. But EU foreign policy cohesion would receive an enormous boost should the OCT status be upgraded. European sovereignty would gain a new exemplification. European legitimacy, too, would be enhanced: Decision-making on the distribution of finances reserved for the Outermost Regions in the EU budget would be balanced by the involvement of all relevant EU organs in decision-making and strategizing. The future EU Global Strategy would be empowered and

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perceived as one also addressing the role and relevance of the European archipelago. Rebranding the status of OCTs would be a win-win-situation: OCTs would gain assurances of long-term EU solidarity; the countries of which they are constitutional parts would gain consolidated and sustainable financial and strategic support from all other countries within the EU; EU member states supporting OCTs financially already now would enhance their voice and influence in decision-making in OCT affairs.

Institutionally, OCTs as Outermost Regions can be dealt with in geographical, thematic and cross-cutting matters under the roof of the respective Directorates-General, especially the Directorate-General for Internal Affairs (rather than the Directorate-General for International Cooperation and Development), the Directorate-General for Urban and Regional Policies, the Directorate-General for Economic and Financial Affairs, the Directorate-General for Migration and Home Affairs (to use the terminology of the Juncker Commission 2014-2019). Appropriate links to the European External Action Service would guarantee the embeddedness of OCT matters into wider foreign and security policies. The euro could, in principle, be introduced in all OCTs while their citizens would gain the right of voting in the elections to the European Parliament. Under current conditions, security and defense matters will continue to be handled by France, the Netherlands and Denmark, while the application of the EU solidarity clause should be reconfirmed as an additional sign of support. It would send a clear message to any country in the nearer or wider neighborhood of EU Overseas Countries and Territories. In sum: OCTs as EU Outermost Regions would become part of the European domestic policy instead of remaining marginalized as an appendix to the EU's international cooperation and development agenda. The EU would be able to make much better use of its sublime global power.

The main obstacles may not come from the OCTs but from within the EU: Germany, a continental power, will remain reluctant to overcome its land-oriented view on geopolitics. Although Germany has strong economic interests and a strong technological and ecological presence related to the global maritime agenda, Germany is likely to remain the reluctant strategist in maritime matters. France, a global power, might find it difficult to fully

translate its national security paradigm into a shared aspect of European sovereignty. The universal vocation of French political identity has to be balanced with the ongoing domestic primacy favoring national security sovereignty. Other EU member states tend to consider any focus on overseas territories a possible threat to their own interests in advancing their respective negotiation gains on internal EU (financial and other) matters. To overcome absolute positions, pragmatism is needed for the European Union. Given all experience with EU developments, only gradual progress is likely in rebranding Overseas Countries and Territories. The need to embark on this journey of persuasion is obvious.

The status of OCTs has to be graduated to become compatible with the realities they represent and the importance they have for a coherent global role of Europe. Rebranded “Outermost Regions of the EU”, the current Overseas Countries and Territories would contribute much better to a simplified and hence to a stronger global presence of the European Union. Graduating the OCTs will require a revision of the Lisbon Treaty. This paper has provided arguments why and how to do so. ¹⁶¹

161 The text was finalized in September 2019, before the Brexit conundrum was resolved and prior to the final decision on the new EU Overseas Association Decision.

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