



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.11.2009
COM(2009) 623 final

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Elements for a new partnership between the EU and the overseas countries and
territories (OCTs)**

1. INTRODUCTION

The Overseas Countries and Territories¹ (OCTs) are associated with the European Community through a regime based on the provisions of Part IV of the EC Treaty and the detailed rules and procedures laid down at present in the Overseas Association Decision of 27 November 2001². However, this Council Decision of 2001 is based on an approach analogous to that for cooperation between the EU and the ACP states, despite the significant differences between the ACP states and today's OCTs. In order to launch an open discussion on the case for replacing this approach by one that is tailored to the OCTs' specific needs, their potential and their unique relationship with the EU, the Commission adopted a Green Paper on future relations between the EU and the OCTs on 25 June 2008³.

The present Communication provides an overview of the outcome of the public consultation launched by this Green Paper and sets out the Commission's standpoint on essential elements for a new partnership between the EU and the OCTs which should guide further work, in 2011-2012, on replacing the current Overseas Association Decision when it expires on 31 December 2013.

In the Commission's view, the special relationship between the EU and the OCTs should move away from a classic development cooperation approach to a reciprocal partnership to support the OCTs' sustainable development and promote the EU's values and standards in the wider world. Taking into account the feedback received in response to the public consultation, particular from the OCTs and the four Member States to which they are linked (Denmark, France, the Netherlands and the United Kingdom), the Commission believes that the focus should be on strengthening the OCTs' competitiveness and resilience, as well as cooperation with other partners, all while taking due account of the OCTs' diversity.

2. PUBLIC CONSULTATION ON FUTURE RELATIONS BETWEEN THE EU AND THE OCTS

The Green Paper launched a public consultation that ran from 1 July to 17 October 2008⁴, and the Commission organised a stakeholder conference in Brussels on 3 October 2008⁵ to present the issues raised in the Green Paper. Moreover, the Commission, the OCTs and the Member States to which the OCTs are linked discussed the Green Paper at the annual OCT Forum on 28 and 29 November 2008⁶.

¹ The countries and territories in question are listed in Annex II to the EC Treaty. However, the arrangements for association have never been applied to Bermuda in accordance with the wishes of the Government of Bermuda.

² Council Decision 2001/822/EC of 27 November 2001, OJ L 314, 30.11.2001, p. 1. Decision last amended by Council Decision 2007/249/EC (OJ L 109, 26.4.2007, p. 33).

³ COM(2008) 383 final.

⁴ <http://ec.europa.eu/development/how/consultation/index.cfm?action=viewcons&id=3841>

⁵ http://ec.europa.eu/development/geographical/regionscountries/regionscountriesocts_en.cfm

⁶ http://ec.europa.eu/development/geographical/regionscountries/regionscountriesoctsforum_en.cfm

The contributions received in response to the Green Paper, as well as the discussions during the stakeholder conference and the 2008 OCT Forum, revealed a broad consensus between the parties directly concerned on a number of general issues⁷. A common opinion is that the current anti-poverty focus in the relations between the EU and the OCTs no longer corresponds to the reality in the field and should be replaced by a new approach. The unique relationship between the OCTs and the EU should be the cornerstone of such a new logic. It should take due account of the OCTs' specificities, in particular their economic and social development, diversity and vulnerability, as well as their environmental importance. It should also aim to strengthen their resilience and enhance their competitiveness, especially in the regions where they are located. One key message is that the OCTs, as outposts of Europe all over the world, should be seen as assets for the EU and not a burden.

Many contributions stressed that the solidarity between the EU and the OCTs should be based on the fact that all inhabitants of the OCTs are in principle⁸ EU citizens, as nationals of the related Member States, and on the close links resulting from common history and constitutional traditions. They argue that the new association should focus on the potential of the OCTs, while addressing their vulnerability, rather than the fight against poverty. According to some contributions, this also means that the OCTs should not be 'worse off' in the future in terms of Community financial assistance, and that the OCTs' access to funding in general should be facilitated.

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

There is a general demand for more 'partnership' between the EU and the OCTs, but only a few contributions provide input on the actual responsibilities that this should entail for the OCTs themselves. On the other hand, a lot of reactions call for the OCTs to be taken better into account and even involved more directly in EU policy-making in areas that are likely to affect them.

⁷ Without prejudice to the particularities of each contribution, which are not analysed individually in the present Communication.

⁸ Accordingly to Article 17 of the EC Treaty, every person holding the nationality of a Member State shall be a citizen of the Union. As a matter of fact, all nationals of Greenland, and the French and the Dutch OCTs also have the nationality of the related Member States automatically and are therefore EU citizens. As from 21 May 2002, the citizens of all the British OCTs are also British citizens, but they can renounce it in favour of remaining British overseas territories citizens only.

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

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

3. A NEW PARTNERSHIP BETWEEN THE EU AND THE OCTs

In keeping with the purpose of the association of the OCTs with the Community under Article 182 of the EC Treaty, the logic of the 2001 Overseas Association Decision now needs to be replaced with a more contemporary approach, in particular taking due account of the consensus in the OCTs and the Member States to which they are linked on the idea that the solidarity between the EU and the OCTs should be based on their unique relationship and their belonging to the same 'European family'.

In this respect, the Commission takes the view that the overall rationale of the association should be to ensure the OCTs' sustainable development, as well as to help promote the EU's values and standards in the wider world. On the one hand, the necessary solidarity from the EU towards the OCTs' inhabitants —in principle European citizens as nationals of the related Member States — implies that the EU should promote the OCTs' sustainable development, in its economic, social and environmental dimensions. On the other hand, this special relationship as well as the OCTs' location all over the globe can also make their association with the EU into a privileged channel to promote the EU's values and standards on as wide a geographical basis as possible. The Commission thus believes that the future relationship should be more reciprocal, based on mutual interests.

Mindful of this new rationale, the future association should aim to enhance the OCTs' competitiveness, strengthen their resilience and promote cooperation between the OCTs and other partners in the regions where they are located, in the EU and beyond. This no longer requires a relationship between donor and aid partner as is the case today, but calls for a new framework of cooperation.

In this regard, the Community's internal policies and in particular its regional policy offer interesting examples. This does not mean that these policies or parts of them should be applied as such to the OCTs, or that the OCTs should be brought within the scope of these policies. Instead, the detailed rules and procedures for the association of the OCTs with the Community after 2013 should continue to be based on Article 187 of the EC Treaty, but should draw inspiration from successful formulae followed in implementing the Community's internal policies.

In this respect, it is particularly relevant that the Community's regional policy applies to each and every one of the 271 regions of the EU, in the sense that it constitutes a single policy framework, but is capable of catering for the huge diversity of these regions. Moreover, special attention should be paid to the EU's strategy towards the Outermost Regions, which is the result of a global and coherent approach across all Community policies.

The evolution of the current relationship between donor and aid partner towards a new partnership should entail a change in the way that OCTs receive financial assistance from 2014 onwards, though without prejudice to discussions on that future Financial Framework. In this respect, the Structural Funds could serve as source of inspiration, in particular the strategic approach of cohesion policy and the resulting thematic and financial concentration in the current programming period. Moreover, as is already largely the case today, Community financial assistance to the OCTs should only co-finance programmes. Indeed, contributions by the OCTs themselves or the related Member States ensure ownership of the programmes by the OCTs.

Notwithstanding the above, the Commission acknowledges that maintaining an anti-poverty approach in some OCTs might be justified, bearing in mind that some OCTs are at present eligible for Official Development Assistance⁹. However, the actual development needs in the OCTs in question should be assessed in relation to those of the EU's other aid partners, and a list should be drawn up accordingly. Consequently, the Community should only provide development aid to a very limited number of OCTs, if any. Of course, this should have no bearing on an OCT's eligibility for other forms of financial assistance to support the objectives of the OCT-EC association.

3.1. Three central objectives tailored to the OCTs' specificity

3.1.1. Enhancing competitiveness

The promotion of competitiveness in the OCTs should be one of the central objectives for the future association between the OCTs and the EU. By targeting drivers of competitiveness, such as education and vocational training, technological progress and innovation, information and communication technologies, macroeconomic stability, the rule of law, good governance (including in the tax area), transparent and well-functioning institutions and a solid policy framework for supporting small and medium-sized enterprises in particular in technology sourcing and the development of investment projects, as well as sustainable management and valorisation of environmental assets, OCTs could increase their potential to become centres of regional excellence. Focused cooperation of the business communities plays an important role in this regard.

3.1.2. Strengthening resilience

The second principal objective should consist in reducing the OCTs' vulnerability, rather than fighting poverty as is the case today. The responses to the Green Paper pointed out the inadequacy of today's traditional development cooperation approach to tackle the real challenges in the OCTs. It is essential to increase the OCTs' resilience, also because their vulnerability makes it difficult for them to develop their potential.

⁹ Anguilla, Mayotte, Montserrat, Saint Helena, the Turks and Caicos Islands and Wallis and Futuna.

Without prejudice to the specific situation of the least developed OCTs, the future association could thus focus on improving the OCTs' capacity to respond to economic shocks, energy dependency and environmental challenges as well as their extreme vulnerability to the consequences of natural disasters.

3.1.3. Promoting cooperation

Promoting cooperation between the OCTs and other partners should be the third key objective to be pursued under the future association. Such cooperation not only consolidates the OCTs' sustainable development, it is also essential if OCTs are to contribute to promoting the EU's values and standards in the wider world, in particular vis-à-vis neighbouring countries.

In particular against the background of the ongoing regional integration processes in the ACP regions and the Economic Partnership Agreements (EPAs) between the EU and the ACP regions, the OCTs' integration in regional and world markets and their active cooperation with other partners, whenever possible, is vital to harness their sustainable development and to take full advantage of globalisation and minimise its negative impacts. Increased cooperation could also increase the OCTs' capacity to tackle their vulnerability, e.g. via economies of scale, regional disaster risk reduction initiatives or cross-border environmental protection. In addition, it could enhance cultural exchanges and lead to better mutual understanding, respect for diversity and the promotion of core values. It could also allow OCT expertise to play a role in the EU's support for developing countries.

3.2. Principles and axes of cooperation that reflect a new approach

To attain the three objectives outlined above, which are to a large extent intertwined, the Commission has identified principles and axes of cooperation. They are not all necessarily equally relevant for each and every OCT, but should be seen in view of an OCT's specific situation. Moreover, without prejudice to the next Financial Framework, the question of how technical and financial assistance could best be provided by the Community in order to achieve the objectives of the association should be explored, with due regard to coordination with financial instruments for neighbouring Outermost Regions, ACP states or relevant third countries. In addition, the question could be raised whether OCTs can be better targeted under horizontal Community programmes, to which they have access in principle, similar to the direct or indirect targeting of the Outermost Regions in certain cases (like the specific 'capacity' programme under the Seventh Research Framework Programme).

Moreover, as the OCTs often stress the difficulties they encounter due to limited institutional capacities given their small size, the OCTs and the related Member States should make it a priority to overcome these problems, if necessary with the EU's help. In the same vein, the OCTs (and/or the related Member States) should equip themselves with the necessary capacity to follow relevant EU policy developments and to gather statistical data, which is essential to establish a consolidated diagnosis of the OCTs' social, economic and environmental situation for the subsequent development of appropriate policies and strategies.

3.2.1. Centres of excellence and expertise

Based on a clear diagnosis of an OCT's challenges and opportunities in its region, the future association should stimulate the formulation of a policy framework for an outward-oriented growth strategy, following a participative approach between public authorities, the private sector and civil society.

Once the comparative assets of an OCT have been identified, the future association should provide ways for an OCT to further develop these assets, up to at least EU-level standards, with a view to sharing the excellence and expertise acquired with other OCTs, neighbouring countries and in particular developing countries, as well as other interested partners. Such excellence and expertise could then also be shared with the EU whenever relevant.

3.2.2. EU rules and standards

In addition to the promotion of OCTs as centres of excellence, the future association should encourage and assist all OCTs (financially or otherwise) to ‘upgrade’ local legislation in relevant policy areas to the level of the Community *acquis*, where that is not yet the case. Such upgrading should always be voluntary. It could give rise to the respect of higher environmental standards, a healthier business climate, increased export capacities (e.g. via upgrading of sanitary and phytosanitary standards), etc. With regard to economic cooperation in goods and services, upgrading local legislation as well as assisting operators to adjust to the resulting new framework would reduce regulatory heterogeneity and non-tariff barriers, standardise customs procedures and facilitate regional and international trade, including with the EU. On tax, all OCTs concerned have now committed to international standards of transparency and exchange of information, whose swift implementation is essential for achieving a level playing field in the tax area and for the smooth functioning of tax systems¹⁰.

Upgrading local legislation could also make OCTs ‘examples’ in their regions, thus contributing, under a more reciprocal partnership, to promoting EU values and standards. However, it should be stressed that the voluntary adoption by an OCT of EU rules and standards in a given policy area would not be tantamount to that OCT’s integration within the related Community policy as such. Moreover, it should not become an obstacle to further regional integration if that is part of the OCT’s policy.

Even though the future OCT association should not entail the direct applicability of a given Community policy to the OCTs, the question could be explored how an OCT that has voluntarily taken over the Community *acquis* in a given area could somehow be better involved in the dialogue on the subsequent development of the relevant Community policy, without prejudice to the role of the Member States in the decision-making process. The future association could thus comprise mechanisms for policy dialogue, building upon the existing principles and practices embodying the trilateral relationship between the Community, the OCTs and the Member States to which they are linked, as well as upon the link between the OCTs and the related Member States.

3.2.3. Environment and disasters

The promotion of measures at international level to deal with regional or worldwide environmental problems is one of the objectives of the Community’s environmental policy. This policy already recognises the strategic importance of the OCTs in this field: they are included in action plans for the protection of biodiversity or climate change. Furthermore, the OCTs offer great potential for improving worldwide scientific knowledge on biodiversity and maritime environment and resources.

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See the Commission’s Communication of 28 April 2009 on Promoting Good Governance in Tax Matters (COM(2009) 201 final).

Following the responses to the Green Paper and taking note of the message from Réunion Island¹¹, the Commission is willing to examine, in partnership with the OCTs and the Member States to which they are linked, and involving civil society as well, proposals that could help the OCTs to embark on a sustainable development path ('greening the economy') and help them to implement environmental measures (such as adaptation to climate change, networks of protected areas, environmental assessments, waste management and renewable energies).

Disaster risk reduction (DRR) is also a key priority that cannot be addressed by one OCT alone. Responses are much more efficient when they are undertaken at regional or wider levels. Without prejudice to the action of the concerned Member States to include the OCTs in regional or international plans, the EU should help the OCTs to be considered by relevant regional organisations or be taken into account in regional or world strategies in this field. The EU's support for DRR in OCTs¹² is not only based on solidarity with the OCTs — it also allows the EU to benefit from the experience gained by OCTs in order to improve DRR within the EU or in developing countries.

3.2.4. Links to the outside world

There is no doubt that relative isolation constitutes a major challenge for most if not all OCTs. However, interconnection is essential for bolstering further economic development and for consolidating competitiveness via cooperation with other partners in the OCTs' regions or in the EU. Therefore, the future association should pay special attention to encouraging the OCTs, in particular the most isolated, to address accessibility issues and to develop information and communication technologies.

Once an OCT's accessibility is enhanced, ways of stimulating greater use of the improved interconnection facilities could then be explored. However, the creation of artificial schemes should be avoided. In this connection, the Commission is also willing to examine how the OCTs can develop and/or promote the use of seaports and airports as well as transhipment and warehousing infrastructure, by means other than the transhipment procedure under Article 36 of the current Overseas Association Decision, as there is currently no evidence that this procedure has any real value.

Obviously, improving the OCTs' accessibility is also vital to stimulate cooperation between OCTs, neighbouring countries, the EU (including the Outermost Regions) and other relevant partners. This will not only help them devise solutions to common challenges, but is also essential for the OCTs' role as strategic outposts of the EU. In this regard, cooperation of business communities has particular potential for technology transfer, for example in the area of tourism, renewable energies or aquaculture.

3.2.5. Trade and economic cooperation

The future provisions on trade and economic cooperation with the OCTs should maintain the current non-reciprocal tariff preferences granted to the OCTs. However, this should be without prejudice to any revision necessary, for instance with regard to the transhipment

¹¹ From the Conference 'The European Union and its Overseas Entities: Strategies to counter Climate Change and Biodiversity Loss', which took place on La Réunion from 7 to 11 July 2008 under the auspices of the French Presidency of the EU.

¹² See the EU Strategy for Supporting Disaster Risk Reduction in Developing Countries (COM(2009) 84 final), which also covers the OCTs.

procedure, rules of origin and cumulation, the inclusion of a provision on enforcement of tariff preferences in the event of fraud or irregularities¹³, or to the consequences of any OCT's choice (supported by its Member State) to be included within the special preferential arrangements between the Community and other partners in the region to which that OCT belongs, such as the EPAs¹⁴. The latter choice would also result in the trade relationship between that OCT and the Community becoming reciprocal.

Since the OCTs' trading environment and their privileged position within EU trade policy are changing as a consequence of multilateral liberalisation and the EPAs with ACP regions, the Commission wishes to stress the importance of the OCTs' integration within regional and world markets, as a complement to other means to enhance the OCTs' competitiveness and reduce their vulnerability. Therefore, the OCTs located in an ACP region have been invited to position themselves vis-à-vis the EPAs. However, full regional integration with ACP countries should only be pursued if each partner is willing to do so. The future association should thus be capable of catering for the differences between the OCTs, which may result from the choices made or, for the most isolated OCTs, from their specific situation.

In any event, the OCTs must continue to comply with the relevant obligations imposed on third countries in respect of trade, as they do not form part of the single market. However, the future association should make it easier for the OCTs to comply with these obligations, by encouraging and helping them to upgrade their internal standards.

Moreover, the Commission is in favour of modernising the rules of origin for OCTs. Taking into account the ongoing reform process and the importance of simplification, transparency and manageability, such modernisation could give rise to an OCT-specific set of rules of origin that would in principle apply to all OCTs. However, certain OCTs might prefer to apply the rules already applicable to trade between their ACP neighbours and the EU instead, in order to be able to maintain the possibility of OCT-ACP cumulation of origin in their region.

4. CONCLUSION

The Commission is in favour of a significant change in the approach to the association of the OCTs with the EU. Such a change should reflect the fact that the relationship between them is one of a kind, in the sense that the OCTs and the EU are intricately linked even though the OCTs do not form part of the EU as such. This should give rise to a partnership based on mutual interests, reciprocity, rights and obligations. In this context, the EU's solidarity towards the OCTs should ensure their sustainable development by strengthening their competitiveness and reducing their vulnerability, while the OCTs should contribute to the promotion of European values.

¹³ As in the General System of Preferences (GSP) and the EPAs.

¹⁴ The CARIFORUM-EU EPA already allows OCTs to be brought within the scope of the agreement. Should an OCT and its Member State so request, the Commission would agree to include that OCT within an EPA.

To help build a new EU strategy towards the OCTs, the Commission intends to examine in particular the following issues more in detail before making a proposal for a new Overseas Association Decision:

- Main challenges and opportunities of each OCT in its regional environment, as well as each OCT's comparative assets, strategic potential and present competitiveness in light of the development of an enabling environment for business cooperation and capacity building;
- Degree of convergence between the local legislation in each OCT and the Community *acquis* in relevant policy areas;
- Possible ways of improving OCTs' accessibility, including through information and communication technologies (ICTs);
- Impact and prospects of regional integration and globalisation for the OCTs;
- Promotion of closer cooperation on environment, *inter alia* climate change and biodiversity, and DRR in the OCTs;
- Actual need for development aid;
- Possible OCT-specific rules of origin;
- Possible financing mechanisms.

The aim is to pursue and intensify the reflection in the course of 2010 and 2011, in partnership with the OCTs and the related Member States. This should pave the way for working out concrete legislative proposals in time before the end of 2013, to amend the current association.