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**COMMISSION STAFF WORKING DOCUMENT**  
**EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT**

*Accompanying the document*

**COUNCIL DECISION**

**on the Association of the Overseas Countries and Territories with the European Union**

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# COMMISSION STAFF WORKING DOCUMENT

## EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

### *Accompanying the document*

#### COUNCIL DECISION

#### **on the Association of the Overseas Countries and Territories with the European Union**

### **1. PROBLEM DEFINITION**

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

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

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

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<sup>1</sup> Decision 2001/822/EC of the Council of 27 November 2001 on the association of the overseas countries and territories with the European Community, (OJ L 314/1, 30.11.2001), amended by Decision 2007/249/EC (OJ L 109/33, 26.04.2007).

given to the specific economic, social and environmental situation and needs faced by the concerned OCT.

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

Since the adoption in 2001 of the current OAD, the regional and international environments in which OCTs operate have considerably changed. New political priorities have emerged at European and international level, (such as environment, climate change, sustainable management of natural resources) as well as changes in global trade patterns. The European Commission proposed a strategy<sup>2</sup> articulated around three priorities: smart growth, sustainable growth and inclusive growth as a response to the economic and financial crisis.

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

Through public consultations, a number of general issues have been defined, such as the change of focus from poverty reduction in development cooperation, to a more reciprocal relationship. This change would allow for the association to respond to the realities in the field and ensure recognition of the OCT specificities, diversity and vulnerability, as well as their importance in terms of biodiversity. This change would also reflect the fact that the OCTs' main problem is not poverty as such.

The main issue which needs to be addressed consists in putting the economies and societies of the OCTs on a sustainable development path by increasing their competitiveness, reducing their vulnerability, and cooperating with their neighbours and integrating in the regional and/or world economies.

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

- (1) The OCTs have difficulties to overcome handicaps due to their physical characteristics (insular, small, remote, variable in size of exclusive economic zone);
- (2) They fail to mitigate their high vulnerability linked to their geographic characteristics (located in areas of cyclonic and seismic activities, exposed to impacts of climate change such as coral reef bleaching or sea level rise, highly dependent on imports of fossil fuels at high transport costs);
- (3) They hardly overcome low administrative capacities due to their small size and, as a consequence, they face difficulties in elaborating and implementing policy tools and developing infrastructures;
- (4) They fail to develop their micro-economies characterized by structural weaknesses, a small undiversified production base, with exports concentrated in a few sectors<sup>3</sup>:

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<sup>2</sup> Communication COM(2010) 2020 final of 3 March 2010 "Europe 2020 – A strategy for smart, sustainable and inclusive growth"

<sup>3</sup> For a more detailed analysis of the OCTs' economic profiles, see Annex 12.

- (5) They are confronted with erosion of trade preferences for OCTs in their relations with the EU and increased competition for their exports in third markets, due to the conclusion of an increasing number of Free Trade Agreements (FTAs) by major trading partners (the EU, the United States and Canada) that are important destination markets for some OCTs;
- (6) They are sometimes unable to be covered by initiatives/agreements concluded by the EU and/or their Member States aiming at tackling political priorities at European and international level that emerged in the last ten years such as impacts of climate change with third partners, lowering the capacities of the OCTs to join global response mechanisms.

## 2. ANALYSIS OF SUBSIDIARITY

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

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

In view of increasingly complex challenges, none of the EU's internal priorities – security, smart, inclusive and sustainable growth and job creation, climate change, access to energy, resource efficiency, including the protection of biodiversity, safe management of water or waste, health and pandemics, education - will be achieved in isolation from the wider world.

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

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

### **3. OBJECTIVES OF EU INITIATIVE**

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

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

Throughout the various consultations and external studies, a clear consensus has arisen among stakeholders, external assessors and political actors alike that the purpose and objectives of the association, as laid down in Articles 198 and 199 of the TFEU, would need to be translated into the objectives identified by the Commission as central to this framework and which were endorsed by the Council of the EU<sup>4</sup>. The specific objectives of the next association framework would therefore be as follows:

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

### **4. POLICY OPTIONS**

#### **4.1. Discarded options**

##### *4.1.1. No EU action*

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

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<sup>4</sup> COM(2009) 623 and conclusions of the Council 17801/09.

#### *4.1.2. Two distinctive Council Decisions: one for trade regime and another for cooperation for sustainable development*

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

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

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

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

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

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

Under policy option 2, the trade regime would continue to give OCTs duty free and quota free access to the EU market. In parallel, new provisions would foresee improved conditions under which OCTs could access the EU market by revising the preferential rules of origin<sup>5</sup>. In addition, policy option 2 suggests revising the arrangements for trade in services and establishment and granting to the OCTs Most Favoured Nation treatment, where they currently receive only basic third country treatment (i.e. General Agreement on Trade in Services - GATS).

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

#### **4.4. Option 3: Several partnership agreements concluded**

Option 3 would entail a diversification of EU-OCT relations. In the area of trade and economic cooperation two approaches would be adopted. Certain OCTs could be included in other EU bilateral trade arrangements, namely Economic Partnership agreements (EPAs) or FTAs, where relevant and possible. For the remaining OCTs, an OCT trade regime equivalent

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<sup>5</sup> (e.g. deletion of the requirement regarding the nationality of the crew manning vessels fishing outside territorial waters and the inclusion of new or clearer definitions of wholly obtained goods and minimal operations, lighter administrative requirements regarding evidence of direct transport of OCT goods between the OCT's territory and the EU, new possibilities for cumulation, more flexible administrative procedures for granting derogations to the rules of origin with period of validity determined on a case by case basis, etc.)

to policy option 1 or 2 would be foreseen under the association framework. Whilst this would not cover the trade and economic cooperation with those OCTs which would have been included in other trade agreements, it could cover cooperation with all OCTs in all other areas. An alternative option would consist in having all cooperation with OCTs that would fall under an EPA or FTA take place in the context of these agreements. This would imply that financial assistance would also take place outside of the association framework.

## **5. ASSESSMENT OF IMPACTS**

### **5.1. Assessment policy option 1**

#### *5.1.1. Social and economic impacts*

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

#### *5.1.2. Environmental impact*

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

Furthermore, policy option 1 would not allow the EU to promote its political agenda and its international commitments<sup>6</sup> regarding biodiversity, green energy, climate change and disaster risk reduction in the OCTs, and the OCTs would not help to promote EU's values and standard in these fields in the wider world.

#### *5.1.3. Administrative impact*

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

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<sup>6</sup> Communication COM(2010)2020final of 3.3.2010 "Europe 2020 – a strategy for smart, sustainable and inclusive growth" and Communication COM(2011) 500 final of 29 June 2011 "A budget for EU 2020 .

## 5.2. Assessment policy option 2

### 5.2.1. Social and economic impacts

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

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

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

In a first instance, the EU's market openness to OCTs' service operators would be aligned with the EU's most favourable treatment and would thereafter be automatically increased every time the EU would grant more favourable treatment to other third partners<sup>7</sup>. The services sectors which would benefit most from removing limitations would be the construction services, environmental services, and recreational services; all of which are of interest to OCTs. By further opening its services sectors to OCTs' operators, the EU would stimulate the further development of new or existing sectors by offering additional opportunities for exports, including for cross-border trade through modern communication technologies. In addition, policy option 2 would open the non-services investment (establishment) to OCTs, which is currently not covered. It would also contribute to OCTs becoming more attractive destinations of foreign direct investment. Ensuring that OCTs automatically extend to the EU the treatment they give to major economies such as US or China would respect the spirit of the special relationship between EU and OCTs and would be a translation of the principle of reciprocity.

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

The continued, targeted and coordinated support to OCT strategies, capacities, legislative and institutional frameworks proposed under policy option 2 is likely to increase the EU's involvement in OCT policies, regulatory models and the like. An avenue for doing so is

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<sup>7</sup> Whereas the weighted average openness of the EU corresponds to a factor 34 for modes 1, 2 and 3 under GATS, it corresponds to a factor 57 (and 74 for establishment) under a preferential agreement such as the EPA with CARIFORUM. See appendix 2 on trade and trade related aspects of the OAD.

offered by the new provisions concerning EU-OCT cooperation on trade which option 2 envisages.

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

#### *5.2.2. Environmental Impacts*

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

#### *5.2.3. Administrative impact*

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

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

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

### **5.3. Assessment policy option 3**

#### *5.3.1. Social and economic impacts*

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

less dependent on goods trade. The option could therefore have a serious impact on public spending in OCTs.

The social and economic impact of a possible inclusion of the Pacific OCTs in an EPA could stimulate the development of processing industry (for example fish/tuna), which might attract more foreign investment, at the expense of other partners. It could also lead to a vertical integration of the different industries. The EU's relevant processing industry could benefit from these developments if it would lead to a steady supply of these products to the EU. However, the EU industry could also be negatively affected by the stronger competition which they would face. In the most negative scenario, this could lead to job loss and the cessation of activities in certain EU Member States.

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

Those OCTs that would join EPAs could gain access to nominally larger amounts of trade related financial assistance under the 11<sup>th</sup> European Development Fund, but they would have no guarantee that sufficient financial resources be dedicated to their needs as the interests of the bigger partners and the developing countries may prevail. This effect may be counteracted if the OCTs would ally themselves within their region with ACP States such as Antigua and Barbuda, Fiji, Guyana and Palau, which are Small Island Developing States and face similar challenges as the OCTs<sup>8</sup>. While gaining access to these funds, the OCTs would be cut off from other potential sources of financing from which they benefitted under the OAD, such as the internal horizontal programmes and EU budget lines. This would be the case as well for OCTs which would be integrated or associated to other free trade agreements. However, for them this loss would not be compensated by access to additional funds under external programmes covering their region.

### 5.3.2. *Environmental impact*

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

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<sup>8</sup> For the UN list of Small Island Developing States, see: <http://www.un.org/special-rep/ohrls/sid/list.htm>.

would correspond to the one identified for policy options 1 or 2. Negative environmental impacts might be mitigated through cooperation with the EU on environmental issues.

### 5.3.3. *Administrative impact*

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

## **6. COMPARISON OF OPTIONS**

### **6.1. Policy option 1**

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

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

### **6.2. Policy option 2**

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

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

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

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

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

### **6.3. Policy option 3**

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

### **6.4. Coherence**

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

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

### **6.5. Effectiveness**

Policy option 1 does not allow a definition of goals and objectives in conformity with the political priorities defined by the Commission in its Communication<sup>9</sup> on the elements for a new partnership between the EU and the OCTs and endorsed by the Council<sup>10</sup>. Indeed, policy option 1 does not foresee the revision of the Association Decision in order to integrate the new challenges faced by both the EU and the OCTs. Furthermore, the inability of the OAD to take into consideration the changes in the context of EU trade agreements with third partners would diminish the capability under option 1 for the EU to attain the goal of a modernised EU-OCT framework.

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<sup>9</sup> Com(2009) 623 final of 6 November 2009

<sup>10</sup> Council conclusions 17801/09 of 22 December 2009 on the EU's relations with the OCTs

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

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

## 6.6. Efficiency

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

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

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

## 7. PREFERRED OPTION

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

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

Option 2 would thus lead to the modernisation and alignment of the OAD with the current EU policy framework. Subsequently, option 2 makes possible to better focus on the three pillars

of sustainable development (economic, social and environmental) and to give more emphasis to the international political priorities, such as climate change, environment and energy, which emerged in the last ten years.

Concerning trade rules, option 2 would permit to continue to give OCTs duty free and quota free access to the EU market and at the same time (contrary to option 1) to introduce improved conditions under which OCTs would access the market. In addition, under option 2 it is proposed to revise the arrangements for trade in services and establishment and grant the OCTs the "Most Favoured Nation" treatment, where they currently receive only basic third country treatment (i.e. GATS).

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

## **8. MONITORING AND EVALUATION**

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

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