

DEVELOPMENT

The European Union and the overseas countries and territories



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Relations with OCTs

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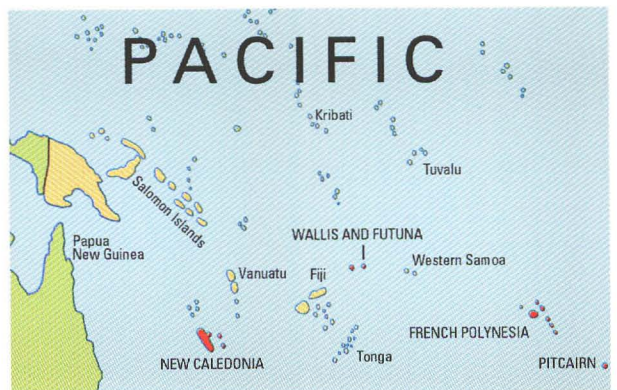
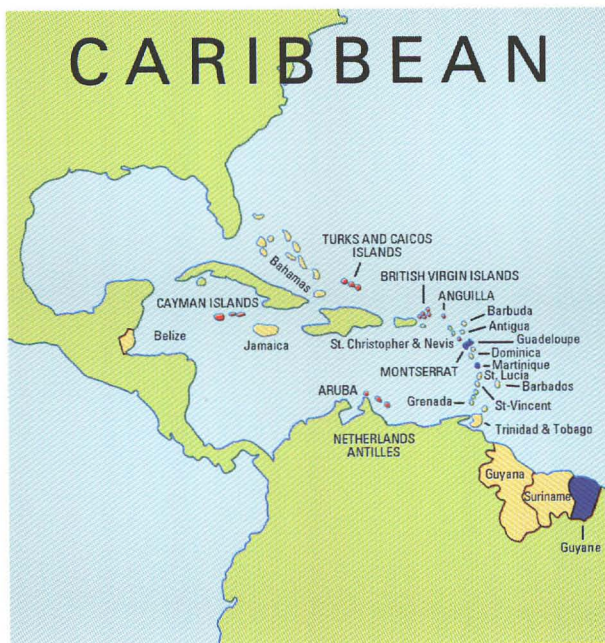
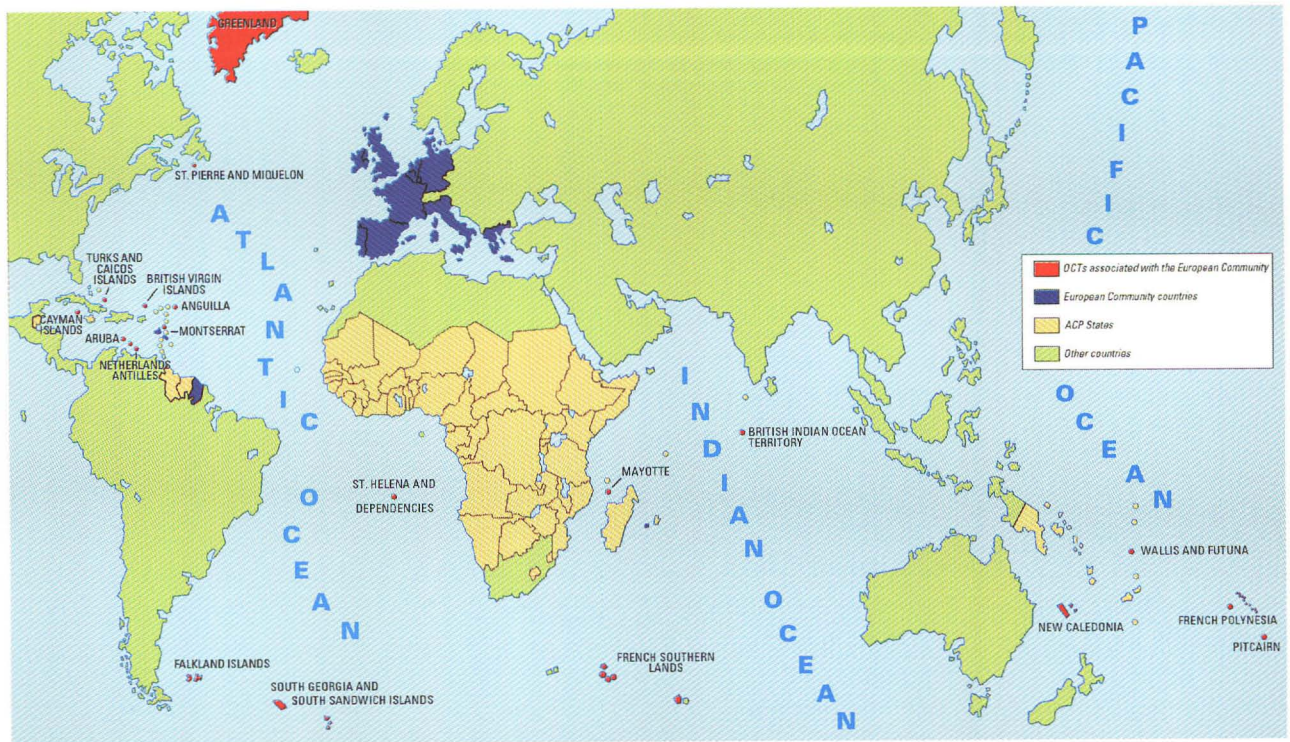
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Introduction

The building and expansion of the European Union continues apace but its ties with partners in the developing world are also flourishing. The EU is by far the biggest provider of aid for developing countries, offering substantial flows of funds that are underpinned by a range of instruments for specific purposes. Among the recipients of Community aid are the overseas countries and territories (OCTs), a motley group of small countries which have as their common factor a special bond with one or another EU Member State.

This brochure will kick off by giving a quick summary of the milestones in European construction and by explaining the role of Community institutions. After touching on the Community's external relations in general, we shall then look at the history and main instruments of its development policy because the links between the Community and the OCTs cannot be understood without knowledge of the historical and institutional background.

The second part of this introduction starts by looking at the special ties with the OCTs and traces the history of their association with the Community. Once the members of the group have been identified, their status vis-à-vis the Community and the African, Caribbean and Pacific States party to the Lomé Convention (ACP) will be analysed (not forgetting the French overseas departments (DOM) with which they are often confused).

Having sketched in the background, we can examine in detail the nature of the association between the OCTs and the Community, including its legal basis, the areas of cooperation and the cooperation instruments available. This key chapter winds up with a list of Community programmes for which the inhabitants of the OCTs are eligible.

We end by trying to glimpse what the future holds in store for this enduring relationship on the eve of the next millennium.

Glossary

ACP	African, Caribbean and Pacific States party to the Lomé Convention
DOM	Départements français d'outre-mer (French overseas departments)
ECU	European currency unit worth USD 1.1 in February 1998
EDF	European Development Fund
EEC	European Economic Community
EIB	European Investment Bank
EU	European Union
OCTs	Overseas countries and territories

1. Building the European Community

I. Inside the Community

A. Milestones in the creation of the Community

The European Community has 15 members: Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden and the United Kingdom.

All these countries are signatories to the Treaties that have been the cornerstones of a united Europe. The first foundation stone was laid in Paris in 1951 when six countries (Belgium, Germany, France, Italy, Luxembourg and the Netherlands) signed the Treaty setting up the European Coal and Steel Community (ECSC). In 1957 the same countries gathered in Rome to sign the two Treaties setting up the European Economic Community and the European Atomic Energy Community (Euratom), their objective being to establish an economic union and a common market.

Customs union came about on 1 July 1968: customs duties between Member States were abolished and a common external tariff established. This was far more than a mere customs union since an area was being created where goods, capital and services could circulate ever more easily and matters such as foreign trade, agriculture, fisheries, transport and other economic sectors were covered by common policies.

The first enlargement of the European Community, towards the north, took place in 1973 when Denmark, Ireland and the United Kingdom joined. It then expanded southwards, embracing Greece in 1981 and Spain and Portugal in 1986.

The 1986 Single European Act, which revised the earlier Treaties and enlarged the Community's sphere of action, was a major milestone of the last decade. It gave new impetus to the building of Europe by setting the goal of completing the single internal market by the end of 1992. This meant that the last obstacles to the free circulation of goods and persons between Member States, such as checks on customs duties, were removed.

In macroeconomic terms, the completion of the single market can make the Community more competitive in the world market. In turn, this reinvigorated Community economy can stimulate the world economy by offering new market outlets for suppliers inside and outside the Community.

Firms that export to the Community benefit from a single market made up of 345 million consumers and governed by the same standards and procedures (or ones that are mutually recognised). Just like Community firms, they have to comply with only one set of standards, not 15, to market their goods in the whole Community and also enjoy the added bonuses of economies of scale and more market flexibility.

The Treaty on European Union, signed in Maastricht on 7 February 1992 and adopted two months later (11 December 1991) by the Heads of State or Government, set the goals of political union and economic and monetary union.

In view of the events in eastern Europe, the Member States decided to strengthen their common foreign and security policy and, under the Maastricht Treaty, they committed themselves to consultation and policy coordination.

The Union gained three new members on 1 January 1995, Austria, Finland and Sweden, swelling its population to 380 million.

The Treaty of Amsterdam of 2 October 1997 was a further milestone on the path to closer union between the countries and peoples of Europe. Emphasis was put on the need to promote economic growth and job creation while protecting fundamental social rights in accordance with the European Social Charter. The principle of a common foreign and security policy was also adopted.

With many countries knocking at the door, the Community is set to expand once again. Currently, the Commission believes that Cyprus, Hungary, Poland, Estonia, the Czech Republic and Slovenia will, in the medium term, be in a position to satisfy the conditions for entry into the European Union. This enlargement will be phased at a pace appropriate to each individual acceding country.

B. European institutions

The European Community has five institutions: the European Parliament, the Council, the Commission, the Court of Justice and the Court of Auditors. They constitute its policy and decision-making machinery. And as the Community has changed and progressed, so have its institutions, the main trend being towards greater democracy.

Parliament had a purely advisory role at the outset but under the Maastricht Treaty it has been given the power to 'participate in the process leading up to the adoption of Community acts'. In practice, this means that there are instances where Parliament can amend proposals that the Commission sends to it as well as the Council.

Parliament is also entitled to take up any aspect of Community activity, either directly by receiving petitions from Union citizens or indirectly by appointing an ombudsman to look into complaints and investigate the activities of Community institutions or agencies. Formerly, parliamentarians were designated by their national governments, now they are elected by universal suffrage. The number of Members of the European Parliament (MEPs) to which each Member State is entitled is laid down in the Treaty.

The Council represents the 15 governments and is thus made up of Heads of State or Government or their ministers. It is the decision-making (legislative) body responsible for adopting directives, regulations and other legislation. But, as mentioned earlier, the development of the Community and its institutions has given Parliament a greater say in the legislative process.

The Commission, in contrast, is the executive organ and has responsibility for ensuring that the Member States apply Community law correctly. If necessary, it can institute infringement proceedings against them, proceedings that can lead to a Court of Justice ruling.

There are 20 members of the Commission appointed by the Member States for five-year terms. The Commission has the right of initiative, which means that it makes proposals for legislation to the Council. Note, however, that the Commission, like the Council, has to share some of its powers with Parliament as a result of the Maastricht Treaty.

The 15 judges and 8 advocates-general of the Court of Justice rule on the application of Community law, usu-

ally at the request of Community institutions or a national court.

The Court of Auditors was put on an institutional footing by the Maastricht Treaty. It is made up of 15 members appointed by the Council and its job is to audit the Community's expenditure and revenue accounts, and ensure that financial management is sound.

As well as these institutions, there are three other key bodies, one operational and two with a purely advisory status.

The European Investment Bank was set up, with capital underwritten by the Member States, to finance investment operations in the Community, and this still accounts for the bulk of its operations. But under various Community programmes its sphere of action has been extended to the developing countries, the OCTs, the ACP States and the Mediterranean. Recently, it has moved into central and eastern Europe and Latin America.

The Economic and Social Committee is an advisory body representing employers, trade unions and other interest groups. Where so provided in the Treaty, it delivers opinions on Commission proposals before their adoption by the Council.

The Committee of the Regions was set up by the Maastricht Treaty and is made up of local government representatives. It is consulted by the Council and the Commission on matters in its sphere of competence. It also works hand in hand with the Economic and Social Committee on issues of common interest.

II. The Community on the international stage

In its international relations, the Community strives to stimulate world trade and promote the economic growth of the poorest countries. The world's largest trading block threw its weight behind successive rounds of negotiations on tariff reduction. Its own external tariffs, which average 5.6 %, are among the lowest in the world.

Since 1971 it has operated a system of generalised preferences aimed at stimulating the developing countries' exports. It has signed all the international commodity agreements and set up a substantial fund to stabilise the export earnings of many producer countries.

It devotes part of its budget to aid programmes that benefit almost all the developing countries with which it has agreements. These agreements might offer trade preferences and technical and financial assistance — a major source of funds being the European Development Fund, the financial instrument of the ACP-EC Convention and the association with the OCTs — or a broader form of economic cooperation.

A. External relations

The Community has bilateral and multilateral agreements with countries of the Mediterranean and the Gulf Cooperation Council, the Association of South-East Asian countries (ASEAN), the Andean Pact and a number of other countries in Latin America and Asia.

In the industrialised world the Community's ties are strongest with the USA and Japan, which is natural in view of the size of these three economies and their weight on the world scene. But these relations also reflect other things they have in common — democracy and a market economy. The same holds true for other economically advanced countries such as Canada, Australia and New Zealand.

These common features do not prevent the emergence of occasional trade conflicts but these conflicts have never seriously threatened relations.

The Community and the countries of the European Free Trade Association (EFTA) have enjoyed special preferential relations since the early 1970s when two of the founder members of EFTA, the UK and Denmark, joined the Community. Free trade agreements were concluded with all the EFTA countries between 1972 and 1973 so as to avoid setting up customs barriers between the two new members and their former EFTA partners.

The importance of these relations declined when another three EFTA countries, Austria, Finland and Sweden, joined the Community, leaving only a small residual group: Iceland, Norway, Switzerland and Liechtenstein.

Relations between the Community and its central and east European neighbours have added an exciting new dimension to the Community's external policy.

The major upheavals that have taken place in these countries since 1989 have changed the political and economic face of Europe. German unification meant that the Community had to come up with a fast-track integration programme for the former East Germany.

The countries in this region have opted for democracy and free trade and all wish to establish closer relations with the Community. For many the ultimate goal is Community membership.

A new type of association agreement was created for this situation, giving rise to what are called the 'Europe Agreements'. In the meantime the system of generalised preferences was extended to the east European countries and the date for the abolition of quotas brought forward. The Europe Agreements provide not only for free trade but also for economic and technical cooperation, financial aid and political dialogue. As progress is made towards free trade, the Community will lower customs duties and other barriers to imports more quickly than its partners. The associated countries will open their markets to Community products in accordance with a flexible timetable tailored to specific needs.

The Community has been particularly careful to take account of the individual circumstances of each of its central and east European partners and to provide appropriate treatment.

B. Relations with developing countries

The Community has been establishing closer ties with the countries of the Mediterranean, the Middle East,

Asia and Latin America but this North-South dialogue is built around a much older relationship established with the overseas countries and territories at the time the EEC was set up by the Treaty of Rome. Part Four of the Treaty set up the association of the overseas countries and territories, at that time mostly colonies and territories of France.

The first European Development Fund (EDF), providing for a significant amount of financial aid, was set

up under the Implementing Convention on the OCTs annexed to the Treaty as a tangible expression of the Community's commitment to the development of the OCTs.

Then in the early 1960s some of the Member States' colonies became independent States but almost all of them were anxious not to lose the benefits of their association with the EEC, which included not only financial aid for economic and social development but also preferential access to the EEC market. For these countries, the association took new shape in the form of the Convention of Association between the European Economic Community and Associated African and Malagasy States (AAMS), which was signed in Yaoundé on 20 July 1963.

Thus the fledgling European Community entered into financial and commercial commitments with a large number of OCTs and AAMS.

This coincidence between the end of the colonial era and the birth of the European Community provided the springboard for a true development policy. The early Yaoundé Conventions with the 18 AAMS paved the way for the Lomé Conventions, the first of which was concluded in 1975 with 46 ACP States. The current Convention, the fourth, was signed on 15 Decem-

ber 1989 by 69 ACP States and a revised version (following a mid-term review) was approved on 4 November 1995.

The association with the OCTs has been regularly updated by Council decisions in parallel with the Lomé Convention, and cooperation with these two groups has remained the cornerstone of Community development policy in terms of both financial aid and trade.

Products originating in the OCTs and ACP States have preferential access to the Community market. Since 1991 all products originating in the OCTs have had completely free and unlimited access to the Community market (before they had the same preferential treatment as that granted to the EAMA and later the ACP States).

ACP products also enjoy a preferential treatment. This involves rules of origin and the principle of transshipment which will be described in more detail later.

Since 1975 the concessions accorded to the ACP States and the OCTs have not entailed reciprocity. The Lomé Convention and the OCTs decision simply require that Community exports not be treated less favourably than those of other developed countries.

2. The Community and the OCTs

I. History of an association

In order to properly grasp the status of the OCTs, we first need to trace the history of this association. Part Four of the EEC Treaty created 'the association of the overseas countries and territories', meaning that the association dates back to 1957. The objectives of this association are laid down in Articles 131 to 135 of the Treaty of Rome. The purpose of this association, according to Article 131, is 'to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Community as a whole'.

1. The wording of Article 131, as amended by the Amsterdam Treaty, refers to the 'non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom', which are listed in Annex II to the Treaty of Rome.

The original version of Article 131 included Belgium and Italy and made no reference to the United Kingdom and to Denmark. Any reference to the countries 'linked' to Belgium and Italy had become obsolete since the countries concerned had become independent, whereas countries and territories with links to the UK and Denmark had to be added.

The first enlargement of 1973 extended the association to the countries and territories under the UK. In 1986 Greenland joined the association when it became an independent territory under Denmark.

A large number of OCTs became independent in the 1960s and joined first the AAMS and then the ACP group. But it was this association with the OCTs that laid the foundations of the future Community development policy since the high contracting parties specified that the 'Community as a whole' would establish close economic relations with these countries and territories and aid their development. The Implementing Convention signed on 25 March 1957 set up the EDF and provided for measures concerning the right of establishment and trade.

Since then the Council has adopted decisions at five-year intervals confirming and regulating this associa-

tion on a similar basis to the Yaoundé and Lomé Conventions. This explains the close parallelism between the OCTs and the AAMS and then the ACP States.

The 1991 decision on the association of the OCTs with the EEC (91/482/EEC of 25 July 1991) was concluded for a period of 10 years like Lomé IV but marked a departure from the traditional parallelism with the ACP States. It made a number of innovations that made it much more favourable to the OCTs than previous decisions. Other innovations were introduced by Decision 97/803/EC of 24 November 1997 revising the 1991 decision.

2. The association is governed by these successive decisions, not by the general provisions of the Treaty nor the secondary legislation adopted under it.

In implementing these decisions on behalf of the Community, the Commission and the EIB are careful to observe the constitutional framework linking the Member State and the country or territory concerned. The Council decisions refer to the 'relevant authorities of the countries and territories', leaving it up to the management bodies and the Member State authorities to establish by mutual agreement procedures that comply with constitutional requirements.

3. Note also that every five years the trade regime for ECSC products is the subject of a decision of the representatives of the Member States meeting within the Council. There is no provision on the Euratom Treaty, however.

4. Greenland is a case apart. In 1979 it expressed the wish to hold a referendum on whether or not it should stay in the EC, which Denmark had joined in 1973. The referendum of February 1982 led to the Council signing on 13 March 1984 a Treaty amending the Treaties establishing the European Communities with regard to Greenland, which was then ratified by the Member States. By this act, Greenland was added to the OCTs listed in the Treaty of Rome (Annex I to Decision 86/283/EEC of the 30 June 1986).

It does not, however, have the same financial treatment as the other OCTs: it was agreed that Greenland would not be eligible for the EDF but would receive an

annual compensation in exchange for the catch quotas allocated to the Community in Greenland's waters. Three fishery protocols have since been concluded between the EC and the Government of Denmark providing Greenland with financial compensation payable each year at the beginning of the fishing campaign. The annual amount accorded under the first protocol of 1987 was ECU 26.5 million. Under the second protocol (1 January 1990 to 31 December 1994) the sum was raised to ECU 34.25 million a year. The current protocol, signed on 1 January 1995 and running until 31 December 2000 sets the financial compensation at ECU 37.5 million annually.

II. What are the OCTs and what do they have in common?

There are 20 OCTs scattered around the globe:

- **Twelve British overseas countries and territories:** five are in the Caribbean, three of which are in the West Indies (Anguilla, Montserrat and the British Virgin Islands) and two of which are near Florida and Cuba (the Cayman Islands and the Turks and Caicos Islands). Another group are in the Atlantic Ocean, some close to South America on the latitude

of Tierra del Fuego (the Falkland and Sandwich Islands) and others closer to Africa on the latitude of Angola (Saint Helena). There is one British territory in the Antarctic, the Bermudas are off the east coast of the United States, while Pitcairn is isolated in the Pacific Ocean.

- **Six French overseas territories and territorial communities (*collectivités territoriales*):** most are in the Pacific Ocean (French Polynesia, New Caledonia and its dependencies, Wallis and Futuna), except for the Southern and Antarctic Territories, which are in the Indian Ocean (Crozet and Kerguelen Islands) and the Antarctic continent.

The territorial communities consist of an island in the Indian Ocean (Mayotte) and two islands off Newfoundland, St Pierre and Miquelon.

- **Two Dutch overseas countries:** Aruba and the Netherlands Antilles, which are both in the Caribbean.
- Finally, under the Danish Crown, we have the vast autonomous territory of **Greenland** which occupies an area larger than the Community stretching from the Arctic Ocean to the Labrador Sea.

III. Status of the OCTs vis-à-vis the Member State concerned

British OCTs

The inhabitants of the British OCTs have 'British dependent territory citizenship' rather than full British citizenship apart from the Falkland Islands which, since the 1983 Falkland Islands Act, is, together with Gibraltar the only dependency whose nationals enjoy the same rights and obligations as UK citizens.

The UK has twice redefined British nationality: first when it joined the EC and then with the 1981 British Nationality Act.

The upshot is that Community law applies to the following people:

- British citizens
- persons who are British subjects and enjoy right of abode in the UK
- British dependent territories citizens.

French OCTs

The inhabitants of the French OCTs have full French citizenship. They are entitled to vote and to stand for the national parliament and the senate, and also for the European Parliament (alone among the OCTs in this respect). Moreover, they have a European passport like other French citizens.

French law distinguishes between the overseas territories (TOM) and the two territorial communities (Mayotte and St Pierre and Miquelon) and specifies the powers delegated to the various types of French OCTs.

French territories enjoy legislative autonomy, which enables them to adopt local laws to implement Community acts concerning the OCTs (e.g. debate on the EDF indicative programme in the territorial assembly). In the territorial communities national law is directly applicable. Since the general provisions of the Treaty and related secondary legislation, apart from Articles 131 to 136, do not apply in the OCTs, it is up to France to exclude, where necessary, the two territorial communities from the scope of Community legislation directly applicable in the Member State.

Only three of the OCTs have a sizeable population exceeding 150 000 (the Netherlands Antilles, French Polynesia and New Caledonia). Most are sparsely populated, often having fewer than 10 000 inhabitants (Anguilla, Saint Helena and the Falklands among the UK OCTs and St Pierre and Miquelon in the French group).

This combination of distance and low population is necessarily a major economic drawback: any investment effort is handicapped by the costs added by distance and the small size of the local market, plus the fact that production costs are relatively higher than in the Community, while the burden of investment and depreciation is borne by only a small number of taxpayers.

Per capita GNP varies tremendously. Five OCTs are markedly more developed: Greenland (USD 10 666 per capita), French Polynesia (USD 7 780), the Netherlands Antilles (USD 6 380), Aruba (USD 6 060) and New Caledonia (USD 5 630). The other OCTs have a per capita GNP ranging from USD 700 to 3 500.

The trade balance is always in deficit (often quite substantially). OCTs' trade is heavily dependent on the Community and, in spite of the opening of the Community market under the successive association decisions, trade flows have barely diversified and are still tied to the Member States on which they depend.

The special relations have not yet given way to trade flows between the OCTs and the other Member States.

Dutch OCTs

The Charter of the Kingdom of the Netherlands of 22 October 1954 established a tripartite kingdom with the sovereign of the Netherlands as Head of State. Under this new constitutional order the Netherlands, the Netherlands Antilles and Suriname (now independent) deal with their domestic matters autonomously and matters of common interest on an equal footing.

This fundamental law governs relations between the Netherlands and the Netherlands Antilles, of which Aruba was a part until 1 January 1986 when, following an amendment to the Charter adopted on 22 July 1985, the island was granted a separate status placing it on an equal footing with the Netherlands Antilles in relation to the Netherlands.

Each overseas country has its own constitution and enjoys internal autonomy with a parliament and government.

The Charter rests on two essential principles:

- the association of the overseas 'countries' in all affairs of State ('country' distinguishes them from the 'kingdom' which refers to the mother country and is used in the text of the Charter with reference to affairs of common interest);
- internal autonomy for the management of internal affairs.

The Charter provides for reciprocal representation of mainland Netherlands and the overseas countries in the kingdom's administrative and political machinery, a provision which plays an important role.

The Crown 'member countries', the Netherlands Antilles and Aruba, are involved in running the affairs of the kingdom which are managed 'in cooperation'. The plenipotentiary ministers of the associated countries sit on the kingdom's Council of Ministers and take part in its discussions on matters of common interest affecting their countries. Mirroring the representation of the overseas countries in the Hague, the Dutch sovereign is represented in the overseas countries by a governor who exercises executive power jointly with the country's Council of Ministers and is assisted by an advisory council.

The principle of autonomy in the conduct of each component of the Kingdom's domestic matters is enshrined in Article 41 of the Charter. There are some

restrictions, however, concerning affairs of the realm qualified as being 'of common interest'.

Matters of 'common interest' are all the traditional prerogatives of the State in international law (upholding the country's independence and defending national territory, foreign affairs, matters concerning Netherlands nationality, the national flag, the status of foreigners and decisions on expulsion and extradition, etc.). These issues are dealt with in 'association' by the Netherlands and the overseas countries, since only the kingdom can act under international law, no overseas 'country' being recognised as having sovereignty.

This list is not exhaustive and could be supplemented by mutual assent. Accordingly, any matter not explicitly stated as being of 'common interest' is held to be an internal affair.

Greenland

When the Danish Constitution was revised in 1953, Greenland ceased to be a Danish colony and became an integral part of the kingdom.

On Denmark's accession to the EC in 1973 (Act of Accession of 22 January 1972), Greenland, unlike the Faeroe Islands, which had obtained the 'home rule' in 1948, became part of the EC on the same footing as 'metropolitan' Denmark. But Greenland's membership of the Community was very controversial, 70 % of Greenlanders having voted against entry into the Community in the Danish referendum of 1972.

On 1 May 1979 Greenland acquired the status of a separate community within the Kingdom of Denmark on the lines of the 'home rule' accorded to the Faeroe Islands in 1948; this status was approved by a local referendum in February 1982.

Consequently, and at the request of the Danish Government, on 13 March 1984 the Council amended the Treaty establishing the European Communities with regard to Greenland (OJ L 29, 1.2.1985). This act lays down that:

- Part Four of the EEC Treaty (OCTs) is applicable to Greenland;
- the territory is added to the list of the OCTs in Annex IV (now Annex II) to the Treaty and to Annex I to Council Decision 80/1186/EEC, of 16 December 1980 on the association of the OCTs with the EEC (the association decision in force at the time).

Greenland duly appears in the next association decision (Council Decision 86/283/EEC of 30 June 1986, OJ L 175, 1.7.1986) but Article 125 of that decision specifies that financial and technical assistance is available for the overseas countries and territories 'except Greenland'. It is the fisheries agreement concluded on 29 January 1985 between the EC and the Government of Denmark, on the one hand, and the local government of Greenland, on the other, (entering into force at the same time as the amendment to the Treaty: Council Regulation (EEC) No 223/85, OJ L 29, 1.2.1985) which covers the financial aspects of EC-Greenland relations.

Under these home rule arrangements Greenland elects two members to the Danish Parliament, the home rule system being based on the principle of maintaining the unity of the Kingdom of Denmark. The constitutional status of the 'home rule authority' is laid down in Danish law, the national parliament delegating some of its powers to Greenland.

Thus the management of local issues falls within the competence of the Greenland authorities, while the more general policies are managed by the representatives of the kingdom or the Danish central authorities:

- environmental protection was transferred to the home rule authority on 1 January 1989 but not justice, citizenship, international relations, defence, finance and private law, which remain the province of central government;
- mineral resources rights were transferred to Greenland on 1 July 1998;
- international relations are dealt with by the Danish authorities after consultation with Greenland on matters concerning it.

IV. The OCTs and the ACP States in relation to the EC

How do the OCTs differ from the ACP States from the point of view of the EC?

The difference between the OCTs and ACP States lies essentially in the special status of the OCTs: while, like the ACP States, they certainly do not form part of the territory of the Community, they are constitutionally subject to a Member State and are not independent countries.

OCTs' inhabitants who have the nationality of a Member State may, like other Community citizens, avail themselves as individuals of the advantages arising from secondary Community legislation when they are on Community territory.

There is, however, a certain parallelism between the OCTs association with the EC (association based on successive Council decisions) and the ACP-EC Conventions (Yaoundé, then Lomé). Indeed, the structure of the 1991 association decision mirrors that of Lomé IV, although of course it remains a separate Council decision adopted on the basis of Article 136 of the Treaty. And while many parts of the decision are similar in spirit to Lomé IV (for example, the various fields of cooperation, Stabex and Sysmin, EDF for financing development, regional cooperation, etc.), there are many innovations specific to the OCTs.

The trade arrangements for OCTs' products are more open than those for products originating in the ACP States because of the special relations between the Community and the OCTs arising from Part Four of the Treaty of Rome:

V. The OCTs and the DOM in relation to the EC: Similarities and differences

How do the OCTs and the DOM differ under Community law? It is important to distinguish between the two.

The four overseas departments (Guadeloupe, Guyana, Martinique and Réunion) are just as much part of France as Brittany or Aquitaine and so are an integral part of the European Community.

The inhabitants of the French OCTs do indeed have French nationality as do the nationals of the DOM but the key difference lies in the fact that OCTs do not form part of the territory of the Community whereas the four DOM do.

- the abolition, without quantitative limits (except for rum) of customs duties and other common agricultural policy (CAP) charges which were previously applied to the OCTs and are still applicable to the ACP States (i.e. no ACP/OCTs parallelism);
- amendments to the rules of origin introduced under Lomé IV;
- amendments specific to the OCTs rules of origin;
- the introduction of a transshipment system.

These principles remain valid even following the review of the 1991 decision by the decision of 24 November 1997, of which more later.

Unlike the OCTs, the DOM are full beneficiaries of all the common policies: the common agricultural policy, transport, energy, commercial policy, regional policies and so on. Two examples will illustrate this fundamental difference.

- As regards the single market, the four main objectives of the Single Act — the free movement of persons, of goods, of services and of capital — apply to the DOM. The common external tariff applies to imports into the DOM just as it applies to imports arriving at Le Havre, Hamburg or Genoa. It does not apply to goods entering the OCTs, however, and the authorities of each of the OCTs are free to fix their own customs legislation, as will be seen in the description of the trade arrangements for the OCTs.
- Community aid for development of the DOM and the OCTs comes from different sources: the OCTs are eligible for the EDF together with the ACP States, while the DOM are covered by the Structural Funds (the ERDF, the EAGGF and the European Social Fund) on the same footing as other regions of the Community. The DOM did get financing from the EDF in the period 1958 to 1977 but since then they have been covered by Community policies, which entitle them to benefit from the 'internal' Structural Funds.

The legal basis for the treatment of the DOM is Article 227(1) and (2) of the Treaty of Rome. The old version of this article merely listed the Member States to which the Treaty applied and made reference to other provisions in the Treaty that could be applicable to the French DOM, adding a pious hope concerning the economic and social development of these regions. Not until 1989 did the Council, by Decision 89/687/

EEC of 22 December 1989, institute a programme to aid these regions in order to overcome the problems of distance and economic constraints (Poseidom).

The new version of paragraph 2 of Article 227, introduced under the Amsterdam Treaty (Article 299), takes on board these constraints by giving the Council a specific directive to adopt, by qualified majority, special measures to take account of 'the structural, social and economic situation of the French overseas departments, the Azores, Madeira and the Canary Islands. This situation is compounded by their remoteness, insularity, small surface area, difficult topography and climate, economic dependence on a few products, the permanence and the combination of which severely restrain their development.'

This institutionalisation of the DOM development programme in the new Treaty constitutes recognition

at the highest level of the specific needs of the DOM going beyond the simple framework programme offered by Poseidom. The Community institutions are henceforth required to adopt measures in quite specific fields, such as customs, trade, tax, agriculture, fisheries, in addition to State aid, the Structural Funds and a number of Community programmes.

The OCTs are 'associated' with the Community on the basis of Articles 131 to 136 of the Treaty of Rome. Community secondary legislation does not apply to them directly and it is up to the Council, on the basis of Article 136 of the Treaty, to adopt the specific measures applicable to the OCTs.

A turning point in the association came in 1991 when the Council adopted Decision 91/482/EEC of 25 July 1991 and more changes have occurred since which will be discussed in the following chapters.

3. The current state of the EC-OCT association

I. The legal basis

The current association is based on four types of legal act.

The Treaty of Rome, amended by the Single Act, the Maastricht Treaty and the Treaty of Amsterdam

Under Article 136 the Council is responsible for laying down 'on the basis of the experience acquired (...) and of the principles set out in this Treaty (...) provisions as regards the detailed rules and the procedure for the association of the overseas countries and territories with the Community'. Such provisions have to be adopted unanimously: the Treaty of Amsterdam did not amend the Treaty of Rome on this point, despite a proposal put forward at the Intergovernmental Conference of 1996 to move to a qualified majority procedure. The need for unanimity holds up the adoption of association decisions.

In Declaration 36 of the final act of the Treaty of Amsterdam on the OCTs, the representatives of the governments of the Member States noted the geographical and economic handicaps of the OCTs and stated that the 1957 association arrangements were not adequate for today's challenges.

They asked the Council to review the arrangements by February 2000 with the aim of:

- promoting the economic and social development of the OCTs more effectively;
- developing economic relations between the OCTs and the EU;
- taking greater account of the diversity and specific characteristics of the individual OCTs, including aspects relating to freedom of establishment;

- ensuring that the effectiveness of the financial instrument is improved.

Council Decision 91/482/EEC of 25 July 1991 on the association of the OCTs with the EEC ⁽¹⁾

The association decision of 25 July 1991, concluded for a 10-year period like Lomé IV, reflects in many ways the traditional parallelism with the ACP States.

The new provisions of Lomé IV that are taken over in the OCTs decision include:

- extension of the duration from 5 to 10 years (except for the financial protocol): the current arrangements will expire on 29 February 2000;
- improved financing conditions (all project aid in the form of grants);
- introduction of decentralised cooperation for local communities;
- emphasis on protecting the environment, the role of women and promoting business ventures and services: improvements in the working of Stabex and Sysmin;
- emphasis on regional cooperation between ACP countries and OCTs in the same geographical area.

The many significant innovations introduced in this association decision make it much more favourable to the OCTs than previous decisions.

They are based on the special status of the OCTs as provided for in Part Four of the Treaty.

(¹) OJ L 263, 19.9.1991, p. 1.

Council Decision 97/803/EC of 24 November 1997 amending at mid-term Decision 91/482/EEC ⁽¹⁾

In parallel with the same provision in Lomé IV, Article 240 of the 1991 decision provided for a mid-term review of certain aspects of the procedures governing the association. The main reason for the review was to set the amount of Community financial assistance for the development of the OCTs in the second half of the 10-year period covered by the 1991 decision (March 1995 to March 2000). Other amendments were made in the light of the experience gained in previous years or in response to requests of the OCTs authorities.

The review should have been operational from March 1995 but because of the delay in agreeing on the level of eighth EDF resources (decision not reached until the European Council of June 1995) combined with stumbling blocks in the negotiations, it was not adopted until 1997. The interim period was covered by Decision 96/109/EC of 29 January 1996 ⁽²⁾ on transitional measures.

The new system strengthens the links between the Community and the OCTs.

Regulations laying down implementing rules for ACP/OCTs cumulation of origin

These regulations cover imports of rice (Commission Regulation No 2603/97 of 16 December 1997) ⁽³⁾ and of certain other products, in particular sugar (Commission Regulation No 2553/97 of 17 December 1997) ⁽⁴⁾.

II. The areas of EC-OCTs cooperation

Cooperation between the Community and the OCTs, the aim of which is to develop these disadvantaged ter-

ritories, is carried out in a great number of areas such as the environment and health, industry, agriculture and food security, fisheries, trade, transport and communications, mining, commodities, energy, tourism and regional integration.

This cooperation is both financial and technical. The OCTs get grants and risk capital from the EDF and loans from the EIB to finance development projects answering to priorities fixed by the competent OCTs authorities.

Technical assistance in the form of expatriate personnel is accorded only at the request of the OCTs authorities. The main objective of technical assistance is to help the recipients to develop local human resources to take over.

The Commission-Member State-OCTs partnership arrangements play a key role in all areas of cooperation. Here are some examples of the support measures and development aid available.

Environment and health

There is emphasis on the need to preserve the environment and act on the social and health problems of the OCTs.

The 1997 amending decision strengthened the measures on waste disposal already provided for in the 1991 decision and made social and cultural innovations affecting health. Exports to the OCTs of both hazardous and non-hazardous waste 'with the exception of exports of non-hazardous waste destined for recovery operations' are banned. In addition, combating drug abuse is recognised as a health matter and there are projects to convert the drug-producing regions to other activities and aid for prevention and treatment of drug addiction.

By these measures the Council took action to deal with two problems that were becoming serious enough to threaten the ecological and social equilibria of the less developed countries, the tendency on the part of rich countries to sub-contract waste disposal to the other, poorer countries and the worrying spread of alcoholism and addiction to other drugs.

Industry

The Community supports the creation of viable industries in the OCTs, such as the manufacture of basic necessities and products meeting local needs. This does not exclude the engineering, metallurgical or

⁽¹⁾ OJ L 329, 29.11.1997, p. 50.

⁽²⁾ OJ L 26, 2.2.1996, p. 27.

⁽³⁾ OJ L 351, 23.12.1997, p. 22.

⁽⁴⁾ OJ L 349, 19.12.1997, p. 26.

chemical industries. Provision is made for multisectoral measures, examples being the building and strengthening of infrastructure required by industry, research programmes, technology transfers and provision of advisory services.

OCTs are eligible for the services of the Centre for the Development of Industry (CDI), the role of which is to encourage joint business ventures by operators of the Community and the OCTs. This is particularly relevant for OCTs that have included industrial/private-sector development in their indicative programmes or that have obtained financial aid from other Community institutions.

The Commission, the EIB and the CDI cooperate in the preparation of support programmes for industry and the private sector. It is the CDI's job, for example, to identify viable industrial projects, carry out studies, provide technical know-how and identify potential OCTs and Community partners for joint investments. The CDI is financed from the EDF. The OCTs can draw on its services but must finance its services from their indicative programmes.

Collaboration between OCTs and Community firms is also carried out via the Euro Info Correspondence Centres (EICCs), the role of which is to help OCTs and Community firms to exchange information, whether it be economic, legal, administrative or statistical.

Euro Info Centres (EICs), financed from the budget, are found right across the Community. Again, OCTs which want to use their services must finance them from their indicative programmes.

Agriculture and food security

It is planned to set up a fund to provide agricultural credit.

Fisheries

Various forms of support are possible, from the purchase of boats to the processing and marketing of fishery products.

Trade

Support for the development of trade focuses on the private sector and the OCTs' efforts to penetrate third country markets.

Transport and communications

Special attention is paid to the development of shipping. It is proposed to give OCTs' shipping operators easier access to the resources provided for in the decision. The Community might also offer risk capital and/or EIB loans.

Mines, commodities, energy

Development in these three sectors is encouraged by the possibility of implementing financial and technical assistance programmes (mining), aid for joint EC-OCTs investments (commodities) and special EIB financing for investment in energy projects.

Tourism

A wide range of projects to improve tourism in the OCTs has been devised, including not only an enhancement of human, natural and cultural resources but also the modernisation and improvement of services.

Regional integration

Long-term development calls for regional cooperation and integration that will integrate the OCTs into a broader economic context embracing other OCTs and even the DOM and ACP States.

Stronger links between countries and territories of the same geographical region having similar features in common can only benefit one another's development.

III. Cooperation instruments

In almost all these areas of cooperation there are instruments and tools enabling the Community and the OCTs to achieve the development aims set out in the Treaty and in secondary legislation. These instruments can be grouped into a number of different categories.

Institutional aspects: partnership

The 1991 association decision established the principle of Commission-Member State-OCTs three-way talks or 'partnership'.

In proposing such a dialogue, the Commission made good the dearth of democratic dialogue under the six previous association decisions since 1957.

Giving a voice to local representatives is a political gesture to democracy and dialogue that has been welcomed by the OCTs authorities.

Such a dialogue was already under way with other partners. ACP-EC relations gave birth to a variety of joint institutions at the outset. The DOM, along with other regions of the Community, have been taking part in the management of Community resources alongside the Commission and its Member States since the reform of the Structural Funds of 1989. The association with the OCTs was alone in not providing for the participation of locally elected representatives but this anomaly has now been remedied.

Under Article 235 of the association decision, the partnership can deal with 'any problem arising in relations between the OCTs and the Community'. The dialogue is therefore very wide-ranging.

In 1992 the EDF indicative programmes of each country and territory were signed on the spot for the first time by a local representative, a representative of the Member State concerned and a Commission representative.

The 1997 decision also opened up the possibility of financial aid from the EDF to help cover the cost of partnership meetings, which are now held annually.

Trade

OCTs and ACP products have preferential access to the Community market.

Rules of origin

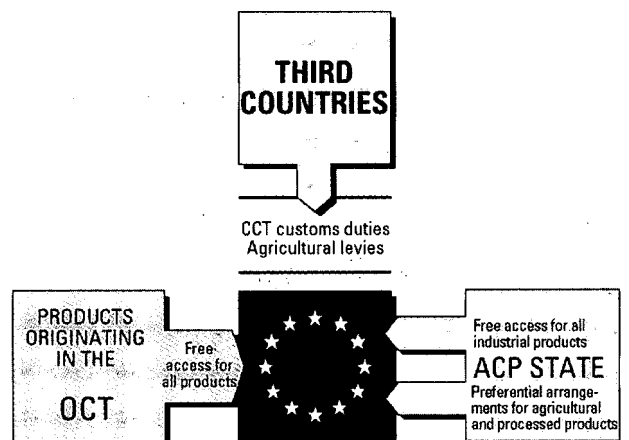
Since 1991 all products originating in the OCTs have enjoyed completely free and unlimited access to the Community market (before they had the same preferential treatment as the AAMS and then the ACP States).

Products originating in the ACP States also enjoy preferential treatment: their products enter the Community market free of duty or other charges and are not subject to quantitative restrictions apart from some products directly or indirectly covered by the common agricultural policy whose treatment is normally preferential only in relation to third countries and access is not unlimited. The association with the OCTs is thus the only association agreement concluded by the Community to go so far (see Table 1).

In order to promote the exports of its partners, the Community has stipulated in the ACP-EC Convention and the association decision that these trade preferences are reserved for products originating in the ACP States and the OCTs. There are provisions on rules of origin which are intended to reserve free access to the Community (or the preferential treatment) only to products which are really produced or processed locally, thus creating jobs. This is to prevent exploitation of the preferential arrangements by other countries using the ACP States or the OCTs merely as a springboard to the EC market.

Since 1975 these concessions to the ACP States and the OCTs have not entailed any reciprocity. The association decision authorises the competent authorities of each country or territory to retain or introduce the

1. OCT-EEC TRADE RELATIONS



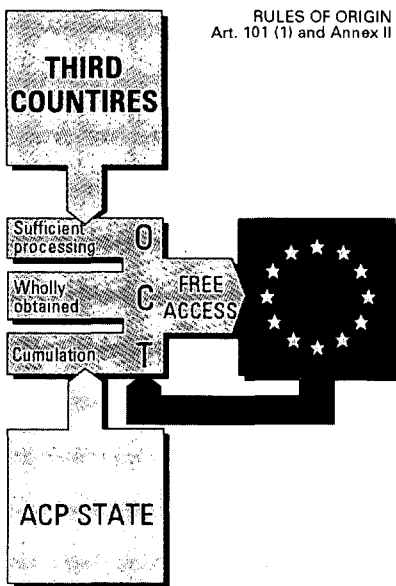
customs duties or quantitative restrictions they deem necessary on products originating in the Community. The Lomé Convention and the association decision simply require that Community exports not be discriminated against compared with other developed countries. This system applies to products originating in the OCTs but what does 'originating' mean?

The rules of origin annexed to the association decision may seem complex and technical but their *raison d'être* is to promote local development, industrialisation and employment. Under these rules a product is considered 'originating' (see Tables 2 and 3) if:

- it is entirely obtained in the OCTs (e.g. copra oil and black pearls);
- the raw material is imported from a third country and then subjected to 'sufficient processing' in the OCTs (e.g. imports of sawn timber processed into furniture);
- it is imported from the Community, another country or territory or ACP State where initial processing has taken place and subjected to additional working: this additional working is deemed to confer origin to the country or territory concerned (cumulation rule).

The aim of these rules is to reserve free access to the Community to products which are really produced or processed locally. If they were less rigorous, developed third countries might take advantage of this

2. OCT-EEC TRADE RELATIONS



free access and use the OCTs merely as a cover for accessing the preferential arrangements. And the OCTs themselves would suffer from the competition from third countries which are not members of the association.

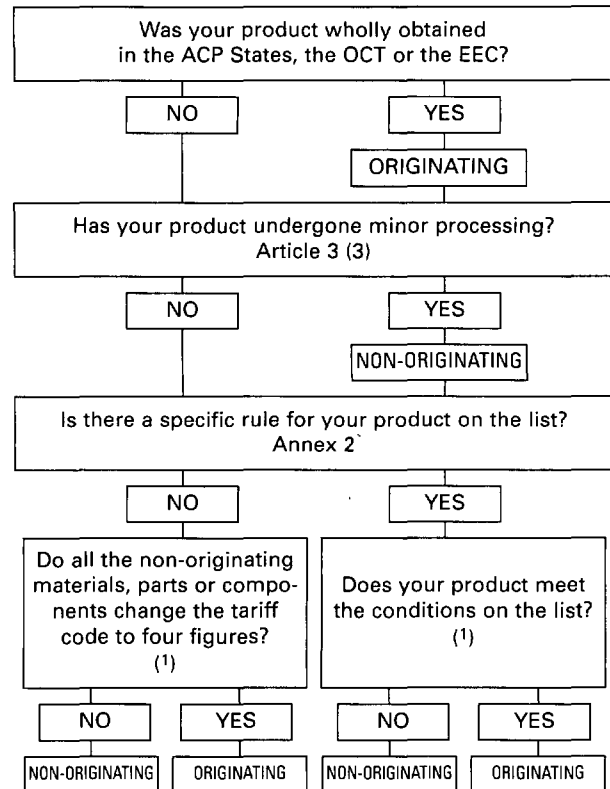
Restrictions on cumulation

As explained earlier, since 1991 products originating in the OCTs have enjoyed completely free access, even agricultural products covered by the CAP. The 1991 decision also maintained the cumulation rule for ACP and OCTs' products, by which products originating in an ACP State can obtain OCTs origin if they are subject to working, however simple, in a country or territory.

However, free access combined with the cumulation rule disrupted the Community market for sensitive agricultural products like sugar and rice. In 1992 the

3. OCT DECISION ORIGINATING PRODUCT TREE

Determine product status in no more than four questions.



(1) Possibly with the 10% tolerance of Article 5.

Community was deluged with ACP products (first rice and then sugar) imported via certain Netherlands and UK OCTs after minimal working.

So in 1993, and again in 1996 and 1997, the Commission and the Council adopted safeguard measures to protect the Community market against rice from the OCTs.

In the discussions leading up to the 1997 decision amending at mid-term the 1991 decision, the Commission favoured doing away with automatic cumulation, retaining the possibility of derogations for specific products. The Council, however, decided otherwise and kept the 1991 system with the addition of restrictions on its application for sugar and rice.

In conclusion, all products originating in the OCTs, including agricultural products, still have free access but ACP/OCTs cumulation of origin is restricted in the case of two products:

- sugar (HS headings 1701 to 1704): cumulation is limited to an annual quantity of 3 000 tonnes; simple forming of sugar lumps is considered sufficient;
- rice (tariff heading HS 1006): these arrangements are more complex because the quantities are staggered over the year in the interests of market management: ACP/OCTs cumulation is limited to 160 000 tonnes a year for wholly or semi-milled rice but the Commission may increase this quantity by not more than 20 000 tonnes if in April the state of the Community market permits. It may also increase the quantity after the summer if there is a risk of a rice shortage on the Community market.

These two changes in the cumulation rule are provided for in Articles 108a and 108b of the 1997 decision and implemented by Commission Regulations (EC) Nos 2603/97 of 16 December 1997 (rice) and 2553/97 of 17 December 1997 (sugar).

Temporary derogations from the rules of origin

There is also provision for temporary derogations from the rules of origin in specific cases. The intention is not, of course, to nullify the arrangements described above but to allow a country or territory to gain free access to the Community for processing operations that would not normally be sufficient to confer the sta-

tus of originating product for a temporary period during which it can invest in more advanced operations to manufacture truly originating products.

For example, in March 1992 the Commission decided to accord the Netherlands Antilles a three-year dispensation for pullovers exported from Curaçao, where ready-cut material imported from the Far East was merely made up. This would not normally have been enough to confer 'product of Curaçao' status but relaxing the rule enabled the investor concerned to implement the initial phase of the operation in the certainty of an open Community market pending the setting-up of weaving or knitting operations in Curaçao.

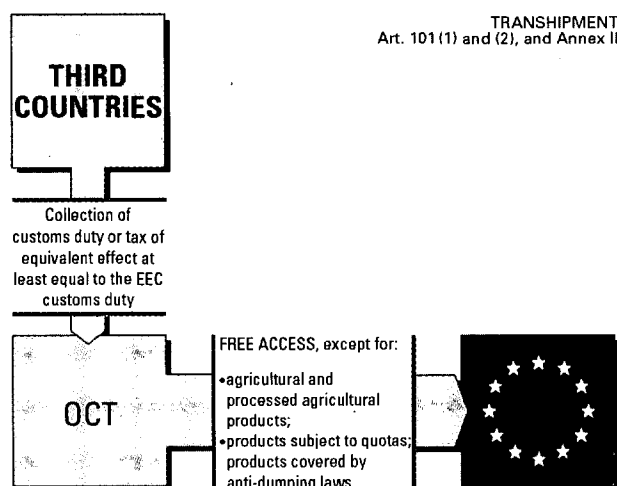
The transshipment system

A transshipment system was established to give free access to products of third countries transiting in the unaltered state via one of the OCTs (excluding CAP products and a few others), provided that customs duties or charges that are at least equivalent to Community levels are levied on entry into the country or territory. A new certificate was created to accompany such goods (see Table 4).

Financial cooperation

Financial assistance comes from the EDF and the EIB's own resources.

4. OCT-EEC TRADE RELATIONS



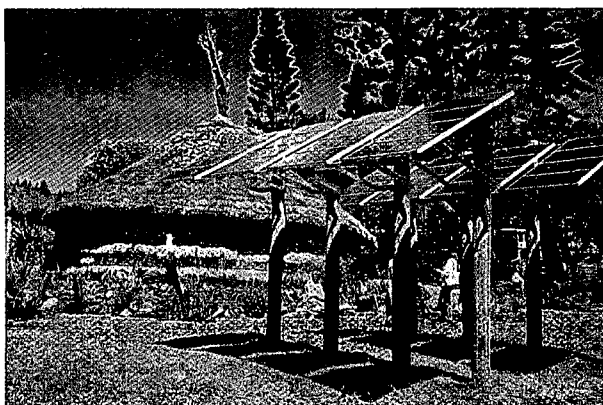
The EDF

The EDF, to which all EC Member States contribute, finances development projects in the African, Caribbean and Pacific States signatory to the Lomé Convention and the OCTs associated with the Community.

The EDF is divided into programmable and non-programmable resources. Programmable aid is the subject of negotiations between the Community and its partners, the results of which are enshrined in indicative programmes which set the guidelines for financial and technical cooperation between the two partners. There are also indicative programmes of programmable aid for each OCTs region.

Non-programmable aid is not allocated beforehand to any particular country, territory or ACP State. Its use depends on objective implementation criteria established beforehand. Examples of non-programmable aid are Stabex, Sysmin and emergency humanitarian aid. They will be discussed in more detail later.

With a view to strengthening and diversifying the foundations of the OCTs' development, the 1997 decision introduced important new provisions on 'decentralised cooperation'. The purpose of decentralised cooperation with the OCTs, as with the ACP States, is to enable local bodies (branches of local government, rural associations, cooperatives, trade unions, schools, research institutes, etc.) to make their own contribution to development by implementing projects and programmes. Such projects may arise from the indicative programme or be the initiative of a local group. They are financed by the EDF (which may contribute up to three quarters of the project cost up to a maximum of ECU 300 000), the local partner (at least 25 %



New Caledonia: Solar energy is used to bring electricity to traditional villages in the Northern Province part of a 5th EDF regional project for the French Pacific OCTs.

PHOTO: EC OFFICE - NEW CALEDONIA

of the project cost) and, exceptionally, the local OCTs authorities.

The EDF is managed by the Commission except for the risk capital funds, which are managed by the EIB. The Fund is renewed every five years.

Since 1958, when the first Fund was set up, there have been eight EDFs, each providing financing for a five-year period covered by an ACP-EC Convention or corresponding association decision. Thus the fourth EDF accompanied the first Lomé Convention (1975-80); the fifth EDF, Lomé II (1980-85); the sixth EDF, Lomé III (1985-90); the seventh EDF, Lomé IV (1990-95); and the eighth EDF, the revised Lomé IV (1995-2000).

Under the eighth EDF the OCTs have been given a substantial increase in their overall allocation: ECU 165 million is an 18 % increase on the seventh EDF allocation. The annex shows the breakdown of the allocation between programmable and non-programmable aid and also how the aid under these two headings is spent.

Within the EDF there are also two instruments designed to deal with problems that may affect the OCTs' economies, namely Stabex and Sysmin.

(A) STABILISING EXPORT EARNINGS: STABEX

The Stabex system was set up in 1975 under the fourth EDF (corresponding to the first Lomé Convention of 1975 and OCTs association decision of 1976) and covers both the ACP States and the OCTs.

Its purpose is to offset the effects on the OCTs and ACP States of losses of earnings from exports to the Community of certain agricultural products. Such losses may stem either from specific difficulties in a given country or sector or from more general market fluctuations. Whatever the case, they usually lead to falls in either export prices or the quantities exported or both.

Stabex resources are used primarily to finance projects and programmes in the sector in difficulty. But they may be used in other sectors with the aim of diversifying production. As a general rule Stabex covers only exports to the Community. However, there is provision for derogations which make it possible to extend the geographical coverage of the exports concerned to other OCTs or even all export destinations. Almost all the agricultural commodities exported by the OCTs are covered by the system.

Stabex is financed under the EDF and has been allocated ECU 5.5 million in eighth EDF resources to cover the period up to 2000, ECU 500 000 less than under the seventh EDF. The reason for this reduction is the desire to focus resources on programmable aid that finances development under the indicative programmes.

(B) SAFEGUARDING MINING POTENTIAL: SYSMIN

A special financing facility was set up under the fifth EDF (Lomé II of 1979 and the 1980 association decision) to safeguard the production and export of ACP and OCTs mining products in cases where the economy depends on the mining sector and to help such countries and territories face up to existing or foreseeable difficulties.

Sysmin is markedly different from Stabex in the way it works. It is potentially open to a number of ACP States, especially copper producers which are the leading recipients of Sysmin funding. Among the OCTs, the principal Sysmin beneficiary is New Caledonia where nickel is the main export product.

As non-programmable EDF aid, most Sysmin operations are cofinanced with other donors (such as the EIB, World Bank and the African Development Bank). The OCTs were allocated ECU 2.5 million in Sysmin grants under the 1991 association decision and the amount remains unchanged under the 1997 amending decision.

The EIB

Under the revised association decision, of the EIB's own resources, up to ECU 35 million are earmarked for lending to the OCTs, 40 % up on the amount earmarked for the first five years. Non-programmable EDF aid also takes the form of interest-rate subsidies for EIB loans and risk capital, which is managed by the EIB.

Other aid: emergency humanitarian aid

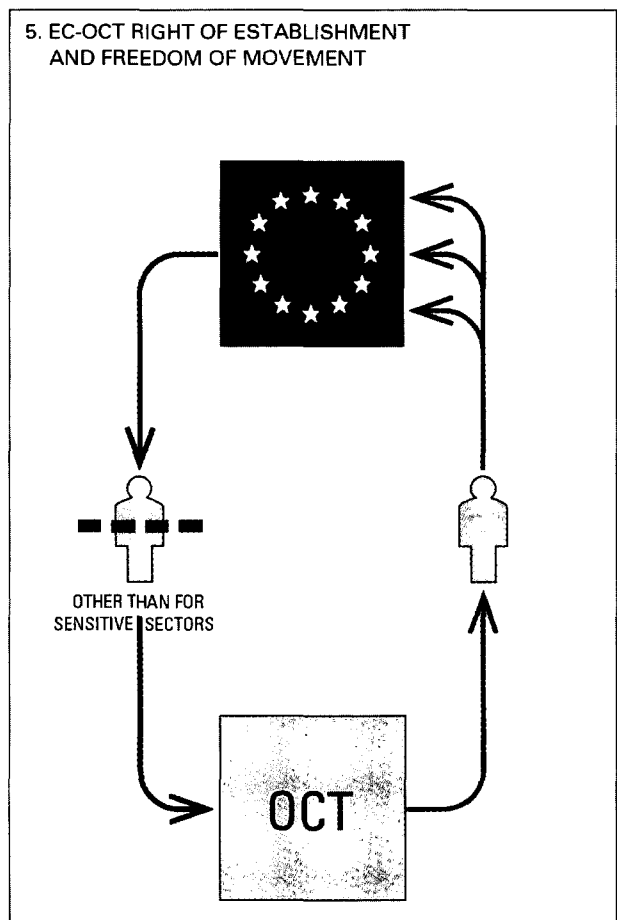
While development projects account for most EDF aid, the need for funds to cover emergencies calling for immediate aid rather than investment could not be overlooked. Emergency humanitarian operations, which are often supplemented by emergency food aid financed by the Community budget, are allocated ECU 3.5 million under the current association deci-

sion, including ECU 500 000 for aid for refugees and displaced persons.

IV. Right of establishment and freedom of movement

The special status of OCTs means that the inhabitants of most of them have just the same nationality as the citizens of the Member State. The association decision thus had to address issues of individual rights and the application of Community secondary legislation.

- A. On the question of workers' freedom of movement, Article 135 of the Treaty stipulates that, subject to the provisions governing public health, public safety and public policy, freedom of movement of workers from the OCTs within the Member States and of workers from the Member States within the OCTs will be regulated by later agreements, which require the unanimous approval of the Member States. So far there has been no such agreement.



Furthermore, Articles 48 and 49 of the Treaty, plus measures adopted pursuant to these articles, apply only to Community nationals on the territory of the Community. These provisions also apply to workers from an overseas country or territory who have the nationality of a Member State.

For example, since French Polynesia is not (unlike a DOM) part of the territory of the Community but associated with it, the rules on freedom of movement for workers within the Community do not apply at all to people entering Polynesia. On the other hand, once a Polynesian with French nationality sets foot on French soil, he enjoys the four fundamental freedoms of the Single Act just like any other French citizen and may travel freely to Belgium, Italy or wherever (see Table 5).

- B. In this respect, therefore, the association of the OCTs with the EC is tilted in favour of the OCTs.

The arrangements for establishment and the provision of services have been fleshed out in the 1997 decision, which provides that a Member State should treat individuals and companies from OCTs linked to other Member States on a non-discriminatory basis and that the OCTs should display the same non-discrimination with regard to nationals and companies of Member States.

However, to promote or support local employment OCTs' authorities may, with the agreement of the Commission, derogate from the rules on establishment and services in order to protect sensitive sectors of the local economy (see Table 5).

Let us imagine, for instance, that Polynesia has a large number of practising architects or students of architecture planning to exercise the profession

in Polynesia. With the aim of supporting local employment, the Polynesian authorities can adopt regulations in favour of Polynesian architects which derogate from the rules normally applicable to architects in all the Member States.

In the specific case of trade in services, the Community extends to the OCTs the undertakings it entered into under the General Agreement on Trade in Services (GATS). For their part, the OCTs are required to afford nationals and companies of the Member States treatment that is no less favourable than that which they extend to nationals and companies of third countries.

For the medical and ancillary medical professions the Commission has undertaken to initiate with the Member States concerned the process of recognising qualifications obtained in the OCTs.

V. Community programmes open to individuals

An important and completely innovatory step forward has been made in recognising the fact that the inhabitants of the OCTs are, as individuals, citizens of certain Member States and therefore citizens of the Union within the meaning of Article 8 of the Maastricht Treaty.

Article 223c of the 1997 amending decision extends the scope of 19 Community programmes aimed at individuals to include the OCTs. The financing of these programmes from the Community budget is additional to the OCTs' EDF resources.

These programmes, which comprise pilot projects and subprogrammes, cover a variety of useful fields: education and training (Leonardo, Socrates, Youth for Europe III, European voluntary service for young people), culture and the audiovisual sector (MEDIA II-development and distribution, MEDIA II-training, film festivals), research and development (Enterprise, BC/Net, BCC, Artisanat, Seed Capital, Europartenariat, Info 2000), industrial cooperation (H RTP Japan, topical missions).

For example, under the Erasmus subprogramme Socrates, a student of the University of the Netherlands Antilles can study at Leuven or Cambridge.

Similarly, a craft enterprise in St Pierre and Miquelon which gets together with a similar firm in New Caledonia is eligible to apply for Community cofinancing when calls for proposals are issued for the Artisanat programme.

4. The European Union and the OCTs on the eve of the year 2000

Let us recall the two key characteristics of EC-OCTs relations:

- the OCTs are not part of the territory of the Community
- their inhabitants have the nationality of the Member State to which they are linked.

These two facts determine the distinction that must be drawn between the economic provisions of the Treaty and the provisions concerning individuals.

1. The main legal principle is clear enough: secondary legislation other than measures adopted by the Council under Part Four (Articles 131 to 136) of the Treaty does not

apply to the OCTs (in contrast to the situation of the DOM).

2. Measures concerning individuals, however, concern all Community citizens (including those of the OCTs if they have full nationality of one of the Member States), namely:
 - citizenship
 - human rights.

Inhabitants of the OCTs have the right of abode once they have an identity card of the Member State concerned and hence a European passport. Someone from New Caledonia arriving in Paris can freely circulate or work in the other Member States. The same holds true for someone from Curaçao arriving in Amsterdam.



Wallis and Futuna: Vehicles and machinery supplied to the Public Works Department for a road improvement programme financed from the 6th EDF.

PHOTO: EC DELEGATION - FIJI

OCTs' citizens will also be able to petition the ombudsman of the European Parliament.

3. On the economic front, a general point worth making is that the OCTs will benefit indirectly from the benefits generated by the single internal market since almost all their economic ties are with the Community.

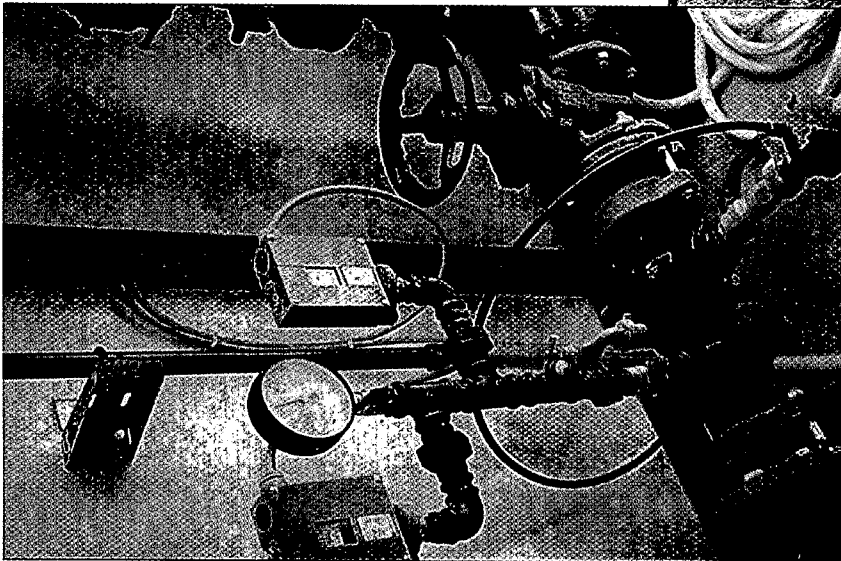
So, indirectly, the economic fallout from the completion of the single market and of economic and monetary union can only benefit the OCTs' economies.

4. Two additions of the Maastricht Treaty strengthened the arrangements for the OCTs.
 - The protocol on France preserves France's right to emit currencies in its overseas territories under the terms of French law.
 - The declaration on the representation of the interests of the overseas countries and

territories upholds the right of each Member State to act separately from the other Member States in the interests of an overseas country or territory.

5. The break with the tradition of parallelism in the arrangements for the OCTs and the ACP States signalled by the 1991 decision association has already been noted.

In 1997, year of the signing of the Treaty of Amsterdam, this break was even more marked. In Declaration 36 of the final act of the Treaty of Amsterdam, the Council is urged to take greater account of the specific characteristics of the individual countries and territories so as to promote development and reinforce economic relations between the OCTs and the Union. The Council was also asked to improve the effectiveness of the financial instrument. A review of the association arrangements is scheduled to take place before February 2000.



New Caledonia: Drinking-water installation, Tiabet, Northern Province – one of the projects forming part of a rural development programme financed from the 6th EDF.

PHOTO: EC OFFICE – NEW CALEDONIA



Annexes

The 20 OCTs

British OCTs

Anguilla
 Cayman Islands
 Falkland Islands
 South Georgia and
 South Sandwich Islands
 Montserrat
 Pitcairn
 Saint Helena and dependencies
 British Antarctic Territories
 British Indian Ocean Territories
 Turks and Caicos Islands
 British Virgin Islands

French OCTs

Mayotte
 New Caledonia
 French Polynesia
 St Pierre and Miquelon
 Southern and Antarctic Territories
 Wallis and Futuna Islands

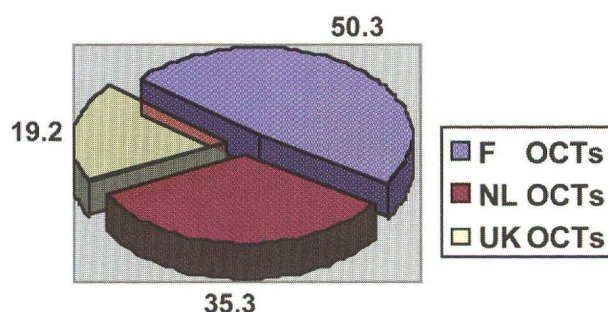
Dutch OCTs

Aruba
 Dutch Antilles
 (Curaçao, Bonaire, St Maarten,
 St Eustache, Saba)

Country having special links with Denmark

Greenland

OCTs 8th EDF
 Total in million ECU



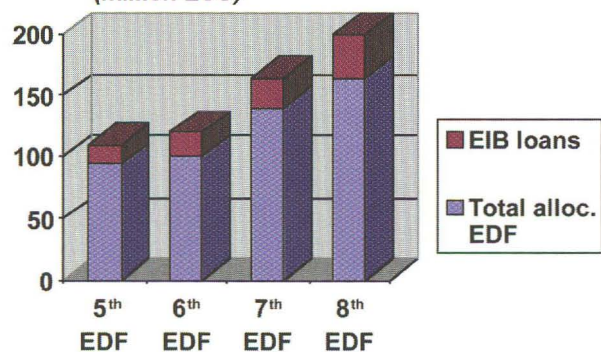
OCTs 8th EDF and EIB breakdown

(mio ECU)

Indicative programmes	
French OCTs	50.3
Dutch OCTs	35.3
British OCTs	19.2
Total indicative programmes	105.0
Regional cooperation	10.0
Total projects and programmes	115.0
Interest rate grants	8.5
Emergency aid	3.0
Aid for sheltering refugees	0.5
Total	127.0
Risk capital	30.0
Stabex	5.5
Sysmin	2.5
Total EDF allocation	165
EIB loans	35
Total OCTs	200

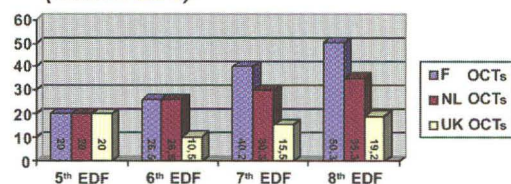
Increasing financial aid for OCTs

(million ECU)



Increasing financial aid for OCTs

(million ECU)



Trends in OCTs funding 5th to 8th EDFs

(mio ECU)

	5 th EDF	6 th EDF	7 th EDF	8 th EDF	8 th /7 th EDF
Indicative programmes					
French OCTs	20	26.5	40.2		
Dutch OCTs	20	26.5	30.3		
British OCTs	20	10.5	15.5		
Total indicative programmes	60	63.5	86.0	105.0	+ 22.1 %
Regional cooperation	11	10.0	11.5	10.0	- 13 %
Total projects and programmes	71	73.5	97.5	115.0	+ 18 %
Interest rate grants	3.75	2.5	6.0	8.5	+ 41.7 %
Emergency aid	-	3.0	2.5	3.0	+ 20 %
Sheltering refugees	3.25	1.0	0.5	0.5	+ 0 %
Total	78	80.0	106.5	127.0	19.2 %
Risk capital	7	15.0	25.0	30.0	+ 20 %
Stabex	-	4.0	6.0	5.5	- 8.3 %
Sysmin	9	1.0	2.5	2.5	+ 0 %
Total EDF allocation	94	100	140	165	+ 17.9 %
EIB loans	15	20.0	25	35	+ 40 %
Total OCTs	109	120	165	200	+ 21.2 %

Useful addresses

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