

# Association of the overseas countries and territories with the European Community

Council Decision of 27 November 2001

On the association of the overseas countries and territories with the European Community ("Overseas Association Decision")

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, hereinafter referred to as the Treaty, and in particular Article 187 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community(1), was applicable until 1 December 2001. Article 240(4) thereof states that the Council, acting unanimously on a proposal from the Commission, shall establish the provisions to be laid down for the subsequent application of the principles set out in Articles 182 to 186 of the Treaty.

(2) Declaration No 36 on the overseas countries and territories, hereinafter referred to as the "OCTs", annexed to the final act of the Conference of the Representatives of the Governments of the Member States signed in Amsterdam in 1997, invites the Council, acting in accordance with Article 187 of the Treaty, to review the association arrangements with the OCTs with a fourfold objective as follows:

- Promoting the economic and social development of the OCTs more effectively;
- Developing economic relations between the OCTs and the European Union;
- Taking greater account of the diversity and specific characteristics of the individual OCTs, including aspects relating to freedom of establishment;
- And ensuring that the effectiveness of the financial instrument is improved.

(3) On 11 February 1999 the European Parliament adopted a resolution on relations between the OCTs, the ACP States and the outermost regions of the European Union(2). Furthermore, on 4 October 2001, it adopted a resolution on the proposal from the Commission for a Council Decision on the association of the OCTs with the European Community(3).

(4) In its communication of 20 May 1999 entitled "the Status of OCTs associated with the EC and options for 'OCT 2000'", the Commission examined the features and the development of the OCT-EC association since 1957, noted the basic principles and the current situation of the association and sketched out alternative policies for it for the period beginning 1 March 2000.

(5) In accordance with Article 10 of Decision 91/482/EEC, the competent OCT authorities informed the Commission of the amendments or additions they desired in future, notably at a meeting held in the context of the partnership on 29 and 30 April 1999, attended by the Commission, the four Member States to which the OCTs are linked and the 20 OCTs concerned.

(6) Though not third countries, the OCTs do not form part of the single market and must comply with the obligations imposed on third countries in respect of trade, notably rules of origin, health and plant health standards and safeguard measures.

(7) As a general rule, when the Council adopts measures under Article 187 of the Treaty, it must take account both of the principles laid down in Part Four of the Treaty and of the other

Principles of Community law. It should also take account of experience acquired in the implementation of the trade arrangements of Decision 91/482/EEC.

(8) These arrangements provide for duty-free access for products originating in the OCTs and rules of origin allowing cumulation with products originating in the ACP States, which are subject to different arrangements, or in the Community. This causes or threatens to cause serious disruption to the functioning of certain common market organisations under the common agricultural policy, in particular those for rice and sugar. Such disruption has on a number of occasions led the Commission and the Council to adopt safeguard measures.

(9) By limiting the scope for use of cumulation of origin, the changes made in relation to rice at the mid-term review of the Decision<sup>(4)</sup> have helped maintain access for OCT products to the Community market on terms conducive to its balance. This access should be improved in respect of the least developed OCTs, but without modifying the overall quantity benefiting from cumulation. Given that only two other OCTs have ever operated in this sector, the remaining available quantities should be allocated to them, in the interest of transparency.

(10) However, as regards sugar and sugar mixes, the rise in OCT exports made from sugar of ACP or Community origin to a heavily oversupplied market has resulted in a greater reduction in the quota allowed for Community producers and therefore a greater loss of guaranteed income for them.

(11) Moreover, in view of the minimal, low value-added operations that currently suffice to obtain the status of a product originating in the OCTs in the sugar sector, the contribution of these exports to the development of the territories can only be small at best and, without a doubt, out of all proportion to the disruption caused to the Community sectors concerned.

(12) For the above reasons, origin rules should therefore be adopted which exclude the possibility of ACP/EC-OCT cumulation for sugar when only minimal operations are carried out. However, taking into account the investments already made in the OCTs on the basis of the rules in force since 1991, such exclusion should enter into force in a progressive way.

Therefore, subject to the adoption of the necessary implementing provisions, cumulation should be temporarily allowed to continue within progressively decreasing quantitative limits which are compatible with the objectives of the Community's common market organisation for sugar whilst taking due account of the legitimate interests of OCT operators.

(13) Provision should also be made to ensure that agricultural products originating in the Community and which have benefited from an export refund cannot be re-imported duty-free into the Community by means of the cumulation procedure.

(14) Furthermore, all the OCT rules of origin should be updated, in the interests of the operators and administrations concerned, to take account of technical progress and the policy adopted by the Community of origin-rule harmonisation. Likewise, the procedure should be simplified to enable the necessary technical amendments to the rules to be made more easily in future.

(15) The procedure for the transshipment of goods not originating in the OCTs but in free circulation there should be completed and clarified, with a view to ensuring a transparent and reliable legal framework for operators and administrations. It should also be extended to cover certain fishery products of particular importance for Greenland and Saint-Pierre-et-Miquelon, subject to the adoption of the necessary implementing provisions.

(16) The general provisions of the Treaty and legislation derived thereunder do not automatically apply to the OCTs, barring express provisions to the contrary. OCT products imported into the Community must nevertheless comply with the Community rules in force.

(17) Financial assistance to the OCTs should be allocated on the basis of uniform, transparent and effective criteria, taking into account the needs and performances of the OCTs. Such

Criteria should include in particular the economic and physical dimensions of the OCTs, the use made of past allocations, respect for the principles of sound financial management, fair fiscal policy, estimated absorption capacity, the need for establishing a reserve in order to finance non-programmable expenditure and a smooth transition to prevent a sudden considerable setback in allocation for New Caledonia, French Polynesia and the Netherlands Antilles. In the interests of efficiency, simplification and recognition of the management capacities of the OCT authorities, the financial resources granted to the OCTs should be managed more on the basis of partnership by applying procedures based on the rules in force for the structural funds.

(18) For this purpose, the procedures delegate the main responsibility for programming and implementing cooperation to the OCTs in particular. Cooperation will be conducted predominantly in conformity with OCT territorial regulations and will underpin support for the monitoring, evaluation and audit of the operations programmed. In addition, it is necessary to clarify which Community programmes and budget lines are open to the OCTs, as well as the procedures for a smooth transition from previous EDFs to the 9th one.

(19) Global changes, reflected in the continuing process of trade liberalisation, broadly implicate the Community, the OCTs' principal trading partner, as well as their ACP neighbours and other economic partners. In the market access equation, the level of tariffs plays an increasingly reduced role while trade in services and trade-related areas assume an ever greater importance in the relationship between the OCTs and their economic partners. That relationship should therefore be fostered, while retaining the broad outline of the current trade arrangements, and the conditions for the gradual integration of those OCTs who so wish into the regional and global economy simplified by helping them to increase their capacity to handle all these new areas.

(20) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999, laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(5)</sup>. However, so far as the implementation of the 9th EDF is concerned, the voting and the majority should be as laid down in Article 21 of the Internal Agreement between the representatives of the Governments of the Member States, meeting within the Council, on the financing and administration of Community Aid under the Financial Protocol to the Partnership Agreement between the African, Caribbean and Pacific States and the European Community and its Member States signed in Cotonou (Benin) on 23 June 2000 and the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty applies<sup>(6)</sup>, hereinafter the "Internal Agreement".

(21) The OCTs are fragile island environments requiring adequate protection, including in respect of waste management. In respect of radioactive waste, this is provided under Article 198 of the Euratom Treaty and legislation adopted thereunder, except for Greenland, to which the Euratom Treaty does not apply. For other waste, it should be specified which Community rules are to apply in respect of the OCTs.

(22) The arrangements for association laid down in this Decision should not be applied to Bermuda in accordance with the wishes of the Government of Bermuda.

(23) The Council should produce an innovative response to all the above mentioned new factors which is both consistent and tailored to the variety of situations. A new status for the association can provide such a response,

HAS DECIDED AS FOLLOWS:

# **Part ONE. General Provisions of the Association of the Octs with the Community**

## **Chapter 1. General Provisions**

### **Article 1. Purpose, Objectives and Principles**

1. The association of the OCTs with the Community, hereinafter referred to as the "OCT-EC Association", shall have as its basis the purpose set out in Article 182 of the Treaty, namely to promote the economic and social development of the OCTs and to establish close economic relations between them and the Community as a whole.

It shall pursue the objectives laid down in Article 183 of the Treaty in accordance with the principles set out in Articles 184 to 188 of the Treaty by focusing on the reduction, prevention and, eventually, eradication of poverty and on sustainable development and gradual integration into the regional and world economies.

2. The association relates to the OCTs listed in Annex I A.

3. In accordance with Article 188 of the Treaty, this Decision shall apply to Greenland subject to the specific provisions set out in the Protocol on the special arrangements for Greenland annexed to the Treaty.

### **Article 2. Basic Elements**

1. The OCT-EC association shall be based on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law. These principles, on which the Union is founded in accordance with Article 6 of the Treaty on European Union, shall be common to the Member States and the OCTs linked to them.

2. There shall be no discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in the areas of cooperation referred to in this Decision.

## **Article 3. The Least-developed OCTs**

1. The Community shall accord special treatment to the least-developed OCTs and to those unable to take advantage of the regional cooperation and integration referred to in Article 1 6.
2. To respond to such difficulties, development finance cooperation shall comprise, inter alia, special treatment when determining the volume of financial resources and the conditions attached thereto in order to enable the least-developed OCTs to overcome structural and other obstacles to their development. It shall pay special attention to improving the living conditions of the poorest sections of the population in the context of poverty alleviation.
3. The OCTs considered the least developed for the purposes of this Decision are listed in Annex I B. This list shall be amended by decision of the Council, acting unanimously on a proposal from the Commission, where the economic situation of an OCT undergoes a significant and lasting change, necessitating its inclusion in the category of least-developed OCTs or where its inclusion in that category is no longer warranted.

## **Chapter 2. Actors of Cooperation In the OCTs**

### **Article 4. Principles**

1. Within the framework of the partnership laid down in Article 7, the OCT authorities shall assume primary responsibility for the formulation of association and development strategies and their implementation through the preparation, together with the Commission and the Member State to which the OCT is linked, of Single Programming Documents (hereinafter referred to as SPDs) and cooperation programmes.
2. The Community shall recognise that local public and private actors play a key role in achieving the objectives laid down in Article 183 of the Treaty.
3. In implementing this Decision, the parties shall have as their guiding principles transparency, subsidiarity and the need for efficiency.

### **Article 5. The Different Actors Involved**

1. Actors of cooperation in the OCTs shall include:

- The OCT authorities;
- The other regional and local authorities within the OCTs;
- Civil society, social, business and trade union associations, public service providers and local, national or international non-governmental organisations (NGOs).

The Member States to which the OCTs are linked shall inform the Commission within three months of the entry into force of this Decision of the national, regional or local authorities referred to in the various Articles of the Decision.

2. The recognition of non-governmental actors shall depend on their capacity to meet the needs of the local population, their expertise and their having democratic and accountable organisation and management.
3. Non-governmental actors shall be identified by agreement between the OCT authorities, the Commission and the Member State to which the OCT is linked, taking into account the subject concerned, their expertise and field of activity. The process of identification shall be conducted in each OCT as part of the process for the preparation of cooperation programmes referred to in Article 4.

### **Article 6. Responsibilities of the Non-governmental Actors**

Non-governmental actors identified pursuant to Article 5(3) may play a role in:

- Information and consultation;
- The preparation and implementation of cooperation programmes;
- Decentralised cooperation in the context of responsibilities delegated for the purpose of supporting local development initiatives.

## **Chapter 3. Principles and Procedures of the Oct-ec Partnership**

### **Article 7. Dialogue and Partnership**

1. With the aim of enabling the OCT to take a full part in the implementation of the OCT-EC association, with due regard for the way that the institutions of the Member States concerned are organised, the association shall use a consultation procedure based on the provisions referred to below. It shall deal with any issue arising in relations between the OCTs and the Community.

2. A broad-based dialogue should enable the Community, all the OCTs and the Member States to which they are linked to consult each other on the principles, detailed procedures and results of the association.

An OCT-EU forum for dialogue, hereinafter referred to as the "OCT Forum", shall meet annually to bring together OCT authorities, representatives of the Member States and the Commission.

3. There shall be separate partnerships between the Commission, the Member State to which the OCT is linked and each OCT, represented by its authorities, to enable the objectives and principles of this Decision, in particular those referred to in Articles 4 and 19 to be put into practice. This trilateral consultation shall hereinafter be referred to as the "partnership". Partnership working parties, acting in an advisory capacity, shall be set up for each OCT. Their membership shall comprise the abovementioned three partners. These working parties may be convened at the request of the Commission, of a Member State or of an OCT. At the request of one of the partners, several partnership working parties may hold joint meetings to consider subjects of common interest or the regional aspects of the association.

4. This consultation shall be conducted in full compliance with the respective institutional, legal and financial powers of each of the three partners.

The Commission shall chair the working parties and the OCT Forum and provide their secretariat. A representative of the European Investment Bank, hereinafter referred to as the EIB, shall be present at meetings when matters concerning it are on the agenda.

5. The opinions of the working parties and the OCT Forum shall, where appropriate, be the subject of Commission decisions, within the limits of its powers, or of proposals from the Commission to the Council with a view to implementation of new elements of the OCT-EC association or its amendment on the basis of Article 187 of the Treaty.

### **Article 8. Acp-eu Joint Parliamentary Assembly**

The OCT authorities shall be informed of the agenda, resolutions and recommendations of the ACP-EU Joint Parliamentary Assembly.

Member States and the Commission shall support any request by OCT authorities to participate as observers at the plenary sessions of the ACP-EU Joint Parliamentary Assembly, subject to the Assembly's own rules of procedure.

### **Article 9. Management**

Day-to-day management of this Decision shall be conducted by the Commission and the OCT authorities and, should the need arise, by the Member State to which the OCT is linked, in accordance with the institutional, legal and financial powers of each of the partners, notably as regards development finance cooperation and cooperation in the area of trade and services.

## **Part TWO. THE AREAS OF OCT-EC COOPERATION**

### **Article 10. Areas of Cooperation**

The Community shall contribute to cooperation in those areas in the OCTs listed in this Title in accordance with the priorities established in the development strategies for each OCT or, where appropriate, in the form of regional measures.

### **Article 11. Productive Sectors**

Cooperation shall support sectoral policies and strategies that facilitate access to productive activities and resources, in particular:

- (a) Agriculture: agricultural policy and institution building, diversification, irrigation, seed multiplication, crop protection measures, fertiliser production, equipment, agro-processing, livestock and cattle breeding, animal husbandry, extension and research; marketing; storage and transportation; food security; agricultural credit; land settlement and reform, land use and registration policy, technology transfer, irrigation and drainage infrastructure, other support services.
- (b) Forestry: forestry policy and institution building, including use of trees to conserve the environment in erosion and desertification control; afforestation; forest management, including the rational utilisation and management of timber exports; issues relating to tropical rainforests; research and training.
- (c) Fisheries: fishing policy and institution building, fish stock protection and rational management of fish stocks; fish farming and artisanal fisheries; fishery transport; cold storage and fish marketing and preservation.
- (d) Rural development: rural policy and institution building, integrated rural development projects/programmes; assistance and projects targeted at people, production and marketing in rural areas; rural infrastructure.
- (e) Industry: sectoral policy and institution building; craft industries; agro-industries and other manufacturing sectors, transport equipment industry; technological research and development; quality control; development and expansion of SMEs and micro-enterprises.
- (f) Mining: sectoral policy and institution building, technological research and development; small-scale mining, etc.
- (g) Energy: energy policy and institution building; power generation (non-renewable and renewable); efficient use of energy resources; energy research and training; encouraging private sector involvement in power generation and distribution.
- (h) Transport: transport policy and institution building; transport by road, rail, air, sea or inland waterway and storage facilities.
- (i) Communication: communication policy and institution building; telecommunications and media.
- (j) Water: water policy and institution building; protecting water resources, waste management, water supplies in rural and urban areas for domestic, industrial or agricultural purposes; storage, distribution and management of water resources.
- (k) Banking, finance and business services: financial sector policy and institution building, business services; privatisation, equity participation and marketing; support to trade, commerce and business associations (including export promotion agencies); financial and banking institutions.
- (l) Technology development and application, research: policy and institution building; concerted action at local, national and/or regional level for the promotion of science and technology activities and their application to production and promotion of computer literacy in the public and private sectors, scientific programmes and equipment for research.

## **Article 12. Trade Development**

1. The Community shall implement measures for the development of trade at all stages up to final distribution of the product.

The object is to ensure that the OCTs derive the maximum benefit from the provisions of his Decision and may participate under the most favourable conditions in the Community, domestic, sub-regional, regional and international markets by diversifying the range and increasing the value and the volume of OCT trade in goods and services.

2. In addition to developing trade between the OCTs and the Community, particular attention shall be given to operations designed to increase the OCTs' self-reliance and improve regional cooperation in trade and services.

3. Within the instruments provided for in this Decision and in accordance with the provisions set out in relation thereto, operations shall be undertaken at the request of the OCT authorities, particularly in the following areas:

- (a) support for the definition of appropriate macroeconomic policies necessary for trade development;
- (b) support for the creation or reform of appropriate legal and regulatory frameworks as well as for the reform of administrative procedures;
- (c) the establishment of coherent trade strategies;
- (d) support for OCTs in developing their internal capacities, information systems and awareness of the role and importance of trade in economic development;

- (e) support for strengthening the infrastructure related to trade and in particular support for the OCTs' efforts to develop and improve supportive service infrastructure, including transport and storage facilities, in order to ensure their effective participation in the distribution of goods and services and in order to enhance the flow of exports from the OCTs;
- (f) development of human resources and professional skills in the field of trade and services, in particular in the processing, marketing, distribution and transport sectors for the Community, regional and international markets;
- (g) support to private sector development and, in particular, to SMEs for product identification and development, market outlets and export-oriented joint ventures;
- (h) support for OCT actions aimed at encouraging and attracting private investment and joint venture operations;
- (i) the establishment, adaptation and strengthening of organisations in the OCTs dealing with the development of trade and services, particular attention being paid to the special needs of organisations in the least-developed OCTs;
- (j) support for OCTs aiming to improve the quality of their products, adapt them to market requirements and diversify their outlets;
- (k) support for OCT efforts to penetrate third country markets more effectively;
- (l) market development measures including increasing contacts and exchange of information between economic operators in OCTs, ACP States, the Member States and in third countries;
- (m) support for OCTs in the application of modern marketing techniques in production-oriented sectors and programmes, in particular in areas such as rural development and agriculture;
- (n) the establishment and development of insurance and credit institutions in the field of trade development.

4. Support for OCTs' participation in trade fairs, exhibitions and trade missions shall be carried out only where such events form an integral part of overall trade and market development programmes.

5. Participation of the least-developed OCTs in various trade activities shall be encouraged by special provisions, inter alia, the payment of travel expenses of personnel and costs of transporting exhibits, on the occasion of their participation in local, regional and third-country fairs, exhibitions or trade missions, including the cost of the temporary construction and/or renting of exhibition booths and stalls. The least-developed OCTs shall be granted special aid to assist in the preparation and/or purchase of promotional materials.

## **Article 13. Trade In Services**

1. The Community agrees to develop and finance infrastructure and human resources as regards trade in services in accordance with the priorities established under the development strategies for each OCT.

2. The Community shall contribute to the development and promotion of cost-effective and efficient maritime transport services in the OCTs, by:

- (a) promoting the efficient shipment of cargo at economically and commercially meaningful rates;
- (b) implementing good policies and competition rules;
- (c) facilitating greater OCT participation in international shipping services;
- (d) encouraging regional programmes of maritime transport and trade development;
- (e) increasing local private sector involvement in shipping activities.

The Community and the OCTs undertake to promote shipping safety, security of crews and the prevention of pollution.

3. The Community shall step up cooperation with the OCTs so as to ensure regular improvement and growth in air traffic.

This shall involve:

- (a) examining all means of reforming and modernising the OCT air transport industries;
- (b) promoting their commercial viability and competitiveness;
- (c) encouraging higher levels of private sector investment and participation and a greater exchange of knowledge and good

business practice;

(d) providing passengers and exporters in all OCTs with access to global air transport networks.

4. Safety must be ensured in the air transport sector and the relevant international standards introduced and implemented.

To that end, the Community shall assist the OCTs in:

(a) implementing air navigation safety systems, including the Communications, Navigation and Surveillance/Air Traffic Management (CNS/ATM) system;

(b) implementing airport security and strengthening the capacity of civil aviation authorities to manage all aspects of operational security placed under their control;

(c) developing infrastructures and human resources;

(d) ensuring that any measures taken in this field are based on advice from the relevant international organisations and that they will be effective and sustainable in the long term.

5. Proper attention must be paid to minimising the environmental impact of air transport, in particular by means of appropriate environmental impact studies.

6. In many aspects of air transport, regional solutions may offer scope for greater cost effectiveness and economies of scale. To that end, the Community undertakes to support and encourage actions on a regional level where appropriate.

7. Since telecommunication and active participation in the information society are prerequisites for the successful integration of the OCTs into the world economy, the Community and the OCTs reconfirm their respective commitments under existing multilateral agreements, in particular the World Trade Organisation (WTO) Agreement on Basic Telecommunications.

8. The Community shall support the efforts of the OCTs to increase their capacity in the field of trade in services. Cooperation shall cover, inter alia, the following areas:

(a) promoting consultations between competent telecommunications bodies in the OCTs and the Community with a view to encouraging development of a competitive telecommunications environment bringing rates closer to costs;

(b) establishment of a dialogue on different aspects of the information society, including regulatory aspects and communications policy;

(c) information exchanges and possible technical assistance on regulation, standardisation, conformity testing and certification of information and communications technologies and the use of frequencies;

(d) dissemination of new information and communications technologies and the development of new facilities, particularly in relation to interconnection of networks and interoperability of applications;

(e) promotion and implementation of joint research in the field of new technologies related to the information society;

(f) design and implementation of programmes and policies to raise the awareness of the economic and social benefits deriving from the information society.

9. Cooperation shall, in particular, be directed towards greater complementarity and harmonisation of communication systems at local, national, regional, inter-regional and international level and their adaptation to new technologies.

10. The Community shall support measures and operations to develop and support sustainable tourism. These measures shall be implemented at all levels, from the identification of the tourist product to the marketing and promotion stage.

The aim shall be to support the efforts of the authorities of the OCT to derive maximum benefit from local, regional and international tourism in view of tourism's impact on economic development and to stimulate private financial flows from the Community and other sources into the development of tourism in the OCTs. Particular attention shall be given to the need to integrate tourism into the social, cultural and economic life of the people, as well as to respect for the environment.

Specific tourism development measures shall be aimed at the definition, adaptation and development of appropriate policies at local, regional, sub-regional and international levels. Tourism development programmes and projects shall be based on these policies on the basis of the following four components:

(a) human resource and institutional development, inter alia:



- Professional management development in specific skills and continuous training at appropriate levels in the private and public sectors to ensure adequate planning and development;
- Establishment and strengthening of tourism promotion centres;
- Education and training for specific segments of the population and public/private organisations active in the tourism sector, including personnel involved in sectors that support tourism;
- Inter-OCT and OCT-ACP cooperation and exchanges in the fields of training, technical assistance and the development of institutions.

(b) the development of products including, inter alia:

- Identification of the tourism product, development of non-traditional and new tourism products, adaptation of existing products including the preservation and development of cultural heritage, ecological and environmental aspects, management, protection and conservation of flora and fauna, historical, social and other natural assets, development of ancillary services;
- Promotion of private investment in the OCTs' tourist industries, including the creation of joint ventures;
- Production of crafts of a cultural nature for the tourist market.

(c) market development including, inter alia:

- Assistance for the definition and execution of objectives and market development plans at local, sub-regional, regional and international levels;
- Support for the OCTs' efforts to gain access to services for the tourist industry such as central reservation systems and air traffic control and security systems;
- Marketing and promotional measures and materials in the framework of integrated market development plans and programmes with a view to improved market penetration, aimed at the main generators of tourism flows in traditional and non-traditional markets as well as specific activities such as participation at specialised trade events, such as fairs, production of quality literature, films and marketing aids;

(d) research and information including, inter alia:

- Improving tourism information and collecting, analysing, disseminating and utilising statistical data;
- Assessment of the socio-economic impact of tourism on the economies of the OCT with particular emphasis on the development of linkages to other sectors in the OCT and the surrounding regions, such as food production, construction, technology and management.

## **Article 14. Trade-related Areas**

1. The Community shall help reinforce, within the development strategies of each OCT, the capacity of the OCTs to handle all areas related to trade, including where necessary improving and supporting the institutional framework.
2. The Community shall cooperate with the OCTs in the introduction of the general principles on protection and promotion of investments.
3. The Community shall also help to reinforce cooperation with the OCTs with a view to formulating and supporting effective competition policies with the appropriate competition agencies that progressively ensure the efficient enforcement of the competition rules by both private and state enterprises. Cooperation in this area shall, in particular, include assistance in the drafting of an appropriate legal framework and its administrative enforcement with particular reference to the least developed OCTs.
4. The Community shall continue to foster cooperation with the OCTs and extend it, in particular, to the following areas:
  - (a) the preparation of laws and regulations for the protection and enforcement of intellectual property rights, the prevention of the abuse of such rights by rightholders and the infringement of such rights by competitors, the establishment and reinforcement of local, national and regional offices and other agencies including support for regional intellectual property organisations involved in enforcement and protection, including the training of personnel;
  - (b) the conclusion of agreements aimed at protecting trademarks and geographical indications for products of particular

interest.

5. The Community shall assist the OCTs in their efforts with regard to standardisation and certification aimed at promoting compatible systems between the Community and the OCTs. Cooperation shall comprise the following in particular:

- (a) measures to promote greater use of international technical regulations, standards and conformity assessment procedures, including sector-specific measures, in accordance with the level of economic development of the OCTs;
- (b) cooperation in the area of quality management and assurance in selected sectors of importance to the OCTs;
- (c) support for OCT capacity building initiatives in the fields of conformity assessment, metrology and standardisation;
- (d) developing links between OCT and European standardisation, conformity assessment and certification institutions.

6. The Community shall help strengthen cooperation with the OCTs with regard to human, animal and plant health measures with a view to building public and private sector capacity in this area.

7. Bearing in mind the Rio Principles and with a view to reinforcing the mutual supportiveness of trade and environment policies, the Community shall enhance cooperation with the OCTs. The aim of cooperation shall in particular be to:

- (a) establish coherent local, national, regional and international policies;
- (b) reinforce quality controls of goods and services related to the environment;
- (c) improve environment-friendly production methods in relevant sectors.

8. The Community shall cooperate with the OCTs in relation to labour standards. Cooperation in this area shall mainly consist of:

- (a) exchanges of information on respective labour laws and regulations;
- (b) assistance in the formulation of labour legislation and strengthening of existing legislation;
- (c) educational and awareness-raising programmes aimed at eliminating child labour;
- (d) enforcement of labour legislation and regulations.

9. The Community shall cooperate with the OCTs in the area of consumer policy and consumer health protection by:

- (a) improving institutional and technical capacity in this area;
- (b) establishing rapid-alert systems of mutual information on dangerous products;
- (c) exchanging information and experiences on the establishment and operation of post-market surveillance of products and product safety;
- (d) improving information provided to consumers on prices, characteristics of products and services offered;
- (e) encouraging the development of private consumer associations and contacts between consumer-interest representatives;
- (f) improving compatibility of consumer policies and systems;
- (g) informing on the entry into force of legislation and promoting cooperation in investigating harmful or unfair business practices;
- (h) implementing exports prohibitions on the trade of goods and services the marketing of which has been prohibited in their country of production.

10. The Community shall support the efforts deployed by the OCT public and private actors in the field of information technology and telecommunications to:

- (a) modernise telecommunications infrastructure, data transmission services, remote processing applications and telematics application projects (TAP);
- (b) develop and improve the services and the human capacity needed for achieving the information society, and integrate those services in the best possible way in a regional context;

- (c) improve awareness of economic opportunities and exchanges of experience and of knowhow;
- (d) provide better information to the users of those resources;
- (e) exploit the potential of this sector in an optimum and sustainable manner;
- (f) develop the use of communications and information technology in the field of education, including distance learning;
- (g) increase electronic commerce and economic cooperation;
- (h) improve and modernise health networks, through the development of links between hospitals, the use of remote diagnosis and the creation of joint databases;
- (i) develop multimedia access to cultural and tourist resources;
- (j) improve and increase the use of information and communications technology in industry and for innovation.

## **Article 15. Social Sectors**

The Community shall contribute, within the development strategies of each OCT, to human and social development measures. Cooperation could in particular support programmes in the following sectors:

(a) Education policy and institution building (buildings and materials); language and teacher training; primary education; secondary education and vocational training; higher education (including sector-specific education activities, e.g. agricultural training).

In education, the focus should be on widening access to and improving the quality of basic education by constructing more schools, rehabilitating existing classrooms and providing educational materials, teacher training, and bursaries for poor students;

(b) Health sector reform activities, health policy and institution building; medical education, training and research, health infrastructure; HIV/AIDS.

In the health sector, projects should help to provide primary and preventive care services, particularly family planning and child and maternal health services;

(c) Population policy and family planning; mother and child care, including support for projects on the nurturing and development of the next generation.

(d) Increasing the efficiency of policies to prevent the production, distribution and trafficking of all kinds of drugs, narcotics and psychotropic substances, preventing and reducing drug abuse, taking into account work done in this context by international bodies.

Cooperation shall comprise the following:

(i) training, education, health promotion and rehabilitation of addicts, including projects for the reintegration of addicts into work and social environments;

(ii) measures to encourage alternative economic opportunities, for example programmes for the alternative development of areas used for the illicit production of narcotic plants, linked to effective enforcement measures;

(iii) technical, financial and administrative assistance relating to the monitoring of precursors trade, and the establishment of standards equivalent to those adopted by the Community and international authorities concerned;

(iv) technical, financial and administrative assistance relating to the prevention, treatment and reduction of drug abuse;

(v) technical assistance and training, and the establishment of standards to prevent money laundering equivalent to those adopted by the Community and other international bodies, in particular the Financial Action Task Force on Money Laundering;

(vi) exchange of relevant information for the implementation of points (a) to (d).

(e) Water policy and institution building; water resources protection; waste management (water for agriculture or energy will be covered under the relevant sector).

In the water supply and sanitation sector, the aim shall be to provide services in under-served areas. Funding that supports

increasing access to drinking water supply and sanitation services contributes directly to human resources development by improving the state of health, and thus increasing the productivity, of people who do not already have access to these services; the continuing need to extend basic services in water, sanitation, and transport to both urban and rural populations must be addressed in environmentally sustainable ways.

(f) The Community shall cooperate with the OCTs in the conservation, sustainable use and management of their biological diversity taking into account the Community Action Plan on biological diversity.

Cooperation in this area may, in particular, extend to:

- (i) supporting the elaboration, updating and implementation of national biodiversity strategies and action plans;
  - (ii) facilitating the establishment of local, regional and sub-regional mechanisms for the exchange of information and the monitoring and assessment of progress in the implementation of the Convention on Biological Diversity (CBD)(7);
  - (iii) developing and maintaining up-to-date databases on OCT biological diversity;
  - (iv) implementing appropriate measures relating to the access to genetic resources;
  - (v) promoting the conclusion of agreements with the private sector for the use of the country's genetic resources, so that local communities may effectively benefit from the economic revenue derived from such agreements and so that the use of genetic resources does not harm the protection and conservation of the biodiversity;
  - (vi) assisting the OCTs to participate actively in the policy-making process and negotiations under the CBD.
- (g) Housing and integrated urban development projects and programmes.

In urban development, efforts shall focus on building or rehabilitating roads and other basic infrastructure, including low-income housing.

## **Article 16. Regional Cooperation and Integration**

Cooperation shall ensure that effective aid is provided in order to achieve the objectives and priorities established by the competent OCT authorities in the framework of regional and subregional cooperation and integration:

1. Regional cooperation shall cover operations agreed on between:

- (a) two or more OCTs;
- (b) one or more OCTs and one or more neighbouring ACP or non-ACP States;
- (c) one or more OCTs and one or more ACP States or one or more of the most remote regions referred to in Article 299(2) of the Treaty (Guadeloupe, Guyana, Martinique, Reunion, the Canary Islands, Azores and Madeira);
- (d) two or more regional bodies of which OCTs are members;
- (e) one or more OCTs and regional bodies of which OCTs, ACP States or one or more of the most remote regions are members.

2. The objectives of cooperation in this context shall be to:

- (a) foster the gradual integration of the OCTs into the world economy;
- (b) accelerate economic cooperation and development within the regions of the OCT and between them and the regions of the ACP States;
- (c) promote the free movement of persons, goods, services, capital, labour and technology;
- (d) accelerate economic diversification and the coordination and harmonisation of regional and sub-regional cooperation policies;
- (e) promote and foster inter-OCT and intra-OCT trade as well as trade with the most remote regions, ACP States or other third countries.

3. In the context of regional integration, the aim of cooperation shall be to:

- (a) build and enhance the capacity of regional cooperation and integration organisations and institutions to promote

regional cooperation and integration;

(b) encourage the least developed OCTs to take part in the development of regional markets and benefit therefrom;

(c) implement sectoral reform policies at regional level;

(d) liberalise trade and payments;

(e) stimulate cross-border foreign and domestic investment and other regional or sub-regional economic integration initiatives;

(f) take account of the net transitional cost of regional integration on budget revenue and balance of payments.

4. Cooperation shall, in the area of regional cooperation, cover a wide variety of functional and thematic fields which specifically address common problems and take advantage of economies of scale, including:

(a) infrastructure, particularly transport and communications infrastructure and related safety problems, energy;

(b) the environment, water resource management;

(c) health, education and training;

(d) research and scientific and technical cooperation;

(e) regional disaster preparedness and alleviation initiatives;

(f) other areas, e.

g. arms controls, drugs, organised crime, money laundering, fraud and corruption.

5. Cooperation shall also support inter-regional, inter-OCT and inter-ACP cooperation schemes and initiatives.

## **Article 17. Cultural and Social Cooperation**

Cooperation shall contribute to the self-reliant development of the OCTs, this being a process centred on people themselves and rooted in each people's culture. The human and cultural dimension shall embrace all areas and be reflected in all development projects and programmes. Cooperation shall back up the policies and measures adopted by the competent OCT authorities to enhance their human resources, increase their own creative capacities and promote their cultural identities. It shall foster participation by the population in the process of development. Cultural and social cooperation shall be expressed through:

- The taking into account of the cultural and social dimension;

- Promotion of cultural identities and intercultural dialogue, with particular reference to preserving the cultural heritage, the production and dissemination of cultural products, cultural events and information and communication;

- Operations to enhance human resources, notably covering education and training, scientific and technical cooperation, the role of women in development, health and combating drug abuse, population and demography.

# **Part THREE. Instruments of Oct-ec Cooperation**

## **Title I. DEVELOPMENT FINANCE COOPERATION**

### **Chapter 1. General Provisions**

#### **Article 18. Objectives**

The objective of development finance cooperation shall be, through the provision of adequate financial resources and appropriate technical assistance, to:

(a) support and promote the OCTs' own efforts to achieve sustainable social, cultural and economic development on the basis of mutual interest and in a spirit of interdependence;

(b) help raise the standard of living of the peoples of the OCTs;

- (c) promote measures likely to mobilise the capacity for initiative of communities, groups, associations and individuals and their participation in the design and implementation of development programmes;
- (d) contribute to the fullest participation of the population in the benefits of development in the interests of alleviating poverty;
- (e) contribute to the development of the capacity of the OCTs to innovate, adapt and transform local technologies and to master appropriate new technologies;
- (f) support the efforts of the OCTs to achieve economic diversification, inter alia by contributing to sustainable exploration, conservation, processing and exploitation of their natural resources;
- (g) provide support for and promote the optimal development of human resources in the OCTs;
- (h) facilitate an increase in the financial flows to the OCTs that meet their evolving needs and support the efforts of the OCTs to harmonise international cooperation for their development through cofinancing of operations with other financing agencies or third parties;
- (i) promote direct private investment in the OCTs, support the development of a healthy, prosperous and dynamic OCT private sector and encourage local, national and foreign private investment flows into the productive sectors in the OCTs;
- (j) encourage inter-OCT and OCT-ACP regional cooperation, solidarity and integration;
- (k) permit the establishment of more balanced economic and social relations and better understanding between the OCTs, ACP States, Member States and the rest of the world, with a view to assisting the integration of the OCTs into the world economy;
- (l) enable OCTs faced with serious economic and social difficulties of an exceptional nature resulting from natural disasters or extraordinary circumstances having comparable effects to benefit from emergency assistance;
- (m) help the least-developed OCTs to overcome the specific obstacles which hamper their development efforts.

## **Article 19. Principles**

1. Development finance cooperation shall be based on partnership, complementarity and subsidiarity and shall:
  - (a) be implemented, in accordance with the association and development strategies adopted pursuant to Article 4, with due regard to the OCTs respective geographical, social and cultural characteristics, as well as their specific potential;
  - (b) ensure that resource flows are accorded on a predictable and regular basis;
  - (c) be flexible and tailored to the situation in each OCT.
2. Member States shall cooperate with the Commission to ensure sound financial management in the use of Community funds.
3. Following a partnership approach, Community activities shall be decided in close consultation between the Commission, the OCT authorities concerned and the Member State to which it is linked. Such partnership shall be conducted in full compliance with the respective institutional, legal and financial powers of each of the partners.
4. Without prejudice to the second subparagraph of Article 25(1), Community and Member States contributions shall be complementary.
5. In accordance with the principle of subsidiarity, the authorities of the OCT concerned shall be responsible for implementing operations without prejudice to the powers of the Commission designed to ensure sound financial management in the use of Community funds.

## **Article 20. Single Programming Documents**

1. Pursuant to Article 4, the OCT authorities, the Commission and the Member State to which the OCT is linked, acting in partnership, shall lay down the strategy and the priority aims on which the SPD is to be based.
2. The OCT authorities shall be responsible for:
  - (a) establishing their priorities on which the cooperation strategy should be based;

(b) in the framework of sectoral planning, identifying projects and programmes and establishing back-up measures to ensure the sustainability and viability of the proposed schemes;

(c) preparing project and programme dossiers;

(d) preparing, negotiating and concluding contracts;

(e) implementing and managing projects and programmes;

(f) maintaining projects and programmes and ensuring their sustainability.

3. The relevant authorities of the OCTs and the Commission shall be jointly responsible for:

(a) adopting the SPD;

(b) ensuring equality of conditions for participation in invitations to tender and contracts;

(c) monitoring and evaluating the effects and results of projects and programmes;

(d) ensuring the proper, prompt and efficient execution of projects and programmes.

4. The Commission shall be responsible for taking the financing decision on the overall allocation corresponding to the SPD, in accordance with the procedure referred to in Article 24.

5. Unless otherwise provided in this Decision, all decisions requiring the approval of a party to the association shall be approved, or be deemed approved, within six months of notification by the other party.

## **Article 21. Scope of Financing**

Within the framework of the strategy and priorities established by the OCT concerned at local or regional level, financial support may be given to operations helping to achieve the objectives set out in this Decision.

The following activities shall fall within its scope:

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

(b) institutional development, capacity building and integration of environmental aspects;

(c) technical cooperation programmes;

(d) humanitarian aid and emergency relief operations;

(e) additional support in the event of fluctuations in export earnings from exports of goods and services.

## **Article 22. Eligibility for Financing**

1. The following entities or bodies shall be eligible for financial support provided under this Decision:

(a) OCTs;

(b) regional or inter-State bodies to which one or more OCTs belong and which are authorised by their relevant authorities;

(c) joint bodies set up by the Community and the OCTs to pursue certain specific objectives.

2. Subject to the agreement of the authorities of OCTs concerned, the following shall also be eligible for support:

(a) local, national and/or regional public or semi-public agencies, departments or local authorities of the OCTs and in particular their financial institutions and development banks;

(b) companies and firms of the OCTs and of regional groups;

(c) enterprises of a Member State, so as to enable them, in addition to their own contribution, to undertake productive projects in the territory of an OCT;

(d) OCT or Community financial intermediaries promoting and financing private investments in the OCTs;

(e) actors of decentralised cooperation and other non-State actors from OCTs and from the Community, to enable them to

undertake economic, cultural, social and educational projects and programmes in the OCTs in the framework of decentralised cooperation, as referred to in Article 29.

## **Article 23. Programming and Implementation**

The Commission shall adopt the implementing provisions for this Part of the Decision and for Annexes II A to D within 12 months of its entry into force, in accordance with the procedure laid down in Article 24 and in cooperation with the OCTs in accordance with Article 7.

It shall support the full utilisation by the OCTs of the instruments laid down in this Decision, in particular the trade and financial provisions, by providing the relevant guidelines and information within 12 months of its entry into force.

The provisions shall include in particular:

- (a) the procedure for preparing the SPD and its essential elements;
- (b) the procedures and criteria for the follow-up, audit, ex-ante, mid-term and ex-post evaluation, review and implementation of the SPD, including those in relation to the Commission's participation in these activities;
- (c) the preparation of periodical or other reports;
- (d) detailed rules for the financial corrections referred to in Article 32.

The financial and accounting procedures shall be laid down in the 9th EDF Financial Regulation.

## **Article 24. The EDF-OCT Committee**

1. The Commission shall, where appropriate, be assisted by the Committee created by the Internal Agreement, hereinafter referred to in this Article as "the Committee".
2. When exercising the powers conferred on it by this Decision, the Committee shall be known as the "EDF-OCT Committee". The internal rules of procedure of the Committee created by the Internal Agreement shall apply to the EDF-OCT Committee.
3. The Committee shall focus its work on the substantive issues of development cooperation at OCT and regional level. In the interests of coherence, coordination and complementarity, it shall monitor the implementation of the SPDs.
4. The Committee shall give its opinion on:
  - (a) draft SPDs and any amendments to them;
  - (b) the implementing provisions for this Part of the Decision and for Annexes II A to D.
5. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit laid down by the chairman. The opinion shall be delivered by the majority laid down in Article 21(4) of the Internal Agreement. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in paragraph 3 of that Article. The chairman shall not vote.
6. The Commission shall adopt the measures, which shall apply immediately. However, if the measures are not in accordance with the opinion of the Committee they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period of not more than three months from the date of such communication.
7. The Council, acting by the majority and in accordance with the weighting referred to in paragraph 5, may take a different decision within the period provided for in paragraph 6.
8. The Commission shall inform the Committee of the follow-up, evaluation and audit of SPDs.

## **Chapter 2. Resources Made Available to the OCTs Article 25 Financial Assistance**

### **Article 25. Financial Assistance**

1. The overall amount of Community financial assistance for the purposes of Chapter 1, its allocation, financing terms and



arrangements and of the use of the assistance for the period from 2000 to 2007 can be found in Annexes II A to D and in Chapter 3, without prejudice to the provisions to be adopted by the Commission as laid down in Article 24.

Financial assistance under this Decision may be used to cover the total cost of both the local and foreign expenditure of projects and programmes, including financing of recurrent costs.

2. OCTs are also eligible for financing under the legislation in force in favour of the developing countries listed in Annex II E and for the Community programmes listed in Annex II F.

## **Chapter 3. Private Sector Investment Support**

### **Article 26. Investment Promotion**

The authorities of the OCT, Member States and the Community, recognising the importance of private investment in the promotion of their development cooperation and acknowledging the need to take steps to promote such investment, shall:

- (a) implement measures to encourage participation in their development efforts by private investors who comply with the objectives and priorities of OCT-EC development cooperation and with the appropriate laws and regulations;
- (b) accord fair and equitable treatment to such investors;
- (c) take measures and actions which help to create and maintain a predictable and secure investment climate as well as enter into negotiations on agreements which will improve such a climate;
- (d) promote effective cooperation among OCT economic operators and between them and those of the Community in order to increase the flow of capital, management skills, technology and other forms of know-how;
- (e) seek to promote a greater flow of private resources between the Community and the OCTs by contributing, inter alia, to the removal of obstacles which impede OCT operators' access to international capital markets, including those of the Community;
- (f) create an environment which encourages the development of financial institutions and the mobilisation of resources which are essential to capital formation and the growth of entrepreneurship;
- (g) promote the development of enterprises by taking such steps as are necessary to improve the business environment and, in particular, foster a legal, administrative and incentive framework which is conducive to the emergence and development of dynamic private sector enterprises including grassroots operations;
- (h) strengthen the capacity of local institutions in the OCTs to provide the range of services which can encourage greater local participation in industrial and business activity.

### **Article 27. Investment Support and Financing**

Cooperation will provide long-term financing to help promote private sector growth and mobilise national and foreign capital to that effect. To this end, cooperation shall in particular provide:

- (a) grants to cover technical and financial assistance in support of human resource development, institutional capacity building, or other forms of institutional aid linked to a specific investment; measures designed to make enterprises more competitive and build the capacity of private financial and non-financial intermediaries; measures to facilitate and promote investment and activities to improve competitiveness;
- (b) advisory and consultancy services to help create an investment-friendly climate and a stock of information to help guide and encourage capital flows;
- (c) grants funded by the Investment Facility referred to in Annex II C;
- (d) loans from the EIB's own resources.

The conditions applicable to the Investment Facility and the abovementioned loans are laid down respectively in Annexes II B and C.

## **Chapter 4. Additional Support In the Event of Fluctuations In Export Earnings**

## **Article 28. Additional Support**

1. In order to mitigate the adverse effects of any short-term fluctuations in export earnings, in particular in the agricultural and mining sectors, which might jeopardise the attainment of the

Development objectives of the OCT concerned, a system of additional support shall be instituted within the financial allocation referred to in Annex II A.

2. The purpose of support in the event of short-term fluctuations in export earnings is to safeguard macroeconomic and sectoral reforms and policies that are at risk as a result of a drop in revenue and remedy the adverse effects of instability of export earnings in particular from agricultural and mining products.

3. The dependence of the OCT economies on exports, in particular in the agricultural and mining sectors, shall be taken into account in the allocation of resources referred to in Annex II D. In this context, the least developed OCTs shall receive more favourable treatment.

4. The additional resources shall be provided in accordance with the specific modalities of the support mechanism as set out in Annex II D.

5. The Community shall also provide support for market-based insurance schemes designed for OCTs seeking to protect themselves against the risk of fluctuations in export earnings.

## **Chapter 5. Support for other Actors of Cooperation**

### **Article 29. Objectives and Financing**

1. In order to respond to the development needs of local communities and encourage all actors of decentralised cooperation which are in a position to contribute to the autonomous development of the OCTs to put forward and implement initiatives, OCT-EC cooperation shall support such development operations within limits laid down by the OCTs concerned and by the Member States to which these OCTs are linked, and within the framework of the SPD provisions.

2. In this context, financial support shall be given to decentralised projects and microprojects as follows:

(a) The cooperation partners eligible for financial support under this Chapter shall be decentralised cooperation agents in the Community or the OCTs or other developing countries, namely: local authorities, non-governmental organisations, local traders' associations and local citizens' groups, cooperatives, trade unions, women's and youth organisations, teaching and research institutions, churches and any non-governmental associations likely to contribute to development.

This form of cooperation shall make available for the development of the OCTs the capabilities, innovative operating methods and resources of the actors of decentralised cooperation. Support will take account in particular joint actions between Community, OCT and other developing countries;

(b) Local microprojects shall have an economic and social impact on the life of the people, meet a demonstrated and observed priority need and be undertaken at the initiative and with the active participation of the local community which will benefit therefrom.

3. Projects or programmes under this form of cooperation may be a way of achieving the specific objectives of the SPD or the results of initiatives by local communities or decentralised actors.

4. The support provided for under this Chapter shall be additional or, if need be, complementary in respect of the provisions in Annex II E.

5. Contributions to the funding of microprojects and decentralised cooperation shall come from grants, in which case the contribution shall not normally exceed three-quarters of the total cost of each project. The balance shall be financed:

(a) for microprojects, by the local community concerned, in kind or in the form of services or cash and adapted to its capacity to contribute;

(b) for decentralised cooperation, by the actors of decentralised cooperation, provided that the financial, technical, material and other resources brought in by such actors is not, as a general rule, less than 25 % of the estimated cost of the project/programme;

(c) in exceptional cases where both microprojects and decentralised cooperation are concerned, by the authorities of the

OCT concerned, either in the form of financial contribution or through the use of public equipment or the supply of services.

The procedures applicable to projects and programmes financed in the context of microprojects or decentralised cooperation shall be as set out in this Decision, notably with regard to the SPD implementing provisions.

## **Chapter 6. Support for Humanitarian and Emergency Aid**

### **Article 30. Objectives and Means**

1. Humanitarian and emergency aid shall be granted to OCTs faced with serious economic and social difficulties of an exceptional nature resulting from natural disasters or extraordinary circumstances having comparable effects. Humanitarian and emergency aid shall be maintained as long as necessary to deal with the urgent problems which arise in such situations. Humanitarian and emergency aid shall be granted solely on the basis of the needs and interests of disaster victims.

2. The aim of humanitarian and emergency aid shall be to:

(a) save human lives in crisis and post-crisis situations caused by natural disasters or extraordinary circumstances having comparable effects;

(b) help finance the transport of aid and efforts to ensure that it is accessible to those for whom it is intended, by all logistical means available;

(c) implement short-term rehabilitation and reconstruction measures in order to establish conditions as soon as possible for the people concerned to be integrated or reintegrated;

(d) respond to needs arising as a result of people being displaced, such as refugees, displaced persons and returnees following natural or man-made disasters so as to meet all the requirements of refugees and displaced persons wherever they may be for as long as is necessary and facilitate their voluntary resettlement;

(e) help the OCTs to develop or perfect systems of disaster prevention and preparedness, including prediction and early-warning systems, with a view to reducing the consequences of disasters.

3. Similarly aid may be granted to OCTs taking in refugees or returnees to meet acute needs not covered by emergency assistance.

4. Aid provided for by this Article shall be financed from the Community budget. However, it may exceptionally be financed from the allocations laid down in Annex II A, in addition to the funding from the budget heading concerned.

5. Humanitarian and emergency aid operations shall be undertaken at the request of the OCT affected, the Commission, the Member State to which the OCT is linked, international organisations or local or international non-governmental organisations. Such aid shall be administered and implemented under procedures that facilitate rapid, flexible and effective operations.

## **Chapter 7. Implementation Procedures**

### **Article 31. Technical Assistance**

1. On the initiative of or on behalf of the Commission, studies or technical assistance measures may be financed in order to ensure the preparation, monitoring, evaluation and supervision necessary for implementing this Decision.

Such studies or technical assistance measures shall be financed by the overall grant allocation.

2. On the initiative of the OCT, studies or technical assistance measures may be financed in relation to the implementation of the activities contained in the SPD, subject to the Commission's opinion.

Such studies or technical assistance measures shall be financed from the allocation of the OCT concerned.

### **Article 32. Financial Control**

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

2. The Commission shall be responsible for:

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

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

3. The Commission, OCT and, where appropriate, the Member State to which it is linked, shall cooperate on the basis of administrative arrangements at annual or biannual meeting to coordinate programmes, methodologies and the implementation of controls.

4. With regard to financial corrections:

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

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

## **Chapter 8. Transition from Previous European Development Funds (EDFs) to the 9th EDF**

### **Article 33. Implementing the Previous EDFs and the Transitional Phase**

1. Commitments made in the framework of the 6th, 7th and 8th EDFs before the entry into force of this Decision shall continue to be executed following the rules applicable to those EDFs. Resources from the sixth, seventh and eighth EDFs which were allocated to OCTs before the entry into force of this Decision shall remain allocated to them. These resources shall continue to be used in accordance with the relevant provisions of Decision 91/482/EEC, which shall remain applicable for such purposes, until the entry into force of the Internal Agreement establishing the 9th EDF.

Until the Internal Agreement establishing the 9th EDF comes into force, the officials responsible for managing and implementing European Development Fund resources, namely the EDF Chief Authorising Officer, the OCT Local Authorising Officer and the Commission's Head of Delegation, shall remain responsible for the management and implementation tasks assigned to them by Council Decision 91/482/EC.

2. Any balances remaining from previous EDFs on the date of entry into force of the Internal Agreement establishing the 9th EDF, as well as any amounts that shall be decommitted at a

Later date from ongoing projects under these Funds, shall be transferred to the 9th EDF and used in accordance with the conditions laid down in this Decision.

Any resources thus transferred to the 9th EDF that previously had been allocated to the indicative programme of an OCT or region shall remain allocated to that OCT or to regional cooperation.

Any other remaining balances not allocated to an indicative programme shall be transferred to the non-committed amount of the 9th EDF. The overall amount of this Decision, supplemented by the transferred balances from previous EDFs, shall cover the period 2000-2007. This paragraph shall apply in particular to any remaining balances of the overall amounts referred to in Articles 118 and 142 of Decision 91/482/EEC concerning, respectively, the stabilisation of export earnings from agricultural commodities (Stabex) and the special financing facility (Sysmin).

## **Part II. Economic and Trade Cooperation**

### **Article 34. Objective**

1. The objective of economic and trade cooperation shall be to promote the economic and social development of the OCTs, in particular by establishing close economic relations between them and the Community as a whole.

The implementation of such cooperation must be consistent with the objectives of the other common policies.

2. Furthermore, the Community undertakes to support the effective integration of the OCTs in the global economy and the development of their trade in goods and services to regional and world markets.

# Chapter 1. Arrangements for Trade In Goods

## Article 35. Free Access for Originating Products

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

## Article 36. Transshipment of Non-originating Products In Free Circulation In the OCTs

1. Products not originating in the OCTs but which are in free circulation in an OCT and are reexported as such to the Community shall be accepted for import into the Community free of customs duties and taxes having equivalent effect providing that they:
  - (a) have paid, in the OCT concerned, customs duties or taxes having equivalent effect of a level equal to, or higher than, the customs duties applicable in the Community on import of these same products originating in third countries eligible for the most-favoured-nation clause;
  - (b) have not been the subject of an exemption from, or a refund of, in whole or in part, customs duties or taxes having equivalent effect, without prejudice to paragraph 2;
  - (c) are accompanied by an export certificate.
2. Without prejudice to paragraph 1, the Commission may, following a duly substantiated request from the authorities of the OCT concerned and in the light of the objectives of this Decision, authorise OCT public financial aid to those operating the transshipment procedure.

The request shall in particular indicate the nature and the anticipated volume of trade, which would benefit from the aid.

This aid must take the form of an aid for transport of goods put in free circulation, including legitimate running costs supported in relationship with the transshipment procedure. This aid shall not provoke a serious disturbance or difficulties, which may result in a deterioration in an economic sector of the Community or of one or more Member States.

The OCT authorities may make representations to the Commission in order to provide further information to substantiate their written request.

If the OCT authorities so request, a partnership working party referred to in Article 7 (3) shall be convened to resolve any issues arising from the administration of the transshipment procedure.

3. Paragraphs 1 and 2 shall not apply to:

(a) the agricultural products listed in Annex I to the Treaty nor to products covered by Council Regulation (EEC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products<sup>(8)</sup> except, as from 1 February 2002 and subject to the adoption by the Commission of the necessary implementing arrangements, for fisheries products:

(A) falling within CN codes 0303 31 10 00, 0304 20 95 10 and 0306 13 10 transhipped through Greenland within an annual quantity of 10000 tons, and

(B) falling within CN codes 0302 21 10, 0303 31 10, 0305 49 1 0, 0306 12 10, 0306 12 90, 0306 23 10, 0306 23 31, 0306 23 39, 0306 23 90 transhipped through Saint-Pierre-et-Miquelon within an annual quantity of 2000 tonnes;

(b) products subject, on import into the Community, to quantitative restrictions or limitations or to anti-dumping duties.

4. The conditions for entry into the Community of products not originating in the OCTs but in free circulation in an OCT, and the methods of administrative cooperation relating thereto, are laid down in Annex IV.

## Article 37. Committee Procedure

1. In matters covered by Article 36, the Commission shall be assisted by a Committee.
2. Articles 3 and 7 of Decision 1999/468/EC shall apply to the proceedings of the Committee.

3. The Committee shall adopt its rules of procedure.

## **Article 38. Quantitative Restrictions and Measures Having Equivalent Effect**

1. The Community shall not apply to imports of products originating in the OCTs any quantitative restrictions or measures having equivalent effect.

2. Paragraph 1 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality or public policy, the protection of health and life of humans, animals and plants, the protection of national treasures possessing artistic, historic or archaeological value, the conservation of exhaustible natural resources or the protection of industrial and commercial property.

Such prohibitions or restrictions shall in no case constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction of trade generally.

## **Article 39. Waste**

1. Movements of waste between the Member States and the OCTs shall be controlled in accordance with international and Community law. The Community shall support the establishment and development of effective international cooperation in this area with a view to protecting the environment and public health.

2. The Community shall prohibit all direct or indirect export of waste to the OCTs, with the exception of exports of non-hazardous waste destined for recovery operations while at the same time the OCT authorities shall prohibit the direct or indirect import into their country of such waste from the Community or any other country, without prejudice to specific international undertakings concerning these areas that have been made, or may be made in future, in the competent international fora.

3. As regards the Community, Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community(9) shall apply.

4. As regards those OCTs, which, due to their constitutional status, are not Party to the Basle Convention, their relevant authorities shall expedite adoption of the necessary internal legislation and administrative regulations to implement the provisions of the Basle Convention(10).

5. In addition, the Member States concerned shall promote the adoption by the OCTs of the necessary internal legislation and administrative regulations to implement:

(a) Regulation (EEC) No 259/93 as follows:

(i) Article 13 as regards shipments of waste within the OCTs,

(ii) Article 18 as regards exports of waste to the ACP States from the OCTs;

(b) Regulation (EC) No 1420/1999(11);

(c) Commission Regulation (EC) No 1547/1999(12);

(d) European Parliament and Council Directive 2000/59/EC subject to the time limits for transposition laid down in Article 16 thereof(13).

6. As regards imports into the Community from the OCTs of hazardous waste and of non-hazardous waste destined for final disposal, Articles 1 to 12 and 25 to 39 of Regulation (EEC) No 259/93 and Commission Decision 94/774/EC(14), shall apply.

7. One or more OCTs and the Member State to which they are linked may apply national procedures to export of waste from the OCTs to that Member State. In this case, the Member State concerned notifies to the Commission the applicable legislation within six months from the entry into force of this Decision or of any future relevant national legislation, including any amendments to it.

## **Article 40. Measures Adopted by the OCTs**

1. In view of the present development needs of the OCTs, the authorities of the OCTs may retain or introduce, in respect of imports of products originating in the Community, such customs duties or quantitative restrictions as they consider necessary.

2. (a) The trade arrangements applied to the Community by the OCTs may not give rise to any discrimination between Member States nor be less favourable than most-favoured-nation treatment.

(b) Notwithstanding specific provisions of this Decision, the Community shall not discriminate between OCTs in the field of trade.

(c) The provisions of (a) shall not preclude a country or territory from granting certain other OCTs or other developing countries more favourable treatment than that accorded to the Community.

3. The authorities of the OCTs shall communicate to the Commission, within a period of three months following the entry into force of this Decision, the customs tariffs and lists of quantitative restrictions which they apply.

They shall also communicate to the Commission any subsequent amendments to such measures as and when they are adopted.

## **Article 41. Surveillance Clause**

1. The products originating in the OCTs referred to in Article 35 or products not originating in the OCT referred to in Article 36 may be subject to special surveillance. The Commission shall decide to which products surveillance shall apply in consultation with the OCT authorities and the Member State to which the OCT is linked.

2. Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993, laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 on the Community Customs Code(15), shall apply.

3. The Commission and the competent OCT authorities shall ensure the effectiveness of the surveillance measures by introducing the methods of administrative cooperation set out in Annexes III and IV.

## **Article 42. Safeguard Measures**

1. If, as a result of the application of this Decision, serious disturbances occur in a sector of the economy of the Community or one or more of its Member States, or their external financial stability is jeopardised, or if difficulties arise which may result in a deterioration in a sector of the Community's activity or in a region of the Community, the Commission may, on its own initiative or at the request of one or more Member States and following consultation with the Committee referred to in Article 43 take or authorise the Member States concerned to take the necessary safeguard measures, in accordance with the paragraphs below.

2. For the purpose of implementing paragraph 1, priority shall be given to such measures as would least disturb the functioning of the association and the Community. These measures shall not exceed the limits of what is strictly necessary to remedy the difficulties that have arisen. They cannot exceed the withdrawal of the preferential treatment granted by this Decision.

3. When safeguard measures are taken or modified, particular attention shall be paid to the interests of the least-developed OCTs.

4. This Article is without prejudice to the rights and obligations of the Community under WTO rules, including those contained in the WTO Agreement on Safeguards(16). Neither shall it preclude application of the regulations establishing a common organisation of agricultural markets, or Community or national administrative provisions derived therefrom, or the specific rules adopted under Article 235 of the Treaty for processed agricultural products.

5. (a) If a Member State asks the Commission for safeguard measures to be applied, the Commission shall inform the Council, the Member States and the OCT authorities accordingly within three working days from the date of receipt of the Member State's request, and shall invite the OCT authorities to supply any information which they consider important to the situation at hand.

(b) When the Commission acts on its own initiative, it shall inform the OCTs concerned and the Member States at the earliest possible stage.

(c) If the OCT authorities so require and without prejudice to the deadlines referred to in this Article, a partnership working party referred to in Article 7(3) shall be convened. The outcome of the working party shall be transmitted to the consultative committee. In this case, the deadline referred to in paragraph 9 of this Article shall be extended by ten working days. At the same time it shall invite the Member States to a meeting of the committee referred to in Article 43.

Member States and the OCTs shall provide the Commission with any information necessary to justify their requests to apply

safeguard measures or not to do so.

6. The Commission shall notify the Council, the Member States and the OCT authorities immediately of the decision to take the necessary safeguard measures. The Decision shall apply with immediate effect.

7. Any Member State may refer the Commission's decision referred to in paragraph 6 to the Council within 10 working days of receiving notification of the decision.

8. Should the Commission fail to adopt a decision within 21 working days or if it rejects the request or if the Commission decides not to take safeguard measures, any Member State that has brought the matter before the Commission may refer it to the Council.

9. In the cases referred to in paragraphs 7 and 8, the Council, acting by a qualified majority, may adopt a different decision within 21 working days.

### **Article 43. Committee Procedure**

1. In matters covered by Article 42, the Commission shall be assisted by a Committee.

2. Articles 3 and 7 of Decision 1999/468/EC shall apply to the proceedings of the Committee.

3. The Committee shall adopt its rules of procedure.

## **Chapter 2. Trade In Services and Rules of Establishment**

### **Article 44. General Objective**

The long-term aim in this area is a progressive liberalisation of trade in services, with due respect for the OCTs' local policy objectives, and taking due account of the level of development of the OCT and the obligations entered into by the Community, Member States or the OCTs in the WTO framework.

### **Article 45. General Principles of Establishment and the Provision of Services**

1. For the purposes of this Chapter, the following definitions shall apply:

(a) "companies or enterprises": companies or enterprises constituted under civil or commercial law, including public or other companies, cooperative societies and any other legal person or association governed by public or private law, save for those which are non-profit-making. "Companies or enterprises of Member States" are those formed in accordance with the laws of a Member State and whose registered office, central administration or principal place of business is in a Member State. However, a company or enterprise having only its registered office in a Member State must be engaged in an activity which has an actual and continuous link with the economy of that Member State.

"OCT companies or enterprises" are those formed in accordance with the law applicable in a given OCT and whose registered office, central administration or principal place of business is in that OCT; however, a company or enterprise having only its registered office in a country or territory must be engaged in an activity which has an actual and continuous link with the economy of that country or territory;

(b) "inhabitants of an OCT": persons ordinarily resident in an OCT who are nationals of a Member State or who enjoy a legal status specific to an OCT. This definition is without prejudice to the rights conferred by citizenship of the Union within the meaning of the Treaty.

2. As regards the arrangements applicable to establishment and the provision of services, in line with Article 183(5) of the Treaty and subject to paragraph 3 below:

(a) the Community shall apply to the OCTs the undertakings entered into under the General Agreement on Trade in Services (GATS) under the conditions laid down in that Agreement and in accordance with this Decision; in application of such undertakings, Member States shall not discriminate between inhabitants, companies or enterprises of the OCTs;

(b) the OCT authorities shall afford nationals, companies or enterprises of the Member States treatment that is no less favourable than that which they extend to nationals, companies or enterprises of third countries and shall not discriminate between nationals, companies or enterprises of Member States.

3. The authorities of an OCT may with a view to promoting or supporting local employment, adopt regulations to aid their



inhabitants and local activities.

In this event, the OCT authorities shall notify the Commission of the regulations they adopt so that it may inform the Member States.

4. With regard to the professions of doctor, dentist, midwife, general nurse, pharmacist and veterinary surgeon, the Council, acting unanimously on a proposal from the Commission, shall adopt the list of professional qualifications specific to OCT inhabitants which are to be recognised in the Member States.

## **Article 46. Maritime Transport**

The objective of cooperation in this field shall be to ensure harmonious development of efficient and reliable shipping services on economically satisfactory terms by facilitating the active participation of all parties according to the principle of unrestricted access to the trade on a commercial basis.

This provision shall not apply to Greenland.

## **Chapter 3. Trade-related Areas**

### **Article 47. Current Payments and Capital Movements**

1. Without prejudice to paragraph 2:

(a) Member States and the OCT authorities shall impose no restrictions on any payments in freely convertible currency on the current account of balance of payments between residents of the Community and of the OCTs;

(b) with regard to transactions on the capital account of balance of payments, the Member States and the OCT authorities shall impose no restrictions on the free movement of capital for direct investments in companies formed in accordance with the laws of the host Member State, country or territory and to ensure that the assets formed by such investment and any profit stemming therefrom can be realised and repatriated.

2. The Community, Member States and OCTs shall be entitled to take the measures referred to mutatis mutandis in Articles 57, 58, 59, 60 and 301 of the Treaty in accordance with the conditions laid down therein. Equally, where one or more OCTs or one or more Member States is in serious balance of payments difficulties, or under threat thereof, the OCT authorities, the Member State or the Community may, in accordance with the conditions established under the GATT, GATS and Article VIII and XIV of the Articles of Agreement of the International Monetary Fund, adopt restrictions on current transactions which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. When taking such measures, the OCT authorities, the Member State or the Community shall inform each other without delay and submit to each other as soon as possible a timetable for the elimination of the measures concerned.

### **Article 48. Competition Policies**

1. The introduction and implementation of effective and sound competition policies and rules are of crucial importance in order to improve and secure an investment friendly climate, a sustainable industrialisation process and transparency in the access to markets.

2. To ensure the elimination of distortions to competition and with due consideration to the different levels of development and economic needs of each OCT, the Community and the OCTs undertake to implement local, national or regional rules and policies including the control and, under certain conditions, the prohibition of agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition. The above prohibition also relates to the abuse by one or more undertakings of a dominant position in the territory of the Community or of the OCTs.

### **Article 49. Protection of Intellectual Property Rights**

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

2. Intellectual property rights cover copyright, including in particular the copyright on computer programmes and neighbouring rights, utility models, patents including bio-technological inventions, industrial designs, geographical

indications including appellations of origin, trademarks for goods or services, topographies of integrated circuits, the legal protection of data bases and the protection against unfair competition as referred to in Article 10 bis of the Paris Convention for the Protection of Industrial Property and protection of undisclosed information on know-how.

## **Article 50. Standardisation and Certification**

Closer cooperation shall be pursued in the field of standardisation, certification and quality assurance to remove unnecessary technical barriers and to reduce differences in those areas, so as to facilitate trade.

## **Article 51. Trade and the Environment**

Development of international trade shall be promoted in such a way as to ensure sustainable and sound management of the environment, in accordance with the relevant international agreements and undertakings and with due regard to the respective levels of development of the OCTs. The special needs and requirements of the OCTs shall be taken into account in the design and implementation of environmental measures.

Bearing in mind the Rio Principles, cooperation shall aim at ensuring the mutual supportiveness of trade and environment policies, in particular through the reinforcement of quality controls of goods and services related to the environment and the improvement of environment-friendly production methods.

## **Article 52. Trade and Labour Standards**

The internationally and nationally recognised core labour standards must be respected, in particular the freedom of association and protection of the right to organise, application of the right to organise and to bargain collectively, the abolition of forced labour, the elimination of worst forms of child labour, the minimum age for admission to employment and nondiscrimination in respect to employment.

## **Article 53. Consumer Policy and Consumer Health Protection**

Cooperation shall be pursued in the area of consumer policy and consumer health protection, having due regard to the legislation in force in OCTs and the Community to avoid barriers to trade.

## **Article 54. Prohibition of Disguised Protectionist Measures**

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

# **Chapter 4. Monetary and Tax Matters**

## **Article 55. Tax Carve-out Clause**

1. Without prejudice to the provisions of Article 56, the most-favoured-nation treatment granted in accordance with the provisions of this Decision shall not apply to tax advantages which the Member States or OCT authorities are providing or may provide in the future on the basis of agreements to avoid double taxation or other tax arrangements, or domestic fiscal legislation in force.

2. Nothing in this Decision may be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or fraud of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements, or domestic fiscal legislation in force.

3. Nothing in this Decision shall be construed to prevent the respective competent authorities from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence, or with regard to the place where their capital is invested.

## **Article 56. Tax and Customs Arrangements for Community-funded Contracts**

1. The OCTs shall apply to Community-funded contracts tax and customs arrangements no less favourable than those applied by them to the most-favoured States or international development organisations with which they have relations. For the purpose of determining the most-favoured-nation treatment, account shall not be taken of arrangements applied by the relevant authorities of the country or territory concerned to other developing countries.

2. Subject to paragraph 1, the following arrangements shall apply to contracts financed by the Community:

(a) the contract shall not be subject in the beneficiary OCT to stamp or registration duties or to fiscal charges having equivalent effect, whether such charges already exist or are to be instituted in the future; however, such contracts shall be registered in accordance with the laws in force in the OCT and a fee corresponding to the service rendered may be charged for it;

(b) profits and/or income arising from the performance of contracts shall be taxable according to the internal fiscal arrangements of the OCT concerned, provided that the natural or legal persons who realise such profit and/or income have a permanent place of business in that OCT, or that the performance of the contract takes longer than six months;

(c) enterprises which must import equipment in order to carry out works contracts shall, if they so request, benefit from the system of temporary admission as laid down by the legislation of the beneficiary OCT in respect of that equipment;

(d) professional equipment necessary for carrying out tasks defined in a service contract shall be temporarily admitted into the beneficiary OCT in accordance with the legislation of that OCT free of fiscal, import and customs duties and of other charges having equivalent effect where these duties and charges do not constitute remuneration for services rendered;

(e) imports under supply contracts shall be admitted into the beneficiary OCT without customs duties, import duties, taxes or fiscal charges having equivalent effect. The contract for supplies originating in the country or territory concerned shall be concluded on the basis of the ex-works price of the supplies, to which may be added such internal fiscal charges as may be applicable to those supplies in the country or territory;

(f) fuels, lubricants and hydrocarbon binders and, in general, all materials used in the performance of works contracts shall be deemed to have been purchased on the local market and shall be subject to fiscal rules applicable under the legislation in force in the beneficiary OCT;

(g) personal and household effects imported for use by natural persons, other than those recruited locally, engaged in carrying out tasks defined in a service contract and members of their families, shall be exempt from customs or import duties, taxes and other fiscal charges having equivalent effect, within the limits of the legislation in force in the beneficiary OCT.

3. Any matter not covered by paragraphs 1 and 2 shall remain subject to the legislation of the OCT concerned.

4. The Commission officials, excluding locally hired staff, shall be exempt from all taxes levied in the country or territory where they are posted.

## **Chapter 5. Vocational Training, Eligibility for Community Programmes and other Provisions**

### **Article 57. Vocational Training**

Individuals from an OCT with the nationality of a Member State shall be eligible to receive vocational training in the Community on the same basis as nationals of the Member State in question where they can meet the conditions required to be met by those nationals, including any condition of residence within the Community or the EEA.

### **Article 58. Programmes Open to the OCTs**

Individuals from an OCT and where applicable the relevant public and/or private bodies and institutions in an OCT shall be eligible for the Community programmes listed in Annex II F and any programmes succeeding them, subject to the rules of the programmes and the arrangements applicable to the Member State with which they are connected.

The Commission may modify this list at the request of an OCT or a Member State or at its own initiative.

### **Article 59. Euro-Info Correspondence Centres (EICC)**

At the request of the OCT authorities and in accordance with the procedures specified in Part Three, Title I, a Euro-Info Correspondence Centre, hereinafter referred to as "EICC", may be set up in an OCT. Part-financing may be made available to the EICC host structure from the grant aid available under the SPD or regional cooperation.

The tasks of the EICCs, the tools and services made available to them, the establishment procedures and criteria for selecting the host structure are set out in Annex V.

## **Article 60. CDE and CTA**

At the request of their authorities, the OCT shall be eligible for the services of the Centre for the Development of Enterprise (CDE) and of the Technical Centre for Agricultural and Rural Cooperation (CTA) referred to in Article 1 of Annex III to the ACP/EC Partnership Agreement. Any costs resulting from services provided by the CDE or CTA for the benefit of the OCTs shall be financed from the funds provided for in Annex II A.

## **Part FOUR. Final Provisions**

### **Article 61. Change of Status**

If an OCT becomes independent:

(a) the arrangements provided for in this Decision may continue to apply provisionally to that country or territory under conditions laid down by the Council;

(b) the Council, acting unanimously on a proposal from the Commission, shall decide on any necessary adjustments to this Decision, in particular to the amounts specified in Annex II A.

### **Article 62. Review**

Before 31 December 2007, the Council, acting unanimously on a proposal from the Commission, shall establish the provisions to be laid down for the subsequent application of the principles set out in Articles 182 to 186 of the Treaty. In this context, the Council shall in particular adopt any necessary measures where an OCT decides in accordance with its own constitutional procedures to enter into special preferential arrangements between the Community and various partners in the region to which it belongs. The Council shall take particular account in this respect of international obligations entered into by the Community, its Member States or the OCTs, including those within the framework of the WTO.

### **Article 63. Entry Into Force**

This Decision shall enter into force on 2 December 2001. It shall be applicable until 31 December 2011.

Done at Brussels, 27 November 2001.

For the Council The President A. Neyts-Uyttebroeck

(1) OJ L 263, 19.9.1991, p. 1. Decision as last amended and extended by Decision 2001/161/EC (OJ L 58, 28.2.2001, p. 21).

(3) Not yet published C5-0070 - 2001/2033 (COS).

(4) Council Decision 97/803/EC of 29 November 1997 amending at mid-term Decision 91/482/EEC on the association of the overseas countries and territories with the European Economic Community (OJ L 329, 29.11.1997, p. 50).

(5) OJ L 184, 7.7.1999, p. 23.

(6) OJ L 317, 15.12.2000, p. 355.

(7) Council Decision 93/626/ISO\_7>A>ISO\_1>EC of 25 October 1993 concerning the conclusion of the convention on Biological Diversity (OJ L 309, 13.12.1993, p. 1).

(8) OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).

(9) OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Decision 1999/816/EC (OJ L 316, 10.12.1999, p. 45).

(10) Council Decision 93/98/EEC of 1 February 1993 on the conclusion on behalf of the Community, of the Convention on the control of transboundary movements of hazardous wastes and their disposal (Basle Convention) (OJ L 39, 16.2.1993, p. 1).

(11) Council Regulation (EC) No 1420/1999 of 29 April 1999 establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste (OJ L 166, 1.7.1999, p. 6). Regulation as last amended by Commission Regulation (EC) No 1800/2001 (OJ L 244, 14.9.2001, p. 19).

(12) Commission Regulation No 1547/1999/EC of 12 July 1999 determining the control procedures under Council Regulation (EEC) No 259/93 to apply to shipments of certain types of waste to certain countries to which OECD Decision C(92)39 final does not apply (OJ L 185, 17.7.1999, p. 1). Regulation as last amended by Regulation (EC) No 1800/2001.

(13) European Parliament and Council Directive No 2000/59/EC of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (OJ L 332, 28.12.2000, p. 81).

(14) Commission Decision 94/774/EC of 24 November 1994 concerning the standard consignment note referred to in Council Regulation No 259/93/EEC on the supervision and control of shipments of waste within, into and out of the European Community (OJ L 310, 3.12.94, p. 70).

(15) OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 993/2001 (OJ L 141, 28.5.2001, p. 1).

(16) OJ L 336, 23.12.1994, p. 184.