

BIS | Department for Business
Innovation & Skills

**BIS AND THE OVERSEAS
TERRITORIES**

MAY 2012

Contents

Contents	2
INTRODUCTION	3
BIS POLICY AREAS RELEVANT TO THE OVERSEAS TERRITORIES	4
SCIENCE, RESEARCH AND HIGHER EDUCATION	4
Science and Research	4
The British Antarctic Survey, part of the Natural Environment Research Council	4
Higher Education.....	5
TRADE.....	6
Trade Policy	6
Trade Promotion and Inward Investment:	6
OECD BRIBERY CONVENTION	7
OECD Guidelines for Multinational Enterprises	7
THE MET OFFICE	7
INVESTMENT PROMOTION AND PROTECTION AGREEMENTS (IPPAS)	8
ECONOMIC PARTNERSHIP AGREEMENTS.....	8
EU ISSUES – GIBRALTAR.....	9
BIS SUPPORT TO OVERSEAS TERRITORIES	9

INTRODUCTION

The UK's 14 Overseas Territories are British but are not constitutionally part of the UK. HM The Queen is Sovereign of the Overseas Territories but they have their own identity, and those with permanent populations normally have democratically elected governments and Governors. The Governor is appointed by Her Majesty The Queen and represents Her Majesty in the Territory; as well as representing the Territory's interests to HMG in London. The UK is generally responsible for the defence, security, international relations and overall good governance of the Territories and the well-being of their citizens. All Territory citizens have automatic right to British citizenship.

A significant amount of power is devolved to the Territories and this includes most of the areas of work for which the Department for Business, Innovation and Skills (BIS) is responsible, such as Trade Policy. The Foreign and Commonwealth Office co-ordinates overall policy towards the Overseas Territories and, following an agreement in the National Security Council in July 2011, each Government Department is responsible for engaging with the Territories in its area of competence and expertise.

The role of the Department for Business, Innovation and Skills is to support sustained growth and higher skills across (principally) the UK economy.

There are a number of areas, however, where the Department can provide advice and support to the Territories. This paper sets out what the Department currently does on behalf of the Overseas Territories and what they will do in the future.

BIS POLICY AREAS RELEVANT TO THE OVERSEAS TERRITORIES

SCIENCE, RESEARCH AND HIGHER EDUCATION

BIS is committed to developing a world class UK research base responsive to its users and the economy, with sustainable and financially strong universities and public laboratories and a strong supply of scientists, engineers and technologists. The Department will offer advice, where sought, and within resource constraints, to tertiary education establishments in the Overseas Territories.

Science and Research

Research Councils UK funds research across the remit of all seven Research Councils according to well defined eligibility criteria. In funding research in or pertaining to UK Overseas Territories these criteria will address the individual Research Council strategies and the overarching RCUK ambitions to support a healthy society, productive economy and contribute to a sustainable world.

Further information on eligibility criteria can be found at <http://www.rcuk.ac.uk/research/Pages/Eligibilityforrcs.aspx>

The Overseas Territories are eligible to participate in the 7th EU Research Framework Programme (FP7). National Contact Points – run by Research Councils and other organisations under contract to BIS - will advise the Overseas Territories should they wish to submit a proposal to this fund or its successors.

The Research Councils are also willing to assist the Overseas Territories in times of emergency. As an example, the British Geological Survey (part of the Natural Environment Research Council) responded rapidly in helping set up an observatory on the Caribbean island of Montserrat after the 1995 eruption, and continued to manage the observatory from 1997 to 2008. The UK NERC community has active research programmes on the island still.

The British Antarctic Survey, part of the Natural Environment Research Council

The British Antarctic Survey, part of the Natural Environment Research Council, provides a UK presence in British Antarctic Territory and South Georgia & the South Sandwich Islands (SGSSI) as well as carrying out world-class research. Its mission is:

- To deliver a world-class programme of scientific research, national capability and long-term observations, concentrating on the regional and global role of polar processes in the Earth System.

- Through science and impact, sustain for the UK an active and influential Antarctic regional presence, and a leadership role in Antarctic affairs.

British Antarctic Survey staff at King Edward Point in South Georgia provides logistical support assisting the Government Officer of SGSSI to carry out his duties plus the delivery of an agreed science plan.

Research in the Antarctic continues to be a priority for the Government because it underpins our understanding of the effects of climate change.

Higher Education

The Department for Business, Innovation and Skills fully understands the close relationship between the UK and the Overseas Territories and in recognition of this agreed in 2007 that students from the Territories are eligible for the home fee rate providing they are studying at English universities and have been living in the EEA, Switzerland or the Overseas Territories for the three years prior to the first academic year of the course. The Department will continue with this arrangement.

Students from the Overseas Territories are entitled to full student support if they have lived in the UK, Channel Islands and the Isle of Man for the three years prior to the course or a fee loan only if they have lived within the EEA or Switzerland for those years. The Department notes that there is no reduction of the three year residency requirement for student loans for OT students, it would be very difficult to limit any further concession just to students from the Overseas Territories and due to budget constraints BIS is not in a position to relax this requirement at this time.

TRADE

With a total population of around 250,000 mostly British citizens, the Overseas Territories are a collection of flourishing and vibrant markets with great potential. Some Territories have developed important niche positions in international financial markets. The UK Government is interested in supporting the sustainable economic development of the Territories and has an ambitious overall vision for the future. For all of them, trade is an important part of that vision.

Trade Policy

The British Overseas Territories were consulted between 1991 and 1995 by the United Kingdom when its World Trade Organisation (WTO) membership was being negotiated as to whether they wished to be covered by it. The Overseas Territories chose not to be and therefore are not represented in WTO talks. Should a UK Overseas Territory want to participate in the WTO, BIS would be able to offer advice and assist in exploring with the WTO the process of becoming a member

Overseas Territories currently benefit from preferential market access arrangements to the EU through the Generalised System of Preferences (GSP) or the Overseas Association Decision (OAD). Under current Commission proposals, Overseas Territories would, with effect from 1 January 2014, no longer be eligible for the preferences under the GSP. However, the UK will work to ensure that they continue to enjoy equivalent access through the provisions in a new OAD which will similarly come into effect in 2014. The Council have asked the Commission for draft proposals on the OAD by July 2012.

Free Trade Agreements (FTAs) made between the EU and other countries do not apply to the Overseas Territories. However, the UK will work to ensure that the impact of FTAs on Overseas Territories and other third countries is assessed as part of the European Commission's Sustainability Impact Assessment and is taken into account during negotiations.

The BIS/DFID Joint Trade Policy Unit, working with the FCO, will offer support and advice to Overseas Territories on specific issues relating to trade matters wherever possible.

Trade Promotion and Inward Investment:

The Government believes that there are opportunities for British business in the Overseas Territories.

UK Trade & Investment (UKTI), the Government's trade and inward investment promotion organisation, is at the centre of the Government's work to rebalance the UK economy in a sustainable way. UKTI's aim is to provide practical support for eligible investors and exporters, and its Spending Review settlement funds its current service offering, with the amount and geographical spread of its overseas resource reflecting demand for support from UK companies and the UK's strategic priorities for markets of the future. Accordingly, UKTI's eligibility criteria specifically require businesses to have a UK operating address before they can be considered for UKTI support. UKTI will, therefore, provide assistance to Overseas Territories businesses where they have an active UK trading address. UKTI will also, on a case by case basis and resources permitting, consider requests for help

from Overseas Territories Companies in liaising with a foreign government on trade and investment promotion issues.

OECD BRIBERY CONVENTION

The Department firmly believes that it is important that all the inhabited Overseas Territories have the OECD Bribery Convention extended to them. Corruption should not be tolerated and the extension of this Convention is part of the good governance agenda. It welcomes the fact that the Convention has already been extended to Cayman. The Department will continue to advise the Overseas Territories on whether their local legislation is sufficiently robust for them to be able to formally seek extension (via the UK) of the Convention. The Department will also represent the Overseas Territories that have the Convention extended to them at the OECD Bribery Working Group.

OECD Guidelines for Multinational Enterprises

The Department is responsible for implementing the OECD Guidelines for Multinational Enterprises, a set of recommendations on ethical business conduct from OECD governments to companies. Observance of the Guidelines by companies is voluntary and not legally enforceable, but the UK Government encourages UK businesses to comply with the OECD Guidelines wherever they are trading and operating. The Department hosts the UK National Contact Point (NCP) for the Guidelines, which is tasked with: raising awareness of the Guidelines amongst British businesses, NGOs and trades unions; and with implementing the Guidelines' complaint mechanism. Detailed information on the UK NCP, the complaint mechanism, and cases is available at www.bis.gov.uk/nationalcontactpoint .

THE MET OFFICE

The Met Office has widespread engagement with a number of the Overseas Territories through its strategic and front line support to the Ministry of Defence, and its requirement for global weather and climate observations. This includes teams of forecasters in Ascension, Falklands, the Sovereign Base Area of Akrotiri on Cyprus and Gibraltar. The Met Office directly supports observation stations in St Helena; works with South African Weather Services to support observation stations on Gough Island and Tristan da Cunha; and works with Met Service New Zealand to support observation stations on Pitcairn Island. The Met Office also works with the British Antarctic Survey to provide forecasters, and help support observations, at the Halley Base in British Antarctic Territory. The Foreign and Commonwealth Office also receives a Met Office service to help inform them and Governors' Offices on the path of potential hurricanes in the Caribbean and Bermuda.

INVESTMENT PROMOTION AND PROTECTION AGREEMENTS (IPPAS)

The UK has 98 bilateral IPPAs, 15 of which have been extended to 4 OTs (Bermuda, Cayman Islands, Gibraltar, and the Turks and Caicos Islands). IPPAs set out standards of treatment which investors of both parties can rely on when investing in the territory of the other, and enable investors to resolve disputes with the host state via investor-state arbitration. These agreements have previously been extended to the UK's OTs via an exchange of notes with the other party in situations where the OT has sought an extension, provided a convincing business case and where the other party agrees.

In the Lisbon Treaty, competence for Foreign Direct Investment (FDI) was transferred to the EU. In light of this, negotiations for draft EU Regulation 11953/10 on the future of member states' IPPAs are currently taking place and the earliest date at which the regulation could be adopted looks likely to be Summer 2012. Until the regulation is finalised, the UK is in a grey area with regard to taking actions with respect to its IPPAs - including ratification of signed agreements, and the possible extension of IPPAs to OTs. Once this has been clarified the Department will work with the Overseas Territories to determine how to appropriately accommodate their interests within the new framework.

ECONOMIC PARTNERSHIP AGREEMENTS

A number of Economic Partnership Agreements have been negotiated between the European Union and the Africa, Caribbean and Pacific (ACP) countries. They are intended to protect ACP countries' access to EU markets, promote trade integration, and accelerate development and poverty reduction in the ACP regions. EPAs are World Trade Organisation compatible and development friendly. Not all Overseas Territories are in regions with an Economic Partnership Agreement. There is an option for Overseas Territories to join Economic Partnership Agreements should they so wish, but to do so will require an entrustment. The Territories currently benefit from preferential trade arrangements under the Overseas Association Decision and under the new Decision these preferences may not leave them any worse off than those offered by the Economic Partnership Agreements.

EU ISSUES – GIBRALTAR

Gibraltar is the only Overseas Territory located within the EU and as such Gibraltar is subject to most EU law, though some areas, including Treaty provisions which guarantee the free movement of goods, together with Directives which have as their objective the removal of barriers to free movement of goods and Articles 206 - 207 of the TFEU (Treaty on the Functioning of the European Union), which set out the Common Commercial Policy, do not apply to Gibraltar.

Although Gibraltar is not constitutionally part of the UK, the UK is responsible for ensuring that the Government of Gibraltar complies with its obligations under EU law. This includes taking account of implications for Gibraltar in negotiations on EU legislation, advising Gibraltar on transposition and implementation, and notifying the Commission. BIS will liaise with the Foreign and Commonwealth Office and the Government of Gibraltar in those areas of their competence being discussed in the European context.

BIS SUPPORT TO OVERSEAS TERRITORIES

BIS is happy to explore and support work relating to the Overseas Territories by outlining policy areas in which BIS has expertise within the context of our overall ministerial priorities. This paper has identified what BIS currently does; its engagement with the Overseas Territories and where BIS can help. BIS is ready to provide advice on all areas of its competence on a case by case basis.

The initial contact for BIS related issues for the Overseas Territories is The BIS International Secretariat (international.secretariat@bis.gsi.gov.uk).

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Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

If you require this publication in an alternative format, email enquiries@bis.gsi.gov.uk, or call 020 7215 5000.

URN 12/748