

Annex H, 2009 DFID St Helena Consultation Document¹

St Helena



DFID Consultation Document – Annexes

Annex H - Legal context and Government policy

A summary of the UK's legal and policy commitments to its Overseas Territories.

UK's primary legal responsibilities for the Overseas Territories derive from Article 73 of the United Nations Charter:

"Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost ... the well-being of the inhabitants of these territories, and, to this end:

- a) to ensure ... their political, economic, social, and educational advancement ...
- d) to promote constructive measures of development"

The Charter is binding on the UK under international law. The UK is required to report annually to the UN Committee of 24 (Decolonisation Committee) on each of our populated OTs. The Committee takes a keen interest in whether we are complying with our Charter obligations. In general, the UK is also responsible for ensuring compliance with international obligations of the UK which have been extended to its Overseas Territories.

To meet these legal responsibilities, it has been the settled policy of Governments that the development needs of Territories are a first call on the aid programme. The most recent restatements of our obligations were made in DFID's 1997 and 2005 White Papers and the FCO's 1999 Overseas Territories White Paper.

DFID 1997 White Paper

"The Government reaffirms its responsibilities for Britain's 13 remaining Dependent Territories. ... The reasonable assistance needs

of the Dependent Territories are a first call on the development programme." (para 2.28)

The White Paper then sets out the three objectives for providing development assistance to the Territories:

"to maximise economic growth and self-sufficiency through sensible economic and financial management leading to graduation from such support, where this objective is feasible

to ensure in the meantime that basic needs are met, including the provision of essential infrastructure

to support the good governance of the territories, including the proper management of contingent liabilities ..."

FCO 1999 White Paper

This reviewed the totality of the UK's relationship with the (renamed) Overseas Territories and set out four guiding principles for future relations:

- self-determination (independence if it is wanted; remaining British for as long as a Territory wishes)
- mutual responsibility ("Britain is pledged to ... encourage their sustainable development". Right of UK to expect highest standards of probity and good governance in return.)
- autonomy (Territories take "greatest possible control over their own lives")
- assistance ("Britain will continue to provide help to the Territories that need it.")

Commitments are further elaborated in a chapter on Sustainable Development which, in addition to repeating the three DFID objectives

1 See: <http://www.sainthelenaaccess.com/application/documents/Consultation/02-Airport-Consultation-Annex.pdf>



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from 1997, addresses the needs of particular Territories:

“We recognise responsibility to help them achieve sustainable development, targeting the needs of the poorest and the vulnerable, and the special considerations that apply to the small island territories ... for example ... the problems of physical access and isolation which apply in some cases.” (Para 7.2)

“The Government, acting through DFID, will continue to help the Overseas Territories to achieved sustainable development.” (Para 7.4) (emphasis added)

“The Government recognises its responsibility to provide necessary and

appropriate development support to these territories up to the stage where they can be said to have achieved economic self-sufficiency.” (Para 7.5)

DFID 2005 White Paper

The commitment to the Territories is contained in the opening chapter (‘Delivering our Promises’) in these terms: “The UK will continue to meet the development needs and promote the self sufficiency of the UK’s Overseas Territories.”