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The European Union and Member State Territories: A New Legal Framework Under the EU Treaties

Fiona Murray



Springer

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For my husband, Barry O'Halpin

Foreword

Dr. Fiona Murray's book on *The European Union and Member State Territories* should be praised as a major contribution in the English language literature to an important topic which had been almost only covered until 2011 by literature in French or Spanish. It is worthwhile quoting the preface that has been written for the only other English language book dealing with this topic (Dimitry Kochenov, *EU Law of the Overseas*, 2011) by the Honourable Sir Richard Plender, Justice of the High Court of England and Wales, to which he was appointed in 2007, as it also applies to Dr. Murray's work:

“The study of European Union (EU) law has become too Eurocentric. Essays on inter-personal and commercial exchanges within the EU abound, but rarely do they consider the impact of the Union's laws in non-European territories. Even the treaty-making capacity of the Union is more frequently examined from a constitutional than from an international perspective. This is much to the disadvantage of those who have to address the EU's external impact: a disadvantage that I experienced at first hand, when required to deal with the status of the Faeroe Islands [...] and in my years as legal adviser to the States (parliament) of the Bailiwick of Jersey”.

Differently from Kochenov's book, which is a collection of essays by some twenty leading experts—mainly academics—Dr. Murray's book is the work of a single author, who researched her topic with passion during the years which led to her being awarded the grade of Ph.D at the Erasmus university, Rotterdam. The book is proposing a thesis, namely that the clauses of the EU treaties dealing with the differentiated statuses of Member States' Territories which are not part of mainland Europe or the British Isles (Channel Islands and Isle of Man excepted) are not adapted to the present and future situation and should be redrafted. Arguing a thesis does not necessarily mean developing abstract reasoning: on the contrary, Dr. Murray's book is firmly rooted in reality.

The major contribution of Dr. Murray's book, which should open it a large readership, is the extremely precise and detailed study of the different EU Member States' Territories which enjoy a differentiated status: European territories for whose external relations a Member State is responsible, EU outermost regions which are non-European territories forming part of France, Portugal and Spain,

and the overseas countries and territories associated with the union, which are non-European territories constitutionally bound to Denmark, France, the Netherlands, or the United Kingdom.

Far from being a dull legal work, Dr. Murray's book is therefore also an invitation to travel around the world, which the reader will certainly enjoy.

Jacques Ziller, Ph.D.

Professor of EU law at the University of Pavia, formerly professor at the European University Institute (Florence), at Sorbonne University (Paris) and at the University of the French West Indies and Guyana

Preface

During the 20 years I have been working in the area of EU law and policy, a considerable part of this experience has been devoted to advising and assisting EU Member State territories, both Governments and private sector. In working with these territories from an EU perspective, a number of factors have struck me, notably:

- The disparate nature of their relationships with the EU; whilst some territories chose to join the EU, others opted to remain outside; all, however, had negotiated derogations or special arrangements from the TEC
- The absence of any coherent overall EU policy in relation to these territories, despite their many broad similarities
- The piecemeal nature of their evolution *vis à vis* the EU.

In general, in my work for these territories, it was not always easy to find source materials that would, for example, clarify the precise nature of their legal relations with the EU or facilitate comparisons between territories or groups of territories in the context of the EU.

It was in order to address the dearth of source materials on EU Member State Territories as a whole that I wrote and published a book in 2004 on “*EU and Member State Territories: The Special Relationship under Community Law*”.¹ The then European Commissioner for Development, Poul Nielsen acknowledged in a foreword to the book the “information deficit” on the subject.

Having written what was intended to be a straightforward reference book about the territories, I then began to consider the Treaty’s basic legal framework for relations between Member State Territories and the EU as set out (until the recent entry into force of the Lisbon Treaty) in Article 299 TEC. Once I had reviewed the individual relations with the EU particularly in the context of their evolution since 1957, I observed that Article 299 seemed somewhat incongruous as a broad legal framework for relations between Member States Territories and the EU, due

¹ Murray 2004.

particularly to the many developments that had taken place since the TEC was signed in 1957 which no longer seemed to fit appropriately into the current Article 299 framework. Therefore, I decided to investigate further:

- The origins of Article 299 as a legal framework for relations between the EU and territories as drafted in 1957
- The various developments that have taken place since 1957, including Member State accessions, the addition of new territories and the departure of former territories with independence, the emergence of new groups or associations of territories, the impact of the changing political and economic setting as compared to 1957, Treaty amendments including those that resulted from the Lisbon Treaty.
- On the basis of the first two elements above, to re-examine Article 299 and the current EU Treaties framework for EU/Member State territories and to argue the case for and propose a new model Treaties framework for relations between the EU and the relevant Member State Territories.

Many people have helped me in my research for this book, to whom I extend a general heartfelt thank you. I would like to extend my particular gratitude, however, to the following: to Professor Dr. Jaap W. De Zwaan for his unfailing patience, kindness, commitment and incisive comment throughout the period of research for this book. It has been a pleasure to know and to work with you. To Associate professor Dr. Flora Goudappel, thank you for generously giving of your time and experience. To Professor Dr. Jacques Ziller for his expert and helpful comments and especially for graciously agreeing to prepare the foreword to this book. To my publishers, particularly Philip van Tongeren, Marjolijn Bastiaans and Antoinette Wessels for their kind, patient and experienced guidance in the editing of this book. To my three sons, Fionn, Oisín and Áengus who provided tireless love, inspiration and encouragement to keep me going. And, last but not least, to my husband, Barry, who has supported and encouraged me unceasingly in this project and to whom I dedicate this work. I love you and thank you.

Reference

Murray F (2004) *EU and Member State Territories: The Special Relationship under Community Law*, Sweet & Maxwell

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Abbreviations

ACP	African, Caribbean and Pacific States
CAP	Common Agricultural Policy
CCP	Common Commercial Policy
CCT	Common Customs Tariff
CFI	European Court of First Instance
DOMS	Départements d'outre-mer (French Overseas Departments)
ECJ	European Court of Justice
ECSC	European Coal and Steel Community
EDF	European Development Fund
EPA	European Partnership Agreements
ERDF	European Regional Development Fund
ESF	European Social Fund
EU	European Union
EUR	Euro
EURATOM	European Atomic Energy Treaty
FPA	Fisheries Partnership Agreement
GDP	Gross Domestic Product
OCTs	Overseas Countries and Territories
OJ	Official Journal
OP	Operational Programme
POSEIDOM	Programmes of options specific to the remote and insular nature of the DOMs
POSEICAN	Programmes of options specific to the remote and insular nature of the Canary Islands
POSEIMA	Programmes of options specific to the remote and insular nature of Madeira and the Azores
R&D	Research and Development
SBAs	Sovereign Base Areas of the UK in Cyprus
TCE	Treaty establishing a Constitution for Europe
TEC	Treaty on the European Community
TEU	Treaty on the European Union

TFEU	Treaty on the Functioning of the European Union
TOMs	Territoires d'outre mer (French Overseas Territories)
VAT	Value Added Tax
UK	United Kingdom

Chapter 1

General Introduction

Abstract This chapter sets out a general introduction to the present EU Treaties framework governing relations between the EU and Member State territories including key developments leading up to the adoption of the Lisbon Treaty provisions. The scope of this book is clarified, including territories concerned, main objectives, methodology used, structure and content of publication. Finally, an overview of the currently applicable EU Treaties provisions is provided.

1.1 Overview

Certain of the EU Member States have autonomous and semi-autonomous territories. Examples include the French overseas departments, the UK Crown Dependencies and the former Netherlands Antilles. All of these territories have particular constitutional links with their Member States, some more integrated into their Member States; others are virtually independent.

Likewise, their relations with the EU vary: whilst some territories, like the French departments (*Départements d'outre-mer*, DOMs) and the Portuguese Azores and Madeira, chose to join the EU when their Member States acceded to the EU, others, such as the UK Crown Dependencies and the French overseas collectivities (*Collectivités d'outre-mer*, COMs), opted to remain outside the EU, thus essentially assuming the status of non-EU third countries. Still others have altered their original arrangements with the EU. Greenland, for instance, once part of the EU, is now formally outside the EU as one of the Overseas Countries and Territories (OCTs). For all of these territories, however, whether in or out of the EU, special arrangements were negotiated at the time of their Member State accession.

1.2 Current EU Treaties Framework: EU/Member State Territories

1.2.1 Background

Until the recent entry into force of the Lisbon Treaty, the Treaty provision governing relations between the EU and Member State territories was Article 299 of the Treaty of the European Community (TEC), which defined in broad terms the territorial scope of the Treaty. As a result of the entry into force of the Lisbon Treaty, the EU Treaties framework governing EU and Member State territories falls primarily under Article 52 (1) and (2) of the Treaty on the European Union (TEU) with the detailed provisions set out in Article 355 and, in relation specifically to Outermost Regions, Article 349 of the Treaty on the Functioning of the European Union (TFEU).

When the original version of Article 299 (ex Article 227 TEC) was drafted in 1957, there existed a very different geographical, political and economic landscape compared with today. One obvious difference was that there were only 6 Member States, the only one of which had any significant number of territories was France. Whilst the first paragraph of Article 227 provided that the Treaty was to apply to all Member States, which as we shall see by definition included their territories, it was to address mainly the situation of the French territories, at the request of France, that subparagraphs two and three of Article 227 were drafted. Article 227(2) made provision for the qualified application of the Treaty to the French DOMs to take account of their social and economic backwardness compared with the rest of France. Article 227(3) created a special arrangement for the French TOMs which had less close links to France. As we shall note, Article 227(2) paved the way for the emergence of today's policy on Outermost Regions while Article 227(3) provided the basis for today's EU/OCT association.

Article 227(4), however, (and the equivalent provision under the Lisbon Treaty, Article 355(3) TFEU), remains something of an anomaly. It provided that the Treaty should apply to all European territories for whose external relations a Member State is responsible. The text of this subparagraph was borrowed from the equivalent provision in the European Coal and Steel Community (ECSC) Treaty. The latter was aimed at the Saar region over whose jurisdiction Germany and France were in dispute. When, however, the TEC was signed in 1957, the dispute over the Saar's jurisdiction had ended (in favour of Germany) with the result that Article 227(4) was in fact redundant when the TEC was signed and remained redundant until the UK (and Gibraltar) joined the Community in 1972.

1.2.2 Developments Since 1957

At the time of writing, just after the 50th anniversary of the TEC, the geo-political and economic backdrop to the Treaties is quite different to that which existed in

1957. For one thing, in terms of Article 52 TEU and the territorial reach of the EU, there are many more Member States and there has been an ebb and flow in the numbers of territories since 1957. One notable change is that many of the early overseas territories gained independence and most now fall under the EU/African Caribbean and Pacific (ACP) association which developed out of the EU/OCT framework. Another is the development of a new group of overseas territories, known as the Outermost Regions, which are part of the EU but for which special provision is made due to their economic, social and geographic handicaps.

The predicament of territories whose Member States joined the EU post-1957 has rarely if ever been straightforward. The process has almost always necessitated the negotiation of special arrangements, sometimes ill-fitting to accommodate the EU Treaties framework, but has also led to anomalies and inconsistencies. Thus, to give a few examples, when Denmark joined the EU, Greenland as a colony was assumed to form part of the EU under Article 52(1) TEU (ex Article 299(1)) and no special provision was made for it other than a short Protocol. In contrast, Gibraltar is considered to be part of the EU by virtue of Article 355(3) (ex Article 299(4)), rather than Article 52(1) and in that case, special derogations were agreed for it. Later, when Greenland opted for 'home rule', as it was still officially a Danish territory, Greenland was granted the status of OCT. However, rather than being subject to the OCT Decision and therefore being eligible for financial and technical assistance from the EU, Greenland entered into a fisheries agreement with the EU. Likewise, Bermuda, a UK territory, though officially one of the OCTs, opted not to be subject to the OCT Decision.

The overall resulting picture today is one of several more Member States and a great variety of territories, some of which despite similar characteristics and status *vis à vis* the EU are treated and 'classified' in very different ways under the EU Treaties.

Another general issue with the current EU Treaties framework for EU/territories' relations is the scarcity of literature or expertise on this subject. Whilst there are ample source materials and persons with knowledge on individual territories or groups of territories and their relations with the EU and even on the specific topic of the territorial scope of the treaties, there are comparatively few materials or specialists with an overall perspective on the relevant territories and/or particular insight into the EU Treaties framework for their relations with the EU. It was this dearth of knowhow which I remarked upon whilst working with some of these territories that led me to write a book on the subject, published in 2004.¹ Whilst my book was intended as a general reference source on the territories themselves, this book seeks to provide a new and original perspective on this topic in the following ways:

- first, by providing a deeper, more comprehensive focus on the relevant territories, including their evolution *vis à vis* the EU and their current relations with the EU, a little-researched and written about subject in itself;
- second, by focusing in particular on the pre Lisbon Treaty framework for EU/territories relations, tracing the origins of these provisions from 1957 to the

¹ Murray 2004.

present day and examining the adequacy of Article 299 and the changes introduced by the Lisbon Treaty both in the context of 1957 and today. Whilst there is ample commentary on the broader subject of the territorial scope of the EU Treaties, there is very little, if indeed any comprehensive literature on Article 299 TEC or indeed the general EU Treaties framework governing the EU/territories' relationship;

- finally, in the light of the foregoing examination and analysis, by positing, in place of the existing one, a new model Article as a more adequate EU Treaties framework for EU/Member State territories relations.

1.2.3 Lisbon Treaty Changes to Article 299 TEC

The Lisbon Treaty entered into force on 1 December 2009. Its broad objective is to reform the functioning of the EU following the two waves of enlargement which took place since 2004 and which increased the number of EU Member States from 15 to 27. The Lisbon Treaty was drafted to replace the Treaty establishing a Constitution for Europe (TCE), which was rejected by French and Dutch voters in 2005. It aims to streamline the decision-making process without making substantive changes to the detailed Treaty provisions including Article 299 TEC.

The substance of the Lisbon Treaty changes to the EU Treaty framework governing EU/territories will be examined in more detail later in this text. However, for the purposes of introduction and for structure, it is important to note here that much of this book is focused on the pre-Lisbon Treaty framework for EU/territories relations, namely Article 299 TEC (and its predecessor Article 227 TEC). There are two main reasons for focusing more on the structure of Article 299 rather than the present applicable Lisbon Treaty framework. Firstly, there is the relative familiarity of Article 299 TEC compared to the Lisbon Treaty framework, thus making it easier for the reader to follow both the developments to Article 299 through to the present day and also to contrast and compare the changes to the framework brought about by the Lisbon Treaty. In the final analysis, this in turn will help to highlight the ongoing inadequacies of the current EU Lisbon Treaty framework for EU/Member State territories and set the basis for the new model EU Treaties framework proposed by this book. For similar reasons to those outlined above, in proposing this model, this book takes as its basis the structure of the former Article 299 TEC rather than that of the Lisbon Treaty framework.

The second main reason for drafting the proposed model framework by reference to Article 299 TEC rather than to the Lisbon Treaty provisions is that this book will argue that like Article 299, the model EU Treaties framework for relations between the EU and Member State territories should be grouped under a single framework provision, rather than the Lisbon Treaty approach which spreads the relevant provisions for EU territories over three principle Articles in two different Treaties.

1.3 Introduction to Current EU Treaties Framework: EU/Member State Territories

Having examined above the general background to the EU Treaties framework governing relations between the EU and Member State territories, there now follows an overview of the current EU Treaties framework, following the entry into force of the Lisbon Treaty. This will help bridge the link between the previous Article 299 TEC framework and the proposed new model Treaties framework set out in Part III of this book.

1.3.1 Overview of Current Relevant Lisbon Treaty Provisions

Although for reasons outlined in the previous section, this book will focus mainly on the pre-Lisbon Treaty Article 299 TEC, it is helpful here to summarise the current EU Treaties framework for EU/Member State territories as a result of the entry into force by the Lisbon Treaty. For ease of reference and where applicable, the corresponding provisions of Article 299 TEC are bracketed.

Following the entry into force of the Lisbon Treaty in December 2009, the core provisions governing EU/Member State territories are set out in two parts of the Treaties—the Treaty on the European Union (TEU) which sets out the broad principles of the EU, and the Treaty on the Functioning of the European Union (TFEU) which covers the operational aspects of the former TEC.

Article 52(1) and (2) TEU (ex Article 299(1) TEC) set down the general principle that the Treaties apply to all Member States and that the territorial scope of the Treaties is specified in Article 355 TFEU.

Article 355(1) TEU (ex Article 299(2) first subparagraph) provides that the Treaties apply to the Outermost Regions and that the detailed provisions concerning them are set out in Article 349 TFEU.

Subparagraph (2) (ex Article 299(3)) deals with the OCTs.

Subparagraph (3) (ex Article 299(4)) provides that the Treaty applies to all European territories for which a Member State is responsible.

Subparagraph (4) (ex Article 299 (5)) concerns the application of the Treaties to the Aland Islands.

Subparagraph (5) (ex Article 299 (6)) covers those Member State European territories—exceptions to the rule in (3)—which have chosen to remain outside the EU, namely, the Danish Faroe Islands, the UK SBAs in Cyprus, Channel Islands and the Isle of Man.

Subparagraph (6) (new—no equivalent under Article 299 TEC) facilitates a status change to Danish, French or Dutch OCTs or Outermost Regions referred to in subparagraphs(1) and (2) on the basis of a Council decision.

Article 349 TFEU (ex Article 299(2) second, third and fourth subparagraphs) sets out the more detailed provisions governing relations with the Outermost Regions.

1.3.2 Background to the Current EU Treaties Framework and Developments Since 1957

The political and economic context in which the present EU Treaties provisions for EU Member State territories was originally conceived and drafted is very different to today's political and economic reality. Some of the key changes since 1957 are:

- more Member States
- a greater variety of territories often with very different constitutional relations with their Member States
- a wider range of arrangements and derogations negotiated for these territories *vis à vis* the EU, including the emergence of the Outermost Regions
- structural and textual changes introduced by major Treaty amendments such as Maastricht, Amsterdam and also latterly the Lisbon Treaty
- impact of globalization and the Internet.

Despite these and other changes, the EU Treaties framework has never undergone an overall review process. Rather, it has been added to and adapted in piecemeal fashion as new Member States have joined, to accommodate the specific requirements and requests of individual territories or to adapt to emerging groups like the Outermost Regions but also the OCTs. The result of this lack of review is a framework for relations between the EU and Member State territories which is incoherent, inconsistent and anomalous.

1.4 Scope

1.4.1 Territories Concerned

At the outset, it is important to determine the precise scope and purpose of this book, including specifically the meaning of territories for the purpose of this publication. Firstly, before delineating which territories fall within the scope of this book, it is worth emphasizing at this point that, though relevant and commented on, this book is not focused on the broader subject of territorial scope of the Treaty about which much has already been written.² Nor does it focus on specific EU policy areas which may be

² For example: Dewost 1979; Groux 1987; Ziller 2007.

the subject of derogations or special arrangements between the EU and the relevant territories. Rather, this book takes as its primary focus the territories of the Member States, their evolving relations with the EU and, in the light of this relationship, the adequacy of the Article 299 TEC and the current EU Treaties framework for the EU/Member State territories relationship.

As to the question which territories fall within the scope of this book, such territories fulfill the following requirements:

- With the exception of Gibraltar and Ceuta and Melilla, all of these territories, whether individually or as part of a group, are specifically mentioned in the main provisions of the EU Treaties framework for EU/Member State territories
- All are covered by special provisions or protocols in their Member States Treaties of Accession with the EU
- All of the territories concerned have a constitutional link with a Member State
- All are either autonomous or semi-autonomous.

This book will also, however, address the position of specific Member State territories whose status *vis à vis* the EU is uncertain, for example, the French territories of Clipperton and the scattered islands of the Indian Ocean. In this context it is also worth noting that none of the EU's candidate countries or 12 "new" Member States has autonomous or semi-autonomous territories for which their Treaties of Accession make special provision.

Currently, the EU Treaties refer specifically to the following territories or groups of territories:

- Outermost Regions:
 - French Overseas Departments and collectivities (Guadeloupe, Martinique, French Guiana, Réunion, Saint Barthélemy, Saint Martin)
 - Portuguese Azores and Madeira
 - Spanish Canary Islands
- Overseas Countries and Territories:
 - Danish Greenland
 - French New Caledonia and Dependencies, French Polynesia, French Southern and Antarctic Territories, Wallis and Futuna Islands, Mayotte, Saint Pierre and Miquelon
 - Dutch autonomous countries of Aruba, Curaçao, and Sint Maarten. Bonaire, Saba and Sint Eustatius are special municipalities of the Netherlands
 - British Anguilla, Cayman Islands, Falkland Islands, South Georgia and the South Sandwich Islands, Montserrat, Pitcairn, Saint Helena and Dependencies, British Antarctic Territory, British Indian Ocean Territory, Turks and Caicos Islands, British Virgin Islands, Bermuda
- Other territories:
 - British Gibraltar
 - Finnish Aland Islands

Table 1.1 Territories which are part of the EU and those which are not

Territory/Group of territories	Part of EU	Not part of EU
Outermost Regions	X	
OCTs		X
Gibraltar	X	
Aland Islands	X	
Faroe Islands		X
UK SBAs in Cyprus		X
Channel Islands and Isle of Man		X
Ceuta and Melilla	X	

- Danish Faroe Islands
- British UK Sovereign Base Areas in Cyprus
- British Channel Islands and Isle of Man

As shown in the table below, broadly half of these territories form part of the EU. The other half are outside the EU, effectively in the position of third, non-EU countries (Table 1.1).

1.4.2 Territorial Scope of Treaties

Some of the key issues in the debate on the territorial scope of the Treaties include the following:

- territorial scope of the original EC, ECSC and Euratom Treaties
- impact of Maastricht Treaty amendments, in particular the definition of territorial scope of the EU Treaty and of territorial scope of the second and third pillars
- impact of the Lisbon Treaty including the merging of the three pillars for the territorial scope
- territorial scope of specific subject areas e.g. Common Customs Tariff (CCT)

All of these issues will be addressed in this book only in so far as they are relevant to the central theme of the EU Treaties framework for relations between the EU and Member State territories.

1.5 Aims

The basic contention of this study is that the current EU Treaties framework is inadequate for relations between the EU and Member State territories. The issues with the current framework can be traced back to the original drafting of Article 227 TEC when an overall structured approach to the drafting of this provision was

lacking at the outset, and to the general failure to review the EU Treaties framework governing EU/Member State territories' relations in the light of the many political, socio-economic, constitutional and legal developments that have taken place since the original Article 227 TEC was adopted in 1957.

Some of the key issues are:

- in the original 1957 version of Article 227 TEC, a framework that was drafted to fit the demands of mainly one Member State's territories (France), but which lacked adaptability to incorporate and apply to new territories with different structures and constitutional relations with their Member States
- a provision—the current Article 355(3) TEFU on European Member State territories—which was obsolete from the start and which ever since has sat uncomfortably within the EU Treaties framework
- the piecemeal way in which the original provisions have been added to in order to accommodate new Member State territories and new groups of territories resulting in an inconsistent approach to categorizing territories and to incorporating future territories
- the absence of any overall review of the EU Treaties framework for relations with Member State territories in order to bring the provisions up to date with the current socio-political and constitutional landscape despite a succession of major overall Treaty revisions including Maastricht, Amsterdam and latterly, Lisbon, which would have afforded opportunities for a comprehensive review.

The result of these and many more issues and anomalies, which will be examined in detail in this paper, is that the Article 299 framework—including the changes to structure introduced by the Lisbon Treaty—is ill-matched to the current reality of EU/Member States relations. The current Treaties framework lacks consistency, transparency and adaptability to accommodate ongoing future changes.

- propose a new model Treaties framework for the EU/territories' relationship in the light of the foregoing analysis.

1.6 Methodology

Some further general comments:

First, for ease of reference and cross-reference, the full texts of relevant Treaty provisions and key supporting legislation have been added as annexes to this book. The commentaries on these legal provisions are for the most part brief and are reviewed and analysed only insofar as they are relevant to the overall objective of analysing the adequacy of the EU/Member State territories Treaty framework.

Second, as mentioned already, this publication includes a general overview of the relevant territories. These profiles do not intend to examine in any depth each territory as any such detail would not contribute to the overall objective of the

book as regards the adequacy or otherwise of the Treaty framework for these territories. Nevertheless, it is important to include an overview of the relevant territories so as to be better able to assess the effectiveness of the Treaties framework.

Third, when referring to the European Union in general and to specific relations such as with the OCTs and ACP, the generic EU is used.

Finally, in Part III of this book, a review and comparative analysis of the corresponding provisions of the Lisbon Treaty and its predecessor, the TCE, is also undertaken to see whether the changes proposed to Article 299 in the TCE might have offered a better solution to the inadequacies of Article 299.

Box 1.1 Lisbon Treaty Provisions Governing EU/Member State Territories

Article 52 (1) and (2) TEU

- 1. The Treaties shall apply to the Kingdom of Belgium, Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland. The territorial scope of the Treaties is specified in Article 355 of the Treaty on the Functioning of the European Union.*

Article 349 TFEU

Taking account of the structural social and economic situation of Guadeloupe, French Guiana, Martinique, Réunion, Saint-Barthélemy, Saint-Martin, the Azores, Madeira and the Canary Islands, which is compounded by their remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, shall adopt specific measures aimed, in particular, at laying down the conditions of application of the present Treaty to those regions, including common policies. Where the specific measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act on a proposal from the Commission and after consulting the European Parliament.