

NEARNESS OR DISTANCE, A WORLD OF DIFFERENCE

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A WORLD OF DIFFERENCE**

Assignment

The Committee of Wise Men was established by the Minister of the Interior and Kingdom Relations. The appointment letter of 28 June 2017 to the members of the Committee sets out the following assignment:

“Your committee is asked to present a report on the current strength of governance of the public body Sint Eustatius and on the way in which this strength of governance should be raised to the required level.

All aspects of governing the public body (Executive Council, Island Council, management) are involved. This concerns the preparation and adoption of policy, as well as its implementation, evaluation and adaptation. The implementation relates to the execution of statutory tasks, the provision of services to citizens and businesses, and personnel, financial and material management.

State-owned companies and foundations which execute government tasks are to be included in the study. This relates to both the task execution as such, as well as the way in which their relationship with the public body is given shape.

The application of island, national and international legislation and regulations must be explicitly covered by the study.

The report must also address the degree to which the European Dutch Central Government, the Representative of the Public Body, and the Council for Financial Supervision fulfil their responsibilities.”

We started our work in July 2017. We did research into reports, decisions and letters and conducted interviews. We are grateful to the many people who were willing to frankly and openly share their views and experiences with the committee.

Three of the five Island Council members, the two commissioners of the island and the former island secretary refused to speak to us as a committee. The public officials of the public body were instructed by email by the island secretary not to speak to the committee.¹ This also stopped others from speaking to us, including an advisor² and the directors of the state-owned companies.

The establishment of the committee was preceded by misunderstandings and promises. These led to the decision not to speak to the committee, with which the island administration also deprived itself of the opportunity to present its experience and views to the committee. Others have undertaken attempts to counteract that attitude. This was unsuccessful, as evidenced by the letter³ from the parliamentary group leader of the PLP and the email from the independent member.⁴ We acknowledge the administrative disappointment, but regret this attitude, with which, in our opinion, the island administration is selling itself and others short.

Nevertheless, a number of public officials did take up the invitation and other public officials requested to speak to the committee. These conversations took place outside of working hours. The committee is impressed by the courage of these individuals, because they exposed themselves to possible repercussions in relation to their employment.

During our second visit to Sint Eustatius, the (former) island secretary asked to speak to us as a private citizen. This enabled us to take note of his views directly and gave us insight into the island administration’s perspective.

1 Annex 1, letter from island secretary, 29 June 2017

2 Annex 2, letter from Versant Resource Center, Hyden Gittens, 4 July 2017

3 Annex 3, letter from Clyde I. van Putten, 19 July 2017

4 Annex 4, e-mail from Reuben Merkman, 18 July 2017

The attitude of the island administration also impeded our independent study of the administrations and the relationship with state-owned companies. In view of the poor quality of the financial and population administration – there is sufficient documentation about this – and the experience of businesses, citizens and public officials, it can be presumed that all administrations will definitely be in need of improvement.

The relationship between the Executive Council and the state-owned companies were not part of the study because the commissioners and the directors of the state-owned companies refused to speak with the committee.

All reports of the conversations we have had are confidential in order to ensure that the interviewees could speak freely.

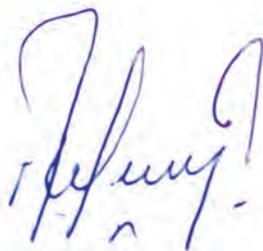
During our second visit, on the night of 5 September, hurricane Irma struck a number of Caribbean islands. The devastating effects on Sint Maarten, Saint Martin, St. Barthélemy and Barbuda affected us deeply. Tens of thousands of people are facing an uncertain future. We, the committee, can barely grasp what this must mean for them.

On Sint Eustatius and Saba hurricane Irma wreaked substantial havoc. Approximately 60-70 houses were damaged, more than 200 trees were blown over, the cliff further deteriorated, and electricity poles were knocked over. Nevertheless, after just a few days a lot of debris was cleared up, the water supply was 100%, the power supply 99%, and the telecommunications were getting back on track. The volunteers, the (emergency) services of the island and the Dutch marines deserve great praise for their work.

Personally, we have been impressed by the vigorous and thorough way in which the proprietors of our hotel ensured our safety.

A second hurricane, Maria, followed on 19 September, destroying Dominica, St. Croix and a large part of Puerto Rico and hitting Sint Eustatius. This part of the Caribbean has been hit hard.

Finally, we would like to thank everyone who supported us in our work. We are grateful for their unceasing efforts to bring our research to a good end and to provide us with all necessary documentation and information.



F.J. Refunjol



J. Franssen

Inhoud

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1 The context

1.1 Sint Eustatius

Sint Eustatius is an island of approximately 21 km². It is in the vicinity of the islands of Saba and St. Kitts and Nevis. A little further away, but sometimes visible, are the islands of Sint Maarten and St. Barthélemy. Sint Eustatius has a population of approximately 3200 people. The only regular link with the outside world consists of four flights a day between Sint Eustatius and Sint Maarten.

The recent hurricanes Irma and Maria closed off this link, which temporarily reduced accessibility further.

Statians are proud of their island and their Statian identity. Some, often the older generation, are also proud of their Dutch citizenship. They are warm, hospitable and friendly in nature. They greet each other in the street, even if they are driving.

The majority have lower to medium level education. The education available on the island does not go much further than medium vocational level and high school (Dutch mbo and havo). On average, the final year of high school consists of four to five students. Students wishing to get education beyond this have to go to other islands, the Netherlands or the United States. Usually this means a permanent departure, people rarely return.

The supporting pillars in their lives consist of strong family ties, of a basic faith in the government – ‘the government will take care of me’ – and of one of the many church communities. Over three-quarters of the population is Catholic, Protestant or Seventh Day Adventist, or practises another religion.

The island has to deal with issues such as poverty, unemployment, lack of economic development, youth and family problems, erosion, insufficient waste processing, overdue maintenance of roads and homes, a large number of goats and cows running loose, and a plant, the Coralita, which is rampant.

The neglect of the physical living environment – wrecks, roads and dilapidation – detracts from the unspoilt nature of the island, the beauty of the Northern Hills, and of the Quill (with a tropical rainforest in its crater), as well as from (the remainders of) the rich history, like forts, warehouses, places of worship and other historic buildings.

Sint Eustatius is a beautiful island, not only for the inhabitants, but also for people in search of peace and quiet, the lustre of the underwater world of coral reefs and sea turtles, and for the illustrious history of a small Caribbean island.

A number of key figures in Annex 5 provide some background; the figures derive from two CBS publications: ‘Trends in the Caribbean Netherlands 2016’ and ‘The Caribbean Netherlands in figures 2013’.

1.2 The government from a historical perspective

The oldest known residents of Sint Eustatius are Caribs, one of the native tribes on the American continent. However, the first Zeeland sons who landed on the island at the beginning of 1636 found an uninhabited island. It is very likely that the Spanish had a hand in this, but the precise fate of the Caribs is unknown, lost in the fog of time.

1636 – 1815

Between 24 April 1636 and 1 February 1816 the island is alternately governed by Holland (in essence until 1792 by the West India Company, which went under in that year), France and England, always for periods of a few years. An exception to this short-term periodicity is the Holland government, which was in place between 1696 and 1781.

1815 – 1845 – 1954

The Kingdom of the Netherlands is established in 1815. The king is the highest ruler of the colonies and possessions of the state in other parts of the world. He appoints governors who represent him in overseas territories.

Between 1815 (*de facto* 1 February 1816) and 1828 there were three governors 'in the West': one for Suriname, one for Curaçao and the dependencies Aruba and Bonaire, and one for Sint Eustatius and the dependencies Saba and Sint Maarten.

From 1828 to 1845 there is one governor for Suriname and the six Caribbean islands. This form of government is ended in 1845. Up to 1954 there are two governors, one for Suriname and one for Curaçao and the five dependencies.

In 1848 the Kingdom of the Netherlands becomes a constitutional monarchy. The governors no longer report to the king, but to the Crown. In practice, the Crown is the responsible minister.

The governors are assisted by councils, whose members are appointed. Elections are held for the first time in 1937. On the basis of the census and "literacy-based suffrage" (*capaciteitenkiesrecht*), 6% of the adult population is entitled to vote. The first Estates (parliaments) consists of six representatives for Curaçao, two for Aruba, and one for each of the four other islands. The administration is supplemented by five parliament members appointed by the governor. After the introduction of universal suffrage in 1948, all parliament members are elected in 1949: eight for Curaçao, eight for Aruba, two for Bonaire, and one for Sint Eustatius, Saba and Sint Maarten together.

1954 – 2010

After years of squabbling between the island parliament and the Netherlands regarding the transition to independence of the Antilles and the islands, an Interim Arrangement (1950), an Island Arrangement (1951) and finally the Charter (1954) result in the country known as the Netherlands Antilles with six island territories.

The role of the governor of the Netherlands Antilles shifts to a more hybrid form. On the one part, as state organ, the governor is the head of the Antillean government, with immunity, on the other, as kingdom organ, he is the representative of the Crown.

The Netherlands Antilles are dismantled on 10 October 2010. This results in three countries: Curaçao, Aruba (which already had a separate status since 1986) and Sint Maarten and three public entities of the Netherlands: Saba, Sint Eustatius and Bonaire. This was not a first choice for Sint Eustatius. In a referendum, the population choose in favour of the country of the Netherlands Antilles. Because of the choices of the other islands, this would mean that the country of the Netherlands Antilles would consist only of the island of Sint Eustatius. In the run-up to 10-10-10, there is no second referendum. In the end, the political majority of the island choose for the status of public body.

The issues between 1815 and 2010

Over the centuries, the governors and their councils, and later the governments and island councils, wrestle with ever-recurring issues. Government finances are seldom in order. Things are only better in the time of phosphate mining and 'the oil' on Aruba and Curaçao. 'The Hague' (seat of the central government of the Netherlands) and since the 1954 Charter 'Willemstad' represent constant cut-backs for the islands.

Economic development is a permanent issue and consequently so is fighting poverty and unemployment. Public services like police and tax offices do not always perform properly, and system innovations in the area of taxes and education regularly replace each other. Attempts to get agriculture, stock farming and fisheries off the ground flounder time and again due to drought, hurricane damage, lack of money and insight and scepticism. Furthermore, the quality of infrastructure, of the housing stock and of government buildings is often poor. The constantly precarious budget situations allow governors, and later the Antillean government and island administrations, little room for improvements. In the eyes of the administrators, 'wealthy The Hague' could make more funds available and 'Willemstad' focuses too much on Curaçao. But whatever the case may be, the issues are those of small, insular economies in which the options of producing enough to be self-sustaining are slight.

Little attention is paid to good governance. It was only in the second half of the 20th century that this becomes an item on the agenda to any extent, just as is the case in the Netherlands itself. Naturally governors, council members or other officials are relieved of their office, usually in an elegant manner. This is sometimes done by the Netherlands itself if the governor were concerned, sometimes by the governor. The governor is responsible for internal affairs, although there was contact with the minister.

After 1954, the Netherlands takes the same reserved position as in the preceding centuries. Intervening in issues relating to good governance is not deemed appropriate, particularly as these issues relate to the internal matters of another country. Nevertheless, following the state of the administrative and financial affairs, in 1993⁵ the Kingdom issues an Order in Council for Sint Maarten. On the basis of preventative supervision, the governor reviews in advance all decisions of the administration of Sint Maarten as to their legitimacy and effectiveness. In 1994 the Pourié government of the Netherlands Antilles takes over the supervision which fits in better with the administrative order.

The instrument of setting aside decisions by the Crown was, just like in the Netherlands, also applied to the Netherlands Antilles.

1.2 Measures on behalf of good governance

The status of the public entities in Caribbean Netherlands as of 10-10-10 is shaped by legislation. In the area of administrative relationships this is the WolBES⁶, and in the area of financial relationships, the FinBES.⁷ The Municipalities Act and the Financial Relations Act are used as models. BES legislation is established for specific sub-areas, or Dutch legislation was modified with specific BES provisions (BES = Bonaire, Sint Eustatius and Saba). As of 10-10-10, a list of the division of tasks between European Netherlands and Caribbean Netherlands is established. National tasks such as defence, justice, taxes and foreign policy have traditionally also applied to the relationship between the country and the public entities. The tasks of Dutch government inspectorates also cover the Caribbean Netherlands. Some departments appoint liaison officers to make the communication between the public entities and European Netherlands easier.

Dutch implementation services were placed under the auspices of the National Office of the Caribbean Netherlands (*Rijksdienst Caribisch Nederland*; RCN). This service also comprises a facility and communications department, as well as a number of employees who supervise projects for the departments.

When establishing the public entities, the Netherlands does not close its eyes to the existing administration culture on the islands. For example, in order to increase the chance of *orderly financial and budgetary management*, the Council for Financial Supervision (*College financieel toezicht BES*; Cft) is designated as advisor of the local administration and of the minister in the FinBES, with a number of specific powers⁸ to effect improvements in the event of incomplete financial management. Art. 31(2) gives the Cft a far-reaching power: 'The Council for Financial Supervision may have an accountant as referred to in Article 393, paragraph 1 of Book 2 of the Civil Code conduct an audit as to *the legitimacy and efficiency of the management*.' Article 34(3) is no less important: 'The Council for Financial Supervision may, at all times, conduct an investigation into the management and design of the financial organisation referred to in paragraph 1.' The minister's power of appointment is also regulated.⁹ In addition, a provision¹⁰ has been included in which the finance officer of the public body is obliged to inform the minister, via the Cft, about any failure of the Executive Council to act in conformity with the statute. This provision also arranges the minister's power of appoint-

5 Netherlands Bulletin of Acts, Orders and Decrees, 1993, no. 72

6 Wet openbare lichamen Bonaire, Sint Eustatius en Saba (The Public Entities Bonaire, Sint Eustatius and Saba Act)

7 Wet financiën openbare lichamen Bonaire, Sint Eustatius en Saba (Act on the finances of the public entities Bonaire, Sint Eustatius and Saba)

8 Art. 31(2); Art. 33(2); Art. 34(3) FinBES

9 Art. 33(6); Art. 34(5) FinBES

10 Art. 35(2) and (3) FinBES

ment. The Cft's prior written consent¹¹ is necessary to make cash payments and to use electronic payment methods.

Lastly, the minister has the power to establish prior supervision¹² and, in the event of a lack of an approved budget, may instruct the Executive Council to seek the minister's prior consent to take on (specific) obligations.¹³ In addition, the statute has a provision to take the place¹⁴ of the administrative entities, whereby the budget will be determined by the minister.

To ensure *good governance*, the position of Kingdom Representative (*Rijkvertegenwoordiger*) is established in addition to the position of the governor and the Island Council in the WolBES. The Kingdom Representative's tasks are described in Art. 204.

In order to prevent capriciousness and nepotism ('family, friends and favours') on the part of the Executive Council when making personnel decisions, the Kingdom Representative must assess *all* personnel decisions¹⁵, including contracts of assignment.

The Kingdom Representative can withhold approval¹⁶ due to conflict with the law or with the public interest.

The review takes place on the basis of formal requirements: the drawing up of a media plan, the publication of the vacancy, the setting up of a selection committee, the drafting of a report of the candidate which demonstrates that they satisfy the function requirements.

The procedure does not exclude family members or friends from being appointed. In view of the number of residents and the entwined family relationships, this would be difficult to achieve. However, the procedure seeks to ensure a transparent and careful recruitment and selection procedure.

In addition, the Kingdom Representative has the power to present decisions for suspension and setting aside by the Crown¹⁷ and to take over¹⁸ if the Executive Council or the governor fail in the execution of their tasks, other than referred to in the WolBES and FinBES.

The minister has the power to give the Kingdom Representative an instruction.¹⁹ In the event of gross dereliction of duty, provisions can be made by law²⁰ to provide for public administration, e.g. by relieving the governing entities of their tasks and placing all governing powers in the hands of one person.

Lastly, the WolBES has the option to establish a court of audit²¹ for the Caribbean Netherlands. Up to now, no court of audit has ever been established.

11 Art. 36(8) FinBES

12 Art. 35(5) FinBES

13 Art. 24(1) and (5) FinBES

14 Art. 20(2) FinBES

15 Art. 204(1b) WolBES

16 Art. 168(3) WolBES

17 Art. 222(1) WolBES

18 Art. 231b(1) WolBES

19 Art. 204(1), under i and Art. 205(2) WolBES

20 Art. 232 WolBES

21 Arts. 95 through 105 WolBES

2 The study

The committee's investigation primarily focused on the current situation and the causes thereof. In order to put certain matters in context and perspective, the reports of IdeeVersa²², of the Caribbean Netherlands Evaluation Committee (*commissie Kleine evaluatie Caribisch Nederland*)²³, and of the Spies Committee²⁴ served as a guideline.

This chapter describes the course of the administrative dealings between Sint Eustatius and the Netherlands as of 10-10-10 to mid-October 2017 on the basis of documents. This is followed by the representation of the discussions which the committee had on Sint Eustatius and in the Netherlands. This chapter will conclude with a description of the administrative identity of Sint Eustatius.

2.1 Administrative dealings between October 2010 and October 2017

2.1.1 The de facto actions of the administrations of Sint Eustatius and the Netherlands

2010 – 2014

Fairly quickly after 10-10-10, the minister saw cause to deploy one of the supervision instruments. In 2011, the Executive Council submitted an insufficient budget amendment. The minister subsequently established prior supervision in November 2011 with the conditions that Sint Eustatius would see to:

- An approved, balanced budget amendment 2012;
- A balanced budget 2013 which was adopted by the Island Council within the time limits;
- Financial statements over 2011 adopted by the Island Council, submitted within the time limits;
- A plan of approach to improve the financial management in 2013.

In December 2012, the minister withdrew the prior supervision because the conditions had been satisfied.

In the years 2012, 2013 and 2014, the Cft and the auditing accountant noted a number of points for improvement in the financial management, even though in 2014 the accountant determined on several occasions that wrongful obligations were taken on.

2015 – 2016

Tightened supervision, instructions, prior supervision

Following the first implementation report 2015, the Cft noted that the financial situation was once again worrisome. For example, the Cft observed that the 2014 financial statements would probably show a deficit of approx. \$ 1 million and that the 2015 financial statements would show a deficit of approx. \$ 900,000. In addition, there was the intention to harmonise the salaries of public officials of the public body with those of the National Office for the Caribbean Netherlands (RCN) whereby the deficits would increase further by \$ 2 million. The promised improvement plan from 2016 remained forthcoming and no improvements have been made for about a year.

There was also cause for concern at an administrative level. This concerns not only poor

22 Referentiekader Caribisch Nederland, 20 February 2012 – IdeeVersa
Study of maintenance of BES Fund, 28 February 2015 - IdeeVersa

23 Small Evaluation Caribbean Netherlands Committee, National Office for the Caribbean Netherlands,
12 March 2014

24 Vijf jaar verbonden: Bonaire, Sint Eustatius, Saba en Nederland; report of the Evaluation and
Elaboration of the New Government Structure of Caribbean Netherlands Committee, 12 October 2015

financial management and accompanying financial risks, but also the Executive Council failure to take account of legislation and regulations. For example, not all personnel decisions were sub to the Kingdom Representative for approval. Moreover, decisions with financial consequences were not always presented to the Island Council, thereby frustrating the Council's right to approve budgetary alterations.

In the course of 2015, two employees of the Finance unit quit their jobs, which further weakened the unit.

On 10 June 2015, the minister decided to give Sint Eustatius an *instruction* in order to improve its financial management. The instruction contained three elements:

- Implementing the recommendations of the Cft about the budget and the financial management before 18 June 2015;
- Effective immediately, not taking on any new obligations;
- The drawing up of a financial management improvement plan in cooperation with the Cft and in close cooperation with the steering group to be established by the Kingdom Representative.

The minister gave a second *instruction* as of 11 June 2015. This second instruction was directed at the Kingdom Representative with the assignment to establish a steering group. This steering group was to draw up a Plan of Approach by 1 September 2015 at the latest. It would in any event be composed of the full Executive Council and the Island Secretary and chaired by the Kingdom Representative.

The Plan of Approach intended to:

- Strengthen good governance, i.e. an administration based on mutual respect, dualism and building blocks for administrative processes;
- Improve the operations of the public body, such as filling key positions, providing intended decisions with official recommendations, adequate technical facilities (ICT), and building blocks for professional processes;
- Sustainably manage the financial situation and management systems, such as cost control, the establishment of an expert group for finance, and building blocks for financial management.

The Plan of Approach is to be implemented by 31 December 2017. The Kingdom Representative is to report monthly to the minister on the progress.

Both the Kingdom Representative and the Executive Council are to appoint a process manager.

In order to offer perspective to Sint Eustatius, the minister formulates the following general objective:

"The level of the measures to be taken must lead to an effective and efficient government. A government which is reliable and transparent and which has its services in order. Inhabitants, but also the public officials of Sint Eustatius, must be able to be proud of their government and satisfied with its services. Public officials must feel appreciated."

The Executive Council objects to the instruction of 10 June 2015. While the objection is under consideration, the two commissioners refuse any cooperation, including to help formulate the Plan of Approach. The governor and the island secretary are however willing to cooperate. As advised by the objection committee, the minister declares the objection to be invalid on 6 November 2015. On 24 November 2015 the Executive Council ultimately confirms it will cooperate with both instructions.

Nevertheless, the improvements in the area of finance are moving so slowly that, at the beginning of 2016, the minister feels obliged to take measures again.

On 15 January 2016 he converts the ban on taking on new obligations from the instruction of 10 June 2015 into prior supervision.

In order to promote progress, the minister agrees with the Finance commissioner to call in KPMG to put the Finance unit in order. In the meantime, an interim head is hired to assist in the completion of the 2015 financial statements. The minister would be responsible for paying

KPMG. According to the Island Council, this decision should lead to a budget amendment and should therefore be presented to the Island Council. This has not happened. In the course of 2016, the Finance commissioner, the interim head of Finance, and KPMG make good progress. Ultimately, that process stalls at the end of 2016 because the Executive Council, with a new Finance commissioner, does not take a number of decisions necessary for its completion and a number of details are not made available.

On 30 November 2016 the Finance commissioner, due to his cooperation with the Netherlands, is sent home by the two coalition parties. A new commissioner starts on 1 December 2016. That same day the new commissioner makes it clear to the interim head of Finance that all cooperation with the Netherlands is completely unwanted. There is to be no cooperation with the Ministry of the Interior and Kingdom Relations, the Kingdom Representative, the Cft and KPMG. He will receive his instructions from the political advisor and/or the island secretary. The interim head then immediately decides to resign because he cannot fulfil his responsibilities working in this manner.

In order to give the Executive Council every opportunity to dedicate itself to the Plan of Approach and particularly the financial situation, the minister indicates in November 2016 that official delegations from the Netherlands should exercise restraint with regard to trips to Sint Eustatius. If necessary, however, they are to request the Kingdom Representative's approval.

Administrative progress in 2015 and 2016

A pattern emerges in the first reports of the Kingdom Representative regarding the progress of the administrative supervision and the Plan of Approach, a pattern which persists.

On 18 June 2015 the parliamentary group leader of the PLP informs the Kingdom Representative that he has instructed 'his commissioners' not to cooperate with anything. He accuses the Netherlands of colonial behaviour and speaks of 'civil war' and of 'blood flowing in the streets of Statia'. He repeats his message to the population on TV, leaving out the remarks about 'war' and 'blood'.

The commissioners indeed do not come to meetings until after 24 November 2015. They set up their own financial committee, excluding public officials and the Kingdom Representative.

Furthermore, persons not to their liking, such as the previous governor and the previous island secretary, are ignored and not taken seriously. The Executive Council dismisses the island secretary on 1 October 2015. Despite the fact that the Kingdom Representative withholds his approval, the situation nevertheless leads to his departure.

In October 2015 the Island Council states it has no confidence in the governor; nevertheless the minister states his full support for the governor in a letter dated 27 October 2015. This has no effect as, when his term of office ends as of 1 April 2016, the Island Council does not want to extend his term. Although the Island Council does not have a right of approval, the Kingdom Representative acquiesces in the wish of the Island Council and the governor leaves. On 31 August 2016 the Island Council states it has no confidence in the registrar. His contract expires on 1 September and is not extended, although an extension initially seems to have been promised.²⁵ The three coalition members hire an attorney to summon the registrar to leave and so it happens.

According to the Kingdom Representative, new public officials or advisors are then recruited from the inner circle of the parliamentary group leader of the PLP (friends of his own circle). However, this does apply the new acting governor, who is appointed by the minister. As a result, he suffers the same fate as his predecessor: he is ignored, barely gets involved in decision making, is not taken seriously, and is insulted and belittled.

The regular decision making processes are not followed in either the Executive Council or in the Island Council. The commissioner signs off documents outside of meetings, there is a

²⁵ Discussed in the Island Council meeting of 31 August 2016

lack of advice from officials, and all decisions of the Executive Council are only taken after consultation with the PLP parliamentary group leader. The prior supervision of the budget is largely ignored.

In the Island Council, the coalition completely ignores the opposition and in meetings the opposition and the chairman are spoken to and about with disdain and a complete lack of respect.

The Island Council takes decisions about decrees, such as the Harbour Decree, without an underlying Executive Council decision or preparations by the Central Committee of the Island Council.

A number of passages from the Kingdom Representative's progress reports serve to illustrate the actions of the coalition and the two commissioners.²⁶

2017

Lack of a budget

The year 2017 starts with a budget for 2017 which is not approved by the minister in December 2016. This means that in conformity with the FinBES all expenditure has to be approved first by the minister. Without approval, the public body cannot make any expenditures or pay any bills. Additionally, in the course of 2017, comes the objection that the income which the Island Council estimates on the basis of a contract with NuStar has not (yet) been covered. The contract is signed invalidly (by one of the commissioners and not by the governor). It also contains passages which are not legally correct, e.g. a commitment on the General Expenditure Tax (*Algemene BestedingsBelasting*; ABB). The ABB is a central government tax, about which the Executive Council cannot take any decisions.

The contract is then handed over to the State Advocate, NuStar's attorney and a legal advisor of the public body.

The establishment of the 2017 budget is delayed because the Island Council takes the easy road: i.e. draw up a budget without the effects of the NuStar contract.

In the end, the Island Council adopts the budget on 29 June 2017, including the NuStar income, albeit on incorrect grounds. The Finance commissioner indicates that 'today learns that the landsadvocaat is in agreement with the NuStar contract'.²⁷

However, this is not the case.

The minister approves the budget on 14 August 2017, after the NuStar contract has been wound up satisfactorily from a legal perspective and is signed by the acting governor, but at the same time establishes prior supervision in conformity with Art. 35(5) of the FinBES.

On 31 August 2017, the minister receives a pro forma objection to the decision to establish prior supervision, followed by a full-fledged statement of objection on 2 October 2017.²⁸ The objection is based on the view that Article 35(5) of the FinBES is contrary to a number of international legislative complexes. The objection is sent by an attorney, *on behalf of Statia*. With this name change, the Island Council takes the next step in acquiring greater autonomy without consultation.

Meanwhile, the Executive Council asks the minister's consent for a number of expenditures, whereby the council promptly ignores any withholding of approval. At later instances, no consent at all is requested.

The minister indicates²⁹ that 'if no improvement is visible before the end of the month of May, I will implement my intention to suspend the payment of the free allowance'. Despite a lack of improvement, the minister does not go ahead with his intention in order not to make the work of the committee more difficult.

On 23 October 2017, the Cft receives the 2015 financial statements, fifteen months after the statutory deadline and incomplete. In a response (6 November 2017), the Cft writes the

²⁶ Annex 6, progress reports of the Kingdom Representative

²⁷ Report of Island Council 29 June 2017

²⁸ Annex 7, letter of 2 October 2017 from AT Lawyers, page 1

²⁹ Letter of 26 April 2017 to Executive Council

following: “On the basis of the auditor’s report, it must be concluded that there is uncertainty about almost all amounts accounted for on the December 2015 balance. With regard to assets and liabilities, there is uncertainty about the completeness of almost all own revenue and uncertainty about the accuracy and completeness of the majority of the liabilities.”

On 1 November 2017 the state secretary receives the first progress report from the Cft prior to supervision of the 2017 budget. This shows that from 14 August to 31 October, payments and commitments have been made without the Cft’s prior consent. This concerns a total amount of almost half a million USD, although it is unclear which part of the payments was actually made. The Cft notes that to date the Executive Council has not, or to a limited degree, cooperated with the implementation of the prior supervision.

Pattern continued in 2017

At the administrative level, the pattern of conduct, as started in 2015, continues in 2017. Personnel decisions were hardly, and later not at all, submitted to the Kingdom Representative for approval. The intended appointment of the director of Public Affairs and Support is presented to the Kingdom Representative. However, he withholds his approval due to conflict with the law.³⁰ Nevertheless, the Executive Council appoints the director *contra legem*. Professional objection to the salary payment of the director, supported by the acting governor, has no effect: the salary is paid.³¹

On 15 May 2017 the island secretary sent an email with seven new appointments, including those of the above-mentioned director. Only one of these appointments was approved by the Kingdom Representative.

The island secretary, whose temporary appointment ends on 1 August 2017, is appointed, without following any of the required procedural steps. The Executive Council decides on 25 July 2017 that, as by that point his functioning has been assessed, the permanent appointment is a fact.³² On 31 July 2017 the Kingdom Representative withholds his approval. The objection procedure is still ongoing.

In 2017, as in some previous years, far from all administrative decision making procedures are followed. For example, after a public tender for the execution of ‘waste management’ on 31 January 2017, it is decided to enter into a contract³³ with a company which is not a party to the tender.³⁴

Motion of 9 May 2017

With a motion of 9 May 2017³⁴ the Island Council, or the coalition, “set aside” the WolBES and the FinBES, insofar as these statutes are contrary to Sint Eustatius’ right to full self-determination.

In practice this appears to be virtually all articles which were perceived to be paternalistic, but the provision in the WolBES which obliges the governor to sign decisions of the Executive Council, is acknowledged as applicable law.

On 1 June 2017 preliminary relief proceedings are brought to court, in which the two commissioners (not in the capacity of commissioner, but in a private capacity) demanded that the acting governor sign three Executive Council decisions and two letters to the Minister of the Interior and Kingdom Relations *on the basis of the WolBES*. On 15 June 2017 the court awards the claim with regard to two decisions and the two letters. Meanwhile, the acting governor has made an appeal, but complies with the judgment.

The minister’s request to the Executive Council to resolve matters administratively and not through the courts³⁵ is not heeded.

30 Decision of 26 April 2017, Rv/2017/pb/057

31 Emails 20, 21 and 22 June 2017 from director, commissioner, acting governor and public officials

32 Annex 8, letter 22 May 2017, Rv/2017u/068 and letter 31 July 2017, RV/2017/pb/099

33 Annex 9, Executive Council Decision 31 January 2017

34 Annex 10, motion 111/17 ER, Island Council 9 May 2017

35 Annex 11, undated letter, but sent on 31 May 2017

The Island Council's motion of 9 May 2017 particularly makes it clear that the three coalition members and the two commissioners – with the island secretary and the director of Public Affairs and Support as most important official advisors – are driven by their desire for Sint Eustatius' to become an autonomous island.

The motion, and others which fit in this framework, must therefore be brought to the attention of organisations which support this wish, or could support this wish, such as Pro Statia, Brighter Path Foundation, the United Nations, the Netherlands Institute for Human Rights, and Dr. Carlyle Corbin (lobbyist with the United Nations and engaged by the commissioners). In order to further realise this goal, the Executive Council, without the consent of the acting governor, decides on 27 July 2017 to hire legal (procedural) assistance to bring proceedings against the Netherlands. The goal is to challenge the obligation to be bound by the statutory supervision by the Netherlands. The offer is between \$ 50,000 and \$ 75,000³⁶, as a first step.

On 11 May 2017³⁷ one of the commissioners signs an authorisation whereby he authorises the other commissioners 'to act in the broadest sense of the word, including signing and voting' for an Executive Council meeting on 17 May 2017. He has done this once before on 22 February 2017.

Aside from the fact that Rules of Order do not allow for such action, the Executive Council dismissed these rules altogether in advance.³⁸ The acting governor points this out too, but to no avail.

On 19 May 2017 the Island Council takes the decision to declare 1 July an official public holiday, without a prior Executive Council decision or initiative proposal by the council. The decision is suspended by the Crown.³⁹

An amendment of the Marine Environmental Decree does not comply with the international rules of the SPAW protocol (Specially Protected Areas and Wildlife Protocol), nor the notification requirement. The official role which the Minister of Economic Affairs plays in this respect is not recognised. In the end, a number of adjustments are made, but the determination by the Island Council on 24 May 2017 takes place without a prior Executive Council decision or initiative proposal by the council. The Ministry of Economic Affairs acknowledges its own faults.⁴⁰

An agreement is then made on 14 March 2017 between the Executive Council and the secretary-general of Economic Affairs about the appointment of a member of the Board of Supervisory Directors of Stuco, the water and electricity company on Sint Eustatius. The agreement concerns the nomination of a water expert, in view of the fact that the supply of drinking water is not yet at an adequate level. Despite this, another individual is appointed and the Island Council passes a motion⁴¹ that the involvement of the Netherlands is contrary to aforementioned UN resolutions.

In that same Island Council – 29 June 2017 – the Island Council passes a motion⁴² to appropriate the management of the Government Guesthouse. This building is the property of the State of the Netherlands and is currently being renovated at the expense of the Dutch central government.

On 30 June 2017 a decision is made by the Executive Council to send a delegation to Cuba, including one of the Island Council members. The Executive Council meeting is cancelled that same day, so that the decision is made 'on the spot', without a mandate of the Executive

36 Annex 12, Executive Council agenda, 27 July 2017 and letter from AT Lawyers, 25 July 2017

37 Annex 13, power of attorney of 11 May 2017 and 22 February 2017

38 Art. 67 WolBES

39 Annex 14, decision of 16 June 2017, no. 2017000984

40 Annex 15, report of the Minister of Economic Affairs, June 2017

41 Annex 16, letter from secretary-general of Economic Affairs to the Executive Council, undated and motion of the Island Council, 29 June 2017

42 Annex 17, motion of the Island Council, 29 June 2017

Council. The acting governor wants to formally put the item on the agenda of the next Executive Council meeting, because it is uncommon that an Executive Council member takes decisions on business trips of Island Council members. This is refused. Previously, on 28 June, one of the commissioners informed a public official that the decision had been made. The delegation goes on the business trip in conformity with the decision which was not made⁴³, or in any event not in conformity with the WolBES.

At a conference of the *Körsou Fuerte i Outónome* movement, the PLP parliamentary group leader acts as guest speaker on 9 October 2017⁴⁴, whereby he apparently presents himself as prime minister. He says he has spoken to the Minister of the Interior and Kingdom Relations – which the minister denies – about the presence of Dutch military on Sint Eustatius with the words: ‘We will kill them and we will burn them in the streets of Statia.’

His coalition partner distances himself from this statement⁴⁵ and the population starts a petition⁴⁶ against the statement. The minister files a police report.

After that the PLP parliamentary group leader apologises to the population on Radio Statia, adding that the statement has been taken out of context. He calls himself the *leader* of this beautiful country.⁴⁷

On 17 October 2017, the two commissioners also distance themselves from the statement.⁴⁸

On 1 November, the Public Prosecution Service decides not to prosecute. Prosecution would ‘wrongly draw attention to the statement, which in the meantime is no longer relevant’, the Public Prosecution Service writes in a statement.

On 10 October 2017 the Executive Council takes two personnel decisions which, as has become common by that point, were not presented to the Kingdom Representative. The employment contract includes a new provision⁴⁹: ‘The drafting of this contract will only be valid with the approval of the Executive Council of Sint Eustatius pursuant to decision 111/17 ER of the Island Council, dated 09 May 2017.’ With this the Executive Council indicates that the WolBES, with regard to the approval procedure by the Kingdom Representative, no longer exists for Sint Eustatius. One of the decisions concerns an appointment which was financed with project money from the Ministry of Health, Welfare and Sport. Personnel Affairs advises the following on this point: ‘This appointment should have taken place now, but in view of the budget amendment which has taken all remaining funds, we have to shift our appointment to 1 January 2020. This appointment is a temporary employment for 2 years or in the event of the cessation of project funds.’ It is not indicated whether the Ministry of Health, Welfare and Sport has been informed of this.

On 10 October 2017 the PLP parliamentary group leader and a director visits the public body Trinidad and Tobago⁵⁰ for a trade mission. There is no consultation with the Ministry of Foreign Affairs for this mission, which should have occurred according to the task division agreements.

After the hurricane

After Hurricane Irma, the acting governor forms a crisis team, supported by the military authority. The commissioners does not participate in this, as they perceive the arrival of the Marine Corps as a Dutch occupation force.

Nor do the port masters of the airport and the sea port form part of the crisis team; one of them only takes instructions from his commissioner. The crisis coordinator has no experience of managing a crisis like this, but combined with the marines’ experience everything goes well.

43 Annex 18, e-mail exchange commissioner-public official and list of decisions of the Executive Council meeting of 30 June 2017 ‘on the spot’

44 Annex 19, Transcriptie Vigilante, 11 October 2017, Antilliaans Dagblad, 14 October 2017 and Telegraaf, 13 October 2017

45 Annex 20, letter from Reuben Merkman to Minister of the Interior and Kingdom Relations, 13 October 2017

46 Annex 21, Antilliaans Dagblad, 16 October 2017

47 Annex 22, Antilliaans Dagblad, 18 October 2017

48 Annex 23, memo from the Desk of Commissioners Derrick Simmons and Charles Woodley, 17 October 2017

49 Annex 24, Clause 7(1) contract, made anonymously

50 Annex 25, Digital Guardian, 10 October 2017

Due to the cooperation between volunteers, public officials, emergency services, Stuco (water and electricity), Eutel (telecommunications) and the marines, most of the damage is repaired relatively quickly, except for the damaged homes. These have to wait for the supply of building materials. Only the communication with the population which has been slow going.

One of the commissioners chooses to take his own path. For example, he wants to fly Statian kidney dialysis patients from St. Maarten to the hospital in St. Kitts with a private airplane, without medical supervision. Civilian air traffic is not yet possible on St. Maarten and there is no dialysis equipment on St. Kitts. The attempt is prevented in time.

Later, and with two public officials⁵¹, the same commissioner organises a number of flights from St. Maarten to Sint Eustatius to transport Statian relatives (approx. 80, of whom 46 children).

Neither the acting governor, nor the military authority are involved, nor are other services such as the police, the immigration service, the Guardianship Council, Juveniles and Family, the Social Affairs and Employment unit and the schools. The arrival is chaotic, as services have to arrange everything at late notice.

However, the population appreciates the initiative.

After the second hurricane, Maria, the acting governor formed another crisis team. All necessary officials, except for the commissioners, participate, a few under considerable pressure. This time communication takes place via the website and Facebook effectively.

The crisis team has indicated what materials it needs to rectify the damage to homes. The goods will be supplied by the Netherlands. The PLP parliamentary group leader took this opportunity to spread disinformation. He tells victims that the Netherlands will not offer any help, but that he will take care of them.⁵²

2.1.2 The autonomy discussion

The initially slumbering wish for more autonomy gradually becomes the current administration's most important motive. The interim appointment of the island secretary as of 1 August 2016 fits in with this conviction: he is one of the driving forces of the Brighter Path Foundation on Sint Eustatius. The recruitment of a new Plan of Approach process manager, later political advisor and thereafter director of Public Affairs and Support, is also characteristic of this: he is viewed as an expert on self-determination in the the United Nations context. At an earlier point in his career as civil servant, he accompanied a commission of Saba in talks on far-reaching autonomy.

After the change in commissioners on 1 December 2016, the course quickly becomes clear. The discussion between the new commissioner and the interim unit head of Finance is even clearer; the commissioner wants to break off all (functional) ties with the Netherlands.

On 27 December 2016 the Executive Council decides to hire Dr Carlyle Corbin as advisor on 'full measure of self-government'. The commissioner of Constitutional Affairs signs the contract⁵³, although only the acting governor has the authority to do so. It is unclear who pays Dr Corbin, because nothing can (yet) be traced back to the payment overviews of the public body.

On 4 January 2017 the Executive Council sends a letter⁵⁴ to the prime minister of the Netherlands in which the motion of the Island Council of 30 November 2016 on the topic is explained in further detail. The actions of the Netherlands are deemed in violation with UN

51 Annex 26, Facebook posts

52 Annex 27, e-mail from supporter of the governor, made anonymous, 9 October 2017

53 Annex 28, agreement between commissioners and Dr Corbin

54 Annex 29, letter from the Executive Council, 4 January 2017, ref. 0001/17

resolutions and the UN Charter. In addition, the outcome of the referendum on 17 December 2014 is mentioned. (Because of the turnout percentage of 45.2, the referendum was not valid; the Island Council had prescribed a minimum turnout of 60%.⁵⁵)

A second letter follows on 14 February 2017⁵⁶ to the Minister of the Interior and Kingdom Affairs.

This is followed by two visits of the secretary-general of the Ministry of the Interior and Kingdom Affairs, on 16 and 17 February and on 3 March 2017. During these visits there are conversations about whether or not the acting governor should stay on (he stayed on with official Dutch support) and about the organisation of a dialogue on farther-reaching autonomy. On 3 March an agreement is also made on setting up an independent Committee of Wise Men.

The secretary-general had indicated in advance that Statians, including public officials, could talk to him about the situation on Sint Eustatius. The island secretary lets the public service apparatus know that public officials have to obtain the consent of the Executive Council to do so. Breach of this instruction will lead to disciplinary action.⁵⁷

The minister informs the Netherlands House of Representatives of the agreements of 16 and 17 February in a letter dated 27 February 2017.⁵⁸

In the meantime, the coalition draws up a White Paper in March 2017 and the opposition draws up its own document. The White Paper was to serve as a foundation for the desire to become 'fully' autonomous: in motions of the Island Council, in letters to the Netherlands, and in the numerous talks on the local radio and TV by Island Council members and commissioners.

After an email exchange between the secretary-general of the Ministry of the Interior and Kingdom Relations and the PLP parliamentary group leader regarding the progress of, inter alia, the autonomy debate, the latter states that he 'saw himself forced to accelerate the procedure which had been commenced via the United Nations'⁵⁹. The next day he presents another extensive letter to the prime minister⁶⁰, and does so again on 17 April 2017.⁶¹

Within the local government, preparations are being made to prepare the employees of the public body for 'a full measure of self-government for Sint Eustatius'.⁶²

On 11 May 2017⁶³ the minister informs the Netherlands House of Representatives of a work visit of an official delegation of the Ministry of the Interior and Kingdom Relations to, inter alia, the United Nations.

On 12 May 2017⁶⁴ the minister responds to the letter of 4 January 2017 and implicitly to that of the PLP parliamentary group leader of 9 and 17 April 2017. He indicates he 'does not believe' the choice for an autonomous country 'to be realistic' without budgetary support for Sint Eustatius.

Regarding the motion, which is passed in the meantime, to declare the WolBES and FinBES non-applicable (in part), he pointed out: 'Within the Kingdom there is no room whatsoever for the view that legislation and regulations can be ignored in this manner.' He concludes with the words: 'The Island Council of Sint Eustatius, too, is not above the law.'

After a letter from the Executive Council of 20 June 2017, the minister responds to the autonomy issue on 5 July 2017⁶⁵: 'I do not see your desire to speak about greater autonomy separately from the outcomes of the Committee of Wise Men's work.' In addition, he accentuates

55 UN Expert monitoring mission report, 14 January 2015

56 Annex 30, letter from the Executive Council, 14 February 2017, ref. 069/17

57 Annex 31, email island secretary, 16 February 2017

58 Letter to Netherlands House of Representatives TK, 27 February 2017; 2017-0000109389

59 Annex 32, email of 8 April 2017

60 Annex 33, letter of 9 April 2017

61 Annex 34, letter of 17 April 2017

62 Annex 35, email from island secretary to directors, heads of departments and unit managers, 26 April 2017

63 Letter to Netherlands House of Representatives, 11 May 2017; 2017-0000230204

64 Annex 36, letter of 12 May 2017

65 Annex 37, letter of 5 July 2017; 2017-0000318708

ates his position about more autonomy: 'In view of the small scale of Sint Eustatius and the current state of the administration of the public body, the status of autonomous country within the Kingdom is not realistic.'

The Executive Council responds with a letter on 18 July 2017⁶⁶, signed by only one of the commissioners. In the letter it was indicated that the 'Dutch government is not a conversation partner of Sint Eustatius, where the full measure of self-government is concerned'. The letter concluded with the words: 'Sint Eustatius will therefore, in conformity with resolution 945, only address the General Meeting with regard to the 'full measure of self-government and related matters'. In the letter the commissioner indicated that there 'is therefore no place within the legal order for a state, let alone a state which seeks a seat on the Security Council, that refuses to comply with the dominant obligations under the Charter'.

The path that the Executive Council has chosen, materialises on 22 November 2017 in The Daily Herald in three personnel advertisements.⁶⁷ The public body writes that preparations have been made for a constitutional change in the Kingdom of the Netherlands, i.e. the realisation of an *autonomous status*. It also mentions the development of a *country status*.

On 20 December 2017, the State Secretary for the Interior and Kingdom Relations receives a letter via an American lawyer on behalf of 'the Government of Sint Eustatius'. In this letter, it is written that the Government of the Netherlands must assist Sint Eustatius to develop self-government. Furthermore, a formal complaint to the UN is announced, which will concern the Government of the Netherlands' actions. Along with this complaint, the urgent intervention of the UN to assist 'the Government of Sint Eustatius' to secure a full measure of self-government within the Kingdom of The Netherlands will be requested.⁶⁸

2.1.3 The population

The role of the population in the autonomy debate is highly important. It is, after all, the population that has the deciding vote in this respect.

It is not clear what the population thinks about the different options. In the last referendum in 2014 the turnout was too low to draw any conclusions.

The claim of the current coalition that it represents the majority of the population, including in the autonomy debate, is, in view of the 2015 election results, open to doubt. The result was:

	number	percentage	seats
PLP (Progressive Labour Party)	481	30,5	2
DP (Democratic Party)	476	30,0	2
UPC (United People's Coalition)*	242	15,3	1
Nameless List of Glenville Schmidt	182	11,5	-
STEP (St. Eustatius Empowerment Party)	133	8,4	-
SLAM (Sint Eustatius Liberal Action Movement)	66	4,2	-

* The UPC disappeared from the initially formed coalition. The one seat belongs to the *Onafhankelijke Partij Merkman* (from the UPC and before that from the DP).

The current coalition does have a majority in the Island Council, but does not represent the majority of the votes cast.

66 Annex 38, letter of 18 July 2017; ref. 069/17

67 Annex 39, Daily Herald, personnel ads – 22 November 2017

68 Annex 40, letter on behalf of public entity Sint Eustatius, 20 December 2017

In a recently published study⁶⁹ by Veenendaal and Oostindie, the population was not enthralled with 'Dutch administrative supervision'. In 2015, only 31.1% felt that supervision was good or very good. In 1998, 75.8% of the population was of the opinion that the Netherlands did not intervene too much.

2.1.4 Counter-signals

In the period 2015-2017, the two *governors* keep trying to lead the commissioners and the Island Council back within the boundaries of good governance. They are not taken seriously and they were ignored and insulted. The current acting governor is also accused of engaging in party politics, as he has formerly been a DP politician.

By not signing off decisions of the Executive Council, the acting governor attempts to put a stop to what in his eyes are the most serious cases of illegitimacy.

The court decides that he is obliged to sign and that the instrument of submission for setting aside is always at his disposal.

The acting governor sent a letter⁷⁰ to the minister with the request to make progress on a number of commitments. His letter shows that he feels himself to be seriously impeded in the performance of his task in terms of good governance.

On 1 August 2017 the acting governor defines his position: as of that date he denied the island secretary, who has not been appointed according to procedures, access to (his room in) the administration office, putting in place police support.

The island secretary seeks refuge in the Godethuis, where the two commissioners carry out their work. There, too, he is summoned to leave, and the commissioners are summoned to no longer give him any work.⁷¹

Politicians also speak out. They send alarming letters to the Kingdom Representative, the acting governor and the secretary-general of the Ministry of the Interior and Kingdom Relations and to the newspapers. Accustomed to majority politics, the situation for both the opposition (DP) and the former coalition partner (UPC) is now apparently the norm and the concept of majority politics is over. On 4 June 2017 one of the Island Council members of the DP even requests a meeting with the minister. However, following the establishment of the Committee of Wise Men, that meeting does not happen. These points have been compiled in Annex 42.⁷²

One of the *public officials* writes emails⁷³, one to the Kingdom Representative and one to the acting governor. The author is particularly concerned about colleagues who are not appointed according to the rules, but who do hold managerial positions.

2.2 Experiences and views of the interviewees

This paragraph contains a representation of the conversations held with the committee. The experiences and views presented are those of the interviewees, not of the committee.

2.2.1 Views on Sint Eustatius

Business owners

The personal experiences of business owners with the administration of Sint Eustatius can be traced back to a non-favourable business and investment climate with elements of capriciousness.

69 Wouter Veenendaal & Gert Oostindie: Head versus heart: The ambiguities of non-sovereignty in the Dutch Caribbean -30/08/2017

70 Annex 41, letter of 12 May 2017 – 478/GEZ

71 Annex 42, letters of 1 August 2017, 10 August 2017 (to the island secretary) and 10 August 2017 (to the commissioners)

72 Annex 43, UPC 04-12-2016/08-04-2017/18-05-2017, DP 03-05-2017/06-05-2017/08-05-2017/28-05-2017

73 Annex 44, emails of 5 May 2017 and 1 June 2017

The granting of permits and other procedures take a long time, often years, and have a discriminatory outcome: [...] of lease land preferable to locals.⁷⁴

In correspondence with a potential European investor, the advisor informs one of the commissioners: 'I have a meeting with the other commissioner this morning. He seems to be the sceptical person.'

Local taxes are levied, but if payment is not made, they are not always collected, for example, the room tax. Those who are paying, consider not paying in future.

Where they exist, supervision and enforcement are selectively applied. Examples are given of supermarkets which are being closed, while others under the same circumstances are left alone. The same applies to the supervision of water quality. One company has to take measures, another can simply continue discharging polluted waste water into the sea.

Rates which must cover costs, are not determined in conformity with that principle and are increased 'just because'. Two examples are the work permit from \$ 300 to \$ 5000 and harbour fees for divers from \$ 7000 to almost \$ 50,000⁷⁵ per year. Harbour fees are not collected from local fishers.

Boats which are illegally moored should be removed, but are still there.

There is only one bank on the island and it is not really willing to help businesses to invest. 'As a business owner you'd have to be crazy and stubborn to want to set up a business here.'

A number of business owners would like to join forces in order to be a better discussion partner for the government. On the one hand though, this would be pointless, as the administration is not competent enough, on the other there also exists a fear of reprisals. For that same reason, business owners do not always object ('you still have to work there'), except for NuStar. NuStar is a big, important employer on the island but made it unequivocally clear to the administration: 'NuStar is not a public entity': The administration too easily makes demands of NuStar (fuel, laundry and the like).

The non-Statian businesses intentionally opted for Sint Eustatius because of its unspoilt nature and history. They love the island, but also see the other side of the coin. As one puts it: 'Statia is being kept alive artificially by the Netherlands.'

The image of the Netherlands is clear. The Netherlands accepts too much and does too little to make things better on the island. Furthermore, business owners do not see full autonomy as a real solution. The island is too small and does not have a full-fledged economy of its own. Nor is there sustainable good governance.

Citizens

The *citizens* who speak with the committee are involved in Sint Eustatius' community and follow the administration on Facebook, by keeping track of Island Council meetings, or via local radio and TV. They indicate that politicians and administrators 'are buying support' by means of promises, handing out jobs and badmouthing the Netherlands. Politicians promise that everything will become better if Sint Eustatius rules itself. They do not mention what is financed by the Netherlands or twist the truth by stating, for example, that the entire health care system is covered by the premiums paid for by Statians. Administrators travel often, but there are no visible results of these trips.

According to them, the service level of the government is characterised by behaviour which can be summarised with: 'I decide' or 'I do'. (This view is also shared by the business owners.) Both commissioners and public officials, including those of Dutch services, are guilty of this. In their view, this attitude leads to feelings of intimidation, helplessness and capriciousness.

Many are worried about the neglected state of the island: the roads, the erosion, cattle running loose, the (car) wrecks, the (non-) collection of garbage, and the (non-) processing of waste.

⁷⁴ Annex 45, letter from Executive Council, made anonymous

⁷⁵ Annex 46, email to the commissioner, made anonymous

The teachers among them wonder, without exception, whether the administration will ever tackle the pension problem. Upon the transfer of the pension fund (from APNA to PCN) as of 10-10-10, it turned out that the pension premiums of public officials, including teachers, had been improperly administered or had been withheld, but not paid to the pension fund. In those cases, there is still a pension deficit.

All citizens who speak to the committee give some criticism of the local administration. One of them says: 'I have nothing against having your own opinion, but this is destructive.' They experience the behaviour of the current administration as 'worse than ever'.

There is also criticism of the Netherlands: the Netherlands apparently thinks that the local administration can handle things itself, the Netherlands talks and writes letters, but does nothing and the Kingdom Representative says there is nothing he can do. In their eyes, the Netherlands and Sint Eustatius are primarily engaging in politics, but are doing nothing for the community. In short, they say: 'I'm totally disappointed in the Netherlands.'

Public officials and institutions

The *public officials* who have spoken to the committee work for the public body (in staff services, manual work) or at the RCN.

All public officials indicate that working for the public body currently involves intimidation and fear. If someone does not carry out their work loyally, they are removed from the information loop, given no or little work, or even transferred. The public officials have been instructed not to send personnel decisions to the Kingdom Representative and to ignore the rules of the FinBES. As one public official put it, 'Things are getting worse by the day'. There are no regular advisory procedures or dualism: the PLP parliamentary group leader consults virtually every day with the director of Public Affairs and Support and with the commissioners. He attends many meetings, 'he is simply the Executive Council all by himself'. It has been indicated that within Eutel, instructions were given to tap phones, but that this instruction was not followed. Now there are threats of dismissal. Furthermore, they may only speak to the trade union outside of office hours. The island wants to do everything itself, but in the opinion of the public officials, the administrators are not adequately equipped to do so.

One of them says that voting by proxy means that politicians give family and friends one of the proxies which have been collected, sometimes by force, at the polling booth. Another person says that proxies are used to cheat, openly, in front of the person in question.

The Island Council is not interested in daily, administrative life, such as information about the state-owned companies or about criminal offences and other police matters.

A government acts as an example; the example set by this administration has resulted in people, particularly youth, no longer abiding by the rules.

There is also criticism of the Netherlands: the Netherlands apparently does not have sufficient knowledge of what is going on here, otherwise it would have taken action a long time ago.

One person says quite clearly: 'Show that you are responsible.'

The *institutions* are also critical of the administration. The administration is not interested in nature, culture or economic development. Money flows are absent, both local subsidies and special allowances. The institutions see a trend in which the administration wants to take over management of the outsourced tasks without being fully equipped or knowing what this constitutes. One of them accuses the administration of 'institutional weakness'. They do not feel like they are being supported by the Netherlands: 'Why do we have to do everything all on our own here?' Stenapa in particular feels like a lone voice in the wilderness when it comes to caring for the marine environment. The marine environment is at risk of being dominated by economic interests in the harbour.

(Former) administrators and politicians

The desire for (more) autonomy is recognised and acknowledged by all (former) administrators, Island Council members, governors and other (former) politicians, albeit not to the degree, in the way or at the time which the current administration has in mind. Far and away most of them want to acquire more autonomous tasks, some want to be treated 'on an equal footing', as if Sint Eustatius were a country, some think that full autonomy will ultimately be possible.

Everyone says that the administration on Sint Eustatius is not ready for this yet, nor for more autonomous task execution. The situation in which Sint Eustatius now finds itself is due to both the island itself and to the Netherlands. With regard to the population's role in that, one of the interviewees says that he accepted the situation the way it was. Or perhaps better, he just lets it happen, because talking back is pointless or because there is insufficient knowledge of how things could be improved. There is a firm conviction that if things really get too bad, the Netherlands will intervene. Others add that Statians are not about resistance, either because they are afraid to lose their jobs or because pride and family ties impede people from publicly expressing their opinion, or because they accept life as it is.

The outcomes of the conversations with this group present the following picture. According to some, the basis for the current situation is laid on 10-10-10 with the arrival of the Netherlands as the national administration and the choice for the status – in the first instance unwanted – of Sint Eustatius as a public body. Sint Eustatius did not become a country in its own right, nor a Dutch municipality, and against the background 'that Statia has always been an unwanted child', this special status is perceived as a new form of dependency. The WolBES and the FinBES contain too many paternalistic elements and the island is confronted with new regulations and official, Dutch services, including an RCN. As a result, administrators feel ambushed, causing latent sentiments in favour of greater autonomy to find a breeding ground.

One of the former administrators says that administrators in the Netherlands do not understand those of Sint Eustatius. Majority- and person-based politics does not work like it does in the Netherlands. Exchanging arguments, presenting and making compromises are political mainstays in the Netherlands, not in Sint Eustatius.

After 10-10-10, a political culture gradually develops where Dutch citizens are (temporarily) not welcome in official positions within the public body ('we have our own experts' and 'we don't need the Dutch'), Dutch rules were ignored. The introduction of unwanted medical-ethical regulations, moreover, causes unrest, while improvements in the social and physical domain fail to materialise. This culture further manifests itself after the 2015 elections. The interviewees all say that with the arrival of the current parliamentary group leader of the PLP, a turn is taken onto the path to fight for full autonomy of Sint Eustatius, by any means. Although more autonomy is a widely-shared wish, most people do not agree with the way in which he wishes to achieve it.

Majority-based politics always existed, but it is now being practised and applied in a more radical manner. For example, there is no dualism, agenda items are added without documents, agenda items of the opposition are not accepted, and the chairman's role has been taken over by 'the leader of the *government*'. No answer or a belittling answer is given to (written) questions of the opposition. There are more emergency meetings than regular meetings. There is a lot of yelling and name-calling about the Netherlands, the opposition and the chairman, and that behaviour is continued on radio and TV. The opposition barely gets any radio and TV time, one of the TV channels is in the hands of a government supporter who is also director of a state-owned company. Decisions are made without preparations by the Executive Council or the Central Committee. One of the interviewees calls these decisions 'reckless' because 'the impact and the effects are often barely grasped'.

The Executive Council is in essence run by the PLP parliamentary group leader – and sometimes by the independent Merkman party. Furthermore, if the commissioners do not listen, they are sent home as happened to a UPC-commissioner and later a PLP-commissioner. In meetings of the Executive Council, the governors are ignored, they 'are only useful for signing on the dotted line'.

Dutch island secretaries are sent away and after the WolBES and the FinBES are declared non-applicable Sint Eustatius, personnel and financial rules no longer apply. 'Friends and like minded people' are appointed positions in the public service and state-owned companies. One of the interviewees describes the matter as follows: 'Every day you are confronted with new surprises, how much worse can it get?'

There is also a lot of criticism of *the Netherlands*. This group of interviewees mentions the old sore spot of promises which are not kept: the reports of IdeeVersa and the two previous

committees ended up in a drawer. No level has been set yet for the social facilities, the free allowance has still not been modified, the roads have not been renovated, and the Long-Term Plan is not being executed. The evaluation of the WolBES and the FinBES has also not been carried out as was promised. In that context, reference is made to the paternalistic character of this legislation. Administrators have objected to this from the start.

Some say dualism was introduced, but no assistance has been provided to skilfully learn to deal with this. Others do not deem dualism to be suitable for the local administration, as is the case for voting by proxy. Both give the wrong impulses to politicians whose motivations are less than pure.

Some rail against the 'bureaucracy', referring to the roles of the Cft and the Kingdom Representative, which are equally perceived as paternalistic. Others criticise the Kingdom Representative for not having authority and not being forceful as well as the Cft for being weak. The Minister of the Interior and Kingdom Affairs also receives criticism. He is perceived as a 'paper tiger' and 'the parliamentary group leader of the PLP can do what he wants, the minister won't do anything anyway'. One of the former administrators is of the opinion that the ministries in The Hague do not know how to deal with small communities with 3200 or 1500 (Saba) inhabitants.

Most people have the feeling that the Netherlands is not interested in what is happening on Sint Eustatius and that the Netherlands does not have the will to help the island to take greater responsibility for its own affairs. They feel abandoned and 'what example are we giving our people then?'

The distance between Sint Eustatius and the Netherlands is not only great physically, the politicians also want to be able to exercise more direct influence. That is why some people are arguing in favour of the establishment of a BES House in The Hague, similar to the 'houses' of the three Caribbean islands in the Kingdom.

Others are arguing for more responsibility: no Cft, no Kingdom Representative, but an independent governor with more power.

Way out?

All interviewees, with some exceptions, are of the opinion that the current problems can only be resolved by intervention from the Netherlands. Most add to this that the Netherlands must therefore address the island's feeling of neglect. A few indicated that at the same time measures must be taken to come to sustainable 'good governance' on Sint Eustatius.

Many indicate that without a doubt the Netherlands will be accused of neo-colonial conduct and/or of new slavery but that the Netherlands will just have to 'take this on the chin'. The majority is convinced that the population will welcome intervention.

A number of people think it would be better if the Netherlands would help Sint Eustatius on the road to greater autonomy. The Netherlands should not be repressive, but more supportive.

Virtually all interviewees say that the lead players in the current coalition are not really after full autonomy – underscored by the fact that the White Paper assumes budgetary support from the Netherlands – but after personal power. The debate on farther-reaching autonomy must in their eyes happen urgently, whereby all aspects must be widely shared with the population so that people can form their own opinion. Now people form an opinion on the basis of the, almost daily, actions of the current administration, which does not always provide objective information.

2.2.2 The views of the current administration

As previously stated, the administration did not wish to share its views with the committee. From the many letters sent to the Netherlands, from a transcript⁷⁶ of a radio broadcast in

which the administration – two commissioners and three Island Council members – informed the population for 2½ hours, and from the discussion with the last island secretary, a picture can be put together.

The island administration wishes to achieve a better Sint Eustatius. The island must be built up in a Caribbean manner, without the involvement of others. Toward this end, it is necessary that the island administration acquires full autonomy. The power must return to the island administration, which must have control itself and must be able to determine itself what is good for the island. This also encompasses that the island administration itself must be able to have access to all financial resources without dependency on the Dutch departmental budgets and without dependency on Dutch, paternalistic laws. Both the legislative and the executive power belong to the island administration. Assistance, supervision or help is not necessary: 'We are not begging for help, we will do it ourselves'.

At present the island administration sees the Netherlands as an opponent who does not respect the island administration. The Netherlands wants to force the administration to implement the agenda of the Netherlands and does not want to listen. There is no transparency, the administration has no insight into the tax revenue for the Netherlands which comes from the island.

The bulk of the efforts focus on economic development, whereby other aspects, such as the marine environment, are subordinate: 'We will do everything for the economy. Why do we have to take account of the nature in our harbour?'. It is also important to improve the financial management, because 'administration without proper insight into the finances is not really possible'. This problem has been going on for decades, 'it has to be tackled properly once and for all and with Versant as financial advisor for the public body this will happen'. Due to the supervision of the Ministry of the Interior and Kingdom Affairs, as of June 2015 it has been barely possible to do anything about it. That supervision would also have been necessary in 2013 and 2014, but was not established.

The WolBES and the FinBES are legislation from the Netherlands which are contrary to UN resolutions. That is why they – to a great extent – do not apply to Sint Eustatius. These two statutes deny the island's own authority. With these, the Netherlands got involved in internal matters too much. With these statutes, it is practically impossible to govern, because the approval of third parties must always be waited for, sometimes taking weeks.

Confidence in the Netherlands has completely disappeared. Too many accusations of *bad governance* have been expressed and matters have been viewed too negatively. The Netherlands does not think in terms of solutions, but in terms of repressive measures. The island administration has to do what the Netherlands wants and the compromises always have to come from Statia only.

Way out?

The Netherlands has to sit down at the table with this administration. There, it has to be determined who does what, including the related budgets. The White Paper is the basis in this respect. The right to full self-determination is the main point of focus. How this must be given shape, is fully described in said White Paper.

2.2.3 The views of the administration in the Netherlands

The departments

There are different views of the *relationship with the Island council* of Sint Eustatius. The ministries, which can execute their tasks virtually independently, have relatively positive experiences or qualify the relationship as 'peaceful co-existence'. Other ministries are trying as much as possible to avoid the administrative contact by working together at the official level. There is also understanding for the administration: 'Governing there is not easy with little money and little experience', but that makes consultation difficult too: 'I have never noticed that we had a substantive debate.' A difference in professionalism has been signalled in policy making, both at official and administrative level. Because the Island Council often 'only decides on immediate matters, no policy is needed.'

Offering technical assistance or temporarily taking over tasks is sometimes appreciated, such as at the Census Office (citizen affairs), sometimes it is not. The offer of the Dutch housing corporation Woonlinie to fix up a hundred homes in deplorable condition at their own expense and to help develop the Stadian Housing Foundation, is rejected. The same applies to a joint venture between Eutel and KPN to improve the telecommunications.

It is pointed out that the Island Council, despite contradictory information. For example, the desired ID card will only be introduced when the Persons Information System for the Antilles (PIVA) is in order. Moreover, it is not possible for the local hospital to have its own dialysis equipment – an oft-heard wish – because there is insufficient clean water and there are too many power black-outs. In both examples the Netherlands is framed as ‘unwilling’.

Departments have a clear vision about their individual policy actions and work according to this vision. A shared, reasoned view on the Kingdom and on the relationship with the public entities is lacking. There is little or no political interest for this nor for a joint action plan. The Multi Annual Plan is a collection of projects and intentions. The fragmented approach of The Hague politics works in the Netherlands due to the scale, but is disastrous for the islands: a small administration has to work with large departments, including the RCN and the liaison bodies.

At the Caribbean Netherlands Table (CN Table) a certain degree of discomfort is experienced, because ‘we do a lot, but we are still left with the same issues’. Some ministries are very aware of considerable arrears and attempt to do something about it with financing from under-spent funds.

Specifically with regard to the PIVA, it is said that there does not exist any form of ownership of the issue. Not on the part of the island administration, nor on that of the policy side of the ministries. Yet, the PIVA is the source for travel documents, taxes, social security, education, healthcare, immigration and so forth. It is also responsible for the electoral roll, which is extra additionally because, due to the small scale, ‘ghost voters’ have a lot of impact on election results. There is now a Plan of Approach. If that does not work, it is being considered to perform the back office tasks in the Netherlands.

With regard to determining a social minimum, the Ministry of Social Affairs and Employment says that there is a willingness to determine this, but this is not an easy matter.

A number of ministries are seeking cooperation in the youth area, but struggle with the fact that not yet every department wants to participate.

The Ministry of the Interior and Kingdom Relations has a coordinating role. After 10-10-10, the coordination on behalf of the three public entities is initially charged to the then Public Administration and Democracy directorate because they were deemed, more or less, to be municipalities: ‘You make a public body, but approach it as if it were a municipality, this won’t work’. The coordination quickly ends up back with the Kingdom Relationships directorate. A coordinating task without an underlying shared vision is not easy to execute. The other ministries do what they want or forward their issues to the Ministry of the Interior and Kingdom Affairs when it suits them. Some indicated that they are not hindered by the Ministry of the Interior, but that they get no assistance from it either. Another says ‘the Ministry of the Interior has no role and no view’. Providing good governance is seen by the other departments as an issue for the Ministry of the Interior and they have no share in that. The Kingdom Relations directorate is trying by means of programmes to develop the administrative capacity of the public entities, but currently does not have a good relationship with Sint Eustatius. The interventions have affected the relationship. ‘First the directorate waited too long and when measures were taken, things went from 0 to 100 too fast. The interventions in 2015 were not thorough enough, nor sufficiently transparent.’

The Kingdom Representative

Some public officials see the Kingdom Representative function as an autonomous body, but with a limited mandate, while others believe that he should have taken firmer action on Sint Eustatius. On the other hand, some people are of the opinion that the departments should make greater use of the Kingdom Representative, so that he is better put in position.

One of the interviewees deems his position to be impossible because he has to coordinate, but is not allowed to by the departments. The various liaisons are not always helpful in this respect. The Kingdom Representative says that he has indeed come up against this and

sometimes had to wait a long time for a decision to be taken by policy makers because of the question 'what does my minister think of this?'. He qualifies his position as hybrid, 'something between a public official and an administrator', with a mandate that gives him little room for intervening adequately in circumstances such as those which have arisen on Sint Eustatius. Even before he took up office, the Island Council passed a motion of no confidence about his appointment. The Plan of Approach was almost impossible to execute. The Stavian administration wanted to do that completely itself from the start and with its own people. With regard to elections, he calls for voting by proxy to be abolished as it promotes blackmail and consequently, coerced election results. With regard to the social system, his observation is that the public entities did adopt the system, but not the criteria, while the subsistence level is dreadfully low.

The Kingdom Representative describes his position as a ping pong ball. 'The Hague' sees him as a representative while, for the public entities, he is the difficult man from The Hague. Because the Ministry of the Interior and Kingdom Affairs in The Hague has no position and no strong managerial function, his position is weak. The Netherlands has not internalised the figure of the Kingdom Representative and the islands have not accepted him. In addition, he sees that the insular character of the public entities demands a different response than a comparable issue would in the Netherlands. This view is not always shared in The Hague.

The Council for Financial Supervision

The Council for Financial Supervision (*College financieel toezicht; Cft*) has indicated that from the start it has had to intervene the most on Sint Eustatius. The outside world sometimes deems those interventions to be insufficiently forceful, but loses sight of the fact that the Cft does not conduct legitimacy studies nor fraud surveys.

As a policy line the Cft board applies the basic principle that there must be confidence in the local administration, because otherwise economic growth will not be effected. And although the information from the public body Sint Eustatius is sometimes poor, the procedures are continually delayed, and the quality of the public officials at the Ministry of Finance has to be developed further, ultimately there is always a balanced budget and budget deficits are covered. The Cft board sees that the board's power is not great, but that the free allowance is too low. It is happy with the arrival of Versant, this should improve the financial function. At the same time, an Island Council with dictatorial tendencies is not acceptable and the Netherlands has to take its historical responsibility.

The ANM

The Association of Dutch Municipalities (*Vereniging van Nederlandse Gemeenten; VNG*) has a limited picture of the administrators of Sint Eustatius. Insofar as can be derived from the contacts, the observation of the VNG is that the principles of the democratic rule of law have not been internalised. Administrators take their mandate as a personal mandate. Against that background, it is a complex task to create the conditions to come to administrative development.

The VNG would like to invest in this, in order to create an acceptable administrative level.

Way out?

All interviewees are, without exception, of the opinion that there must be a vision of the Kingdom and within that, of the public entities as soon as possible. It is now too often presumed that there is a naturally shared vision.

To a certain degree, there is a shared awareness that the Netherlands looks at things too much from the Dutch perspective and does not see the shortage of implementation power on the islands or accepts them as par for the course. A clear vision of 'good governance' is necessary. A limited number of interviewees sees the departmental fragmentation and compartmentalisation as an excessive impediment to the development of the islands. They assert that it is time that the Minister of the Interior and Kingdom Affairs also acquires the full ministerial (policy and budgetary) responsibility for the public entities.

Opinions are divided about a possible administrative intervention by the Netherlands. In view of the many democratic infringements and the effects thereof for the population, some speak of an evident inevitability of doing so. Others are more reticent about this, some because

intervention alone will not guarantee long-term good governance; others because they find escalation an ill-advised line to follow which does not fit within the departmental philosophy; or because they fear that consequently the energy of the employees on location will be lost. Yet others see greater benefit in an approach in which the Netherlands take on the role of teacher, because intervention seldom offers a working perspective. A few people presume that a new Minister of the Interior and Kingdom Affairs might be able to improve the relationship so that intervention would be unnecessary.

In particular, the Ministry of the Interior and Kingdom Relations states that the Netherlands must not only invest in improving the administration, but also in solutions which give the public entities greater autonomy.

2.3 Administrative identity of Sint Eustatius

2.3.1 Striving for greater autonomy

The first commander on Sint Eustatius in 1636, Pieter van Corselles, and his fellow administrators will not have known any feelings of dependency compared to their homeland. In fact the West-India Company and its Zeeland-based headquarters permit them to set up a new colony in 1636. They feel like a 'Zeeuw' or 'Hollander' and not yet a Statian, but above all like pioneering merchants.

Due to administrative changes, Frenchmen, Englishmen, Irishmen and Scots all come to the island besides the natives of Zeeland and Holland. The African slaves who were sold to island households also have descendants.

Almost 400 years later, most current inhabitants, although not everyone, deem themselves Stadians first and Dutch second. There are still family ties in which family trees go back to the first inhabitants after the native Caribs, where there is a link with slavery, either as merchant and/or slave-owners, or as slave.

For centuries, between 1636 and 1954, there is no self-governance, but governance by conquerors: the West India Company, Holland, France and England and, as of 1816, governors on behalf of the Kingdom of the Netherlands. It is not until 1954 that the island had its first, own government. The government of the Netherlands Antilles is based in Willemstad, the Kingdom's government in The Hague. Statian politicians form part of the Estates (parliament) of the Netherlands Antilles and sometimes of the cabinets in Willemstad.

The two governments have very little time for the island administrations, Saba and Sint Eustatius possibly least of all. On the one hand this gave the island administrators room to follow their own course. On the other, a feeling of being dominated remains, because Sint Eustatius is dependent on the money flows of the two governments, in particular of the Netherlands Antilles, despite the fact that Statian politicians are part of that.

Almost 60 years of island governance in relative freedom still leaves its mark, even if it was not intentionally granted as such, but was obtained due to lack of interest.

A history of long-term colonisation and slavery – only abolished by the Netherlands in 1863 – and of governments which are physically seated far away cannot easily be relegated to history and a (long gone) past. Feelings of oppression and dependency can be a breeding ground for the desire to gain more autonomy. This is in any event the case on Sint Eustatius. All political parties are striving for a greater degree of autonomy, albeit to a varying degree. Of the three biggest parties, the Democratic Party (DP)⁷⁷ and the United People's Coalition (UPC) want to execute more tasks autonomously. The Progressive Labour Party (PLP)⁷⁸ is striving for the status of an autonomous country within the Kingdom but with budgetary support in the form of a public body and with a governor and a central government ministerial council without powers. This form of *free association* is substantiated by a claim based on the UN resolutions 942, 945 and 1514 and on the UN Charter, Articles 73 and 103.

77 Wellbeing of the People comes First!

78 White Paper: On the road to Autonomy, where there is a will, there is a way, March 2017

2.3.2 Asymmetric expectations

The BES legislation is based on the basic principles 'Antillean legislation unless' and on legislative reticence during the first years after 10-10-10. The underlying policy choices focus on phasing in the execution and the supervision to give the islands the time to absorb new rules and on the (competitive) position of the islands in the Caribbean territory. In the social area, policy focuses on reducing unemployment and on putting a curb on the immigration of foreign (temporary) employees.

Since 10-10-10, European Netherlands invests in the healthcare system, education and security, in the creation of European Netherlands official services like the police, revenue service, customs and immigration service, but also in services of the public body, like the Census and the Land Registry. Project investments are made in, among others, waste processing, energy, drinking water, youth and family services, sport, school buildings, government buildings and the financial management of the public body. The justice chain is given shape. By way of illustration, the central government expenditure for Sint Eustatius was € 60.5 million for 2015.⁷⁹ The central government tax proceedings for 2016 are fixed at € 15.7 million.⁸⁰

The budget of Sint Eustatius itself for 2016 closes at \$ 15.5 million. \$ 1.7 million comes from local taxes, charges and duties, \$ 10.8 million from the Dutch BES fund, the free allowance, and \$ 2.2 million from special allowances. The Ministry of the Interior and Kingdom Affairs has added, specifically for this year, \$ 0.8 million for the payment of KPMG for the improvement of financial management.

With a cautious attitude in legislative, executive and enforcing terms and through its investments, the Netherlands, more than before, wants to create proximity in the form of understanding and, at the same time, wants to maintain a certain distance to the local government, to give it the opportunity to develop the new administrative role.

In Caribbean Netherlands, and also on Sint Eustatius, there is satisfaction with the considerable improvements in healthcare and education. Earlier committees have already concluded this. The disappointments are also clearly described, in particular by the Spies Committee. These primarily relate to the physical and social domain in which the benefits are considerably lower than in the Netherlands. Consequently, many people feel that Statians are treated as second-rate citizens. The reports of IdeeVersa, also raise the expectation that the free allowance would be increased, because studies show, inter alia, that there are insufficient resources to make new investments and carry out overdue maintenance. The dissatisfaction about the lack thereof was primarily projected at the state of the roads.

In 2013, the three public entities made development plans which ultimately resulted in the Multi Annual Programme for the Caribbean Netherlands 2015-2018. Saba and Bonaire signed the MJP in June 2015, Sint Eustatius in February 2016. Their own plans are more ambitious than the Multi annual Programme, which leads to another disappointment. The slow execution, in turn, impedes the progress further.

It is not only administrators and politicians, but also the population, that cherishes the deep wish to make air travel affordable and/or have a cheap ferry service. However, the Netherlands administration does not consider these links public transport and therefore does not want to subsidise such travel. For many people current accessibility is inadequate.

Sint Eustatius makes the expectations explicit during visits to and from European Netherlands, but the Statians feel that the Netherlands hides behind vague wording and unclear future perspectives. This asymmetry causes (administrative) dissatisfaction on the island.

79 Realisation of 2015 budget

80 Budget 2016

2.3.3 Majority politics and person-central politics

In a mature democracy political party programmes are based on ideologies, ideals and ambitions to 'improve the world'. An internalised democratic principle is respect for minorities and for other administrative layers. This respect means that compromises will have to be made: between coalition parties, between coalition and opposition, between the various administrative layers, between administrators and elected representative bodies.

The formation of a democratic system is a process of trial and error in which the empowerment of the population also plays role.

The Netherlands has begun into this process in 1848, and only after World War II good governance was made explicit on the administrative agenda.

Sint Eustatius was only able to progress towards a democratic system from 1954. That path was characterised by loneliness. Neither the government of the Netherlands Antilles, nor the Kingdom government, is concerned with the new administrators and the new island councils. The population has a relatively low education, is relatively poor, and not used to empowerment. Nor are other options for reflection available, like in the Netherlands, by other municipalities or provinces, or by media who follow the administration critically. Consequently, a coalition on Sint Eustatius not only has the majority, but also has monopolistic power.

Due to the small scale and strong family ties, voters are not so much voting for a party, as for a person. There are no party bureaus which support the political parties in the development of ideologies and party programmes.

Nor were there courses and training for commissioners, Island Council members or governors, like the Netherlands has for aldermen, council members and mayors. Only after 10-10-10 could Statian politicians participate in training. Being a politician in active service requires polished skills, not only (personal) ambitions or (personal) ideals.

2.3.4 Customs and habits

People know each other in small communities and the distance between voters and politicians is small. An advantage is that people know who they are voting for and that administrators are accessible.

But that small distance can also lead to mutual dependency. Politicians are dependent on their voters and in a non-anonymous and small community are more likely to grant favours, including handing out jobs.

In an environment of relative poverty, such as on Sint Eustatius, that pattern is reinforced because citizens are in turn dependent on administrators for a better existence. In exchange for receiving a favour – or a commitment to receive a favour – the administrator gets their vote. Clientelism – or mirror-image patronage – is common on Sint Eustatius.

Another aspect is that politicians tend to act as much as possible from the perspective of society because they have their re-election in mind. The Statian community appears to have characteristics which point to what in the literature is called a *high-power society*. In such a community inequality of power is accepted as a given. This gives political office holders a mandate to fill in their role in accordance with the best insights. This can also entail that rules are breached when there is a conviction that this serves an interest.

Inequality of power does not easily allow people to hold each other to account. On Sint Eustatius that aspect can be seen in the relationships between the Executive Council and the public service apparatus, and between the Executive Council and the Island Council.

The physical distance between Willemstad and Sint Eustatius was great, but the distance between Sint Eustatius and The Hague is much greater. That physical distance, which has been somewhat mitigated by digital means of communication, does not make it easy to place and understand each other's views on good governance. The still-existing 'majority-is-power politics' and the person-central politics on Sint Eustatius may have to cover a greater distance to the Netherlands 'respect-for-the-minority politics' and party politics and vice versa than the almost 9000 km which separates Oranjestad from The Hague.

Breaking through patterns which have been deemed self-evident for both parties for a very long time, is not easy. It requires a change in perspective on both sides and not only new, Dutch laws, such as the WolBES and the FinBES.

3 Administrative comparisons

Sint Eustatius is not only part of the Netherlands, but also of the Caribbean region, consisting of 31 island territories with the same colonial past.

In order to prevent a distorted perspective, the development of these Caribbean island territories will be reviewed in greater detail on the basis of two studies which the Ministry of the Interior and Kingdom Relations had executed⁸¹ and some information from Wikipedia. The information on Wikipedia is not 100% reliable, so is to be deemed indicative.

The current administration based the White Paper on the relationship of New Zealand with the Cook Islands, Niue and Tokelau.⁸² The relationship with the Cook Islands shows many similarities with the White Paper. That is why this relationship is briefly described, as is that with Tokelau.

Because virtually all interviewees on Sint Eustatius have indicated that the Netherlands has to intervene in the administration, the comparable interventions in the Netherlands and in the Caribbean region have also been included in this chapter.

3.1 The Caribbean region

Of the 31 island territories, three are fully independent, i.e. without ties to another country: Haiti since 1825, the Dominican Republic since 1844, and Cuba since 1902.

The *United States of America* has two sovereign states, Puerto Rico and the US Virgin Islands in a bond that is referred to as 'US insular area'. The head of state of these states is the president of the USA, in respect of whom the population has no voting right. The president is represented by an elected governor.

Puerto Rico has its own constitution, the US Virgin Islands does not (yet).

The United Nations argue for farther-reaching independence; in a referendum on Puerto Rico in 2012, 54% of the voters opted for independence.

The *Commonwealth of the UK* comprises ten sovereign Caribbean countries. Among these are two republics, Dominica (1978) and Trinidad and Tobago (1962) with an elected president. The head of state of the other eight states is the Queen of the UK (these states are called 'realm'), with a governor-general as the representative of the queen. This is the case for Jamaica (1962), the Bahamas (1973), Barbados (1966), Saint Lucia (1979), Saint Vincent and the Grenadines (1969/1979), Grenada (1974), Antigua and Barbuda (1981) and Saint Kitts and Nevis (1983). These countries have a parliament with elected and appointed members. The appointments are reserved for the governor, usually upon the advice of the prime minister and/or the opposition.

The *United Kingdom* has six British overseas territories: Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Montserrat, and the Turks and Caicos Islands. The island territories have the power to take measures for and govern 'domestic affairs'. The local administration consists of a governor-general, a premier and a number of cabinet members, while the parliaments have a House of Assembly. Sometimes the members are elected, sometimes appointed by the governor, on a recommendation or otherwise.

In the UK, there is a Minister Plenipotentiary per island territory.

81 Post-colonial relations in an international perspective – October 2013

Part-study: French overseas territories – dr. O. Nauta

Part-study: United Kingdom and New Zealand – dr. O. Nauta and prof. A.H.A. Soons

82 Annex 48, invitation to a Town Hall meeting on 5 September 2017; did not go ahead due to Hurricane Irma

France has four 'départements de France Outre-Mer': Guadeloupe, Martinique, Saint Martin and Saint Barthélemy, in the Caribbean region. The islands have their own people's representatives, varying from 19 members (St. Barthélemy) to 45 members (Martinique). Representatives of the islands form part of the French parliament.

The *Kingdom of the Netherlands* consists of four sovereign states: Aruba, Curaçao, Sint Maarten and the Netherlands. The islands of Saba, Sint Eustatius and Bonaire are public entities of the Netherlands.

The three Caribbean countries have a Minister Plenipotentiary in the Council of Ministers.

Of the fifteen island territories with fewer than 100,000 inhabitants, four are a sovereign state. The eleven others are, as 'overseas' territories, part of France, the UK and the Netherlands. None of the nine smallest, in terms of population size of inhabitants, are fully independent.

According to the UN Human Development Index (HDI), in 2016 four island territories (including Aruba) are very highly developed, seventeen highly developed, one (Montserrat) medium developed and one (Haiti) not developed. The status of seven island territories is not known, including that of Curaçao and Sint Maarten and the three Dutch public entities.

Of the three European countries, France invests relatively the most in the island territories and the UK the least. An (increasing) number of island territories has investors from China and Taiwan.

With regard to Purchasing Power Parity based (PPP – GDP per capita), Sint Eustatius, together with eight island territories, is more or less in the middle category. Twelve island territories have a (much) lower PPP than Sint Eustatius, of which Haiti and Jamaica have far and away the two lowest PPPs.

With regard to administration, *France* has a relationship with the islands on the basis of *integration*, whereby all inhabitants in principle have the same facility levels. In practice this sometimes works out differently, e.g. due to the different price levels. Ensuring good governance is a point for attention, but due to the virtually total absence of options for supervision from a higher level, is less dominant than it is in the Netherlands.

The British administration has made the issue of autonomy subordinate to good governance. Good governance is conditional for more autonomy. The *governor* has the power to make decisions himself, even if the local administration does not agree with this. In practice this does not happen often, there is a lot of informal traffic between the governor, the island administration and 'London' to ensure good governance. The *governor* must also agree to every local legislative proposal. In that area too there is informal alignment with 'London'. If a legislative proposal is contrary to the constitution or another statutory arrangement, the *governor* does not have to sign.

Caribbean-British public officials are nominated by an independent, politically neutral committee and are appointed by the governor. Caribbean-French public officials are appointed after they have successfully gone through a procedure for the position. No French (European or Caribbean) participant is guaranteed a job in the place where he came from.

3.2 Cook Islands, Niue and Tokelau

The Cook Islands consist of 15 islands in the Pacific Ocean with a surface area of 240 km². Some 12,000 people live there. Some 58,000 Cook Islanders live in New Zealand. The islands have a free association with New Zealand, giving them their own constitution and full autonomy with regard to legislative and executive powers. New Zealand has a formal responsibility for defence and Foreign Affairs, although the Cook Islands are allowed to set their own course internationally.

The islands still receive subsidies from New Zealand; in 2011 a contract was signed whereby New Zealand invested substantially in waste and water processing, sustainable energy, education and public financial management. The economy of the islands is greatly entwined

with that of New Zealand and is greatly dependent thereon. The Cook Islands have the same currency and the same fiscal and monetary system as New Zealand. The inhabitants can freely access the New Zealand labour market.

New Zealand is not responsible for good governance on the Cook Islands and a certain degree of poor governance is accepted. Insofar as influence is exerted on the administration, this is done by means of diplomacy and financial support.

New Zealand has the same relationship with Niue, 15,000 inhabitants, as with the Cook Islands.

The relationship is slightly different with regard to Tokelau – 17,000 inhabitants, surface area of 12.2 km². Tokelau does not have its own constitution, but it does have its own legislative and executive power. The Governor-General of New Zealand is also that of Tokelau. He has a ceremonial position. Under the Governor-General is the Minister of Foreign Affairs and Trade, and below him the Administrator. He is the highest executive power on Tokelau, but he has delegated his powers to administrative bodies on Tokelau. The Administrator himself is based in Wellington.

3.3 Interventions in the administration

In the *Netherlands*, since 1848, there have been five interventions in the municipal administration by means of special legislation. In 1895 in both the municipality of Opsterland⁸³ and the municipality of Weststellingwerf⁸⁴, in 1933 in the municipality of Beerta⁸⁵, in 1946 in the municipality of Opsterland⁸⁶, and in 1951 in the municipality of Finsterwolde.⁸⁷

All were cases of gross dereliction of duty, causing the government to deem it necessary to provide for the administration of the municipality on the basis of an article in the Constitution, comparable to the current Article 132(5).

3.3.1 Opsterland and Weststellingwerf

In 1893, in the municipality of Opsterland, the mayor, with the exclusion of the council and the aldermen, is declared authorised to adopt the budget 1894.

In Weststellingwerf has a similar situation with the same outcome.

3.3.2 Beerta

In 1933, in the municipality of Beerta, the council and the council executive of mayor and aldermen are deprived of all powers and all power is declared to be vested in the mayor. After earlier refusals of the council to incorporate amendments by the Provincial Executive of Groningen into the budgets of 1930, 1931 and 1932, the central government finally decides to intervene. The reticence with regard to intervention is explained in the Explanatory Memorandum: 'The presented facts caused the undersigned to conquer his *discomfort* in putting forward application of a constitutional provision, which has only been used twice before, in 1895 [...]'

83 The interventions are mentioned in the General Policy Framework on substitution in the event of dereliction of duty and in *Organische bijstand* of prof. dr. F. Fleurke, January 2008

84 See footnote above

85 Statute of 29 December 1933 (Stb. 770)

86 Statute of 23 November 1946 (Stb. G 327)

87 Statute of 20 July 1951 (Stb. 308)

3.3.3 Opsterland

In 1946 the council of the municipality of Opsterland ceases its works due to its views on the temporary continuation of the mayor. The difference of opinion between the council and the government concerns the attitude of the mayor during the occupation.

Here too the Explanatory Note shows that intervention is not taken lightly: 'The undersigned very greatly *regrets* that there is a need to seek the cooperation of the States-General in order to take a measure [...].'

Nevertheless, intervention is deemed necessary: '[...] he trusts that the States-General shares his opinion that the government would misunderstand its task, if it, after what has occurred, were to sit with its head in its hands.'

The law designates a government commissioner to exercise the tasks of the council and the council executive of mayor and aldermen.

3.3.4 Finsterwolde

The last intervention dates from 1951 in the municipality of Finsterwolde. After initially being willing to engage in some consultation, the majority of the council and of the council executive starts to set its own course. The Explanatory Memorandum describes this as follows: '[...] the attitude of these members has gradually changed such that one can no longer speak of normal consultation or of a reasonable representation of these interests, and that gradually the place of the municipality as part of our state hierarchy has been lost sight of. In exercising their position, they do not hesitate to use a form of politics which clearly demonstrates that they have separated themselves from the views of the Netherlands and apparently seek to undermine the valid authority and the authority of the law.'

The Explanatory Memorandum mentions a number of examples of this type of politics. For example, the chairman of the council is informed that 'people of his kind will be dealt with', members of the housing committee were to be replaced by like-minded people, and in the event of fraud with social benefits no action is taken against the fraudsters, but – despite ardent protests of the minority of the council – the inspector is dismissed. The Crown suspends and sets aside a number of decisions of the municipality, but the executive and council ignore these.

The Explanatory Memorandum briefly summarises these points: 'It is not surprising, that in this manner, and in such an atmosphere, the affected part of the population of the municipality has the feeling of living in a state of complete lawlessness.'

In this case too, the question is raised whether 'gross neglect of the [...] as described in Article 146(4) of the Constitution', is relevant: 'The government has barely taken account of the question whether said provision, where a situation like that of Finsterwolde arises and which was naturally not what the drafter of the constitution had in mind in 1887, permits intervention such as that which has been proposed.' The government concludes that 'there is indeed cause to intervene and doing nothing is irresponsible. The government deems use of this instrument unavoidable'.

The law is accepted, authorising the mayor to exercise all tasks of the council and the council executive.

3.3.5 The Kingdom

In a *kingdom context*, there has also previously been an intervention. In 1960 on Curaçao (AmvRB 30 January 1960, no. 1), in 1993 on Sint Maarten (Stbl. 1993, no. 172), and in 2017 (Stbl. 2017, no. 138) on Curaçao in order to safeguard the elections. The intervention in 1960 takes place at the request of the government of the Netherlands Antilles. In this case, the Island Council systematically rejects all decisions of the Executive Council.

The intervention on Sint Maarten is preceded in 1991 by an investigation by the Pourier committee. The committee establishes that there is a financial crisis, that a small number of administrators and political leaders control island politics, and that the democratic rules are

blatantly ignored. The focus is on personal interest rather than island interest and the final conclusion is that the administration is no longer governing. After a year the Kingdom stands down and the government of the Netherlands Antilles takes over the supervision (Stb. 1994, no. 701 no. PB 1994, no. 109).

3.3.6 Caribbean region

Lastly, in 2009, the government of the United Kingdom intervened in the administration of the Turks and Caicos Islands.⁸⁸ Previous interventions occurred between 1984 and 1986. After a routine review by the British parliament and the establishment of a 'Commission of Enquiry into corruption' by the governor, the British government ultimately decides to intervene because of the high degree of corruption, self-enrichment and abuse of public funds.

The Brits do not intervene just 'for the sake of it', a British government official states: 'This is a serious constitutional step which the UK Government has not taken lightly but these measures are essential in order to restore good governance and sound financial management.'

The governor is given all administrative powers of the council of ministers and the parliament. The parliament is deactivated; instead the governor is assisted by an 'Advisory Council' and a 'Consultative Forum'.

This administrative intervention applies for two years.

The population is broadly and intensively informed about the background and the need for the intervention.

The sitting politicians are not pleased with the intervention. 'To remove the territory's sovereignty is a tantamount to being re-colonised. It is a step back, completely contrary to the whole movement of history,' one says.

Another speaks of a coup and: 'Our country is being invaded and re-colonised by the United Kingdom, dismantling a duly elected government and legislature and replacing it with a one-man dictatorship, akin to that of the old Red China, all in the name of good governance.'

During the administrative takeover \$ 500 million worth investments are attracted. Investors presumed that contracts with this administration will offer greater certainty. It is still unknown, or cannot be traced, whether this is actually true.

88 The text is based on a report of the DSP group: Post-colonial relations in an international perspective, and on Wikipedia

4 Observations and findings

4.1 Sint Eustatius

The Windward Islands are situated in the north of the Caribbean region. Two of those islands, Saba and Sint Eustatius, have been part of the Netherlands since 10-10-10 in the form of a "public entity". One of them, Sint Eustatius, is the subject of our study.

We have become familiar with a small island with great authenticity. It has not been affected by mass tourism with international hotel chains and large cruise ships. In many places nature remains untouched, and history can be traced back from the many remainders of warehouses, forts and prayer houses from a long-ago, if turbulent, past.

'It is a 'real' island, not a fake one, like many islands with sun, sea and sand,' one of the interviewees tells us. Another points out the added value for European Netherlands: Sint Eustatius has an interesting flora and fauna, underwater as well, it would be a wonderful holiday destination for people who love nature and culture and the common language is English, although many also speak Dutch.

An island to be proud of.

There is also a flip side to this unspoilt natural beauty. There is barely any economic development making unemployment and poverty prominent issues. The share of tourism in the economy is slight, while it plays an important role on many other Caribbean islands. The social structure is weak, there is little future perspective, and relatively many youth and family problems persist. The maintenance of the island is outright poor.

Increasing erosion makes the island unsafe, very dusty, and in the event of tropical rain showers sensitive to problems related to flooding. Homes are dilapidated or not completed. The roads show large holes and cracks or are half-paved sand paths with stone pieces. In times of great rain they change into rivers. Cattle walk around freely and cause a lot of damage, and the processing of waste is a challenge with hundreds of wrecks of cars, boats and tractors visible.

The Coralita covers large parts of the island and is suffocating the natural flora.

The two hurricanes in September 2017 expose the vulnerabilities of the island. The erosion on the cliff wall in Lower Town is becoming even more risky. The beach there has been washed away by the sea. The above-ground electricity grid is not hurricane-proof, and the reconstruction of mobile telephone traffic and the internet is going slowly. Poor quality homes suffer the greatest damage. Due to the loss of the regular air transport, tourism has virtually disappeared.

Sint Eustatius is in our eyes a beautiful island with potential, but it is also greatly neglected and isolated, because the price of an airline ticket exceeds the financial capital of many inhabitants and there are barely any other transportation links available.

4.2 The administration on Sint Eustatius

In 2015, the Spies Committee concludes that there is a vulnerable and instable administration on Sint Eustatius, before 10-10-10, as well as thereafter.

It is worth noting that the actions of the current Stavian administration are partly shaped by a past in which island administrations have had to (learn to) run their island virtually without support. It is also good to realise that the feelings of leeway, freedom and ownership in an administrative sense took root on 10-10-10. Feelings of limitation, paternalism and meddling also contribute to the attitude of the current administration.

4.2.1 The current Statian administration

We started our study with the conviction that the controversy between the Netherlands government and the current administration – the Island Council and Executive Council – could at least be discussed and mediation could possibly lead to greater mutual understanding.

It soon turned out that the administration of *Sint Eustatius* did not want to speak with us, despite our own attempts and those of a number of mediators. The personal request of the Minister of the Interior and Kingdom Relations on 14 August 2017 to Sint Eustatius and his later letter⁸⁹ did not break through this impasse. We did not get any further than a telephone call between the PLP parliamentary group leader and one of us. We understand that the reason for this can be traced back to the composition of our committee and we share the administration's opinion that the procedure was somewhat haphazard. We have less understanding for why the administration consequently excluded itself and others from sharing experiences and views with us. We regret that position.

Likewise, we also regret that the public officials, under threat of disciplinary measures, were prohibited from speaking to us.

The current administration of Sint Eustatius is propelled by a great desire for the greatest possible autonomy of the island administration, without any involvement from the Netherlands.

In line with that wish, the island is governed as if there already were greater autonomy. The legislation which in the eyes of the administration are most irksome and paternalistic, the WolBES and the FinBES, are declared – by motion – to no longer, in principle, apply to Sint Eustatius. The underlying explanation is the view that UN resolutions and the UN Charter do not permit this type of legislation.

In line with this view, recommendations of the Cft are executed slowly or are ignored, and halfway through 2017 the financial statements for 2015 and 2016 still have not been made available.

Approval procedures which ensue from the laws, both in the area of finance and personnel, are initially followed but later put aside altogether, in official documents too.

Not only are opinions of others not accepted, the authority of others, such as ministers, the Kingdom Representative and the Cft, of the (acting) governor, the opposition or the island's own public officials is not accepted, not even in a crisis situation after a hurricane.

Governance issues are not resolved within the administration, but through the courts, such as the relationship with the acting governor and that with the Netherlands.

In the meantime, it appears as if the name of the island was changed on the administration's own authority from *Sint Eustatius* to *Statia*. Moreover it seems that the PLP parliamentary group leader is externally referred to as prime minister or as leader of the country.

The administration often uses words like 'power' and 'control' and acts accordingly. Dualism, meant to safeguard the balance between force and counter-force, is not in play. We have established that the PLP parliamentary group leader is ultimately the only one to determine what will and will not happen. He instructs the two council members and public officials directly. If matters take too long, the Island Council takes decisions, sometimes by motion, without official and administrative preparation or without preparation by the Central Committee. In essence, the Island Council is not in control, but has become entwined with the Executive Council. In practice one man calls the shots.

Control is exercised by replacing people who attempt to work based on legitimate grounds and statutory procedures by people from the administration's circle of friends. One governor, two commissioners, one registrar and one island secretary are forced out. Public officials are transferred and friends are placed in managerial positions of state-owned companies. Not all new officials possess the skills required.

89 Annex 49, letter from the Minister of the Interior to the leader of the PLP parliamentary group, 5 September 2017

During our talks with people who live and work on Sint Eustatius, we managed to get a picture of the actions of the administration. That picture is confirmed by reports of the Island Council, in transcriptions of radio talks, and on Facebook pages.

Actions involve intimidation, pressure and threats, and of the vilification, insulting and belittling of people with different views. People with a different view are all considered enemies: the Dutch administration, Dutch people on the island, the opposition, the acting governor, disagreeing public officials and politicians, and residents with a different political colour. We have been told that Eutel employees were told to tap phones, but we have not been able to verify this. However, this would fit in with the wish to exercise more and more control.

It is not easy for us to determine what results this administration actually achieved in the past two and a half years. We understand that the administration wants to give priority to economic development and financial control. The latter is in any event – partly – visible in the presentation of the first implementation report about 2017 to the Cft.

The economic development is less visible for us and our Statian discussion partners. Dutch business owners on the island are discouraged due to long-term government procedures and discrimination. The Housing Foundation has not visibly invested in existing or new homes. Insofar as there have been investments, they have primarily been made by NuStar and the Dutch government: the airport, the Land Registry, the Government Guesthouse, the solar panels for the generation of electricity, the housing of schools, the waste processing. What concerns us is the administration's view that the environment, particularly the marine environment, is subordinate to economic development.⁹⁰ This would mean a rare environment being sacrificed, one which is relevant for nature and the tourism sector.

We are also concerned about the fact that the administration does not want to accept any help or assistance from the Netherlands. We can imagine that stubbornness and pride motivate the administration, but the small scale of the island and the budget and the quality of the public service apparatus could give them cause to accept help, particularly if this would benefit the population. This applies, for instance, to the water supply which is not yet adequate, but where the island administration explicitly rejects Dutch expertise.

This also applies to social housing. The expertise and the investments of the Dutch housing corporation (renovation of 100 existing homes) are refused.

Nor is it easy for us to determine how the population thinks about this administration. We have seen the criticism on Facebook, of the opposition in Island Council reports and in *The Daily Herald*. We have also seen it in the initiative of a citizen to start a petition against the statements of the PLP parliamentary group leader on Curaçao on 9 October 2017. We have spoken with former governors, public officials, business owners and inhabitants. Few people support the course set by the administration.

This may say a lot, but perhaps also too little. It is quite possible that inhabitants focus on their own lives, their family, their church, their friends and take the administration as a given. Accepting the inequality of power perhaps does not allow for surprise or annoyance or any opinion whatsoever. It could also be that the family ties, and for some the dependency on the government, causes people to remain silent.

We do not know for sure, but the last election results and the 2014 referendum could be signals that not an overwhelming majority stands behind this administration and its views on autonomy.

We can conclude that the actions of the current administration can no longer be qualified as the usual majority and person-central politics, but rather appears to be driven by a striving for power and control. We assume that the administration genuinely wants what is best for the Statian population. Nevertheless, we do not deem the way in which this administration wants to achieve this to be constructive because every attempt at consultation and argumentation and every form of criticism is silenced. Vilification, disinformation and fiction are applied without hesitation. Many public statements of the administration cannot serve as an example for the population. Not as standards of decency, nor as an example for compliance with rules.

90 Annex 50, *Daily Herald*, 'Statia Government discusses nature protection of harbours' – 4 September 2017

The administration works from the perspective that 'we are the majority and we run this island'; in this case, this goes far beyond the usual one-liner, i.e. without understanding or a listening ear for people with different views and without respect for other authorities or the law.

We conclude that this administration, other than previous administrations, has given its own interpretation to the realisation of governance, the legal order and democratic principles, which in no way fits in with the Dutch governance culture. The desire for greater autonomy can be justified, but the realisation thereof should be the outcome of a debate and not the imposition of an island administration.

4.3 The administration of the Netherlands

4.3.1 The input of the Netherlands

In the preparations for 10-10-10, the Netherlands was aware of the differences in governance culture between the public entities to be formed and the existing Dutch municipalities. From the perspective that the governance culture on the islands could be risky in the area of finance and the administration, the WolBES and the FinBES have extra safeguards to curtail those risks. From the start, the island administrations including the Statian administration, have objected to these, in their eyes paternalistic, provisions. Ultimately, they agreed following the commitment that the two statutes would be assessed after five years. At the same time, and in line with the Dutch model, dualism and voting by proxy were introduced, for the public entities a governance phenomenon which had not existed up until that time.

After 10-10-10 the public entities are placed *in terms of management* under the Public Administration and Democracy directorate and thereby, with regard to attention, deemed municipalities. This entails that the island administrations are given almost no attention in terms of development and end up in a kind of administrative vacuum.

The managerial responsibility is quickly shifted back to the Kingdom Relations directorate, after the Minister of the Interior and Kingdom Relations feels forced to establish prior supervision in November 2011 on Sint Eustatius.

In hindsight it must be concluded that the Netherlands did not pay sufficient attention to the fact that for almost 60 years, governance cultures which were not developed further on the islands, not only by the drafting of safeguard provisions, were realised in another way. It appears to be the case that, on the one hand there was too much confidence in the safeguard provisions and, on the other hand, too much (centuries-old) reticence about intervening in local administrations. It would have been better to recognise that good governance is not created by itself, certainly not if there are no corrective mechanisms like neighbouring municipalities, provincial administrations, region forming, developed political parties, critical media and empowered citizens. The lack of a properly developed public service apparatus is also not conducive to the development of good governance.

The administrative reflex to take repressive measures upon the first administrative failure has, in hindsight, strengthened to feelings of paternalism on the part of the Statian administration rather than stimulated good governance.

It is, with the pride of Statian administrators in mind, a question of whether long-term assistance from the Netherlands to get the financial situation, including the supervision of public officials, in order, would have been accepted by the Statian administration. It would have been better to investigate that possibility first.

The Netherlands is also aware of the fact that virtually all administrative domains substantially lag behind on the three islands.

It is absolutely true that great efforts have been made in the areas of education, healthcare, security and the legal and tax system. Numerous investments have also been made on a project basis. Some got bogged down in closing the administrative eyes to the costs of related maintenance and the minimum administrative force for organising exploitation.

Virtually no progress has been made in the socio-economic area. The two reports of IdeeVersa (determining the social minimum and increasing the free allowance) are still awaiting a follow-up. It is completely incomprehensible for the island administration that expectations

were being raised, but that nothing is done with these reports. The Spies Committee describes this situation as follows: 'There is an incongruence of interests; for the islands the relationship with the Netherlands are of vital importance, the reverse is not the case. In the European Dutch politics, the relationship with the islands does not play a role of significance. This places the islands in a dependent position'.

For the Statian administration – both now and before – the evaluation of the WolBES and the FinBES carried out by the Spies Committee feels like a broken promise. It has been assumed that (precisely) this evaluation would also be geared to the repealing of the paternalistic provisions. The conclusion of the Spies Committee that 'the special provisions in the WolBES have not contributed to essential changes in the island governance practices' is perceived as an extra paternalistic conclusion by both the current and the former administrators on Sint Eustatius, not the outcome of a joint evaluation.

4.3.2 Guidance after 10-10-10

The guidance after 10-10-10 had no underlying philosophy, other than the administrative philosophy which applies for Dutch municipalities. The public entities must therefore do business with all departments. Every department deals with the island administrations in its own way, whereby the Ministry of the Interior and Kingdom Relations and the Kingdom Representative are expected to coordinate, which is then barely permitted. The arrival of the CN Table does lead to a more joint approach, but there is still lack of a joint, shared vision.

Due to the task division, a complex administrative relationship with the Netherlands has arisen for the public entities. Some departments have their own services on the islands, others work with their 'own' individual RCN staff. Some make use of liaisons, others try to reinforce the position of the Kingdom Representative. One department has many contacts through (high ranking) public officials with the island administrations and/or the public officials of the public entities, while another does not. There are also departments which 'work around the administrations'.

As we have determined from the discussions with the departments, the varying intensity of the dealings with the island administrations also entails that there is not a clear, shared picture of the administrative situation on site. Administrative issues are deemed to belong to the domain of the Ministry of the Interior and Kingdom Relations and only the odd high ranking public official of another department feels like he/she shares responsibility. The difference in expectations between the islands and the Netherlands is signalled, but at the same time either deemed too difficult to solve due to political disinterest or passed on to the Ministry of the Interior or Kingdom Relations.

Within the boundaries of their own perceived responsibility, (parts of) departments are trying to do what is right. For example, by financing projects with under-spent funds, by offering support and (technical) expertise, or by bringing about improvements with the help of central government inspections.

On Sint Eustatius support is accepted by one administrator, but not by another. The current Statian administration is now rejecting (virtually) all help ("we don't need the Dutch").

We establish that there is no common vision on how to deal with the public entities, including a shared governance philosophy. Consequently, the island administrations are involved in different ways and each department follows its own policy in dealing with the administrations.

We also establish, for the small island administrations, the Netherlands manifests itself in many administrative forms: departmental public officials (sometimes a minister or state secretary), RCN officials, the Kingdom Representative, the Cft, liaisons, and own Dutch services. This does not improve an adequate administrative relationship, particularly now that there has been no unified position on the part of the Netherlands. On the other hand, for the departments, the perspective for taking action is limited by the political disinterest for the three public entities. Considering the high rank of public officials at the CN Table, we would

have expected unified action and a meaningful attempt to draw up a joint vision. The Dutch view is that the island administration does not rely on a system, but relies on individuals with a personal mandate. To a degree, we see the same in the Dutch administration. It is not based on a common policy vision, but on personal views of Dutch public officials.

4.3.3 (The prelude to) the current relationship with Sint Eustatius

Back in 2011, the Minister of the Interior and Kingdom Relations sees himself forced to establish prior supervision in the financial area, which is then withdrawn at the end of 2012. The advice of the Cft over the years 2013 and 2014 to the minister shows that things appear to improve. However, the advice obscures that it is very difficult for the Statian administrators and public officials to satisfy the requirements. The Cft opts for a policy which keeps the connection in place. In addition, the Cft approaches 'the boundaries of its mandate' in its clear, more economically hued advice to the public entity.

We can understand this position, but with the proviso that the Ministry of the Interior and Kingdom Relations and the Cft should have sought to establish a more common strategy. The Cft is not acting as independent supervisor, but as an advisor. By not aligning the approach, we can see that, at the same time, both a more repressive and a more understanding line have arisen. This may cause confusion on the part of the Statian administration, but also offers scope for setting its own course.

The instructions of the minister to both the administration and to the Kingdom Representative contain both development measures (Plan of Approach) and repressive measures. Because the justly elected new administration has indicated that there will be no cooperation whatsoever with the Netherlands, the execution thereof will be almost entirely a Dutch affair. Only at the time of the efforts of one of the commissioners was there some development in the financial area. This commissioner was then sent away because of this cooperation. Due to the lack of cooperation, the Kingdom Representative has drawn up the Plan of Approach and tried to implement it. This approach has nourished the administration's view that the Netherlands wants to determine the agenda. In the end, the Kingdom Representative gave up hope.

What we see, albeit it in hindsight and thus with more knowledge, are well-intended, but ineffective measures from the Dutch government. An instruction to the Kingdom Representative to draw up an improvement plan is addressed incorrectly as far as we are concerned. In addition, the two instructions were not or barely preceded by discussions with the island administration. This unexpected approach gave the Statian administration the alibi to itself seek out confrontation with the Netherlands instead of looking for administrative solutions. The Plan of Approach was intended as support, but due to the lack of prior consultation was perceived as meddling. The Minister of the Interior and Kingdom Relations and the CN Table then accepted that, despite the reports of the Kingdom Representative, the administration increasingly and more often and ultimately structurally turned its backs on the supervision requirements, approval procedures and statutory provisions. The attempts to turn the tide by means of letters came to nothing.

Our study shows that many are of the opinion that the legislation offers too few options to enforce good governance in the event of systematic administrative failure. The legislature may not have sufficiently foreseen that the administration does not follow up approval procedures or prescribed procedural actions structurally, but that more cooperation in the chain of Kingdom Representative – Cft – Ministry of the Interior would certainly have offered more options. For example, the Kingdom Representative, whether or not via the Ministry of the Interior, could have asked the Cft to make use of Article 31(2) FinBES to carry out a study into the legitimacy and effectiveness of the decisions of the Executive Council. The Cft would then have been able to advise the minister more precisely in such case. Greater closeness of the Kingdom Representative to the island administration might have deflected a number of illegitimate decisions earlier.

The same applies with regard to the possibility for the Cft to investigate the financial management. There was sufficient cause for such in all the years after 10-10-10.

We have understood from the Cft that the attention was primarily focused on balanced budgets. It would have been better to review the quality of the management early.

We also noticed that there was not always effectiveness of the measures. After the non-approval by the minister of the 2017 and 2016 budgets, it took another half year before the budget was adopted. We can imagine that the minister would have set clear terms to adjust the budget, whereby in the event of non-performance thereof the minister could have adopted the budget himself. As a result, the Statian administration now took advantage of the situation to accuse the Netherlands of meddling with every expenditure and played the 'victim' card. That the administration in essence made a large number of expenditures without approval, does not detract from that, no matter how objectionable this may be.

On the one hand, there was an approach which may have relied too much on repression and too little on intensive consultation. On the other hand, had there been better coordination between the Kingdom Representative, the Cft, and the Minister of the Interior and Kingdom Relations, the measures could have been more efficient and more effective. Whatever the case may be, neither measures nor consultation will persuade the Statian administration to behave differently because it has embarked on the road to autonomy on its own. This is the last rung on the intervention ladder.

We believe that the Netherlands has remained at a distance for too long, while greater closeness was required. If both in 2011 and in 2015 there had been more discussion with regard to what the Netherlands desired in the framework of good governance, and had this been connected to the explicit offering of support, the development might have followed a different course.

In combination with the political lack of interest for the problems in the socio-economic and physical domains, our conclusion is that the Netherlands has not sufficiently discharged its duty of care with regard to Sint Eustatius.

The administration of Sint Eustatius may therefore, as the municipality of Finsterwolde did at the time, 'have gradually lost sight of the place of the public body as part of our administrative order', and with its passive, disinterested, and distant attitude the Netherlands has invoked a picture of a *forgotten* island.

4.4 The autonomy debate

The striving for greater autonomy is more virulent on Sint Eustatius than the Netherlands initially wanted or was able to acknowledge. It is not only the current administration, but all (former) politicians who have put this objective on our table.

It looks as if this desire, which to a certain extent is already expressed with the arrival of the WolBES and FinBES, is not sufficiently linked at the time of 10-10-10 to the relative freedom and leeway of the administrations since 1954, nor to the history of colonisation and slavery. All (former) politicians have views on more autonomy; the current administration has presented the most elaborate view. In its White Paper, it outlines a relationship with the Netherlands/the Kingdom, which is based on New Zealand's relationship with the Cook Islands, Niue and Tokelau. The Netherlands does not have an explicit view, but does make pronouncements in letters.

In hindsight, we can see a number of points in time when the Netherlands could have realised the development of a vision of whether or not there should be greater autonomy, so that a debate with Sint Eustatius (and the other islands) could have been given shape. The first time is around 10-10-10, the second at the time of the instructions in 2015, and the third at the time of the motion of the Island Council on 30 November 2016. The progress reports of the Kingdom Representative could also have alerted the Netherlands.

The secretary-general of the Ministry of the Interior and Kingdom Affairs only commits to a debate in March 2017, but later the minister states that he wants to await the results of our committee.

Due to the choice of the Statian administration to opt for more autonomy without any debate and the postponement of the debate by the Netherlands, the issue of more autonomy has become a divisive element in the relationship between Sint Eustatius and the Netherlands.

In addition, at the time of the existence of the country of the Netherlands Antilles, Statian administrators formed part of the Antillean States and of cabinets. Although it is theoretically possible to be elected to the Dutch parliament and form part of a Dutch cabinet, the chance of this becoming reality is slight. For that reason, (former) politicians are looking for other possibilities to exercise influence in the Dutch parliament, such as the establishing of a BES house.

We have established that the lack of a Dutch vision on greater autonomy, the late recognition of the feelings of excessive dependence on the part of the Statian administrators, and the postponement of the debate on the matter have all clouded the administrative relations. We suspect that normalising relations and getting the now disproportionately disorderly administration on Sint Eustatius in order, will consequently not run easily and smoothly. We do not exclude the fact that the lack of a vision and a debate can go further than Sint Eustatius, to wit the visit of the Minister of the Interior and Kingdom Affairs to Bonaire on 16 August 2017. That the colonial past, including slavery, is deployed as an unforgotten history by the current administration to 'frame' the actions of the Netherlands as such, now leads us to believe that this framework has a permanent character. This need not necessarily have happened.

5 Final conclusions

We twice visited Sint Eustatius for a week and during those visits we were enchanted by the beauty and potential of the island, while at the same time we were also shocked by the neglect of the island, physically and socio-economically. We did not expect both these aspects.

With our administrative experiences in Aruba and the Netherlands, we started our investigation with the conviction that the normalisation of the administrative relationships was an option, albeit a challenging one. However, we have had to establish that this belief was quickly belied by the attitude of the current administration.

The fact that two administrators had to so quickly adjust their view on the island and their belief that administrative relationships can ultimately be normalised with administrative solutions is, in our opinion, symbolic of the Netherlands' share in the administrative chaos in which Sint Eustatius now finds itself. But in order to see the truth, we had to get closer.

We deem the actions and methods of the current Statian administration to be unacceptable. Lawlessness, more than expected nepotism, ignoring other authority structures, more or less monopolising radio and TV airtime for personal political purposes, wanting to control the public service organisation and state-owned companies, intimidation, threats, pressure and insults, they are all the more classical characteristics of a dictatorship and the striving for personal power rather than expressions of good governance.

We see appropriating more autonomy without debate as constitutionally intolerable. This undermines both the legal order and the state order. The striving for more autonomy is justified, but can and may never lead to the rejection of the fundamentals of our state system and with this our democratic principles. That the actions are also genuinely geared to 'the best for the population', does not detract from our conclusions.

The situation almost has the hallmarks of a coup d'état, whereby the administration of Sint Eustatius intentionally opted for a great distance from the Netherlands and thereby, de facto, cut the ties with the Netherlands.

Around 10-10-10 the Netherlands was fully aware of the administrative qualities on Sint Eustatius and of the arrears which had arisen over time in virtually every administrative area. Administrative legislation with extra safeguards and investments are evidence of that. The Netherlands could have been aware of the sentiment among Statian politicians regarding the loss of administrative scope and freedom and of administrative influence at national level sooner. These feelings of paternalism and meddling, and the related desire for more autonomy were, in our opinion, recognised too late. The dismantling of the country of the Netherlands Antilles and the formation of three public entities and two new countries did not cause the Netherlands to internalise an awareness of what it means to form part of a kingdom spread out over different continents.

We appreciate the efforts of the Netherlands but also observe that the Statian feeling is that too much credit is being taken for the successes in healthcare and education. We have concluded that the administrative disinterest and failure to take the problems on Sint Eustatius seriously, partly form the basis of the growing dissatisfaction on the island. Furthermore, the failure to keep promises is, in the eyes of the current administration, perfectly illustrated by the postponement of the autonomy debate. In a context of radicalising politicians, an exchange of positions on paper and at a distance, only gives credibility to that radicalisation. It would have been better to remove this thorn from the administrative relationships by, in any event or as soon as possible after the commitment on 3 March 2017, have a first debate. This thorn is currently only infecting the relationship further.

The administration on Sint Eustatius has greatly distanced itself from the Netherlands by taking on greater autonomy on its own authority. At the same time, the Dutch administration has remained too distant from the sentiments on Sint Eustatius for too long. It is now important to convert both distances into administrative nearness. Distance or closeness, it is a world of difference. This applies not only to us as committee, this also applies to Sint Eustatius and the Netherlands.

6 Recommendations

The administrative conditions on which the island administration exercises its tasks on Sint Eustatius, have become so untenable that it is intolerable to be continued until the next elections in 2019. It would be disastrous for the population and the status of the island and would ignore the virtually unanimous plea of the interviewees on Sint Eustatius. Such a course would be unworthy of the Netherlands, in view of the historical task with regard to its inhabitants of the Caribbean Netherlands and its responsibility for good governance at all administrative levels.

6.1 Intervention

The Statian administration has turned away from the existing legal and governance order and is no longer willing to let go of the autonomy it has unilaterally appropriated. The administration has turned its back on the Netherlands and, no matter how much the Netherlands may have had a part in this, there is a gross dereliction of duty. This can only lead to one measure: administrative intervention by the Netherlands on the basis of Article 132 of the Constitution.⁹¹ In order to prevent things from going from bad to worse, we emphasise that urgent discussions of the required legislation is absolutely necessary. As a responsible country that believes in good governance, we can no longer permit that there is a place within the Netherlands where residents who, for whatever reason, have to deal with the public entity, are exposed to lawlessness, capriciousness and discrimination; where public officials have to work in an atmosphere of intimidation, threat and fear; where in essence one man has drawn all power to himself; and where, without consultation, on his own authority, step by step, any other authority is ignored.

Nor can we permit that the financial administration and decision making do not or barely satisfy the requirements which are set; that other administrative processes and files do not or insufficiently reflect reality, which causes, among others, the risk of phantom voting.

The Statian population has just as much right to good governance as the population in the Netherlands.

The Netherlands would be denying its commitment to the rule of law if it were to allow this chaos to continue much longer.

We are aware that an intervention is a final option, which should be applied with great reservation and after careful deliberation.

It would certainly have had our preference if we could have recommended restoring the administrative relations through good consultation. However, we do not see any possibilities to do so because the Statian administration has definitely closed off that road. That is, unless the Netherlands (and the three other countries in the Kingdom) simply agree to the basic principles in the White Paper of this administration. We are certain that this will leave the governance culture unaltered and that consequently the Dutch views on good governance will continue being challenged. Unconditional agreement to this situation is not a path the Netherlands can take. The measures taken by the Netherlands have not led to improved administrative conduct, nor will they do so in the future. We have therefore come to the last rung of the intervention ladder.

In view of the unstable and increasingly deteriorating governance culture on the island since 10-10-10, we find that the interests of the population and the public officials are greater than the interest of the island having its own administration. In addition, the democratic content of

91 Until 17 November 2017, Art. 232 of WoIBES provided the basis for administrative intervention in case of gross dereliction of duty. The amendment to the Constitution, which took effect on 17 November 2017, establishes a constitutional basis for the public entities. Art. 132(5) of the Constitution is now also applicable to the public entities and provides the basis for intervention.

the island administration has been fully hollowed out. The opposition and the Dutch authority are not only ignored, but are constantly pilloried. As one of the interviewees rightly commented: 'And what example do we give the population?'

In our firm belief, the Netherlands has stood on the sideline for too long and attempted to improve the situation by other means. It is now time that the Netherlands acknowledges that its approach has had no nor will have effect.

On our part, there is no doubt that the current administration and its supporters on and off the island will accuse the Netherlands of neo-colonialism and renewed slavery. The British intervention on the Turks and Caicos Islands shows the same reaction. Let it be so, the majority of the population and the public officials will see it differently.

6.2 The form of an intervention

The five interventions of the Netherlands, and those of the United Kingdom on the Turks and Caicos Islands, are characterised by placing all administrative powers in one function. Elected members of the Executive Council are relieved from their position, and the council is deprived of its right to meet. The council can also be dismantled. A similar approach is unavoidable now that on Sint Eustatius there has been administrative failure across the board. Despite attempts of the acting governor to achieve good governance, the Executive Council and the Island Council have jointly taken the path of undermining the legal order and the governing order. Against this background, administrative intervention by the Netherlands means that the Island Council's right to meet must be denied or dissolved, that the elected administrators in the Executive Council are relieved from their duties, and that the temporary appointment of the acting governor is terminated. A state commissioner must be appointed to execute the tasks of both administrative bodies. The tasks of the Kingdom Representative must (to a great extent) be suspended and placed in the hands of the same individual who is charged with responsibility for the intervening administration. We recommend in this respect to opt for an experienced administrator who is not from Sint Eustatius. The small scale and the entwined family relations would obstruct his functioning.

It would be wiser to seek this state commissioner from among (former) administrators in the Kingdom, whereby administrative experience, determination and engaging qualities are important competencies.

In this specific case, it would be appropriate to have the state commissioner supported by a temporary island secretary with proven qualities as a manager in a government organisation of any size.

In order to promote the development of governance quality, the state commissioner could appoint two local administrators to form an Executive Council, whereby all powers lie with the state commissioner. We have certainly seen potential on Sint Eustatius.

In order to keep the connection with the population, it is advisable to have the state commissioner assisted by a Social Advisory Council. This council would have no powers of its own, but could perform an eyes and ears function for both state commissioner and society. A connection with the community and culture is of great importance for an external administrator, while at the same time transparency of the administration is relevant for the community.

In view of the size of the problems, it is recommended to let this form of administration exist for *at least* two years, followed by new elections. We can imagine that the opinion of the state commissioner will play an important role in this respect.

We have pointed out that it is impermissible to leave the current situation as it is until the elections in 2019. We have considered to advise to intervene and let the intervention last until the planned elections. However, we have established that the current administration has made steps to 'start its own country', and that shortly after 10-10-10 the Minister of the Interior and Kingdom Affairs saw himself compelled to take a governmental measure. Successive administrators have not demonstrated a meaningful positive development in terms of financial management and good governance. In fact, from 10-10-10 onwards, various proce-

dures and administrations have not been under control. In addition, there has been insufficient investment in the development of the civil service and staff. Former administrators did not always act according to the WolBES, the FinBES and other legislation. We are convinced that an interim government administration must demonstrate appreciable change. Such a reversal takes two years at the minimum. Moreover, we are not convinced that the elections in 2019 will bring about an administration that can adequately handle the many challenges at hand. We consider speculating a specific outcome a governmental lottery. More importantly, however, is that any Statian government would currently have insufficient experience to break through the pattern. The administrative culture of Sint Eustatius as high-power society is one of the largest impediments to good governance. In addition, the instability of the administration is a risk, as can be seen from recent years and as is also the case for Bonaire. Permanent administrative change does not create the stable environment that is a condition for achieving the changes necessary.

We must point out that the law must perhaps include a specific provision for the elections of the electoral college, if the BES Electoral College Act (*Uitvoeringswet Kiescolleges BES*) is passed. Said statute provides that these elections are to coincide with the Island Council elections.

We wish to emphasise that it is of great importance to extensively inform the population as to the 'hows and whys' of an intervention. Radio and TV are important communication channels on Sint Eustatius, as well as Facebook and town hall meetings. Let the British approach following the second intervention on the Turks and Caicos Islands serve as a guideline for the Netherlands.

6.3 Flanking policy

An administrative intervention, although unavoidable, will not automatically lead to sustainable Statian good governance. More is necessary, both at a political-administrative and public service level as well as at an economic level. The autonomy issue is prominently on the table. We see the first three measures as more than necessary for an intervention to be more meaningful than the intervention itself.

The passage in the Coalition Agreement of October 2017 regarding the relationship between good governance and extra investments reinforces that need: 'The cabinet is willing to make extra investments on the islands (Bonaire, Saba, Sint Eustatius) on the condition that good governance and financial accountability are guarded at an adequate level.'

By linking visible investments to an intervention, the Netherlands shows that good governance involves making improvements. By linking a long-term training project to an intervention, the Netherlands shows that it is serious about stimulating good governance for the future. And by adequately taking up the autonomy issue, the Netherlands shows that it does not see intervention as the single solution, but as a phase in a process in which good governance and increased autonomy are brought into an equilibrium.

Our recommendation for administrative reconsiderations is separate from the intervention, but does require attention. A number of aspects that partly led to the current situation on Sint Eustatius, can thereby be addressed.

6.3.1 Development of public officials and administrators

It is not surprising that the quality of administrators and public officials is still not in balance with the public service/administrative assignments they are expected to carry out. In the Netherlands, there is a broad range of courses, training, coaching and professional support. On Sint Eustatius itself that offer is not available.

As far as we are concerned, it is more than necessary to offer a helping hand in this area in the coming years. This can be done by setting up a mobile education and training centre on the island for the years to come. Perhaps the Ministry of Education, Culture and Science and the

VNG could take the lead in this respect. The perspective should focus on the public entity or the market taking over at some point in time. The centre must be long-term. Also people who are not (yet) working for the public entity could make use of it. It could also be useful for Saba, and possibly Sint Maarten.

Within the Dutch government, mobility is also an instrument for personal development. Honesty compels us to say that switching to another department or to another administrative layer is not always self-evident. Both managers and co-workers still often opt for people they know and people who think the same way. Recruiting and selecting 'from your own circle' is more universal than we tend to think. This is not always a problem, but it is if the governors make that choice to grant favours or to control the environment, while the required competencies are not present. Mobility is barely an option on Sint Eustatius, but the prevention of unwanted appointments could be set up differently.

We can imagine that the British approach, or a variation thereof, will be followed. By leaving the recruitment and selection of public officials up to an independent committee, and the appointment to the governor, the chance of favouritism, control and incompetence could decrease. Such a committee should come from the island, with perhaps an (external) member with specific expertise on human resources.

6.3.2 Economic incentive

We understand that the (financial) attention and energy from the Netherlands is, at this time, primarily focused on the reconstruction of Sint Maarten. Nevertheless, the two hurricanes also had an effect on Sint Eustatius (and Saba). The, already vulnerable, tourism sector has abruptly stopped due to decreased accessibility. Goods have to be delivered through other supply chains and this has had an impact on the supermarket sector which has had to look for new channels and is confronted with higher prices. Both situations are temporary, but can indeed lead to bankruptcies.

The hurricanes have exposed the vulnerability of the above-ground electricity grid and of the telecoms quality; the erosion of the cliff in Lower Town has also become more prominent and very risky.

The Netherlands intends, among other things, to invest in the roads, the administration office, the restoration of the cliff, a cell complex, and in healthcare.

We recommend to accelerate investments in the above-mentioned sectors, both in what has already been committed and in what the hurricanes have made clear: the erosion, the vulnerability of the above-ground electricity grid, of the telecommunications and of the water supply. With this, the Netherlands will give an economic impulse which in any event can serve to bridge the economic dip.

The Netherlands must now also speed up the realisation of the determination of the correct amount of the free allowance and the implementation thereof, as well as of the determination of a social minimum. With regard to the latter, we have noted a certain reticence, but we assume that the Ministry of Social Affairs and Employment will implement the accommodation which it presented in their conversation with us. The de facto follow-up of the IdeeVersa reports must, to a certain degree, contribute to rebuilding confidence, certainly against the background of the administrative intervention. Such a follow-up would in any event increase the credibility of the Netherlands.

6.3.3 The autonomy debate

It is very necessary to start the autonomy debate on Sint Eustatius, so that neither the current administration nor others could think that the Statian actions are or might become the standard.

Prior to that, the Netherlands will have to develop a vision for the Caribbean Netherlands. That is lacking now, while on Sint Eustatius there are explicit views on the matter, also among politicians outside the current administration.

As former administrators, we believe that it is important that there is a connection between good governance and farther-reaching autonomy. We find it equally important that a joint striving for more autonomy should be the starting point. That the Netherlands must support and supervise the progress over this path is a must as far as we are concerned. It is a challenging and complex path, certainly for an island with a small community and a vulnerable economy.

There are no simple solutions for this. Even providing support and supervision is not a simple task, because not all Statian politicians value help and assistance.

The autonomy debate must not only be held with politicians, but also with the population, of which a large part has a historical connection with the Netherlands. Should there be referenda, the population must be able to evaluate all aspects on the basis of their own knowledge and information.

6.3.4 Administrative reconsiderations

The many faces that the Dutch government shows on the islands do not promote an equal relationship. We can imagine that one option to limit this would be to invest all ministerial responsibilities, both in relation to policy and budget, with the Minister of the Interior and Kingdom Affairs. This also gives meaning to the Coalition Agreement of October 2017: 'The Ministry of the Interior and Kingdom Relations will receive a greater coordinating task including related budget.' We fully realise that this view involves a large institutional change. We are convinced that holding each other to account with regard to expectations, promises and performance is made easier if, on the Dutch side, responsibility and oversight are vested in one institution. The current fragmentation only creates confusion, irritation and a certain administrative despair.

This would also make the administrative disinterest of (some) departments less objectionable for the Caribbean Netherlands.

Aside from the above, the question is whether the current manner in which procedures are shaped to ensure good governance, is correct and most effective. For example, we can imagine that the functions of the Kingdom Representative and the Cft are brought closer to the local administration. The suggestion presented to appoint a more independent governor with specific powers is certainly worth considering. These powers could relate to appointments and the legitimacy of decisions. Setting up a local audit office with more powers than the General Court of Audit in the Netherlands would also be a good option.

Closeness gives a greater feeling of a personal stake than remote institutions do. After centuries of being dominated, and decades of dependency, we can easily understand the wish to acquire a greater personal stake. At the same time, it cannot be the case that safeguards for good governance are set aside because they are perceived as paternalistic.

We explicitly wish to indicate that taking another shape does not have to affect the regular administrative powers of the minister or government, such as giving an instruction, substitution or intervention. This is not the case in the Netherlands either.

Many people have suggested expanding the number of members on the Island Council in order to rein in the dominant majority-based thinking.

We are of the opinion that the (more rabid) majority-based thinking is more an attitude and conduct issue than an issue of size. On the other hand, a council of five members is very small, allowing excesses to occur sooner.

If the council were to be expanded, it would certainly be interesting to consider the British administrative variants. In addition to elected members, the councils of the British overseas territories consist of members appointed by the governor. These members have no followers and can, on the basis of expertise and/or experience, bring more stability into the heart of democracy. Such a future choice could be permanent. It could also be temporary as part of a governmental measure which does not reach as far as intervention does.

To island politicians, the loss of the possibility of being directly involved in national politics – as parliamentarian or member of the administration in the Netherlands Antilles – is still

experienced as a disappointment. The possibility exists in theory, but the chance is small. The French parliament has representatives in the parliament of its "départements d'outre-mer". That is a charming solution, but in France it is made possible by the departmental electoral system which the Netherlands does not have.

Contrary to the Netherlands municipalities, the public entities have the possibility, by means of written consultation rounds, of presenting their views in the event of new legislation or legislative amendments.

We understand that in the Caribbean administrative environment, where positions and functions are of great importance, more might be necessary than the already unique possibility of being consulted. Perhaps an addition thereto – or a replacement thereof – by means of a right to speak during the parliamentary handling, and/or in the advisory procedure of the Council of State could accommodate these feelings.

Closeness of the Dutch parliament has value. Some Statian (former) politicians have expressed the wish to form a BES house in The Hague but cannot properly set out what this should do. When formulating a right to speak, a BES House could be fleshed out. The three Caribbean Houses cannot serve as an example, because they serve to support the three Ministers Plenipotentiary. Sint Eustatius is not a country and does not have a Minister Plenipotentiary. We realise that such a possibility is far fetched, but it could contribute to the further development of good governance.

A number of Statian discussion partners have told us that dualism and proxy voting are not a good fit in the Statian governance culture.

We have great hesitation in turning those suggestions into recommendations.

We see that dualism is not being applied now. The PLP parliamentary group leader calls himself 'the leader of the government' and is also addressed as such. He directly instructs the two elected commissioners and public officials, as well as the two other Island Council members in the coalition. There is no force and counter-force. This is not to say that monism would work better. In a monistic governance culture the three Island Council members and the two commissioners would demonstrate the same conduct. A development trajectory might be more appropriate.

The right to vote is a hard-won right and one of the fundamentals in a democracy. Voting by proxy is intended for people who, for whatever reason, are not personally able to cast their vote, to nevertheless do so. Despite cheating with proxies, blackmailing voters to give proxies, or any form of election fraud whatsoever, in our eyes voting by proxy does not have to immediately stop. We recommend first looking at other options for combating fraud rather than stopping proxy voting all together.

6.3.5 Saba and Bonaire

The flanking policy measures we have presented to support our recommendation to intervene could lead to asymmetry in the relationship between Sint Eustatius and the Netherlands on the one hand and, on the other, to that of Saba, Bonaire and the Netherlands.

Differentiation between the islands themselves is possible and desirable, but must not lead to the creation of precedents with regard to their treatment by the Netherlands.

We realise that the flanking policy measures in the first instance are intended, with the intervention as the starting point, to stimulate sustainable good governance. But they also all contain aspects which, we expect, offer Saba and Bonaire a starting point for increasing closeness with the Netherlands, keeping in mind the authenticity of both islands. We therefore recommend involving Saba and Bonaire in the recommendations set out in paragraph 6.3. Their specific needs can lead to diversity in the outcomes, but limiting the flanking measures to Sint Eustatius seems to us to be a recipe for increasing the distance between the Netherlands and Saba and Bonaire. In our opinion, our study has shown that too much distance from the Netherlands is one of the ingredients which can lead to large problems.

Nearness or distance, it is a world of difference.

Wassenaar and Santa Cruz
January 2018

7 Abbreviations

ABB	Algemene Bestedingsbelasting (General Expenditure Tax)
AmvRB	Algemene Maatregel van Rijksbestuur (Order in Council)
AOV	Algemene Ouderdoms Verordening (General Old Age Decree)
APNA	Ambtenaren Pensioenfonds Nederlandse Antillen (Public Officials Pension Fund of the Netherlands Antilles)
BC	bestuurscollege (Executive Council)
BES	Bonaire, Sint Eustatius and Saba
BZK	Binnenlandse Zaken en Koninkrijksrelaties (Ministry of the Interior and Kingdom Relations)
CBS	Centraal Bureau voor de Statistiek (Central Statistics Bureau)
Cft	College Financieel Toezicht (Council for Financial Supervision)
CN	Caribisch Nederland (Caribbean Netherlands)
DP	Democratic Party
EZ	Economische Zaken (Ministry of Economic Affairs)
FinBES	Wet Financiën Bonaire, Sint Eustatius en Saba (Act on the Finances of the Public Entities Bonaire, Sint Eustatius and Saba)
GDP	Gross Domestic Product
HDI	Human Development Index
ICT	Information and communication technology
I&M	Infrastructuur en Milieu (Infrastructure and the Environment)
MJP	meerjarenplan (Multi Annual Plan)
OCW	Onderwijs, Cultuur en Wetenschap (Education, Culture and Science)
PCN	Pensioenfonds Caribisch Nederland (Caribbean Netherlands Pension Fund)
PIVA	Personen Informatiesysteem voor de Nederlandse Antillen (Persons Information System for the Netherlands Antilles)
PLP	Progressive Labour Party
PPP	Purchasing Power Parity based
RCN	Rijksdienst Caribisch Nederland (National Office for the Caribbean Netherlands)
SLAM	Statia Liberal Action Movement
STEBA	Sint Eustatius Business Association
SPAWprotocol	Specially Protected Areas and Wildlife protocol
STEP	Sint Eustatius Empowerment Party
SZW	Sociale Zaken en Werkgelegenheid (Ministry of Social Affairs and Employment)
UPC	United People's Coalition
UN	United Nations
VNG	Vereniging van Nederlandse Gemeenten (Association of Netherlands Municipalities)
VWS	Volksgesondheid, Welzijn en Sport (Health, Welfare and Sport)
WolBES	Wet openbare lichamen Bonaire, Sint Eustatius en Saba (The Public Entities Bonaire, Sint Eustatius and Saba Act)

Explanation

The Netherlands	instead of European Netherlands, in conformity with local usage
Godethuis	instead of Godetthuis in accordance with local designation

8 Spoken with

Louis van Ameijden Zandstra	former registrar
Anonymous	-
Erwin Arkenbout	director of Koninkrijksrelaties (Kingdom Relations)
René Bagchus	director of Democratie en Burgerschap (Democracy and Citizenship)
Age Bakker	former chairman Cft
Bas van den Barg	ANM, Europe team
Edris Bennett	citizen, former Island Council member
Gerald Berkel	former governor
Ivan Berkel	citizen
Jessica Berkel	manager of Stenapa
Dirk-Jan Bonnet	deputy director of Koninkrijksrelaties (Kingdom Relations)
Clarisse Buma	director of Stenapa
Maarten Camps	secretary-general, Ministry of Economic Affairs
Gea van Craaikamp	deputy secretary-general, Ministry of Health, Welfare and Sport
Mia van Deelen	citizen
Sybilla Dekker	member of Cft board
Corrie van Duren	dermatologist
Jan van Duren	citizen
Winston Fleming	director of Sint Eustatius Business Association (STEBA)
Alida Francis	RCN public official
Mark Frequin	director-general Ministry of Infrastructure and the Environment
Juliette Georg	citizen
Francisca Gibbs	OLSE public official
Murvin Gittens	former port master
Frits Goedgedrag	former governor
Raymond Gradus	Cft chairman
Bernard ter Haar	director-general of Social Security and Integration
Mike Harterink	proprietor diving school Scubaqua Dive Center Statia
Walter Hellebrand	director of Stichting Monumentenzorg (Monument Foundation)
Elvin Henriquez	RCN public official, former Island Council member
Eugene Holiday	governor Sint Maarten
David Hooker	employee of Hotel Golden Area
Roy Hooker	OLSE public official
Marlies ten Hoopen	proprietor Hotel the Old Gin House
Sybolt ten Hoopen	proprietor Hotel the Old Gin House
David Ignacio	former interim head of Finance, OLSE
Gilbert Isabella	Kingdom Representative
Chris Johnson	representative Sint Maarten
Astrid McKenzie-Tatum	former commissioner
Eric Jan van Kempen	director Woningmarkt (Housing)
Koert Kerkhoff	citizen
Jantine Kriens	ANM director
Charles Lindo	director of Tourism Bureau
Mr Lopes	SDA predecessor
Cedric Lijfrock	Sint Eustatius Land Registry
Millicent Lijfrock	former Island Council member
Rhodia Maas	director of Identity Data Inspectorate
Jan Meijer	citizen, teacher
Steven Moesant	directorate Democratie en Burgerschap (Democracy and Citizenship)
Alida Oppers	director-general Primary and Secondary Education, Ministry of Education, Culture and Science
Maaïke Patrick-Fischer	citizen, teacher
John Roller	director of NuStar
Robert de Ruiter	senior policy advisor, Cft

Victor Schaap	deputy director Woningmarkt (Housing)
Ebeline Schmidt Hinds	director of Chamber of Commerce Sint Eustatius
Hanneke Schuiling	director-general of Budgetary Affairs, Ministry of Finance
Ernie Simmons	former commissioner
Jos Slotema	citizen, teacher
Racquel Spanner-Curly	RCN public official
Nora Sneek-Gibbs	former commissioner, former state secretary of Netherlands Antilles
Koos Sneek	Island Council member
Johan Stapel	director of CN Science Institute
Peter Stein	deputy director IRF – sector BZK
Anneke Tjalma	senior policy advisor, Ministry of Infrastructure and the Environment
Hans Ton	director of Employee Schemes
Manus Twisk	Cft secretary
Anita Vegter	director-general Legal Procedure and Enforcement
Monet Warren	OLSE public official
Marieke v/d Wetering	proprietor diving school Scubaqua Dive Center Statia
Claudia Wichert	proprietor Harbour Club
Eardley Woodley	representative of public officials union
Julian Woodley	acting governor
Joost Wijker	sergeant-major Royal Marines
Reginald Zaandam	former commissioner
Richard van Zwol	secretary-general Ministry of the Interior and Kingdom Relations

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10 Annexes

- 1 Letter from the island secretary, 29 June 2017
- 2 Letter Versant Resource Center, Hyden Gittens, 4 July 2017
- 3 Letter Clyde I. van Putten, 19 July 2017
- 4 E-mail Reuben Merkman, 18 July 2017
- 5 Key figures Sint Eustatius
- 6 Progress reports of the Kingdom Representative
- 7 Letter AT Lawyers, 2 October 2017, page 1
- 8 Letter 22 May 2017, Rv/2017u/068 and letter 31 July 2017, RV/2017pb/099
- 9 BC-decision. 31 januari 2017
- 10 Motion 111/17 ER, Island Council, 9 mei 2017
- 11 Letter, no date, sent on 31 May 2017
- 12 Agenda of the Executive Council, 27 July 2017 and letter from AT Lawyers, 25 July 2017
- 13 Power of attorney, 22 februari 2017 and 11 mei 2017
- 14 Decision 16 June 2017, nr. 2017000984
- 15 Report of Minister of Economic Affairs, June 2017
- 16 Letter sg Economic Affairs to Executive Council, undated and motion of Island Council, 29 June 2017
- 17 Motion of the Island Council, 29 June 2017
- 18 E-mail exchange commissioner and public official and decision list of the Executive Council meeting of 30 June 2017 'on the spot'
- 19 Vigilante transcription, 11 October 2017, Antilliaans Dagblad, 14 October 2017 and Telegraaf, 13 October 2017
- 20 Letter Reuben Merkman to Minister of the Interior, 13 October 2017
- 21 Antilliaans Dagblad, 16 October 2017
- 22 Antilliaans Dagblad, 18 October 2017
- 23 Memo from the Desk of Commissioners Derrick Simmons and Charles Woodley, 17 October 2017
- 24 Art. 7(1) of the agreement, made anonymous
- 25 Digital Guardian, 10 October 2017
- 26 Facebook posts
- 27 E-mail adviser of the governor, made anonymous, 9 October 2017
- 28 Agreement between the commissioners and Dr. Corbin
- 29 Letter from the Executive Council, 4 January 2017, ref. 0001/17
- 30 Letter from the Executive Council, 14 February 2017, ref. 069.17
- 31 E-mail island secretary, 16 February 2017
- 32 E-mail 8 April 2017
- 33 Letter 9 April 2017
- 34 Letter 17 April 2017
- 35 E-mail from the island secretary to directors, department heads and unit managers, 26 April 2017
- 36 Letter 12 May 2017
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- 39 Daily Herald, personnel ads, 22 november 2017
- 40 Letter on behalf of public entity Sint Eustatius, 20 December 2017
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- 43 UPC 04-12-2016/08-04-2017/18-05-2017, DP 03-05-2017/06-05-2017/08-05-2017/28-05-2017
- 44 E-mails 5 May 2017 and 1 June 2017
- 45 Letter from Executive Council, made anonymous
- 46 E-mail to the commissioner, made anonymous
- 47 Report radio broadcast Coalition PLP/Merkman, Development Island Secretary, 1 August 2017
- 48 Invitation Town Hall meeting on 5 September 2017; cancelled because of Hurricane Irma
- 49 Letter Minister of the Interior to parliamentary group leader of the PLP, 5 September 2017
- 50 Daily Herald, 'Statia Government discusses nature protection of harbours', 4 september 2017

