On The Road To Autonomy

"Where there is a will, there is a way"

White Paper

Coalition Government St. Eustatius

March 2017

Contents

Executive Summary

The current White Paper examines the desire of the people of St. Eustatius to achieve an autonomous political status within the Kingdom of the Netherlands, in accordance with international law, and the importance of re-inscription on the United Nations (U.N.) list of Non Self Governing Territories (NSGTs) to give effect to the will of the people expressed in their 2005 and 2014 referendums.

The White Paper draws the attention to the fact that Statians have systematically formally expressed their preference over the years, but instead were given a status of partial integration (public entity of the Netherlands) when the former Netherlands Antilles was dismantled in 2010. The White Paper explains the governance model of autonomous association within the Dutch Kingdom, consistent with the expressed wishes of the people and in accordance with the guiding principles laid out in UN resolution 1541 (XV) of 1960. Also expounded upon are the factors necessary for internal full self- government that allows St. Eustatius to control its own internal affairs without outside interference, and to achieve genuine political, economic and social equality between St. Eustatius and the Kingdom partners.

The report further clarifies that the financing of the autonomous arrangement will take place within the normal budgetary process of St. Eustatius, consistent with an economic development plan, in combination with negotiable budgetary and other technical support and assistance to be provided by the Kingdom Government and relevant international agencies, as appropriate. Accordingly, the need for cooperation between St. Eustatius and the Kingdom partners based on mutually agreed terms is highlighted.

The report emphasizes the importance of self- determination within the Dutch and international context. In addition to this, the democratic deficits of the public entity status, and by extension, similar deficits that exists within the Kingdom Charter are also examined. The White Paper

concludes with an examination of the unusual circumstances surrounding the removal of the Netherlands Antilles from the UN List of NSGTs, short and medium terms actions towards St. Eustatius' re-inscription on the list of NSGTs, that includes a clear plan increasing regional awareness of the right of St. Eustatius to genuine self- determination.

Introduction

"The result of this referendum gave us a clear-cut indication that the majority of our people denounced the unilateral decision taken by the government some years ago. Our people detest in an overwhelming way the manner in which they were pushed into the status of Public Entity". Former Commissioner of Constitutional Affairs, Reginald Zaandam, December, 2014 (see annex 1)

The local population of St. Eustatius defines Autonomy as the right of Statians to decide what happens in their "house". Internationally, Autonomy is defined as the right or condition of Self-Government. Statia's yearning for Self- Government manifested itself in 1971 forming part of the Territory of the Windward Islands; the Island's Representatives fought for separation from St. Maarten and the division into three island territories, each with their own Representation in the Antillean Parliament. The right of self-determination of the people of St. Eustatius was undermined in 2010 when it was transformed into "Public Entity" in the sense of Article 134 of the Dutch Constitution despite the consistent democratic expression of the people to the contrary. With the encouragement of the Dutch Government, the then-Island Council ratified a motion to invoke the "Public Entity" status on the People of St. Eustatius. The present White Paper will argue the case for an autonomous association with the Netherlands in implementation of the plebiscites held on April 8, 2005 and December 17, 2014 and confirmed by subsequent Island Council motions. The present White Paper highlights some of the key democratic deficits of the "Public Entity" status which are not in accordance with full political rights required under Resolution 1541 (XV) of 1960. Democratic deficits that exist within the Kingdom Charter will be

also explored. Furthermore, the report clarifies the Netherlands' fallacious argument - that the territory had achieved sufficient autonomy - used during the adoption of U.N. Resolution 945 (1955) to justify the delisting of the former Netherlands Antilles from the U.N. list of non-self-governing territories. The White Paper proceeds to explain why re- inscription on the United Nations List of Non- Self- Governing Territories is needed.

Autonomy

A. Historical development of the dissolution of the Netherlands Antilles

On December 29, 1954 the Kingdom Charter was officially put into effect. This meant that the Kingdom of the Netherlands consisted of the Netherlands, Suriname and the Netherlands Antilles (Aruba, Bonaire, Curacao, St. Maarten, Saba and St. Eustatius). Each country would be autonomous in internal affairs under the new political constellation (see annex A2).

Due to increasing dissatisfaction within the Dutch Kingdom regarding the constitutional arrangement, a series of referenda were held in the early 1990's and between June 2000 and April 2005. On April 8, 2005, 76.6 % of eligible voters in St. Eustatius voted to become part of a restructured Netherlands Antilles (see annex A3). However, on October 10th, 2010, with the dissolution of the Netherlands Antilles, the Island Council of St. Eustatius was persuaded by the Netherlands Government to adopt a Motion to accept the status of Public Entity within the realm of the Netherlands even as this was not in accordance with the results of the April 2005 referendum. The Netherlands Government accepted the motion and proceeded with the change in political status for St. Eustatius.

B. The plebiscite of 2014 and beyond

Under increasing pressure from various civil society organizations a petition drive was organized in 2013, during which more than 800 signatures were collected. Based on this, the Island Council of St. Eustatius was called on to organize a constitutional referendum before the five-year evaluation of the public entity status planned for 2015. On October 8, 2014, the Island Council

passed a motion instructing the Executive Council of the Public Entity to consult the people of St. Eustatius with a constitutional referendum on December 17, 2014 (see annex A4). For this purpose a referendum booklet (see annex A5) was prepared, whereby the options provided on the ballot were as followed:

- 1. I am in favor of Sint. Eustatius to stay a Public Entity
- 2. I am in favor of Sint Eustatius becoming an Independent Country
- 3. I am in favor of Sint Eustatius becoming an Autonomous Territory within the Dutch Kingdom
- 4. I am in favor of Sint Eustatius becoming an integrated part of the Netherlands.

Two-thirds (65, 53%) of voters expressed a desire for a more autonomous arrangement within the Dutch Kingdom, rejecting the public entity status (see annex A6). The voter turnout, estimated at 46 per cent, was below the threshold of 60 per cent required in the Island Council Referendum Ordinance owing to complications related to the voter registration process under the control of the Netherlands, which was confirmed by the yet to be released UN report on the referendum results. Accordingly, the Island Council concluded that the overwhelming support for an autonomous arrangement with the Netherlands expressed in the 2014 referendum represented the will of the people, and subsequently adopted a Motion on May 28th, 2015 to ratify the results of the 2014 plebiscite to pursue a more autonomous status within the Dutch Kingdom in accordance with the criteria set forth by the United Nations (see annex 7). The Government's commitment towards the constitutional process was subsequently reinforced during the adaptation of a Motion on November 30, 2016 (see annex A8).

Unlike the Netherlands' acceptance and expeditious implementation of the 2005 Island Council Motion to enact the public entity status, there has been no formal acceptance of the 2015 and 2016 Island Council motions which endorsed the autonomous association status selected by the people in their 2014 referendum despite numerous formal requests made by the Government of St. Eustatius to the Netherlands Government for negotiations to begin. Thus, the people are

currently being governed by a status which they have summarily rejected in a democratic process endorsed by their elected government.

C. Autonomous Association

Many international experts have identified various models of political autonomy between large states and their former colonies. Among them, noted scholar, James Crawford stated in 2005 that "there is a wide range of choice, particularly in the case of association, which can cover a spectrum of possibilities from virtual independence to virtual integration. The people concerned may be- and have a right – to be free." He further states that such arrangements were the result of "negotiations with respect to an individualized arrangement mutually agreed by territory and administering power".

The governance model of autonomous association has been raised by the Netherlands in the context of a transformation to a commonwealth structure composed of Holland and the present respective autonomous countries of the Caribbean (Aruba, Curacao, and St. Maarten). This was raised as early as 1990 by Dutch Minister Hirsch Balin who presented a framework for a commonwealth constitution which called for the islands of the autonomous country of the Netherlands Antilles to be divided into two separate autonomous countries comprised of Curacao and its neighboring Bonaire as one autonomous country; and the Windward islands of St. Maarten, Saba and St. Eustatius as the second autonomous country (Duiff & Soons, 2011).

The actions of Balin reflected political discussions underway at the time towards the transfer of power to the overseas territories. Indeed the former Netherlands Antilles had already been described by Hillibrink (2008) as a constitutional association with the Netherlands.

Statia's quest for an autonomous association with the Netherlands is based on United Nation General Assembly (UNGA) Resolution 1541 which recognizes that overseas territories are free to choose for a free association with their former colonial power, or with any other independent state (see annex A9). It can be therefore argued that an autonomous association with the

Netherlands, based on the guiding principles laid out in resolution 1541 (XV) of 1960, is feasible within the existing framework of the Netherlands Kingdom, and would be consistent with the expressed wishes of the people of St. Eustatius as expressed in the 2014 referendum.

D. Autonomous association: elements of a draft constitution

St. Eustatius desires an autonomous arrangement that complies with Resolution 1541 (XV, Principle VII) which recognizes that free association should be one which respects the individuality and the cultural characteristics of the territory and its people. St. Eustatius therefore views the following elements of a Statian Constitution

a) St. Eustatius as an autonomous country would remain part of the Kingdom of the Netherlands;
b) The Kingdom would consist of five, rather than four, equal kingdom partners: Aruba, Curacao, St. Maarten, St. Eustatius and the Netherlands;
c) The citizens of St. Eustatius would retain the Dutch Nationality consistent with the nationality of the other autonomous countries of the Kingdom;
d) St. Eustatius would have its own Constitution detailing its government structure consistent with the constitutions of the other autonomous countries of the Kingdom;
e) St. Eustatius would exercise legislative and executive power over its internal affairs. Accordingly, the Kingdom Government would have no authority to annul or enact legislative or administrative acts regarding internal matters of St. Eustatius. This does not preclude the provision of technical and other assistance which may be provided to St. Eustatius by mutual consent;
f) The timetable for the devolution of powers from the Kingdom to St. Eustatius in autonomous association with the Netherlands shall be determined by negotiation. At the request of the St. Eustatius Parliament (created by the constitution) one or several of the Kingdom partners may temporarily assume responsibility of identified competencies for a defined period while the capacity is developed for the competency to be administered by the Government of St. Eustatius, after which time the temporary competencies would be phased out over a transitional period mutually agreed upon;

g) Any decisions regarding internal tasks, temporarily executed by one or several of the Kingdom Partners , would require the approval of the St. Eustatius Parliament;

h) St. Eustatius shall be represented by a Minister Plenipotentiary in the Kingdom Council of Ministers in a similar fashion to the ministers plenipotentiary of other autonomous countries in the Kingdom;

i) There would be the establishment of a joint mechanism for the resolution of disputes between the Statian Parliament and the Kingdom Council of Ministers, regarding Kingdom Matters affecting St. Eustatius to ensure mutual respect and cooperation as reflected in the Kingdom Charter;

j) The role of Governor, whose appointment would be confirmed by the Parliament of St. Eustatius, would serve as the representative of the Kingdom Government, and shall have no authority to unilaterally intervene in the internal affairs of St. Eustatius, including in the areas of supervision and legislation. This would not preclude the provision of advice and consultation, by mutual consent, between the Kingdom and St. Eustatius;

k) Since the Governor's duties would be limited to serving as the representative of the Kingdom, the appointment would be made by the Kingdom, but subject to confirmation by the Statia Parliament – see preceding paragraph;

l) St. Eustatius would establish a budget of revenue and expenditure, according to its budgetary rules as approved by the St. Eustatius Parliament;

m) St. Eustatius would establish a financial supervisory mechanism to monitor compliance with its financial obligations and in accordance with its budgetary rules;

n) As an autonomous country St. Eustatius would have the authority to join, in its own right, relevant international organizations as a member, associate member, or observer, as appropriate, including but not limited to sub regional and regional groups such as the Organization of Eastern Caribbean States (OECS), The Caribbean Community (CARICOM), the Economic Commission for Latin America and the Caribbean (ECLAC), the Association of Caribbean States (ACS) and relevant economic and technical organizations of the United Nations. St. Eustatius will maintain its current "Overseas Countries and Territories" Status with the European Union.

E. Critical Considerations

- Assistance in capacity building may be requested from the relevant international organizations including regional, sub-regional and United Nations organizations to gain the necessary training to meet the demands of the new status. Similar assistance in capacity building may be requested from the Kingdom Government on the basis of mutually agreed terms;
- The timetable for the assumption of competencies would depend on a number of factors such as:
    - The level of resources available to support the assumption of competencies (internal affairs)
    - The prevailing economic situation. In this connection, a comprehensive economic development strategic plan would be developed in consultation with relevant private sector and civil society stakeholders
- It is anticipated that the conduct of the Government of St. Eustatius' internal affairs will be financed through its budgetary process consistent with the comprehensive economic development strategic plan. It should include the identification and retention of current and future revenue generated by the economy of St. Eustatius. In this structure, all tax revenues generated locally would flow into the coffers of St. Eustatius. The official currency of St. Eustatius would be determined by St. Eustatius with the help of the appropriate experts;
- Consistent with Article 73 (b) of the U. N. Charter, the Netherlands would be requested to provide budgetary support to St. Eustatius for an agreed period until it completes the transition to the assumption of the full complement of competencies in internal affairs;
- A review of the applicable consensus laws would be undertaken by St. Eustatius, and one or more of these laws may remain in place, by mutual consent**,** for a defined transitional period on the basis of 1) a clear definition of areas in which said laws would apply, 2) the exact nature of said laws and 3) a mutually agreed "sunset clause" bringing an end to the consensus laws;

- The activities of the Dutch Government Organization (RCN) would be gradually eliminated resulting in a cost savings to the Kingdom with such savings designated, by mutual agreement, for budgetary support to St. Eustatius as outlined above;
- As St. Eustatius transitions from the present status into an autonomous status, it is of paramount importance that a program of economic and technical assistance be negotiated in conjunction with the Netherlands, Kingdom Partners and relevant international Organizations.

The Public Entity Status in the context of Self – Determination

A. The evolution of Self Determination

At the creation of the League of Nations in 1920, the right to self-determination was of paramount importance. According to Corbin (July 2012) the international community tried to deal with the dilemma of their territories after World War I which had not achieved full self- government through the self-determination process.

Self- Determination as a principle was a term used in the Atlantic Charter (1941) in which President Roosevelt of the United States and Prime Minister Churchill of the United Kingdom declared that "Territorial adjustments must be in accord with the wishes of the people concerned". The self-determination concept eventually became part of the UN Charter, the first legally binding document that recognized the right to self- determination (Harris 2004, p.112). Article 73 of the UN Charter created the obligation of countries which administer territories to develop self-government in those territories. The notion of 'self-government' at the formation of the U.N. was largely undefined, and other instruments were needed to give further elaboration (Corbin July 2012) such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which state:

"All people have the right of self- determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development" (See Annex A10).

These provisions are particularly important for St. Eustatius because article 1 (3) of the UN Charter grants people of non- self- governing territories the right to freely determine the political status. Administering territories such as the Netherlands are obliged to promote the right of self-determination in conformity with the UN Charter (Duiff & Soons, 2011).

According to various scholars, the right to self- determination is generally seen as a norm within International Law. Issues of self- determination are addressed in various review bodies of international human rights mechanisms including the Human Rights Committee, the Human Rights Council, the Committee on the Elimination of Racial Discrimination, the European Court of Human Rights et al.

B. Does the Netherlands acknowledge St. Eustatius' right to self- determination?

When the Kingdom Charter was created in 1954, no explicit mention was made of the right of self- determination for the islands of the former Netherlands Antilles, of which St. Eustatius was a part. However, the Netherlands, at the time assured the General Assembly that it would not prohibit the overseas territories from leaving the Kingdom constellation if they desired. The islands' right to self- determination was formally recognized at the Round Table Conference in 1981, whereby the Netherlands recognized each island's right to self- determination (De Jong 1989, p.76).

In spite of the Netherland's acknowledgement of the islands' right of self- determination, there has been ambivalence on the part of the Netherlands. During a constitutional information session held in Rotterdam on August 12, 2010, when a participant asked if St. Eustatius would have a chance, after the evaluation period, to choose another political status, Dutch Ministry of Home Affairs and Kingdom Relations and Kingdom BZK representative Alexander Dalenoord, alluded to the fact that even though then- State Secretary Ank Bijeveld- Schouten acknowledged the island's right of self- determination, the only other option available to St. Eustatius would be independence (see annex A11). Minster Ronald Plasterk portrayed a similar ambivalence in response to questions asked about increasing talks about referenda' in Bonaire and St. Eustatius.

He alluded to the fact that while the islands were free to choose a constitutional option of their choice, they would have to comply with options that the Netherlands deemed to be acceptable. To add insult to injury, "the Dutch Government has unilaterally started the process of embedding the public entity of St. Eustatius in the Dutch constitution. Such action, as was the establishment of St. Eustatius as a public entity on October 10th, 2010" (See Annex A12) is in direct violation of the people's right of self- determination.

It can therefore be concluded that while the Netherlands acknowledges the island's right of self-determination, the nature of an autonomous association between St Eustatius and the Netherlands would have to be carefully negotiated consistent with the international standards of full self- government.

C. Democratic Deficits of the Public Entity Status

According to UN Resolution 1541 (XV) (1960), internal self- government can be achieved by:

- Emergence as a sovereign independent State;
- Free association with an independent State;
- Integration with an independent State

UN Resolutions 1514 (XV) and 1541 (XV) clearly established the standards for political equality for territories wanting to achieve self- government. St. Eustatius was transformed by the Kingdom into a Public Entity in the sense of Article 134 of the Dutch Constitution; however the Public Entity Status does not comply with the minimum standards of internal self- government in accordance with said UN Resolutions, due to the following:

- The Public Entity status did not come about as a result of the freely expressed wishes of the people of St. Eustatius
- There is lack of direct political representation within the Dutch Second Chamber, as a result of which the 25.000 inhabitants of the BES islands do not have any influence on the political make-up of the Dutch Second Chamber (Corbin 2012)

- Lower social and economic benefits have been implemented on the BES islands as opposed to any Dutch Municipality in Europe (see Annex A13)**.** The inequality that exists between the inhabitants of the BES islands and citizens in the metropole was also confirmed in a report written by the ChristenUnie in September 2011, and is not in accordance with international law. Additional democratic deficits were further confirmed in the evaluation report of the "Spies Committee" (J.W.E. Spies ET. Al, 2015).

D. Deficits that exists within the Kingdom Charter: past and present

The Kingdom Charter was put into effect on December 15, 1954, whereby Queen Juliana characterized the Charter as a monument of power, that strength of mind, self- control and wisdom can produce in the midst of turbulent times (Klinkers & Oostindie, 2003). As a result of the Kingdom Charter, the Kingdom of the Netherlands currently consists of 'four equal partners', which in the words of the preamble would 'take care' of their own interests autonomously, manage communal affairs on equal footing, and accord each other assistance (Klinkers & Oostindie, 2003).

In spite of the information listed above, various scholars have made reference to the democratic deficits that exist within the Charter, when compared to Principle VII of Resolution 1541:

- Dutch Ministers retain the final word over Kingdom Matters, even though the Dutch Council of Ministers include Ministers Plenipotentiary from each of the autonomous Countries within the Kingdom
- The autonomous countries do not have the right to amend their own constitutions which are legally subordinate to the Kingdom Charter (See Annex A14)
- The Kingdom Government has the authority to intervene in the affairs of the autonomous countries
- The Kingdom Government also appoints the Governors in the autonomous countries who hold extensive powers to block their legislative and administrative acts (Oostindie and Klinkers, 2003)

The current autonomous arrangement that St. Maarten and Curacao 'enjoy' can be seen as an example of 'minimum autonomy' in light of the issues listed above but also in light of the fact that five (5) (Kingdom) Consensus Laws have been implemented as a means of guaranteeing 'good governance' within the Dutch Kingdom. This has led to a significant decrease in autonomy in these islands. One such Consensus Law relates to the financial supervision for Curacao and St. Maarten. There is a board of financial supervision for said islands that consists of 5 board members, who are appointed by the Kingdom Government, upon the recommendation of the Dutch Prime Minister. This example once again illustrates that the 'autonomy' that exists within the Dutch Kingdom today, is not in accordance with UN Resolution 1541 (XV, principle VII).

St. Eustatius' Re-inscription on UN List of NSGT

A. A brief factual background: Removal Netherlands Antilles & Suriname from UN list

The Dutch colonial presence within the Dutch Caribbean (Aruba, Curacao, Bonaire, St. Maarten, Saba and St. Eustatius), Suriname and Indonesia dates back to the eighteen century, whereby the islands were used are trade centers for the Dutch Empire. Slavery within the Caribbean territories was abolished in 1863 – long after England (1834), France (1848), and Denmark had taken this step (Oostindie & Klinkers, 2003).

Indonesia became independent in 1949, against the backdrop of new emerging attitudes towards the decolonization of colonial territories among Western states. Dutch decolonization policies, which did not run smoothly, led to the creation of the Kingdom Charter in 1954, after Indonesia obtained its independence.

At its inception in 1945, the United Nations regarded the issue of decolonization as one of its important functions. Resolution 66 (I) of 14 December 1946 listed the original 72 Non- Self-Governing Territories including the former Netherlands Antilles and Suriname (which later

became independent in 1975), and further refined the concept of self- government. As a result of said resolution, the Netherlands had promised to transmit information to the UN regarding the islands economic, social and educational conditions as listed in article 73 (e) of the Charter (see Annex A15). In regards to developments surrounding the Kingdom Charter, the Netherlands, on March 1955, 'in pursuance of the terms of Resolution 747 (VIII)', informed the Secretary General in writing of the constitutional developments leading to the promulgation of the Kingdom Charter on December 29, 1954, comprising of the Netherlands, Suriname and the Netherlands Antilles. The Netherlands enclosed a copy of the Charter together with an explanatory note. The Netherlands explained that its territories had attained a sufficient measure of self- government (even though the people were not directly consulted). This led to intense debates regarding the role of the Governor. Many countries (including Iraq and Guatemela) were not convinced that Suriname and the Netherlands Antilles had attained a full measure of self-government in accordance with Chapter XI of the Charter and in particular the factors laid out in Resolution 742 (VII) (see Annex A16) and other relevant UN Resolutions. Despite the contentious circumstances surrounding the above- mentioned developments, the vote to cease the transmission of information, in accordance with article 73 (e) was approved (with 21 votes in favor, 10 against and 33 abstentions), effectively removing Suriname and the Netherlands Antilles from the list of non- self-governing territories on December 15th, 1955 (Blackman, 2016). Official UN documents revealed that many countries did not consider that the Kingdom Charter had met the standards for decolonization adopted by the UN General Assembly two years earlier, and which would be laid down in Resolution 1541 a few years later (Hillebrink, 2012). The Netherlands used Resolution 945 as justification that the islands had been decolonized, however, said resolution "does not affirm that the former Netherlands Antilles had received a full measure of self- government under Article 73(b). It merely removed the requirement of the Netherlands to regularly submit information regarding its colonies to the UN under Article 73 (e). It preserved the UN authority to decide whether a Non- Self- Governing Territory (such as the Netherlands Antilles, then and St. Eustatius now) has attained a full measure of self- government" (see Annex A10).

B. Re-inscription

As was stated in previous chapters, the establishment of the Public Entity status was not in accordance with the relevant UN Resolutions. It was also argued that, based on the information provided above, the then Netherlands Antilles should not have been removed from the UN list of Non- Self- Governing Territories.

In light of the information provided in this document, the political representatives of St. Eustatius, with the support of the various Civil Society Organizations, believe there is sufficient rationale for the re-inscription of St. Eustatius on the list of NSGT's. Some of the proposed short- and medium term actions towards re-inscription, as were listed in the position paper entitled "THE RIGHT TO SELF- DETERMINATION OF BONAIRE AND SINT EUSTATIUS: ACHIEVING A FULL MEASURE OF SELF-GOVERNMENT BY 2020 (Blackman 2016) are included here:

- The dissemination to, exchange of additional information with Special Committee on Decolonization (C- 24)
- Formal hearing of delegations of the Netherlands, Bonaire and St. Eustatius (inter alia NGO's Nos Ke Boneiru Bek and possibly Brighter Path Foundation and Pro Statia on St. Eustatius) in consultative processes of the U.N. Economic and Social Council (ECOSOC), the Permanent Forum on Indigenous Issues (PFII), and other international organizations dealing with human rights- related issues
- Amendment of the Kingdom Charter (proposals to this effect are already available and have been circulating in Parliamentary circles in draft form)

A comprehensive plan of approach toward regional engagement and the move towards re-inscription along with increasing regional awareness of St. Eustatius' situation and incorporation of the above- mentioned action points, will be further worked out in consultation with advisors, in a separate document.

By seeking UN re-inscription, St. Eustatius' right of self- determination will be monitored by the international community, thereby requiring the Netherlands to sit at the constitutional table with

St. Eustatius to discuss (the move towards) full internal self- government, as was expressed by the people in the 2005 and 2014 plebiscites, and in accordance with the relevant UN Resolutions.

Concluding Comments: Challenges and Hopes

Does St. Eustatius have the right to choose its own status and end the current unilateral display of power and control by the Dutch Government? Does St. Eustatius have the right to demand a legitimate form of self- government that meets the standards set out by the various UN resolutions? It is to be hoped that the arguments presented in this White Paper have answered these questions and that a flame will be ignited in the heart of the reader towards the fight against human rights violations committed against small island states whose people have not yet attained a legitimate form of self- government, whereby the people of said island states, under the protection of the relevant UN Resolutions and international Conventions, may freely determine their own destiny.

The desire of our fellow dwellers within the Dutch Kingdom, regarding the achievement of a full measure of self- government based on political equality and respect, in the absence of external domination and control, is also acknowledged. In facing any great obstacle unity and solidarity MUST be supreme. The necessity of the people of the Dutch - administered Caribbean persisting until the very end of this process of self-governing is paramount because “where there is a will, there is a way”!

Annexes

A1: Statia Commissioner Zaandam: Referendum bittersweet

A2: Statuut voor het Koninkrijk, 27-05-2015

A3: Sint Eustatius, 8 April 2005

A4: Motion Island Council of the Public Entity Sint Eustatius, October 8, 2014

A5: Sint Eustatius Constitutional Referendum 2014 Information Booklet

A6: Sint Eustatius status Referendum 2014

A7: Motion Island Council of the Public Entity Sint Eustatius, May 28, 2015

A8: Motion Island Council of Public Entity Sint Eustatius, November 30, 2016

A9: 1541 (XV). Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter

A10: International Covenant on Civil and Political Rights (ICCPR) & International Covenant on Economic, Social and Cultural Rights (ICESCR)

A11: The Daily Herald, August 13th, 2010

A12: Formal petition against embedding of public entity Sint Eustatius in the Dutch Constitution

A13: The Daily Herald, June 22, 2016 pages 1, 8, 11

A14: The Kingdom of The Netherlands In The Caribbean. Constitutional In- Betweenity: Reforming The Kingdom Of The Netherlands In The Caribbean page 6

A15: Chapter XI: Declaration Regarding Non- Self- Governing Territories, Article 73

A16: Resolution 742 (VII). Factors which should be taken into account in deciding whether a Territory is or is not a Territory whose people have not yet attained a full measure of self-government

References

Corbin, C. G. 2012. '*Self Determination after 10-10-10'*: [Power Point Slides]

De Jong, H.G., 'Aruba: A separate 'Country' within the Kingdom of the Netherlands on its way to independence', *Netherlands Yearbook of International Law*, Vol. 20, 1989, p. 71-89.

Oostindie, Gert & Inge Klinkers, *Decolonizing the Caribbean. Dutch Policies in a Comparative Perspective*. Amsterdam: Amsterdam University Press 2003

Spies, J.W.E., Soons, A.H.A., Thodé, G.A.E., Verhey, L.F.M., Weekers, F.H.H. 2015. 'Joined together for five years': Conclusions

Hillibrink S. (2008). *The right to self- determination and post-colonial governance: The case of the Netherlands Antilles and Aruba (*pp. 139 – 168). The Hague: T.M.C. Asser Press

Hillebrink S. (2012). The Kingdom of the Netherlands in the Caribbean. Constitutional In-Betweenity: Reforming The Kingdom of The Netherlands In the Caribbean. http://rozenbergquarterly.com/

A1: Statia Commissioner Zaandam: Referendum bittersweet

Zaandam: Referendum a bittersweet milestone

ST. EUSTATIUS--Commissioner of Constitutional Affairs Reginald Zaandam released a statement to the press the day after the referendum. "December 17, 2014, was the culmination for every person that put their energy and time into the quest of making it possible that our people are consulted with a constitutional referendum. For me, a bittersweet mile stone, because the 60 per cent is not reached to make the majority-chosen option valid."

On the other hand, he said, "as a people's representative, the result of this referendum gave us a clear-cut indication that the majority of our people denounced the unilateral decision taken by the government some years ago. Our people detest in an overwhelming way the manner in which they were pushed into the status of public entity.

"The people acknowledged the changes for the better, taking into account education and health care, in comparison with the then Netherlands Antilles. But make no mistake that, at the same time, the realisation has dawned on the people that it is not and must not ever be a decision of the politicians, but that of the people when it comes to determining the constitutional future of our beloved island.

"With the result of last night, the cause of the United People's coalition in dealing with our constitutional future is very much strengthened to go forth. The people told us this result what their desire is, regardless what the drum-beaters for status quo are saying. We know that effective tomorrow, they will surely make use of every opportunity possible to play down these results."

Speaking from his position as the leader of the United People's coalition, he said, "I must emphasise and, at the same time, encourage our people that by simply not breaking the psychological barrier of 60 per cent turnout, this referendum cannot and must never be described as a failure. On the other hand, in view of such low participation, we would do well to reflect calmly upon the causes of the low turnout.

"As the commissioner of Constitutional Affairs responsible for designing the communication strategy and implementing the information campaign, it is equally obvious that the failure to convince citizens of the importance of this constitutional exercise to go back to the drawing board and collectively establish the facts, then analyse to be able to determine what the best way should be to obtain a better result in terms of turnout in the next to be kept constitutional referendum.

"With the outcome of this constitutional referendum, as a party, we can conclude that the option of pro-autonomy within the Kingdom is still not only firm, but very noteworthy. From the internal standpoint, we can also confirm the existence of a strong and significant desire of our people not to be integrated into Holland," he concluded.

In a brief ceremony at the St. Eustatius Administration Building on Van Toningenweg, Island Governor Gerald Berkel handed out the official certificates to the three people that obtained the Dutch nationality in the final naturalisation ceremony of the year. The ceremony was attended by a small group of family members and friends who witnessed the event and shared a social moment after the event was concluded. Governor Berkel welcomed the three as the newest Dutch citizens into the community and encouraged them to continue to contribute positively to the development of St. Eustatius in particular and the Kingdom of the Netherlands as a whole. Pictured from left: Ivelisse Figuerro Schmidt, Governor Berkel, Edmar Durant and Romario Renfrum.

With the holiday season getting nearer, people in St. Eustatius have started adding decorations to their homes and places of business. The St. Eustatius Historical Simon Doncker House is no different. Terry "The Star of Statia" van Putten-Duinkerk has added her personal touch to the building by lighting up the stars. Wilhelmina Park is very beautifully lighted by the Spanish community. Pictured: lights at the Museum of Statia.

Teeven confirms no prison in Statia

ST. EUSTATIUS--Dutch Secretary of State Fred Teeven has now definitely confirmed that there will be no prison on St. Eustatius. He did this via a letter to the Dutch Senate.

Teeven had promised during a general meeting on November 13 that he would inform the senate before Christmas about the detention capacity on Statia.

In the letter, Teeven stated that the proposed building costs for a prison on Statia would be so high, that the investment amount would be disproportionate to the factual use of the proposed institution; some 14 million Euro for a capacity of 18 detainees.

Teeven said the high cost is partly due to the large expense of building a structure that must be hurricane-proof.

"Partly given the necessity of an expedient expenditure of government money, I don't see any space to continue the plans for creating detention spaces in St. Eustatius," Teeven said.

As a result of the decision not to build a prison in Statia, the Judiciary Institute Dutch Caribbean in Bonaire will remain the sole prison for the Caribbean Netherlands.

"It is in no way my intention to forego the consequences that this has for Saba and Statia. Because of this, I have requested the Service Judiciary Institutes (Dienst Justitiële Inrichtingen – DJI) to work together with the Dutch Caribbean Police Force, the Prosecutors Office of Bonaire, Saba and St. Eustatius and the Judiciary Institute Dutch Caribbean to create an alternative proposal," Teeven continued.

Teeven said he expected to further inform the sen-

A2: Statuut voor het Koninkrijk, 27-05-2015

(Tekst geldend op: 27-05-2015)

Wet van 28 October 1954, houdende aanvaarding van een statuut voor het Koninkrijk der Nederlanden

Preambule
Nederland, Aruba, Curaçao en Sint Maarten,
constaterende dat Nederland, Suriname en de Nederlandse Antillen in 1954 uit vrije wil hebben verklaard in het Koninkrijk der Nederlanden een nieuwe rechtsorde te aanvaarden, waarin zij de eigen belangen zelfstandig behartigen en op voet van gelijkwaardigheid de gemeenschappelijke belangen verzorgen en wederkerig bijstand verlenen, en hebben besloten in gemeen overleg het Statuut voor het Koninkrijk vast te stellen;
constaterende dat de statutaire band met Suriname is beëindigd met ingang van 25 november 1975 door wijziging van het Statuut bij rijkswet van 22 november 1975, *Stb.* 617, *PbNA* 233;
constaterende dat Aruba uit vrije wil heeft verklaard deze rechtsorde als land te aanvaarden met ingang van 1 januari 1986 voor een periode van tien jaar en met ingang van 1 januari 1996 voor onbepaalde tijd;
overwegende dat Curaçao en Sint Maarten elk uit vrije wil hebben verklaard deze rechtsorde als land te aanvaarden;
hebben besloten in gemeen overleg het Statuut voor het Koninkrijk als volgt nader vast te stellen.

§ 1. Algemene bepalingen

Artikel 1

1. Het Koninkrijk omvat de landen Nederland, Aruba, Curaçao en Sint Maarten.

2. Bonaire, Sint Eustatius en Saba maken elk deel uit van het staatsbestel van Nederland. Voor deze eilanden kunnen regels worden gesteld en andere specifieke maatregelen worden getroffen met het oog op de economische en sociale omstandigheden, de grote afstand tot het Europese deel van Nederland, hun insulaire karakter, kleine oppervlakte en bevolkingsomvang, geografische omstandigheden, het klimaat en andere factoren waardoor deze eilanden zich wezenlijk onderscheiden van het Europese deel van Nederland.

Artikel 1a

De Kroon van het Koninkrijk wordt erfelijk gedragen door Hare Majesteit Juliana, Prinses van Oranje-Nassau en bij opvolging door Hare wettige opvolgers.

Artikel 2

1. De Koning voert de regering van het Koninkrijk en van elk der landen. Hij is onschendbaar, de ministers zijn verantwoordelijk.

2. De Koning wordt in Aruba, Curaçao en Sint Maarten vertegenwoordigd door de Gouverneur. De bevoegdheden, verplichtingen en verantwoordelijkheid van de Gouverneur als vertegenwoordiger van de regering van het Koninkrijk worden geregeld bij rijkswet of in de daarvoor in aanmerking komende gevallen bij algemene maatregel van rijksbestuur.

3. De rijkswet regelt hetgeen verband houdt met de benoeming en het ontslag van de Gouverneur. De benoeming en het ontslag geschieden door de Koning als hoofd van het Koninkrijk.

Artikel 3

1. Onverminderd hetgeen elders in het Statuut is bepaald, zijn aangelegenheden van het Koninkrijk:

a. de handhaving van de onafhankelijkheid en de verdediging van het Koninkrijk;
b. de buitenlandse betrekkingen;
c. het Nederlanderschap;
d. de regeling van de ridderorden, alsmede van de vlag en het wapen van het Koninkrijk;
e. de regeling van de nationaliteit van schepen en het stellen van eisen met betrekking tot de veiligheid en de navigatie van zeeschepen, die de vlag van het Koninkrijk voeren, met uitzondering van zeilschepen;
f. het toezicht op de algemene regelen betreffende de toelating en uitzetting van Nederlanders;
g. het stellen van algemene voorwaarden voor toelating en uitzetting van vreemdelingen;
h. de uitlevering.

2. Andere onderwerpen kunnen in gemeen overleg tot aangelegenheden van het Koninkrijk worden verklaard.

Artikel 55 is daarbij van overeenkomstige toepassing.

Artikel 4

1. De koninklijke macht wordt in aangelegenheden van het Koninkrijk uitgeoefend door de Koning als hoofd van het Koninkrijk.

2. De wetgevende macht wordt in aangelegenheden van het Koninkrijk uitgeoefend door de wetgever van het Koninkrijk. Bij voorstellen van rijkswet vindt de behandeling plaats met inachtneming van de artikelen 15 t/m 21.

Artikel 5

1. Het koningschap met de troonopvolging, de in het Statuut genoemde organen van het Koninkrijk, de uitoefening van de koninklijke en de wetgevende macht in aangelegenheden van het Koninkrijk worden voor zover het Statuut hierin niet voorziet geregeld in de Grondwet voor het Koninkrijk.

2. De Grondwet neemt de bepalingen van het Statuut in acht.

3. Op een voorstel tot verandering in de Grondwet, houdende bepalingen betreffende aangelegenheden van het Koninkrijk, alsmede op het ontwerp van wet, dat er grond bestaat een zodanig voorstel in overweging te nemen, zijn de artikelen 15 t/m 20 van toepassing.

§ 2. De behartiging van de aangelegenheden van het Koninkrijk

Artikel 6

1. De aangelegenheden van het Koninkrijk worden in samenwerking van Nederland, Aruba, Curaçao en Sint Maarten behartigd overeenkomstig de navolgende bepalingen.

2. Bij de behartiging van deze aangelegenheden worden waar mogelijk de landsorganen ingeschakeld.

Artikel 7

De raad van ministers van het Koninkrijk is samengesteld uit de door de Koning benoemde ministers en de door de regering van Aruba, Curaçao onderscheidenlijk Sint Maarten benoemde Gevolmachtigde Minister.

Artikel 8

1. De Gevolmachtigde Ministers handelen namens de regeringen van hun land, die hen benoemen en ontslaan.

Zij moeten de staat van Nederlander bezitten.

2. De regering van het betrokken land bepaalt wie de Gevolmachtigde Minister bij belet of ontstentenis vervangt.

Hetgeen in dit Statuut is bepaald voor de Gevolmachtigde Minister, is van overeenkomstige toepassing met betrekking tot zijn plaatsvervanger.

Artikel 9

1. De Gevolmachtigde Minister legt, alvorens zijn betrekking te aanvaarden, in handen van de Gouverneur een eed of belofte van trouw aan de Koning en het Statuut af. Het formulier voor de eed of belofte wordt vastgesteld bij algemene maatregel van rijksbestuur.

2. In Nederland vertoevende, legt de Gevolmachtigde Minister de eed of belofte af in handen van de Koning.

Artikel 10

1. De Gevolmachtigde Minister neemt deel aan het overleg in de vergaderingen van de raad van ministers en van de vaste colleges en bijzondere commissies uit de raad over aangelegenheden van het Koninkrijk, welke het betrokken land raken.

2. De regeringen van Aruba, Curaçao en Sint Maarten zijn ieder gerechtigd - indien een bepaald onderwerp haar daartoe aanleiding geeft - naast de Gevolmachtigde Minister tevens een minister met raadgevende stem te doen deelnemen aan het in het vorig lid bedoelde overleg.

Artikel 11

1. Voorstellen tot verandering in de Grondwet, houdende bepalingen betreffende aangelegenheden van het Koninkrijk, raken Aruba, Curaçao en Sint Maarten.

2. Ten aanzien van de defensie wordt aangenomen, dat de defensie van het grondgebied van Aruba, Curaçao of Sint Maarten, zomede overeenkomsten of afspraken betreffende een gebied, dat tot hun belangensfeer behoort, Aruba, Curaçao onderscheidenlijk Sint Maarten raken.

3. Ten aanzien van de buitenlandse betrekkingen wordt aangenomen, dat buitenlandse betrekkingen, wanneer belangen van Aruba, Curaçao of Sint Maarten in het bijzonder daarbij betrokken zijn, dan wel wanneer de voorziening daarin gewichtige gevolgen voor deze belangen kan hebben, Aruba, Curaçao onderscheidenlijk Sint Maarten raken.

4. De vaststelling van de bijdrage in de kosten, bedoeld in artikel 35, raakt Aruba, Curaçao onderscheidenlijk Sint Maarten.

5. Voorstellen tot naturalisatie worden geacht Aruba, Curaçao en Sint Maarten slechts te raken, indien het personen betreft, die woonachtig zijn in het betrokken land.

6. De regeringen van Aruba, Curaçao en Sint Maarten kunnen aangeven welke aangelegenheden van het Koninkrijk, behalve die, in het eerste tot en met het vierde lid genoemd, hun land raken.

Artikel 12

1. Indien de Gevolmachtigde Minister van Aruba, Curaçao of Sint Maarten, onder aanwijzing van de gronden, waarop hij ernstige benadeling van zijn land verwacht, heeft verklaard, dat zijn land niet ware te binden aan een voorgenomen voorziening, houdende algemeen bindende regelen, kan de voorziening niet in dier voege, dat zij in het betrokken land geldt, worden vastgesteld, tenzij de verbondenheid van het land in het Koninkrijk zich daartegen verzet.

2. Indien de Gevolmachtigde Minister van Aruba, Curaçao of Sint Maarten, ernstig bezwaar heeft tegen het aanvankelijk oordeel van de raad van ministers over de eis van gebondenheid, bedoeld in het eerste lid, dan wel over enige andere aangelegenheid, aan de behandeling waarvan hij heeft deelgenomen, wordt op zijn verzoek het overleg, zo nodig met inachtneming van een daartoe door de raad van ministers te bepalen termijn, voortgezet.

3. Het hiervoren bedoeld overleg geschiedt tussen de minister-president, twee ministers, de Gevolmachtigde Minister en een door de betrokken regering aan te wijzen minister of bijzonder gemachtigde.

4. Wensen meerdere Gevolmachtigde Ministers aan het voortgezette overleg deel te nemen, dan geschiedt dit overleg tussen deze Gevolmachtigde Ministers, een even groot aantal ministers en de minister-president. Het tweede lid van artikel 10 is van overeenkomstige toepassing.

5. De raad van ministers oordeelt overeenkomstig de uitkomst van het voortgezette overleg. Wordt van de gelegenheid tot het plegen van voortgezet overleg niet binnen de bepaalde termijn gebruik gemaakt, dan bepaalt de raad van ministers zijn oordeel.

Artikel 12a

Bij rijkswet worden voorzieningen getroffen voor de behandeling van bij rijkswet aangewezen geschillen tussen het Koninkrijk en de landen.

Artikel 13

1. Er is een Raad van State van het Koninkrijk.

2. Indien de regering van Aruba, Curaçao of Sint Maarten, de wens daartoe te kennen geeft, benoemt de Koning voor Aruba, Curaçao onderscheidenlijk Sint Maarten, in de Raad van State een lid, wiens benoeming geschiedt in overeenstemming met de Regering van het betrokken land.

   Zijn ontslag geschiedt na overleg met deze regering.

3. De staatsraden voor Aruba, Curaçao en Sint Maarten nemen deel aan de werkzaamheden van de Raad van State ingeval de Raad of een afdeling van de Raad wordt gehoord over ontwerpen van rijkswetten en algemene maatregelen van rijksbestuur, die in Aruba, Curaçao onderscheidenlijk Sint Maarten, zullen gelden, of over andere aangelegenheden, die overeenkomstig artikel 11 Aruba, Curaçao onderscheidenlijk Sint Maarten raken.

4. Bij algemene maatregel van rijksbestuur kunnen ten opzichte van genoemde staatsraden voorschriften worden vastgesteld, welke afwijken van de bepalingen van de Wet op de Raad van State.

Artikel 14

1. Regelen omtrent aangelegenheden van het Koninkrijk worden - voor zover de betrokken materie geen regeling in de Grondwet vindt en behoudens de internationale regelingen en het bepaalde in het derde lid - bij rijkswet of in de daarvoor in aanmerking komende gevallen bij algemene maatregel van rijksbestuur vastgesteld.

   De rijkswet of de algemene maatregel van rijksbestuur kan het stellen van nadere regelen opdragen of overlaten aan andere organen. Het opdragen of het overlaten aan de landen geschiedt aan de wetgever of de regering der landen.

2. Indien de regeling niet aan de rijkswet is voorbehouden, kan zij geschieden bij algemene maatregel van rijksbestuur.

3. Regelen omtrent aangelegenheden van het Koninkrijk, welke niet in Aruba, Curaçao of Sint Maarten gelden, worden bij wet of algemene maatregel van bestuur vastgesteld.

4. Naturalisatie van personen, die woonachtig zijn in Aruba, Curaçao of Sint Maarten, geschiedt bij of krachtens de rijkswet.

Artikel 15

1. De Koning zendt een ontwerp van rijkswet gelijktijdig met de indiening bij de Staten-Generaal aan de vertegenwoordigende lichamen van Aruba, Curaçao en Sint Maarten.

2. Bij een voordracht tot een voorstel van rijkswet, uitgaande van de Staten-Generaal, geschiedt de toezending van het voorstel door de Tweede Kamer terstond nadat het bij de Kamer aanhangig is gemaakt.

3. De Gevolmachtigde Minister van Aruba, Curaçao of Sint Maarten, is bevoegd aan de Tweede Kamer voor te stellen een voordracht tot een voorstel van rijkswet te doen.

Artikel 16

Het vertegenwoordigende lichaam van het land, waarin de regeling zal gelden, is bevoegd vóór de openbare behandeling van het ontwerp in de Tweede Kamer dit te onderzoeken en zo nodig binnen een daarvoor te bepalen termijn daaromtrent schriftelijk verslag uit te brengen.

Artikel 17

1. De Gevolmachtigde Minister van het land, waarin de regeling zal gelden, wordt in de gelegenheid gesteld in de kamers der Staten-Generaal de mondelinge behandeling van het ontwerp van rijkswet bij te wonen en daarbij zodanige voorlichting aan de kamers te verstrekken als hij gewenst oordeelt.

2. Het vertegenwoordigende lichaam van het land, waarin de regeling zal gelden, kan besluiten voor de behandeling van een bepaald ontwerp in de Staten-Generaal één of meer bijzondere gedelegeerden af te vaardigen, die eveneens gerechtigd zijn de mondelinge behandeling bij te wonen en daarbij voorlichting te geven.

3. De Gevolmachtigde Ministers en de bijzondere gedelegeerden zijn niet gerechtelijk vervolgbaar voor hetgeen zij in de vergadering van de kamers der Staten-Generaal hebben gezegd of aan haar schriftelijk hebben overgelegd.

4. De Gevolmachtigde Ministers en de bijzondere gedelegeerden zijn bevoegd bij de behandeling in de Tweede Kamer wijzigingen in het ontwerp voor te stellen.

Artikel 18

1. De Gevolmachtigde Minister van het land, waarin de regeling zal gelden, wordt vóór de eindstemming over een voorstel van rijkswet in de kamers der Staten-Generaal in de gelegenheid gesteld zich omtrent dit voorstel uit te spreken. Indien de Gevolmachtigde Minister zich tegen het voorstel verklaart, kan hij tevens de kamer verzoeken de stemming tot de volgende vergadering aan te houden. Indien de Tweede Kamer nadat de Gevolmachtigde Minister zich tegen het voorstel heeft verklaard dit aanneemt met een geringere meerderheid dan drie vijfden van het aantal der uitgebrachte stemmen, wordt de behandeling geschorst en vindt nader overleg omtrent het voorstel plaats in de raad van ministers.

2. Wanneer in de vergadering van de kamers bijzondere gedelegeerden aanwezig zijn, komt de in het eerste lid bedoelde bevoegdheid aan de door het vertegenwoordigende lichaam daartoe aangewezen gedelegeerde.

Artikel 19

De artikelen 17 en 18 zijn voor de behandeling in de verenigde vergadering van de Staten-Generaal van overeenkomstige toepassing.

Artikel 20

Bij rijkswet kunnen nadere regels worden gesteld ten aanzien van het bepaalde in de artikelen 15 t/m 19.

Artikel 21

Indien, na gepleegd overleg met de Gevolmachtigde Ministers van Aruba, Curaçao en Sint Maarten, in geval van oorlog of in andere bijzondere gevallen, waarin onverwijld moet worden gehandeld, het naar het oordeel van de Koning onmogelijk is het resultaat van het in artikel 16 bedoelde onderzoek af te wachten, kan van de bepaling van dat artikel worden afgeweken.

Artikel 22

1. De regering van het Koninkrijk draagt zorg voor de afkondiging van rijkswetten en algemene maatregelen van rijksbestuur. Zij geschiedt in het land, waar de regeling zal gelden in het officiële publicatieblad. De landsregeringen verlenen daartoe de nodige medewerking.

2. Zij treden in werking op het in of krachtens die regelingen te bepalen tijdstip.

3. Het formulier van afkondiging der rijkswetten en der algemene maatregelen van rijksbestuur vermeldt, dat de bepalingen van het Statuut voor het Koninkrijk zijn in acht genomen.

Artikel 23

1. De rechtsmacht van de Hoge Raad der Nederlanden ten aanzien van rechtszaken in Aruba, Curaçao en Sint Maarten, alsmede op Bonaire, Sint Eustatius en Saba, wordt geregeld bij rijkswet.

2. Indien de regering van Aruba, Curaçao of Sint Maarten dit verzoekt, wordt bij deze rijkswet de mogelijkheid geopend, dat aan de Raad een lid, een buitengewoon of een adviserend lid wordt toegevoegd.

Artikel 24

1. Overeenkomsten met andere mogendheden en met volkenrechtelijke organisaties, welke Aruba, Curaçao of Sint Maarten raken, worden gelijktijdig met de overlegging aan de Staten-Generaal aan het vertegenwoordigende lichaam van Aruba, Curaçao onderscheidenlijk Sint Maarten overgelegd.

2. Ingeval de overeenkomst ter stilzwijgende goedkeuring aan de Staten-Generaal is overgelegd, kan de Gevolmachtigde Minister binnen de daartoe voor de kamers der Staten-Generaal gestelde termijn de wens te kennen geven dat de overeenkomst aan de uitdrukkelijke goedkeuring van de Staten-Generaal zal worden onderworpen.

3. De voorgaande leden zijn van overeenkomstige toepassing ten aanzien van opzegging van internationale overeenkomsten, het eerste lid met dien verstande, dat van het voornemen tot opzegging mededeling aan het vertegenwoordigende lichaam van Aruba, Curaçao onderscheidenlijk Sint Maarten wordt gedaan.

Artikel 25

1. Aan internationale economische en financiële overeenkomsten bindt de Koning Aruba, Curaçao of Sint Maarten, niet, indien de regering van het land, onder aanwijzing van de gronden, waarop zij van de binding benadeling van het land verwacht, heeft verklaard, dat het land niet dient te worden verbonden.

2. Internationale economische en financiële overeenkomsten zegt de Koning voor wat Aruba, Curaçao of Sint Maarten betreft, niet op, indien de regering van het land, onder aanwijzing van de gronden, waarop zij van de opzegging benadeling van het land verwacht, heeft verklaard, dat voor het land geen opzegging dient plaats te vinden. Opzegging kan niettemin geschieden, indien het met de bepalingen der overeenkomst niet verenigbaar is, dat het land van de opzegging wordt uitgesloten.

Artikel 26

Indien de regering van Aruba, Curaçao of Sint Maarten, de wens te kennen geeft, dat een internationale economische of financiële overeenkomst wordt aangegaan, welke uitsluitend voor het betrokken land geldt, zal de regering van het Koninkrijk medewerken tot een zodanige overeenkomst, tenzij de verbondenheid van het land in het Koninkrijk zich daartegen verzet.

Artikel 27

1. Aruba, Curaçao en Sint Maarten worden in een zo vroeg mogelijk stadium betrokken in de voorbereiding van overeenkomsten met andere mogendheden, welke hen overeenkomstig artikel 11 raken. Zij worden tevens betrokken in de uitvoering van overeenkomsten, die hen aldus raken en voor hen verbindend zijn.

2. Nederland, Aruba, Curaçao en Sint Maarten treffen een onderlinge regeling over de samenwerking tussen de landen ten behoeve van de totstandkoming van regelgeving of andere maatregelen die noodzakelijk zijn voor de uitvoering van overeenkomsten met andere mogendheden.

3. Indien de belangen van het Koninkrijk geraakt worden door het uitblijven van regelgeving of andere maatregelen die noodzakelijk zijn voor de uitvoering van een overeenkomst met andere mogendheden in een van de landen, terwijl de overeenkomst pas voor dat land kan worden bekrachtigd als de regelgeving of andere maatregelen gereed zijn, kan een algemene maatregel van rijksbestuur, of indien nodig een rijkswet, bepalen op welke wijze uitvoering wordt gegeven aan die overeenkomst.

4. Indien de regelgeving of andere maatregelen ter uitvoering van de betreffende overeenkomst door het land zijn getroffen, wordt de algemene maatregel van rijksbestuur of de rijkswet ingetrokken.

Artikel 28

Op de voet van door het Koninkrijk aangegane internationale overeenkomsten kunnen Aruba, Curaçao en Sint Maarten desgewenst als lid tot volkenrechtelijke organisaties toetreden.

Artikel 29

1. Het aangaan of garanderen van een geldlening buiten het Koninkrijk ten name of ten laste van een der landen geschiedt in overeenstemming met de regering van het Koninkrijk.

2. De raad van ministers verenigt zich met het aangaan of garanderen van zodanige geldlening, tenzij de belangen van het Koninkrijk zich daartegen verzetten.

Artikel 30

1. Aruba, Curaçao en Sint Maarten verlenen aan de strijdkrachten, welke zich op hun gebied bevinden, de hulp en bijstand, welke deze in de uitoefening van hun taak behoeven.

2. Bij landsverordening worden regelen gesteld om te waarborgen, dat de krijgsmacht van het Koninkrijk in Aruba, Curaçao en Sint Maarten haar taak kan vervullen.

Artikel 31

1. Personen, die woonachtig zijn in Aruba, Curaçao en Sint Maarten, kunnen niet dan bij landsverordening tot dienst in de krijgsmacht dan wel tot burgerdienstplicht worden verplicht.

2. Aan de Staatsregeling is voorbehouden te bepalen, dat de dienstplichtigen, dienende bij de landmacht, zonder hun toestemming niet dan krachtens een landsverordening naar elders kunnen worden gezonden.

Artikel 32

In de strijdkrachten voor de verdediging van Aruba, Curaçao en Sint Maarten, zullen zoveel mogelijk personen, die in deze landen woonachtig zijn, worden opgenomen.

Artikel 33

1. Ten behoeve van de verdediging geschiedt de vordering in eigendom en in gebruik van goederen, de beperking van het eigendoms- en gebruiksrecht, de vordering van diensten en de inkwartieringen niet dan met inachtneming van bij rijkswet te stellen algemene regelen, welke tevens voorzieningen inhouden omtrent de schadeloosstelling.

2. Bij deze rijkswet worden nadere regelingen waar mogelijk aan landsorganen opgedragen.

Artikel 34

1. De Koning kan ter handhaving van de uit- of inwendige veiligheid, in geval van oorlog of oorlogsgevaar of ingeval bedreiging of verstoring van de inwendige orde en rust kan leiden tot wezenlijke aantasting van belangen van het Koninkrijk, elk gedeelte van het grondgebied in staat van oorlog of in staat van beleg verklaren.

2. Bij of krachtens rijkswet wordt de wijze bepaald, waarop zodanige verklaring geschiedt, en worden de gevolgen geregeld.

3. Bij die regeling kan worden bepaald, dat en op welke wijze bevoegdheden van organen van het burgerlijk gezag ten opzichte van de openbare orde en de politie geheel of ten dele op andere organen van het burgerlijk gezag of op het militaire gezag overgaan en dat de burgerlijke overheden in het laatste geval te dezen aanzien aan de militaire ondergeschikt worden. Omtrent het overgaan van bevoegdheden vindt waar mogelijk overleg met de regering van het betrokken land plaats. Bij die regeling kan worden afgeweken van de bepalingen betreffende de vrijheid van drukpers, het recht van vereniging en vergadering, zomede betreffende de onschendbaarheid van woning en het postgeheim.

4. Voor het in staat van beleg verklaarde gebied kunnen in geval van oorlog op de wijze, bij rijkswet bepaald, het militaire strafrecht en de militaire strafrechtspleging geheel of ten dele op een ieder van toepassing worden verklaard.

Artikel 35

1. Aruba, Curaçao en Sint Maarten dragen in overeenstemming met hun draagkracht bij in de kosten, verbonden aan de handhaving van de onafhankelijkheid en de verdediging van het Koninkrijk, zomede in de kosten, verbonden aan de verzorging van andere aangelegenheden van het Koninkrijk, voor zover deze strekt ten gunste van Aruba, Curaçao onderscheidenlijk Sint Maarten.

2. De in het eerste lid bedoelde bijdrage van Aruba, Curaçao of Sint Maarten, wordt door de raad van ministers voor een begrotingsjaar of enige achtereenvolgende begrotingsjaren vastgesteld.

Artikel 12 is van overeenkomstige toepassing, met dien verstande, dat beslissingen worden genomen met eenparigheid van stemmen.

3. Indien de in het tweede lid bedoelde vaststelling niet tijdig plaats heeft, geldt in afwachting daarvan voor de duur van ten hoogste een begrotingsjaar de overeenkomstig dat lid voor het laatste begrotingsjaar vastgestelde bijdrage.

4. De voorgaande leden zijn niet van toepassing ten aanzien van de kosten van voorzieningen, waarvoor bijzondere regelingen zijn getroffen.

§ 3. Onderlinge bijstand, overleg en samenwerking

Artikel 36

Nederland, Aruba, Curaçao en Sint Maarten verlenen elkander hulp en bijstand. 36a [Vervallen per 10-10-2010]

Artikel 37

1. Nederland, Aruba, Curaçao en Sint Maarten zullen zoveel mogelijk overleg plegen omtrent alle aangelegenheden, waarbij belangen van twee of meer van de landen zijn betrokken. Daartoe kunnen bijzondere vertegenwoordigers worden aangewezen en gemeenschappelijke organen worden ingesteld.

2. Als aangelegenheden, bedoeld in dit artikel, worden onder meer beschouwd:

a. de bevordering van de culturele en sociale betrekkingen tussen de landen;
b. de bevordering van doelmatige economische, financiële en monetaire betrekkingen tussen de landen;
c. vraagstukken inzake munt- en geldwezen, bank- en deviezenpolitiek;
d. de bevordering van de economische weerbaarheid door onderlinge hulp en bijstand van de landen;
e. de beroeps- en bedrijfsuitoefening van Nederlanders in de landen;
f. aangelegenheden, de luchtvaart betreffende, waaronder begrepen het beleid inzake het ongeregelde luchtvervoer;
g. aangelegenheden, de scheepvaart betreffende;
h. de samenwerking op het gebied van telegrafie, telefonie en radioverkeer.

Artikel 38

1. Nederland, Aruba, Curaçao en Sint Maarten kunnen onderling regelingen treffen.

2. In onderling overleg kan worden bepaald, dat zodanige regeling en de wijziging daarvan bij rijkswet of algemene maatregel van rijksbestuur wordt vastgesteld.

3. Omtrent privaatrechtelijke en strafrechtelijke onderwerpen van interregionale of internationale aard kunnen bij rijkswet regelen worden gesteld, indien omtrent deze regelen overeenstemming tussen de regeringen der betrokken landen bestaat.

4. In het onderwerp van de zetelverplaatsing van rechtspersonen wordt bij rijkswet voorzien. Omtrent deze voorziening is overeenstemming tussen de regeringen der landen vereist.

Artikel 38a

De landen kunnen bij onderlinge regeling voorzieningen treffen voor de behandeling van onderlinge geschillen. Het tweede lid van artikel 38 is van toepassing.

Artikel 39

1. Het burgerlijk en handelsrecht, de burgerlijke rechtsvordering, het strafrecht, de strafvordering, het auteursrecht, de industriële eigendom, het notarisambt, zomede bepalingen omtrent maten en gewichten worden in Nederland, Aruba, Curaçao en Sint Maarten zoveel mogelijk op overeenkomstige wijze geregeld.

2. Een voorstel tot ingrijpende wijziging van de bestaande wetgeving op dit stuk wordt niet bij het vertegenwoordigende lichaam ingediend - dan wel door het vertegenwoordigende lichaam in behandeling genomen - alvorens de regeringen in de andere landen in de gelegenheid zijn gesteld van haar zienswijze hieromtrent te doen blijken.

Artikel 40

Vonnissen, door de rechter in Nederland, Aruba, Curaçao of Sint Maarten gewezen, en bevelen, door hem uitgevaardigd, mitsgaders grossen van authentieke akten, aldaar verleden, kunnen in het gehele Koninkrijk ten uitvoer worden gelegd, met inachtneming van de wettelijke bepalingen van het land, waar de tenuitvoerlegging plaats vindt.

§ 4. De staatsinrichting van de landen

Artikel 41

1. Nederland, Aruba, Curaçao en Sint Maarten behartigen zelfstandig hun eigen aangelegenheden.

2. De belangen van het Koninkrijk zijn mede een voorwerp van zorg voor de landen.

Artikel 42

1. In het Koninkrijk vindt de staatsinrichting van Nederland regeling in de Grondwet, die van Aruba, Curaçao en Sint Maarten in de Staatsregelingen van Aruba, van Curaçao en van Sint Maarten.

2. De Staatsregelingen van Aruba, van Curaçao en van Sint Maarten worden vastgesteld bij landsverordening. Elk voorstel tot verandering van de Staatsregeling wijst de voorgestelde verandering uitdrukkelijk aan. Het vertegenwoordigende lichaam kan het ontwerp van een zodanige landsverordening niet aannemen dan met twee derden der uitgebrachte stemmen.

Artikel 43

1. Elk der landen draagt zorg voor de verwezenlijking van de fundamentele menselijke rechten en vrijheden, de rechtszekerheid en de deugdelijkheid van het bestuur.

2. Het waarborgen van deze rechten, vrijheden, rechtszekerheid en deugdelijkheid van bestuur is aangelegenheid van het Koninkrijk.

Artikel 44

1. Een landsverordening tot wijziging van de Staatsregeling voor wat betreft:

a. de artikelen, betrekking hebbende op de fundamentele menselijke rechten en vrijheden;
b. de bepalingen, betrekking hebbende op de bevoegdheden van de Gouverneur;
c. de artikelen, betrekking hebbende op de bevoegdheden van de vertegenwoordigende lichamen van de landen;
d. de artikelen, betrekking hebbende op de rechtspraak,

wordt overgelegd aan de regering van het Koninkrijk. Zij treedt niet in werking dan nadat de regering van het Koninkrijk haar instemming hiermede heeft betuigd.

2. Een ontwerp-landsverordening betreffende de voorgaande bepalingen wordt niet aan het vertegenwoordigende lichaam aangeboden, noch bij een initiatief-ontwerp door dit lichaam in onderzoek genomen dan nadat het gevoelen der regering van het Koninkrijk is ingewonnen.

Artikel 45

Wijzigingen in de Grondwet betreffende:

a. de artikelen, betrekking hebbende op de fundamentele menselijke rechten en vrijheden;
b. de bepalingen, betrekking hebbende op de bevoegdheden van de regering;
c. de artikelen, betrekking hebbende op de bevoegdheden van het vertegenwoordigende lichaam;
d. de artikelen, betrekking hebbende op de rechtspraak,

worden - onverminderd het bepaalde in artikel 5 - geacht in de zin van artikel 10 Aruba, Curaçao en Sint Maarten te raken.

Artikel 46

1. De vertegenwoordigende lichamen worden gekozen door de ingezetenen van het betrokken land, tevens Nederlanders, die de door de landen te bepalen leeftijd, welke niet hoger mag zijn dan 25 jaren, hebben bereikt. Iedere kiezer brengt slechts één stem uit. De verkiezingen zijn vrij en geheim. Indien de noodzaak daartoe blijkt, kunnen de landen beperkingen stellen. Iedere Nederlander is verkiesbaar met dien verstande, dat de landen de eis van ingezetenschap en een leeftijdsgrens kunnen stellen.

2. De landen kunnen aan Nederlanders die geen ingezetenen van het betrokken land zijn, het recht toekennen vertegenwoordigende lichamen te kiezen, alsmede aan ingezetenen van het betrokken land die geen Nederlander zijn, het recht vertegenwoordigende lichamen te kiezen en het recht daarin gekozen te worden, een en ander mits daarbij tenminste de vereisten voor ingezetenen die tevens Nederlander zijn, in acht worden genomen.

Artikel 47

1. De ministers en de leden van het vertegenwoordigende lichaam in de landen leggen, alvorens hun betrekking te aanvaarden, een eed of belofte van trouw aan de Koning en het Statuut af.

2. De ministers en de leden van het vertegenwoordigende lichaam in Aruba, Curaçao en Sint Maarten leggen de eed of belofte af in handen van de vertegenwoordiger van de Koning.

Artikel 48

De landen nemen bij hun wetgeving en bestuur de bepalingen van het Statuut in acht.

Artikel 49

Bij rijkswet kunnen regels worden gesteld omtrent de verbindendheid van wetgevende maatregelen, die in strijd zijn met het Statuut, een internationale regeling, een rijkswet of een algemene maatregel van rijksbestuur.

Artikel 50

1. Wetgevende en bestuurlijke maatregelen in Aruba, Curaçao en Sint Maarten, die in strijd zijn met het Statuut, een internationale regeling, een rijkswet of een algemene maatregel van rijksbestuur, dan wel met belangen, welker verzorging of waarborging aangelegenheid van het Koninkrijk is, kunnen door de Koning als hoofd van het Koninkrijk bij gemotiveerd besluit worden geschorst en vernietigd. De voordracht tot vernietiging geschiedt door de raad van ministers.

2. Voor Nederland wordt in dit onderwerp voor zover nodig in de Grondwet voorzien.

Artikel 51

1. Wanneer een orgaan in Aruba, Curaçao of Sint Maarten niet of niet voldoende voorziet in hetgeen het ingevolge het Statuut, een internationale regeling, een rijkswet of een algemene maatregel van rijksbestuur moet verrichten, kan, onder aanwijzing van de rechtsgronden en de beweegredenen, waarop hij berust, een algemene maatregel van rijksbestuur bepalen op welke wijze hierin wordt voorzien.

2. Voor Nederland wordt in dit onderwerp voor zover nodig in de Grondwet voorzien.

Artikel 52

De landsverordening kan aan de Koning als hoofd van het Koninkrijk en aan de Gouverneur als orgaan van het Koninkrijk met goedkeuring van de Koning bevoegdheden met betrekking tot landsaangelegenheden toekennen.

Artikel 53

Indien Aruba, Curaçao of Sint Maarten de wens daartoe te kennen geven, wordt het onafhankelijke toezicht op de besteding der geldmiddelen overeenkomstig de begroting van Aruba, Curaçao onderscheidenlijk Sint Maarten, door de Algemene Rekenkamer uitgeoefend. In dat geval worden na overleg met de Rekenkamer bij rijkswet regelen gesteld omtrent de samenwerking tussen de Rekenkamer en het betrokken land. Alsdan zal de regering van het land op voordracht van het vertegenwoordigende lichaam iemand kunnen aanwijzen, die in de gelegenheid wordt gesteld deel te nemen aan de beraadslagingen over alle aangelegenheden van het betrokken land.

§ 5. Overgangs- en slotbepalingen

Artikel 54

1. Bij wijziging van de Grondwet wordt artikel 1, tweede lid, vervallen verklaard op het moment dat bij de Grondwet wordt voorzien in de positie van Bonaire, Sint Eustatius en Saba binnen het staatsbestel van Nederland.

2. Dit artikel vervalt indien onder toepassing van het voorgaande lid artikel 1, tweede lid, vervallen wordt verklaard.

Artikel 55

1. Wijziging van dit Statuut geschiedt bij rijkswet.

2. Een voorstel tot wijziging, door de Staten-Generaal aangenomen, wordt door de Koning niet goedgekeurd, alvorens het door Aruba, Curaçao en Sint Maarten is aanvaard. Deze aanvaarding geschiedt bij landsverordening.

Deze landsverordening wordt niet vastgesteld alvorens het ontwerp door de Staten in twee lezingen is goedgekeurd. Indien het ontwerp in eerste lezing is goedgekeurd met twee derden der uitgebrachte stemmen, geschiedt de vaststelling terstond. De tweede lezing vindt plaats binnen een maand nadat het ontwerp in eerste lezing is goedgekeurd.

3. Indien en voor zover een voorstel tot wijziging van het Statuut afwijkt van de Grondwet, wordt het voorstel behandeld op de wijze, als de Grondwet voor voorstellen tot verandering in de Grondwet bepaalt, met dien verstande, dat de beide kamers in tweede lezing de voorgestelde verandering bij volstrekte meerderheid der uitgebrachte stemmen kunnen aannemen.

Artikel 56

Op het tijdstip van inwerkingtreding van het Statuut bestaande autoriteiten, verbindende wetten, verordeningen en besluiten blijven gehandhaafd totdat zij door andere, met inachtneming van dit Statuut, zijn vervangen. Voor zover het Statuut zelf in enig onderwerp anders voorziet, geldt de regeling van het Statuut.

Artikel 57

Wetten en algemene maatregelen van bestuur, die in de Nederlandse Antillen golden, hebben de staat van rijkswet, onderscheidenlijk van algemene maatregel van rijksbestuur, met dien verstande, dat zij, voor zover zij ingevolge het Statuut bij landsverordening kunnen worden gewijzigd, de staat hebben van landsverordening.

Artikel 57a

Bestaande rijkswetten, wetten, landsverordeningen, algemene maatregelen van rijksbestuur, algemene maatregelen van bestuur en andere regelingen en besluiten die in strijd zijn met een verandering in het Statuut, blijven gehandhaafd, totdat daarvoor met inachtneming van het Statuut een voorziening is getroffen.

Artikel 58

1. Aruba kan bij landsverordening verklaren dat het de rechtsorde neergelegd in het Statuut ten aanzien van Aruba wil beëindigen.

2. Het voorstel van een zodanige landsverordening gaat bij indiening vergezeld van een schets van een toekomstige constitutie, houdende tenminste bepalingen inzake de grondrechten, regering, vertegenwoordigend orgaan, wetgeving en bestuur, rechtspraak en wijziging van de constitutie.

3. De Staten kunnen het voorstel niet goedkeuren dan met een meerderheid van twee derden van de stemmen van het aantal zitting hebbende leden.

Artikel 59

1. Binnen zes maanden nadat de Staten van Aruba het in artikel 58 genoemde voorstel hebben goedgekeurd wordt een bij landsverordening geregeld referendum gehouden, waarbij de kiesgerechtigden voor de Staten zich kunnen uitspreken over het goedgekeurde voorstel.

2. Het goedgekeurde voorstel wordt niet als landsverordening vastgesteld dan nadat bij het referendum een meerderheid van het aantal kiesgerechtigden voor het voorstel heeft gestemd.

Artikel 60

1. Na vaststelling van de landsverordening overeenkomstig de artikelen 58 en 59 en goedkeuring van de toekomstige constitutie door de Staten van Aruba met een meerderheid van ten minste twee derden van de stemmen van het aantal zitting hebbende leden wordt overeenkomstig het gevoelen van de regering van Aruba bij koninklijk besluit het tijdstip van beëindiging van de in het Statuut neergelegde rechtsorde ten aanzien van Aruba bepaald.

2. Dit tijdstip ligt ten hoogste een maand na de datum van vaststelling van de constitutie. Deze vaststelling vindt plaats ten hoogste een jaar na de datum van het in artikel 59 bedoelde referendum.

Artikel 60a

1. De door de eilandsraden van Curaçao en Sint Maarten bij eilandsverordening vastgestelde ontwerpen voor een Staatsregeling van Curaçao, onderscheidenlijk van Sint Maarten, verkrijgen op het tijdstip van inwerkingtreding van de artikelen I en II van de Rijkswet wijziging Statuut in verband met de opheffing van de Nederlandse Antillen de staat van Staatsregeling van Curaçao, onderscheidenlijk van Sint Maarten, indien:

   a. het gevoelen van de regering van het Koninkrijk is ingewonnen voordat het ontwerp aan de betrokken eilandsraad is aangeboden, onderscheidenlijk voordat een initiatiefontwerp door de betrokken eilandsraad in onderzoek is genomen
   b. het ontwerp door de betrokken eilandsraad met ten minste twee derden van de uitgebrachte stemmen is aanvaard en
   c. de regering van het Koninkrijk met het door de betrokken eilandsraad vastgestelde ontwerp heeft ingestemd.

2. Indien een ontwerp door een eilandsraad is aanvaard met een kleinere meerderheid dan twee derden van de uitgebrachte stemmen, dan wordt voldaan aan de voorwaarde genoemd in het eerste lid, onder *b*, indien de eilandsraad na de stemming over het ontwerp is ontbonden en het ontwerp met een volstrekte meerderheid van de uitgebrachte stemmen is aanvaard door de in verband met die ontbinding nieuw gekozen eilandsraad.

3. Indien een ontwerp door een eilandsraad is aanvaard met een kleinere meerderheid dan twee derden van de uitgebrachte stemmen en de betrokken eilandsraad niet is ontbonden, dan wordt die eilandsraad door de gezaghebber ontbonden. Het besluit tot ontbinding behelst de uitschrijving van de verkiezing van een nieuwe eilandsraad binnen twee maanden en de eerste samenkomst van de nieuwe eilandsraad binnen drie maanden na de datum van het besluit tot ontbinding. Indien de nieuw gekozen eilandsraad het ontwerp aanvaardt met een volstrekte meerderheid van de uitgebrachte stemmen, wordt voldaan aan de voorwaarde genoemd onder *b* van het eerste lid.

Artikel 60b

1. De door de eilandsraden van Curaçao en Sint Maarten bij eilandsverordening vastgestelde ontwerp-landsverordeningen van Curaçao, onderscheidenlijk Sint Maarten, verkrijgen op het tijdstip van inwerkingtreding van de artikelen I en II van de Rijkswet wijziging Statuut in verband met de opheffing van de Nederlandse Antillen de staat van landsverordeningen van het land Curaçao, onderscheidenlijk Sint Maarten.

2. De door het Bestuurscollege van Curaçao of Sint Maarten bij eilandsbesluit of eilandsbesluit, houdende algemene maatregelen, vastgestelde ontwerp-landsbesluiten onderscheidenlijk ontwerp-landsbesluiten, houdende algemene maatregelen van Curaçao, onderscheidenlijk Sint Maarten, verkrijgen op het tijdstip van inwerkingtreding van de artikelen I en II van de Rijkswet wijziging Statuut in verband met de opheffing van de Nederlandse Antillen de staat van landsbesluit, onderscheidenlijk landsbesluit, houdende algemene maatregelen van Curaçao, onderscheidenlijk Sint Maarten.

Artikel 60c

De Bestuurscolleges van Curaçao en Sint Maarten kunnen met elkaar en één of meer regeringen van de landen van het Koninkrijk ontwerp-onderlinge regelingen treffen die de staat van onderlinge regeling in de zin van artikel 38, eerste lid, krijgen op het tijdstip van inwerkingtreding van de artikelen I en II van de Rijkswet wijziging Statuut in verband met de opheffing van de Nederlandse Antillen.

Artikel 61

Het Statuut treedt in werking op het tijdstip van de plechtige afkondiging, nadat het bevestigd is door de Koning.
Alvorens de bevestiging geschiedt, behoeft het Statuut aanvaarding voor Nederland op de wijze, in de Grondwet voorzien; voor Suriname en voor de Nederlandse Antillen door een besluit van het vertegenwoordigende lichaam.
Dit besluit wordt genomen met twee derden der uitgebrachte stemmen. Wordt deze meerderheid niet verkregen, dan worden de Staten ontbonden en wordt door de nieuwe Staten bij volstrekte meerderheid der uitgebrachte stemmen beslist.

Artikel 62

[Vervallen.]

Bonaire, 10 September 2004	
Remaining part of the Netherlands Antilles	15.9%
Direct ties with the Netherlands	59.5%
Becoming a self governing country within the Kingdom of the Netherlands	24.1%
Becoming an independent State	0.5%
Voter turnout	56.1%
Saba, 5 November 2004	
Direct constitutional ties with the Netherlands	86.0%
Remaining part of the Netherlands Antilles	13.0%
Independence	1.0%
Voter turnout	78.0%
Curaçao, 8 April 2005	
Becoming a self governing country within the Kingdom of the Netherlands	67.83%
Independence	4.82%
Remaining in the Netherlands Antilles	3.74%
Becoming a part of the Netherlands	23.61%
Voter turnout	55.04%
St Eustatius, 8 April 2005	
Becoming part of a restructured Netherlands Antillean constitutional order	76.60%
Direct ties with the Netherlands	20.56%
Becoming a part of the Netherlands	2.18%
Independence	0.64%
Voter turnout	56.0%

Initially, the Netherlands refused to cooperate with the disintegration of the Netherlands Antilles. However, as more islands opted for a status outside of the Netherlands Antilles, the Dutch government gradually realized that far-reaching changes had to be contemplated. The public debt of the Netherlands Antilles, problems with law enforcement, large-scale migration of Antilleans to the Netherlands and media attention on these issues contributed to this process.[64] On 22 October 2005, an Outline Agreement (*Hoofdlijnenakkoord*) was signed between the Netherlands, the Netherlands Antilles and the islands.[65] The parties considered that '*the Netherlands Antilles have not developed to be one nation and one people*'. The agreement also contained a declaration of intention between the Netherlands and the BES islands, in which they agreed on closer constitutional ties. According to the declaration, the goals of the new relations should be, *inter alia*, '*accomplishing direct cooperation, defined by respect for each*

[64] Hillebrink 2008, p. 178.

[65] Outline Agreement between the Netherlands Antilles, the Netherlands, Curaçao, St Maarten, Bonaire, St Eustatius and Saba, 22 October 2005 (*Hoofdlijnenakkoord*, available at http://www.rijksoverheid. nl).

A4: Motion Island Council of the Public Entity Sint Eustatius, October 8, 2014

Motion

The Island Council of the Public Entity Sint Eustatius, in its meeting of October 8, 2014.

Considering:

- Self-determination is a core principle of people recognized as a general principle of law;
- This Core principle is embedded in a number of international treaties;
- It is the legal right of people to decide their own destiny in the international order;
- The people of Sint Eustatius did not choose the current constitutional status;
- The people of Sint Eustatius are desirous to decide their constitution status;
- That this constitutional choice should take place without any outside interference:

Resolves:

- To instruct the Executive Council of the Public Entity of Sint Eustatius to consult the people of Sint Eustatius with a constitutional referendum no later than December 31st ,2014;
- To request the IC in accordance with article 8 of the Referendum Ordinance to hear the EC pertaining to the date in 2014;
- To instruct the Referendum Committee in accordance with article 4, section b of the referendum ordinance, to propose the choices for the constitutional referendum no later than October 22,2014;

And goes over to the order of the day.

Signed by:

- Mr. Elvin Henriquez, UPC faction 8/10/14
- Mr. Reuben Merkman, Independent faction 8/10/14
- Mrs. Millicent Lijfrock- Marsdin, Independent faction 8/10/14

cc.
The Kingdom Representative, Mr. Gilbert Isabella
The Isl. Governor of Sint Eustatius, Mr. Gerald Berkel
The members of the Executive Council
The members of the Island Council

Referendum.

Eilandsraadsvergadering d.d. 8 oktober 2014.
De fracties UPC, R. Merkman (independent) mevr. M. Lijfrock-Marsdin (independent) en STEP stemmen voor de motie.
De fractie D.P. stemt tegen de motie.

Ergo

Aangenomen.

DA.

SINT EUSTATIUS
CONSTITUTIONAL REFERENDUM 2014
INFORMATION BOOKLET

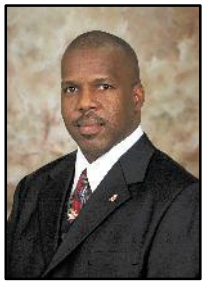
Referendum Date: *December 17, 2014*

Place: *The Lion's Den*

Time: *7:30 a.m. to 9:00 p.m.*

Table of Contents

Introduction



Fellow Citizens,

The Island Council of the public Entity of St. Eustatius has decided that a constitutional referendum will be held on December 17th 2014. This referendum provides the community of St. Eustatius with the opportunity to express its desired wish with regard to the constitutional future of our Island.

The right of self-determination of a people is a fundamental principle in international law. It is embodied in the Charter of the United Nations and the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

This referendum allows each citizen, that is eligible to vote, an opportunity to actively participate in this important moment of consultation. In order to do so, I encourage you to seek information in order to be able to participate effectively in this process. This booklet is meant to provide you with information regarding the options that will be presented on the ballot. I encourage you to read it carefully, pay close attention to and actively participate in the wider information campaign that is prepared to further equip you with the information needed to make an informed decision.

The future of our Island is the collective responsibility of all of its citizens. Let us take this opportunity to have our voices heard in determining the course of our collective future by our active participation on December 17th 2014.

Gerald Berkel
Island Governor

Words of Encouragement

Dear people:

On December 17, 2014, you will have the opportunity of a lifetime. You will have a say in the forthcoming Statia's constitutional referendum. It is understandable that the constitutional changes being proposed, means that you will be faced with many scenarios that are simply unknown to you.

Permit me to point out to you, that the biggest factor in your decision making process, is the risks that you can be influenced to vote for a constitutional status that looked too great when it comes to the matter of autonomy, but says little about the economy, education, health care, jobs and prices. Always keep in mind, that before you make your decision, it is advisable to seek undisputed facts about the pros and cons on the options. The impact of your choice may be felt for generations to come.

But it will be all right as long as you remember, when going to the poll, you do not need to rise to be the Golden Rock of long ago. Again as a people, you just need to believe in yourselves.

So, on December 17, 2014, you have a date with destiny, because Statia's future is in your hands.

Reginald C Zaandam
Commissioner of Constitutional Affairs

Brief History

The political status of Sint Eustatius (Statia), as in other countries with elected governments, determines how the people and their government relate to the rest of the world, with neighbouring countries, and with the Kingdom of the Netherlands with whom a longstanding political relationship has been established. Political status involves the evolution to a full measure of self-government with the full recognition that Statia is a small island country with limited population and resources, but with the significant human resource of the people of Statia on the island and abroad.

The political status of Statia affects the daily life of the people of Statia. It affects the standard of living, access to quality health care, the quality of the educational system that prepares young people for the future, the ability to travel, the type of society which is enjoyed, and more. The present status of public entity came about as a result of the 2006 agreement which was implemented on October 10, 2010 (10-10-10). Through a series of referenda, Sint Maarten and Curacao chose to be separate autonomous countries. Meanwhile, Saba and Bonaire chose direct ties with the Kingdom. Since the people of Statia did not choose direct ties in the 2005 referendum, it is only fair that the people be given the chance to determine whether the public entity status resulting from the direct ties is what is desirable whether it requires more autonomy, or whether relations with the world through complete independence is in the long term interest of the people.

After more than four years of this present status, Statia's elected leaders have provided the means for the people to be consulted on their political status choice through a new referendum. This is the opportunity to re-visit whether the current status is what the people actually desire, or whether an alternative option is better for the future. In order to make the best decision in this referendum, close attention should be paid to each of the alternatives for a sense of how each political status option might affect the lives of Statians. In this way, the people will be able to choose which of the options would provide the best way forward for the future. Once the option is chosen, Statia's leadership will begin the important task of holding discussions with the Kingdom on how to make the chosen option a reality.

But whatever the option chosen, external support would be critical. If change in the public entity status is recommended, this would require a level of support from the Dutch, and even from international organizations like the United Nations, to assist Statia in making the transition. If the people choose to remain in the public entity status, there will still be the need for certain changes and enhancements to make the relationship as balanced as possible. All of this will take time, but in the end, the choice in the referendum should be put in place, and the will of the people should be realized.

What does “the Right of Self-determination” means for Statia?

The Definition of Self-Determination is:

1. The right of the people of a particular place to choose the form of government they will have.
2. The freedom to make your own choices.

In simple terms this means for Statia: The People of Statia have the right to determine its own future. A referendum is one of many tools put in place for one to exercises the right to determine one own future.

What is a Referendum?

A general vote by the electorate on a single political question that has been referred to them for a direct decision.

What kind of Referendum will take place in December?

A Referendum on what Constitutional Status the people of Statia will like to have or to maintain.

Who are eligible to Vote?

1. Adult residents (who has acquired the age of eighteen and above on the day of the Referendum) of the public entity of St. Eustatius having the Dutch nationality and was not deprived of the right to vote.
2. Adult residents (who has acquired the age of eighteen and above on the day of the Referendum) of the public entity of St. Eustatius who have five years or longer legally resident and is not deprived of the right to vote to the extent of them.

What are the options that will appear on the ballot?

BALLOT

○	**1. I am in favour of Sint Eustatius to stay a Public Entity**
○	**2. I am in favour of Sint Eustatius becoming an Independent Country**
○	**3. I am in favour of Sint Eustatius becoming an Autonomous Territory within the Dutch Kingdom**
○	**4. I am in favour of Sint Eustatius becoming an Integrated in part of the Netherlands**

How do you vote?

You can vote with your Voting Pass along with proof of your identification at the Voting Bureau. The Voting Bureau will be open on Wednesday, December 17, 2014 from 7:30 a.m. until 9 p.m. To vote by means of a proxy is also available.

What is a Voting Pass?

A Voting pass is your proof to vote in the Referendum. The Voting Pass functions both as an invitation to vote as well as an exclusive proof of your right to vote.

What should you do if you do not have or received a Voting Pass?

In the event that you lost your Voting Pass, or have not received it or it is damage, you can place a request for a new Voting Pass as soon as possible on the island. The latest dates to request a replacement pass are:

- In writing is Friday, December 12, 2014;
- In person is Tuesday, December 16, 2014, up until 12 noon, at the Census Office.

When will your vote be considered invalid?

When you mark the white box in front of your choice with red, do not write anything else on the ballot sheet. A vote is invalid:

- When you vote on another ballot sheet than the one handed to you at the Voting Bureau.
- When you do not clearly indicate your choice. (You are only allowed to mark one choice).
- When you act against to the instructions given to you at the Voting Bureau. For example: leave the Voting Bureau with your ballot or use your own pen to vote.

THE OPTIONS:

PUBLIC ENTITY:

St. Eustatuis (hereafter: Statia) could remain in the same status of partial integration as a public entity of Holland, with citizenship of the Kingdom, and could negotiate for necessary improvements for the political relationship to be more balanced since the present situation allows for laws and regulations to be applied to Statia without consent. At the same time, there is no political representation for Statia in Holland which would give Statians a voice in how these laws and regulations are applied to the territory. It should be made clear that any changes recommended under the public entity status would have to be agreed by Holland.

INDEPENDENCE:

Statia under independence would provide for full internal self-government. It would allow the freedom to develop its own system of government with its own constitution. It would also permit full membership in regional organizations, and full membership in the United Nations. Independence in the 12st Century is different than in the past, as today's world is much more inter-dependent. This is especially important for countries with a small land mass and small population like Statia. An independent Statia would rely on its links with the region and the wider world to assist its development process through participation in various development banks in the Caribbean and global development institutions. An independent Statia would challenge the people to develop the type of economy of their choosing, and to create opportunities for earning revenue to fund the needs of the society.

An independent Statia could maintain the use of the United States dollar, adopt another international currency like the Euro or even the Eastern Caribbean dollar, or create its own currency. As an independent country, Statia would own and control its natural resources, including the marine resources of the exclusive economic zone. An independent Statia, as the other two political status options of integration or autonomy, would not be achieved overnight. Independence would require a transition period where significant assistance would come from the Kingdom Government, as well as from the United Nations and other international bodies to help build the capacity of the people of Statia to run their own affairs, and to work closely with the international community of nations.

AUTONOMY WITHIN THE DUTCH KINGDOM:

Statia could also choose autonomy. This is the status that the majority of the people voted for in the referendum of 2005. But that choice was for autonomy together with Saba, Bonaire, Sint Maarten, and Curacao as the Netherlands Antilles. Since the other islands voted to dismantle the Antilles, the autonomy status in cooperation with those islands was no longer available, and the public entity status which Saba and Bonaire had chosen in their referenda was accepted. The autonomy country status available in the new referendum is for Statia to be an autonomous country in its own right within the Kingdom of the Netherlands, like Curacao and Sint Maarten. As an autonomous country, Statia would have a political relationship with the Kingdom Government, and not just with one of its countries (Holland). The laws of Holland would not be applied to an autonomous Statia, and the Kingdom laws would be applied only after consultation with the Statia political leadership. An autonomous Statia would be one of the several autonomous countries of the Kingdom, like Aruba, Curacao and Sint Maarten, with its own constitution and laws. Unlike the present public entity status, there would be a representative known as the minister plenipotentiary in the Kingdom Parliament to speak on behalf of Statian interests.

INTEGRATION:

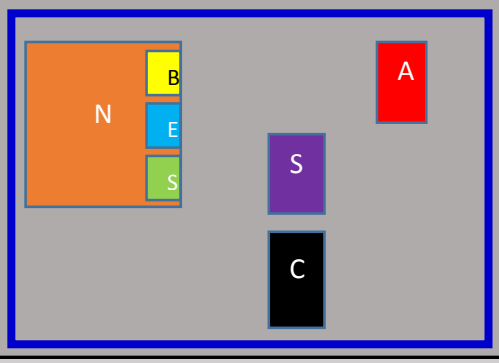
Statia could also choose full integration, like French St. Martin has with the French Republic. This status provides French St. Martiners with full political, economic and social rights in the French system. A similar status for Statia would provide these full rights in Holland, while Statia may also obtain a relationship with the European Union as an Outermost Region (OR). Full integration would also require the approval of Holland since it would have to accept Statia under equal political, economic and social terms. Full integration would also require Statia to take on a fuller set of responsibilities, such as increased taxes and other obligations, but there would also be the right to vote in the full range of Dutch elections if the necessary changes are made to the Dutch Constitution.

Examples using BOXES and COLOURS representing the various options.

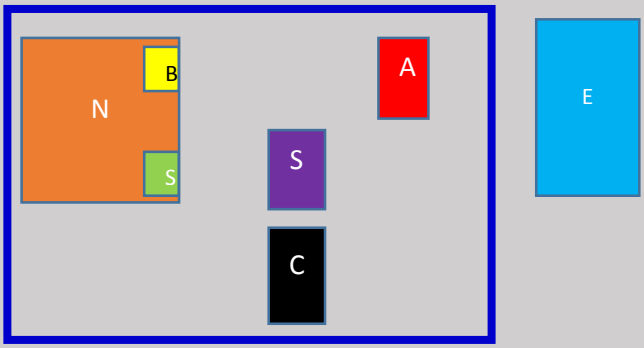
The Netherlands = N Bonaire = B Statia = E Saba = S Aruba = A

Curaçao = C St. Maarten = S The Dutch Kingdom =

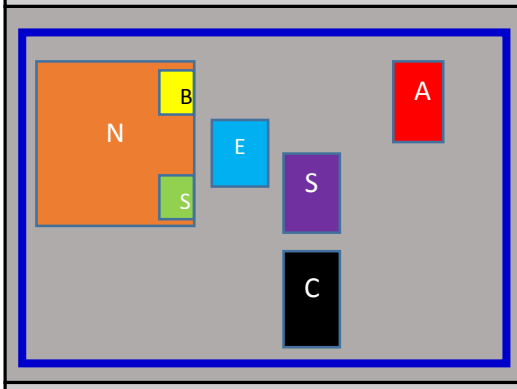
The Bigger the Box the more the responsibility and more (financial) resources needed.



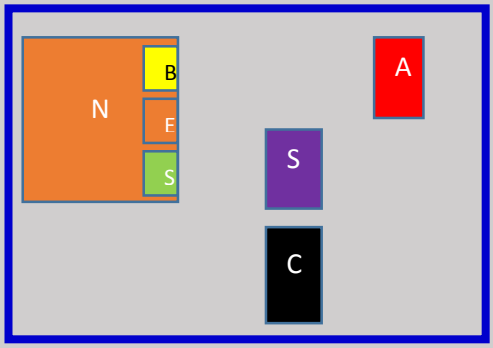
1 Public Entity. (Current Situation)



1 Independence. Statia will take care of its own affairs



1 Autonomy within the Dutch Kingdom. Islands (or countries) coming together to form a country within the Dutch Kingdom is also possible.



1 Integration. Statia is part of the Netherlands. The colour of the box E becomes the same as the box N.

PRO AND CONS:

POLITICAL	
CITIZENSHIP	
Integration	The Europe Union citizenship would be retained.
Public Entity	The Europe Union citizenship would be retained.
Autonomy	The Europe Union citizenship would be retained.
Independence	A separate Statia citizenship would be created with possible preferential provisions for access to the Caribbean, Europe and North America.
POLITICAL REPRESENTATION	
Integration	Integration does not provide for political representation in Holland. An enhanced integration could provide for representation under changes to the Dutch constitution.
Public Entity	Public Entity does not provide for political representation in Holland. An enhanced integration could provide for representation under changes to the Dutch constitution.
Autonomy	The autonomous country status provides for a minister plenipotentiary in the Second Chamber in the Parliament of the Kingdom.
Independence	Statia would be represented by an Ambassador with full diplomatic privileges and immunities.
CONSTITUTION	
Integration	Integrated Statia would not have its own constitution but would subsumed under the Constitution of Holland.
Public Entity	Public Entity would not have its own constitution but would subsumed under the Constitution of Holland.
Autonomy	An autonomous Statia would have its own constitution adopted by the people for the exercise of all powers not under the jurisdiction of the Kingdom Government and the Kingdom Charter.
Independence	An independent Statia would have its own constitution adopted by the people under no limitation of the Kingdom Charter.
APPLICATION OF LAWS/TREATIES	
Integration	Under integration, laws and treaties can be applied without the consent of, or consultation with Statia. An enhanced public entity status, subject to negotiation, may provide for a measure of consultation.
Public Entity	Public Entity, laws and treaties can be applied without the consent of, or consultation with Statia. An enhanced public entity status, subject to negotiation, may provide for a measure of consultation
Autonomy	Under autonomy, Statia would consult with the Kingdom Government through its minister plenipotentiary in the Netherlands on the applicability of laws and treaties.
Independence	As an independent country, no laws or treaties could be applied, but agreements could be entered into by Statia with the Kingdom and other countries.

ECONOMIC	
CURRENCY	
Integration	Integration may require the adoption of the Euro as in the case of the French departments of Guadeloupe and Martinique.
Public Entity	An enhanced Public Entity status would retain the existing flexibility in which official currency to be used as determined by the Kingdom Government.
Autonomy	Statia under autonomy would allow for a separate currency to be created, or the adoption of an international currency.
Independence	Statia under independence would allow for a separate currency to be created, or the adoption of an international currency.
TRADE AND INTERNATIONAL COMMERCE	
Integration	Under full integration, international trade and commerce would not be within the powers of the Government of Statia.
Public Entity	The Public Entity status does provide sufficient international personality to engage in international trade without consent. An enhanced public entity status may provide a limited form at the direction of the Kingdom Government.
Autonomy	Under autonomy, there would be more flexibility for Statia to conduct international trade within the parameters of overall Dutch trade regimes. Statia would be eligible to join the World Trade Organization (WTO).
Independence	Statia would be able to trade freely and to enter into trade agreements with all countries subject to international trading sanctions, to join regional trade groups such as the Free Trade Area of the Americas, the Caribbean Single Market and Economy (CSME), as well as the WTO.
TAXES	
Integration	The imposition of taxes, and relevant information on export duties generated in Statia, would be subject to the laws of Holland, and certain taxes would be repatriated to Holland.
Public Entity	The imposition of taxes, and relevant information on export duties generated in Statia, would be subject to the laws of Holland, and certain taxes would be repatriated to Holland.
Autonomy	Under autonomous arrangement, taxation would be subject to the laws of the autonomous country which would retain the revenue.
Independence	Under independence, taxation would be subject to the laws of the independent country which would retain the revenue.
OWNERSHIP OF NATURAL RESOURCES	
Integration	Under Integration, the ownership and control of natural resources, including marine resources of the exclusive economic zone is solely under the jurisdiction of the Kingdom. An enhanced public entity status would not likely result in any change in this ownership.
Public Entity	Under the present Public Entity status, the ownership and control of natural resources, including marine resources of the exclusive economic zone is solely under the jurisdiction of the Kingdom. An enhanced public entity status would not likely result in any change in this ownership.
Autonomy	Under an autonomous country status, the ownership and control of natural resources, including marine resources of the exclusive economic zone and the territorial sea would be under the jurisdiction of the Kingdom with the power delegated to the autonomous country to make rules for governing these Kingdom assets. This could be subject to negotiations of the specific type of autonomous arrangement.
Independence	The ownership and control of natural resources, including marine resources of the exclusive economic zone and the territorial sea would be owned by the people of Statia.

Contact Information

For information relating to voting matters please contact Mr. Ricardo Tjie-A-Loi by:

- Telephone: +599-318-2027 / +599-318-2497
- Email: census.office@statiagov.com / elections@statiagov.com

For all other information please contact Mr. Louis Brown at the Godeth House by:

- Telephone: +599-318-2373
- Email: l.brown@statiagov.com

A6: Sint Eustatius status Referendum 2014

Open Access Articles- Top Results for Sint Eustatius status referendum, 2014

Sint Eustatius status referendum, 2014

A **status referendum** was held in Sint Eustatius on 17 December 2014.[1] Although a majority of those voting opted for autonomy within the Kingdom of the Netherlands, voter turnout was well below the 60% required for the referendum to be binding.[2]

Background

The decision to hold a referendum was approved by the Island Council on 8 October and supported by the United People's Party the Statia Liberal Action Movement independent MP Reuben Merkman. On 25 October the date was set for 17 December, with only the Democratic Party opposed.[1]

Question

Voters will be presented with four options:[1]

1. Remain a public body
2. Independence
3. Autonomy within the Kingdom of the Netherlands
4. Integration into the Netherlands

Result

Choice	Votes	%
Autonomy	747	65.53
Public body (status quo)	374	32.81
Integration	14	1.23
Independence	5	0.44

Invalid/blank votes	16	–
Total	**1,156**	**100**
Registered voters/turnout	2,546	45.40
Source: Saba News		

http://research.omicsgroup.org/index.php/Sint_Eustatius_status_referendum,_2014

A7: Motion Island Council of the Public Entity Sint Eustatius, May 28, 2015

MOTION

The Island Council of the Public Entity Sint Eustatius in its meeting of today, May 28th, 2015,

Considering that on October 10th, 2010, Sint Eustatius obtained the status of Public Entity within the realm of The Netherlands, which also has indirect implications for its relationship with the European Union,

Also considering that the attainment of said status can be considered as having been (partially) integrated into The Netherlands, which is not in accordance with the results of the plebiscite of April 2005, in which the population of Sint Eustatius clearly opted for the island territory to remain part of a restructured Netherlands Antilles,

Further considering the results of the plebiscite of December 17th, 2014, which established that a large majority of the population of Sint Eustatius wishes for the island to achieve the status of Autonomous Territory within the Dutch Kingdom,

Aware of the fact that the results of the plebiscite of December 17th, 2014 and its formal ramifications were significantly influenced by the lack of proper preparations and preparation time on the part of the Government, the increased required turn-out criteria, and complications related to voter registration and participation,

Concluding that therefore, the population of Sint Eustatius has not yet exhausted all its options as far as exercising its right to self-determination in accordance with the Charter of the United Nations is concerned,

Noting that The Netherlands has acted in violation of United Nations resolution 1514 (XV) by allowing the disruption of the national unity and the territorial integrity of the Netherlands Antilles twice, by allowing the exit of Aruba from the Netherland Antilles in 1986 and the dismantling of the Netherlands Antilles on October 10th, 2010,

Further considering that after the plebiscite of April 2005, a constitutional consultation and negotiation process between local and national governments within the Kingdom of the Netherlands took place, aimed at establishing a new constitutional order between the islands of the former Netherlands Antilles and The Netherlands,

Reminding the Government of The Netherlands of the many written commitments it made during said constitutional consultation and negotiation process and prior to the dismantling of the Netherlands Antilles and the attainment of the status of Public Entity by Sint Eustatius related to equality, the preservation and respecting of human rights and Sint Eustatius' culture, maintaining an acceptable standard of living where it concerns

finances, health care, social security, and education, and ensuring a smooth transition to the new status,

Also considering the fact that the status of Public Entity does not meet the minimum standard for internal self- government as determined by the UN General Assembly in 1960,

Considering the fact that the Netherlands, which is a member of the United Nations, has a legal obligation to develop self-government, to take due account of the political aspirations of the peoples of the administering territory and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement, based on chapter XI, article 73b of the United Nations Charter,

Further reminding The Government of the Netherlands of the fact that it did not live up to its responsibility towards Sint Eustatius, and in particular its guarantees given at the Round Table Conference of 1983, during the past decades where it relates to ensuring that a proper level of facilities and services was provided to the population, and that this has led to the island territory being ill-prepared and having large deficits in most, if not all, policy areas at the time it attained its new status,

Aware of the numerous attempts made during the past years by the Government of Sint Eustatius to address said deficits and the many problems related to the attainment of the status of Public Entity with the Government of The Netherlands, and to have the latter provide adequate solutions,

Considering that these attempts have not yielded the desired beneficial results for the population of Sint Eustatius thus far,

Further considering that said deficits and problems, including the related financial strain and strict requirements are seriously impeding the Government of Sint Eustatius as it carries out its tasks and carries its responsibilities on behalf of the population of Sint Eustatius,

Having read the report of the Dutch Parliamentary fraction ChristenUnie of September 2011, which report outlines the failures of the Government of The Netherlands to adequately prepare for the transition, preserve and respect human rights and Sint Eustatius' culture, maintain an acceptable standard of living for the population of Sint Eustatius, including health care, social security, and education, and ensure a smooth transition to Sint Eustatius' new status,

Also having read and concurring with the conclusions of the publications "The right to self-determination and the dissolution of the Netherlands Antilles", by Charlotte Duijf and Alfred Roos and "Political Decolonization and Self-Determination" by Steven Hillebrink,

Aware of the fact that many questions have been raised and many concerns exist in the Parliament of The Netherlands about the manner in which the transition to the new status was prepared, has been-, and continues to be handled by the Dutch Government in the broadest sense of the word, and in particular the extent to which sufficient funding and provision of services has been-, and is being provided to Sint Eustatius by the Dutch Government,

Strongly convinced that the agreements made prior to October 10th, 2010 and the manner in which they are being given content d by the Government of The Netherlands are not in the best interest of the population of the Public Entity of Sint Eustatius, do not take into account the large deficits in most, if not all policy areas at the time of the transition, and therefore need to be urgently revisited in accordance with the governing program of the coalition government on Sint Eustatius, in order to protect the interests of the population of the island,

Lamenting the fact that the current consultations between the Government of The Netherlands and that of the Public Entity of Sint Eustatius are not being conducted on a basis of fairness, transparency, equality, and mutual respect in all cases, whereby political, social and economic equality form key elements of integration,

Committed to offering the citizens of the Public Entity of Sint Eustatius good governance and a continued proper standard of living, while becoming more self-reliant and less dependent on the Government of The Netherlands,

Desirous of having the new constitutional status of Sint Eustatius, the manner in which it came about, and the manner in which it was prepared and given content by the Government of The Netherlands, assessed and evaluated by the General Assembly of the United Nations and/or any of its Committees, in accordance with General Assembly resolution 1541(XV), principles VI and VII,

Reminding The Netherlands, as a colonial power, of its continued obligations towards Sint Eustatius as part of the former Netherlands Antilles,

1. *Ratifies* the results of the plebiscite of December 17th, 2014 and considers the results to be a clear mandate to the elected representatives of Sint Eustatius to pursue a more autonomous status within the Dutch Kingdom, albeit transitory in nature, but in accordance with the criteria set aside by the United Nations,

2. *Further* considers the results of plebiscite of December 17th, 2014 to be supportive of the contention that the current constitutional status of Sint Eustatius was established against the will of the people of Sint Eustatius, and the quest of the Government of the Public Entity of Sint Eustatius to pursue an autonomous arrangement.

3. *Instructs* the Executive Council of the Public Entity of Sint Eustatius to immediately initiate efforts towards achieving a more autonomous status within the Dutch Kingdom for the Public Entity of Sint Eustatius, including but not limited to starting consultations with the civil society organizations on Sint Eustatius, the Government of The Netherlands, independent external advisors, and the relevant entities resorting under the United Nations.

4. *Reminds* the Government of The Netherlands to take the outcome of the plebiscite of December 17th, 2014 and the content of this motion into serious consideration during the process of evaluation and decision-making following the currently ongoing evaluation process carried out by the Evaluation Committee,

5. *Requests* the Chairman of the Island Council of the Public Entity of Sint Eustatius to urgently bring this motion to the attention of the respective Governments and Parliaments within the Kingdom of The Netherlands, the civil society organizations on Sint Eustatius, and the Evaluation Committee

and goes over to the order of the day.

PLP

U.P.C.

PIP

De fracties PLP en UPC stemmen vóór deze motie
De fractie DP stemt tegen de motie (Dhr. Sneek afwezig).

Deze motie is Aangenomen.

RAADSGRIFFIER
Caribisch Nederland
SINT EUSTATIUS

REFERENDUM RESULTS 2014				
ELIGIBLE VOTERS	2546			
Required turnout	1528	60%		
votes cast	1156	45.40%		
valid votes	1148			
Invalid votes	12			
Blank votes	4			
OPTION 1	374	32%		Public Entity
OPTION 2	5	0%		Independence
OPTION 3	747	65%		Status Aparte
OPTION 4	14	1%		Full Integration

Voter Turnout by hour		
7:30 -8:30	58	58
8:30 - 9:30	59	117
9:30-10:30	91	208
10:30-11:30	83	291
11:30-12:30	89	380
12:30-13:30	72	452
13:30-14:30	73	525
14:30-15:30	58	583
15:30-16:30	79	662
16:30-17:30	93	755
17:30-18:30	122	877
18:30-19:30	143	1020
19:30-20:30	105	1125
20:30-21:00	31	1156
Total votes cast		1156

A8: Motion Island Council of Public Entity Sint Eustatius, November 30, 2016

MOTION

The Island Council of the Public Entity Sint Eustatius in its meeting of today, Wednesday, November 30th, 2016,

Considering that conclusively and expeditiously exercising the right to self-determination based on the plebiscite held on December 14th, 2014, and achieving an autonomous relationship in free association with the Netherlands in accordance with the Charter of the United Nations is in the best interest of the population of Sint Eustatius and the island's sustainable development as a small island developing state, and therefore has the highest priority on the government's policy agenda,

Further considering that the Secretary-General of the United Nations has as recently as May 2015 called for the process of decolonization to be advanced,

Recalling the motions which it has adopted since October 10th, 2010 related to constitutional affairs, self-determination, and the relationship between Sint Eustatius and the Netherlands,

Particularly recalling the motions which it adopted on October 12th, 2011, April 28th, 2015, and June 19th, 2015,

Noting that both the government of-, and civil society on Sint Eustatius, including representatives of political parties represented in the Island Council, have requested the involvement of the Dutch government as well as the intervention of the United Nations, the Caribbean Community, the Organization of Eastern Caribbean States, and the Association of Caribbean States, and the Conferencia Permanente de Partidos Políticos de América Latina y el Caribe, in order to ensure that the population of Sint Eustatius can freely exercise its right to self-determination in accordance with the Charter of the United Nations, and achieve the sustainable development goals of the island,

Further noting that in June of 2016, both the Dutch Senate and Parliament have indicated the desire to fundamentally restructure and modernize the Charter of the Kingdom of the Netherlands which was promulgated in 1954, in order to address the drastically changed political realities within the Dutch Kingdom, and accommodate the wishes regarding self-determination of the populations of the Dutch-Caribbean constituent entities Aruba, Bonaire, Curacao, Saba, Sint Eustatius, and Sint Maarten as expressed since the promulgation of said Charter,

Concerned that the Dutch Government is continueing the process of permanently embedding Sint Eustatius into the Dutch constitution as an overseas municipality, despite the fact that this constitutes a clear violation of the right to self-determination of the people of Sint Eustatius,

Convinced that permanently embedding Sint Eustatius into the Dutch constitution as a overseas municipality, and the differentiation which the Dutch Government has already started applying arbitrarily in doing so, will lead to the population of Sint Eustatius being further marginalized and deprived of certain human rights which the population of municipalities in the European will enjoy, and thus be reduced to second-class Dutch citizens,

Aware of a joint motion presented to the Dutch Parliament on October 13th, 2016 by the SP and VVD factions, requesting the Dutch Government to initiate consultations with the United Nations and Aruba, Curaçao, and Sint Maarten in order to finalize the process of decolonization c.q. exercising the right of self-determination by all countries in the Kingdom of the Netherlands.

Also aware of a joint proposal presented to the Dutch Parliament on July 3rd, 2013 by the SP and VVD factions, proposing replacing the current Charter of the Kingdom of the Netherlands with a Commonwealth structure comprising the Netherlands and the Dutch-Caribbean constituent entities, in order to achieve full internal self-government for all seven constituent entities withing the Kingdom of the Netherlands,

Desirous of exploring the option of replacing the current Charter of the Kingdom of the Netherlands with a Commonwealth structure as a vehicle for Sint Eustatius and the other Dutch-Caribbean constituent entities to finalize the process of decolonization by exercising their right to self-determination and achieving a full measure of self-government in accordance with the Charter of the United Nations,

Committed to having Sint Eustatius re-inscribed as a Non-Self-Governing territory by the United Nations as soon as possible, until the process of decolonization by exercising the right to self-determination by the people of Sint Eustatius has been finalized in accordance with the Charter of the United Nations, in order to protect and defend their human rights,

Further committed to having an independent Self-Governance Assessment completed for submission to the United Nations in order to advance the procedure of re-inscription of Sint Eustatius on the United Nations' list of Non Self-Governing Territories,

1. *Instructs* the Executive Council to, in accordance with the relevant Island Council decrees issued related to this and previous motions, initiate consultations with the government of the Netherlands no later than the first quarter of 2017 regarding constitutional reform and exercising the right to self-determination by the people of Sint Eustatius,

2. *Further* instructs the Executive Council to, in accordance with the relevant Island Council decrees issued related to this and previous motions, initiate consultations with the relevant United Nations bodies, its member states, and other third parties

prior to the end of 2016 regarding the support for Sint Eustatius' quest for constitutional reform and exercising the right to self-determination by its people, including the procedure of re-inscription,

3. *Charges* the Executive Council with preparing a detailed and concrete plan of action for achieving full autonomy in free association with the Netherlands, including a timeline, no later than March 31st, 2017

4. *Urges* the Government of The Netherlands to cooperate and assist with that of Sint Eustatius in having consultations regarding constitutional reform and exercising the right to self-determination by the people of Sint Eustatius, including creating the plan of action for achieving full autonomy in free association with the Netherlands,

5. *Further* urges the Government of The Netherlands to immediately lift all measures of additional supervision imposed on Sint Eustatius, and cooperate with the immediate destablishment of a joint committee which shall address all disputes between both governments and establish the parameters for differentiation between Dutch municipalities and Sint Eustatius when it comes to governance and finances,

Instructs the Chairman of the Island Council of the Public Entity of Sint Eustatius to bring this motion to the immediate attention of the respective Governments and Parliaments within the Kingdom of The Netherlands, the Council of State, Pro Statia, Brighter Path Foundation, the Evaluation Committee Caribbean Netherlands, the Governments and Parliaments of the member-, and associate member states of CARICOM the OECS, and the ACS, the Latin American Parliament, the United Nations Special Committee on Decolonization, the United Nations Committee on Economic, Social and Cultural Rights, the Alliance of Small Island States, The Netherlands Institute for Human Rights, and Dr. Carlyle Corbin,

and goes over to the order of the day.

RAADSGRIFFIER Caribisch Nederland SINT EUSTATIUS

De fractie PIP stemt vóór de motie, Dhr. R. Merkman stemt vóór de motie. De fractie DP stemt tegen de motie. De motie is aangenomen met drie stemmen.

1. *Takes note* of the report of the Secretary-General on offers of study and training facilities under General Assembly resolutions 845 (IX);

2. *Reaffirms* its resolution 1471 (XIV) of 12 December 1959;

3. *Invites once again* the Administering Members concerned to take all necessary measures to ensure that scholarships and training facilities offered by Member States are utilized by the inhabitants of the Non-Self-Governing Territories, and to render every assistance to those persons who have applied for, or have been granted, scholarships or fellowships, particularly with regard to facilitating their travel formalities;

4. *Requests* all Administering Members which have not already done so to give the fullest publicity in the Territories under their administration to all offers of study and training facilities made by Member States;

5. *Urges* Member States to increase the number of scholarships offered;

6. *Requests* the Member States offering scholarships to take into account the necessity of furnishing complete information about the scholarships offered, and, whenever possible, the need to provide travel funds to prospective students;

7. *Requests* the Secretary-General and the specialized agencies to give such assistance as is possible and as may be sought by the Member States concerned and by the applicants;

8. *Further requests* the Secretary-General to prepare for the sixteenth session of the General Assembly a report on the actual use of scholarships and training facilities offered by Member States to students from the Non-Self-Governing Territories.

948th plenary meeting,
15 December 1960.

1541 (XV). Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter

The General Assembly,

Considering the objectives set forth in Chapter XI of the Charter of the United Nations,

Bearing in mind the list of factors annexed to General Assembly resolution 742 (VIII) of 27 November 1953,

Having examined the report of the Special Committee of Six on the Transmission of Information under Article 73 e of the Charter,[12] appointed under General Assembly resolution 1467 (XIV) of 12 December 1959 to study the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73 e of the Charter and to report on the results of its study to the Assembly at its fifteenth session,

1. *Expresses its appreciation* of the work of the Special Committee of Six on the Transmission of Information under Article 73 e of the Charter;

2. *Approves* the principles set out in section V, part B, of the report of the Committee, as amended and as they appear in the annex to the present resolution;

3. *Decides* that these principles should be applied in the light of the facts and the circumstances of each case to determine whether or not an obligation exists to transmit information under Article 73 e of the Charter.

948th plenary meeting,
15 December 1960.

[12] *Ibid.*, agenda item 38, document A/4526.

ANNEX

PRINCIPLES WHICH SHOULD GUIDE MEMBERS IN DETERMINING WHETHER OR NOT AN OBLIGATION EXISTS TO TRANSMIT THE INFORMATION CALLED FOR IN ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS

Principle I

The authors of the Charter of the United Nations had in mind that Chapter XI should be applicable to territories which were then known to be of the colonial type. An obligation exists to transmit information under Article 73 e of the Charter in respect of such territories whose peoples have not yet attained a full measure of self-government.

Principle II

Chapter XI of the Charter embodies the concept of Non-Self-Governing Territories in a dynamic state of evolution and progress towards a "full measure of self-government". As soon as a territory and its peoples attain a full measure of self-government, the obligation ceases. Until this comes about, the obligation to transmit information under Article 73 e continues.

Principle III

The obligation to transmit information under Article 73 e of the Charter constitutes an international obligation and should be carried out with due regard to the fulfilment of international law.

Principle IV

Prima facie there is an obligation to transmit information in respect of a territory which is geographically separate and is distinct ethnically and/or culturally from the country administering it.

Principle V

Once it has been established that such a *prima facie* case of geographical and ethnical or cultural distinctness of a territory exists, other elements may then be brought into consideration. These additional elements may be, *inter alia*, of an administrative, political, juridical, economic or historical nature. If they affect the relationship between the metropolitan State and the territory concerned in a manner which arbitrarily places the latter in a position or status of subordination, they support the presumption that there is an obligation to transmit information under Article 73 e of the Charter.

Principle VI

A Non-Self-Governing Territory can be said to have reached a full measure of self-government by:

(*a*) Emergence as a sovereign independent State;

(*b*) Free association with an independent State; or

(*c*) Integration with an independent State.

Principle VII

(*a*) Free association should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes. It should be one which respects the individuality and the cultural characteristics of the territory and its peoples, and retains for the peoples of the territory which is associated with an independent State the freedom to modify the status of that territory through the expression of their will by democratic means and through constitutional processes.

(b) The associated territory should have the right to determine its internal constitution without outside interference, in accordance with due constitutional processes and the freely

expressed wishes of the people. This does not preclude consultations as appropriate or necessary under the terms of the free association agreed upon.

Principle VIII

Integration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenship and equal guarantees of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.

Principle IX

Integration should have come about in the following circumstances:

(*a*) The integrating territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes;

(*b*) The integration should be the result of the freely expressed wishes of the territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. The United Nations could, when it deems it necessary, supervise these processes.

Principle X

The transmission of information in respect of Non-Self-Governing Territories under Article 73 e of the Charter is subject to such limitation as security and constitutional considerations may require. This means that the extent of the information may be limited in certain circumstances, but the limitation in Article 73 e cannot relieve a Member State of the obligations of Chapter XI. The "limitation" can relate only to the quantum of information of economic, social and educational nature to be transmitted.

Principle XI

The only constitutional considerations to which Article 73 e of the Charter refers are those arising from constitutional relations of the territory with the Administering Member. They refer to a situation in which the constitution of the territory gives it self-government in economic, social and educational matters through freely elected institutions. Nevertheless, the responsibility for transmitting information under Article 73 e continues, unless these constitutional relations preclude the Government or parliament of the Administering Member from receiving statistical and other information of a technical nature relating to economic, social and educational conditions in the territory.

Principle XII

Security considerations have not been invoked in the past. Only in very exceptional circumstances can information on economic, social and educational conditions have any security aspect. In other circumstances, therefore, there should be no necessity to limit the transmission of information on security grounds.

1542 (XV). Transmission of information under Article 73 e of the Charter

The General Assembly,

Recalling that, by resolution 742 (VIII) of 27 November 1953, the General Assembly approved a list of factors to be used as a guide in determining whether a Territory is or is no longer within the scope of Chapter XI of the Charter of the United Nations,

Recalling also that differences of views arose among Member States concerning the status of certain territories under the administrations of Portugal and Spain and described by these two States as "overseas provinces" of the metropolitan State concerned, and that with a view to resolving those differences the General Assembly, by resolution 1467 (XIV) of 12 December 1959, appointed the Special Committee of Six on the Transmission of Information under Article 73 e of the Charter to study the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73 e,

Recognizing that the desire for independence is the rightful aspiration of peoples under colonial subjugation and that the denial of their right to self-determination constitutes a threat to the well-being of humanity and to international peace,

Recalling with satisfaction the statement of the representative of Spain at the 1048th meeting of the Fourth Committee that his Government agrees to transmit information to the Secretary-General in accordance with the provisions of Chapter XI of the Charter,

Mindful of its responsibilities under Article 14 of the Charter,

Being aware that the Government of Portugal has not transmitted information on the territories under its administration which are enumerated in operative paragraph 1 below and has not expressed any intention of doing so, and because such information as is otherwise available in regard to the conditions in these territories gives cause for concern,

1. *Considers* that, in the light of the provisions of Chapter XI of the Charter, General Assembly resolution 742 (VIII) and the principles approved by the Assembly in resolution 1541 (XV) of 15 December 1960, the territories under the administration of Portugal listed hereunder are Non-Self-Governing Territories within the meaning of Chapter XI of the Charter:

(*a*) The Cape Verde Archipelago;
(*b*) Guinea, called Portuguese Guinea;
(*c*) São Tomé and Príncipe, and their dependencies;
(*d*) São João Batista de Ajudá;
(*e*) Angola, including the enclave of Cabinda;
(*f*) Mozambique;
(*g*) Goa and dependencies, called the State of India;
(*h*) Macau and dependencies;
(*i*) Timor and dependencies;

2. *Declares* that an obligation exists on the part of the Government of Portugal to transmit information under Chapter XI of the Charter concerning these territories and that it should be discharged without further delay;

3. *Requests* the Government of Portugal to transmit to the Secretary-General information in accordance with the provisions of Chapter XI of the Charter on the conditions prevailing in the territories under its administration enumerated in paragraph 1 above;

4. *Requests* the Secretary-General to take the necessary steps in pursuance of the declaration of the Government of Spain that it is ready to act in accordance with the provisions of Chapter XI of the Charter;

5. *Invites* the Governments of Portugal and Spain to participate in the work of the Committee on Information from Non-Self-Governing Territories in accordance

International Covenant on Civil and Political Rights

A10: International Covenant on Civil and Political Rights (ICCPR) & International Covenant on Economic, Social and Cultural Rights (ICESCR)

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1 . In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3.

(a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2.

(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation. Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation. 5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1 . No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all

persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.

2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.

3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.

2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.

2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4. 2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The

election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:

(a) Twelve members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights: (a) Within one year of the entry into force of the present Covenant for the States Parties concerned;

(b) Thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph I of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1.

(a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

(b) If an amicable solution to the matter on tie basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

(c) If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

(d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

Article 43

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

PART V

Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes. 3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

1. Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph I of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 48;

(b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

International Covenant on Economic, Social and Cultural Rights

**Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI)
of 16 December 1966**

entry into force 3 January 1976, in accordance with article 27

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions; (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 8

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State. 3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture. 3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2.

(a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph I of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 26;

(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

THE DAILY HERALD, Friday, August 13, 2010

Statia speaks up at information session

ROTTERDAM--Xiomara Balentina of the Friends of Statia (FOS) foundation made sure she defended the interests of her people during Thursday's constitutional information session in Rotterdam.

Balentina, who is well-known for her critical views, especially on the constitutional-reform process, asked Dutch Ministry of Home Affairs and Kingdom Relations BZK representative Alexander Dalenoord whether the people of St. Eustatius would have a chance, after the evaluation period after five years, to choose a different status than that of "public entity."

Dalenoord played it safe and referred to earlier statements of caretaker State Secretary of Home Affairs and Kingdom Relations Ank Bijleveld-Schouten. "The State Secretary has always said that the Netherlands is willing to discuss another status if the people so desire," he said.

But he added, "We have started to integrate the islands into the Dutch Constellation. In the coming years we will continue doing so step by step in consultation with the local governments. That is why the State Secretary has said that there was only one other option: independence. We only have two possibilities in the Dutch Kingdom: the status of country or public entity. Going back to the Netherlands Antilles in any case is not possible," said Dalenoord.

Balentina posed the question because she is concerned about the fact that the Statia people never had a chance to express themselves on the status of integrating into the Netherlands. "We chose to stay in the Netherlands Antilles. When that appeared impossible, government opted for the public entity status without consulting the people," she said.

"I don't agree with that. My preference is to have a free association in St. Eustatius so that we would still have a say in our own affairs while staying in the Kingdom. You could call it a form of semi-autonomy," said Balentina, a psychologist who plans to return to her island next year.

Balentina was one of the many persons to pose questions at the second information session of the Central Government in the Netherlands this week. More than 200 persons attended the session, more or less the same number that showed up in Voorburg near The Hague on Wednesday.

Presentations were given by Minister of Finance Ersilia "Zus" de Lannooy, Minister of Education and Culture Omayra Leeflang, State Secretary of Justice Dudley Lucia, policy advisor on labour issues Roland Ignacio and Dalenoord of BZK. The third and last session takes place today, Friday, in Utrecht.

Philipsburg Office of the Representation of the Netherlands in the Netherlands Antilles head Lars Walrave presents a cheque for US $1000 to St. Maarten National Heritage Foundation (SMNHF) Director Elsje Bosch. SMNHF is a non-profit organisation dedicated to protecting the national heritage of St. Maarten. This donation was made available through the Small Projects fund and is intended to contribute to SMNHF's project "Bringing the island's heritage to the schools." It aims to enhance children's interest

The semi-submersible ship new drilling platform "Nob deep-water harbour of Cara rig to float on its own. The p moored about four weeks fo will be delivered to the Gulf

Deman for kill

ARNHEM--The Prosecution in Arnhem has again demanded a prison term of twenty years for Curaçao-born Julien Constancia, accused of having killed an eight-year-old boy.

Even though the suspect denied all allegations, the Prosecution is convinced that Constancia (26) stabbed Jesse Dingemans to death at his school in Hoogerheide, a town in the

A12: Formal petition against embedding of public entity Sint Eustatius in the Dutch Constitution

ST. EUSTATIUS
CARIBISCH NEDERLAND

The Council of Ministers of the Kingdom of the Netherlands
Attn. The Prime Minister, Hon. Mark Rutte
Binnenhof 19 | 2513 AA | The Hague
P.O. box 20001 | 2500 EA | The Hague
The Netherlands

Ref.: 0001/17

January 4, 2017

Subject: formal petition against embedding of public entity Sint Eustatius in the Dutch constitution

Dear Sir,

In carrying out the attached motion of the Island Council of November 30th, the Executive Council is hereby presenting the government of the Netherlands with the following formal petition.

Grievance

The Dutch government has unilaterally started the process of embedding the public entity of Sint Eustatius in the Dutch constitution. Such action, as was the establishment of Sint Eustatius as a public entity on October 10th, 2010, is in violation of Dutch law, which by virtue of its inclusion of-, and relation with the international legal order, protects the people of Sint Eustatius' right to freely express their right to self-determination and choose their political status.

Material facts

- The majority of the world community represented in the UN in 1954 was not convinced that the Dutch colonies Suriname and the Netherlands Antilles had achieved a full-measure of self-government with the enactment of the Kingdom Charter in 1954;
- The Netherlands was unjustly relieved of its obligation to report on its overseas territories by means of GA resolution 945
- Resolution 945 does not affirm that the former Netherlands Antilles had received a full measure of self-government under Article 73 (b). It merely removed the requirement of the Netherlands to regularly submit information regarding its colonies to the UN under Article 73 (e). It preserved the UN authority to decide whether a Non Self Governing Territory (such as

the Netherlands Antilles then and Sint Eustatius now) has attained a full measure of self-government.

- Said UN authority comes in the form of resolutions adopted by the Committee assessing Resolution 742 VIII (Review of the Kingdom Charter under Article 73 of the UN Charter) declaring that Resolution 742 only related to Article 73 (e) and that Articles (a) to (d) of Article 73 remain in force.
- It is clear that the Committee looking into this matter was of the view that decolonization of the Netherlands Antilles remained incomplete and the UN remained authorized to review the situation under Article 73;
- Resolution 945 clearly establishes the competence of the General Assembly in the matter of deciding if a Non Self Governing Territory (which includes Sint Eustatius) has attained full measure of self-government.
- Constitutional and other developments, as well as statements by public and academic authorities within and without the Dutch Kingdom since 1954 have convincingly established that the Kingdom Charter did not result in a full measure of self-government for the current Dutch overseas territories and needs to be structurally revamped if such objective is to be achieved;
- The peoples of the overseas territories Bonaire, Curaçao, Saba, Sint Eustatius, and Sint Maarten have all expressed their inalienable right to self-determination during the plebiscites held in 2004, 2005, 2010, 2014, and 2015, thus prior to and after the new constitutional order within the Kingdom of the Netherlands which took effect on 10-10-'10;
- Said new constitutional order has led to (more) discontent among the peoples of the Dutch overseas territories, as confirmed in the evaluation report of the "Spies Committee", and further exposed the mentioned democratic deficit within the Kingdom of the Netherlands;
- The results of the UN- observed referenda on the islands of Bonaire (2004, 2010, and 2015) and Sint Eustatius (2005 and 2014) clearly indicated that the populations of the islands did not freely choose their current constitutional relationship with the Dutch Kingdom in accordance with the UN Charter and GA resolutions;
- In light of the UN observed referendum on December 17, 2014, in Sint Eustatius there were reports of irregularities, despite the overwhelming choice for "Autonomy within the Dutch Kingdom";
- The current status of the Dutch overseas territories is not in compliance with the UN Charter, applicable GA resolutions, and international constitutional laws and conventions;
- The official position of the Dutch Government on the evaluation report of the Spies Committee is a further violation of the right to self-determination of the people of Sint Eustatius.

ST. EUSTATIUS
CARIBISCH NEDERLAND

Relief sought

Considering the material facts presented herein, the Executive Council, being the competent executive body of the public entity Sint Eustatius tasked with preparing a detailed and concrete plan of action for achieving full autonomy in free association with the Netherlands, in accordance with the relevant Island Council degrees, with the support of civil society organizations Brighter Path Foundation, Pro Statia and Nos Ke Boneiru Bek, urgently calls on the governments of the Kingdom of the Netherlands and the Netherlands to immediately cease the unilateral process of embedding the public entity of Sint Eustatius in the Dutch constitution, and commence consultations with the government of Sint Eustatius aimed at the public entity achieving full internal self-governance by means of free association with the Netherlands, in accordance with the expressed wishes of the people of Sint Eustatius, and the international legal order, also aware of reports of irregularities surrounding the December 17, 2014 constitutional referendum in Sint Eustatius, strongly urges the release of the UN report on the 2014 referendum results to the Government of Sint Eustatius.

Sincerely,

On behalf of the Executive Council of the public entity Sint Eustatius,

The Acting Island Governor

Mr. J.C.A. Woodley

BESTUURSCOLLEGE Caribisch Nederland SINT EUSTATIUS

The Island Secretary

Mr. K.A. Kerkhoff

Cc: The minister of the Interior and Kingdom Relations
The Island Council of Sint Eustatius
The House of Representatives of the Parliament of the Netherlands
The Senate of the Parliament of the Netherlands
The Island Councils and Executive Councils of Saba and Bonaire
The Parliaments and Councils of Ministers of Aruba, Curaçao, and Sint Maarten
The Council of State of the Kingdom of the Netherlands
Pro Statia
Brighter Path Foundation
The Governments and Parliaments of the member-, and associate member states of CARICOM, the OECS, and the ACS
The Latin American Parliament Parlatino
The United Nations Special Committee on Decolonization

ST. EUSTATIUS
CARIBISCH NEDERLAND

The United Nations Committee on Economic, Social and Cultural Rights
The Alliance of Small Island States
The Netherlands Institute for Human Rights (College voor de rechten van de mens)
Dr. Carlyle Corbin

ST. EUSTATIUS - TEL: (599) 318- 2604/2906 - FAX: 0318-2228 – Email: office.islandsec@statiagov.com

The Daily Herald

CROATIA BEAT SPAIN P. 44

Congo Politician Sentenced For War Crimes Page 30

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Electoral reform regulation should be before Parliament by next week

PHILIPSBURG–The draft electoral reform regulation to halt ship-jumping by tying parliamentary seats to parties is expected to be before Parliament for debate next week.

Parliament Chairperson Sarah Wescot-Williams told the press Tuesday, "indications from government circles" are the law will be submitted to Parliament by the end of this week. A "slot" has been left open in next week's schedule to kick off the handling of the law before the annual summer recess. The recess starts at the end of next week.

The aim is to get the reform adopted before Election Day on September 26.

The main premise of the reform is to only allow parties to form a government. A Member of Par-

Continued on page 9

St. Maarten Vocational Training School (SMVTS) graduated 43 students during a ceremony themed "Energy and persistence conquer all things" held at the Philipsburg Cultural and Community Centre on Tuesday evening. Valedictorian was Okefa Benfield. In photo: The SMVTS graduating class of 2016.

Senate implores Plasterk to set decent social minimum

THE HAGUE--The First Chamber of the Dutch Parliament during a debate on Tuesday tried to commit Dutch Minister of Home Affairs and Kingdom Relations Ronald Plasterk to a promise to set a social minimum that covered the basic needs of the people of Bonaire, St. Eustatius and Saba so that they could make ends meet.

However, the Minister kept his position that the social minimum would be linked to the economic development of the islands and subsequently referred to his colleague of Social Affairs and Labour Jetta Klijnsma whom he said would draft a plan and present the details to the Dutch Parliament later this year.

All 12 parties represented in the Senate, without exception, brought up one of the most painful point in the relations between the three islands and The Hague: an "acceptable" level of services provided by government, the associated level of the minimum wage, social welfare and the fact that many families have trouble paying their bills and live a decent life.

The parties concurred that the minimum wage and the social welfare level were too low and that the

Continued on page 8

Gibson to MPs: Pull back Integrity Chamber Law

PHILIPSBURG--Finance Minister Richard Gibson has called on Parliament Tuesday to either pull back the national ordinance to establish the integrity chamber or amend it. Should Members of Parliament (MPs) opt for amendment, he urged them make changes to ensure St. Maarten is in charge and not the Dutch Government.

The law, passed by Parliament last year, is currently with the Constitutional Court for a decision after the Ombudsman filed a case against it. The major issue the Ombudsman brought forward is the infringement on personal freedom and protection.

The proposal from the Minister came after he outlined the many ways he has seen the Dutch Government has not lived up to its promises or have not acted with integrity in relation to St. Maarten.

In response to his proposal about the law, independent Member of Parliament (MPs) Cornelius de Weever told Gibson he was part of the governing coalition and he should lobby his coalition partners to compose a proposal "to throw it out."

Parliament Chairwoman MP Sarah Wescot-Williams said if the law needs to be changed the proposal should come from Gov-

Continued on page 7

Call for modernisation of Kingdom Charter

THE HAGUE--The bottlenecks in the Dutch Kingdom could be solved through a modernisation of the Charter without actually changing the current constitutional relations.

Member of the First Chamber of the Dutch Parliament Thom de Graaf of the Democratic Party D66, with the support of many parties in the Senate, presented a motion to this extent during Tuesday's debate on the constitutional evaluation with Dutch Minister of Home Affairs and Kingdom Relations Ronald Plasterk.

De Graaf said his party was disappointed that the debate didn't focus on the overall evaluation of the new constitutional relations that were established in October 2010 when the Country the Netherlands Antilles was dismantled and the Countries Curaçao and St. Maarten were created, with Bonaire, St. Eustatius and Saba settled as Public Entities of the

Continued on page 11

IN BRIEF

• *Philipsburg*

FUNNY MONEY

The Police Fraud Department is investigating several reports of attempts to purchase items with the use of false or counterfeit US $100 bills or to have these bills exchanged into another currency. Page 3.

• *Marigot*

ROBBERS JAILED

The Gendarmerie recently solved a case dating back to the period between November 2014 and March 2015 when several violent armed robberies occurred. Page 3.

• *Philipsburg*

EMERGENCY EVACUATION

Health Minister Emil Lee is trying to resolve some issues hampering the emergency evacuation of patients from Saba and St. Eustatius to St. Maarten. Page 4.

The expansion of the City Furniture building on Bush Road has reached its highest point.

City Furniture expansion project reaches highest point

PHILIPSBURG--City Furniture shoppers will soon have an expanded showroom with additional items for their household needs. The expansion project of the furniture store has reached the highest point.

The business was established in 2008 on Bush Road and is now "going bigger to serve the local community and the neighbouring islands much better" Managing Director Nasser Kassrawi said in a press release on Tuesday.

"When City Furniture expansion is completed new lines and great ideas will be introduced for the local market," he said.

The expansion project began February of this year and is expected to be completed late September 2016. Kassrawi said that he has strong confidence in the local economy and based on this, he took steps to start the project. Kassrawi stressed that he was "extremely satisfied" with the manner in which the Ministry of Public Housing, Environment, Spatial Development and Infrastructure VROMI handled the expansion request and the timely manner in which it was issued in late 2015.

The expanded store will have a new and more spacious showroom and an expanded line of items including appliances and outdoor furniture. There will also be ample outdoor parking to the side of the store. The expanded store will open in time for the new season later this year.

DECENT SOCIAL MINIMUM

Continued from page 1.

promise of the Dutch Government to upgrade these gradually, based on the economic carrying capacity of the islands was "too vague."

The Minister was reminded during an eight-hour debate on the constitutional evaluation of the relations within the Kingdom after October 10, 2010, of the fact that the current minimum wage and social welfare ("onderstand" and the AOV pension) level were too low for many in society to survive on. This especially affected the most vulnerable groups, such as the elderly, those living off social welfare "onderstand", single parents and by extension, their children.

These low wages and social welfare resulted in poverty, a widespread problem in the Caribbean Netherlands which has only worsened since the islands became Dutch public entities in October 2010 due to steeply risen prices and an increased tax burden.

Timeframe

The Senators demanded clear answers as to when this issue would be tackled. "When can all people on the islands buy food at the end of the month? We don't want vague answers. We want concrete answers from the Minister, we want a forceful Minister and we want a timeframe," said Senator Meta Meijer of the Socialist Party (SP).

Plasterk said that he was unable to give details and a timeframe because this was a responsibility of State Secretary Klijnsma. He stressed that for the first time, the State Secretary of Social Affairs and Labour would set the social minimum. "That is a major step forward. Earlier governments refused to do this."

Senator Meijer mentioned amounts to show the difference between the minimum wage and the social welfare. "The minimum wage is US $827 per month; the 'onderstand' is US $331 on average. A child can see that nice words of the Minister to gradually raise the minimum wage and to link the 'onderstand' are insufficient for people to have a decent human life."

Senator Ruard Ganzevoort of the green left party GroenLinks queried whether the social minimum to be set by the government would be sufficient for people to live from. "Why does this government choose a different systematic for the Caribbean Netherlands than it does for the Netherlands? Why is this government not willing to determine what people need to survive on?"

Members of the First Chamber, the Senate, greet Dutch Minister of Home Affairs and Kingdom Relations Ronald Plasterk (left) at the start of Tuesday's eight-hour debate. (Suzanne Koelega photo)

Poverty line

Ganzevoort and Senator Frank van Kappen of the liberal democratic VVD party wondered how long people on social welfare would have to live below the poverty line because the government chose to gradually increase the social welfare, "onderstand" to the social minimum.

"If the economic carrying capacity is the point of departure, what sense does it make to set the subsistence minimum? The economic carrying capacity of the islands is limited, but the cost of living is high. Chances are that the subsistence minimum will exceed the economic carrying capacity. Will the consequence be that we accept that people live under the subsistence minimum? It can't be that we accept people living below the poverty line," said Van Kappen.

Ganzevoort presented a motion towards the end of Tuesday's debate, supported by 11 of the 12 parties in the Senate. In the motion it was stated that everyone had a right to a decent standard of living and that the Dutch government had the obligation to look after the wellbeing of the people, also in the Caribbean Netherlands. The motion asked the government to set a social minimum with the subsistence minimum as a point of reference.

Minister Plasterk strongly advised against the motion. He said that linking the social minimum to the subsistence minimum could have adverse consequences for the islands' small economies. The Minister maintained that it was important to keep the local circumstances in mind. Ganzevoort countered that the local circumstances were poverty and people having trouble to make ends meet. He said that the Senate was merely asking to objectify the bare necessities to have a decent life for the people.

"Apparently the Minister doesn't want to link the social minimum in a logical manner to the cost of living on the islands. Poverty is a great disruption," said Senator Christine Teunissen of the Party for Animals, who asked why the same system as in the Netherlands was not applied to the islands.

Increased distrust

Senator Peter Ester of the ChristianUnion said that the islands were waiting for a point of reference and the setting of the norms where it came to the social minimum. He said that absence of this norm increased distrust and impeded cooperation and development. "If we don't act quickly, things will remain turbulent for a long time," said Ester, who implored on the Minister to take his responsibility to improve the social facilities.

Senator Jan Nagel of the 50PLUS said his party was irked by the "lacking of any social emotion" of the Dutch Government. He said the decision of the government to use of the minimum wage as point of reference to set social minimum, as a result of which the social welfare, "onderstand" and AOV would remain in balance with the minimum wage, "literally the end of the story for people living in unacceptable poverty."

Senator Ruud Vreeman of the Labour Party PvdA said it was important to establish the social minimum, especially for those people that cannot make ends meet on the current minimum wage and the level of social welfare. He said the method that the Dutch Government applied was "incorrect."

"I don't understand why this is so hard. Why not just apply the Dutch level? It is clear that the 'onderstand' on the islands is simply too low. It is evident that the social minimum must go up," said Senator Thom de Graaf of the Democratic Party D66 who referred to the similar findings of the Caribbean Netherlands Evaluation Committee headed by former Minister Liesbeth Spies.

Senator Henk ten Hoeve of the independent senate party OSF doubted whether a higher minimum wage would lead to an uncontrollable influx of foreign employees. "Work permits are required, naturalisation is only possible after five years and the islands are of a clear, small scale."

Nina Corsen retired from Römer School in Curaçao after 33 years, of which 13 years as principal. An art festival was organised for the occasion with various workshops on face-painting, dramatization, decorating cupcakes and dance and music. At the end Nina (right) and her husband Eugenio Corsen (left) were presented with a special gift by local artist André Nagtegaal (second from right).

CALL FOR MODERNISATION

Continued from page 1.

Netherlands.

According to De Graaf, the initial plan was to include a possible revision of the Charter in the evaluation process. This aspect was not realised, while there was "every reason" to assess the new constitutional relations in an objective manner, said the Senator who deplored that the evaluation of the Kingdom Consensus Laws for Curaçao and St. Maarten was not ready to discuss since the Dutch Government still had to come with a formal reaction.

De Graaf called for a modernisation of the Charter, a discussion which he said has been kept quiet for several years now. He said the idea was not to revise the current constitutional relations, but to adapt the 1954 document to take away some of the bottlenecks that the Kingdom has been faced with.

"We should look at whether we want to modernise the Charter 62 years after it was signed," said De Graaf. His motion called on the Dutch Government to promote the modernisation of the Charter and to discuss this with the other partners in the Kingdom.

Minister Plasterk doubted whether the countries were interested in adapting the Charter. "There is little interest for that, both on the islands and within the Second Chamber, which is after all the legislator," he said. The Minister referred to the very limited attendance of parties in the Second Chamber during the handling two weeks ago of a law proposal to amend the Charter to restrict the use of General Measures of the Kingdom Government without a legal base.

Senator Frank van Kappen of the liberal democratic VVD party spoke of the "challenging construction" of the Kingdom which "continuously led to discontent and mutual haggling" between the Netherlands and the Dutch Caribbean countries.

"That not only has to do with the colonial past and the large differences in culture, language and size of the population, but also with a deeply felt discontent of the Dutch Caribbean countries about the absence of a Kingdom Parliament. This democratic deficit is felt as unfair and a flaw in the Charter," said Van Kappen.

According to the VVD, this democratic deficit can only be eliminated by having the Dutch Caribbean countries become independent. "We will keep muddling on as long as the Caribbean countries don't collectively choose to become independent," said Van Kappen.

A solid, mutual Dispute Regulation can be beneficial to the troubled relations within the Kingdom. Both Van Kappen and Sophie van Bijsterveld of the Christian Democratic Party CDA brought up an alternative option in the discussion regarding the range, the binding aspect and the choice for a dispute body.

Van Kappen and Van Bijsterveld referred to the Financial Supervision Kingdom Law that regulates financial supervision for Curaçao and St. Maarten. The Kingdom Law in question has a so-called strengthened Crown appeal, a procedure at the Council of State whereby the legitimacy decision is binding and the Kingdom Government may only deviate from the advice on the policy aspect based on authoritative reasons.

Minister Plasterk contended that in practice it was complex to differentiate between disputes that had a strictly legal base and disputes that were based on policy decisions. He said that the Financial Supervision Kingdom Law was of a different nature and covered a much smaller range. He said that the Dutch Government had prepared a law proposal for a Dispute Regulation which soon would go to the Second Chamber and that he would await the legislative procedure.

Senator Kees Kok of the Party for Freedom PVV called the current constellation of the Kingdom a "made-up construction that invoked little warm feelings and increasingly squeezed." He said that not much had changed since October 2010, let alone that things had improved.

"The joint element is distrust and indifference, despite the diversity of the countries. Shared interests are lacking. Any basis for a form of constitutional brotherhood is almost absent. The sui generis relations lean on the negative deployment of the rough remedy of the guarantee function or the issuing of instructions," said Kok.

The PVV Senator called for a fundamental revision of the Kingdom relations, for which, he said, there was unfortunately little interest. He said that with any sense of urgency for a shared future seemingly having been lost, it was better to close the chapter with a clear vision on a different set-up of the Kingdom.

Kok further mentioned the problems in the Dutch Caribbean countries associated with corruption, nepotism, integrity problems, crime, inadequate financial management and conflicts of interest. "St. Maarten is the worst," he said.

Senator Henk ten Hoeve of the Independent Senate Party OSF said that in his opinion it didn't seem opportune to adapt the constitutional relations in the Kingdom. But, he added, it was wise to keep in mind the shortcomings in the relations and to take these into account in the relations between the countries.

Senator Van Bijsterveld said the Kingdom was "more than a meagre constitutional relation." She said the historic connection alone was not enough and that parties should keep working on the will to remain together as a Kingdom. "That means focusing on cooperation possibilities in areas such as education, culture, economy and international relations. A constructive attitude from both sides is important."

Aruban Prime Minister Mike Eman launched a "sustainability monitor" of local water en electricity provider WEB. People can now visit the government-owned utility company's website to get real-time information on how much of the power generated comes from solar- and wind energy. Currently renewable sources account for about 20 per cent of the total production, with fluctuations down to 10 and up to 30.

The Kingdom Of The Netherlands In The Caribbean. Constitutional In-Betweenity: Reforming The Kingdom Of The Netherlands In The Caribbean

The Kingdom of the Netherlands is an ambiguous construction that served a useful purpose in the 1950s by accommodating the desire for autonomy in the Caribbean territories within a structure that still appeared to uphold Dutch sovereignty, while also silencing international demands for decolonisation **[i]**. Since the 1960s, dissatisfaction with the structure has been mounting. In many similar situations the mounting tensions were relieved by the drastic move of declaring the independence of the overseas territories. In the case of the Netherlands Antilles and Aruba a conscious decision was made not to sever the ties. Since then, it has often been stated (mainly in the Netherlands) that the constitution of the Kingdom is outdated, but nothing came of the various attempts at modernisation.**[ii]** Currently a new attempt is being made, which will perhaps involve a redesign of a number of key elements of the Kingdom structure.

Since 1981 it has been recognized by the governments of the Countries and the island territories that the populations of the islands have the right to self-determination. This right should play a prominent role in any process of constitutional reform of the Kingdom, it has often been repeated. Reference is also often made to the law of decolonization as developed at the United Nations, although difference of opinion exists on what this means for the Kingdom relations.**[iii]** While the law provides no readymade solutions to the constitutional problems of the Kingdom, it does contain some principles that should guide the restructuring of the Kingdom.

The constitutional character of the Kingdom

The constitutional reform of the Kingdom that has been on the cards for several decades now, has been made more difficult by the persistent differences of opinion on the legal character of the relations between the Netherlands and the Netherlands Antilles and Aruba. Some view the Kingdom as a confederation or some other very loose form of entirely voluntary cooperation between the Netherlands and two semi-independent states. Others see the Kingdom as a fully-fledged state with its own powers and responsibilities. Both views have their merits, because the Kingdom is an example of constitutional in-betweenity**[iv]** that defies classification in any of the traditional models of statehood.

The Kingdom consists of three equivalent Countries (*Landen in Dutch*). The two Caribbean Countries 'Aruba and the Netherlands Antilles' have a large amount of autonomy, even larger than the Country in Europe some would say, because that Country has delegated many of its authorities to the European Union. The constitution of the Kingdom, entitled *Het Statuut voor het Koninkrijk der Nederlanden* (the Charter for the Kingdom of the Netherlands), authorizes the government of the Kingdom to enter into relations with foreign states, and also charges the government with the ultimate responsibility in the areas of human rights, good government and the military defence of the Kingdom. The Kingdom government has few other tasks. Whether the Kingdom has any other institutions or organs has been the subject of a legal debate, which is probably of little importance because most of the other tasks of the Kingdom are performed by the Country of the Netherlands. The Kingdom Charter contains some elements that resemble a federal system**[v],** but these elements have played only a minor role in practice.

It has sometimes been defended that the Country in Europe is a state under international law,**[vi]** but it is generally assumed that only the Kingdom as a whole possesses statehood. Writers on international law nonetheless often classify the Kingdom as a form of association, which is also how the Netherlands defended it at the UN in 1955 and afterwards.**[vii]** The recognition of the right to self-determination of the Caribbean Countries at the Round Table Conference of 1961, confirmed many times thereafter, also suggests that the Netherlands Antilles and Aruba have a separate legal status that could perhaps best be described as a *constitutional association* with the Netherlands. This captures the somewhat paradoxical position of the Caribbean Countries – belonging to the Kingdom, but not belonging to the Netherlands – which seems to have been the aim of the framers of the Charter in 1954.

The need for reform

This is not simply a legal issue to be settled by constitutional lawyers. The many legal misunderstandings and uncertainties that keep cropping up with respect to the Kingdom in some sense reflect the fundamental debate on the future of the islands that currently occupies the minds of many in the Caribbean and in Holland. Should the islands seek the benefits of belonging to the Netherlands and the economic bloc of Europe, or should they hold on to their Caribbean identity and economic links with the Americas? It seems unlikely that this fundamental question will be resolved any time soon, if ever. But as long as it remains unanswered, the various roads which lead to constitutional clarity appear to remain impassable.

Nonetheless, the dire financial situation of the Netherlands Antilles and its problems with law enforcement force the Kingdom to again attempt a constitutional reform, which (again) revolves around the structure of the Netherlands Antilles. Most island politicians have long defended the thesis that they would be better able to handle things without the allegedly costly and burdensome central government of the Antilles. They would prefer to deal directly with The Hague, abolishing the structure of the Netherlands Antilles which currently holds five of the islands together in a single 'Country'. Dutch politicians have traditionally opposed this fragmentational drive, which is basically the same centrifugal force that has divided the entire Caribbean into mini- and micro-states, and which has already led Aruba to leave the Netherlands Antilles in 1986.

Since 2004, the attitude of Dutch politics has changed. The long-standing complaint that the Antillean government is unable to deal with problems that spill over into the Netherlands now leads to the conclusion that the Netherlands Antilles should perhaps be abolished as a Country.**[viii]**More importantly (at least from the point of view of international law), the populations of three out of five Antillean islands have recently voted to leave the Antilles and establish direct constitutional relations with Holland. St. Maarten expressed a preference for becoming a separate Country within the Kingdom, while Bonaire and Saba favour *direct links* with the Netherlands. Referendums on Curaçao and St. Eustatius are scheduled for April of 2005. Although the outcome of these referendums is hard to predict, it does appear that 'the time is now' for a thorough restructuring of the Kingdom relations.**[ix]**

The Jesurun Committee

A committee named after its chairman Edsel 'Papy' Jesurun was asked by the governments of the Netherlands Antilles and the Netherlands to review the financial and administrative problems of the Netherlands Antilles. The committee's members soon decided, however, that these problems involved the constitution of the Kingdom as a whole, and devised a ground scheme for new relations between the Netherlands and the five islands of the Netherlands Antilles. The committee recommended the abolishment of the central government of the Netherlands Antilles as well as its parliament, the '*Staten*'. The powers and responsibilities of those institutions should be redistributed between a number of existing institutions of the island territories and the Kingdom, and some new institutions that should be created. The islands should be given the opportunity to choose between becoming autonomous countries within the Kingdom (similar to Aruba) or 'Kingdom Islands', a new status as yet to be defined. Most controversially, the Jesurun Committee recommended that the jurisdiction of the Kingdom should be enlarged in the areas of law enforcement and the budget of the Caribbean Countries. The Kingdom should have its own institutions, civil service, and a budget, all of which it does not have at present.

The status of the so-called Kingdom Islands could certainly not be considered as an association (*see below*) and a choice for this option clearly represents a change in political status. The implementation of the Jesurun Report would also affect the character of the islands that wish to retain (or obtain) the status of Country within the Kingdom. This raises the question of how these changes could be realized while taking into account the right to self-determination and decolonization.

Decolonization and self-determination under international law
Since the 1960s it is no longer in debate that there exists a right to decolonization and self-determination under international law for territories that were occupied during the colonial era and which have not yet become independent. This right probably still applies, at least to some extent, to the Netherlands Antilles and Aruba.**[x]**

The right to decolonization is based on the Charter of the United Nations, and a number of General Assembly resolutions which have interpreted and expanded the scope of Chapter XI of the Charter regarding Non-Self-Governing Territories.

For a long time, the actions of the UN were based on Resolution 1514 of 1960, which demands immediate independence for all colonial countries and peoples.

Alongside this political decolonization rush, a more steady development has taken place towards the legal definition of colonial status and the modes of ending it. Resolution 1541, adopted one day later than 1514, explains that when a territory is 'arbitrarily subordinated' to another, it falls under the scope of Chapter XI of the Charter, which means that there exists an obligation to guide the territory towards 'a full measure of self-government'.**[xi]**

With regard to the Netherlands Antilles and Aruba, the Netherlands has taken the position that Resolution 945 of 1955 confirmed that the decolonization of the Netherlands Antilles (and Aruba) was completed. This Resolution declared that it was no longer appropriate for the Netherlands to report on the Netherlands Antilles and Surinam. The Netherlands deduced from this that Chapter XI of the Charter no longer applied, which is not really what the GA intended to declare. The resolution was the result of a tense and political debate, in which the Netherlands convinced the United States and Brazil to submit a very noncommittal draft resolution. A majority in the GA agreed to abstain from the vote under the condition that the resolution would not prejudge the question as to the status of the Dutch territories under Chapter XI.**[xii]**

The debate showed that many states considered that the Kingdom Charter did not comply with the standards for decolonization adopted by the GA two years earlier, and which would be laid down in Resolution 1541 a few years later with the active support of the Netherlands. The criticism concerned the powers of the Governor and the fact that this official was appointed by the Kingdom government. Many states criticized the Kingdom's authority to intervene in the autonomous affairs of the Caribbean Countries, and also disapproved of the fact that the Netherlands had not recognized the right to self-determination of the peoples of the Netherlands Antilles and Surinam, and that the new status had not been explicitly approved by the population.**[xiii]** In the legal literature it has often been defended that the GA would probably not have accepted the Kingdom Charter as a form of decolonization had it been discussed any time after 1960.[xiv] Formally, the GA is probably still authorized to require the Netherlands to resume reporting on the Netherlands Antilles and Aruba, if it finds that the self-government of these Countries does not comply with the standards of Resolution 1541.**[xv]** It is therefore interesting to see what these standards are, and whether the proposals of the Jesurun Committee would bring the Kingdom more in line with them.

Free association

The concept of freely associated statehood represents a range of possibilities that extend from semi-sovereign autonomy schemes to independent statehood. There are freely associated territories which are considered independent states, for instance the Federated States of Micronesia (freely associated with the United States).**[xvi]** This state is a member of the UN, it has its own nationality and the capacity to enter into relations with other states.**[xvii]** There are other accepted forms of free association which have probably not led to the creation of independent statehood under international law, for instance in the cases of the Cook Islands and Niue, which are associated with New Zealand.**[xviii]**

The United Nations has created some guidelines for this status, which are binding as minimum requirements under international law. Principle VII of General Assembly Resolution 1541 (XV) of 1960 provides that free association may be considered as a form of full self-government if the population retains the right to change its political status at a future date, and if the territory can determine its internal constitution without outside interference. For this reason, territories such as the Cook Islands and Micronesia can unilaterally choose for independence and they have an unrestricted right to amend their own constitutions. Although the UN practice does not paint a very clear or consistent picture of the concept of free association, the UN has only approved decolonization schemes under Principle VII of Resolution 1541 that guaranteed complete internal autonomy for the associated territory.**[xix]**

The Netherlands Antilles and Aruba also have the right to choose for independence,**[xx]** but they do not have an unlimited right to amend their own constitutions. These constitutions, the '*Staatsregelingen*', are legally subordinated to the Kingdom's constitution, the Kingdom Charter, which provides that the Caribbean Countries may not amend the most important articles of their '*Staatsregelingen*' without the consent of the government of the Kingdom.**[xxi]** The Kingdom government, in which the Netherlands has the final say, furthermore has the authority to intervene in the affairs of a Caribbean Country on the grounds that international obligations or the law of the Kingdom is not upheld in that Country. The government also appoints the Governors in the Caribbean Countries, who hold extensive powers to block legislative and administrative acts of those Countries. These powers are rarely openly used,**[xxii]** but their existence does mean that the status of Country within the Kingdom does not fully comply with the UN criteria for free association.**[xxiii]**

It has been proposed, at various instances in the negotiations on Aruba's *status aparte* during the 1980s and its continuation in the 1990s, that Aruba could become a state in free association with the Netherlands. All of these proposals were rejected at an early stage, either because they were considered too complicated, or because they seemed to offer fewer guarantees than the Kingdom Charter. Nonetheless, the concept of free association might offer a mutually agreeable solution to the perceived problems between the Netherlands and the larger islands of the Antilles and Aruba,**[xxiv]** and it is therefore somewhat unfortunate that the option was never offered in the various referendums on the islands.**[xxv]**

The Jesurun Report explicitly aims to make sure that the new Kingdom structure will comply with the UN criteria for free association.**[xxvi]** To this end, the Caribbean countries will have the right 'to determine their own administrative organisation'. This is clearly not enough to qualify the relation as 'free association', especially in view of the Commission's proposals to further institutionalize the powers of the Kingdom government in the Caribbean Countries. The Report, for instance, recommends that the judiciary should become mostly an affair of the Kingdom. The existing instruments for the supervision of the administration and legislation of the Countries by the Kingdom would be reinforced. The Countries could furthermore be forced by the Kingdom to cooperate with other Countries or Kingdom Islands and the Kingdom in a number of areas. This undoubtedly means that the countries would not be in full control of their internal constitutions, and would make clear that the Kingdom relations are not a form of free association.

Integration

The law of decolonization offers another possibility for creating a full measure of self-government, namely by integration into an independent state. Principles VIII and IX of Resolution 1541 provide that integration should be based on 'complete equality' between the peoples of the territory and the metropolitan population, including equal status and rights of citizenship, and equal guarantees of fundamental rights and freedoms without any distinction or discrimination. The Resolution also stresses that integration should be the result of the freely expressed wishes of the territory's people acting with full knowledge of the change in their status. The integration should furthermore lead to the representation of the territory's population at all levels and branches of

government of the state. Examples of integrated territories are the French *départements d'outre-mer* and Hawaii.

It would be hard 'or rather impossible' to argue that the status of Country within the Kingdom represents a form of integration under international law, and it therefore seems rather pointless to determine whether the criteria laid down in Resolution 1541 for integration are met by the Kingdom order. The idea behind the Kingdom Charter was to create three Countries that voluntarily cooperate as equivalent partners. This is an entirely different conception from the integration of the Caribbean islands into the Netherlands. A comparison with generally accepted cases of integration shows a wide range of differences, both legally and in other areas. There is currently hardly any legislation that is valid for all three Countries of the Kingdom,**[xxvii]** and the social, economic and cultural differences between the Countries are also much too large to be able to consider the Caribbean Countries as integral parts of the Netherlands.

It is possible, however, that the new status of Kingdom Island (*Koninkrijkseiland*), as proposed by Jesurun, could lead to a form of integration, although this is far from certain because the proposals are vague and have not yet been elaborated in crucial areas. But in case the status of Kingdom Island would amount to something comparable to the status of a French DOM, it would be important to realize that a choice for integration not only has far reaching consequences for the government of the island, but it also may have consequences on the level of international law. The law is uncertain on this point, but it has been defended that an integrated territory loses its right to self determination as a separate entity under international law. This theory assumes that the population of the territory is subsumed under the 'people' of the state it integrates into, and only retains a right to self-determination as part of that larger whole. It therefore loses the right to unilaterally choose a different status. This theory has not yet been proved or disproved in practice.**[xxviii]** Of course, the risk of extinguishing the right to self-determination under international law could be eliminated by creating a special self-determination provision in the constitution of the Netherlands for islands that choose integration, but there probably exists no international obligation for the Netherlands to realize such a provision. This explains why Resolution 1541 demands that territories which choose for integration 'should have attained an advanced stage of self-government', and that the choice 'should be the result of the freely expressed wishes of the territory's peoples acting with full knowledge

of the change in their status'.**[xxix]** As the Kingdom government is ultimately responsible for the correct implementation of the right to self-determination and decolonization within the Kingdom, it should make sure that when an island chooses for integration, this choice was arrived at through a democratic process, based on objective and detailed information regarding the consequences.

Other options?
There is no compelling reason to assume that a new status for the islands is limited to the options defined in Resolution 1541, i.e. independence, free association or integration. The Resolution itself does not present these options as a limitative list, and a later and also authoritative re-interpretation of the UN Charter (General Assembly Resolution 2625 of 1970) opens up the possibility that the exercise of the right to self-determination leads to 'any other status freely chosen by a people'. Could this include a status that does not represent 'a full measure of self-government'? Some states have opposed this idea at the UN, claiming that 'a slave cannot voluntarily choose to remain in slavery'. The Netherlands and most other states did not share this view. The more common interpretation is that self-determination, in the sense of freedom of choice, takes precedence over decolonization.

Even though the assumption has always been that each people will want to attain independence eventually, it is now recognized that other options may need to be pursued in small, resourceless islands.**[xxx]** Even the radically anti-colonial Special Committee of 24 (Decolonization Committee) has accepted this. In similar cases as the Netherlands Antilles and Aruba the UN organs have since 1960 quite consistently considered one factor to be decisive: has the population freely expressed its consent with the new status? In 1955 the UN grudgingly accepted the fact that there had been no outspoken opposition to the Kingdom Charter in Surinam and the Netherlands Antilles, but in more recent cases it was demanded that the population should express a real desire for a new status (if it falls short of independence).**[xxxi]**

A modern reading of Chapter XI of the UN Charter, and the GA Resolutions based on it, leads to the conclusion that there exists a duty for metropolitan states to promote self-government in its dependencies, but there is no duty for the nonself-governing peoples to proceed towards self-government if they do not want it. Perhaps we should interpret Resolution 2625 as meaning that a dependency may exercise its right to self-determination by agreeing to a form of government that

does not (yet) represent full decolonization. Such a choice should be made in freedom and with full awareness of the consequences, while there should be other options on the table as well. A non-self-governing status should be assumed to be a temporary one, because full self-government legally remains the goal of all overseas dependencies. For the islands of the Netherlands Antilles and Aruba this means that they may freely agree to one of the new status options that the Jesurun Committee has proposed, even though these options should probably not be considered as the final chapter in the decolonization of the Dutch Caribbean.

Conclusion

The smaller islands of the Netherlands Antilles, which have voted for 'direct links' with the Netherlands in referendums, appear to be heading towards a form of integration with the Netherlands, or perhaps a status as separate dependencies. St. Maarten and Aruba appear to want to hold on to the form of constitutional association that the current Kingdom represents, with the Netherlands only being responsible for foreign affairs, defence of the Caribbean countries and ensuring that good government and fundamental rights and freedoms remain guaranteed.

Under the international law of self-determination and decolonization both these options are open to territories that have not yet been fully decolonized or which are associated with their former mother country. International law creates certain safeguards and minimum requirements for other status options than independence. In the case of free association, the territory should be able to choose another status in the future, and determine its own constitution. Integration means that the population of the territory is incorporated into the population of the mother country, which should lead to equal rights and legal status for the overseas population.

The Jesurun Commission does not propose to create such traditional forms of association and integration, but instead outlines two new forms of government, that do not necessarily represent 'a full measure of self-government' under the UN standards. Such constitutional in-betweenity is not necessarily a problem, but it does require constant attention to avoid legal uncertainties or the development of a constitutional no-man's land where might equals right. Vague schemes favour the stronger partner (which is not necessarily in each case the metropolitan state) and undermine the rule of law.

Also, choosing a form of government that does not meet with the international

legal standards for full self-government means that extra attention should be paid to the requirement that the new status is really desired by the island populations. The international law of self-determination and decolonization is sufficiently flexible to accommodate many new forms of government, but it does insist on unequivocal support from the population, which is needed anyway if a durable solution is to be found.

NOTES

i. An earlier version of this paper was presented at the University of St. Martin on 23 October 2004, as part of the author's PhD research on the right to self-determination at the University of Leiden. The author is currently employed at the Constitutional Affairs and Legislation Department of the Dutch Ministry of the Interior and Kingdom Relations, but the ideas expressed in this paper should in no way be construed as reflecting those of the government of the Netherlands.

ii. For the attempts at constitutional reform during the 1980s and 1990s, see A.B. van Rijn, Staatsrecht van de Nederlandse Antillen, Deventer: W.E.J. Tjeenk Willink 1999.

iii. See for instance the information provided on the website of the Referendum Committee of Curaçao, www.referendum2005.an.

iv. In-betweenity has been used by Eric Williams to describe Trinidad's position in-between dependence and independence in the 1970s, and more recently by Howard Fergus to describe the current constitutional position of Montserrat as an overseas territory of the United Kingdom.

v. The Kingdom government has the authority to annul legislative and administrative acts of the Caribbean countries, and to adopt measures to ensure the fulfilment of legal obligations by the Caribbean countries. The Caribbean countries, in turn, have been granted various instruments to influence the legislative process in The Hague.

vi. The representative of India in the UN General Assembly of 1955, for instance, considered that the European part of the Kingdom was member of the UN, and that the Netherlands Antilles and Surinam were two Non-Self-Governing Territories. Most other representatives did not appear to share this view, which is not supported in the legal literature either.

vii. The Jesurun Report (see below) at some points also considers the Kingdom as a form of association, see the Report on p. 42. At other points, however, it seems to think of the future Kingdom relations as a form of decentralization, which would suggest that the Kingdom is (or should become) a unitary state.

viii. Spokesmen for a number of political parties represented in the Dutch Lower House welcomed the conclusions of the Jesurun Report, including the recommendation to abolish the Netherlands Antilles (NRC Handelsblad, 28 September 2004). The Lower House asked the government to quickly reach an agreement with the Netherlands Antilles on the implementation of the Report (Kamerstukken II 2004/05, 29 800 IV, nrs. 15 and 16). The Dutch minister for Government Reform and Kingdom Relations responded that such an agreement would have to wait until the islands had given their opinion on the Jesurun Report, but did announce that the Netherlands was prepared to discuss the abolishment of the Netherlands Antilles if the islands supported this, and if the future cooperation between the islands was properly safeguarded (Kamerstukken II 2004/05, 29 800)

ix. See the title of the report of the Jesurun Committee, 'Nu kan het… nu moet het! The time is now, let's do it! Awor por, ban p'e!'. Despite its multilingual title, the report was only published in Dutch.

x. See P.J.G. Kapteyn, De Nederlandse Antillen en de uitoefening van het zelfbeschikkingsrecht' Mededelingen der KNAW, afd. Letterkunde, nieuwe reeks, deel 45, no. 6, 1982; A.B. van Rijn, cited in note 2, p. 49 et seq; and A. Hoeneveld, De reikwijdte van het zelfbeschikkingsrecht van de Nederlandse Antillen en Aruba, Openbaar Bestuur Vol. 14 (2004), Nr. 10, p. 21-5. The Jesurun Report also assumes that the right to decolonization still applies, see the Report on p. 42.

xi. Article 73 of the UN Charter.

xii. The Resolution was adopted by 21 votes to 10, with 33 abstentions in the 557th Plenary meeting of the GA on 15 December 1955.

xiii. The debates actually started in 1951, when the Netherlands announced it would no longer report on the Netherlands Antilles and Surinam and lasted until 1955. The most important debate took place in the Fourth Committee of the GA. These debates took 8 meetings on 7 days, see the Official Records of the General Assembly (Tenth Session), Fourth Committee, 520th-527th Meeting.

xiv. See for instance Kapteyn, cited in note 10, p. 178.

xv. The GA has taken similar decisions with regard to a number of French overseas territories. The Netherlands and most other states have (implicitly) accepted that the GA has this authority with regard to territories that were once considered colonies but which have not yet become independent. See also GA Resolution 2870 (XXVI) of 20 December 1971, which contains a paragraph on the authority of the GA in this area, which is adopted unanimously each year, with usually only France abstaining from the vote.

xvi. See Chimène I. Keitner and W. Michael Reisman, Free Association: The United States Experience, Texas International Law Journal, Vol. 39, Nr. 1 (2003), p. 54.

xvii. Nonetheless, some UN members wondered whether these states were really independent, mainly because of the US defence umbrella. See Keitner & Reisman, o.c. p. 55.

xviii. These territories have not acquired a separate nationality and are not members of the UN. They do have limited capacity to enter into relations with foreign states, and New Zealand retains no formal power to intervene in the affairs of these islands.

xix. For a number of examples of association arrangements that probably fall short of the UN standards (such as Puerto Rico), see Roger S. Clark, Self-Determination and Free Association: Should the United Nations Terminate the Pacific Islands Trust? Harvard International Law Journal, Vol. 21, No. 1 (Winter 1980), p. 1-86.

xx. With regard to Aruba, this right to independence is guaranteed by the Kingdom Charter, in Articles 58 to 60. For the Netherlands Antilles, this right can be derived from the frequently repeated promise by the Netherlands government that it will not oppose the independence of that Country, nor of any of the islands which constitute the Country.

xxi. Article 44 of the Kingdom Charter.

xxii. A recent description in English of the Kingdom relations is provided in Gert Oostindie and Inge Klinkers, Decolonising the Caribbean. Dutch Policies in a Comparative Perspective, Amsterdam: Amsterdam University Press 2003.

xxiii. In a similar sense, see Kapteyn, cited in note 10, p. 177-8, and Clark, cited in note 19.

xxiv. This idea has been elaborated upon by J.A.B. Janus in his contribution to the Staatsrechtconferentie of 1993, entitled 'Het Statuut voor het Koninkrijk der Nederlanden: Terugblik en perspectief. Naar een nieuwe structuur van het Koninkrijk (Publikaties van de Staatsrechtkring), Zwolle: W.E.J. Tjeenk Willink 1993. See also H.F. Munneke, Een gemenebestconstitutie voor het Koninkrijk der Nederlanden. De strijd tegen de bestuurlijke desintegratie op de Antillen. Tijdschrift voor Openbaar Bestuur, Vol. 16, Nr. 15 (1990), p. 348 et seq.

xxv. Up till now, the referendums have been mainly about the question whether the Netherlands Antilles should stay together as one Country within the Kingdom. Once this issue has been decided, the next question should really be: how close should the islands be with the Netherlands? This question has never been put

directly to the islanders, but this is really what the law of self-determination and decolonization is about.

xxvi. See the Report on p. 42 where Principle VII of GA Res. 1541 is cited.

xxvii. The Kingdom is authorized to legislate on a limited number of subjects, listed mainly in article 3 of the Kingdom Charter. The Kingdom could also provide legislation on other subjects, but only with the approval of the Countries in which that legislation would apply. This opportunity has been used only very rarely.

xxviii. Resolution 1541 does not demand that an integrated territory retains the right to choose another status as it does for freely associated territories. This probably means that the choice is final, unless the state voluntarily agrees to let the territory make another choice. It remains doubtful whether states and the UN have really accepted this as a rule. With respect to a number of French territoires d'outre-mer and the Portuguese overseas 'provinces' in Africa, the GA rejected the French and Portuguese claims that the UN was not allowed to discuss these territories because they were integrated with the mother country. But one could also argue that the GA denied that 'a full measure of self-government' had been achieved because the integration was not complete, and had not been the result of a free and informed choice of the population.

xxix. Principle IX of Resolution 1541.

xxx. For an overview of the approximately 40 small island territories that are in a similar position, see Robert Aldrich and John Connell, The Last Colonies. Cambridge: Cambridge University Press 1998. Arjen van Rijn recently recommended that the UN should redefine the right to self-determination of small island territories and take away the sword of Damocles of independence, see A.B. van Rijn, Vijftig jaar Statuut: hoe verder? Nederlands Juristenblad, 2004, Nr. 44.

xxxi. See for instance the UN debate on the British West Indies Associated States in 1966, Official Records of the General Assembly, Annexes, Addendum to agenda item 23 (Part III), p. 173 et seq.

Bibliography

Aldrich, Robert & John Connell, *The Last Colonies*, Cambridge: Cambridge University Press 1998.

Clark, Roger S., Self-Determination and Free Association: Should the United Nations Terminate the Pacific Islands Trust? *Harvard International Law Journal,* Vol. 21, No. 1 (Winter 1980), p. 1-86.

Hoeneveld, A., De reikwijdte van het zelfbeschikkingsrecht van de Nederlandse Antillen en Aruba. *Openbaar Bestuur*, Vol. 14 (2004), Nr. 10, p. 21-5.

Janus, J.A.B., *Het Statuut van het Koninkrijk der Nederlanden: terugblik en perspectief. Naar een nieuwe structuur van het Koninkrijk* (publikaties van de Staatsrechtkring), Zwolle: W.E.J. Tjeenk Willink 1993.
Kapteyn, P.J.G., 'De Nederlandse Antillen en de uitoefening van het zelfbeschikkingsrecht'. *Mededelingen der KNAW, afd. Letterkunde, nieuwe reeks,* deel 45, no. 6, 1982.
Keitner, Chimène I. & W. Michael Reisman, 'Free Association: The United States Experience'. *Texas International Law Journal*, Vol. 39, Nr. 1 (2003), p. 54.
Munneke, H.F., 'Een gemenebestconstitutie voor het Koninkrijk der Nederlanden. De strijd tegen de bestuurlijke desintegratie op de Antillen'. *Tijdschrift voor Openbaar Bestuur*, Vol. 16, Nr. 15 (1990), p. 348 et seq.
Oostindie, Gert & Inge Klinkers, *Decolonising the Caribbean. Dutch Policies in a Comparative Perspective.* Amsterdam: Amsterdam University Press 2003.
Rijn, A.B. van, *Staatsrecht van de Nederlandse Antillen,* Deventer: W.E.J. Tjeenk Willink 1999.
Rijn, A.B. van, 'Vijftig jaar Statuut: hoe verder?' *Nederlands Juristenblad*, 2004, Nr.
44.

A15: Chapter XI: Declaration Regarding Non- Self- Governing Territories, Article 73

CHAPTER XI: DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

Article 73

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

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

http://www.un.org/en/sections/un-charter/chapter-xi/

A16: Resolution 742 (VII). Factors which should be taken into account in deciding whether a Territory is or is not a Territory whose people have not yet attained a full measure of selfgovernment

RESOLUTIONS ADOPTED ON THE REPORTS OF THE FOURTH COMMITTEE

CONTENTS

742 (VIII). Factors which should be taken into account in deciding whether a Territory is or is not a Territory whose people have not yet attained a full measure of self-government

The General Assembly,

Bearing in mind the principles embodied in the Declaration regarding Non-Self-Governing Territories and the objectives set forth in Chapter XI of the Charter,

Recalling the provisions of resolutions 567 (VI) and 648 (VII), adopted by the General Assembly on 18 January and 10 December 1952 respectively, indicating the value of establishing a list of factors which should be taken into account in deciding whether a Territory has or has not attained a full measure of self-government,

Having regard to the competence of the General Assembly to consider the principles that should guide the United Nations and the Member States in the implementation of obligations arising from Chapter XI of the Charter and to make recommendations in connexion with them,

Having examined the report [1] of the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories) set up by resolution 648 (VII),

[1] See document A/2428.

1. *Takes note* of the conclusions of the report of the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories);

2. *Approves* the list of factors as adopted by the Fourth Committee;

3. *Recommends* that the annexed list of factors should be used by the General Assembly and the Administering Members as a guide in determining whether any Territory, due to changes in its constitutional status, is or is no longer within the scope of Chapter XI of the Charter, in order that, in view of the documentation provided under resolution 222 (III) of 3 November 1948, a decision may be taken by the General Assembly on the continuation or cessation of the transmission of information required by Chapter XI of the Charter;

4. *Reasserts* that each concrete case should be considered and decided upon in the light of the particular circumstances of that case and taking into account the right of self-determination of peoples;

5. *Considers* that the validity of any form of association between a Non-Self-Governing Territory and a metropolitan or any other country essentially depends on the freely expressed will of the people at the time of the taking of the decision;

6. *Considers* that the manner in which Territories referred to in Chapter XI of the Charter can become fully self-governing is primarily through the attainment of independence, although it is recognized that self-government can also be achieved by association with another State or group of States if this is done freely and on the basis of absolute equality;

7. *Reaffirms* that the factors, while serving as a guide in determining whether the obligations as set forth in Chapter XI of the Charter shall exist, should in no way be interpreted as a hindrance to the attainment of a full measure of self-government by a Non-Self-Governing Territory;

8. *Further reaffirms* that, for a Territory to be deemed self-governing in economic, social or educational affairs, it is essential that its people shall have attained a full measure of self-government;

9. *Instructs* the Committee on Information from Non-Self-Governing Territories to study any documentation transmitted hereafter under resolution 222 (III) in the light of the list of factors approved by the present resolution, and other relevant considerations which may arise from each concrete case of cessation of information;

10. *Recommends* that the Committee on Information from Non-Self-Governing Territories take the initiative of proposing modifications at any time to improve the list of factors, as may seem necessary in the light of circumstances.

459th plenary meeting,
27 November 1953.

ANNEX

List of Factors

FACTORS INDICATIVE OF THE ATTAINMENT OF INDEPENDENCE OR OF OTHER SEPARATE SYSTEMS OF SELF-GOVERNMENT

First part

FACTORS INDICATIVE OF THE ATTAINMENT OF INDEPENDENCE

A. *International status*

1. *International responsibility.* Full international responsibility of the Territory for the acts inherent in the exercise of its external sovereignty and for the corresponding acts in the administration of its internal affairs.

2. *Eligibility for membership in the United Nations.*

3. *General international relations.* Power to enter into direct relations of every kind with other governments and with international institutions and to negotiate, sign and ratify international instruments.

4. *National defence.* Sovereign right to provide for its national defence.

B. *Internal self-government*

1. *Form of government.* Complete freedom of the people of the Territory to choose the form of government which they desire.

2. *Territorial government.* Freedom from control or interference by the government of another State in respect of the internal government (legislature, executive, judiciary, and administration of the Territory).

3. *Economic, social and cultural jurisdiction.* Complete autonomy in respect of economic, social and cultural affairs.

Second part

FACTORS INDICATIVE OF THE ATTAINMENT OF OTHER SEPARATE SYSTEMS OF SELF-GOVERNMENT

A. *General*

1. *Opinion of the population.* The opinion of the population of the Territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

2. *Freedom of choice.* Freedom of choosing on the basis of the right of self-determination of peoples between several possibilities, including independence.

3. *Voluntary limitation of sovereignty.* Degree of evidence that the attribute or attributes of sovereignty which are not individually exercised will be collectively exercised by the larger entity thus associated and the freedom of the population of a Territory which has associated itself with the metropolitan country to modify at any time this status through the expression of their will by democratic means.

4. *Geographical considerations.* Extent to which the relations of the Non-Self-Governing Territory with the capital of the metropolitan government may be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles; and extent to which the interests of boundary States may be affected, bearing in mind the general principle of good-neighbourliness referred to in Article 74 of the Charter.

5. *Ethnic and cultural considerations.* Extent to which the populations are of different race, language or religion or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.

6. *Political advancement.* Political advancement of the population sufficient to enable them to decide upon the future destiny of the Territory with due knowledge.

B. *International status*

1. *General international relations.* Degree or extent to which the Territory exercises the power to enter freely into direct relations of every kind with other governments and with international institutions and to negotiate, sign and ratify international instruments freely. Degree or extent to which the metropolitan country is bound, through constitutional provisions or legislative means, by the freely expressed wishes of the Territory in negotiating, signing and ratifying international conventions which may influence conditions in the Territory.

2. *Change of political status.* The right of the metropolitan country or the Territory to change the political status of that Territory in the light of the consideration whether that Territory is or is not subject to any claim or litigation on the part of another State.

3. *Eligibility for membership in the United Nations.*

C. *Internal self-government*

1. *Territorial government.* Nature and measure of control or interference, if any, by the government of another State in

respect of the internal government, for example, in respect of the following:

Legislature: The enactment of laws for the Territory by an indigenous body whether fully elected by free and democratic processes or lawfully constituted in a manner receiving the free consent of the population;

Executive: The selection of members of the executive branch of the government by the competent authority in the Territory receiving consent of the indigenous population, whether that authority is hereditary or elected, having regard also to the nature and measure of control, if any, by an outside agency on that authority, whether directly or indirectly exercised in the constitution and conduct of the executive branch of the government;

Judiciary: The establishment of courts of law and the selection of judges.

2. *Participation of the population.* Effective participation of the population in the government of the Territory: (*a*) Is there an edequate and appropriate electoral and representative system? (*b*) Is this electoral system conducted without direct or indirect interference from a foreign government? [a]

3. *Economic, social and cultural jurisdiction.* Degree of autonomy in respect of economic, social and cultural affairs, as illustrated by the degree of freedom from economic pressure as exercised, for example, by a foreign minority group which, by virtue of the help of a foreign Power, has acquired a privileged economic status prejudicial to the general economic interest of the people of the Territory; and by the degree of freedom and lack of discrimination against the indigenous population of the Territory in social legislation and social developments.

Third part

FACTORS INDICATIVE OF THE FREE ASSOCIATION OF A TERRITORY ON EQUAL BASIS WITH THE METROPOLITAN OR OTHER COUNTRY AS AN INTEGRAL PART OF THAT COUNTRY OR IN ANY OTHER FORM

A. *General*

1. *Opinion of the population.* The opinion of the population of the Territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

2. *Freedom of choice.* The freedom of the population of a Non-Self-Governing Territory which has associated itself with the metropolitan country as an integral part of that country or in any other form to modify this status through the expression of their will by democratic means.

3. *Geographical considerations.* Extent to which the relations of the Territory with the capital of the central government may be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles. The right of the metropolitan country or the Territory to change the political status of that Territory in the light of the consideration whether that Territory is or is not subject to any claim or litigation on the part of another State.

4. *Ethnic and cultural considerations.* Extent to which the population are of different race, language or religion or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.

5. *Political advancement.* Political advancement of the population sufficient to enable them to decide upon the future destiny of the Territory with due knowledge.

6. *Constitutional considerations.* Association by virtue of a treaty or bilateral agreement affecting the status of the Territory, taking into account (i) whether the constitutional guarantees extend equally to the associated Territory, (ii) whether there are powers in certain matters constitutionally reserved to the Territory or to the central authority, and (iii) whether there is provision for the participation of the Territory on a basis of equality in any changes in the constitutional system of the State.

B. *Status*

1. *Legislative representation.* Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions.

2. *Participation of the population.* Effective participation of the population in the government of the Territory: (*a*) Is there an adequate and appropriate electoral and representative system? (*b*) Is this electoral system conducted without direct or indirect interference from a foreign government? [a]

3. *Citizenship.* Citizenship without discrimination on the same basis as other inhabitants.

4. *Government officials.* Eligibility of officials from the Territory to all public offices of the central authority, by appointment or election, on the same basis as those from other parts of the country.

C. *Internal constitutional conditions*

1. *Suffrage.* Universal and equal suffrage, and free periodic elections, characterized by an absence of undue influence over and coercion of the voter or of the imposition of disabilities on particular political parties.[b]

2. *Local rights and status.* In a unitary system equal rights and status for the inhabitants and local bodies of the Territory as enjoyed by inhabitants and local bodies of other parts of the country; in a federal system an identical degree of self-government for the inhabitants and local bodies of all parts of the federation.

3. *Local officials.* Appointment or election of officials in the Territory on the same basis as those in other parts of the country.

4. *Internal legislation.* Local self-government of the same scope and under the same conditions as enjoyed by other parts of the country.

5. *Economic, social and cultural jurisdiction.* Degree of autonomy in respect of economic, social and cultural affairs, as illustrated by the degree of freedom from economic pressure as exercised, for example, by a foreign minority group which, by virtue of the help of a foreign Power, has acquired a privileged economic status prejudicial to the general economic interest of the people of the Territory; and by the degree of freedom and lack of discrimination against the indigenous population of the Territory in social legislation and social developments.

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[a] For example, the following questions would be relevant:

(i) Has each adult inhabitant equal power (subject to special safeguards for minorities) to determine the character of the government of the Territory?

(ii) Is this power exercised freely, i.e., is there an absence of undue influence over and coercion of the voter and of the imposition of disabilities on particular political parties?

Some tests which can be used in the application of this factor are as follows:

(*a*) The existence of effective measures to ensure the democratic expression of the will of the people;

(*b*) The existence of more than one political party in the Territory;

(*c*) The existence of a secret ballot;

(*d*) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections;

(*e*) The existence for the individual elector of a choice between candidates of differing political parties;

(*f*) The absence of "martial law" and similar measures at election times;

(iii) Is each individual free to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day?

[b] For example, the following tests would be relevant:

(*a*) The existence of effective measures to ensure the democratic expression of the will of the people;

(*b*) The existence of more than one political party in the Territory;

(*c*) The existence of a secret ballot;

(*d*) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections;

(*e*) The existence for the individual elector of a choice between candidates of differing political parties;

(*f*) The absence of "martial law" and similar measures at election times;

(*g*) Freedom of each individual to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day.