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Decolonisation and Self-Government in the Netherlands Antilles

A presentation by Dr. Carlyle Corbin, Independent Expert on Governance and Constitutional Advancement at a conference on the future of the Netherlands Antilles, University of the Netherlands Antilles at Curacao, 1st June 2006

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I. Introduction

I first wish to thank Dr. Goretti Narain, President of the University of the Netherlands Antilles, for the kind invitation to provide some thoughts on the issue of the political future of Curacao. I would also like to thank Ambassador Julian Hunte, Chairman of the United Nations Special Committee on Decolonisation, who I advise on decolonisation and self-determination matters, for recommending me to the University when he was unable to be present for this important session.

At the outset, I would indicate that I am speaking in my personal capacity as an Independent Expert, and not in representation of the *Special Committee on Decolonisation*.

I make this point because, as you are aware, the present list of non self-governing territories which the UN reviews under Article 73(e) of its Charter does not include the *Netherlands Antilles*, nor any of its individual islands. The UN recognized the decolonisation of the *Netherlands Antilles* by its removal from UN consideration in 1955. I will speak a bit about this later. Thus, as far as the UN is concerned, the Netherlands Antilles was decolonized by virtue of the Kingdom Charter which was submitted to the United Nations for review pursuant to the prevailing parameters of self-government of the period.

In this case, a presentation on this issue from the perspective of the Special Committee on Decolonisation might have been rather short, given the limited scope of countries with which the Special Committee deals.

Thus, my observations this evening will not be as a representative of the UN, but rather from the perspective of an advisor with several decades of experience in decolonisation matters at the United Nations on behalf of small island non independent countries.

At this juncture, it is important to point out that the UN does not have a formal procedure to deal with the review of non independent countries which are no longer on its list, and which may be undergoing changes in their political status.

Whether such changes in a country, or part of a country, previously on the UN list would lead to a renewed initiative by the United Nations to address the issue is questionable, unless a UN member state requests that the issue be added to the UN agenda. It is only then that the *Special Committee on Decolonisation* might be asked to be involved, but if the country/territory is not formally added to the UN list, it could be addressed directly in the General Assembly. This, of course, would be a political determination by the UN member states.

Over the years, some non independent countries which have been removed from the UN list—some without benefit of UN review and decision – have sought to be “re-listed,” as in the case of *French Polynesia* in the Pacific. But this is, again, a political decision of the UN member States, and thus far, only one such territory – New Caledonia in the Pacific -- has been *re-listed*. Other issues have been added as separate items of the General Assembly, as in the case of *Mayotte* which is controlled by France but actually part of the independent state of the *Comoros*.

Amidst this scenario, there are obvious obstacles to overcome in relation to involving the *Special Committee on Decolonisation* in the issue of the political evolution of *Curacao* and the rest of the *Netherlands Antilles*. Perhaps, the possibility that the General Assembly itself being involved directly is more likely – if the UN member states agree to take on the issue. One can only speculate as to the likelihood of the European Union going along with this approach, especially given the implications for other similar issues to be emerge.

From a technical assistance perspective, however, the broader UN system has provided assistance to countries in the emergence of new models of governance, similar to those presently under discussion between the respective islands of the *Netherlands Antilles* and the *Netherlands*. Technical assistance for the 2000 referendum in *Sint Maarten* from the UN’s *Electoral Affairs Division* comes to mind, as does the support made available through the *United Nations Development Programme* to a number of Caribbean and Pacific territories in the development of sustainable self-governing models, most recently in the New Zealand-administered Pacific territory of Tokelau which held under a referendum on a free association arrangement in early 2006.

In this light, I will seek to provide an international perspective on the ongoing process of governance modernisation underway in the *Netherlands Antilles*, specifically as it relates to *Curacao*. Consistent with UN principles, I would not refer to it as a decolonisation process, for the reasons I have outlined, although it certainly falls within the realm of self-determination.

II. The Historical Context

There is an historical context to political status evolution of small island countries in the Caribbean. A most relevant historical analysis of this issue is contained in the book written by Guyanese political scientist *Dr. Walter Rodney* entitled “*How Europe Underdeveloped Africa*,” published in 1982.

One of the most important elements of *Dr. Rodney’s* work of specific interest to issues of political evolution is his extensive examination of the demarcation of artificial borders creating “countries” which had not existed prior to the European arrival, and which had run counter to traditional boundaries. Indeed, in many respects, some of the conflicts in Africa today are a

function of these artificial boundaries – an issue which the late Prime Minister Dr. Kwame Nkrumah sought to address within the framework of the pan-Africanist movement.

Had Dr. Rodney lived, he would have no doubt undertaken to write the sequel to his work, which could have been entitled “*How Europe Underdeveloped the Caribbean*,” given that the same policy of demarcation of borders in Africa was used to carve up the Caribbean islands in quite similar fashion. A most striking example is the demarcation of the island of Sint Maarten/St. Martin and its proximity to the island of Anguilla – three non-independent entities, under three different governance arrangements, with three different European states, with three different official languages – and with a total population of under 100,000 persons.

Thus, emerging from this initial colonial period were island enclaves, controlled by a variety of European states which today form part of the *European Union*. The *British*, the *Dutch*, the *French*, the *Spanish*, the *Danish*, and later the *Americans*, bought and sold specific islands based on economic and/or strategic considerations, with little regard for the inhabitants. In some cases, the island possessions were distant from one another, and governed by a central authority, creating interesting challenges of multi-island governance.

This distance factor remains a formidable challenge to effective governance in a number of territories in the present day. The *US Virgin Islands* comes to mind where the two main islands of *St. Thomas* (the capital) and *St. Croix* are some 40 miles apart, with different economies, and essentially equal in population. Similar challenges have been faced by *Curacao* as the capital in governing fairly distant islands.

What essentially emerged, then, from the post-emancipation colonial practices in the Caribbean region was a series of politically dependent island territories controlled by European powers by the end of the 19th century, in the aftermath of the end of slavery. By the beginning of the 20th Century, as a result of the spoils of the Spanish-American War, a number of these territorial “holdings” changed hands.

Territories like *Cuba* and *Puerto Rico* in the *Caribbean*, and the *Philippines* and *Guam* in the Pacific region, were thus acquired, marking the emergence of the *United States* as a formal colonial power in earnest. The 1917 sale of the *Danish West Indies* to the *United States* for military strategic reasons, following a substantial economic decline in the islands, was further illustration of this point. It is interesting to note that in the 19th Century, there was considerable interest among Dutch interests in selling off their colonial possessions in the Caribbean because of declining economic fortunes.

Thus, at the beginning of the 20th century, the Caribbean colonies were maintained by extra-regional powers, for economic and/or military-strategic considerations, and it was only after World War II, and the creation of the United Nations that some emphasis was placed on the development of the people who inhabited these territories – mainly the survivors of the trans-Atlantic slave trade.

It is within this historical context that we see the emergence and maintenance of a myriad of various political status arrangements in the Caribbean region throughout the 20th Century and now into the 21st Century. Similar arrangements of small island governance exist in the Pacific.

In the case of the Netherlands Antilles, the distance between the two groups of islands is a classic example of the historical legacy to which I refer, and which is an important consideration which led to the present discussions on re-ordering of relations between the respective islands and the

Kingdom. This factor was recognised as early as 1815 after the Napoleonic wars and the placement of the colonies under King Willen I who split the Caribbean possessions into two groups because of the geographic distance between them. This ended up, however, as only a temporary measure.¹

III. Curacao and Decolonisation – The Context

It may be interesting to you that the initial reaction among many in the Caribbean to the most recent discussions on the fragmentation of the *Netherlands Antilles*, was significant concern that the current model of political association was somehow the cause of the separation of the five islands.

This thinking is significant, since important aspects of the present political arrangement include maximum autonomy with elements of integration, such as shared citizenship with substantial political participation. These are attributes which had always been considered favourable by many Caribbean territorial leaders and scholars aspiring to more autonomous arrangements. This interest among many Caribbean territorial governments, in particular, was articulated as recently as 2003 at the *United Nations Caribbean Regional Seminar on Decolonisation* held in *Anguilla*.

At this conference, a number of governments studied the details of the *Netherlands Antilles* arrangement, and expressed their interest in a similar model with the *United Kingdom* and the *United States*, respectively.² Further, constitutional reviews underway in the *United Kingdom* territories in the Caribbean have also revealed the desire for more autonomous arrangements similar to the model of the *Netherlands Antilles* and *Aruba*.

Interestingly, the United Kingdom, following the Anguilla Seminar, has taken great pains to express its policy that it will not offer the kind of autonomy exercised by the *Netherlands Antilles* to its remaining colonies, which are now limited – in their relations with the United Kingdom, at least -- to continued colonial status, or complete independence with a very short transition period. The UK argues that such a free association arrangement would not allow for it to undertake its international responsibilities for its territories in the Caribbean. This position appears, however, to miss the fundamental point that free association is not merely another form of territorial status, but rather a different status altogether, significantly altering devolving such “responsibilities” to the associated state.

Following examination, it is comforting to realize that it is not the political model of the *Netherlands Antilles* association which is in question here, but rather, the issue is the structure of relations between the islands themselves, and between the individual islands and the Kingdom that is predominate.

Indeed, it is the very maintenance of this model of association with the Kingdom, in its present form, that is the subject of intense deliberations by *Curacao* and *Sint Maarten*, both of which have so indicated this preference through referendum. *Aruba* also sees no need for a “reverse

¹ Oostinde, Gert and Klinkers, Inge: *Decolonising the Caribbean: Dutch Policies in a Comparative Perspective*; Amsterdam University Press, 2003.

² Political and Constitutional Implications of Self-Government in the Caribbean; A paper presented by *Dr. Carlyle Corbin* to the United Nations Caribbean Regional Seminar on Advancing the Decolonisation Process in the Caribbean and Bermuda, The Valley, Anguilla; 21 May 2003.

devolution” of power in any updated arrangement. This is the subject of the present negotiations between the Kingdom and the island governments.

IV. Decolonisation and Self-Determination

I earlier mentioned the use of the term “*decolonisation*” as it relates to Curacao. Indeed, the terms “*decolonisation*” and “*self-determination*” are not often spoken of in relation to *Curacao*, nor with respect to the broader *Netherlands Antilles*, since the United Nations debates of the early 1950s which focused on the *Netherlands Antilles and Suriname*. Thus, from the United Nations perspective, the conventional thinking is that these issues have already been addressed by the international community through the various resolutions of the United Nations General Assembly, after a series of UN reviews.

Gert Oostindie and *Inge Klinkers*, in their 2003 book “*Decolonising the Caribbean,*” recalled that Suriname had advocated for formal recognition of the principle of self-determination during discussions on the draft proposal for a Charter in 1952, but these arguments were dismissed by the Dutch as unacceptable.³ It was indicated, however, that this principle was accepted in the final Charter since it provided the possibility for a transitional phase towards full independence.⁴ Indeed, the phrase “*not a pact for all eternity*” was a major concession to this approach, and as such, by 1961 a series of round table conferences and other consultative mechanisms began to address aspects of the Charter related to the power sharing arrangement. The present discussions are the latest of these consultations, and appear to go the furthest in assessing possible fundamental change.

Accordingly, in January, 1952 the General Assembly by resolution⁵ referred to the 1951 communication from the Netherlands Government expressing the view that the *Netherlands Antilles* would cease to be non self-governing within the meaning of the *United Nations Charter*, and that the UN should examine the new arrangements under consideration.

This was followed by the November, 1953 UN resolution⁶ which requested information on the results of negotiations at that time on progress towards self-government, and the December, 1955 resolution⁷ which ultimately endorsed the cessation of the transmission of information on the *Netherlands Antilles* and *Surinam* under Article 73 (e) of the UN Charter.

This 1955 resolution effectively removing the *Netherlands Antilles* from the UN list of non self-governing territories came some five years before the UN General Assembly in 1960 formally defined the legitimate options of political equality. In any case, a review of the Kingdom Charter under the criteria of 1960 could have arguably revealed possible adjustments. But no mechanism was in place to review this.

However, the recent referenda held in each island on the political future of the *Netherlands Antilles* have changed the political landscape for the five individual islands. It is not surprising, therefore, that matters of decolonisation, self-determination and governance have re-emerged in relation to the re-ordering of the relations between the individual islands, their relations with the

³ See Oostindie, Klinkers; pg. 81.

⁴ Ibid, pg. 87.

⁵ Preambular Paragraph 2, United Nations General Assembly Resolution 568 (VI) of 18th January 1952.

⁶ Operative Paragraph 4, United Nations General Assembly Resolution 747 (VIII) of 27 November 1953.

⁷ Operative Paragraph 2 of United Nations General Assembly Resolution 945 (X) of 15 December 1955.

Kingdom, and ultimately, relations with the international community. Thus, a review of the international dimension of these issues as they may relate to Curacao is useful.

V. The International Dimension

To give further definition to the UN Charter on issues of the promotion of self-government and self-determination, the General Assembly adopted in 1953 a resolution⁸ which recognised that self-government can be achieved “*by association with another State or group of States if this is done freely and on the basis of absolute equality.*” The annex of this resolution lists the factors necessary in the attainment of self-government including “*the requirement that there must be freedom from control or interference...in respect of the internal government (legislative, executive, judiciary and administration of the territory).*”

On the matter of self-determination, the UN General Assembly adopted the *Decolonisation Declaration* in 1960⁹ which confirmed that “*all peoples have a right to self-determination (and) by virtue of that fact they freely determine their political status and freely pursue their economic, social and cultural development.*”

This right of peoples (*not just territories*) is confirmed in the various human rights conventions including the *International Covenant on Civil and Political Rights*; the *International Covenant on Economic, Social and Cultural Rights*, among others. Further, the General Assembly has continuously reaffirmed this right of peoples to self-determination annually in its resolutions to present day..

The condition of ‘*absolute equality*’ initially mentioned in the 1953 resolution, and a more developed definition of legitimate options of self-government, were further refined in U.N. General Assembly Resolution 1541 (XV) of 15 December 1960 which defined the three political options providing for a full measure of self-government, namely *independence, free association and integration.*

Resolution 1541 remains the benchmark used by the international community in determining a full measure of self-government, and is consistently reaffirmed in UN General Assembly resolutions. These definitions have relevance to the individual islands of the *Netherlands Antilles*, and may be useful in the negotiating process.

Resolution 1541(XV) (Excerpts)

“Principle VII

(a) Free association shall 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 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

⁸ United Nations General Assembly Resolution 742 (VIII) of 27 November 1953.

⁹ United Nations General Assembly Resolution 1514 (XV) of 20 December 1960.

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.”

As there did not exist, nor does it presently exist, a method to review the Kingdom Charter based on these principles after it had already been declared by the UN General Assembly as providing a legitimate form of political association in 1955, there was no interest at the time in comparing the political model to the new criteria. Such an assessment, if it were done today, might provide some interesting insights, especially as it relates to proposed changes in the power relationship that could emerge under a new form of separate status.

One such preliminary assessment has been done with respect to the non-independent country of *Puerto Rico* whose political status was accepted in 1953 by the General Assembly as free association. However, in reviewing it against the principles of absolute political equality adopted in 1960 in Resolution 1541, the deficiencies were seen as quite apparent, especially as it relates to the unilateral authority of the United States, as its administering power, to make laws and apply regulations affecting the smaller country. This was so apparent that the UN *Special Committee on Decolonisation*, by decision, was influenced to take up the question of Puerto Rico, even though it is not on the UN list. Accordingly, a resolution on Puerto Rico is adopted by the Special Committee annually, but not by the General Assembly. Such a strategy could be considered for the Netherlands Antilles if the membership of the UN Decolonisation Committee would concur.

In the case of Puerto Rico, a *White House Report* released in December 2005 confirmed the political deficiencies in the “commonwealth” model of Puerto Rico. On the surface, this would support enhancing the present debate on that territory at the United Nations. However, policy in Washington remains firm that the UN should have no role to play -- certainly not the *Special Committee on Decolonisation* which continues to be projected as promoting only the option of independence, notwithstanding the considerable flexibility shown by the Committee over the last 15 years in supporting the three options of political equality. Nevertheless, during the annual UN process on Puerto Rico, upwards of 100 petitioners present their views on the decolonisation of that non independent country, and for the first time in 2006, support for taking the Puerto Rico issue to the UN General Assembly came from all political parties across the spectrum.

In a similar vein, it is conceivable that any new political status entered into between *Curacao* and *Sint Maarten*, on the one hand, and the *Kingdom of the Netherlands* on the other hand – as a result of changes in the Kingdom Charter – would make for an interesting review based on the internationally-recognised criteria contained in Resolution 1541, as well as the provisions of relevant international conventions. Such an assessment could be done by the UN, a group of experts, or some other authority.

The other option under consideration in this re-ordering process is that of political *integration*. The UN also has an established criteria for *integration* in Resolution 1541 of 1960:

“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 shall 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.

In a similar fashion to free association, the model of political integration being developed under a *Kingdom Island* or *overseas province* status for *Saba*, *St. Eustatius* and *Bonaire* could be the subject of a similar expert review based on the internationally-recognised criteria. This could be useful as the details of overseas province status becomes clearer, and the negotiations begin on the terms of such an arrangement.

A. Regarding the autonomous political status arrangements:

To further illustrate this point, the current listing, as illustrated in Figure 1, places the *Netherlands Antilles* in the category of “*Self-Governing and Other Territories*,” and is defined as a free associated states under Resolution 1541 (XV) because of the high degree of autonomy which is a basis of the present political relationship.

This category includes countries such as *Greenland* and the *Faroe Islands* in respective autonomous arrangements with the *Kingdom of Denmark*; *Micronesia*, *Marshall Islands* and *Palau* in association with the *US*; the *Cook Islands* and *Niue* in association with *New Zealand*; and *French Polynesia* and *Wallis and Futuna* in similar arrangements with *France*.

Thus, the *self-governing category* would be updated to replace the former *Netherlands Antilles* with the two new countries of *Curacao* and *Sint Maarten*, respectively (*See Figure 2.*)

B. Regarding the integrated political status arrangements:

The current listing of former territories that were integrated into other countries presently include *Guadeloupe* and its dependencies, *Martinique*, and *French Guiana* in integration with *France*, as well as *Alaska* and *Hawaii* in integration with the *U.S.* As a result of changes soon to be implemented, *French St. Martin* would lose its dependency status under *Guadeloupe*, and have direct dealings with *France* (with certain implications for a newly autonomous *Sint Maarten* with which it shares the island).

Thus, the category of political integration would include the four new integrated jurisdictions of *Bonaire*, *Saba*, *St. Eustatius*, and *French St. Martin* (*See Figure 2.*)

Figure I. Categories of Non-Independent Countries 2006

<u>Non Self-Governing Territories</u>	<u>Self-Governing Territories</u>	<u>Integrated Territories</u>
Caribbean/Atlantic:		
Anguilla	Aruba	Guadeloupe & dependencies
Bermuda	Netherlands Antilles	Martinique
British Virgin Islands	Puerto Rico	French Guiana
Cayman Islands	Greenland	
Montserrat	Faroe Islands	
Turks & Caicos Islands		
U.S. Virgin Islands		
St. Helena (South Atlantic)		
Asia/Pacific:		
American Samoa	Niue	Hawaii
Guam	Northern Mariana Islands	Alaska
Kanaky (New Caledonia)	Cook Islands	
Tokelau	Micronesia (Federated States)	
	Marshall Islands	
	Belau (Palau)	
	Te Ao Maohi (French Polynesia)	
	Wallis and Futuna	

Source: United Nations Association of the Virgin Islands, St. Thomas, Virgin Islands 2005.

Figure 2. Projected Categories of Non-Independent Countries

<u>Non Self-Governing Territories</u>	<u>Self-Governing Territories</u>	<u>Integrated Territories</u>
Caribbean/Atlantic:		
Anguilla	Aruba	Guadeloupe & dependencies
Bermuda	Curacao	
	Sint Maarten	Martinique
British Virgin Islands	Puerto Rico	French Guiana
Cayman Islands	Greenland	Saba
Montserrat	Faroe Islands	St. Eustatius
Turks & Caicos Islands		Bonaire
U.S. Virgin Islands		St. Martin
St. Helena (South Atlantic)		
Asia/Pacific:		
	Niue	
American Samoa	Northern Mariana Islands	Hawaii
Guam	Cook Islands	Alaska
Kanaky (New Caledonia)	Micronesia (Federated States)	
Tokelau		
	Marshall Islands	
	Belau (Palau)	
	Te Ao Maohi (French Polynesia)	
	Wallis and Futuna	

Source: United Nations Association of the Virgin Islands, St. Thomas, Virgin Islands 2006.

VI. International Economic Relations and Separate Status

Following the emergence of these governance models in the Caribbean, the political landscape in the region would be substantially different, and the extent and nature of international economic relations would also change in some respects.

For *Curacao*, it would be appropriate that the present rather extensive regional and international affairs activities of what is presently the former *Netherlands Antilles* would be taken up by the new associated state of *Curacao*. Thus, the present observer status in *CARICOM*, the associate membership in the *Economic Commission for Latin America and the Caribbean*; and the *Caribbean Development and Cooperation Committee*; the associate membership in the *Association of Caribbean States* and *UNESCO*, among other international organisation participation, could be shifted with minimum difficulty to *Curacao* where the expertise already exists in the Ministry of Foreign Affairs of the *Netherlands Antilles*.

Sint Maarten, on the other hand, would have to create such a competency that might include participation in the *Organisation of Eastern Caribbean States* because of its proximity and cultural affinity. Other international organisation participation of interest would have to be determined and ultimately assessed, based on costs, benefits, and capacity. Joint representation in some international bodies with the other countries of the Kingdom could be another alternative. For the new integrated overseas provinces, formal participation in their own right in regional and international bodies would be limited, whilst informal arrangements might be the way forward.¹⁰

In the area of external assistance, it is also to be noted that the present participation of the *Netherlands Antilles* in these regional bodies have paved the way for future and expanded assistance from the international community. In this connection, an expert study done for the *Economic Commission for Latin America and the Caribbean (ECLAC)* in 2004 on the participation of the Caribbean and Pacific non-independent countries in elements of the United Nations system made specific relevance to participation in United Nations world conferences and special sessions of the United Nations General Assembly which began in 1990. The continual challenge is to ensure that the programmes emanating from these world conferences are made available to the non-independent countries, and to ensure that the eligibility criteria is carried forth into other international programmes and activities.

A follow-up to this study is to be done on the availability of programmes and activities of the wider United Nations system has been included in the present work programme of *ECLAC*, although it is unclear how it would be undertaken. *UNDP* has also been asked by the General Assembly to do some work in this area.

In overall sustainable development, it is important to recall the role of the United Nations in implementing the 1994 *Barbados Programme of Action on the Sustainable Development of Small Island Developing States*, and the 2005 *Mauritius Strategy for Implementation*. Both instruments provide a structure for small island developing countries to design and implement sustainable development programmes. Accordingly, assistance through the *UNDP*, *ECLAC* and other UN bodies would be available in assisting *Curacao* in creating an updated sustainable development plan for *Curacao* as a separate country in the Kingdom, to enhance present work in this area already underway.

¹⁰ "The Participation of Associate Member Countries in United Nations World Conferences," A study by Dr. Carlyle Corbin for the United Nations Economic Commission for Latin America and the Caribbean; United Nations Document LC/CAR/R.76; 21 June 2004.

Conclusion

The present association of the *Netherlands Antilles* with *Aruba* and *Holland* in the *Kingdom of the Netherlands* is essentially an arrangement of equal partners with consideration for the Kingdom responsibility in defence considerations and on major foreign relations matters.

The essence of this relationship is contained in the preamble of the *Charter for the Kingdom of the Netherlands* which states that the three countries established a ". ..constitutional order in the Kingdom of the Netherlands, in which they will conduct their internal interests autonomously and their common interests on the basis of equality and will accord each other reciprocal assistance, and resolved by mutual consent to establish the Charter of the Kingdom. "

This policy also applies to the application of Kingdom laws, and in relation to the application of international economic and financial agreements. In the latter case, Article 25 of the Charter indicates that:

"The King shall not bind the Netherlands Antilles or Aruba to international economic and financial agreements if the Government of the Country, setting forth the reasons for considering that this would be detrimental to the country, has declared that the Country should not be bound by them. "

Additional provisions contained in the Kingdom Charter which include the full participation of the Netherlands Antilles and Aruba in the negotiation of international agreements which might affect them.

The basic tenet of "*mutual consent*" as expressed in the Kingdom Charter, as contrasted with the "*tenet of unilateral authority*" in existing constitutions of Caribbean overseas territories, is the fundamental characteristic which distinguishes a modern association arrangement from a classic political dependency.

The autonomous elements of the Dutch model of free association in the Caribbean, coupled with its mutual consent provisions, is a contemporary model of free association between small island Caribbean countries and larger associated countries outside the region -a model which is viewed quite favourably in many of the remaining small island non-self-governing territories. It is also a model which the United Nations agreed as sufficiently autonomous to remove it from the United Nations list of non self-governing territories. It is a model which also would meet the criteria of present-day standards under Resolution 1541(XV).

It is, therefore, consistent that both *Curacao* and *Sint Maarten* are reported to be seeking to maintain under their respective separate status, and *Aruba* sees no reason for changing the balance of powers either.

As the negotiations continue, the parties may wish to consider an independent assessment to examine the elements of any new status which may emerge, given that the prevailing international parameters for what constitutes a full measure of self-government were originally utilised to legitimise the political arrangements as defined in the present Kingdom Charter.

For Curacao, the transition to a separate status should be relatively smooth given that the present central government functions are already present, and the administrative requirements associated with the separate status, for the most part, are already in place. The transitional issues to be faced

by the other islands would be considerable, but could be successfully addressed through support from the Kingdom, and from the international community, including the relevant bodies of the United Nations.

In the end, the success of the ongoing process is subject to negotiation between and among the parties. It is hoped that the spirit of compromise will prevail, and that the relevant international principles of self-determination, political equality, and a full measure of self-government will continue to be applied in the re-ordering of relations among the islands of the present Netherlands Antilles, and between the individual islands and the Kingdom.

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