

Ministerie van Binnenlandse Zaken en  
Koninkrijksrelaties

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To the Speaker of the House of  
Representatives of the Netherlands  
Postbus 20018  
2500 EA THE HAGUE

Date May 12, 2016  
Re. Government response to Spies evaluation report

**Ministry of the  
Interior and  
Kingdom Relations**

Turfmarkt 147  
The Hague  
Postbus 20011  
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**Ref.**  
2016-0000276638

**Your ref.**

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*In any disputes over the interpretation of this document, the Dutch version is the only official version. This translation is only an additional service.*

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On October 12, 2015, the Caribbean Netherlands Evaluation Committee, under the chairmanship of Ms. J.W.E. Spies, published the report on the elaboration of the new state structure of Caribbean Netherlands: "A five year connection: Bonaire, St. Eustatius and Saba and European Netherlands". The government has received the report with appreciation and expresses its gratitude for the intensive and fruitful work of the Committee and its members. "Connection" is a very apt term. The government, European Netherlands, feels connected to the citizens of these three islands in the Caribbean. Although we are different we share a common history as well as the state connection, we have family and personal ties, and maintain social, cultural and economic relations together. Based on the report from the Evaluation Committee, the government sees good opportunities to further the connection together with the authorities and inhabitants of the three islands.

This government response is based on the following *related considerations*, which are further elaborated on here below in this letter in *four sections*. With the dismantling of the Netherlands Antilles on October 10, 2010, the country of the Netherlands took on the responsibility for a direct tie with Bonaire, St. Eustatius and Saba. The three islands all have geographic and demographic restrictions because of their small scale. The Netherlands offers the islands a larger scope to deal with these restrictions. If Bonaire, St. Eustatius, Saba and the Netherlands fulfill this obligation well, the three islands will experience successful social and economic development in the Caribbean region. The three islands each have their own unique society, each with a separate local government, which is

acknowledged by The Netherlands. The Netherlands would like, more than thus far, to offer room for (legislative, administrative, policy and executive) differentiation. This does not mean that practical co-operation of each of these three islands with other islands in the Caribbean region, including "upwind" with St. Maarten and "downwind" with Curaçao and Aruba, and also with each other does not continue to be useful, and it will still be promoted by the Netherlands.

That the Netherlands has made considerable efforts with financial and human effort since 10-10-2010, is recognized in the evaluation reports<sup>1</sup>. The Evaluation Committee nevertheless speaks of a mixed picture, especially because of differing expectations and disappointments in the execution. This is most pressing at a socio-economic level; in *section 2, boost to the socio-economic development*, the government proposes a significant intensification. For the rest, the government believes that adequate implementation of the policies adopted and the best possible service to citizens is preferable to a continued debate on structures, task distributions, new policies and broadening of financial frameworks. Less paper; more action. This is explained in *section 1 "institutional endurance"* of this government response. This is all the more applicable now that recently Long Term Programs have been agreed on with the executive councils of each of the islands; the i's have been dotted and the t's have been crossed in *section 3 "better collective facilities"*.

The implementation capacity of the local authorities is limited by definition due to the small scale. This government response therefore above all offers an intensification of the effort for the implementation by the central government ("in kind"), for which a reinforcement of the own administrative power can be expected from the Executive Councils in return. The Kingdom Representative will more explicitly take on his role as (administrative) outpost on behalf of the government to the islands. The government response contains further elaboration on this in *section 4, good (local) public administration*, in which improvement of local government explicitly has a place.

As mentioned, the Evaluation Committee evaluated the first five years of the new relationships for Bonaire, St. Eustatius and Saba as a public entity within the country of the Netherlands (part of the Kingdom). As requested, the Evaluation Committee did not present recommendations but findings. "It is too early for a final verdict. Five years is too short for that. We hope that the results of the evaluation will form the basis for an impulse to bring the initial aims of the political change closer in the coming years". According to the chairman of the Evaluation Committee, "this means that Bonaire, St. Eustatius, Saba and the European Netherlands in dialogue with citizens must take joint concrete measures in the interest of the inhabitants of Bonaire, St. Eustatius and Saba".<sup>2</sup>

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<sup>1</sup> The government refers in this respect to an annex to the evaluation report ("Five years of Caribbean Netherlands: operation of the new governance structure"), where for example table 7.3 shows the financial efforts that the government has made in particular for health care.

<sup>2</sup> Press conference by committee chairman Spies on October 12, 2015, following the presentation of the evaluation report.

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On February 1, 2016, the Executive Councils of the three public entities submitted and explained their response to the Evaluation Committee's report to the Minister of the Interior and Kingdom Relations (BZK). The responses from the public entities and the preparation of the government response were discussed by the respective members of Parliament, the Kingdom Representative and the chair of the CN table. This thus established government response, in the above-described cohesion, in accordance with the appeal made by the Evaluation Committee especially for concrete measures, focuses on practical solutions to real problems. It is not up for discussion that the bond with European Netherlands offers special opportunities to promote prosperity and well being of the populations on the islands, says the Committee. The long-term programs entered into in June 2015 with Bonaire and Saba, and St. Eustatius in February 2016 for 2015-2018 will be built on. These long-term programs are tailored to the individual islands and focus on economic development, poverty eradication, children's rights and administrative development. With the long-term programs – also in financial terms – the government has given an extra impulse to the islands. The measures included in this government response are in addition to the long-term programs, and will have a place in them to promote the integrality. The effort should be focused on the additional measures in the coming years, in addition to the long-term programs. The government and public sector entities all stand together on this.

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### **1. Institutional endurance**

Following the evaluation, the government does not propose any institutional amendments. This does not alter the fact that amendments to the Constitution, the proposal for which is now in its first reading at the Senate, must continue to ensure that the inhabitants of Bonaire, St. Eustatius and Saba can influence the composition of the Senate at the next available opportunity. The proposal provides for a specific constitutional basis and some constitutional guarantees for public sector entities in the Caribbean part of the Netherlands, but does not record that Bonaire, St. Eustatius and Saba will have this status.

After consultation with the public entities, the Kingdom Representative and the College Financieel Toezicht BES, and given the view that there is no need for fundamental adjustments, the government will propose specific improvements to the Public Entities Act Bonaire, St. Eustatius and Saba (WoIBES) and the Public Entities Finance Act Bonaire, St. Eustatius and Saba (FinBES). In doing so the passive voting right (in relation to incompatibility of functions), the instruments of administrative and financial supervision (including attention for corporate governance in relation to the legal entities governed by private law in which the local authorities participate), the financial impact of departmental legislation and policy (Section 87 of the FinBES) and the design of the interest-free loan instrument will be looked at.

In the Final Declaration of November 2006 it was agreed that the Netherlands-Antillean legislation would gradually be replaced by Dutch legislation; it was also agreed that it would be carefully analyzed which points of Dutch legislation will

have to be waived having regard to, among other things, the population of the three islands, the great distance to European Netherlands and insularity. The practice of the past five years has shown that many arrangements will continue to be different in relation to the particular circumstances of the public entities. They differ substantially from the European part of the Netherlands, such as the differentiation clause in the Charter.

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Obviously, the fundamental rights of the inhabitants of Caribbean Netherlands are guaranteed.<sup>3</sup> That does not automatically mean that this works in Caribbean Netherlands in exactly the same way as it does in European Netherlands; situation-oriented measures are always taken also in relation to these special circumstances.

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When taking (legislative) measures in the next few years the absorption capacity of the islands will also be taken into account. Restraint is required. Where unjustified differences exist, these will be eliminated. The islands need time to implement the legislation already in place. Agreements are made with the islands on what legislation is brought in or modified. In doing so, priority will be given to:

- legislation that provides for a basic need of the islands or that eliminates bottlenecks in the executive practice of the islands;
- laws and regulations necessary for the measures described in this government response, and
- the elimination of unjustified differences.

Where there is a case of new or amended laws and regulations the involvement of the individual public sector entities in the drafting of them demands special attention. In consultation with the public sector bodies, independent legal advice will be made available to them.

## **2. Boost to the socio-economic development**

The government wants to work with local partners in the coming period to give a boost to the socio-economic development of Bonaire, St. Eustatius and Saba. To this end, a solid start was made on the long-term programs adopted in the last year. The government is willing to work on the following points in the coming years, whereby it is expressly noted that there is room for customization.

- The Evaluation Committee notes that prices have risen further after the transition and that this trend has continued despite the (financial) efforts from the Netherlands (for example with regard to utilities) to prevent this. Factors that have played a role according to the Evaluation Committee are developments on the world market, the small scale, the lack of transparency of the market and the practical implementation of the introduction of the new tax system (among other things improved enforcement). The impression is that a concrete result can be achieved with focused expertise, for example in the area of reducing the dependence on imports, employing a pricing policy, improving the functioning of the market, reducing freight costs and changing the

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<sup>3</sup> Parliamentary Papers II 2013/14, 33 826, no. 1 and annex (National Action Plan for human rights).

manner of importation and purchasing (by better cooperation and purchasing outside of St. Maarten, including the issue of double taxation). The government is prepared at the request of the public entities to provide support for competition and consumer protection issues. Under the direction of the Kingdom Representative and with the assistance of the Ministry of Economic Affairs and other relevant departments, expertise is made available in consultation with the islands, for example for competition and consumer protection issues. The success referred to by the Evaluation Committee on Bonaire with a cooperation for basic needs at a reasonable price will be involved here. However, there are limitations to influencing high prices such as world market prices.

- The potential for economic growth must be used optimally in order to relieve the poverty problem. To this end, together with Island Councils and the business sector, per island it must be reviewed if and how the findings from the 'cost of doing business' research can be implemented. The bottlenecks indicated by the islands will be included here, such as the high transport costs between Saba, St. Eustatius and St. Maarten, access to national subsidies and cost, and availability of utilities (such as electricity and telecommunications). As far as bottlenecks occur in the service provided by the public sector bodies, these will also be addressed.
- The government is willing to look for opportunities to reduce the amount of employer contributions (now 18.4%)<sup>4</sup>. Reduction in employer contributions leads to lowering the 'cost of doing business' and therefore positively affects economic development and/or purchasing power. For example, the effects of such a measure on (local) employment and wages are involved in the calculation. Incidentally, the development of the premiums in connection with the ongoing discussion on improving the social security system – especially the employees' schemes – will be reviewed.
- In line with the conclusions of the Evaluation Committee, options within the current tax system are being looked for and, where possible, a budget-neutral introduction of more, and/or more effective incentives in order to encourage investment and employment. A premium obligation for self-employed persons and the abolition of the so-called integration levy in the general expenditure tax (ABB) are being considered (meaning construction costs will decrease). In the social sphere, an expansion of the exemptions in the ABB can be considered (for example for utilities) and a reduction in the tax burden on social cultural institutions. The package of measures will be included in a legislative proposal that, if possible, will enter into force on January 1st, 2017.
- Improving economic capacity is also a precondition to make increasing the legal minimum wage (WML) possible, other than the regular adjustment based on price developments. It is therefore important that parties in a social dialogue – particularly on Bonaire - where possible make specific agreements that contribute to this.

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<sup>4</sup> An adjustment in the healthcare premium for employers does not affect the healthcare expenditure of the Ministry of Health, Welfare and Sport (VWS).

- Labor-activating measures are also necessary to increase the opportunities of local people in the labor market. Existing initiatives in order to promote the connection between education and the labor market will be expanded. In any case, a more widespread application of the training instructions can be considered when issuing a work permit. Employers are particularly addressed with regard to their responsibility to offer local workers opportunities. The mediation for work will also be professionalized. That is a task for the public entities, but the Kingdom would like to offer assistance. Work is the quickest way out of poverty and contributes towards poverty eradication.
- The government notes that the current level of welfare is relatively low compared to the WML. Social Security is at stake for this group. The government is planning to set a social minimum derived from the WML, which the welfare will grow toward according to a timeframe further to be determined. Account will be held with the incentive to work in the development.
- The Evaluation Committee finds that there has been insufficient consideration for groups that cannot provide for their income through work and where the incentive to work is not an issue (due to old age or disability). Welfare provides an extra allowance for complete and permanent disability. This allowance remains. The surviving dependants' pension for a widow or widower in the AWW who is disabled is thus brought into line with this. Besides the fact that increase in the WML influences increase of the AOV, the government, in consultation with the public sector bodies, would like to review the possibilities of broader application of the island poverty-instruments and the special welfare. Per 1 January 2016, the application of the special welfare has already been expanded (for all groups), but the government has decided to further expand this provision in the future.
- The cost of living is problematic for lower-income groups. Improving the functioning of the housing market and broadening availability (rental and new construction) should contribute to lower costs. The Evaluation Committee concludes that there are still major challenges in the field of social housing. Thanks to various co-operation agreements with European Netherlands housing corporations, major steps have been taken in the professionalization of the local housing associations which are thereby better able to fulfill their task; in recent years additional contributions have been made by the Central Government to investments in social housing, including subsidies for maintenance and new construction. In response to Van Laar's motion (34 300 IV, no. 11), detailed inventories were already made of the state of social housing on the various islands at an earlier stage. On that basis, the support of the local housing associations was maintained; there is attention for expansion of the current housing availability (new construction) on the islands. The long-term programs contain additional agreements for accommodation, including an experiment with mortgage guarantees, providing technical assistance in implementation, and improving laws and regulations.

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With the above measures, the government is employing insofar as possible targeted, specific measures to improve the standard of living for vulnerable groups. Various topics are of interest for economic development and employment (housing market, connection of education to the labor market, the social security system). Only an integrated approach to the problem will lead to socio-economic development. The government has a responsibility here, but also the island councils, for example by better upholding their poverty policy (including debt counseling) in the form of policy rules or an island ordinance.

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### **3. Better collective facilities**

The considerable efforts from the Netherlands in Bonaire, St. Eustatius and Saba have led to positive results. The Committee has found that significant improvements have been made in education on these islands and that all inhabitants have access to healthcare. Inhabitants also directly and indirectly benefit in the case of investments in infrastructure, poverty eradication and nature for example. At the same time, the government is of the opinion that better public facilities can be realized for the inhabitants of Bonaire, St. Eustatius and Saba with the available resources. This is particularly true for tasks where the primary responsibility (now) lies with the public body. The government and the island councils, in particular because many tasks are the primary responsibility of the public entities, endeavor to spend resources with as high a return as possible.

The government and the island councils also explicitly work towards co-operation with other island organizations and European Netherlands institutions.

Specifically, the following measures are taken:

- The Ministry of VWS (Health, Welfare and Sport) is willing, similarly to the performance in the area of healthcare, to take steps in youth care (including the Center for Youth and Family in Bonaire; with the margin that is freed up here within the free allowance Bonaire gives a boost to island tasks, for example youth and healthcare). The government is further prepared to support the public bodies through a twinning in designing a sustainable and accessible childcare system.
- OCW (Education, Culture and Science) will make agreements together with the school boards, school leaders and public sector bodies for the period 2016-2020 for the further improvement of education on the islands. The Evaluation Committee has found that the Education Agenda for the Caribbean Netherlands (2011-2016) seems to be a successful approach. It is expected that this new Education Agenda can be adopted in the autumn.
- With the current housing program, OCW and the islands are working together to get rid of the backlogs in education housing. Now that the housing program is progressing, it is important to prevent further delays. The islands are responsible for maintenance and replacement, for which resources have been added to the free allowance. Further agreements will be made with the islands to prevent a new backlog and decapitalization.
- The maintenance of physical infrastructure is a major concern on all three islands. The long-term programs include additional resources for investment in infrastructure. The Ministry of I&M will support the islands

with knowledge and skills to maintain the built infrastructure to prevent new backlogs. The Ministry of I&M invests in the environment. On Bonaire a sustainable living environment conference is being organized for 2016, with the aim of implementing joint programs on topics such as waste and corporations. It will also devote attention to implementation, administrative efficiency and integrality in living environment themes.

- The Ideeversa report on the so-called free allowance<sup>5</sup> points out that the public entities make insufficient reserves within their budgets for maintenance and replacement of investment, even where according to the report sufficient budgets have been made available for education and housing, and where the Central Government has contributed to making up arrears, such as in infrastructure with a fonds perdu investment. The government will ask the Commissie Financieel Toezicht BES to explicitly pay attention to the budgets in their reviews and advice.

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#### **4. Good (local) public administration**

The government, in line with the opinion of the Evaluation Committee, keeps in mind that the processing of the transition is still in full swing and the implementation of recently employed policy is not yet complete. The inhabitants of Bonaire, Saba and St. Eustatius benefit from well-functioning public administration and matching services, both at the level of local government as well as where the Central Government is concerned. The Ministry of the Interior and Kingdom Relations, in collaboration with other ministries, municipalities and other organizations in European Netherlands will make capacity available to support the island official organization. Special attention will be given to the structural vulnerabilities in the departments of civil affairs.

We believe that this provides the necessary and desired support indicated also by the executive councils in improving the island administration in terms of organization, capacity and professionalism. The Evaluation Committee also gives a clear mandate to the island councils. The scale of the islands, the limited capacity and the socio-economic problems explain some of the low administrative efficiency, but the involvement on the smallest island of Saba shows that progress is possible.

The Evaluation Committee refers to a “fragmented and sometimes contradictory approach on the Dutch side”. In the past two years governance has improved, especially based on the advice from the Thunissen/Van Gastel/Johnson Committee. This path must be consistently sustained. Policy-making management is now with the interdepartmental CN Table (under the chairmanship of the Secretary-General of the Ministry of the Interior and Kingdom Relations), which the Kingdom Representative (assisted by the Director RCN) also forms part of. The preparation and update of the long-term programs, their progress and the coherence with underlying programs are discussed and coordinated by the CN Table. This CN Table also monitors the co-operation between and with the various

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<sup>5</sup> Letter from the Minister of the Interior and Kingdom Relations of March 26, 2015 (Parliamentary Papers II, 2015-2016, 34 000 H-5)

sectors in The Hague and on the islands, without adopting independent powers and operational control (of the justice system (district attorney, police, fire department), inspections and surveillance). The Kingdom Representative will more explicitly take on his role as administrative outpost on behalf of the government to the public entities. He will ensure the (administrative) implementation of the long-term programs and the co-ordination of the execution. He promotes co-operation between civil servants in Caribbean Netherlands amongst themselves and between them and the public bodies. The departmental policy officers and liaisons active on the island support him in this, by analogy with the working method of the permanent representation of the Netherlands to the EU for example. To reinforce the involvement of the public sector entities in policy making and to discuss the progress of the implementation a bilateral consultation will be organized between the chairman of the CN Table, the Kingdom Representative and the executive council of each of the public entities twice a year.<sup>6</sup>

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### **In closing**

The government agrees with the finding of the Evaluation Committee that disappointing experiences also have to do with major differences in language, culture and governance between European Netherlands and the islands. The authorities, including the central government, must endeavor to inform the inhabitants of Bonaire, St. Eustatius and Saba about the available public services, but also about their rights and obligations as citizens.

Being part of the Netherlands also means that corporations and social institutions see Bonaire, St. Eustatius and Saba as part of the Netherlands. The government will therefore aim to involve the central government, municipalities, VNG, schools, housing corporations, banks, utilities and businesses in a broad sense in the optimization of the opportunities offered by the direct tie of the islands to the Netherlands.

The government appreciates the role and efforts of the High Councils of State. In particular the National Ombudsman and the Court of Audit contribute to the development of the public sector entities. In the context of good public governance initiatives of the High Councils of State will be supported. The government also expresses its appreciation for the Financial Supervision Authority BES that is an indispensable partner for the public sector entities and the central government when it comes to island finances and financial management.

Finally, in recent years, several motions and commitments from various departments have been linked to the government response to the evaluation report. Annex 1 describes the motions and commitments that were taken into account in this government response and thus have been met. In a following annex you will find the answers to a number of actual questions that the Kingdom Relations Permanent Committee has put to the Evaluation Committee (TK 34300-

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<sup>6</sup> Government response to Van Gastel et al report of March 21, 2014 (Parliamentary Papers II, 2013 – 2014, 33 750 IV, no. 35).

IV, no. 23). However, after the publication of the report, the Evaluation Committee has been disbanded. Since these are often factual questions, I have answered these questions together with my colleagues from Finance and Social Affairs and Employment.

The Minister of the Interior and Kingdom Relations,

Dr. R.H.A. Plasterk

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