



# PETITION

Hon. Min. Mr. Stef Blok  
The Minister of Foreign Affairs of the Netherlands  
P.O. Box 20061  
2500 EB The Hague  
The Netherlands

February 15, 2021

Excellency:

*Bearing in mind, the competence of the General Assembly to decide whether or not a Non Self-Governing Territory has attained the full measure of self-government referred to in Chapter XI of the Charter of the United Nations. (UN Resolution 945X, 15 December, 1955)*

**REQUEST:** *Through your good office to obtain from the UN General Assembly the resolution whereby the (former) Netherlands Antilles were removed from the United Nations list of Non-Self-Governing Territories (NSGT's) in 1955 or 1963, as they no longer appear on the UN list of NSGT's and, UN Resolution 945X of December 15, 1955 does not state that: **Chapter XI can no longer be applied to the Netherlands Antilles**, as is the case in other resolutions of the period, such as Puerto Rico (1953), Greenland (1954), Alaska (1959), and Hawaii (1959.) In the event such a resolution is not forthcoming, we request you to use your good offices to ensure that the UN list of NSGT's is corrected by including the islands of the former Netherlands Antilles (Aruba, Bonaire, Curacao, Saba, St. Eustatius, and St. Maarten) on that list.*



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### **Statement of the problem:**

The former Netherlands Antilles do not appear on the UN list of Non Self-Governing Territories, while there does not exist a UN Resolution authorizing their removal.

### **The Position of the Kingdom Government:**

In a letter dated 27 September 2019, State Secretary of Kingdom Affairs, Mr. Knops wrote:

*“Thans, na nadere juridische analyse van de materie, is haar (Het Koninkrijk) positie dat artikel 73 VN Handvest niet meer van toepassing is ....”<sup>1</sup>*

This statement raises a number of issues. It implies, that until that date, September 27, 2019, the Kingdom Government was of the opinion that the former Netherlands Antilles were still under article 73 of the UN Charter. This means that the Kingdom was of the opinion that the islands were or should be on the list of Non Self-Governing Territories up to that date which is a curious position to say the least. The statement further suggests that at some point a “*nadere juridische analyse*” was conducted which caused the Kingdom Government to change its position. This strikes us as rather odd, since it is the UN General Assembly that decides whether or not a territory should be removed from the list of Non Self-Governing Territories. The islands were placed on the list by UN Resolution 66 (1) of December 14, 1946. According to the rule of equivalency, a legal instrument can only be revoked by an instrument of equal or superior legal force. This means that only another UN Resolution can remove a territory from the list. Did the Kingdom Government discover such a resolution that caused it to change its position?

### **Point of Departure:**

Resolution 945X of December 1955 states that only the UN General Assembly is competent to decide whether or not Chapter XI no longer applies to a Non Self-Governing Territory. The Resolution also contains the following amendment by Uruguay which Uruguay explained as follows<sup>2</sup>:

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<sup>1</sup> 2019Z15876, kenmerk 2019-0000490003, 27 September 2019, “*Vragen van het Lid Bosman (VVD) aan de Staatssecretaris van Binnenlandse Zaken en Koninkrijksrelaties over het dekolonisatieproces van de voormalige Nederlandse Antillen (Ingezonden 21 augustus 2019)*”

<sup>2</sup> *An amendment by Uruguay that reaffirmed ‘the competence of the GA to decide whether a Non-Self-Governing Territory has attained the full measure of self-government referred to in Chapter XI of the Charter’ was adopted by 29 votes to 13, with 12 abstentions. The representative of Uruguay had explained that he submitted this amendment because the Netherlands Antilles and Surinam were still not fully self-governing. The amendment was*



*The representative of Uruguay had explained that he submitted this amendment because the Netherlands Antilles and Surinam were still not fully self-governing. The amendment was intended to offer the peoples of the Netherlands Antilles and Surinam 'a safeguard, an opportunity of coming at a later date to knock at the door of the United Nations, should the need arise'*

This amendment, including the explanation, was adopted by 29 votes to 13, with 12 abstentions. As this amendment was formally adopted, the UN General Assembly is morally and legally bound to honor this petition. The foundation is making use of the "*opportunity to knock at the door of the United Nations*" extended by the United Nations.

**Moral Authority:**

Assisting petitioners in putting forward this request will underline and strengthen the moral authority of both the Permanent Representation of the Netherlands at the United Nations and the Dutch Ministry of Foreign Affairs which align with the statement of the Minister of Foreign Affairs as found on its website:

*"I want to uphold our interests abroad. All around the world our diplomats work to promote Dutch interests and values, and they are on call 24/7 to help Dutch nationals and companies in need."*

**About the Petitioner:**

Pro Soualiga is a foundation established and duly registered under the laws of Country St. Maarten. Its statutory of objectives are, *inter alia*, the completion of the decolonization of St. Maarten. To that end, the foundation has commenced court action against the Dutch State. The foundation has requested the court to determine if the decolonization of the former Netherlands Antilles was conducted in a manner consistent with, or having regard to, International Law. The matter is still *subjudicia*. (Exhibit 1)

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*intended to offer the peoples of the Netherlands Antilles and Surinam 'a safeguard, an opportunity of coming at a later date to knock at the door of the United Nations, should the need arise'* Hillebrink, S., *Political Decolonization and Self-Determination the Case of the Netherlands Antilles and Aruba*, Diss. University of Leiden, 2007. P. 224



*Bearing in mind its resolution 65/118 of December 10, 2010 on the fiftieth anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples, reiterating its view that it is incumbent on the United Nations to continue to play an active role in the process of decolonization, and noting that the process of decolonization is not yet complete.*<sup>3</sup>

This solemn declaration by the United Nations General Assembly fills us with the conviction that our petition to have clarity concerning the issue of why and how the former Netherlands Antilles were removed from the list of Non Self-Governing Territories, will be sympathetically received and fully resolved by the only body competent to do so.

### **Establishment of first Parliamentary Decolonization Committee in the history of the (former) Netherlands Antilles:**

On November 5<sup>th</sup> 2020, the Parliament of St. Maarten took the unprecedented step of passing a motion establishing a “Decolonization Committee” to address the issue of the decolonization of St. Maarten due to the fact that Parliament had serious doubts as to whether or not the island had ever been decolonized.

### **Historical Background: The Colonial Confession of 1946<sup>4</sup>:**

On December 14, 1946 the UNGA adopted UN Resolution 66(1). In that resolution, the Netherlands informed the UNGA that it administered “Curacao and its dependencies” “(Curacao en onderhorigen), and agreed to submit the information required pursuant to Article 73e of the Charter of the United Nations. The act of informing the UN regarding which colonial territories it administered has since become known as the “colonial confession”. Bear in mind that in 1946 the words “Netherlands Antilles” had not yet been invented and that the other islands of the Netherlands Antilles were not mentioned by name but simply lumped together as “dependencies” of Curacao. This confusion in nomenclature might have played a role in 1963 when the current list of NSGT’s was updated.

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<sup>3</sup> International Court of Justice, advisory opinion, Feb. 25, 2019 “*LEGAL CONSEQUENCES OF THE SEPARATION OF THE CHAGOS ARCHIPELAGO FROM MAURITIUS IN 1965*”, p. 6

<sup>4</sup> De Europese koloniale mogendheden waren verzwakt uit de oorlog gekomen, zo luidt de redenering, en niet bij machte om hun greep op hun koloniën in Zuidoost-Azië en Afrika te behouden. Abandonnering van het koloniale project was de enige logische consequentie die uit de gegeven omstandigheden te trekken was. De opmars van het nationalisme in de koloniën maakte het, samen met de machtsontplooiing van de antiekoloniale Verenigde Staten en de Sovjet-Unie, de Europese koloniale mogendheden simpelweg onmogelijk om hun soevereiniteit over hun overzeese gebieden te bestendigen. Stol, B.J., *Een Goede Kleine koloniale mogendheid: Nederland, Nieuw-Guinea en de Europese tweede koloniale bezetting in Afrika en Melanesie (ca. 1930-1963*, diss. Universiteit Utrecht, 2017, p.13



### **UN Resolution 945X Compared to its Contemporaries:**

During the 1950's, four territories were presented to the UN for decolonization. The first was Puerto Rico in 1953, followed by Greenland in 1954, the Netherlands Antilles in 1955 with the decade being rounded out by the decolonization of Alaska and Hawaii in 1959.<sup>5</sup>

#### ***The removal of Puerto Rico from the UN list of NSGT's by UN Res 748 (VIII), November 22, 1953.***

*Considers that due to these circumstances the Declaration regarding Non Self-Governing Territories with the provisions established under it in Chapter XI of the Charter can no longer be applied to the Commonwealth of Puerto Rico.*

#### ***The removal of Greenland from the list of NSGT's by UN Res 849 (IX) of November 22, 1954.***

*Considers that due to these circumstances the Declaration regarding Non Self-Governing Territories with the provisions established under it in Chapter XI of the Charter can no longer be applied to Greenland.*

#### ***The removal of Alaska and Hawaii from the list of NSGT's by UN Res 1469 (XIV) of December 12,, 1959.***

*Considers that owing to the circumstances mentioned above, the Declaration regarding Non Self Governing Territories with the provisions established under it in Chapter XI of the Charter can no longer be applied to Alaska and Hawaii.*

### **The Anomalies in UN Resolution 945X of December 1955:**

(a) The voting record:

The first anomaly is the strange voting record on Resolution 945X of December 15, 1955:

Puerto Rico	yes votes	43 %	abstentions	30%
Greenland	yes votes	75%	abstentions	18%
Alaska and Hawaii	yes votes	71%	abstentions	21%
<b>Neth. Antilles</b>	<b>yes votes</b>	<b>28%</b>	<b>abstentions</b>	<b>43%</b>

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<sup>5</sup> Examples are Puerto Rico (A/RES/748(VIII) 27 Nov. 1953), Greenland (A/RES/849(IX) 22 Nov. 1954), the Netherlands Antilles and Surinam (A/RES/945(X) 15 Dec. 1955), Alaska and Hawaii (A/RES/1469(XIV) 12 Dec. 1959)



(b) Amendments:

Un Resolution 945X is the shortest yet it is the only decolonization resolution for the period containing not one, but two amendments, stating that the Netherlands Antilles “were not fully self-governing”<sup>6</sup>.

(c) The failure of Resolution 945X to unequivocally declare that: “*Chapter XI can no longer be applied to the Netherlands Antilles.*”<sup>7</sup>

This strange voting record, the lowest number of yes votes coupled with the highest number of abstentions, was commented on in a letter dated September 28, 2015 to the Prime Minister of the Netherlands by the Prime Ministers of Aruba, Curacao and St. Maarten:

*De VN-Trusraadschap en de 10e sessie van de Algemene Vergadering van de Verenigde Naties hadden reeds grote twijfels aan de oprechte wil van Nederland of bij de aanvaarding van deze nieuwe rechtsorde vastgesteld in het Statuut, daadwerkelijk sprake was van dekolonisatie van de Nederlandse gebieden buiten Europa.*

These same doubts are the root cause of the establishment of the Parliamentary Decolonization Committee by the Parliament of St. Maarten, mentioned earlier in this petition.

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<sup>6</sup> Amendment submitted by Uruguay. The representative of Uruguay had explained that he submitted this amendment because the Netherlands Antilles and Surinam were still not fully self-governing. The amendment was intended to offer the peoples of the Netherlands Antilles and Surinam “a safeguard, an opportunity of coming at a later date to knock at the door of the United Nations, should the need arise. (525<sup>th</sup> Meeting, p 315, viz. Hillebrink p. 224)

Amendment submitted by India. India explained this amendment by stating that it intended to declare that the decision of the General Assembly only related to Article 73 e and that paragraphs a to d remained in force and could be invoked by the General Assembly at any time. (Hillebrink, *op. cit.* p. 223)

<sup>7</sup>Klinkers, A. J., *De Weg naar Het Statuut, Het Nederlandse dekolonisatiebelied in de Caraïben (1940-1954) in vergelijkend perspectief*, Diss. Universiteit Utrecht 1999, “De tekst van de resolutie waarmee de Algemene Vergadering instemde met de beëindiging van de rapportage over beide Rijksdelen, geeft dan ook geen duidelijke antwoord op de vraag, of dezen naar de mening van dit VN lichaam de status van niet- zelfbesturende gebieden in de zin van Hoofdstuk XI van het Handvest te boven waren gekomen.” (Bijlagen bij Hoofdstuk 4, p. 36)



### Confusion Within the Kingdom Government:

Perhaps because no one bothered to perform a comparative analysis as we have done above, the notion has been perpetuated that Resolution 945X served as the basis for the removal of the Netherlands Antilles from the UN list of Non Self Governing territories.<sup>8</sup>

*De heer Fritsma (PVV): Voorzitter.*

*De Nederlandse verantwoordelijkheden die er nu zijn, hebben als belangrijkste basis het VN-Handvest; artikel 73 om precies te zijn. Ik heb het nog maar eens uitgeprint. Iedereen heeft het over het Koninkrijksstatuut, maar de banden met de eilanden die daarin zijn gedefinieerd, zijn afgeleid uit dit artikel van het VN-Handvest. Nogmaals, het is de moeite waard voor iedereen om dit artikel nog eens na te lezen, want het gaat ongelooflijk ver. Er staat precies in beschreven wat Nederland wel of niet mag; welke plichten en verantwoordelijkheden we hebben. Dat blijft tot nu toe een beetje onderbelicht. Het artikel bepaalt dat de politieke, economische en sociale vooruitgang van de eilanden verzekerd moet zijn, hetgeen door Nederland als oud-kolonisator geregeld moet worden. De verantwoordelijkheden die dat met zich brengt, zijn letterlijk vastomschreven en variëren van zorg voor onderwijs tot het bevorderen van zelfbestuur, van de ontwikkeling van wetenschap tot waarborging van veiligheid. Ook legt deze VN-bepaling die vreselijke ongelijkheid op dat de eilanden zich wel eenzijdig los mogen maken van Nederland, als zij dat willen, maar dat Nederland zich niet eenzijdig los mag maken van de eilanden.*

*(Kamerstukken 33689 #3, 2014-2015, 12-30-14, p.16)*

*De heer Bosman (VVD):*

*Er dient een verplichting te zijn van Nederland. We vallen onder artikel 73, zo zegt de minister(Plasterk) net zelf. We zijn dus niet gedekoloniseerd. (Kamerstukken TK 12, 13 oktober 2016, initiatiefnota Bosman van Raak, p. 12-16-5*

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<sup>8</sup> Resolution 945X also failed to state that the people of the Netherlands Antilles had exercised their right to self-determination or that they had become self-governing. The resolutions of Puerto Rico, Greenland and Alaska and Hawaii each contained those declarations.



*Staatssecretaris Bosman:*

*Thans, na een nadere juridische analyse van de materie, is haar (Het Koninkrijk) positie dat artikel 73 VN Handvest sedert de totstandkoming van het Statuut niet meer van toepassing..(brief van 22 september 2019, beantwoording kamervraag lid Bosman over het dekolonisatieproces van de voormalige Nederlandse Antillen, 2019Z15876, ingezonden 21 augustus 2019)*

*De Staat der Nederlanden:*

*Artikel 73 VN handvest is namelijk sedert de totstandkoming van het Statuut in 1954, in 1955 gevold door Resolutie 945 (X) van de Algemene Vergadering van de VN en de schrapping van de Nederlandse Antillen (met inbegrip van Sint Maarten) van de lijst van "non-self governing territories" van de VN, niet (meer) van toepassing op de bevolking van Sint Maarten. (Memorie van Antwoord, Pro Soualiga vs Staat der Nederlanden, paragraaf 3.3, dd.*

*4 december 2020)*

**Raised Expectations (Opgeweekte Vertrouwen):**

A number of statements and declarations by various organs of the Dutch State apparatus has raises our expectations that our request will be met with favor:

**1. Speech by Minister Blok "Steps Towards Justice" (January 20, 2021)**

*"... because we know that the road to justice, begins with knowing the truth"*

This statement has raised our expectations that just as in the harrowing story of Syrian refugee, Omar Alshogre, the Minister will strive to let the people of the former Netherlands Antilles know the truth about their decolonization and colonial status, from the only source able to supply us with impartial answers which is The United Nations General Assembly.

**2. Motion by the Second Chamber of November 26, 2020, ( *constaterende dat er sprake is van politieke inmenging in de benoeming van Poolse rechters;*)**

*overwegende dat artikel 90 van de Grondwet stelt dat Nederland de ontwikkeling van de internationale rechtsorde bevordert;*



This appeal to Article 90 of the Dutch constitution has raised our expectations that our petition will be favorably received because aligning the Kingdom Charter with the UN Charter can be considered wholly consistent with and, the highest act of, promoting the development of the international legal order.

**3. Note Verbale from the Dutch Permanent Mission to the United Nations to the President of the General Assembly:**

*As a member of the Human Rights Council, the Kingdom of the Netherlands will be your partner in respecting human rights, reaching out to States and civil society partners and responding to human rights concerns. Our bid to join the Human Rights Council reflects our long-standing and ongoing commitment to upholding the Universal Declaration of Human Rights and to promoting and safeguarding a rules-based international order.<sup>9</sup>*

The pledge to “reach out to civil society partners” has raised our strong expectation that the State will honor this pledge and respond favorably to Pro Soualiga, a civil society partner, NGO, and Non-State Actor and respond to our request. Decolonization is an act of self-determination pursuant to Article 1 of the Covenants (BUPO Verdrag) and therefore constitutes human rights.

**4. The Written Statement of the Kingdom of the Netherlands of February 27, 2018<sup>10</sup>**

*Under the law of self-determination, the administering State is under an obligation to respect and promote the right of self-determination of the inhabitants residing in the administered colonial territory. These inhabitants have a corresponding right vis-à-vis the administering State to have their right to self-determination respected and promoted. This situation thus concerns an obligation and a corresponding right erga singulum. A violation of the right of self-*

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<sup>9</sup> Annex to the *note verbale* dated 19 March 2019 from the Permanent Mission of the Netherlands to the United Nations addressed to the President of the General Assembly, Candidature of the Netherlands to the Human Rights Council, 2020–2022 Voluntary pledges and commitments pursuant to General Assembly resolution 60/251.

<sup>10</sup> International Court of Justice, Feb. 25, 2019; *Legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965* (request for an advisory opinion).



*determination by the administering State amounts to an internationally wrongful act that entails the international responsibility of that administering State. (par. 4.1)*

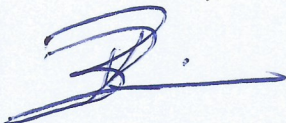
This bold and unequivocal pronouncement by the Kingdom of the Netherlands on the World Stage has raised the expectation that the Kingdom will do all in its power to assist Pro Soualiga in determining whether or not the inhabitants of the colonial territories should be on the UN list of NSGT's.

**Why the Netherlands Antilles are no longer on the UN list of NSGT's; clerical oversight.**

*According to Barbier, the reason why the Netherlands Antilles and Surinam (and a number of territories of France, the UK and Denmark) were not on the list, was the method used by the Working Group charged with drawing up the list.<sup>11</sup> It created four categories of colonial territories: Trust Territories, other NSGTs on which the administering powers transmitted information, the territories declared non-self-governing by the GA, and South West Africa (Namibia). The Netherlands Antilles and Surinam did not appear to fall into any of these categories. (Hillebrink, p. 228)<sup>12</sup>*

We look forward to your response to this request.

Sincerely,



Renate Brison  
Secretary  
Pro Soualiga Foundation

cc: drs. R. Knops - Staatsecretaris Koninkrijksrelaties en Binnenlandse Zaken a.i.  
Mr. M. Rutte – MinPres, a.i.  
The Dutch Permanent Representative to the United Nations, New York

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<sup>11</sup> Betreft UN doc A/5446/Rev.1 van 1963. Verwezen wordt naar paragraaf 27 waarin de vier rubrieken worden besproken. Annex I bevat de "*Preliminary list of territories to which the Declaration on the granting of independence to colonial countries and peoples (General Assembly resolution 1514 (XV)) applies . . . de "list" waarnaar de Staat verwijst in paragraaf 3.32 van zijn "Written Statement"*.

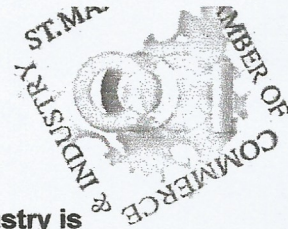
<sup>12</sup> Hillebrink, S., *Political Decolonization and Self-Determination the Case of the Netherlands Antilles and Aruba*, Diss. University of Leiden, 2007.



Excerpt from the Commercial Register

Registration number: 28259 (0)

Date: January 20, 2021 Time: 11:46:50 AM



In the Commercial Register of the St. Maarten Chamber of Commerce & Industry is registered under number 28259: PRO SOUALIGA FOUNDATION

<b>Trade name</b>	
<b>Legal form</b>	Foundation
<b>Official name</b>	PRO SOUALIGA FOUNDATION
<b>Statutory seat</b>	Sint Maarten
<b>Date of incorporation</b>	July 24, 2020
<b>Date last amendment</b>	January 11, 2021
<b>Date registered</b>	July 24, 2020
<b>Description</b>	<ol style="list-style-type: none"> <li>1. To take court and other legal action in order to promote the right to a full measure of self-government and self determination pursuant to the Charter of the United Nations of St. Maarten, Aruba, Curacao, Bonaire, St. Eustatius and Saba.</li> <li>2. To file petitions at the United Nations and other international bodies and countries to achieve the objectives set forth above.</li> <li>3. To engage with the government of Aruba, Curacao, Bonaire, Saba and St. Eustatius and St. Maarten and the government of the Netherlands to achieve the objectives set forth above sub 1.</li> <li>4. To pursue the decolonization of the abovementioned islands, by means of court action against the Dutch State and by presenting the matter of the decolonization of the islands mentioned before the United Nations, other international organizations as well as other countries.</li> <li>5. To pursue the removal of the function of governor and the removal of articles 44, 50 and 51 from the Kingdom Charter in order to make the Kingdom Charter United Nations compliant.</li> <li>6. To obtain a United Nations resolution for all six islands mentioned above, or for any one, as the case may be, declaring that the right of self-determination has been exercised, that the full measure of self-government has been obtained and that Chapter XI of the United Nations Charter no longer applies.</li> </ol>

**Business Address(es)**

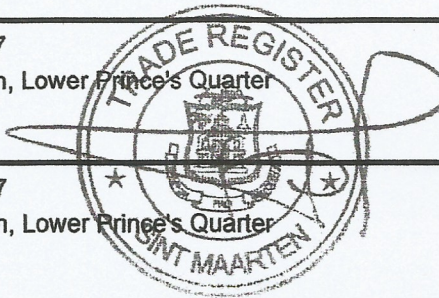
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<b>Address</b>	Brill's Drive 17
<b>Area name</b>	Middle Region, Lower Prince's Quarter

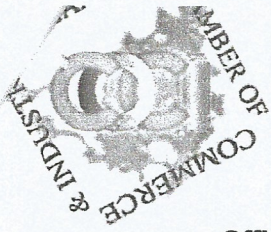
**Correspondence Address(es)**

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<b>Address</b>	Brill's Drive 17
<b>Area name</b>	Middle Region, Lower Prince's Quarter







### Officials

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<b>Function</b>	Board member
<b>Title</b>	President/Chairman
<b>Name</b>	PEDRO DENISIO BRISON
<b>Address</b>	Brill's Drive 17,
<b>Date of birth</b>	July 30, 1952
<b>Place of birth</b>	Aruba
<b>Country of birth</b>	Aruba, Netherlands West Indies
<b>Nationality</b>	Dutch ( Netherlands Antilles )
<b>Date in function</b>	July 24, 2020
<b>Authority</b>	Jointly authorized

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<b>Function</b>	Board member
<b>Title</b>	Secretary
<b>Name</b>	RENATE LISANDRO BRISON
<b>Address</b>	Mildrum Road 9,
<b>Date of birth</b>	April 2, 1972
<b>Place of birth</b>	Sint Maarten
<b>Country of birth</b>	Sint Maarten
<b>Nationality</b>	Dutch ( Netherlands Antilles )
<b>Date in function</b>	July 24, 2020
<b>Authority</b>	Jointly authorized

Only valid if stamped and signed by the Chamber of Commerce

Sint Maarten, January 20, 2021

