



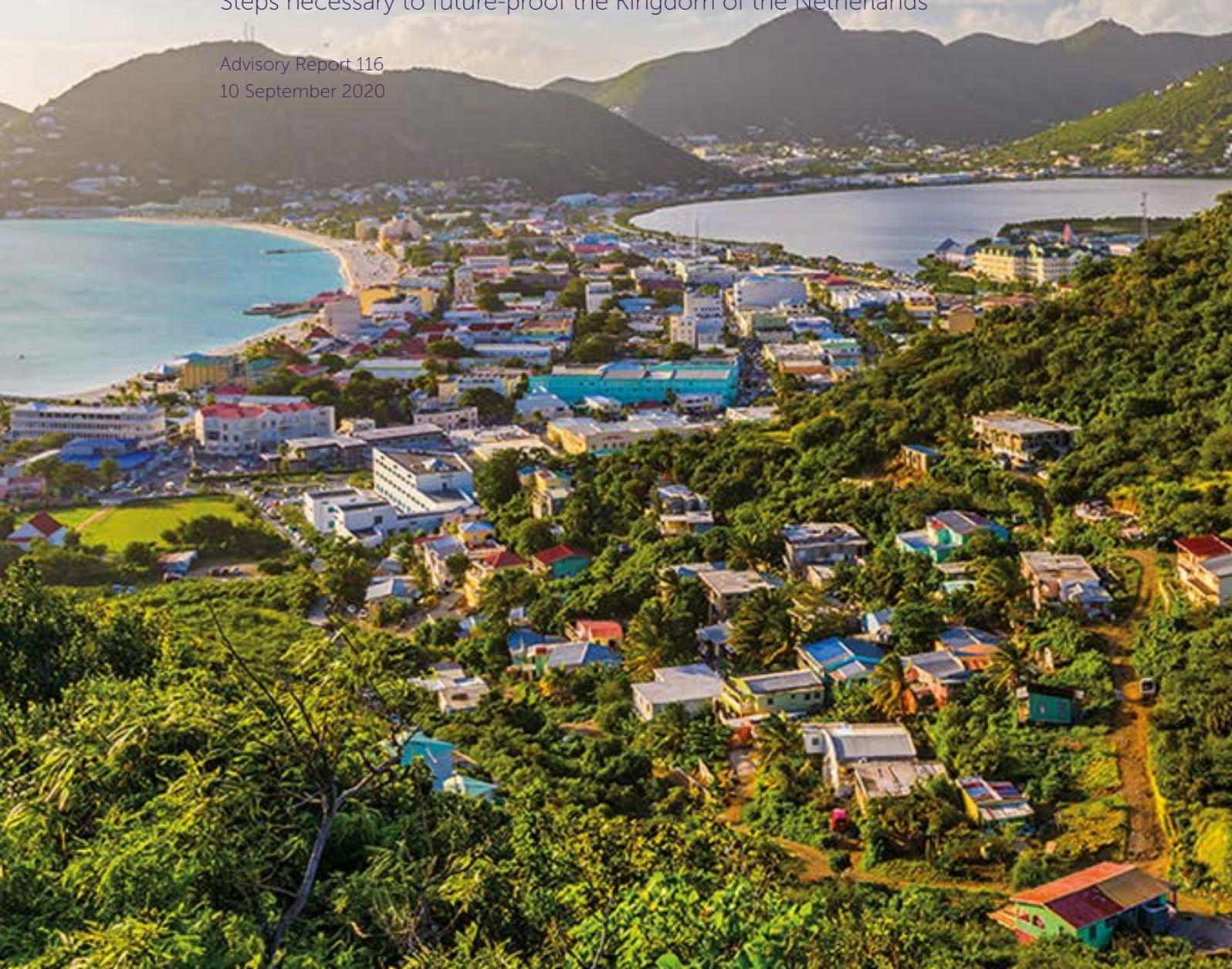
Advisory Council
on International Affairs

Security and the legal order in the Caribbean

Steps necessary to future-proof the Kingdom of the Netherlands

Advisory Report 116

10 September 2020



The Advisory Council on International Affairs (AIV) is an independent body which advises the Dutch government and parliament on foreign policy. The AIV produces advisory reports about international affairs both on its own initiative and on request. Its main areas of expertise are European cooperation, development cooperation, human rights and security policy. The Advisory Council focuses on strategic dilemmas and draws attention to new policy themes with a view to the longer term. It provides independent, well thought-out and balanced advisory reports containing recommendations for Dutch foreign policy. The Advisory Council's goal is to contribute to political and public debate on matters of international significance.

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Summary

Relations within the Kingdom are still unduly characterised by an excessive lack of reciprocal engagement. Given the major challenges the Caribbean region faces, none of the countries in the Kingdom can afford to continue as before. For the Netherlands, extending its field of vision to the other side of the Atlantic has become a matter of urgency. This is necessary not only because of the ongoing crisis in Venezuela and the sharp rise in international cocaine trafficking but also because of recent disruptive events such as the COVID-19 pandemic. The Dutch government has asked the Advisory Council on International Affairs (AIV) to determine how security trends in the Caribbean are likely to develop over the next ten years and how they will affect the foreign relations and security of the Kingdom of the Netherlands in general and the Caribbean countries of Aruba, Curaçao and St Maarten in particular. The variety of topics mentioned in the request for advice indicates that security is interpreted here in a broad sense. The AIV uses the term 'human security' as a conceptual framework centred on the values of human dignity and wellbeing. In this approach, security efforts are expressly taken to include measures relating to the rule of law and development.

Vulnerabilities that have long been known to exist in the legal order within the Kingdom must be urgently tackled: first and foremost, the ineffectiveness of efforts to reduce crime that undermines society, including drug trafficking, but also the gaps in the protection of human rights. In response to the COVID-19 pandemic, the Netherlands has provided effective assistance and emergency financial support to the Caribbean countries, but it will have to remain involved for a long time in order to prevent a downward spiral of socioeconomic decline, insoluble debt problems and an exodus of young jobseekers to the Netherlands. The signs of this were already visible in the years preceding the COVID-19 crisis, and will become even more pronounced if the countries of the Kingdom revert to old patterns. In the AIV's opinion, focusing on making significant improvements within the existing institutional frameworks is preferable to alternatives such as independence for the Caribbean countries or the merging of the six Caribbean islands to form a province of the Netherlands.

The Caribbean countries will have to make structural reforms if they are to emerge stronger from the COVID-19 crisis and be able to continue exercising autonomous powers. The envisaged reforms should be accompanied by the implementation of a long-term plan for developing education, social services and infrastructure and making the economy more diverse and sustainable. There is a sound basis for this: relatively speaking, the islands of the Kingdom have better prospects than other countries and islands in the region. The AIV also advocates that the Kingdom adopt a more active and strategic approach in the region. Security efforts should be embedded in a broader agenda in which human rights, development and security are interconnected. In the AIV's opinion, the flaws and obstacles affecting political and administrative relations within the Kingdom require a radically different approach based on much closer cooperation between the four countries. A further amendment to the Charter for the Kingdom of the Netherlands, less than ten years after the last amendment, is neither necessary nor desirable.

Drug trafficking and other cross-border crime

The sharp increase in cross-border crime, particularly drug trafficking, poses the main threat to the safety and security of the people of the islands, whose wellbeing is highly dependent on the enforcement of the law in the Kingdom. Latin America and the Caribbean are among the world's most criminal and unsafe regions. The networks and transport routes for cocaine trafficking, which is the most lucrative and violent criminal activity, are also used for smuggling weapons, people and illegally mined natural resources. Persons and organisations with links to terrorism also benefit from this. Criminal organisations from the Netherlands and other European countries are exploiting vulnerabilities in law enforcement in the Caribbean and are trading ever larger quantities of cocaine

originating from the region. Access to international financial markets can be obtained from the islands and through the Netherlands, and criminals with a Dutch passport can easily travel back and forth between countries in Europe and the Caribbean part of the Kingdom, and from the islands to other parts of the region.

For a long time, the Kingdom has given insufficient priority to combating cross-border crime, particularly drug trafficking. A major share of the responsibility for this lies with the Netherlands, which has itself become Europe's main 'hub' for cocaine trafficking and the world's largest exporter of synthetic drugs. Major improvements are needed if serious organised cross-border crime is to be tackled effectively. The sharing of confidential information between countries and the compilation and sharing of criminal intelligence are essential if criminal investigations are to be thorough. The islands' criminal investigation and security services lack the capacity for this, and the exchange of law enforcement personnel often proves impossible for practical or other reasons. Dutch help and expertise are welcome, but the Caribbean countries also note that follow-up to programmes that are limited in terms of both time and resources is not always guaranteed.

It would make sense to build on examples of successful security cooperation in the Caribbean, for example in coast guard operations, police and criminal investigations and the education and training of the Curaçao and Aruban militias. The Dutch armed forces play an important role by providing military assistance in support of the civil authorities, for example in the area of law enforcement. The Caribbean Coastguard and units of the Royal Netherlands Navy are routinely deployed for maritime investigations, but reinforcements are needed in order to allow this task to be performed 24 hours a day in the surrounding sea area and airspace. Here too, better intelligence cooperation is essential, given the intractable problem of scarce resources. Air and sea border surveillance around the islands is grossly inadequate. The Royal Netherlands Marechaussee and other branches of the Defence organisation could play a greater supporting role in carrying out land-based law enforcement and border controls and by providing military assistance.

Human rights and sustainable development

In recent years, members of parliament, legal experts and representatives of human rights organisations have urged greater involvement on the part of the government in improving the human rights situation in the Caribbean islands. The Kingdom is failing in various respects to meet internationally accepted human rights standards in relation to asylum procedures and their supervision, and has accepted very substandard detention conditions for far too long. Abuses have also been reported in the repatriation of Venezuelans. Owing to the ongoing crisis in Venezuela, improvements must be made as a matter of urgency. The Dutch government is aware of this, but emphasises that the countries themselves have primary responsibility for providing an adequate level of human rights protection. If this proves problematic, the Netherlands would prefer to follow the path of mutual cooperation and assistance for as long as possible. The Kingdom's role in safeguarding fundamental human rights and freedoms (article 43, paragraph 2 of the Charter for the Kingdom) is regarded by the Netherlands as a power to be exercised in the last resort. In the AIV's opinion, however, this is an unduly narrow interpretation of the safeguarding role, which should be extended to include prevention of shortcomings and abuses as well.

The Caribbean part of the Kingdom is very vulnerable to extreme weather caused by climate change. The islands of St Maarten, St Eustatius and Saba lie in the path of seasonal tropical storms, which in the future will be more likely to develop into hurricanes of destructive proportions owing to ocean warming. St Maarten has still not managed to recover from Hurricane Irma in 2017. Climate change means that all islands of the Kingdom may experience water and food scarcity, flooding and degradation of the environment and marine ecosystem. The Caribbean countries need Dutch support for nature conservation, improved sustainability and diversification of the economy, and water management. The Netherlands must also allow for greater demands being made of the armed forces as a first responder.

Great power rivalry and the ongoing crisis in Venezuela

Latin America and the Caribbean have become the scene of great power rivalry. The United States is concerned about the growing influence of China and Russia, which are undermining its traditionally strong position in the region in order to strengthen their own position on the world stage. Although the United States is clearly dominant in economic and military terms, it will have to invest more in regional cooperation and development to prevent countries from turning to the other great powers. Russia has managed to revitalise old loyalties over the past two decades and is collaborating militarily and otherwise with Cuba, Nicaragua, Venezuela and Peru. China's rapid advance in the region poses a bigger challenge in the long term. By concluding new investment and trade agreements, China has managed to bind countries in the region to it, economically and politically. As yet, the Chinese presence has not been militarised. The supply of intelligent digital surveillance technology by Chinese companies to governments that do not respect rule-of-law principles is a cause for concern. There are sufficient grounds for concluding that China's growing interest in the region, including the Caribbean parts of the Kingdom, should not be viewed solely from an economic perspective. Dependence on Beijing can pose a major threat to the freedom and security of the region's people. The countries of the Kingdom would be in a stronger position if they were to work together based on a shared understanding of China's growing influence and the risks associated with it.

The worrying developments in and around Venezuela are having a major impact on the countries of Aruba and Curaçao. The number of illegally resident Venezuelans, many of whom are in a vulnerable position, is growing, and they are estimated to account for up to 15% of the population. In addition, Aruba has seen an increase in Venezuelan investments of unknown origin in businesses and property. As a result of international sanctions and economic developments, the facilities for the refining, storage and transshipment of Venezuelan oil face an uncertain future, particularly in Curaçao. This has meant increased pressure to devise alternative plans for developing the area around the refinery and oil terminal. Aruba, Bonaire and Curaçao will have to focus more strongly on developing trade relations with other countries in the region. The Kingdom must take into account the possibility of a continued deterioration of the humanitarian situation and an 'implosion' of the Venezuelan state, possibly exacerbated by the consequences of the COVID-19 pandemic. The Netherlands should ascertain whether foreign policy measures designed to increase the pressure on the Maduro regime could have repercussions for the stability of Aruba, Bonaire and Curaçao.

The Kingdom

Renewed involvement in the Caribbean region has implications not only for cooperation between the different countries of the Kingdom and interministerial cooperation in The Hague, but just as much for the Kingdom's international stance, in terms of both multilateral initiatives and bilateral partnerships with allies and other countries in the region. For a long time there has been little political will to take more responsibility because this requires considerable extra effort from the Netherlands and involves risks, due to the complicated nature of relations with the island authorities and the lack of support in constituencies. Postcolonial sensitivities and restrictive interpretations of the Charter for the Kingdom, as amended in 2010, seem to be used by both the Netherlands and the countries in the Caribbean to mask this lack of political will. Decision-making in the Council of Ministers for the Kingdom is rather sluggish and takes insufficient account of the wishes of the local peoples of the islands, who are fed up with the corruption and growing inequality.

The AIV considers that the Charter and the Kingdom Acts offer sufficient scope and tools for effective security cooperation. First of all, the Council of Ministers for the Kingdom should agree a Kingdom-wide approach to law enforcement that meets the needs of all countries. This approach should be designed to strengthen the entire security sector, on the basis of the joint application of the relevant Kingdom Acts in the fields of justice and security. Priority should be given to information-driven action and the creation of a multidisciplinary intervention team operating in all countries to combat subversive crime. The AIV also recommends the preparation of a draft Kingdom Act that provides

for rules to safeguard law enforcement and human rights. Better use can also be made of cooperative arrangements at international level. Examples of these arrangements are the United States-led Joint Inter-Agency Task Force South, European cooperation under the European Intervention Initiative and the Maritime Analysis and Operations Centre – Narcotics, the Agreement on cooperation in suppressing illicit traffic in narcotic drugs (Treaty of San José) and arrangements with the countries of the Caribbean Community.





Recommendations

► Recommendation 1

The countries of the Kingdom must jointly make much better use of the possibilities afforded by the Charter for the Kingdom to implement for preventive purposes the responsibilities it lays down for security and the rule of law. This requires much closer cooperation between the countries, based on a shared interest in ensuring that relations within the Kingdom are future-proof.

► Recommendation 2

The vitality and resilience of the Kingdom are largely dependent on the existence of a close-knit community of citizens, businesses and civil society. A Kingdom-wide civil society does not arise spontaneously: the elected representatives and the governments of the countries of the Kingdom should intensify mutual contacts, take joint action more often and encourage and support initiatives from society.

► Recommendation 3

Kingdom relations should be given a higher priority in government policy, both at ministerial level and through an enhanced policy focus on interministerial coordination in the Council for Kingdom Relations (a subcommittee of the Council of Ministers of the Kingdom). International developments, particularly in the area of security, require an active and committed approach by the Netherlands, which must assume shared responsibility for implementing a long-term socioeconomic plan for all Caribbean countries.

► Recommendation 4

The Kingdom may be expected to make a greater contribution to promoting governance based on the rule of law and sustainable, inclusive development in Latin America and the Caribbean. Besides the efforts made by the Caribbean parts of the Kingdom themselves in these areas, this implies Dutch support for an ambitious and coherent regional policy within the framework of the EU. The Netherlands and the Caribbean countries of the Kingdom would do well to consider whether strengthening relations with the EU could create new opportunities.

► Recommendation 5

The entire security sector in the Caribbean countries must be permanently strengthened. This concerns the capacity to carry out investigations and gather criminal intelligence, composition of a multidisciplinary intervention team able to combat subversive crime on all the islands, but also the further development of the Aruban and Curaçao militias. As regards the deployment of the coastguard and navy, priority must be given to continuous recognised maritime picture development, intelligence-sharing and information-driven action. The Royal Netherlands Marechaussee and other branches of the Defence organisation could play a greater supporting role in carrying out land-based law enforcement and border control and providing military assistance. Expansion of the Defence organisation presence is indispensable.

▶ Recommendation 6

Close security cooperation, particularly military cooperation, with the Kingdom's main ally in the region, the United States, is and will remain essential. This will involve continuing the contribution made to the American anti-drug-trafficking organisation Joint Interagency Task Force South, which also includes France, the United Kingdom and other countries in the region. There are also opportunities for closer European cooperation in the Caribbean working group of the European Intervention Initiative and in the Maritime Analysis and Operations Centre – Narcotics.

▶ Recommendation 7

As one of the driving forces behind the Treaty of San José (the Agreement concerning cooperation in suppressing illicit maritime and air trafficking in narcotic drugs and psychotropic substances in the Caribbean area), the Kingdom should urge countries that have signed but not yet ratified it – including the United Kingdom – to do so. Consideration must also be given to the question of how the countries of the Caribbean Community can be persuaded to accede to this agreement, thereby achieving better geographical coverage. The Kingdom could also deepen cooperation with this group of countries in specific areas such as information-sharing, following the example of the memorandum of understanding for crisis coordination and disaster relief.

▶ Recommendation 8

The Netherlands should offer the Caribbean countries more help in preserving the marine ecosystem that is essential for the island economies, increasing their resilience in combating the local effects of climate change and making the transition to a sustainable, more diversified economy. The Dutch armed forces must make allowance for the need to provide more frequent and larger-scale support of emergency relief operations in the Caribbean as a result of extreme weather conditions, even outside the regular hurricane season.

▶ Recommendation 9

International developments, particularly in the security field, mean that the Council of Ministers for the Kingdom must play a greater role in policymaking. An important precondition is the establishment of a secretariat at the Council of Ministers of the Kingdom to prepare policy on matters relating to the Kingdom as a whole. This would for example enable the Council of Ministers of the Kingdom to take the lead in developing a Kingdom-wide approach to law enforcement, which is crucial to safeguard the rule of law. Elements of such an approach could be borrowed from the Judicial Four-Party Consultations and from consultations in other policy areas.

▶ Recommendation 10

The Council of Ministers of the Kingdom is the appropriate body to take action if the countries themselves fail to take sufficient measures, either individually or jointly, to remedy gaps in law enforcement or rectify human rights violations. The AIV recommends that draft legislation be drawn up to introduce Kingdom-wide rules to ensure transparent government and public finances and to establish an institute to promote human rights throughout the Kingdom, in accordance with the universally accepted Paris Principles. The countries could also agree that the Minister of Justice and Security has the authority to issue instructions on the part of the Kingdom government in these fields if internationally accepted norms are not enforced.

Legal order of the Kingdom under pressure

▶ 1.1 Introduction

Request for advice

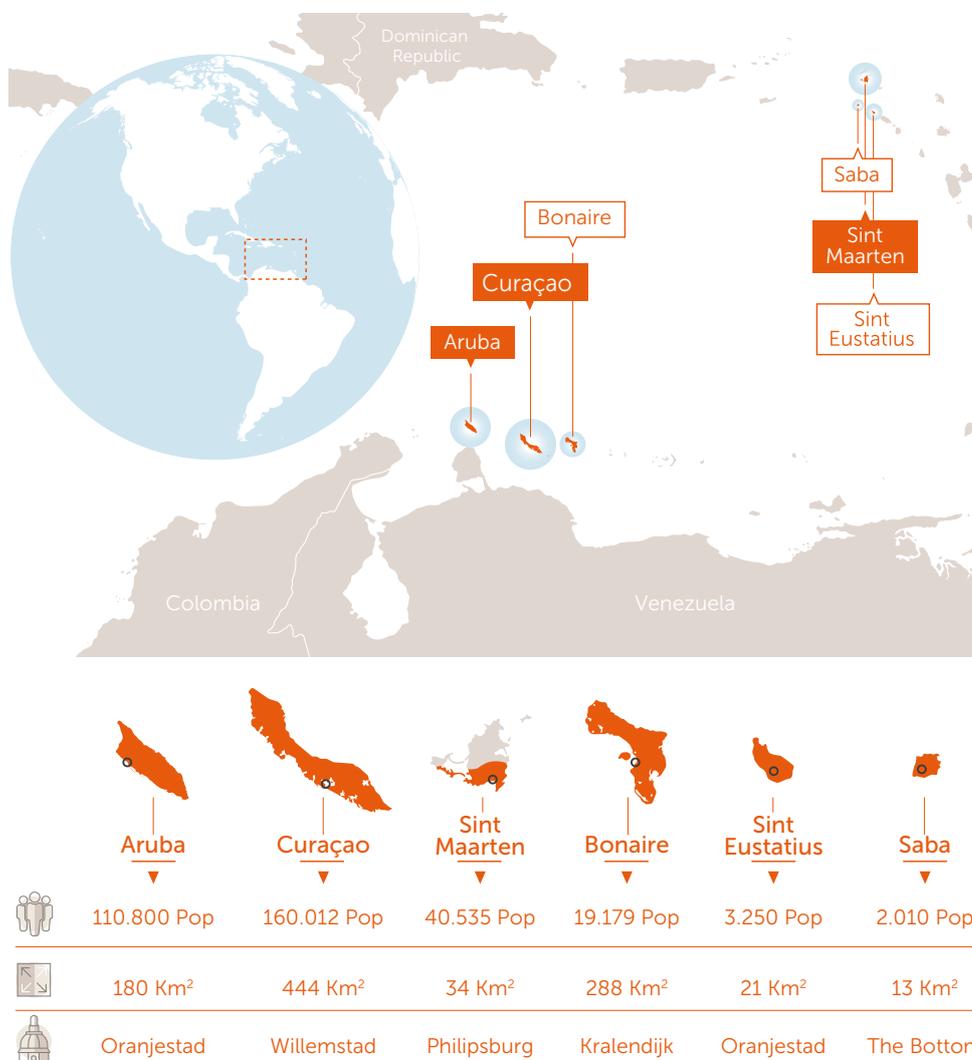
The Dutch government has asked the Advisory Council on International Affairs (AIV) (see Annex 1) to provide an assessment of how the threat situation in the Caribbean is likely to evolve over the next ten years and how this will affect the foreign relations and security of the Kingdom of the Netherlands in general and the autonomous countries of Aruba, Curaçao and St Maarten in particular.¹ In doing so, the government has requested that the focus be on geopolitics, regional politics, drug trafficking and other cross-border crime and climate change. It asks the AIV how the Kingdom should prepare for the risks and threats associated with these developments, partly so that it can take advantage of the opportunities provided by international cooperation. The security context in the Caribbean differs fundamentally from that of the European part of the Kingdom and also differs significantly from island to island. For example, Bonaire is exposed to similar risks as the countries of Aruba and Curaçao owing to its location just off the coast of Venezuela, but since the Charter for the Kingdom was amended in 2010, it has been part of the Netherlands in the Caribbean, together with St Eustatius and Saba. Due to its location in the north-eastern part of the Caribbean Sea, the island of St Maarten, which consists of a country of the Kingdom and an overseas territory of France, like the smaller islands of St Eustatius and Saba, is more exposed to hurricanes than the more southerly islands of Aruba, Bonaire and Curaçao (see figure 1).

The Charter specifies that the Kingdom is responsible for foreign relations and for protecting the territory of the Caribbean part of the Kingdom, which falls outside the scope of the founding treaties of the North Atlantic Treaty Organisation (NATO) and is subject to the legislation of European Union (EU) only to a limited extent. The provisions of the Constitution apply to the Kingdom of the Netherlands in this respect. The Dutch government plays a dominant role in performing the tasks to which these Kingdom's affairs give rise. However, the Netherlands must always take into account how foreign and defence policy (and changes in that policy) will affect the Caribbean parts of the Kingdom, which requires consulting closely with the autonomous countries. At the same time, the Caribbean countries and islands should be aware of how their acts impact the foreign relations and defence of the Kingdom, for which the Netherlands is accountable internationally. Matters decided independently by the autonomous countries under the provisions of the Charter can acquire an international dimension if they have security or human rights implications.

The wide-ranging security analysis requested by the government must also address such matters as law enforcement and ecological security, which are not designated as Kingdom affairs under the provisions of the Charter. Increased trade, tourism and digitalisation have brought the Caribbean parts of the Kingdom 'closer' to the Netherlands than they were at the start of this century. Drug trafficking and other cross-border crime as well as climate change are, by definition, problems that none of the countries can tackle independently. Legislation regulating cooperation and administrative arrangements in the field of justice and security was introduced in 2010, when the

Charter was amended and at the same time four Acts agreed by common consent between the constituent parts of the Kingdom (known as consensual Kingdom Acts), together with the associated regulations, entered into force.² Ten years on, the question arises whether this cooperation is sufficient in the light of the evolving threat situation.

Figure 1: Caribbean parts of the Kingdom of the Netherlands



Security, human rights and development

The AIV recommends using *human security* as a conceptual framework for developing a coherent vision of security in the Caribbean.³ The central goal of human security is to safeguard the rights and interests of citizens, specifically by tackling the underlying causes of abuse of power, exploitation and violence. From this point of view, the Netherlands bears primary responsibility, together with its partners under the Charter, for putting and keeping its own house in order in terms of safeguarding human rights, providing good governance and enforcing the law. As a corollary, the success of security efforts in the Latin American and Caribbean region depends in part on a broader foreign policy agenda for inclusive sustainable development, in which human rights, economic development and security are interconnected. Such an agenda can be effectively shaped only in cooperation with countries and organisations in the region, with allies and with multilateral institutions.

Whether fundamental principles such as the rule of law and democracy will continue to thrive throughout the region remains uncertain. Where state institutions are weak and socioeconomic conditions poor, criminal organisations are quick to take over core functions of the state. Weaker countries seek development support from the major powers, which are each other's rivals and put their own strategic interests first. Unlike the position during the Cold War era, when communism and capitalism were locked in an ideological struggle, some countries in the Caribbean now seem receptive to a state-directed variant of capitalism, which, as China has shown in recent decades, can flourish without incorporating liberal democratic values. The appeal of this form of capitalism – especially for authoritarian governments – can resonate with sections of the population who are doubtful whether principles promoted by democratic states governed by the rule of law will ultimately contribute to sustainable economic growth. This doubt is even evident in the United States and Europe, which are traditionally the main advocates of free trade and human rights-based democratic institutions.

Consequences of COVID-19

The countries in Latin America and the Caribbean are allowing for the possibility of a major socioeconomic downturn, deteriorating human rights situation and social and political instability. The Caribbean countries of the Kingdom have been hit by the sudden loss of their main source of income, tourism. Poverty and reliance on food banks have increased rapidly. The one-sided nature of their economies and hence the precarious basis of their public finances are now taking their toll, and it is apparent that the islands can only turn to the Netherlands for aid and loans. According to a recent economic survey commissioned by the House of Representatives, the blow has been particularly hard because of what it describes as 'the decades-long neglect of the economy and public finances', which now necessitates reforms and the adoption of strict budgetary policy.⁴ The Dutch government has met the initial requests for aid and is willing to provide generous loans of up to EUR 1 billion, but is making them conditional on structural reforms in the areas of finance and governance. Although the Caribbean countries recognise that this is necessary, they are critical of the imposed pace of reform and are looking for alternatives to the 'Caribbean Reform Entity' proposed by the Netherlands, which would infringe on their autonomy.⁵ The Dutch government does not yet seem willing to make concessions, partly perhaps in order to avoid previous mistakes. The risk is that vulnerable people may suffer most.⁶

The Netherlands will have to reassess its policy on Latin America and the Caribbean, which is largely concerned with free trade. Resistance to major free trade agreements has increased sharply in recent years.⁷ The EU's aid programmes for developing countries in Africa, the Caribbean and the Pacific (ACP countries) and the arrangements for the overseas territories of the member states, including those in the Caribbean, provide an important basis for the sustainable development of the region. New long-term association agreements that will influence the future structure of the relationships are presently being prepared, partly as a result of Brexit.⁸ US leadership in the region can no longer be taken for granted. The current US administration proposed in 2019 to reduce its foreign aid budget by over 30%.⁹ China now seems more keen than ever to enhance its status by being recognised as a responsible major power to which countries in need can turn for help. The already precarious situation of the people of Venezuela has now become hopeless in several respects. With the international situation in a state of flux, the countries of the Kingdom have become more dependent on each other than ever before.

Structure of the report

Chapter 1 deals with vulnerabilities in the Kingdom that need to be tackled as a matter of urgency, such as the inadequacy of the measures to combat drug trafficking and other crime that undermines society and also the gaps in the protection of human rights and the promotion of sustainable development. Chapter 2 describes in more detail the regional context, the rivalry between the United States, China and Russia and the ongoing crisis in Venezuela. Chapter 3 considers to what extent institutional obstacles are preventing the Kingdom from adopting a more active stance. The AIV believes that much more is possible within the existing institutional frameworks and makes various suggestions for closer cooperation, both within the Kingdom and internationally.

▶ 1.2 Drug trafficking and other cross-border crime

A shared problem

Cross-border drug trafficking and other crime assumes many different forms in Latin America and the Caribbean. Violence stems from fighting between armed gangs and drug cartels and functions as a revenue model (kidnapping for ransom and people smuggling), but it also occurs in connection with the bribery and intimidation of officials, thus perpetuating corruption. The main problem is cocaine distribution and trafficking, on account of the huge financial returns and the widespread nature of the criminal networks. The Caribbean has been used by South American drug cartels for decades as a transit area, serving markets in the United States and Europe. The combination of geographical location, state ‘fragmentation’, relatively weak government and endemic corruption make the Caribbean an attractive area for the transportation, temporary storage and transit of drugs and for other illegal activities such as arms dealing, human trafficking and trade in illegally mined natural resources. Besides commercial and private flights, luxury yachts, go-fast boats and small fishing vessels are used to transport illicit flows across the region (see figure 2).

Over the years, criminal organisations have become ever more inventive as they seek to guarantee a continuous supply of cocaine directly to the markets they serve, for example Europe and the Netherlands. Airport workers with access to secure areas are involved in the smuggling of larger quantities of drugs, sometimes hidden in places that can compromise flight safety.¹⁰ Specially manufactured submersibles previously found only in the region itself are now also venturing across the Atlantic.¹¹ Customs officers in the ports of Antwerp and Rotterdam regularly intercept sea containers coming from countries such as Colombia, Suriname, Brazil, Ecuador and the Dominican Republic, which are found to contain large quantities of drugs. In 2019, the two ports together intercepted 100,000 kilos of cocaine, which was 50% more than the year before.¹² The increase has been due to improved detection methods, but research shows that interception rates are still low.¹³ In any event, the chance of being caught in Rotterdam – where only 0.5% of all containers are checked – is still very small. The involvement of corrupt port and customs officers is a growing problem.¹⁴

Against this background, it is hardly surprising that researchers have sounded the alarm about the harm to society caused by drug-related organised crime that has become a multibillion dollar industry.¹⁵ The most visible threat to the rule of law is posed by cocaine trafficking, owing to the gang warfare and street killings that also claim the lives of innocent victims. The Dutch government has adopted a comprehensive approach to tackling corruption and the widespread laundering of criminal money in the Netherlands¹⁶ and there have already been some major successes.¹⁷ However, the problem is much more harder to tackle in the Caribbean and Latin America. Venezuela poses the main threat since it directly borders the Kingdom. It has replaced Colombia as the main haven

Figure 2 - Caribbean drug-trafficking routes.



BS	The Bahamas	PA	Panama	JM	Jamaica
GT	Guatemala	GY	Guyana	DO	Dominican Republic
GZ	Belize	SR	Suriname	PR	Puerto Rico
SV	El Salvador	GF	French Guyana	HT	Haiti
NI	Nicaragua	CU	Cuba	TT	Trinidad and Tobago
CR	Costa Rica				

Source: The Economist

for the region's violent narco gangs. Although the situation in Colombia has become appreciably calmer since the peace agreement with the Fuerzas Armadas Revolucionarias de Colombia (FARC) in 2016, armed groups are still in conflict with each other and with the armed forces and the police, especially in peripheral zones.¹⁸ The outcome of the peace process remains uncertain, partly due to the destabilising consequences of the situation in Venezuela. In any event, a predominantly repressive approach will not remove the problem of the area serving as a breeding ground for drug crime.¹⁹

The Kingdom's islands attract criminals from throughout the region, including Suriname, as well as criminal gangs from the Netherlands and other European countries. Although Aruba and Curaçao are not drug source countries and are not even the main transshipment points, their location just a few dozen kilometres off the coast of Venezuela means that they serve as staging posts for cocaine originating from South America on its way to other countries and islands in the region. In the eastern part of the Caribbean, St Maarten too serves as a staging post for drug consignments to Puerto Rico, the US Virgin Islands and Europe.²⁰ Regulatory supervision of investments in project development and property, movement of goods through free trade zones and gaming activities is inadequate.²¹ The banks in the Caribbean countries serve as a bridge for large financial flows between Europe and North and South America, some of which are of illicit origin. Due to stricter international rules on compliance and measures to combat money laundering and terrorist financing, some international banks are deciding to sever ties with Caribbean banks.

The Office of the Attorney General of Curaçao, St Maarten, and of Bonaire, St Eustatius and Saba considers the threat posed by international organised crime to be as great as ever, if not greater. As the countries are not really able to cope with this situation, the Caribbean part of the Kingdom too has become a hotbed of serious crime.²² As is apparent from the interviews conducted by the Curaçao Committee of Inquiry with residents of Curaçao in 2011, integrity violations and corruption are to some extent regarded as part of a historically rooted culture of patronage and caring for family members. Cronyism and conflicts of interest are an ever present risk in the relatively small communities, where politics are, by definition, close to the citizen. At the time, the Commission noted that this culture had implications for the checks and balances that are essential for a properly functioning democracy.²³ A recent opinion poll by the Central Bank of Aruba shows that three-quarters of respondents still regard corruption as a widespread problem and that politics should be counted among the most corrupt of all institutions.²⁴

Law enforcement failings

It is no secret that law enforcement agencies in the Caribbean are faced with an exceptionally daunting task. The small scale of the island communities means that organisations at all levels of the criminal justice system have to cope with shortages of personnel and resources, which hampers their ability to anticipate and respond to changing situations. The need to make up for these capacity shortages is one reason why the Netherlands second staff to the islands to assist the judiciary, the public prosecution service and the police. Despite this assistance, these organisations quickly reach the limits of their capacity when obliged to upscale. Although a significant start has been made with the introduction of digital information systems,²⁵ much remains to be done. The socioeconomic situation, with relatively high levels of poverty and unemployment, is not conducive to reducing local crime.²⁶ Investment in prevention as part of the policy on combating the drug problem (including local use) has been insufficient.²⁷

The Dutch government has invested in security cooperation and law enforcement in the Caribbean part of the Kingdom since 2015. Initially, efforts were focused primarily on St Maarten, which was struggling with what was described as the 'considerable and persistent problem' of organised crime, particularly drug crime.²⁸ At the request of the House of Representatives and others, the government broadened its approach by instituting an investigation into illicit money flows between the criminal underworld and the legitimate economy in Curaçao and St Maarten. Since 2016, a team specialising

in countering the harmful effects of serious and organised crime on society (TBO) has been part of the Joint Criminal Investigation Team (RST), which is a long-standing partnership between the countries of the Kingdom for tackling organised, serious and cross-border crime. A total of 70 million euros has been earmarked for the team between 2016 and 2021 to strengthen the capacity of the Public Prosecution Service, the Joint Court of Justice and the Joint Criminal Investigation Team. Other priorities are criminal investigations that come within the autonomous jurisdictions of the countries of St Maarten and Curaçao and within the jurisdiction of the Attorney General of Curaçao, St Maarten, and of Bonaire, St Eustatius and Saba. The four countries of the Kingdom adopted new arrangements for specialised cooperation on criminal investigations in an amended Protocol on 23 January 2019, which provides for a clear division of policy responsibilities (Ministers of Justice of the four countries), operational authority (Attorney General of Aruba and Attorney General of Curaçao, St Maarten, and of Bonaire, St Eustatius and Saba) and management (Minister of Justice and Security of the Netherlands, Chief of Police of the Dutch police).²⁹

In practice, information-sharing, intelligence cooperation on investigation and prosecution and the exchange of personnel between countries and islands are still difficult. Criminal investigations cannot be conducted properly without confidential information-sharing and the exchange of criminal intelligence, with the integrity of the system being both a joint responsibility and an absolute prerequisite. In fact, a criminal intelligence unit is needed to enable the criminal justice system to operate effectively. Although the special investigation units (*landsrecherches*) and intelligence and security services of the individual countries in the Caribbean are well informed about what is happening locally, they have an ingrained aversion to cooperating with the services of the other countries and are too small to make improvements on their own. In Aruba, which is the only country not a party to the Kingdom Acts on the Public Prosecution Service and the Police and where the team specialising in countering the harmful effects of serious and organised crime on society is not allowed to work, separate consent must be requested from the Minister of Justice for each activity requiring Dutch involvement. When speed is of the essence, opportunities for effective cooperation can be lost.

In its inspection report on the functioning of the coast guard in Curaçao, St Maarten and the Caribbean Netherlands, the Law Enforcement Council explained why the coast guard was not performing its law enforcement role as well as might be expected.³⁰ According to the Council, the problems it identified were due not to the statutory framework or the organisational structure, but rather to deficiencies in the way in which the countries arranged and implemented their mutual cooperation. The report referred to a 'vicious circle, with relations between the islands making it impossible to formulate in uniform and practical terms what is expected of the coast guard, and the lack of clarity about what is expected serving to perpetuate the tense relations'.³¹ The Council was critical of the cooperation in the areas of joint maritime domain awareness, information-sharing and the integration of crime prevention. According to the Council, improvements could be achieved in the waters around the islands of St Maarten, St Eustatius and Saba through better distribution of the available equipment (aircraft capacity) and real-time intelligence-gathering (possibly by means of a shore-based radar system).

From discussions with experts, it is apparent that there is widespread support on the islands for the military presence and the Caribbean Coastguard. Besides maritime investigation tasks, they can play a supporting role in land-based law enforcement and provide border surveillance support (Royal Netherlands Marechaussee) and military assistance at the request of the national governments. Sparing use is made of this possibility on some islands. The need for round-the-clock, intelligence-led maritime and air operations means that it is necessary to improve situational awareness and situational understanding and create adequate operational capabilities. This will require availability of personnel, systematic training, improved procedures and timely reinforcement of the shore-based radar chain and interception equipment. These subjects are addressed in the 2020 Coast Guard Annual Plan, although the current budget is inadequate.³² Over the past ten years, steady progress has

been made in building up and professionalising the Curaçao and Aruban militias. The militias can play an important role in providing assistance, for example in tackling social unrest and assisting with law enforcement. They generate support for joint action with the Defence organisation and play a part in integrating the populations of the islands into the Kingdom.

Lack of a coherent regional policy

Given the nature and scale of the threats facing the Kingdom in the Caribbean, it seems only logical that that Dutch security strategies should focus on the adoption of a coordinated policy approach. At present, however, no such approach exists. Although the government does stress the importance of a coherent policy of preventive security in its Integrated International Security Strategy,³³ the emphasis in the Caribbean tends, in practice, to be more on preventing uncontrolled migration and crime. The Caribbean is hardly mentioned in the 2019 National Security Strategy,³⁴ although the security of the Netherlands is to a large extent bound up with developments in Latin America and the Caribbean. In recent years, the Netherlands has taken steps to ensure better coordination of internal and external security policy, for example by using integrated risk and scenario analyses.³⁵ In the case of the Caribbean part of the Kingdom, this approach is currently limited to the three smaller islands (referred to collectively as the Netherlands in the Caribbean).

The importance of coherent regional policy and more active involvement is becoming ever clearer as cross-border crime is now threatening to seriously weaken the security and legal order of the Kingdom

In the years following 2010, the Netherlands redefined its role in the region³⁶ against the background of both critical debate about the traditional foundations of development cooperation and the government spending cuts affecting development policy and the network of diplomatic missions in the aftermath of the financial and economic crisis. The emphasis in policy on Latin America shifted towards diplomacy and sustainable trade and investment relations and away from development cooperation and bilateral efforts to promote human rights. It was decided that regional policy should be further shaped within the framework of the EU. Although programmes were still drawn up under the heading 'security and the rule of law' in the context of the foreign trade and development cooperation policy, they featured the focus regions, of which Latin America would no longer be part. To tackle drug trafficking and other cross-border crime, the Netherlands relied mainly on international treaties and initiatives, and on the law enforcement measures already described. The measures to combat cocaine trafficking tended to be limited to action by the armed forces involving border security and maritime law enforcement.

As the security situation continues to evolve, there is a pressing need to promote governance based on the rule of law and development in order, at the very least, to prevent any deterioration in these areas. The importance of coherent regional policy and more active Dutch and European involvement is becoming ever clearer as drug trafficking and other cross-border crime is now threatening to seriously

weaken the security and legal order of the Kingdom and the need to adjust the vision of the region's sustainable development is becoming ever more apparent. Without coherent regional policy, the use of purely repressive measures to combat drug trafficking and other cross-border crime in Latin America and the Caribbean will quickly prove futile.

► 1.3 Human rights and sustainable development

Venezuelan refugees and detention conditions

While a growing proportion of the Venezuelan population is in need of assistance and the exodus to neighbouring countries is still gaining momentum, the dire humanitarian situation in the country has not been alleviated. This is due to political differences within the country and between rival great powers. In 2019 the United States made preparations for the distribution of assistance to Venezuela by establishing a humanitarian hub in Curaçao, but the regime and its allies distrusted the Trump administration, not without cause. The EU made more than 90 million euros available for programmes of the United Nations (UN), non-governmental organisations (NGOs) and the International Red Cross.³⁷ However, the UN can play only a modest role in the country itself as the regime wants to keep the provision of assistance in its own hands and the UN Security Council is divided over the causes and gravity of the situation in Venezuela.

Venezuelans merge into the populations of the nearby islands relatively easily, but without a residence permit are unable to find work in the formal sector. A particular problem is the situation of the 'trago girls' (Venezuelan women who end up in prostitution). The Ministry of Justice in Curaçao places Venezuelans arrested without a residence permit in detention, but the influx remains large. The lack of protection means that Venezuelan women run great risks, for example if they unintentionally become pregnant.³⁸ Venezuelan men, particularly young men, are easy to recruit for criminal activities. The situation appears to be reasonably under control at present, but could quickly deteriorate if the situation in Venezuela worsens and neighbouring countries are unable to absorb the flow of migrants.

The ongoing crisis in Venezuela is exposing vulnerabilities in the human rights situation within the Kingdom. In its advisory report 'Fundamental rights in the Kingdom of the Netherlands: Equivalent Protection in All Parts of the Kingdom' (no. 107, June 2018),³⁹ the AIV emphasised the importance of harmonising international human rights standards within the Kingdom and the implementation and enforcement of these standards by each of the four countries. From this perspective, the reception and protection of Venezuelan refugees and the conditions in which they are detained in the islands of the Kingdom requires further consideration. Although the exact numbers are unknown, the United Nations High Commissioner for Refugees (UNHCR) estimated in December 2019 that 17,000 Venezuelans had emigrated to Aruba and 16,500 to Curaçao. That is about 15.5% of the population of Aruba and 11% of the population of Curaçao.⁴⁰ A large proportion of them are entitled to claim international refugee status. In Curaçao, however, Venezuelan 'undocumented' migrants are treated as economic migrants.⁴¹ Similarly, the Dutch Immigration and Naturalisation Service (IND) does not generally consider them to be refugees.⁴² Venezuelan migrants in many cases prefer not to register as refugees for fear of repercussions, either for family members left behind in Venezuela or for themselves on their return there, or because they hope in this way to gain faster access to work, education and social services.⁴³

The exodus of Venezuelans is one of the world's greatest migration crises. Of the total of 5.1 million refugees and migrants, 4.3 million reside in neighbouring countries in Latin America and the Caribbean, the majority in Colombia (1.8 million). Colombia is followed by Peru (861,000), Chile (455,500), Ecuador (363,000) and Brazil (253,500). Countries in Central America and the Caribbean are also taking in large numbers of Venezuelans. The main host countries in the Caribbean are the Dominican Republic (34,000), Trinidad and Tobago (24,000), Aruba (17,000) and Curaçao (16,500). Owing to the dire humanitarian situation in Venezuela, most of the people who leave the country are recognised as refugees by the UN refugee organisation UNHCR. The percentage of Venezuelans applying for refugee status since 2014 has risen by 8,000%. The lack of proper reception facilities, asylum procedures and national asylum legislation are a problem in many countries, including the Caribbean part of the Kingdom. Many asylum procedures do not meet the requirement to provide protection to refugees, which is mandatory under international law.

Source: UNHCR Venezuela Situation Fact Sheet, 25 May 2020, Regional Refugee and Migrant Response Plan for Refugees and Migrants from Venezuela 2019.

Until 2017 the registration of asylum seekers in Curaçao was carried out by UNHCR. Since then, refugees have only been able to claim protection under article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which states that 'no one shall be subjected to torture or to inhuman or degrading treatment or punishment'. This means that people cannot be deported to a country where they would be subjected to such practices.⁴⁴ The ECHR applies to all parts of the Kingdom. The position regarding the Refugee Convention is more complicated. As Curaçao and St Maarten are not parties to it, it follows that UNHCR is not mandated to exercise supervision on these islands.⁴⁵ This is despite the fact that the standards and international obligations of the Kingdom in respect of fundamental human rights should apply to all countries.⁴⁶

In June 2018, Curaçao's Ministry of Justice introduced a new procedure: to be eligible for asylum, applicants must submit an application for protection under article 3 of the ECHR as soon as they arrive on the island.⁴⁷ They are then held in detention until the application has been processed by the Curaçao Police Force. UNHCR has to be notified so that it can investigate whether the applicant has refugee status. In March 2019, almost a year after the introduction of the procedure, UNHCR had still not received any referrals.⁴⁸ Human rights organisations have roundly criticised this state of affairs. Human Rights Watch has stated that the Curaçao authorities are in violation of the ECHR. It argues that the deportation of Venezuelans is prohibited under the ECHR's *non-refoulement* provision. According to Human Rights Watch, the Kingdom's failure to intervene means that it is partly responsible for human rights violations in Curaçao.⁴⁹ Amnesty International discovered human rights violations in Curaçao relating to the detention of asylum seekers and the expulsion of people who do not qualify for asylum. The inadequacies of the asylum procedure mean that migrants with irregular status are not properly protected against exploitation, violence and discrimination.⁵⁰

In October 2018 and January 2019, the government of Curaçao requested assistance from the Netherlands. In February 2019, the Netherlands agreed to help fund the refurbishment of the detention centres, for which it earmarked a sum of 132,000 euros. It also provided 2 million euros for immigration detention, bringing the total sum made available in 2019 to 23.8 million euros, divided equally between Curaçao and Aruba. 7.2 million euros of this amount was earmarked for improvements to the immigration system.⁵¹ However, Amnesty International warned again on 18 December 2019 that access to the (modified) procedure was not guaranteed and that expulsions were still taking place quite regularly.⁵² During a committee meeting that day in the House of Representatives,⁵³ various experts pointed out that in some respects the Kingdom was still failing to

meet internationally accepted human rights standards relating to asylum procedures, immigration detention and their supervision.



Despite the steps that have been taken, the Dutch government too is still concerned about immigration detention in Curaçao.⁵⁴ Major problems could arise quickly if the flow of migrants to Aruba, Bonaire and Curaçao were to increase still further due to a worsening situation in Venezuela. The Dutch government is aware of this, but emphasises that the Caribbean countries themselves have primary responsibility for providing an adequate level of human rights protection. Where problems persist, the Netherlands prefers to follow the path of mutual cooperation and assistance for as long as possible. The government regards intervention under the article in the Charter providing for the Kingdom to be responsible for safeguarding fundamental human rights (article 43, paragraph 2, see annexe IV) as a power it prefers not to exercise and in any event only as a last resort,⁵⁵ even though it would be logical to interpret the safeguarding role as including prevention.

Sustainable development: climate and ecology

The far-reaching consequences of climate change pose a major threat to the well-being of the people of the Kingdom, certainly in the long term. Not only will climate change exacerbate existing insecurity, but it will also in itself cause human suffering. The Caribbean part of the Kingdom is much more vulnerable to this than the Netherlands in Europe. Indeed, recent studies on climate security identify the region as among the most vulnerable in the world.⁵⁶ The Dutch armed forces are already fully aware of this due to experiences in and around St Maarten, St Eustatius and Saba. These islands lie in the path of seasonal tropical storms, which in the future will be more likely to develop into hurricanes of destructive proportions owing to ocean warming. Rises in sea level can worsen the risk of flooding, washing away beaches and sea defences and allowing seawater to penetrate coastal groundwater layers. The islands' vulnerability is increased still further by their antiquated water distribution networks, roads and electricity grids.⁵⁷ The Defence organisation often acts as first responder in the Caribbean part of the Kingdom when extreme weather causes disasters and crises. Climate change makes greater demands not only of the Defence organisation itself but also of interministerial, civil-military and multinational cooperation.⁵⁸

St Maarten has still not managed to recover from the devastation caused by Hurricane Irma, a category 5 hurricane, in September 2017. Besides the immediate death toll, the storm caused enormous damage to houses, infrastructure and communication networks. Water and food shortages sparked social unrest and led to violence and looting. The Defence organisation deployed 1,000 military personnel to provide humanitarian assistance and disaster relief and to assist the civil authorities. However, the reconstruction work got off to a slow start. As the Netherlands wanted to prevent aid money from falling into the wrong hands, it decided that a maximum of 470 million of the 550 million euros it was making available should be spent through a trust fund managed by the World Bank. But St Maarten lacked the knowledge and capacity to submit fully compliant project proposals at a rapid tempo. The St Maarten's General Audit Chamber reported that only 5.8% of the total amount made available had been disbursed by the end of 2019.⁵⁹ The lack of progress has caused a political crisis on the island and tensions in the relationship with the Netherlands. It also raises the question of whether the island will be prepared in time for the next severe hurricane.

Besides the immediate impact of extreme weather, other consequences of climate change for the region also threaten the stability and security of the Caribbean parts of the Kingdom, in any event in the longer term. These are secondary effects such as scarcity, a gradual worsening of the quality of life, and growing pressure on government systems as a result of poverty, social unrest, increased crime and uncontrolled migration. The economies of the countries and islands in the region often depend on sectors that are vulnerable to climate change effects. Due to their location, Aruba, Bonaire and Curaçao are more likely to experience climate warming and increasing drought. Droughts that threaten food and water security are expected to occur more frequently by the middle of this

century.⁶⁰ This will increase competition for space and natural resources. The impact on food security concerns not only domestic food consumption but also export-oriented agriculture and fishing.⁶¹ In the absence of economic alternatives, declining returns will lead to higher levels of unemployment, poverty and crime. This will deter investors and tourism, possibly prompting a downward spiral.⁶²

Coral reefs are of crucial importance to the Caribbean islands. Besides attracting tourism and, in places, enhancing coastal safety, they are a source of quality food. Some major causes of the coral die-back are excessive nutrient run-off from land (eutrophication), erosion, overfishing, harmful forms of coastal development, pollution, the introduction of invasive species and the warming of the seas and oceans as a result of climate change.⁶³ Coral bleaching and colony death of marine life has an adverse effect on tourism, which accounts for a large share of gross domestic product (GDP) in many Caribbean countries. In 20 to 30 years' time, massive coral bleaching may occur twice a year in the eastern Caribbean. This will also cause a reduction in commercial fishing, another source of economic income. All islands have national parks managed by NGOs. These parks have united to form the Dutch Caribbean Nature Alliance. The marine parks play a crucial role in protecting the coral. Protection of the coral reefs should be a permanent element of the islands' nature conservation policy, as part of a broader approach to making the economies more sustainable, for which plans have already been drawn up.⁶⁴

Protection of the coral reefs should be a permanent element of the islands' nature conservation policy, as part of a broader approach to making the economies more sustainable

Climate change in the Caribbean is often discussed in the context of Small Island Developing States (SIDS),⁶⁵ to which Aruba, Curaçao and St Maarten are affiliated as non-UN Members/Associate Members of the Regional Commissions. SIDS and the Alliance of Small Island States (AOSIS), a coalition of 44 small islands and low-lying coastal countries, have succeeded in putting climate change more prominently on the agenda of the UN Security Council.⁶⁶ As part of the Planetary Security Initiative, a declaration was drawn up in The Hague in 2017 setting out an Agenda for Action in which Curaçao is participating. In 2018, a climate security conference was hosted in Aruba by the Caribbean Disaster Emergency Management Agency (CDEMA). During this conference, a plan of action (POA) was drawn up for climate change adaptation and disaster risk reduction in Caribbean SIDS.⁶⁷ A recently concluded memorandum of understanding (MoU) between the Kingdom and CDEMA has already proved productive, but certain aspects need to be expanded in order to strengthen capacity and provide for advice and training. Climate security is also an important area of cooperation between the United States and CARICOM as part of the Caribbean Basin Security Initiative. Finally, the Planetary Security Initiative is working on a POA to strengthen regional coordination and enhance financial and other capacity and knowledge about climate security.⁶⁸ The autonomous countries of the Kingdom are taking a joint approach to the international agreements on climate security. In July 2018, the prime minister of Curaçao represented the Kingdom at the UN Security Council in New York.⁶⁹ In September 2019, the prime ministers of the four countries jointly represented the Kingdom in the UN General Assembly.⁷⁰

Despite these initiatives, no meaningful measures have yet been taken on the islands. The national issues to which climate and environmental policy relate are still in their infancy. Change is slow on account of the vested interests of less sustainable sectors (oil refining, cruise ship tourism and hotel chains), which are major employers. Although the Netherlands professes support for the Caribbean countries and SIDS during UN and other international meetings, it sees no role for itself in developing and funding specific measures. The Caribbean countries cannot access specific (international) climate funds for which eligibility is dependent on having the status of developing country or a closer relationship with the EU. In planning for the composition and equipping of its armed forces in the coming decades, the Netherlands must in any event allow for the provision of more frequent and larger-scale assistance in the Caribbean, even outside the regular hurricane season. Besides expansion of the permanent maritime support capacity, this may also require better maritime domain awareness and search and rescue capacity, as well as deployment of the Royal Netherlands Marechaussee for border security.⁷¹ The delays in promoting nature conservation and economic diversification may turn out to have a detrimental effect in the longer term. In that case, the lengths to which the Netherlands must go to guarantee security and stability in the Caribbean part of the Kingdom will be even greater and more costly than they would otherwise have been.



Regional security context

▶ 2.1 Security of the Kingdom in the Caribbean

Foreign relations and defence

Under article 3 of the Charter for the Kingdom, maintenance of the independence and the defence of the Kingdom is a Kingdom affair (see annexe V). As a corollary, article 97 of the Constitution of the Netherlands provides that there are armed forces ‘for the defence and protection of the interests of the Kingdom, and in order to maintain and promote the international legal order’. The government has also indicated that developments in the Caribbean will certainly be taken into account in the formulation of security and defence policy. In the coalition agreement ‘Confidence in the Future’ (2017), the government stressed the closeness of the ties within the Kingdom. This calls for a constructive partnership, particularly in the light of the uncertain political situation in some neighbouring South American countries. As the government’s Integrated International Security Strategy (IISS) makes clear, this is especially true of the situation in Venezuela, which can result in ‘large flows of migrants to the Caribbean parts of the Kingdom, causing unrest’. In this context, the IISS stresses the importance of collaboration with the United States and countries in the region (Colombia, Mexico and Brazil) and efficient controls of the external borders and the territory.⁷² The IISS also notes that vital areas in the Caribbean parts of the Kingdom may become the target of external political influence ‘because their small size makes them relatively vulnerable to regional instability, hostile foreign takeovers and trade distortions.’⁷³

The first of the three main tasks set out in the Defence White Paper ‘Investing in our people, capabilities and visibility’ (2018) is protecting national territory, including the Caribbean part of the Kingdom of the Netherlands, and the territory of allies. According to the White Paper, the main security risks in the Caribbean are the fragile situation in Venezuela, drug trafficking and natural disasters. To perform Kingdom-related tasks (see box), the Ministry of Defence provides for the following permanently available capabilities in the Caribbean: a ship and a marine company (Aruba), a marine detachment (St Maarten), a boat platoon, support ship, personnel and resources for the (Dutch) Caribbean Coastguard and a detachment of the Royal Netherlands Marechaussee (military and border police). A company of the Royal Netherlands Army is stationed in the Caribbean on a rotational basis. The Royal Netherlands Marechaussee plays an important role in supporting the local police and coast guard in various areas of law enforcement such as border control, immigration control and the fight against serious violent crime, drug trafficking and immigration crime. Under the military assistance procedure, the Defence organisation can provide humanitarian aid and restore public order after disasters or accidents, such as during hurricane passages. The civil authorities in the islands can also request military assistance to support land-based law enforcement officials.

Besides carrying out territorial defence duties (first main task), the approximately 800 Defence staff in the Caribbean are engaged in protecting the international legal order (second main task) and supporting the civil authorities with law enforcement, disaster relief and humanitarian assistance (third main task).

Law enforcement involves:

- combating international drug trafficking;
- maintaining public order;
- helping the Caribbean Coastguard to monitor illegal fishing and maritime environmental offences at sea and carry out search and rescue in Caribbean waters.

Source: <https://www.defensie.nl/onderwerpen/taken-in-nederland/caribisch-gebied>

Special features

Factors such as geography, scale, international cooperation, region-specific security issues and administrative relations mean that foreign relations and defence in the Caribbean are fundamentally different from the Dutch and European context.⁷⁴ Geography imposes different conditions on territorial defence than in the European part of the Kingdom. Aruba, Bonaire and Curaçao are situated 7,800 kilometres from the Netherlands and are also a long way from the more northerly islands of Saba, St Eustatius and St Maarten (Curaçao is 900 kilometres from St Maarten). Moreover, they are spread over a sea area containing a large number of highly disparate island states and territories. The Antillean islands are politically fragmented and hence more vulnerable because cooperation between the authorities in such areas as coast guard surveillance and counternarcotics operations becomes very complicated, even just in legal and practical terms. The islands have long coastlines in proportion to their surface area and the vast seas around them can never be fully monitored owing to the scarcity of resources.

The Caribbean parts of the Kingdom fall outside the protection of NATO and the EU under international law. Article 6 of the North Atlantic Treaty limits the obligation of collective self-defence to the North Atlantic area north of the Tropic of Cancer. Although the obligation of the EU member states to provide mutual assistance in the event of armed aggression (article 42 (7) of the Treaty on the Functioning of the European Union (TFEU)) extends to the outermost regions (ORs) of the EU south of the Tropic of Cancer, it does not apply to the so-called overseas countries and territories (OCTs). The Kingdom is dependent for its defence in that region on cooperation with allies such as the United States and the two other European countries with Caribbean overseas territories, namely France and the United Kingdom.

Unlike Europe, the region has no history of interstate conflict, but violations of territorial sovereignty are not inconceivable. Unresolved border disputes exist between Venezuela and Guyana, which are competing for control of natural resources and of border areas where criminal organisations operate. A change in the balance of power could spark a military conflict there.⁷⁵ Bearing in mind Argentina's military invasion of an overseas territory of the United Kingdom in 1982 (which led to the Falklands War), Venezuela could pose a threat to Aruba, Bonaire and Curaçao if, for example, it were to receive support from Russia. It is unlikely that the regime there will take any such action in the near future. As the United States regards the airports on Curaçao and Aruba as important logistical staging posts for its military, it would interpret any such attack as a dangerous provocation, giving it a concrete reason to intervene militarily and force a change of power. Although strategic interests are admittedly at stake (since Curaçao has the third largest crude oil storage capacity in the region and a deep-sea port where large ships can transship cargo), Russia would not wish to run the risk of a military escalation with the United States as this would be bound to affect its even greater interests elsewhere.

► 2.2 Geopolitical developments



American leadership less self-evident

At a hearing before the US Senate Armed Services Committee on 9 July 2019, Admiral Craig S. Faller, Commander, United States Southern Command (USSOUTHCOM), stated that it was high time for the United States to strengthen ties with the Caribbean and Latin America. According to his statement, China and Russia were exploiting the vulnerability of countries and capitalising on the opportunities provided by weak institutions, corruption and cross-border crime to strengthen their grip on the region. This was quite clearly the case in Venezuela, but also in the wider region. The main concern was China, which had been rapidly displacing the United States in its own neighbourhood as the partner of choice in recent years.⁷⁶ China's growing involvement and presence is reportedly aimed, in the long term, at weakening commitment to democratic and rule of law principles, gaining control of strategic maritime infrastructure such as canals and deep-sea ports and intensifying military and security cooperation. During a visit to the region in mid-April 2019, US Secretary of State Mike Pompeo had already spoken in similar terms about China. He warned against seemingly attractive Chinese loans that entailed economic and political dependence (debt diplomacy), bribery of officials, theft of intellectual property and personal data, and forced transfers of technology and commodities (predatory economic practices).⁷⁷

The statements are indicative of the distrust and growing concern with which the United States views the advances made by China in the Western Hemisphere. The eagerness with which countries in Latin America and the Caribbean (LAC countries) are accepting the outstretched hand of China could well herald the end of the long period in which the United States viewed the region in strategic terms as its 'backyard'.⁷⁸ According to the Congressional Research Service, the question is therefore how to counterbalance the alternative economic development model that China is offering the region.⁷⁹ From the American perspective, there is much for which China can be blamed, but, according to other analyses, China has merely stepped in to fill the gaps left by the United States as a result of troubled relations or disinterest. According to this long-standing view,⁸⁰ in recent decades the United States has made ties with countries in the region largely dependent on the extent to which their governments could be relied upon for support in the fight against terrorism and drug trafficking and the promotion of free trade. Diplomatic assistance, development of the rule of law and socioeconomic progress were all of secondary importance; the focus was on taking a tough (military) approach to drug traffickers and guerilla movements that were classified as terrorist organisations (Fuerzas Armadas Revolucionarias de Colombia – FARC, Ejército de Liberación Nacional – ELN) but also operated as 'narco organisations'.⁸¹

In addition to the forward-based expeditionary Joint Task Force-Bravo in Honduras and the permanent military presence in Puerto Rico and Cuba (Guantanamo Bay), the United States has two Cooperative Security Locations (CSL) in the region: one at Comalapa International Airport in El Salvador and the combined Aruba/Curaçao CSL at Hato International Airport and Aruba's Reina Beatrix International Airport. SOUTHCOM's responsibility also extends to the American anti-narcotics organisation Joint Inter-Agency Task Force South (JIATF-S). The Commander Netherlands Forces in the Caribbean (CZMCARIB), in his secondary position as Commander Task Group 4.4, contributes to this and leads maritime counternarcotics operations involving a naval vessel or submarine, coast guard assets and units provided by allies and partners.

Source: <https://www.southcom.mil> / <https://www.jiatfs.southcom.mil>

The current US administration places even greater emphasis than its predecessors on protecting the United States from threats from the South, including uncontrolled immigration. The US State Department and the diplomatic service have generally been weakened by the fact that positions have been left unfilled, but since 2019 the administration has also been working to make substantial cuts in the foreign aid budget, including assistance to countries in Latin America.⁸² President Trump has a good relationship with President Bolsonaro of Brazil and has hinted that NATO could work more closely with Brazil.⁸³ One of the matters the two presidents have discussed is the future of Venezuela,⁸⁴ which is receiving special attention from Washington because this is where the confrontation with self-proclaimed strategic rivals China and Russia as well as with countries such as Cuba and Iran has become clearly visible. Venezuelan opposition leader Juan Guaidó was a prominent attendee at President Trump's State of the Union Address in January this year, and around that same time a US naval vessel sailed close to the Venezuelan coast.⁸⁵ In the spring, President Trump announced that counternarcotic operations in the Caribbean would be substantially strengthened,⁸⁶ with a view to increasing the pressure on the Maduro regime, partly through Freedom Of Navigation Operations (FONOPS).⁸⁷ The Trump administration seems to want to make it clear to American voters, strategic rivals and countries in the region that the United States will protect its interests by force, if necessary.

The United States is, unquestionably, the dominant economic and military power in the Western hemisphere. However, the question is whether the country wishes to be considered a champion of values and principles that have the ability to appeal and persuade (soft power), or whether governments in Latin America and the Caribbean have reason to fear the means by which Washington can impose its will. Independent UN human rights rapporteur Alfred M. de Zayas fuelled the debate about this with a report on the situation in Venezuela and Ecuador (3 August 2018), which was strongly critical of US policy. He argued that the crisis in Venezuela had been partly caused by 'economic warfare' and targeted attempts at regime change, in which human rights was a stake in a political power game.⁸⁸ Successive US administrations have themselves allowed uncertainty to exist about the country's intended role: former Secretary of State John Kerry declared in November 2013 that '[t]he era of the Monroe Doctrine is over',⁸⁹ but former national security adviser John Bolton commented in April 2019 that '[t]he Monroe Doctrine is alive and well'.⁹⁰ It is doubtful whether sanctions and military intervention (or the threat of it) alone will help to strengthen or restore US leadership. Several LAC countries have bad memories of American interventionism.⁹¹ A good neighbour policy together with support and regional cooperation are indispensable in preventing more countries in the region from turning to other great powers.⁹²

Chinese ambitions

China's growing influence in Latin America and the Caribbean is a consequence of its global network of trade relations, which has expanded rapidly since the turn of the century. Unlike during the ideological struggle between communism and capitalism in the Cold War era, China now practises a state-controlled variant of capitalism, which, as it has shown in recent decades, can flourish without incorporating liberal democratic values.⁹³ China's diplomatic, cultural and economic activities gained significant momentum after 2013, the year in which President Xi took office and visited the region. Its ambitions were laid down in a policy strategy for Latin America and the Caribbean in 2016. The One Belt One Road project, now renamed the Belt and Road Initiative, was initially set up to ensure the supply of commodities from Africa and the Middle East and to connect Eurasian economies more closely with China. Since January 2018, the project has also acquired an eastward-oriented dimension following the invitation to countries in Latin America and the Caribbean to join.⁹⁴ Eighteen LAC countries are now said to be participating.⁹⁵ One of them is Suriname, where a large offshore oil field was recently found.⁹⁶ On 1 November 2019, Ecuador became the first country in Latin America to join the Asian Infrastructure Investment Bank which was established, on China's initiative, as an alternative not only to financial institutions such as the World Bank and the International Monetary Fund, but also to the New Development Bank (formerly known as the BRICS Development Bank).⁹⁷

Not only is China strengthening its ties with LAC countries that are attractive markets for its products (such as Brazil and Argentina) or that have strategic assets such as raw materials (Venezuela, Ecuador and Suriname) and maritime infrastructure (Panama), but it is also investing in relatively small Caribbean islands with sometimes very limited economic opportunities. By offering what appear to be attractive forms of cooperation, China is seeking to entice countries in the region out of the American sphere of influence, without openly challenging the United States or running the risk of military confrontation. One way in which it is doing this is by offering an alternative development route without the strict conditions in respect of democratic governance and the rule of law that 'Western' companies and institutions impose. Chinese government officials argue that the country is acting no differently from other major economies that employ their soft power. Western analysts point out, however, that Beijing is seeking to use these closer relations to influence voting behaviour in the UN and undermine Taiwan's international recognition.⁹⁸ Scientific analyses suggest that China has found a third means of exerting influence, which comes somewhere between hard power (i.e. military power) and soft power. This third way is hard to define and can perhaps best be described as 'sharp power' or 'soft power with Chinese characteristics'. The picture that emerges from the analyses, which include countries in Latin America, is one of Chinese officials, entrepreneurs and cultural institutions using China's huge economic clout to exert influence by methods that have manipulative, deceptive and coercive characteristics.⁹⁹

Bilateral trade and investment agreements with China are accompanied by generous loans and welcome grants, but they can also create new dependencies that hinder independent development. This scenario may be particularly relevant to administratively and economically vulnerable countries, such as the SIDS in the Caribbean.¹⁰⁰ Large-scale infrastructure projects offer opportunities, but do not generate additional employment if the work is carried out predominantly by Chinese companies and personnel. Where Chinese tradespeople open food stores and other businesses, they tend to displace local businesses. In an economic downturn, countries may feel compelled to supply commodities free of charge or relinquish control over strategic infrastructure. An alarming example is what happened to Sri Lanka, which was forced to sign a 99-year lease with China in 2017 for the use of its port on the Indian Ocean.¹⁰¹ It is far from certain that the Chinese 'development model' can be successfully applied elsewhere in the world and retain its appeal.¹⁰² Dependence on China rather than the United States is also unlikely to enjoy popular support in Latin American and Caribbean countries if inequality persists and corruption and arbitrariness are rampant.

For the time being, China's role in terms of security is much more limited in the region than that of the United States. In military matters, its involvement has so far been mainly confined to port visits, exchanges of personnel and training. A slight increase is evident in arms sales, including high-quality equipment and weapon systems (for example to Venezuela, but also to Bolivia, Ecuador and Peru).¹⁰³ The Republic of Trinidad and Tobago has bought naval patrol vessels from the Chinese People's Liberation Army, and one of the fields in which Cuba is reportedly cooperating is military intelligence.¹⁰⁴ In the longer term, a permanent military presence at or near strategic hubs such as the Panama Canal and favourably located deep-sea ports could enable China to close off vital transport routes, also in the case of rising tensions elsewhere in the world.¹⁰⁵ However, there has as yet been no Chinese militarisation in the region. Possibly, China considers the investments this would require to be too demanding and risky. There are early signs that Chinese activities are diminishing, as projects are plagued by delays and cost overruns and the region's distance from China is viewed as an obstacle.¹⁰⁶ The geopolitical importance of the Caribbean could well remain limited in the coming decades compared with that of other parts of the world.¹⁰⁷

The countries of the Kingdom would be in a stronger position if they were to work together based on a shared understanding of China's growing influence and the risks associated with it

In the short term, however, the sale by Chinese companies of intelligent technology for facial recognition (AI surveillance) and biometric data storage is a matter of concern. It is feared that those in power in countries such as Venezuela and Ecuador who have received this Chinese surveillance technology will abuse the new surveillance capabilities to tighten their grip on opposition political groups and suppress civil protest. For example, a Chinese company is supplying technology to the Venezuelan government to support its so-called 'fatherland card'. The card can be used by Venezuelans to make payments, but it also collects personal data. If people refuse to use it, they can be denied access to basic services such as pensions and medication. Critics have alleged that this amounts to the export by China of the 'surveillance state'.¹⁰⁸ Several observations need to be made here. The Chinese government can hardly be accused of a preconceived plan to impose comprehensive 'tech-driven authoritarianism' on countries worldwide.¹⁰⁹ There are many ways in which governments can exploit digital technologies, and AI surveillance and facial recognition technology are examples of this. Even democracies that respect the rule of law are making increasing use of intelligent monitoring systems, and companies from these countries, like Chinese companies, are exporting the necessary equipment, which is known as dual-use technology. On the other hand, China – which the AIV previously noted was subordinating individual, democratic freedoms to principles of sovereignty and internal stability¹¹⁰ – is by far the largest exporter of AI surveillance equipment, supplying it to 63 countries, 36 of which are taking part in the Belt and Road Initiative.¹¹¹ Some of them have repressive governments that are more likely to abuse AI surveillance than governments that uphold civil and political rights and freedoms.

Against this background, there is ample reason not to view Chinese interest in the Caribbean parts of the Kingdom purely in economic terms. China's more prominent presence in the islands is in keeping with the regional trend for investment by Chinese companies and closer cooperation with Beijing. The establishment of the first consulate-general of the People's Republic of China in Curaçao was celebrated on 17 January 2014. In Bonaire and (to a lesser extent) St Eustatius, the influence of Chinese entrepreneurs is growing as they control a significant proportion of local businesses. This is sometimes termed a 'silent invasion'.¹¹² Although there have been residents of Chinese descent on some of the islands for quite a long time, the communities are now growing and playing a more active role in society, and they seem susceptible to influence from Beijing.¹¹³ Negotiations between Curaçao and a Chinese trading company about the acquisition of the very outdated Isla refinery were broken off in July 2019 because the authorities did not consider the intended Chinese project manager to be reliable.¹¹⁴ The refinery could be modernised with Chinese investment, thereby ensuring its survival and preserving a significant proportion of the island's employment (more than 1,000 direct jobs). On the other hand, some or all of the strategic oil storage, transshipment and deep-sea port facilities would then probably fall into Chinese hands. Owing to the US sanctions on Venezuelan oil and recent economic developments, other takeover plans have also been shelved for the time being.¹¹⁵

Is Russia back in the game?

Since 2008 Russia has launched various initiatives to strengthen its diplomatic, military and commercial ties with countries in the region.¹¹⁶ In the 1990s Russia was incapable of playing a

significant role internationally, but in the first decade of this century the political climate in a number of LAC countries proved favourable to rebuilding relationships. The countries initially most receptive to these advances were those of the Alianza Bolivariana para los Pueblos de Nuestra América (Bolivarian Alliance for the Peoples of Our America – ALBA), a regional partnership of socialist-leaning governments, founded in 2004 by the left-wing populist Venezuelan president Hugo Chávez and the leader of the Cuban revolution Fidel Castro. Russia's cooperation with Brazil, which mainly involved intensifying trade relations, commercial cooperation and political contacts, was established in part within the BRICS format. Trade with Brazil and Mexico together makes up about half of Russia's trade with the entire region. According to data from the Stockholm International Peace Research Institute, Russian arms sales to Latin America and the Caribbean in the period 2000-2017 were comparable to those of the United States to the region.¹¹⁷ The armed forces of Cuba, Nicaragua, Venezuela and Peru depend on Russian equipment, know-how and support. Russia opened a joint regional counternarcotics centre in Nicaragua in November 2017, and is considering opening (or rather reopening) an intelligence collection facility in Cuba.

Russia's efforts serve the interests of its industrial sector, particularly energy companies and arms manufacturers, which have come under increasing pressure due to sanctions, but they are also intended to generate domestic support for President Putin, who has set himself the goal of restoring Russia's status as a great power on the world stage. To lend credibility to this aspiration, Russia is seeking partnerships even beyond its immediate sphere of influence with countries that reject the international order and institutions dominated by Western powers. To achieve this, Russia can to some extent rely on relations with countries and movements in Latin America and the Caribbean that joined the Soviet camp during the Cold War and adopted an anti-Western political course on left-wing ideological grounds or for pragmatic reasons. Over the past two decades, it has been, above all, the strengthening of ties with Venezuela, Cuba, Nicaragua and Bolivia that has symbolised the 'return' of Russia, which is firmly on the side of countries that are averse to being dependent on the United States. Diplomatic initiatives and political statements at the highest level promote trade, but also give Russia access to strategic infrastructure such as energy production, ports and airports, and state-controlled media (for example, Russia Today's Spanish-language broadcasts).

As the cameras rolled, Russian military planes carrying an estimated 100 military experts landed at Caracas airport on 24 March 2019.¹¹⁸ This was a clear signal from Moscow that it would continue to support the Maduro regime in the event that the United States was really considering a military intervention. In the preceding weeks, President Trump had repeatedly said that 'all options are open' in relation to Venezuela.¹¹⁹ According to some analysts, President Putin's move was not purely symbolic. Instead, it was part of a larger plan to strengthen ties with Venezuela still further, not only militarily but also financially and economically. When the defence ministers of the two countries met in August 2019, they agreed that their naval vessels could use each other's ports. This enables Russia, which already had a similar naval arrangement with Nicaragua, to thwart any United States naval operations in the southern Caribbean or, at Cuba's request, to guard and escort oil tankers en route from Venezuela.¹²⁰

According to the SOUTHCOM commander, hundreds of Russian military and private security contractors have now been integrated into Venezuelan units, possibly so as to be able to sow confusion in much the same way as when Russia intervened in eastern Ukraine.¹²¹ His statement seems to bear out earlier media analyses that Russian mercenaries from the notorious Wagner Group are not only advising the Maduro regime but can also be deployed by Moscow as a hybrid force to secure control of critical resources and infrastructure.¹²² Russian specialists are also reportedly carrying out maintenance on the S-300 missile defence system previously supplied by Russia.¹²³ More worrying is the open speculation by Russian commentators that, in response to the decision by the United States to withdraw from the Intermediate-Range Nuclear Forces (INF) Treaty, Russia may decide to deploy nuclear-capable missiles and cruise missiles in relative proximity to US borders, for

example on surface vessels and submarines operating from Venezuela.¹²⁴



Russia's scope for projecting (or continuing to project) military influence from support points in the Caribbean depends on the resources it is willing and able to make available for loans, support programmes and maintaining a permanent presence, military or otherwise. In comparison with China – and certainly the United States – the limits to what is possible for Russia (see box) are reached relatively quickly. They stem from Russia's one-sided and much smaller economy and its military priorities in the area around NATO borders, the Middle East and the Arctic. Moreover, just as is the case with China, the sheer distance from the region takes its toll. While China and Russia have a shared interest in undermining US hegemony, geopolitically they are also strategic rivals that seek to conclude exclusive agreements for port access, oil extraction and the supply of military equipment.

Russia has the advantage of a longer history of involvement in the region and close cooperation with a few countries in particular, but is clearly no match for China when it comes to new trade and investment opportunities. The trade figures are revealing in this context: in the period from 2006 to 2016, the volume of trade between China and Latin America and the Caribbean grew by over 200% to USD 200 billion. Although Russia's trade with the region admittedly increased by 44% over the same period, the volume in 2016 was only USD 12 billion. Finally, although the United States achieved less growth (38%) in trade volume, it was still the clear leader with a figure of just under USD 800 billion. The EU currently ranks second or third in trade with parts of the region, after the United States and China.

Source: UN Comtrade Database 2017; EU trade with Latin America and the Caribbean. Overview and Figures, EPRS, December 2019.

► 2.3 Venezuela's uncertain future

Focal point of great power rivalry

Since Hugo Chávez's death in 2013, the situation in Venezuela has deteriorated rapidly. As oil exports account for about 95% of its export earnings, Venezuela fell into a severe economic crisis when oil prices collapsed in 2014. A political crisis too arose after May 2018 when Chávez's successor Nicolás Maduro claimed a second six-year term of office as president following an unrecognised election win. Due to the dramatic currency devaluation and the general scarcity of basic necessities, the calls from part of the population for Maduro to leave office grew ever louder. Supported by mass anti-government demonstrations, opposition leader Juan Guaidó proclaimed himself interim president on 23 January 2019, with the aim of holding new elections. The United States and many countries belonging to the Lima group and the EU (including the Netherlands) recognised the then president of the national assembly as the country's rightful leader and pressed for a democratic transition. The United States and the EU imposed additional sanctions,¹²⁵ but Maduro retained the support of some countries, including Russia and China, and thus managed to stay in power. Attempts by the International Contact Group for Venezuela¹²⁶ (of which the Netherlands is a member) to arrive at a peaceful political solution have so far failed, due to a lack of political will on both sides. To date, negotiations brokered by Norway have also proved fruitless.

The 'Chavistas' among the country's elite and the top ranks of the military see no reason to drop Maduro as long as the regime retains access to funding that can alleviate the pain of declining oil revenues and sanctions and they can maintain their privileges. The regime is making every effort to allow normal life to continue as much as possible in the capital Caracas, where leaders and

many foreigners live. However, a growing number of the country's poor, who, unlike the elite, do not have access to foreign currency, are dependent on food and medicine provided by the regime. To the outside world, Maduro projects the image of a powerful leader who will make short shrift of 'defectors' from the security forces.¹²⁷ However, his leadership will probably stand or fall with the support of a small group of followers who benefit most from the current situation.¹²⁸ The call by opposition leader Guaidó, orchestrated in part by the United States, for military personnel and security officials to join the uprising attracted little support.¹²⁹ Guaidó's position appears to have been further weakened after MP Luis Parra was sworn in as the new National Assembly president, with support from Maduro's party, because Guaidó himself had been denied access to the voting by security forces. As Guaidó was sworn in later, the parliament now has two presidents who can hold parallel meetings.¹³⁰ Maduro has recently pardoned imprisoned opposition members and indicated that he wishes to hold new parliamentary elections, but many opposition parties are boycotting them because free elections are impossible.¹³¹

In exchange for loans and investments worth billions, Russia now has a preference share in the exploitation of the country's vast oil reserves and a licence to develop offshore gas fields. This stake was recently acquired by the Russian state from Rosneft, the Russian oil company that previously bought half of Venezuela's oil exports. This was probably arranged to protect the company from new US sanctions and other anticipated oil market setbacks.¹³² Although this acquisition at what appears to be a very high price (totalling over USD 9 billion since 2010) seems extremely risky, given the huge uncertainties associated with the deep crisis in Venezuela, experts believe that the chance of losses has probably been factored in by the Kremlin and is far outweighed by the political benefits. For a relatively modest outlay – certainly compared with the cost of its military intervention in Syria – Russia has managed to thwart the US-favoured outcome in Venezuela and assured itself of a favourable basis for gaining further leverage.¹³³

China, which has been providing loans in exchange for oil since 2007, seems to be employing much the same reasoning, although its financial interests are much greater (over USD 50 billion in loans and USD 6 billion in direct investment). China may be more amenable than Russia to a political solution that creates the prospect of repayment by Venezuela or some other form of compensation.¹³⁴ Such a solution seems unlikely to materialise in the near future owing to three factors: the hard-to-solve production problems of the Venezuelan state oil company PdVSA, the sharp drop in oil prices caused by rivalry between major oil-exporting countries and the expected global economic recession. The Kingdom must prepare for various scenarios, first and foremost a further deterioration in the humanitarian situation and the conceivable 'implosion' of the Venezuelan state. As there is no prospect for the time being of a normalisation of relations and lifting sanctions on the oil industry would offer little relief in the current economic context, it is important for the long-term development of Aruba, Bonaire and Curaçao that they develop trading relations with other countries in the region.

Criminalisation of the state

Venezuela's transformation from Latin America's most promising democracy in the 1970s to today's failing state is radical and difficult to comprehend.¹³⁵ The problem goes deeper than the geopolitical rivalry and the internal political impasse that is partly responsible for this. Since the beginning of this century, the state has become criminalised and abuse of power and clientelism have become firmly entrenched. Venezuela has thus developed into the region's biggest exporter of drug trafficking and other cross-border crime. According to local experts in the field of transnational organised crime, it is no exaggeration to describe Venezuela as a 'mafia state'.¹³⁶ One of the reasons why organised crime was able to flourish was the half-hearted attitude of former president Chavez. After Chavez had been ousted from office for two days in 2002 by a military coup that ultimately failed, he decided that the Venezuelan armed forces' monopoly on the use of force should be divided among a number of security organisations. Irregular armed groups (*colectivos*) took control of

mostly poor neighbourhoods in and around the capital Caracas and established themselves in many other places as well. The regime also decided to come to an arrangement with criminal gangs to curb the escalating violence. As a result, the prison system is largely under the control of gang leaders and in certain areas criminal organisations have started to perform the basic functions of the state ('peace zone policy').¹³⁷

All major government bodies have been tainted by organised crime involving, for example, the smuggling of fuel and illegally mined coltan and gold, the sale of medicines and food on the black market, and the creation of networks and transport routes for the worldwide distribution of cocaine. Drug trafficking and other forms of cross-border crime are no longer combated, but instead form part of the country's hybrid power structure on which politicians, the army, the criminal justice system and the administration have become dependent. An estimated sum of USD 300 billion in public money has disappeared without any accountability;¹³⁸ and the country is one of the least transparent in the world.¹³⁹ The currency exchange and price control system introduced in 2003 made it easy for government officials to rake in huge profits from buying and selling dollars. Access to dollars continues to be a way for the regime to 'buy' loyalty, including the loyalty of the army which largely benefits from the importation and distribution of food and medicine on the black market, over which it has a criminal monopoly. For an ever greater proportion of the Venezuelan population, illegal activities are now the only way to earn a living.

Numerous high-ranking Venezuelan officials from the military, the intelligence service and the national guard – the so-called *cartel de los soles* –¹⁴⁰ profited from cocaine trafficking based in the border region with Colombia. The United States issued international arrest warrants and imposed sanctions on various senior figures within the regime. One of them is Vice President Tareck El Aissami, who is suspected not only of involvement in drug trafficking but also of having links with the terrorist organisation Hezbollah.¹⁴¹ On 26 March 2020, the US Department of Justice issued fresh criminal charges against Maduro and 14 current and former government officials for involvement in narcoterrorism (collaboration with the FARC), corruption, drug trafficking and other criminal practices.¹⁴² One of those charged was the former director of the military intelligence service Hugo Carvajal Barrios, who was briefly detained in 2014 when he was Venezuelan consul general in Aruba, but had to be released by order of the then Minister of Foreign Affairs on the grounds that he had diplomatic immunity.¹⁴³ Reports in the Dutch media suggested that threats from Caracas played a role in the release, but this was denied by the government.¹⁴⁴ In February 2019, former General Carvajal expressed his support for opposition leader Guaidó and was subsequently obliged to flee to Spain. Spain has hitherto denied US requests for his extradition.¹⁴⁵

The Kingdom must prepare for protracted problems in Venezuela, regardless of any changes in the domestic political situation

Venezuela has assumed Colombia's role in the region as a haven for terrorist narco organisations.¹⁴⁶ The 2016 peace agreement with the FARC ended a period of violent conflict that had lasted for five decades. An American aid programme, which resulted in a sum of over USD 10 billion being invested from 2000 to 2015 in promoting the rule of law, helped create the conditions for the agreement. But this did not put an end to drug trafficking and other cross-border crime in the border areas of the two countries. On the contrary, the ELN and remnants of the FARC moved their criminal activities to Venezuela (besides the cocaine trade, also arms, fuel and gold smuggling, kidnapping and extortion)

and managed to increase coca production in Colombia still further.¹⁴⁷ Since President Trump took office, the United States has been demanding that Colombia take tougher action against the increased cocaine trade or else miss out on aid money. Since conservative President Duque took office in 2018, the peace process, including the demobilisation and reintegration of former FARC fighters, has entered uncharted waters. Former FARC leaders have threatened to take up arms again, and some analysts suggest this is already happening.¹⁴⁸ The situation is complicated by the reception in Colombia of an estimated 1.6 million Venezuelans.¹⁴⁹ On the other hand, there is political continuity and the country has shown great resilience in the face of all the difficulties.¹⁵⁰

Maduro's regime monitors the borders with Aruba, Bonaire and Curaçao and thus determines whether trade is allowed, whether action will be taken against smuggling and human trafficking and whether Venezuelans who wish to return home can be repatriated. Aruba and Curaçao maintain good relations with the United States for economic and security reasons, but are also aware that measures against the Maduro regime could have repercussions for their own people. The regime could conceivably use the flow of migrants to Aruba, Bonaire and Curaçao and its influence on island communities as leverage.¹⁵¹ The Kingdom must prepare for protracted problems in Venezuela, regardless of any changes in the domestic political situation. In determining its foreign policy towards Venezuela, which is being shaped in part within the framework of the EU and in cooperation with the United States, the Netherlands must ensure that the security and stability of Aruba, Bonaire and Curaçao are guaranteed whatever the scenario.

Institutional obstacles?

▶ 3.1 Charter for the Kingdom and safeguarding function

Debate about the Charter

In this advisory report, the AIV takes as its starting point the current constitutional structure of the Kingdom. As the analysis in the previous chapters shows, the flaws and obstacles currently affecting political and administrative relations within the Kingdom prevent an effective approach to law enforcement and tackling cross-border crime. This raises the question of whether the present institutions are an obstacle to tackling the security threats described in this report. Addressing this question is timely because of the debate in the House of Representatives on the Charter and the Kingdom's role in safeguarding fundamental human rights and freedoms (3.1), but also in the light of the questions raised by the Dutch government in its request for advice as to whether the Kingdom is able to respond adequately (3.2) and whether it would be possible to make better use of the international frameworks for cooperation in the Caribbean (3.3).

Since the amendment of the Charter in 2010, the House of Representatives has been divided on the issue of whether the Netherlands should have more influence over the administration and law enforcement operations of the countries in the Caribbean or whether, on the contrary, it should maintain even more distance. In 2013, MPs André Bosman and Ronald van Raak argued in a joint private members' policy proposal for a looser relationship and independent status for the Caribbean countries along the lines of the Commonwealth of Nations, which they occasionally referred to as the British Commonwealth (the name used until 1949).¹⁵² The House of Representatives subsequently commissioned a comparative study of overseas constitutional relations in the Kingdom of the Netherlands, the French Republic, the Kingdom of Denmark and the United Kingdom.¹⁵³ MP André Bosman asked critical questions in the light of the decolonisation process about the adoption of the Charter and the constitutional relationships it established.¹⁵⁴ In a motion submitted by MP Chris van Dam and others, the government was requested to consult with the authorities on St Maarten about the possibility of separating the management of and authority over law enforcement and the criminal justice system and whether the Netherlands could play a greater role in management for a period of five years.¹⁵⁵ In response to motions in the House of Representatives and the Senate¹⁵⁶ and the discussion of this topic in the Interparliamentary Kingdom Consultations (IPKO), the governments of the four countries intend to instruct a civil service working group to report on the various interpretations of how the responsibilities of the individual countries and the Kingdom as a whole are divided under the Charter.¹⁵⁷

What these initiatives would seem to have in common is the assumption that the Charter in its current form is an obstacle to fruitful cooperation between the different parts of the Kingdom and fails to promote a collective approach. The division of responsibilities in the Charter and the fact that it gives the Kingdom a safeguarding role is regarded by these advocates of a looser relationship as an obstacle to the growth of the Caribbean countries towards independence and to the development of more balanced relations with the Netherlands. In response to the questions, the Dutch government has once again emphasised that all Caribbean countries and islands are free to decide for themselves whether they wish to secede from the constitutional order of the Kingdom, or to consult with the other Kingdom partners about different constitutional arrangements.¹⁵⁸ If the Caribbean countries do not take the initiative, the Netherlands could itself decide to end the relationship, as some have already advocated.¹⁵⁹ Those who are in favour of a greater role for the Netherlands, such as MP Chris

van Dam, believe that the very fact that problems recur demonstrates that the Caribbean countries are unable to solve them independently. According to this view, the countries might, on reflection, have been better advised to make law enforcement a Kingdom affair when the Charter was amended in 2010.¹⁶⁰

The prevailing view on the islands is that the ties with the Kingdom ties are crucial, but people complain about the burden of administrative interference and abuse of the unequal relationship by the Netherlands, which pays insufficient heed to the major challenges facing the national authorities and the specific context in which they have to operate. One example is the supervision of the public finances of the individual countries which, contrary to the agreements, seems to be taking on a permanent character. In effect, there has been no financial autonomy since 2010.¹⁶¹ Dutch aid in the form of loans or debt restructuring is said to be provided on such strict terms that dependence is actually increasing.¹⁶² At the same time, the Curaçao General Audit Chamber has concluded that the financial management is still not in order and the accounts are unverifiable. As regards the regularity and accuracy of the annual accounts, the 2018 accounts contained a total of ANG 664.5 million in misstatements and ANG 5.991 million in uncertainties.¹⁶³ The situation with regard to public finances was therefore already of great concern even before the COVID-19 crisis. Since 2010, the debt position of Curaçao and Aruba as a percentage of GDP has been rising.¹⁶⁴

The Caribbean countries now require urgent assistance from the Netherlands to deal with the COVID-19 crisis, but at the same time this makes it hard to believe in their ability to get their public finances in order on their own. Structural reforms are necessary.¹⁶⁵ To obtain additional interest-free loans, the three Caribbean countries have had to accept cuts in the pay and employment conditions of politicians and civil servants. Curaçao and the Central Bank of Curaçao and St Maarten must also provide De Nederlandsche Bank with information about the overall position of the financial sector.¹⁶⁶ To obtain a third tranche of liquidity support, the Caribbean countries will have to comply with the terms previously set and agree to the introduction of legislation establishing a Caribbean Reform Entity, which is to oversee the development and implementation of projects and measures relating to the specific countries.¹⁶⁷ To date, the governments of the Caribbean countries have not agreed to this as they consider the situation to be the imposition of what they term a 'Dutch shadow administration'.¹⁶⁸ According to some commentators, there are only two ways to permanently resolve the dichotomy between cherished independence and de facto dependence: either the Caribbean countries aspire to real autonomy, which can be achieved only through independence (with all the risks this entails), or they accept their dependence and, together with the BES islands (Bonaire, St Eustatius and Saba), are integrated into the constitutional system as a province of the Netherlands. The basic principle underlying the latter scenario is equality: a single category of Dutch nationality for all citizens of the Kingdom and a single standard of social services, education, healthcare, financial management and law enforcement for everyone.¹⁶⁹

Debate about the constitutional relations with the overseas territories, whether or not inspired by the arrangements made by other European countries (see annexe V), threatens to deflect attention from the question of how the Charter has hitherto been used in practice. As long ago as 2004, the Council of State noted that since 1954 the Charter had mainly been used to delimit powers between the constituent parts of the Kingdom and that thus far little use had been made of the articles relating to the realisation of joint responsibilities and cooperation.¹⁷⁰ In the AIV's opinion, there has, in essence, been no change in this position in relation to the main subjects of this advisory report since 2010. Chapter I addressed deficiencies in law enforcement and drew attention to gaps in the protection of human rights and in sustainable development policies. National governments pay lip service to the idea of moving forward, but seem to get bogged down in practical, procedural and financial objections when concerted action is required. No breakthroughs have been made in eliminating humanitarian abuses and tackling the corruption and criminality that undermines society. The countries actually have an obligation under article 36 of the Charter (see annexe IV) to accord one another aid and

assistance. This makes it possible for them to work together in various ways: from consultation and the provision of practical help and assistance to collaborative arrangements, Kingdom legislation agreed by common consent between the constituent parts of the Kingdom and orders in council for the Kingdom.

Safeguarding role and cooperation in practice

The countries are autonomous, but if they fail to realise fundamental human rights and freedoms, legal certainty and good governance, article 43 paragraph 2 of the Charter provides that safeguarding them is an additional responsibility of the Kingdom. Under article 51 of the Charter (see annexe IV), the Kingdom government may issue an order in council for the Kingdom obliging a country that is in default to meet the quality requirements in the areas concerned ('safeguarding role'). No use has been made of this possibility, much to the frustration of those who believe that its application would be justified as an ultimate remedy, because in some respects the countries have been guilty of serious and protracted failure to discharge their responsibilities and there is no prospect of improvement. A complicating factor here is that since the Kingdom does not have separate institutions, any involvement on its part would be readily interpreted by the Caribbean countries as Dutch interference.¹⁷¹ If the Kingdom government does not discharge its responsibility, a country needing assistance may put off accepting outside help and involvement until the situation has become untenable (government legitimacy crisis, international reputational harm or unbearable debt burden), at which point it may accept it out of a desire to prevent an even more far-reaching breach of its autonomy at a later date.

In 2011, the Council of State decided that matters need not reach such a pass and advocated a new approach to article 43, paragraph 2: namely to view it as an incentive to define a baseline in joint consultation and take measures to prevent countries from falling below it. A preventive approach of this kind is dependent on the willingness of the countries to work together on an equal footing and adopt an open attitude and their real desire to help bring about improvement if the joint analysis of the situation warrants this.¹⁷² As article 43, paragraph 2 describes a 'Kingdom affair', safeguarding rules, for example on the transparency of government and public finances, could be established by Kingdom Act for the entire Kingdom. Legislation on this subject in other countries has helped in the fight against corruption.¹⁷³ Legislation of this kind could also provide for the establishment of a human rights institution for the entire Kingdom in keeping with the internationally accepted Paris Principles.¹⁷⁴ This would be along the lines of the Netherlands Institute for Human Rights. The AIV considers it advisable to have draft Kingdom legislation of this kind drawn up so that it can be discussed in all countries of the Kingdom. Although many people in the Netherlands consider such safeguards to be superfluous for themselves, this should not be a reason for abandoning the idea, quite apart from the question of whether – in view of experiences in some Dutch municipalities – this opinion even holds water.

Various forms of cooperation, of which the countries have so far made little or no use in practice, are possible within the framework of the Charter

To date, there has been little political will to accept more responsibility for safeguarding the Charter's principles in the Caribbean, especially through preventive measures. This would require a lot of extra effort for the Netherlands and would entail risks, due to the complicated nature of relations with the island authorities and the lack of support in constituencies. Postcolonial sensitivities and restrictive

interpretations of the Charter for the Kingdom, as amended in 2010, seem to be used by both the Netherlands and the countries in the Caribbean as reasons not to seek closer engagement with each other. Politicians on the islands who believe there is nothing to be gained from better cooperation with the Netherlands will try to mobilise anti-Dutch sentiment if the Council of Ministers of the Kingdom adopts a more active role in protecting the rule of law and promoting transparent and reliable government. However, the cautious approach of the Council of Ministers of the Kingdom takes insufficient account of not only the risks described above and the reputational harm for the Kingdom as a whole but also the wishes of the peoples of the islands, who are fed up with corruption and the lack of socioeconomic prospects and are greatly concerned about the quality of life in the long term.

All things considered, the AIV believes that focusing the debate about relationships within the Kingdom on a new round of amendments to the Charter, less than ten years after the last amendment, would be counterproductive. Various forms of cooperation of which the countries have so far made little or no use in practice are possible within the framework of the Charter. The countries of Aruba, Curaçao and St Maarten have autonomous powers. This means that under the Charter they are empowered to pass laws. The Charter for the Kingdom provides that the Kingdom government has the task of safeguarding the legal order, good governance and human rights. In cases where the island authorities, for whatever reason, fail to enact and enforce laws necessary for the legal order, good governance and human rights, the Charter still applies. All elected representatives and government ministers in the Kingdom are bound by the Charter. Legislation and its implementation is the responsibility of the Council of Ministers of the Kingdom. It is therefore the body responsible for taking remedial action in cases where the law is not properly enforced, the rules of good and ethical governance are flouted or human rights are violated.

▶ 3.2 Cooperation within the Kingdom

Kingdom relations

The cooperation between the constituent parts of the Kingdom as discussed so far in this report has primarily concerned contact and consultation at the political and civil service levels, the drafting and implementation of legislation (including consensual Kingdom Acts) and policy coordination. Behind the cooperation between the four countries lies a complex reality at national level, which is composed of various domestic actors, vested interests and pressure groups that determine the position and policy aims of each of the countries. Aligning these different interests has proved difficult in practice. In the Netherlands, there is no overarching vision of the Kingdom's security. The Ministries of Foreign Affairs, Justice & Security, and Defence pay only limited attention to the Caribbean in their strategic documents. In the Netherlands, the Ministry of the Interior and Kingdom Relations (BZK) is responsible for coordinating policy in respect of the Netherlands in the Caribbean and Kingdom relations. This is currently part of the portfolio of the State Secretary for the Interior and Kingdom Relations. Various past studies have shown that Dutch administration of the Kingdom's affairs is fragmented and that ministries other than BZK have considerable scope to achieve their own policy goals in collaboration with their political and civil service counterparts and implementing organisations in the Caribbean part of the Kingdom. For example, cooperation in the area of justice takes place in the horizontally structured Judicial Four-Country Consultation (JVO), in which the ministers of justice or, as the case may be, justice and security of the individual countries participate. This involves little or no coordination with international security policy. Closer interministerial cooperation and a coordinated transnational approach are required not only to combat drug trafficking and other cross-border crime but also to tackle unwanted foreign influence and address climate security issues.

In the coalition agreement of 10 October 2017, BZK was given a stronger coordinating role. The Interministerial Kingdom Relations Policy Review (IBO report of 10 June 2019) noted that BZK had indeed assumed a greater role with regard to the Netherlands in the Caribbean in recent years and had introduced measures to give interministerial cooperation in The Hague more structure. The interviews revealed that BZK mainly plays the role of facilitator and organiser rather than proactive and decisive coordinator or director.¹⁷⁵ As the IBO report noted, it is still ‘unclear exactly what role the Ministry plays, or what the coordinating task could and should entail. Nor has the Ministry itself defined this task.’¹⁷⁶ The IBO working group concluded that its substantive findings mirrored those of previous studies on a number of relevant points and, after emphasising the need for an overall vision and for BZK’s coordinating role to be strengthened, it made suggestions for improvements. In its response to the IBO report and the Council of State’s report about the Netherlands in the Caribbean and BZK’s coordinating role,¹⁷⁷ the government has endorsed the main thrust of the recommendations, namely a stronger (coordinating and supervisory) role for the Minister of the Interior and Kingdom Relations, greater civil service support and agreement on working arrangements in the Council of Ministers of the Kingdom. The government has also welcomed the Council of State’s call for closer cooperation between the Netherlands in the Caribbean (i.e. the islands of Bonaire, Saba and St Eustatius) and the three Caribbean countries. Besides the creation of some form of free trade area or customs union, the government sees opportunities for sharing knowledge about agriculture and energy supply and for cooperation in caring for vulnerable residents.

As pointed out on more than one occasion in the past, the Kingdom should be more than some kind of ‘party game for politicians and civil servants’¹⁷⁸, seemingly mainly concerned with public finances, the quality of government and law enforcement. As the focus often tends to be on shortcomings and problems, too little attention is paid to the strengths of the Caribbean parts of the Kingdom compared with other countries and islands in the region, for example the links with the European market and with the Dutch legal order and economy, tourism from prosperous countries, maritime ecology, financial services and a better standard of education. Besides structural, formal relationships, the cooperation includes initiatives by civil society organisations, businesses and individuals to bridge cultural differences and promote cohesion. The projects may involve training and education, cultural exchanges, nature conservation, facilities for vulnerable young people or, more recently in response to COVID-19, the provision of food packages.¹⁷⁹ Closer links between the societies of the different countries should give people a better understanding of the special value of the Kingdom, thereby helping to strengthen Kingdom ties and structures in a practical and lasting way.¹⁸⁰ Such a Kingdom-wide civil society does not arise spontaneously: the elected representatives and the governments of the countries of the Kingdom should intensify mutual contacts, take joint action more often and encourage and support initiatives.

Greater role for the Council of Ministers of the Kingdom

The Council of Ministers of the Kingdom consists of the members of the Dutch cabinet and the ministers plenipotentiary for Aruba, Curaçao and St Maarten. Unlike the Dutch ministers, the ministers plenipotentiary do not have their own policy area for which they are responsible, but instead represent the national government in respect of all Kingdom affairs (i.e. application of the Charter, draft Kingdom legislation, instructions, foreign policy and defence in the Caribbean). The Council of Ministers of the Kingdom does not function on the basis of a coalition agreement and to this extent differs in character from the government of a country within the Kingdom.¹⁸¹ It only takes joint decisions on matters that have been agreed in advance between the governments of all the constituent countries. In practice, such decisions are usually taken in response to an initiative by the Netherlands, which prepares the content of the meetings that are chaired by the prime minister. Since 2008, meetings of the Council of Ministers of the Kingdom have been preceded by discussion of the documents for the meeting in the Council for Kingdom Relations (a subcommittee of the Council of Ministers of the Kingdom). However, a common vision for the future of the Kingdom is still largely lacking.

The AIV believes that the Council of Ministers of the Kingdom could and should play a greater role with a view to formulating a shared vision and policy. Although four-country consultations are held on separate subjects, there is no overall coordination or integration of the work performed in the Council. One of the factors preventing fruitful cooperation is that the parties do not trust each other sufficiently to put their cards on the table. However, as the Council is one of the Kingdom's few joint institutions, the parties cannot afford not to make the best possible use of it. If the Council is to have a bigger role, it will also need a broader and more substantive agenda that looks to the long term. This also means that the preparations for meetings of the Council will have to be organised differently. In keeping with previous advisory reports of the Council of State,¹⁸² the AIV recommends establishing a secretariat to assist the Council of Ministers of the Kingdom by preparing policy on matters relating to the Kingdom as a whole. It should work with the Dutch ministries and government, but not be primarily focused on them. Ideally, the secretariat should be staffed by officials from all parts of the Kingdom. Such an adjustment would better equip the Kingdom to cope with fresh and, to some extent, foreseeable shocks to the international system and forces that undermine the rule of law. It would also strengthen the Kingdom's credibility as an international advocate of security, the rule of law and sustainability.

If the Council is to have a bigger role, it will also need a broader and more substantive agenda that looks to the long term

It follows that the AIV considers the Council of Ministers of the Kingdom to be the appropriate institution to take the lead in formulating a Kingdom vision of law enforcement. This vision should be aimed at strengthening the entire security sector (justice system, police, defence, coast guard and intelligence and security services) on the basis of the common application of the relevant Kingdom legislation. One proposal could be the creation of a single Public Prosecution Service, which would be headed by an Attorney General working with local chief public prosecutors and would be supported by a single police force for all the Caribbean islands. Priority should be given to improving information collection and sharing information for criminal investigations, thus making possible more information-driven action. The Dutch initiative for a multidisciplinary intervention team to combat crime that undermines society should be copied within the Kingdom. It would make sense for the four countries to build on examples of successful security cooperation in the Caribbean, for example in coast guard operations, police and criminal investigations and the education and training of the Curaçao and Aruban militias. The Defence organisation plays an important role by providing military assistance in support of the civil authorities, for example in the area of law enforcement. More effective use can be made of the military presence.

▶ 3.3 International cooperation

Allies and partners

For a long time, the Caribbean and Latin American region featured less prominently than other regions in Dutch foreign and security policy. From a security perspective, developments in Venezuela received the most attention. In recent years, the Kingdom has mainly relied on international agreements and initiatives to tackle cross-border crime in Latin America and the Caribbean. The fight against cocaine trafficking largely consisted of occasional interceptions of shipments through the Caribbean Sea and checks near and in ports of arrival in Europe. When the United States shifted

the focus of its attention to drug routes through Central America and along the Pacific seaboard, the decrease in counternarcotics operations was not offset by a greater allocation of resources from the Netherlands or other European countries in the Caribbean. Although the United States has recently decided to make more resources available for such operations in the Caribbean, it is uncertain whether this will be on a permanent basis. In response to the COVID-19 crisis, the Netherlands is temporarily making extra military capacity available in the area (air transport, support ships and military assistance on land), albeit mainly to assist with logistics and guarding the borders. France and the United Kingdom have also decided to send additional naval vessels to the region in response to COVID-19. The Defence organisation is in close contact with both countries with a view to sharing information and identifying opportunities for military cooperation. A coordination base has been set up for this purpose on the French island of Martinique.¹⁸³

Intensifying the fight against drug trafficking and other cross-border crime requires closer cooperation with allies such as the United States, the United Kingdom and France. The American counternarcotics organisation Joint Interagency Task Force South (JIATF-S) provides an obvious framework for cooperation in this area since its stakeholders include not only the allies mentioned above but also a number of countries in the region.¹⁸⁴ Although the use of naval vessels, submarines, planes and helicopters in their traditional role remains important, more must be done to step up the pressure on criminal organisations that operate internationally. One way would be to improve the sharing of criminal intelligence between allies and partners in the region (and between the relevant organisations within the states concerned) in order to identify international criminal networks and financial flows. Cooperation with countries in the region is essential. Besides Colombia and Panama, potential regional partners include the Dominican Republic and the small island states of the Organisation of Eastern Caribbean States. Cooperation with Brazil, Suriname, Costa Rica, Peru and Ecuador is also becoming more important, especially in their capacity as countries of origin or transit countries for drugs and other contraband.

Regional organisations can provide an effective framework for multilateral cooperation. Security cooperation with CARICOM in the area of data exchange could be strengthened, for example, if a more formal partnership were to be concluded between the Kingdom and the Implementation Agency for Crime and Security (IMPACS), following the example of the memorandum of understanding with CARICOM's agency for crisis coordination and disaster relief CDEMA. The sharing of military intelligence between allies can also be of great importance in combating cross-border crime. This is especially true at present in relation to Venezuela, the regional hub for drug trafficking and other cross-border crime, whose regime maintains close ties with countries such as Russia, China and Iran. The United States carefully monitors developments, but even in its dealings with close allies it sets the priorities and determines which of them receives what intelligence and when. As European allies will themselves be called upon more frequently in future to make a relevant contribution in exchange for information, a presence (particularly a military presence) in the region will be essential.

Besides taking part in US-led counternarcotics operations, European countries can participate in closer operational and intelligence cooperation in the Lisbon-based Maritime Analysis and Operations Centre - Narcotics (MAOC-N), whose members include France, the Netherlands and the United Kingdom, as well as Ireland, Italy, Portugal and Spain. There needs to be a shift in Dutch thinking to enable the policy focus to be broadened and a coherent national and international approach to be developed throughout the entire sector, up to and including the source. The intensification of police cooperation with Colombia is an example that deserves to be followed elsewhere in the region. The involvement of other ministries (Foreign Affairs and Defence) would be an advantage. The Netherlands and other European countries should regard their ties with the islands in the Caribbean and countries in Latin America as an opportunity for upstream operations to tackle drug trafficking and other cross-border crime that poses a serious threat to national and European

security interests. If there is no ‘push-back’, criminal organisations will be able to reach Europe more easily from the islands. To tackle socioeconomic problems in the region, the Netherlands could work within the framework of the EU with member states that traditionally focus more on the region, such as Spain, Portugal and France. Finally, an obvious forum in which to work to improve European cooperation is the Caribbean Working Group of the European Intervention Initiative (EI2). The members of the working group (European countries with overseas territories in the Caribbean and countries wishing to assist in providing emergency relief such as Germany and Spain) have set themselves the goal of reducing response times and making optimal use of capacity.¹⁸⁵

San José Agreement

The Agreement concerning Cooperation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area (also known as the San José Agreement)¹⁸⁶ was signed on 10 April 2003 and entered into force in 2008. As one of its main initiators, the Kingdom was closely involved in its conclusion and ratified it in 2010. Under the Agreement, participating countries may pursue vessels suspected of smuggling into the territorial waters of another participating country, with the latter’s authorisation. An important provision concerns the right to arrest and search suspect vessels without flag status on the high seas. This is the power most frequently used by the Commander Netherlands Forces in the Caribbean. Finally, the Agreement provides that participating countries may put law enforcement teams aboard each other’s vessels.

For various reasons, the San José Agreement has as yet only been implemented to a limited extent. One reason for some countries is the participation of the United States, perhaps because they are concerned about possible infringements on their sovereignty. In addition, the geographic scope of the agreement is still insufficient (too little coverage in the region). The CARICOM countries have so far not committed themselves and have instead established their own Maritime and Airspace Security Cooperation Agreement, which covers a broader range of criminal threats. This Agreement entered into force after ratification by three participating countries, talks about a revision have stalled because of legal disputes. Four important countries in the region have signed but not yet ratified the San José Agreement. They are Panama, Jamaica, Haiti and the United Kingdom. The United Kingdom’s overseas territories in the Caribbean have insisted that they must have sufficient capability (particularly coast guard capability) to implement the San José Agreement before the United Kingdom proceeds with ratification.

The Kingdom of the Netherlands should take the lead in reviving the San José Agreement by calling on countries that have not yet done so to ratify it without delay. From a European perspective, the United Kingdom is an indispensable ally in this context. The countries of the Kingdom of the Netherlands could also work together to encourage CARICOM countries to participate. If new countries join, it may be necessary to discuss the provisions that safeguard sovereignty and the possibility of extending the scope of the Agreement (by amendment) to include offences such as arms smuggling, illegal migration and human trafficking. The United Nations Office on Drugs and Crime (UNODC) is a key player in the region and could help to promote better use of the San José Agreement, possibly as part of its Global Maritime Crime Programme.¹⁸⁷ A second Meeting of States Parties to the San José Agreement would be a suitable moment to discuss these topics. At the first meeting in 2017, the Kingdom agreed to organise the next meeting.

Possibilities in relation to the EU

In principle, the European treaties apply to states that are party to them in respect of their entire territory, which includes the Kingdom in this context. However, the treaty or instrument of ratification may limit the operation of the treaty to part of the state concerned or introduce special provisions. One of the variants of such a limitation concerns the arrangement for overseas countries and territories (OCTs), which was the solution chosen in the early 1960s for the islands of the Netherlands Antilles (which, at the time, included all of the islands of the Kingdom) and Suriname. The six islands of the Kingdom in the Caribbean are still covered by this arrangement and are

therefore excluded from the full operation of the EU treaties, although they are entitled to funding from aid programmes financed from the European Development Fund and to investment through the European Investment Bank. The framework for this special association agreement has been defined in successive overseas association decisions, which increasingly apply the principle of a mutual partnership to distinguish this aid more clearly from development assistance to ACP countries. A proposal for revision of the current Overseas Association Decision dating from 2013 was made in 2018 for the 2021-2027 period.¹⁸⁸ With the exception of Greenland, the OCTs are small territories – mostly islands – of the member states and have a small population, although they differ markedly from one another in social, economic, geographic and climatic terms.¹⁸⁹ Since the withdrawal of the United Kingdom from the EU, the number of OCTs has been reduced by twelve, leaving Greenland and the six islands of the Kingdom in the Caribbean as well as six sparsely populated and geographically scattered French OCTs: French Southern and Antarctic Territories, French Polynesia, New Caledonia, Saint-Barthélemy (the only French OCT in the Caribbean), Saint Pierre and Miquelon, and Wallis and Futuna Islands.

In principle, EU law applies in full in the Outermost Regions (ORs), which are the most remote regions of the European Union, although certain exceptions are possible on the basis of size and certain other special characteristics. Six ORs belong to France (Guadeloupe, French Guiana, Martinique, Mayotte, Réunion and Saint-Martin), two to Portugal (the Azores and Madeira) and one to Spain (Canary Islands). The status of the French OR Mayotte was amended from OCT to OR in 2014. Under the EU treaties, such an amendment is also possible for other OCTs if the European Council so decides on the initiative of the Member State concerned (Article 355 (6) TFEU). The ORs must meet the same requirements as all other parts of the member states, but would also have access to the internal market and to regular EU funding such as cohesion funds and funds for agriculture and fisheries. In 2018 a start was made on new EU policy for the ORs, including initiatives to promote innovation, the circular economy and blue growth. According to the European Commission, the ORs provide opportunities for the EU because of their location in areas of the world that may be of great strategic importance.¹⁹⁰

Studies dating from 2008 show that there are advantages and disadvantages to both OCT status and OR status.¹⁹¹ Importantly, developments occurring on the international scene and in the structure of relations between the EU and the OCTs and ORs mean that this is a suitable moment for a reassessment. ORs are also covered by the collective security guarantee which the member states have provided for in article 42 (7) of the Treaty on European Union (TEU). Brexit could well be the catalyst for completion of the gradual and lengthy process of convergence between the OCTs and ORs, which could have far-reaching consequences for the constitutional law of the member states concerned. The departure of the British OCTs does not mean that the entitlement of the twelve remaining OCTs (excluding Greenland) to financial resources from the EU will be any less, but the disappearance of an important OCT power bloc in the Caribbean is bound to create a different dynamic between the remaining OCTs (and between the member states to which they belong).¹⁹² Identifying needs and opportunities for closer cooperation (e.g. in the areas of trade policy, climate policy and judicial cooperation) should be part of future-oriented policy development, which at present there is little of, if any. It would therefore be advisable to put this topic back on the agenda of the consultations between the countries of the Kingdom.

In conclusion, the AIV would stress that the institutions that have been discussed are not an obstacle to the promotion of security and the rule of law in the Caribbean, but instead create opportunities for closer and more effective cooperation. In practice, the countries of the Kingdom have so far made insufficient use of them. For historical reasons, the Netherlands has a responsibility, as the largest Kingdom partner, to do its best to promote the security and well-being of citizens in the Caribbean part of the Kingdom. At the same time, the Netherlands is entitled to expect the governments and administrations of the Caribbean countries to take concrete steps in the interests of their inhabitants and to ensure that relations within the Kingdom are future-proof.



Endnotes

- ¹ Since the amendment of the Charter for the Kingdom on 10 October 2010, the Kingdom has consisted of four countries: namely Aruba, Curaçao, St Maarten and the Netherlands. The countries of the Kingdom conduct their own affairs independently. However, the Charter designates a number of topics that are the responsibility of the Kingdom as a whole, such as foreign relations and protection of the Kingdom's territory (i.e. defence). As the Charter does not create umbrella institutions for the Kingdom, separate from those of the individual countries, the institutions dealing with Kingdom affairs are essentially the Dutch equivalents, which also act in a separate capacity on behalf of the Kingdom. Bonaire, Saba and St Eustatius have together constituted what is known as the Netherlands in the Caribbean (or the Caribbean Netherlands) since 2010.
- ² Annexe to parliamentary papers | 2014/2015, 34 000 IV, no. F, *Voorlichting over de evaluatie van de rijks wetten "Justitie"* (Information on the evaluation of the Kingdom Acts concerning 'criminal justice'), 2 May 2014.
- ³ For definitions of the various security concepts, see: Scientific Council for Government Policy (WRR), 'Security in an Interconnected World. A Strategic Vision for Defence Policy', 12 April 2017, chapter 2.
- ⁴ Van Buiren, Koert, Matthijs Gerritsen and Leonie Ernst, *Kleine eilanden, grote uitdagingen. Het Caribisch deel van het Koninkrijk in regionaal perspectief: prestaties, kansen en oplossingen* (Small islands, big challenges: the Caribbean part of the Kingdom from a regional perspective: performance, opportunities and solutions), Economisch Bureau Amsterdam, 2020: pp. 4-5.
- ⁵ Letter to parliament from the State Secretary for the Interior and Kingdom Relations, Decisions of the meeting of the Council of Ministers of the Kingdom on 10 July 2020 concerning (financial) support for Aruba, Curaçao and St Maarten, reference 2020-0000418140, 10 July 2020, annexe 2; De Haseth, Carel, *Haags dictaat is ongepast in ons bestel* (Rule by government diktat inappropriate in our system) NRC, 16 July 2020.
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- ⁸ Karapetian, G., *Hoe verder met de Landen en Gebieden Overzee na Brexit?* (What now for countries and overseas territories after Brexit?), SEW number 6, June 2020.
- ⁹ United States Congressional Research Service, *U.S. Foreign Assistance to Latin America and the Caribbean: FY2019 Appropriations*, 1 March 2019.
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- ¹¹ Dolz, Patricia Ortega, *Apresado en Galicia el primer 'narcosubmarino' de Europa con más de 3.000 kilos de cocaína*, El País, 16 December 2019.
- ¹² FD, *Rotterdam en Antwerpen melden recordvangsten cocaïne in 2019* (Rotterdam and Antwerp report record seizures of cocaine in 2019). 9 January 2020.
- ¹³ Staring, R., L. Bisschop, R. Koks, E. Brein and H. van de Bunt, *Drugscriminaliteit in de Rotterdamse haven: aard en aanpak van het fenomeen* (Drug crime in the port of Rotterdam: nature of the problem and how it is being tackled), Erasmus University Rotterdam, 26 May 2019: pp. 53-54.
- ¹⁴ Idem. pp. 8-9.
- ¹⁵ Tops, Pieter and Jan Tromp, *De achterkant van Amsterdam. Een verkenning van drugsgerelateerde criminaliteit* (The dark side of Amsterdam. A survey of drug-related crime), 2019.

- ¹⁶ For an overview, see: Letter to parliament from the Minister of Justice and Security, 'Reaction to newspaper report entitled: The Netherlands is more corrupt than we think', 6 February 2020. As regards money laundering, see also: Gaby de Groot and Johan Leupen, *Bijna €13 mrd wordt er jaarlijks witgewassen in Nederland* (Nearly €13 billion laundered annually in the Netherlands), FD, 13 November 2019.
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- ²⁹ Parliamentary paper 29628/29279 no. 861, *Letter from the Minister of Justice and Security*, 12 February 2019.
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- ¹⁸⁸ Central government, assessment by the Working Group for the Assessment of New Commission Proposals (BNC) (*Fiche 8*): Multiannual Financial Framework – Overseas Association Decision, 2018.
- ¹⁸⁹ Ministry of Foreign Affairs, *Overseas countries and territories (OCTs)*, <https://ecer.minbuza.nl/ecer/dossiers/landen-en-gebieden-overzee-lgo>.
- ¹⁹⁰ European Commission *The new EU strategy for the outermost regions, one year on*, 23 November 2018. See also: European Commission, *Regional policy & outermost regions*, 2020, https://ec.europa.eu/regional_policy/en/policy/themes/outermost-regions/.
- ¹⁹¹ SEOR, LL&A, *Economische gevolgen van de status van Ultraperifeer gebied voor de Nederlandse Antillen en Aruba*, (Economic consequences for the Netherlands Antilles and Aruba of having OR status), 2 June 2008; Bröring et al., *Schurende rechtsordes: Over juridische implicaties van de UPG-status voor de eilandgebieden van de Nederlandse Antillen en Aruba* (Clashing legal systems: the legal implications of OR status for the island territories of the Netherlands Antilles and Aruba), 31 March 2008.
- ¹⁹² Karapetian, G., *Hoe verder met de Landen en Gebieden Overzee na Brexit?* (What now for countries and overseas territories after Brexit?), SEW number 6, June 2020.

Request for advice



Ministerie van Buitenlandse Zaken

Mr Jaap de Hoop Scheffer
Chairman of the Advisory Council
on International Affairs
P.O. Box 20061
2500 EB The Hague

Date 23 April 2019

Re Request for advice on developments related to security policy in the Caribbean

Dear Mr De Hoop Scheffer,

The Minister of Defence joins me, in my capacity as Minister of Foreign Affairs, in requesting the AIV's advice on the following matter.

The threat situation in the Caribbean is evolving. In the future this situation will probably be determined in large part by the direct and indirect effects of developments in a number of areas: (1) geopolitics and regional politics, (2) cross-border crime (particularly drugs crime) and (3) climate change.

The repercussions of current geopolitical developments are also being felt in Latin America and the Caribbean. China and Russia are increasingly taking an interest in this region, which continues to be marked by ideological differences and different spheres of influence. The relationship of the United States to this region is not always clear-cut, due to political and ideological differences.

A number of countries are grappling with internal instability, erosion of the democratic system, economic setbacks and declining respect for the rule of law. The political and economic situation in Venezuela and its spillover effects on the Caribbean part of the Kingdom are an example of the impact that political developments can have on the Kingdom. The geopolitical dynamic, in combination with regional political developments, could have long-term repercussions for security policy in the Caribbean.

In addition to regional political developments and geopolitical dynamics, the region is also dealing with international drug trafficking, which poses a threat to public order and regional stability, with direct consequences for security in the Netherlands and the Caribbean parts of the Kingdom. The diversification of activities undertaken by international criminal organisations, with for example an increase in arms and fuel smuggling, indications of ties to terrorist activities (foreign terrorist fighters) and the presence of certain safe havens for criminal activities, change the threat situation, which is not limited to the region and can also have ramifications for Europe and elsewhere.

The impact of climate change could also be significant. It is likely that changing weather patterns and natural disasters will play a growing role in shaping the regional threat situation, particularly in terms of migration flows and the internal political and economic stability of the island states.

Security policy in the Caribbean region must be implemented within the framework of the Charter for the Kingdom of the Netherlands. The Charter specifies that the Kingdom is responsible for foreign relations and for protecting the territory of the Caribbean part of the Kingdom, which falls outside the scope of the founding treaties of both NATO and the EU. Aruba, Curaçao and St Maarten are autonomous in most other policy areas.

A number of key questions arise in this context:

1. What impact do developments related to security policy in the Caribbean have on the current and future threat situation for the region? What factors and developments are likely to play a role in these changes over the next 10 years, and who are the key players?¹ To what extent can the Kingdom itself influence these developments?
2. Given these actual and possible developments over the next 10 years, what will the consequences be for foreign relations and the security of the Kingdom in general and the autonomous countries within the Kingdom in particular? How effectively can the Kingdom respond to these developments in the Caribbean and ensuing risks to the Kingdom, both in Europe and the Caribbean region? How can the Kingdom prepare to deal with this evolving threat situation, and what is needed to do so?
3. What opportunities exist for the Kingdom to benefit from international cooperation in the Caribbean region? In what ways and in what areas can international cooperation on real and current threats in the Caribbean region be enhanced? Are there best practices used by other countries in the Caribbean region that the Kingdom could benefit from adopting?

This request for advice is provided for in the work programme for 2018-2020. I look forward to taking note of your advice on the issues at hand.

Yours sincerely,

Stef Blok
Minister of Foreign Affairs of the Kingdom of the Netherlands

¹ 'Key players' refers both to the broad spectrum of state actors (e.g. the US, Russia, China, Mexico and Venezuela) and to non-state actors (e.g. criminal organisations).

List of persons consulted

- **E.B. Abath** – Director, Aruba Department of Foreign Affairs
- **A.N.V. Begina** – Minister Plenipotentiary of Curaçao
- **B. Beijervoort** – Ministry of Defence
- **J.A. Boekhoudt** – Governor of Aruba
- **N.W.M. Braakhuis** – Dutch ambassador to Venezuela
- **A. van Dam** – Former Attorney-General for Aruba
- **L. Emrencia** – Head of policy and strategy at the National Central Bureau for Counterterrorism, Security and Interpol (NCTVI) in Aruba
- **S.M. van Genugten** – Ministry of Defence
- **L.A. George-Wout** – Governor of Curaçao
- **A. Groot-Philipps** – Director, Cabinet of the Minister Plenipotentiary of Curaçao
- **R. Hagedoorn** – Ministry of the Interior and Kingdom Relations
- **E.B. Holiday** – Governor of St Maarten
- **H. Knegt** – Ministry of Foreign Affairs
- **R. de Kort** – Deputy Director, Cabinet of the Governor of Curaçao
- **M. La Haye** – Director, Red Cross Aruba
- **J.A.J. Leijtens** – Flag Officer, Caribbean
- **J. McDermott** – Executive Director, InSight Crime
- **J.M. Newton** – Director, Cabinet of the Governor of Aruba
- **G. Oostindie** – Professor of Colonial and Postcolonial History at Leiden University
- **A.E. Richardson** – Director of the National Central Bureau for Counterterrorism, Security and Interpol (NCTVI) in Aruba
- **G. Schulting** – Ministry of Foreign Affairs
- **A.P. Taselaar** – Ministry of Justice and Security
- **F. Versluijs** – Ministry of Defence
- **P.J. de Vin** – Flag Officer, Caribbean
- **M.J. de Vink** – Director of the Western Hemisphere Department, Ministry of Foreign Affairs
- **R.F. Violenus** – Minister Plenipotentiary of St Maarten
- **C. Voges** – Director, Cabinet of the Minister Plenipotentiary of St Maarten
- **L.N.B. Walrave** – Director of International Affairs and Operations, Ministry of Defence
- **N. van Woudenberg** – Ministry of Foreign Affairs

List of abbreviations

ACS	developing countries in Africa, the Caribbean and the Pacific Ocean
AI	Artificial Intelligence
AIV	Advisory Council on International Affairs
ALBA	Alianza Bolivariana para los Pueblos de Nuestra América (Bolivarian Alliance for the People of Our America)
BES	Bonaire, St Eustatius and Saba
BRICS	Brazil, Russia, India, China, South Africa
CARICOM	Caribbean Community
CDEMA	Caribbean Disaster Emergency Management Agency
COVID-19	Corona Virus Disease 2019
CSL	Cooperative Security Location
CZMCARIB	Commander Netherlands Forces in the Caribbean
ECHR	European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms)
EI₂	European Intervention Initiative
ELN	Ejército de Liberación Nacional (National Liberation Army)
EU	European Union
FARC	Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia)
FONOPS	Freedom of Navigation Operations
IBO	Interministerial Policy Review
IISS	Integrated International Security Strategy
IMPACS	Caribbean Community (CARICOM) Implementation Agency for Crime and Security
IND	Immigration and Naturalisation Service
INF	Intermediate-range Nuclear Forces
IPKO	Interparliamentary Kingdom Consultations
JIATF-S	Joint Inter-Agency Task Force South
JVO	Judicial Four-Country Consultation
KMAR	Royal Netherlands Marechaussee (military and border police)
LAC	Latin America and the Caribbean region
MAOC-N	Maritime Analysis and Operations Centre – Narcotics
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organisation
OCTs	Overseas Countries and Territories of the European Union
ORs	Outermost Regions of the European Union
PdVSA	Petróleos de Venezuela S.A. (Venezuelan state-owned oil and natural gas company)
RST	Joint Criminal Investigation Team
RT	Russia Today
SIDS	Small Island Development States
SOUTHCOM	United States Southern Command
TBO	Team specialising in countering the harmful effects of serious and organised crime on society
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime

Articles of the Charter for the Kingdom of the Netherlands

Article 3

1. Without prejudice to provisions elsewhere in the Charter, Kingdom affairs shall include:
 - a. maintenance of the independence and the defence of the Kingdom;
 - b. foreign relations;
 - c. Dutch nationality;
 - d. regulation of the orders of chivalry, the flag and the coat of arms of the Kingdom;
 - e. regulation of the nationality of vessels and the standards required for the safety and navigation of seagoing vessels flying the flag of the Kingdom, with the exception of sailing ships;
 - f. supervision of the general rules governing the admission and expulsion of Dutch nationals;
 - g. setting general conditions for the admission and expulsion of aliens;
 - h. extradition.
2. Other matters may be declared to be Kingdom affairs in consultation.
Article 55 shall apply *mutatis mutandis*.

Article 6

1. Kingdom affairs shall be conducted in cooperation by the Netherlands, Aruba, Curaçao and St Maarten, in accordance with the following provisions.
2. Wherever possible the Organs of the Countries shall participate in the conduct of these affairs.

Article 30

1. Aruba, Curaçao and St Maarten shall lend such assistance and support to the armed forces within their territory as the latter require for the discharge of their task.
2. Provisions shall be laid down by country ordinance to ensure that the armed forces of the Kingdom stationed in Aruba, Curaçao or St Maarten can discharge their task.

Article 31

1. Persons resident in Aruba, Curaçao or St Maarten may be compelled to serve in the armed forces or to perform alternative civilian service only by country ordinance.
2. The Constitution may determine that persons subject to compulsory service in the army shall be sent elsewhere without their consent only pursuant to a country ordinance.

Article 32

The armed forces for the defence of Aruba, Curaçao or St Maarten shall consist as far as possible of persons resident within the Country concerned.

Article 33

1. Requisitioning and use of property, restrictions on title and rights of use, the requisitioning of services and billeting for defence purposes shall be effected only with due regard to general rules to be laid down by Kingdom Act, which shall also contain provisions concerning compensation.
2. Whenever possible the said Kingdom Act shall instruct the authorities of the Countries to issue further provisions.

Article 34

1. In the event of war or a threat of war or if a threat to or the disturbance of internal peace and order might seriously damage the Kingdom's interests, the King may, to maintain internal or

- external security, declare any part of the territory to be in a state of war or a state of emergency.
2. How such a declaration shall be made and the ensuing consequences provided for shall be determined by or pursuant to Kingdom Act.
 3. Such legislation may determine that, and in what manner, powers of the civil authorities in respect of public order and the police shall be transferred, wholly or in part, to other civil authorities or to the military authorities and that, in the latter case, the civil authorities shall be subordinate to the military authorities. Whenever possible the Government of the Country concerned shall be consulted with regard to the transfer of powers. Such legislation may depart from provisions relating to the freedom of the press and freedom of association and assembly, and from those relating to the inviolability of dwellings and correspondence.
 4. In an area where in the event of war a state of emergency has been declared, military criminal law and military criminal jurisdiction may be declared wholly or partially applicable to any person, in a manner determined by Kingdom Act.

Article 35

1. Aruba, Curaçao and St Maarten shall contribute, to an extent consonant with their resources, to the cost of maintaining the independence and the defence of the Kingdom, and to the cost of the conduct of other Kingdom affairs, to the extent that they benefit Aruba, Curaçao or St Maarten respectively.
2. The contributions of Aruba, Curaçao or St Maarten referred to in paragraph 1 shall be determined by the Council of Ministers for one fiscal year or for a number of consecutive fiscal years. Article 12 shall apply *mutatis mutandis* with the proviso that decisions shall be taken unanimously.
3. If the contributions referred to in paragraph 2 are not determined in due time, the contributions determined for the previous fiscal year in accordance with that paragraph shall apply for a period not to exceed one fiscal year.
4. The preceding paragraphs shall not apply to the costs of measures for which special provision has been made.

Article 36

The Netherlands, Aruba, Curaçao and St Maarten shall accord one another aid and assistance.

Article 43

1. Each of the Countries shall promote the realisation of fundamental human rights and freedoms, legal certainty and good governance.
2. The safeguarding of such rights and freedoms, legal certainty and good governance shall be a Kingdom affair.

Article 51

1. If any organ in Aruba, Curaçao or St Maarten does not or does not adequately perform its duties as required by this present Charter, an international instrument, a Kingdom Act or an order in council for the Kingdom, the measures to be taken may be determined by Kingdom Act, setting forth the legal grounds and the reasons on which it is based.
2. This matter shall be regulated for the Netherlands, if necessary, in the Constitution of the Kingdom.

Constitutional differences with the British and French Caribbean islands

	Aruba, Curaçao and St Maarten	British Caribbean islands	French Caribbean islands
Constitutional position	<p>Regulated in the Charter for the Kingdom, which takes precedence over the Dutch Constitution. Under the Charter, the provisions of the Constitution on foreign relations apply to the entire Kingdom.</p> <p>Each country has its own government. Kingdom affairs are discussed in the Council of Ministers of the Kingdom.</p>	<p>The British monarch is the head of state, and each overseas territory has its own government.</p> <p>The constitutional framework is regulated by Order in Council.</p>	<p>Regulated in articles 72-74 of the French constitution.</p>
Legislation	<p>Each country has the power to enact its own laws on internal affairs.</p>	<p>Local laws may be introduced with the consent of the Governor, and must not conflict with British law.</p> <p>The British government and parliament are empowered to enact legislation without consulting the local authorities.</p>	<p>Guadeloupe and Martinique: In principle, French law applies in its entirety (<i>départements et régions d'outre-mer</i>).</p> <p>Saint-Martin and Saint-Barthélemy Special rules govern the applicability of French law, although the framework of EU law applies to Saint-Martin, as an outermost region (<i>collectivités d'outre-mer</i>).</p>
Dispute resolution	<p>Kingdom Act on disputes between countries of the Kingdom in preparation.</p>	<p>No separate provisions.</p>	<p>No separate provisions.</p>

Defence and foreign relations;	A matter for the Kingdom / responsibility of the Netherlands.	Responsibility of the United Kingdom.	Responsibility of France.
Law enforcement	A matter for the individual countries. Various Kingdom Acts. Aid and military or other assistance provided by the Netherlands on request.	Large degree of independence. The Governor has power to maintain public order.	The French authorities.
EU arrangement (OR/OTC)	OTC.	Until Brexit: OTC.	Guadeloupe, Martinique, Saint-Martin: OR Saint-Barthélemy: OTC
Citizenship	Dutch citizenship. No right to vote in Dutch elections.	Distinction between British overseas citizen and British citizen. No right to vote in UK elections.	French citizenship. Right to vote in French elections. Have their own seats in the French parliament.
Financial affairs	A matter for the individual countries. Instructions possible.	Financial self-sufficiency, aid provided on ad hoc basis.	Legislature in Paris adopts public sector budgets.

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