

Day of the Directorate

Address by Drs. A.G. Romero Executive Director, Bank v/d Nederlandse Antillen, on the occasion of the “Day of Directorate” sponsored by VanEps Kunneman Van Doorne, the Galan Group and the University of the Netherlands Antilles, November 27, 2006.

Distinguished participants:

Good afternoon. I am pleased to be invited here today to replace dr. Tromp and to address a few words to you on the occasion of this “Day of Directorate” (Dag van Commissariaat) among such distinguished speakers and such an eminent audience. I am also grateful to VanEps Kunneman VanDoorne, the Galan Group and the University of the Netherlands Antilles for their initiative to organize this conference with the central theme “The Governance of Government-owned Enterprises”.

This central theme that has brought us together today is needless to say one that has been under quite some scrutiny, both locally and globally, over the past years. We are inundated these days with concerns about governance, not only in the private sector but also in the public arena. The financial scandals over the past decades that have resulted in many corporate failures around the globe, have not only changed the attitudes of the private sector towards governance issues, but also the public sector. The latter has led to a better recognition of the fundamental importance of good public governance.

The Organisation for Economic Co-operation and Development (“OECD”) has been very active in promoting a regime that would encourage better corporate governance for both businesses and governments. In April 2005 the OECD adopted and issued some Guidelines on Corporate Governance of State-Owned Enterprises. These guidelines aim to help make state-owned enterprises more competitive, efficient and transparent. The guidelines call on governments to: (1) ensure a level-playing field for state-owned enterprises competing with the private sector, (2) become more informed and active shareholders, (3) empower the Board of directors by clarifying their mandates and respecting their independence while systematically monitoring the Board’s performance, and (4) improve transparency.

The Bank van de Nederlandse Antillen has also been very active in the promotion of sound corporate governance in the financial sector of the Netherlands Antilles. In August of 1996, the Bank issued the Guidance Notes for the Board of Directors of Supervised Financial Institutions on Corporate Governance and a Summary of Best Practice Guidelines on Corporate Governance, both of which were revised in October 2001. The guidance notes describe, among other things, the general responsibilities of the Board of institutions, the legal obligations of directors, and the role of auditors. To encourage the practical implementation of the guidelines, the Bank requires the Board of Directors of all supervised financial institutions to report to the Bank on an annual basis a “Statement of Compliance” with the Bank’s Summary of Best Practice Guidelines, reviewed by an external accountant.

We have observed that these guidelines have significantly increased the awareness of the importance of sound governance under the supervised financial institutions, some of which are government-owned. As a result hereof, we have noticed that governance practices amongst the supervised financial institutions have significantly improved over the last years. This improving trend is not only reflected in the information provided in the Statement of Compliance submitted to the Bank by the supervised institutions, but is also reflected in the business conduct observed during our on-site examinations at the institutions.

Government-owned enterprises are nowadays not only confronted with challenges from economic globalization and intellectual economy, but they are also faced with the task of building a sound framework of systems to run business more flexibly and efficiently in the new world. Corporate governance is a major aspect of this task. It entails the way in which a company’s Board oversees the management of the company, and how the Board members are in turn accountable to shareholders and the company.

The various roles of the government, such as the legislative, regulatory and fiscal role, bring about some challenges for the government with respect to the enterprises owned by it. I will briefly outline some of these challenges that I consider to be relevant and significant for our nation.

A major challenge for the government as the shareholder of government-owned enterprises is to find a balance between the government’s responsibility for actively exercising its ownership functions, such as the nomination and election of the Board, while at the same time refraining from imposing undue political interference in the management of the company. During the process to nominate and elect Board Members of the state-owned enterprises, the government should focus on the need for the Board members to carry out their responsibilities in an independent and professional manner. The government should in this respect issue clear mandates to the Board members. While the

government should create the proper environment and provide the Board members with the necessary tools to carry out their tasks in an effective and efficient manner, the government should not be involved in the day-to-day management of the government-owned enterprises.

Although the government should not interfere in the day-to-day management of the government-owned enterprises, the government should systematically monitor the Board's performance. This can be achieved by, for example, requiring that the audited financial statements of the enterprises be submitted within a certain timeframe after the close of the financial year, by reviewing the reports issued by internal auditors or other third parties on the operation of the enterprises, by maintaining continuous dialogue with Management and the external auditors, and by being represented at the general shareholders meetings.

In order to encourage efficiency and enhance the public trust in government, in general, and the government-owned enterprises, in particular, the government should promote a regime that fosters disclosure of all material information. Examples of such information include: (1) a clear statement to the public of the company objectives and their fulfillment, (2) any material risk factors and measures taken to manage such risks, and (3) any financial assistance, including guarantees, received from the state and commitments made on behalf of the government-owned enterprises.

The issue of public disclosure and transparency brings about the challenge for the government-owned enterprises to strike a balance between the provision of adequate, material information to the public while at the same time not adversely affecting its competitive position with regards to its competitors in the private sector. Considering the fact that government-owned enterprises are, in essence, ultimately owned by the general public, government-owned enterprises should in my opinion nonetheless adhere to a high level of public disclosure while carrying out their operations. This entails that government-owned institutions should provide timely and accurate, relevant and sufficient public disclosures of qualitative and quantitative information that enables their stakeholders to make proper assessment of the institutions' activities and the risks of those activities. Public disclosure should be a fundamental tool in exercising sound governance in government-owned enterprises. Public disclosure of government-owned enterprises also serves as "checks and balances" since they often times help in the prevention of the occurrence of corruption. As Benjamin Franklin remarked, transparency is "the most effective corruption deterrent". A lack of transparency merely fuels inappropriate conduct, while greater transparency, provides a long-term strategy that can help to fend off corruption by weakening its roots.

A final challenge that I want to point out, is the necessity of the government to change the corporate culture of its government-owned enterprises with respect to accountability. The integrity of the government-owned enterprises is central to their vitality, stability and competitive position. Government-owned enterprises should, therefore, at all times foster a corporate governance framework that promotes market integrity and a system of accountability. It is imperative that all Board members act in the best interest of the government-owned enterprise. To underline the Board's responsibilities and accountabilities, it is important that a Directors' report be issued at least on an annual basis along with the audited financial statements. This report should give information and comment on areas such as the organization, financial performance, material risk factors, significant events, and relations with stakeholders.

Conclusion:

Government-owned enterprises represent a substantial part of the GDP, employment and market capitalization of our nation. As a result hereof, the governance of government-owned enterprises is an important prerequisite to ensure our nation's economic efficiency and competitiveness.

Although the corporate governance challenges faced by government-owned enterprises seem to be numerous, the challenges are needless to say not unmanageable. As the owner of these enterprises, the government should promote a regime that places emphasis on sound corporate governance. A regime that focuses on the reduction of political interference in day-to-day management of government-owned enterprises, the systematic monitoring of the Board's performance, the encouragement of transparencies within the government-owned enterprises, and the promotion of a corporate culture of accountability.

It is my belief that this conference will shed some further lights on this important subject of governance in government-owned enterprises and that the issues discussed during this conference will bring about the necessary public corporate governance reforms that our nation is so much in need of. Once again I wish to thank VanEps Kunneman VanDoorne, the Galan Group and the University of the Netherlands Antilles for their initiative to organize this conference.