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*Reflections on a
utility regulator for*
ELECTRICITY AND WATER
on Curaçao



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Preface

The present book is the first publication in the new series “Governance and Control”. The series aims to report on recent academic research and offers new insights into governance-related issues.

The present volume provides reflections on the installation of a utility regulator in Curaçao. This publication is timely, since the installation of such a body is being considered. The debate does, however, not stand on itself. It is part of the broader debate on privatization and good (corporate) governance that was started in the late 1980s and is still going on today.

According to some experts, there was little progress in the area of corporate governance before 2005. Only a few privatizations were carried out. The government regularly/ repeatedly intervened in the state-owned enterprises and foundations. The members of the supervisory boards were mainly appointed on the basis of their political loyalty and not their expertise. The members of the Executive Council still claimed the position of chairman in most of the supervisory boards. In 2006 there was a public debate when political parties started to appoint journalists as members of supervisory boards. On the other hand, progress had been made by reducing the backlog in annual reporting, and by signing performance agreements between government and the subsidized foundations.

During 2008 a lot a progress was made. In the middle of 2008 the Code for Good Governance was being discussed. This Code was a direct result of the discussion with the Netherlands on constitutional reform. It was agreed that

Curaçao would develop a Corporate Governance Code and that the Island Council would pass a law making compliance mandatory. The Code contains detailed instructions for public entities that are involved in private companies, in order to avoid conflicts of interest and other governance problems. It was also stated that an independent body would supervise compliance with the Code. The Code states that state-owned enterprises and foundations must obey the Code and report periodically on the application of the Code. Also, the Code excludes members of the Executive Council from supervisory boards. However, by August 2008 the Code had still not been completed.

Based on the developments described above, the IMF gave a very positive review of the performance of Curaçao in 2008. Nevertheless, state-owned enterprises still have to sue the government regularly in order to have tariffs adjusted. In 2008, Curoil (the gas distribution company) adjusted the price of fuel only after the continuity of the company was jeopardized. In September 2008, the utility company Aqueductra went to court to force the government to raise the tariffs of water and electricity in order to compensate for higher fuel costs. The implementation of the plan to establish a Regulatory Board to further improve the governance of state-owned utilities is therefore high on the political agenda.

Consequently, this publication provides a timely and important contribution in the debate on good governance in Curaçao.

Dr. Miguel Goede