

CONFLICT IN COURT: SUING THE DUTCH EAST AND WEST INDIA COMPANIES

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INTRODUCTION

To date, opposition to the United Dutch East India Company (VOC) and its Atlantic counterpart, the West India Company (WIC), has not been sufficiently analysed¹. In the thousands of words written on the histories of the two chartered companies the details of how they were established and the processes of negotiation and contestation that surrounded the drafting, implementation and maintenance of the chartered monopolies have not been adequately explored. Accounts which simply state that the VOC was founded in 1602 or the WIC in 1621, while factually correct, appear to flatten out turbulent histories. In particular, the role of free agents² in the construction of «Dutch empires» in the Indian and Atlantic Oceans has not been critically analysed. As will come to the fore, the two go hand in hand – the Companies faced sustained opposition from free agents right from the first conception of united, chartered trading companies in the Republic.

The founding of both the VOC and the WIC was contested. Because of this, the creation of the companies is the necessary starting point in analysing types of opposition to

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² At this point I define free agency in terms of interests. Free agents are those individuals whose interests fell outside of the myriad interests of the chartered companies. For the purposes of studying opposition, I can further say that these interests were divergent. Because of this, free agents appeared in court suing or being sued by the Dutch East and West India Companies.

them. There is a paucity of research on opposition to the VOC in the early years of the seventeenth century. However, one opponent – the Magellan Company – will be highlighted to indicate not only that opposition existed but the forms it could take. In the case of the WIC, there were two clear types of opposition to the formation of the company – that is, internal opposition between the men drafting charters, and external opposition from merchants who sought to limit the scope of the proposed charters.

Opposition, specifically in the form of litigation, continued after the creation of the companies. An analysis of court sentences demonstrates the persistent nature of the companies' engagement with opponents in the legal arena. Furthermore, analysing the sentences brings to the fore the different opponents the companies faced, being both individuals and other companies.

Flemish merchant Isaac Le Maire provides a case study for analysing the engagement between free agents and the companies. Le Maire was involved in protracted opposition to the VOC, including in the form of litigation. The final section details his dealings with the VOC, concluding that charters were central to the way he opposed the company.

EARLY OPPOSITION: HOW THE COMPANIES WERE CREATED

In the late 1500s the seven United Provinces of the Northern Netherlands were in turmoil. They were in the midst of revolt against the Spanish, fighting to establish their independence from the Habsburg Empire as a free Republic. During this period, the Dutch position in European trade was already well established³ and ventures overseas – to Africa, Asia and the Atlantic – had been undertaken. Furthermore, Dutch merchants had worked in the service of, most famously, the Spanish and Portuguese overseas expansion⁴. Long-distance trade in particular went through a period of great expansion in the late 1500s and early 1600s. It is in this political, mercantile and social context that the creation of the Dutch East and West India Companies took place.

In this context, war and trade went hand in hand and separating out commercial from political and military motives is nearly impossible. For the VOC there is debate whether war or commerce was the primary motive for creating the company⁵. Such debate is absent on the impetus for chartering the WIC: The prevailing consensus is that the WIC was established primarily for political and military reasons, that is, to take the war against the unified Spanish and Portuguese crowns to the Atlantic⁶.

³ On the Baltic trade, or *«moedernegotie»* see, for instance, ISRAEL, 1998: 16, 18.

⁴ GAASTRA, 2003: 15. Gaastra points out the importance of the information that such men brought to the Republic, but publishing and in some instances translating the works meant that they were available to other companies too.

⁵ Gaastra, 2003: 19-20; GELDERBLUM *et al.*, 2011: 31.

⁶ HEIJER, 2005: 37-38; EMMER, 1981: 75.

A central premise of this research is that the way in which the Dutch East and West India companies were established was paramount. My starting point is the hypothesis that the way in which the companies were established played a very important role in shaping patterns of opposition that would continue over the period of the companies' existence. That is, issues which were not resolved during the process of setting up the two companies continued to surface in forms of opposition. This section explores early opposition, that is, in the years leading up to the granting of the first charters. By examining the processes by which the two companies were chartered, and key actors in these processes, a picture begins to emerge of contestation and early opposition.

THE CHARTERS

It was during the 1590s that ideas first started circulating regarding the chartering of a united East India Company and a West Indian counterpart. A few years later, in 1602, the VOC received its first charter. Strikingly, it was close to three decades later that the West India Company was chartered. The huge corpus of literature on the Dutch East and West India Companies indicates that opposition existed, but gives little insight into the nature and influence of that opposition in the chartering of the companies.

THE VOC

During the 1590s, there were numerous small trading firms established in the cities of Holland and Zeeland which conducted trade in Asia. These have come to be known as the *voorcompagnieën* (Early Companies)⁷. Aware of the intense competition between the companies, the States General sought to foster cooperation between them in the closing years of the sixteenth century, but this came to nought. The idea to merge the companies resurfaced with more momentum after the founding of the English East India Company in 1600⁸. Two years later, the company was granted its first charter, on 20 March 1602.

Because opposition to the merging of the *voorcompagnieën* has hardly featured in literature on the VOC, it seems that the process was a smooth one. However, this impression demands scrutiny. Two authors, Gaastra and Gederblom, indicate that opposition did exist and both authors characterise charter negotiations as «difficult»⁹. Interprovincial tension between Holland and Zeeland, and the desire to limit the power that Amsterdam would wield within the organisational structure of the new company contributed to these difficulties¹⁰.

⁷ GAASTRA, 2003: 17, 19. See also BRAKEL, 1908: 1-12.

⁸ GELDERBLOM *et al.*, 2011: 38.

⁹ GAASTRA, 2003: 20.

¹⁰ GAASTRA, 2003: 20; GELDERBLOM *et al.*, 2011: 44.

It is likely that opposition from Olivier van Noort's Magellan Company was an additional factor in the difficulty of charter negotiations. The VOC was formed through an amalgamation of pre-existing trading partnerships, but it was not a merger of all the *voorcompagnieën*. Van Noort's Magellan Company was active in the 1590s, but was excluded from the VOC in 1602. The basis of van Noort's opposition to the VOC was the charter he had been granted by the States General in 1597. In it he was granted concessions for voyages via the Magellan Strait to the Spice Islands of Southeast Asia¹¹. Somewhat surprisingly, article 34 of the VOC's first charter states that his concessions would remain intact, thus leaving a gaping hole in the VOC's monopoly¹². From 1603 onwards the Magellan Company and the VOC were involved in a long-standing dispute over cloves from Ternate which was first mediated by the States General and later argued before the *Hoge Raad*¹³. The companies are named as opposing parties in court sentences dated 1620, 1623 and 1633¹⁴. The continued existence of the Magellan Company negates the argument that the VOC monopoly was watertight because all *voorcompagnieën* were involved. Furthermore, it raises questions regarding inclusion and exclusion in the creation of the VOC, specifically why the Magellan Company was not part of the merger¹⁵. And lastly, it brings to the fore the importance of charters, an issue that will resurface in the discussion of Isaac Le Maire's dealings with the VOC.

THE WIC

The process of chartering the WIC was a complex one, encompassing opposition and negotiation which spanned decades. At times the impetus to create the company came from merchants, at other times it was the States General itself. And at various times merchants, the provincial states and the States General blocked the progress of draft charters¹⁶. Two threads of opposition, which I treat as internal and external, run through the contested process. The ebb and flow of political support for war against Spain, or for efforts towards peace, was also a factor which alternatively hampered and fostered progress.

From the very first floating of the idea of a chartered West India company by Willem Usselinx in the 1590s, there were detractors. External opposition came from merchants

¹¹ JAPIKSE, 1926: 681-2 (24 December 1657).

¹² WITTEVEEN, 2002: 94.

¹³ BIJLSMA, 1917: 26-44.

¹⁴ Nationaal Archief, Den Haag, Hoge Raad van Holland en Zeeland, nummer toegang 3.03.02, inventarisnummers 866, 867.

¹⁵ Bijlsma suggested that the Magellan Company was not considered a threat to the VOC and therefore was allowed to maintain its concessions, granted by the States General in 1597. BIJLSMA, 1917: 35. If this was indeed the case, it was a gross miscalculation, as the three decade long dispute between the VOC and the Magellan Company attests.

¹⁶ Specifically, in 1610, when merchants sought the assistance of the States General against the Portuguese who continued to capture Dutch ships despite the truce, it was Amsterdam merchants who blocked progress. In 1614, when support from merchants and prominent men had increased, it was the States General that opposed the creation of the WIC. ENTHOVEN, 2003: 40, 44.

who opposed either the geographic scope of the proposed monopoly or the goods it encompassed on the basis of their own commercial interests. In 1606, the year formal discussions on creating a WIC began, there were protests from Hoorn and Enkhuizen; they wanted to keep salt shipping out of the planned company's monopoly¹⁷. Years later, in 1620, Amsterdam merchants trading with Guinea tried to limit the monopoly of the proposed company to the Americas in order to protect their own interests in Africa¹⁸.

Internal opposition took the form of competing draft charters in which different conceptions of overseas expansion, and perhaps one can even say different views of empire were worked out in the charter articles. Willem Usselinx and Johan van Oldenbarnevelt were key actors in this internal struggle. Based on his experience of the Iberian New World, early in the process Usselinx advocated trade and settlement as the twin pillars of successful expansion¹⁹. He also proposed a dual structure for the company directorship which would keep matters of trade and state separate. A board of directors consisting of chief shareholders would manage trade and shipping while a Council for the Indies, modelled on the Iberian *Real y Supremo Consejo de Indias*, would control war, colonization and justice. A competing charter drafted by Oldenbarnevelt at about the same time in the 1610s envisioned a different structure which, while giving the States General a seat on the board, essentially put company business in the hands of merchants²⁰.

In 1617 internal opposition once again came to the fore. The States General's commission favoured Usselinx's proposal and the powerful role that it suggested for the States General, Prince of Orange and noblemen in the management of the company. However, the States of Holland blocked the progress of this charter and supported instead van Oldenbarnevelt and his commitment to peace with Spain. When he was executed the following year, the opportunity arose to overhaul the Amsterdam city council and install men of a pro-war, pro-WIC outlook. At this stage the States of Holland created a commission to review both the 1606 charter and Usselinx's later version with the intention to combine them into one plan. By December 1619 this had been achieved by essentially ignoring Usselinx's ideas. The draft charter was submitted to the States General in the early months of 1620 but underwent significant alterations in the following months. The power of the States General was reviewed and revised and in the March 1620 version finally settled – not only would the States General be allowed to choose the final member of the board of directors, it would be allowed to send more than one delegate to the meetings²¹. Two other amendments were included in the March 1620 charter: Groningen and Friesland were given a chamber; and the States General's financial contribution to the company was

¹⁷ BICK, 2012: 98-9.

¹⁸ ENTHOVEN, 2003: 44.

¹⁹ BICK, 2012: 93, 95.

²⁰ BICK, 2012: 100-105.

²¹ BICK, 2012: 105-111.

changed to turn the States General into a shareholder. Despite opposition from the Amsterdam city council, the amendments were retained in the charter²².

Plans progressed and a final draft was produced in October 1620²³. It was approved by the States General on 3 June 1621, almost thirty years after Usselinx had first proposed the idea. In the meantime, Usselinx had departed for Sweden, disappointed that his colonial designs had been foiled²⁴.

Even after the long road to granting the charter, the greatest obstacle still had to be overcome: financing the company²⁵. According to Den Heijer, «problems between the shareholders and directors of the VOC had made many investors wary of participating in similar ventures»²⁶. The company needed two years to raise the capital required to undertake its chartered activities. By mid-1623 the company's share capital amounted to 7.108.161 *gulden* and had been increased to an amount of 17.090.000 *gulden* by 1629. And there it remained until bankruptcy in 1674²⁷.

CHARTER RENEWAL

The charters of the VOC and WIC were granted for limited periods of time. This gave all parties the chance to opt out at certain points – the States General could renegotiate its position, and merchants could choose whether or not to continue their participation. The years in which the charters came up for renewal brought various tensions to a head. A particular issue which arose was merging the VOC and WIC.

The VOC charter of 1602 was granted for 21 years, thus it was up for renewal in 1623. In response to agitation from discontent shareholders, alterations were made to directors' privileges before the charter was renewed²⁸.

During the 1640s, renewal of the second VOC charter (granted in 1623) coincided with the expiration of the first WIC charter (granted in 1621). The Dutch West India Company faced sustained challenges from merchants who sought to protect or promote their own interests with the result that «opponents of the company had gradually managed to curtail its monopoly» by the mid-seventeenth century²⁹. Concerned to halt the further erosion of the WIC's monopoly, WIC directors sent an early request to the States General in

²² This coincided with opposition from Amsterdam merchants trading with Guinea mentioned above. It is quite possible that these merchants were part of the Guinea Company, created in 1614 and later folded into the WIC. Furthermore, they may have chosen the Amsterdam city council as the channel through which to oppose the charter. ENTHOVEN, 2003: 44.

²³ This paragraph is based on BICK, 2012: 105-109, quote 107.

²⁴ HEIJER, 2002: 28.

²⁵ The WIC was by no means alone in its financial struggle. The Portuguese East India Company required four years before sufficient subscriptions had been collected in order for the company to be incorporated. ANTUNES & TORRES, 2005: 166-82.

²⁶ My translation of the Dutch original. HEIJER, 2002: 33.

²⁷ HEIJER, 2002: 33.

²⁸ GEPKEN-JAGER, 2005: 66-67.

²⁹ HEIJER, 2003: 97.

the hopes of completing a timeous renewal. However, the States General delegated the task to the States of Holland. This was the usual procedure, explained by the fact that the province of Holland was the economic heart of the Republic. Den Heijer goes so far as to say that «[w]ithout the consent of the States of Holland no charter could be ratified»³⁰. The States of Holland came up with the idea to merge the VOC and WIC³¹. The directors of the WIC certainly saw it as a way to rescue the West India Company from ruin. Their enthusiasm for a merger was countered by the VOC's dismissal of the idea. However, the States of Holland exercised its political strength and convinced the States General to renew the VOC's charter for periods of between three and six months only, in an effort to pressure the VOC into compliance. For their part, the WIC even tried to sew discord among the VOC directors by exploiting the ever-present tensions between Amsterdam and Zeeland. Their last-ditch attempt was to circulate a pamphlet outlining the great benefits of a merger between the two trading companies. These tactics were unsuccessful. Finally, in 1647 a satisfactory deal was brokered whereby it was agreed that the VOC would pay 1.5 million *gulden* to the WIC and the idea of fusing the two companies was put to rest. The States General approved the agreement and renewed both charters for a period of 25 years³².

While the idea of a merger between the East and West India Companies may have been put aside, the WIC continued to see the VOC as its salvation. In 1714 the WIC suggested it be taken over by the VOC – the VOC would gain the possessions and rights of the WIC without any of its debt. Furthermore, the VOC would receive 1.1 million *gulden* which had to be turned into VOC shares. The idea was dismissed by the VOC directors and was not mentioned again.

LITIGATION: A WAR OF WORDS

Conflicts between the Dutch East and West India Companies and merchants were fought out in the courts of the Dutch Republic. The focus here is on one specific court, the *Hoge Raad van Holland, Zeeland en West-Friesland*, which was established in 1582 to replace the *Grote Raad van Mechelen*. The *Hoge Raad* functioned until 1795³³. The *Hoge Raad* was not the only court in which litigants could make their cases but the fact that it

³⁰ Not only did Holland contribute more than 50% of the taxes collected by the States General, according to Israel the States of Holland «were the most important decision-making body in the United Provinces» from the departure of Leicester in the late sixteenth century. ISRAEL, 1998: 276-277. Cf. the power of the States of Holland to delay the VOC charter renewal.

³¹ What this says about the States of Holland's colonial vision is certainly something to consider. And who exactly within the States of Holland came up with such a proposal?

³² HEIJER, 97-102; GEPKEN-JAGER, 2005: 67.

³³ It is necessary to clarify that the *Hoge Raad* under discussion here is not the same court as the *Hoge Raad* which exists in the Netherlands today. As van Rhee states, they have only the name in common. The present *Hoge Raad* was established during the nineteenth century. C. H. van Rhee, foreword to *Hoge Raad van Holland, Zeeland en West-Friesland (1582-1795): De hoofdlijnen van het procederen in civiele zaken voor de Hoge Raad zowel in eerste instantie als in hoger beroep* by LE BAILLY & VERHAS, 2006: 9-12. See also VERHAS, 1997; VAN RHEE, 2006.

was the appellate court means that it provides a window onto various instances of the same case as it came up through the lower courts. Furthermore, because the jurisdiction of the *Hoge Raad* was not limited to one province, using the records of the *Hoge Raad* does not limit the geographic scope of this study as the choice of a different court would³⁴. This section comprises an analysis of sentences passed involving the two chartered companies and the opponents that they faced in this specific court throughout the seventeenth and eighteenth centuries.

SENTENCES

According to the records of the *Hoge Raad* the Dutch East and West India Companies were named as either initiators or targets of legal action in 151 sentences between 1602 when the VOC received its first charter, and 1795, the year in which the *Hoge Raad* ceased to function in its original form³⁵. Figure 1 shows the frequency by decade of sentences passed involving the two companies.

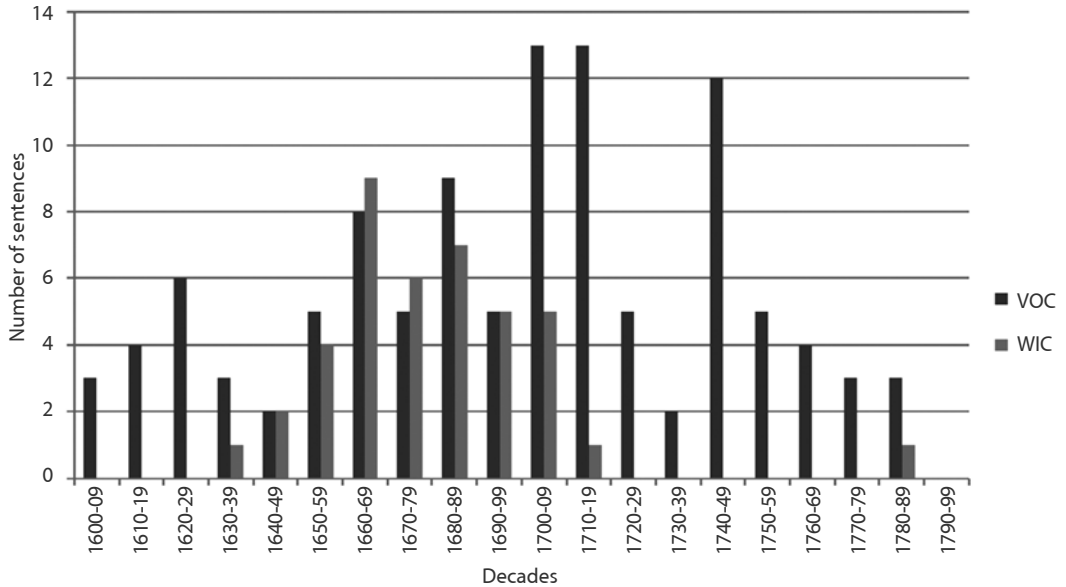
Two striking features of the distribution must be highlighted. The first is the difference in number of sentences involving the two companies. Of the 151 entries represented, 110 of those involve the VOC (73%) compared to 41 for the WIC (27%). The significant difference in number of sentences is surprising given the focus in scholarship on the whittling down of the WIC monopoly and the lack of attention to opposition faced by the VOC.

The second feature is the consistency over time of sentences involving the VOC compared to the grouping of cases against the WIC between 1630 and 1710, followed by a single sentence in the 1780s. Of the 41 WIC sentences 21 were passed between 1621 and 1674, the period of the first WIC, while 20 sentences were passed in the 120 years of the existence of the second WIC. According to the distribution, the first WIC appeared in sentences more consistently than the second WIC; sentences are condensed in the first few decades of its existence, with one outlier in the final years of the second WIC's existence.

³⁴ This is a significant point because of the tension between Holland and Zeeland, and diverging provincial interests. By focusing on the *Hoge Raad* I do not limit this study of opposition to one province or one set of interests.

³⁵ In some cases it is the company that is mentioned while in others it is the directors who are referred to; ie «De Oost Indische Compagnie tegen X» or «Y contra de Bewindhebbers van de West Indische Compagnie».

Figure 1: Distribution of sentences by decade



Source: This is based on the number of entries pertaining to the VOC and WIC in the *Alfabetische Klapper*. NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, *Naamindex Hoge Raad 1582-1795*.

This analysis of sentences indicates the persistent nature of opposition against the companies. Opposition and contestation were not confined to the years around the granting of the first charters to each company but continued to surface over the period of their existence. For the VOC in particular, opposition in the form of litigation arose quite consistently over the two centuries during which the company was active.

OPPONENTS

The records of the *Hoge Raad* indicate that opponents of the companies were individuals – both men and women – as well as other charter companies. Specifically, Isaac Le Maire's Australia Company and Olivier van Noort's Magellan Company are listed as opponents of the VOC. The nature of the Australia Company's conflict with the VOC will be elaborated upon in the form of a case study in the following section. As has already been noted regarding the Magellan Company, it was an opponent of the VOC in sentences dated 1620, 1623 and again in 1633³⁶. While the VOC faced both individuals and companies as opponents in the *Hoge Raad*, no companies are listed as opponents of the WIC.

An explanation for this may be found in the nature of the relationship between the *voorcompagnieën* and the VOC on the one hand, and the relationship between the compa-

³⁶ NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nrs. 866, 867.

nies trading in the Atlantic and the WIC. In the case of the VOC, there are clear lines of continuity that can be traced from the *voorcompagnieën*; this is seen in the location of the company's chambers, and the individuals who made up the board of directors. No such continuity can be traced between the companies in the Atlantic and the WIC³⁷. In creating the WIC it has been indicated that the Guinea Company and the New Netherland Company were incorporated into the WIC, but it remains to be seen which companies were left out, and why³⁸. How these different relationships between the companies relate to opposition and the kinds of opponents the companies faced requires further research, in particular into dynamics of inclusion and exclusion.

According to Bick, the board of directors of the West India Company, the *Heeren XIX*, had a team of lawyers employed to deal with lawsuits brought against the company by foreign merchants and governments. Simon van Beaumont who was the secretary to the city of Middelburg and a WIC director himself, was one such lawyer, as was Amsterdam lawyer Gijsbert Rudolphij³⁹. Whether or not the VOC did something similar has not yet been confirmed. But an indication that they did is given by Gepken-Jager who states that from 1614 the VOC employed an advocate who «was more or less a secretary in permanent employ of the VOC»⁴⁰. What exactly this functionary's legal responsibilities were remains to be discovered, but it is not impossible that like the WIC, the VOC employed a team of legally trained men to deal with their lawsuits.

The details of sentences and opponents presented here are the preliminary results of a foray into the *Hoge Raad's* records. Directions for future research include eliciting patterns of settlement and sentencing by matching the *Hoge Raad's* records of cases brought to the court and those for which a sentence was passed. One of the functions of the counsellors of the *Hoge Raad* was to mediate in disputes and find common ground for settlement⁴¹. This indicates that arbitration and mediation were in fact institutionalised. Moreover, there were instances in which the States General reserved the right to adjudicate a case⁴². Sometimes, the impulse came from the *Hoge Raad* – there were cases in which the court declared itself unwilling/unable to pass judgment and deferred to the States General, in an acknowledgement of the fact that when the companies were involved there was more at work than the application of the law. Politics were at play⁴³.

³⁷ Van Winter raises this point and provides a two-part explanation. Both the looser structure of the Atlantic companies and the different nature of Atlantic trade (shorter sailing time, less preparation required) contributed to the lack of continuity. WINTER, 1978: 1-2.

³⁸ ENTHOVEN, 2003: 44

³⁹ BICK, 2012: 129.

⁴⁰ GEPKEN-JAGER, 2005: 52.

⁴¹ LE BAILLY & VERHAS, 2006: 15.

⁴² The States General had no formal jurisdiction in this area thus where exactly they got the authority and how they justified and legitimised this may be revealing not only of the power of the States General but surely of the relationship between the States General and the chartered Companies.

⁴³ In this context the companies appear more and more like semi-government institutions. Considering that the States General was subsidising the WIC, it is quite possible that the States General took a more pronounced role in the adjudication of cases involving the Company.

ISAAC LE MAIRE

Isaac Le Maire was not one to shrink from conflict. The once-director of the VOC was involved in a number of disputes with the Company during the early 1600s⁴⁴. In 1606 he was suspected of falsifying company accounts and forced to resign his position as director. In 1609 he publicly criticised company policy and was found to be speculating with VOC shares⁴⁵. In 1614 Le Maire established his own company, the Australia Company, under the aegis of which his son Jacob, accompanied by Willem Schouten, set sail in search of a new passage to Asia in 1615. And they found one, via Le Maire Strait. But a number of complications arose when their ship, *Eendracht*, was seized by the VOC in 1616⁴⁶.

The misadventure provided an opportunity for Le Maire to oppose the VOC. In the report submitted to the States General on the crew's return, Le Maire presented a series of requests. Essentially he asked for a monopoly on the newly discovered passage to Asia and the freedom to trade in India, Africa, China, Japan and any other places the Australia Company reached via the newly-discovered strait⁴⁷. In addition, he requested that the States General order the VOC to pay compensation for the seizure of the *Eendracht*⁴⁸. The States General decided that the two matters should be addressed individually. The compensation question was delegated to a tribunal consisting of four representatives from the *Hoge Raad* and three judges from the *Provinciale Raad van Holland*. In November 1619 the tribunal announced its decision in favour of Le Maire: the VOC would indeed have to pay compensation to the Australia Company. But it was another three years before the amount was set. By that time, 1622, the States General had still not reached a decision regarding the second, far more serious matter. For years the States General had been occupied with how to deal with the discovery of Le Maire Strait and its implications for the VOC monopoly in Asia as well as the possibility of a chartered West India company⁴⁹. Le Maire passed away before the dispute was settled and surely would not have been pleased with the outcome. Barreveld comments: «The [Australia] Company was defeated by the power of the strongest, but not by the law»⁵⁰.

⁴⁴ For an overview of Le Maire's dealings with the VOC including disputes, the first of which began in 1602, the year the Company was chartered, see BARREVELD, 2002: 13-32. Also, SCHOORL, 1969.

⁴⁵ WITTEVEEN, 2002: 64; GELDERBLOM *et al.*, 2011: 30.

⁴⁶ BARREVELD, 2002: 156-158.

⁴⁷ It was a condition of the Australia Company's charter that they had to report to the States General on return of the fleet. BARREVELD, 2002: 163.

⁴⁸ BARREVELD, 2002: 164-165.

⁴⁹ BARREVELD, 2002: 168, 174.

⁵⁰ BARREVELD, 2002: 181.

CONCLUSION

Isaac Le Maire and fellow free agents were the characters at the centre of opposition to the Dutch East and West India Companies. These individuals, and the companies of which they were a part, were key figures in the sustained opposition faced by the companies, which started as early as ideas to create the companies arose and continued over the period of their existence.

Early opposition to the VOC and WIC began when the first ideas to create the companies came up in the late 1500s. Disputes between Holland and Zeeland played a role in the difficulty of charter negotiations for the founding of the VOC. In addition, van Noort's Magellan Company, which was first granted concessions to trade in the Spice Islands of Southeast Asia in 1597, arose as an opponent of the united company. The continued existence of the Magellan Company after 1602 is evidence that the VOC was not a merger of all the *voorcompagnieën*. The fact that the Magellan Company did not become part of the VOC had serious consequences for the VOC's monopoly, as the protracted dispute between the two companies shows. During the process of creating the WIC, opposition took internal and external forms. Competing draft charters and attendant colonial visions were the manifestation of internal opposition while opposition to the scope of the planned monopoly from merchants trying to protect their trading interests can be categorised as external opposition.

Once the VOC and WIC had received their first charters, in 1602 and 1621 respectively, opposition continued and the companies found themselves in court where they were involved in sentences passed by the *Hoge Raad*. Numerically, the VOC was named in far more sentences than the WIC between the early 1600s and 1790s. Analysing the distribution of the sentences leads to the conclusion that the VOC faced persistent opposition in the form of litigation. Unlike the WIC, parties opposing the VOC were both individuals and companies. Explanations for the difference between the opponents faced by the companies could be sought in the structure of trade in the Indian and Atlantic Oceans before the creation of the VOC and WIC respectively.

Isaac Le Maire, initially a VOC director, soon became an opponent of the company for which he lost his position as director. After he had been excluded he did not give up on long-distance trade. When the way that Le Maire opposed the VOC is seen alongside the concurrent disputes between the Magellan Company and the VOC, the centrality of charters is unavoidable.

This research goes beyond merely filling the lacuna in existing scholarship on free agency and opposition to the companies, presenting the idea that the way in which the companies were created had consequences for the kinds of opposition they faced over the period of their existence. It is hypothesised that the companies actually faced different types of opposition. The continuation of this research on the twin themes of opposition

and free agency will contribute to understanding mechanisms of opposition to the Dutch companies, the role of free agency in these processes, and furthermore, challenge traditional views on the construction of empire.

SOURCES

Nationaal Archief, Den Haag, Hoge Raad van Holland en Zeeland, nummer toegang 3.03.02, inventarisnummers 866, 867.
NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nrs. 866, 867.

BIBLIOGRAPHY

- ANTUNES, José Engrácia & TORRES, Nuno Pinheiro (2005) – *The Portuguese East India Company*. In GEPKEN-JAGER, Ella, et al., eds. – *VOC 1602-2002: 400 years of company law*. Deventer: Kluwer, p. 159-186.
- BARREVELD, Dirk Jan (2002) – *Tegen de heeren van de VOC: Isaac le Maire en de ontdekking van Kaap Hoorn*. Den Haag: Sdu.
- BICK, Alexander (2012) – *Governing the Free Sea: The Dutch West India Company and commercial politics, 1618-1645*. PhD diss. Princeton.
- BIJLSMA, R. (1917) – *Het bedrijf van de Magellaensche Compagnie*. «Rotterdamsch Jaarboekje», p. 26-44.
- BRAKEL, S. (1908) – *De Hollandsche handelscompagnieën der zeventiende eeuw: Hun ontstaan – hunne inrichting*. 's-Gravenhage: Martinus Nijhoff.
- EMMER, Piet C. (1981) – *The West India Company, 1621-1791: Dutch or Atlantic?* In BLUSSÉ, Leonard & GAASTRA, Femme, eds. – *Companies and Trade: Essays on overseas trading companies during the Ancien Régime*. Leiden: Leiden University Press, p. 71-95.
- ENTHOVEN, Victor (2003) – *Early Dutch Expansion in the Atlantic Region, 1585-1621*. In ENTHOVEN, Victor & POSTMA, Johannes – *Riches from Atlantic Commerce: Dutch transatlantic trade and shipping, 1585-1817*. Leiden: Brill, p. 14-47.
- GAASTRA, Femme S. (2003) – *The Dutch East India Company: Expansion and decline*. Zutphen: Walberg Pers.
- GELDERBLOM, Oscar et al. (2011) – *An Admiralty for Asia: Business organization and the evolution of corporate governance in the Dutch Republic, 1590-1640. Isaac le Maire and conflicting conceptions about the corporate governance of the VOC*. In KOPPEL, Jonathan, ed. – *Origins of Shareholder Advocacy*. New York: Palgrave Macmillan.
- GEPKEN-JAGER, Ella (2005) – *Verenigde Oost-Indische Compagnie (VOC): The Dutch East India Company*. In GEPKEN-JAGER, Ella, et al., eds. – *VOC 1602-2002: 400 years of company law*. Deventer: Kluwer, p. 41-81.
- HEIJER, Henk den (2002) – *De geschiedenis van de WIC*. Zutphen: Walberg Pers.
- (2003) – *The Dutch West India Company, 1621-1791*. In ENTHOVEN, Victor & POSTMA, Johannes, eds. – *Riches from Atlantic Commerce: Dutch transatlantic trade and shipping, 1585-1817*. Leiden: Brill, p. 77-112.
- (2005) – *De geotrooieerde compagnie: De VOC en de WIC als voorlopers van de Naamloze Vennootschap*. Deventer: Kluwer.
- ISRAEL, Jonathan I. (1998) – *The Dutch Republic: Its rise, greatness and fall, 1477-1806*. Oxford: Oxford University Press.
- JAPIKSE, N., ed. (1926) – *Resolütien der Staten Generaal Deel 9: 1596-1597*. 's-Gravenhage: Martinus Nijhoff, p. 681-682 (24 december 1597).
- LE BAILLY, M.C. & VERHAS, C.M.O. (2006) – *Hoge Raad van Holland, Zeeland en West-Friesland (1582-1795): De hoofdlijnen van het procederen in civiele zaken voor de Hoge Raad zowel in eerste instantie als in hoger beroep*. Hilversum: Verloren.
- SCHOORL, Henk (1969) – *Isaac Le Maire: Koopman en bedijker*. Haarlem: H. D. Tjeenk Willink en Zoon.
- VAN REE, C.H. (2006) – *Foreword*. In LE BAILLY, M.C. & VERHAS, C.M.O. – *Hoge Raad van Holland, Zeeland en West-Friesland (1582-1795): De hoofdlijnen van het procederen in civiele zaken voor de Hoge Raad zowel in eerste instantie als in hoger beroep*. Hilversum: Verloren, p. 7-8.

VERHAS, C.M.O. (1997) – *De beginjaren van de Hoge Raad van Holland, Zeeland en West-Friesland*. PhD diss. Universiteit Leiden.

WINTER, P.J. van (1978) – *De Westindische Compagnie ter kamer Stad en Lande*. Den Haag: Martinus Nijhoff.

WITTEVEEN, Menno (2002) – *Een onderneming van landsbelang: De oprichting van de Verenigde Oost-Indische Compagnie in 1602*. Amsterdam: Amsterdam University Press.