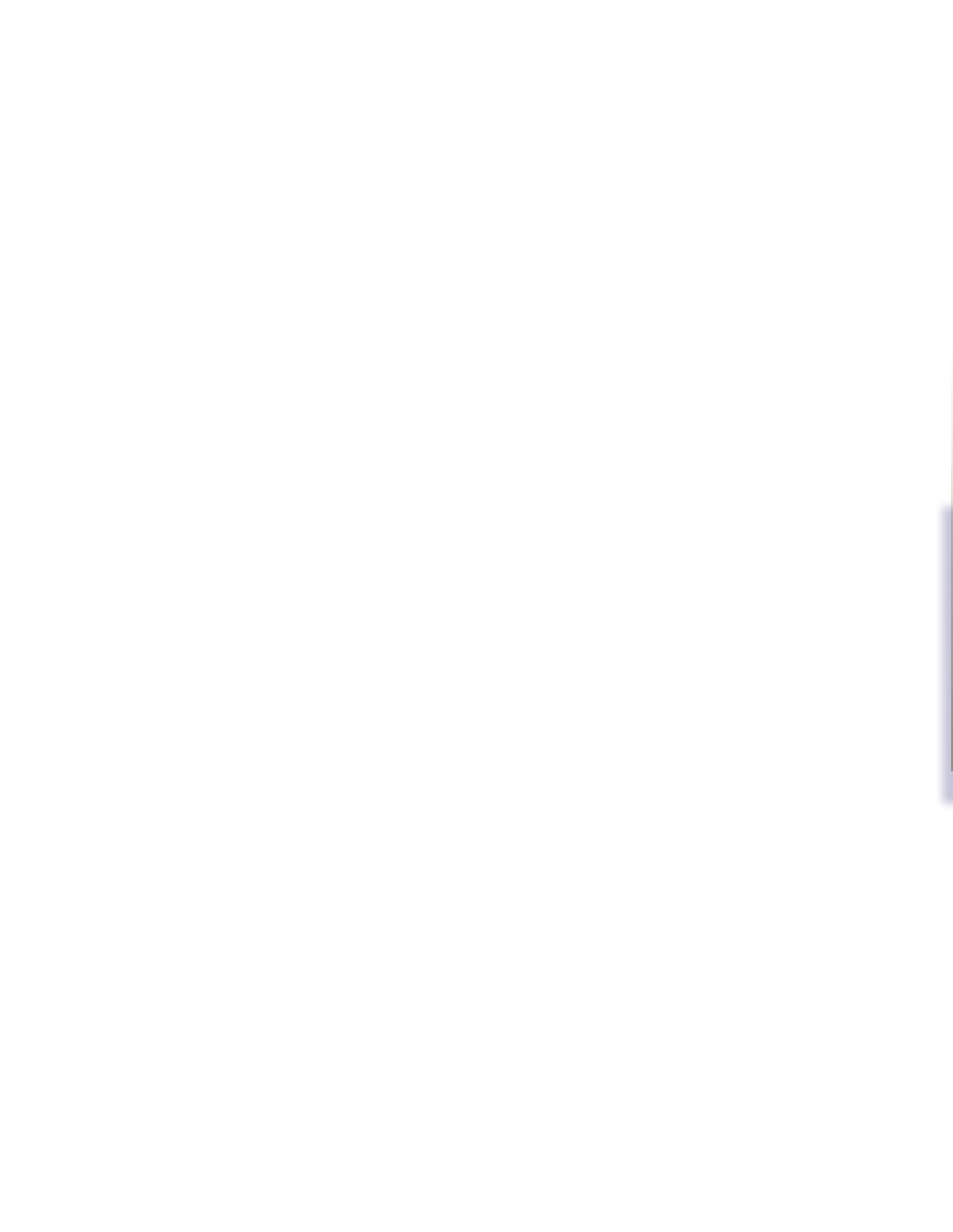




Council of Advice
Raad van Advies



Annual Report **2018**



COUNCIL OF ADVICE

RAAD VAN ADVIES

Strengthening our Democracy

VISION:

The Council of Advice is a professional advisory body functioning in a representative setting that provides Independent, Effective, Academic and Just advice to the Government and Parliament with the aim to stimulate them to enact qualitative legislation in the benefit of a good functioning democratic society for the people and the Sint Maarten community as a whole.



MISSION:

The Council of Advice will guard the democracy and constitutional state of Sint Maarten by providing Independent, Qualitative, Accurate, Sound, Just and Fair advice to the Government and Parliament.

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Foreword

Dear reader,

With a happy sense of normalcy, after the destruction of Hurricane Irma, the Council moved to its newly renovated building on February 14, 2018. I am therefore very pleased to provide you, the reader, the 2018 annual report. In this report you will receive an overview of the advice requests received and the advices that were issued, as well as the work method of the members and the secretariat of the Council in the past year. You will also be presented with the theme: “The (Caribbean) Financial Action Task Force (C) FATF in the international fight against money laundering, terrorist financing and the proliferation of weapons of mass destruction” to give you more knowledge about the origin, reason, purpose and working methods of the (C)FATF.

In the past year the Council received 31 advice requests and issued 36 advices. Since our existence, this has been the largest number of advices that the Council has issued within a year.

After the installation of the Second Leona Marlin-Romeo Cabinet, the Council held regular consultations with the President of Parliament, the Prime Minister and all ministers. Our motive is to maintain good relations with Parliament and the ministries as together we play an important role in the legislative process. During these consultations, the minister usually makes his priorities known and shares what awaits us in terms of legislation. The Council also held several discussions with the Minister of Health Care, Social Development and Labor and his delegation about the very complex concept of the National Ordinance on General Health Insurance. The director of SZV was also present during one of these discussions.

Noteworthy is that a delegation from the CFATF had serious discussions with the Council and other relevant individuals and institutions on Sint Maarten in the context of a so-called high-level mission about non-compliance with the criteria and the risk of ending up on the gray or black list as a

country.

In February the Council attended the Four-Councils consultation in Aruba and later in the year, the Council bid farewell to the Vice-President of the Council of State Mr. P.H. Donner LL.M. on Sint Maarten.

In July the Council participated in the Business Outreach Placement Program (BOPP) of the Ministry of Education, Culture, Youth and Sport by hiring a secondary education student trainee in the Administration department.

In order to continue to deepen and expand their knowledge, members and the secretariat of the Council attended or followed seminars, forums, lectures and master classes, training courses on legislative procedure and technique and analysis of Annual Accounts locally as well as in Aruba, Curaçao and the Netherlands.

Unfortunately, the Council had to bid farewell to Mr. Jan Beaujon and Mr. Miguel Alexander LL.M., both of whom have reached the retirement age for the Council. Both gentlemen have served respectively as a member and extraordinary member of the Board from the inception. Office Manager, Mrs. Tswana Nunes-Burleson also said goodbye to the Council in August.

In 2018, the Board welcomed Mr. Alphaeus Tatem MF. Acc. as a new member and Ms. Melinda Hoeve LL.M. and Mrs. Maria Van der Sluijs-Plantz LL.M. as new extraordinary members. Mrs. Van der Sluijs-Plantz was appointed in October as State Councilor at the Council of State of the Kingdom on behalf of Sint Maarten. As a result, she is also an extraordinary member of the Council of Advice.

Under the guidance of the State Councilor, Mrs. Van der Sluijs-Plantz, I made an introductory round in the Netherlands with the new Vice-President, Mr. Thom de Graaf LL.M., and other State Councilors. A short meeting followed with the State Councilor of Curaçao Mr. Comencia and Mrs. Van der Sluijs-Plantz about the Dispute Settlement.

Finally, as Vice-chair, I would like to express my gratitude for the good cooperation with the Councils of the Kingdom of the Netherlands, the members of the Council for their contribution and the secretariat led by Secretary Director A. Baly LL.M. for their professionalism and dedication.

Mrs. Mavis Brooks-Salmon LL.M., MA
Vice-chair of the Council of Advice St. Maarten

Legal basis of the Council of Advice

The Council of Advice is a High Council of State, meaning that its independent position has constitutional foundation. Articles 69 to 73 in the fifth chapter of the Constitution of Sint Maarten regulates the constitutional embedding of the Council.

Based on article 69, second paragraph of the Constitution, the Council is required to give advice to the Government:

- a. on all proposals of national ordinances and national decrees, containing general measures;
- b. on proposals as referred to in the Charter of the Kingdom of the Netherlands regarding approval and termination of treaties which concern Sint Maarten;
- c. on proposals of Kingdom laws and administrative orders of the Kingdom;
- d. in extraordinary cases and in all other cases deemed necessary by the Government.

The Council is required to give advice to Parliament on proposals for initiative laws, the so-called draft initiative ordinances.

The Council is also authorized to provide Government with unsolicited advice whenever the Council deems it necessary.

1.1 The assessment framework

The Council examines draft legislation on the basis of an assessment framework similar to the assessment framework of the Council of State in the Netherlands. This framework consists of a policy analysis, legal analysis and a technical legal analysis.

The **policy-analytical assessment (Du: BAT)** deals with the critical analysis of the policy proposal. An important point of interest is the elucidation to the proposal. Is the reason for this new law or measure clearly defined? And is this line of reasoning convincing?

The **judicial assessment** evaluates the judicial quality of the proposal. It concerns two main divisions:

- a. Review against higher law; and
- b. Does it fit within the existing law?

With the **legal technical assessment**, the technical quality of the proposal and the elucidation to the proposal are evaluated. Technical aspects as logical and systematic structure, intrinsic consistency and terminology are scrutinized.

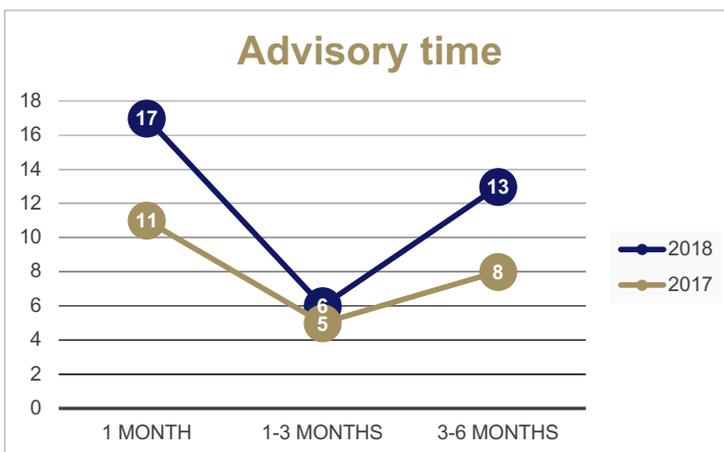
This assessment is effectuated on the basis of the Instructions for regulation of Sint Maarten and the Guidelines for the realization of legislation and regulation for Sint Maarten.

1.2 Advisory time

The advisory time for advices at the Council depends on amongst other things the complexity of the advice request, the order of prioritizing upon request of the government or Parliament and the workload of and the secretariat at the Council.

In addition to the complexity of the advisory request, the fact that the Council can seek third party consultation in order to render its advice, also plays a part in the advising period. Ultimately, the Council prefers not to bind itself to deadlines in order to ensure high-quality advice.

If the processing time were to be divided into categories of 1 month or less, 1 to 3 months and 3 to 6 months, then the distribution of the processing time in 2018 would be the following:



1.3 Dicta of the Council of Advice on draft ordinances and draft decrees containing general measures

At the end of an advice, the Council provides a final formal statement (dictum) concerning the proposed draft legislation. This dictum is based on considerations regarding the facts that are mentioned in the advice.

Depending on the material content of the comments, the Council, in its advice to the government, proposes with regard to draft national ordinances and draft national decrees, containing general measures, one of the types of dicta in the Council's list of established dicta included in Appendix 2.

2.1 Composition of the Council of Advice in 2018

His Excellency, the Governor of Sint Maarten, *drs.* Eugene Holiday is the constitutional chair of the Council of Advice. The Governor can exercise the chairman's function in the meeting of the Council as often as he deems it necessary; on those occasions he has an advisory voice.

Article 1 of the Council of Advice ordinance states that the Council consists of five members, including a vice-chair and, at most, five extraordinary members.

The composition of the Council of Advice as per January 1, 2018 was as follows:

Chair:	His Excellency, the Governor of Sint Maarten, <i>drs.</i> E.B. Holiday
Vice chair, also member:	Mrs. Mavis Brooks-Salmon LL.M. MA
Members:	Mr. Jan Beaujon Ms. Marcella Hazel MA Mr. Rik Bergman LL.M.
Extraordinary members:	Mr. Miguel Alexander LL.M. Mr. Louis Duzanson Ms. Patricia Philips

The composition of the Council of Advice as per December 31, 2018 was as follows:

Chair:	His Excellency, the Governor of Sint Maarten, <i>drs.</i> E.B. Holiday
Vice chair, also member:	Mrs. Mavis Brooks-Salmon LL.M. MA
Members:	Ms. Marcella Hazel MA Mr. Rik Bergman LL.M. Ms. Patricia Philips Mr. Alphaeus Tatem MF. Acc.
Extraordinary members:	Ms. Melinda Hoeve LL.M. Mrs. Maria Van der Sluijs-Plantz LL.M.



The secondary activities of the members of the Council of Advice are included in annex 1.

2.2 Composition of the secretariat in 2018

Article 11, first paragraph of the Council of Advice ordinance states that the Council has a secretariat with at the head the Secretary Director of the Council. The staff of the secretariat is appointed by national decree based on the recommendation of the Council. They are suspended and dismissed by national decree, after the Council is heard.

The secretariat supports the Council in the broadest sense of the word. It is responsible for preparing and recording the meetings of the Council, to carry out research on a high academic-level for various advice requests. It is also responsible for the preparation of draft advices. The secretariat assists the Council in maintaining and enhancing working relationships with Government, Parliament, the Councils of Advice of Aruba and Curaçao and the Council of State. The secretariat also encourages contacts with other institutions/advisory bodies.

The composition of the secretariat of the Council of Advice as per January 1, 2018 was as follows:

Secretary Director:	Mr. Ajamu Baly LL.M.
Legal advisor(s):	Ms. Nathalie Tackling LL.M. Mr. Mischa Keppel LL.M.
Office Manager	Mrs. Tswana Nunes-Burleson
All-round administrative Assistant:	Ms. Withney Murray

The composition of the secretariat of the Council of Advice as per December 31, 2018 was as follows:

Secretary Director:	Mr. Ajamu Baly LL.M.
Legal advisor(s):	Ms. Nathalie Tackling LL.M. Mr. Mischa Keppel LL.M. Mr. Jessey Salomon LL.M.
Office Manager	Ms. Shariselle Hennis
All-round administrative Assistant:	Ms. Withney Murray

2.3 Knowledge policy and training

The Council values the continued development of knowledge of the staff of the Secretariat, as well as of the members themselves. To perform its tasks adequately, the Council is dependent on the extent to which knowledge is available. In addition to the library, which is supplemented as much as possible with current literature, the members of the Council and the secretariat have attended various trainings and courses. The most important ones are listed below:

The members of the Council and the secretariat attended a training course on the Annual Accounts in February;

- The members of the Council and the secretariat attended a training course on the Annual Accounts in February;
- The acting secretary followed a course in Curaçao on The Frontiers of Children's Rights in the Caribbean Region in March;
- The acting secretary followed an online management course in the first and second quarter of the year;
- In the first quarter of the year, the two employees of the Administrative department took a basic legal course;

- A legal advisor did an internship at the Council of State in the Netherlands in May and June and attended a legislative course;
- The acting secretary did an internship in June at the Council of Advice on Aruba;
- The members of the Council and the secretariat attended the symposium of the Governor in June entitled Climate Change and Small Island States - A Call for Strategic Action;
- The Vice-chair, members of the Council and the secretariat participated in the new family and matrimonial property law course in September;
- A legal advisor and members of the Council took part in the Masterclass A Tailor-made Tax system in Aruba in October;
- The Vice-chair and a member of the Council attended the forum discussion in November entitled instructions and dissolution right, mutual relations at Kingdom and national level in Curaçao;
- A legal advisor took an in-depth course in insurance law in December.

2.4 Financial management

Based on article 26, second paragraph of the Council of Advice ordinance and articles 35, 40, 41 and 42 of the National Government Accounting Ordinance (in Dutch: Comptabiliteitslands-verordening) the vice-chair is in charge of the financial management of the Council. Article 26, first paragraph of the ordinance states that Parliament has to make all relevant facilities available to the Council so that the Council can properly and independently execute its duties, this in agreement with the Council and the relevant Minister. The Council submitted its draft budget for the year 2019 to the Minister of Finance and Parliament in accordance with the National Government Accounting Ordinance.

2.5 Communication

The Council held meetings during the year with all Ministers and the President of Parliament. The purpose of these meetings is to promote cooperation and to gain insight in what the Council can expect in terms of draft legislation and the possibility to coordinate this.

The public can stay informed via www.councilofadvicesxm.com of important information, events and advice from the Council. Visitors to the website can follow the receipt of new advice requests until the Council's advice is ready as well as have access to advices that have been made public. The Council's website is accessible in both English and Dutch.

2.5.1 National ordinance open Government (Landsverordening openbaarheid van bestuur)

The manner in which the Council performs its tasks should be known to Government, Parliament, other institutions and the people of St. Maarten. The publication of the advices of the Council in line with the National ordinance open Government is one of the available means of communication. Based on the ordinance the Minister of General Affairs publicizes the advices of the Council. Advices on draft ordinances may be publicized simultaneously with the submission of the draft ordinance to Parliament by Government or by the initiative takers. A copy of the advice of the Council, as well as the explanatory report from Government on the advice of the Council is sent to Parliament by Government. This is also done in the case it involves a draft initiative ordinance. Advices on all other draft legislation other than ordinances, where publication in the Official Publication (in Dutch: Afkondigingsblad) is mandatory, are published simultaneously with that publication. Advices in any other cases are published within six weeks after the advice is issued.

2.5.2 Lectures

The Council held a lecture in November entitled "Separation of Powers: Trias Politica in theory & practice." The separation of powers is a theory of government where the powers (for example the parliament (legislative), the government (executive) and the court (judicial)) are structured independently of each other to prevent abuse of power. These powers function independently but depend on each other for the proper functioning of the government. Keynote speakers for this lecture were Mr. Reynold Groeneveldt LL.M. and Dr. Nilda Arduin.



2.5.3 Four-Councils consultation

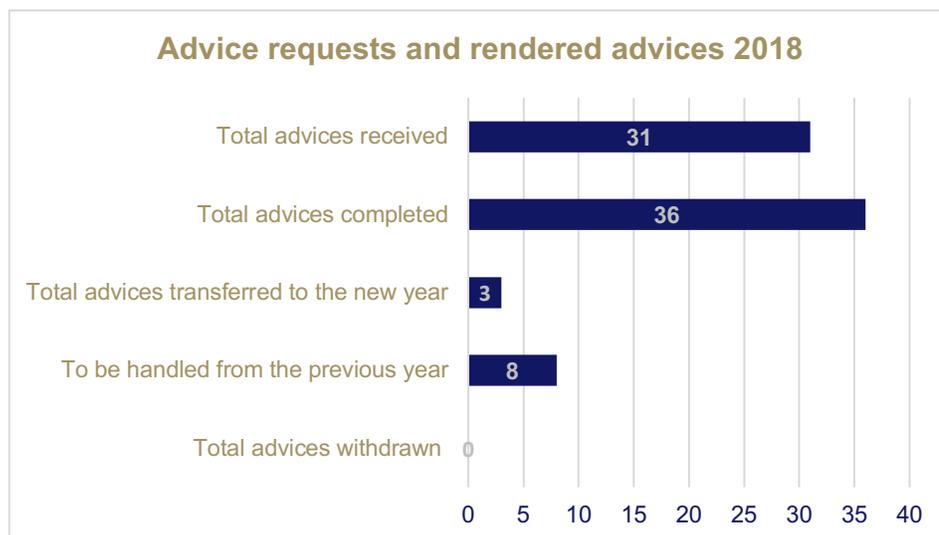
The Four-Councils consultation was held in Aruba from the 22nd to the 24th of February. The Four-Councils consultation is a meeting that is held every two years between the Councils of Advice of Aruba, Curaçao and Sint Maarten and the Council of State of the Netherlands. During the Four-Councils consultation common areas of interest were discussed and the Councils exchanged knowledge and experiences with each other. The main theme of the consultation was: “The changing role of the Councils of Advice and the Council of State in public finances and their implications for the task and work method”. Financial supervision in the Caribbean countries in its current form is intended as temporary. Is there a task for the Councils, as is currently assigned to the Council of State by virtue of the Hof-law? To whom should advice be given, or should the Councils be the supervisor? These are some of the questions that the Councils discussed among themselves during the Four-Councils consultation.



Output of the Council of Advice

3.1 Advice requests and advices

The following is a chart and an overview of the request for advices for the year 2018:



Government	
CoA ref. nr.	
SM/01-18 NO	National Ordinance Budget 2018
SM/02-18 NO	National Ordinance amending the National Ordinance Budget 2017 in connection with changes to the capital expenditures
SM/03-18 NO	National Ordinance amending the National Ordinance on pension for civil servants (URGENT)
SM/04-18 NO	National Ordinance to establish the National Recovery Program Bureau, as well as to regulate the establishing, composition, tasks and authority of the National Recovery Program Bureau (Temporary National Ordinance National Recovery Program Bureau)
SM/05-18 NO	National Ordinance containing rules regarding building, use of land and to erect in the Middle Region area (National Ordinance Development Plan Middle Region)
SM/06-18 NO	National Ordinance Budget 2018
SM/07-18 NO	National Ordinance containing rules regarding building, use of land and to erect in the Dutch Quarter area (National Ordinance Development Plan Dutch Quarter)
SM/08-18-NO	National Ordinance amending the Budget 2018 (National Ordinance Budget Amendment 2018)
SM/09-18-NO	National Ordinance amending the National Ordinance on social insurance
SM/10-18-NO	National Ordinance containing rules in order to comply with recommendation 29 of the Financial Action Task Force (National Ordinance Financial Intelligence Unit)
SM/11-18-NO	National Ordinance containing rules to prevent and combat money laundering and terrorism financing in response to the recommendations of the Financial Action Task Force (National Ordinance combatting money laundering and terrorism financing)
SM/12-18-NO	National Ordinance second amendment to the Budget 2018
SM/13-18-NO	National Ordinance amending technical legal omissions to the amendment of the Sanctions Ordinance carrying out recommendation 6 of the Financial Action Task Force

SM/14-18-NO	National Ordinance establishing the annual accounts for St. Maarten for the financial year 2015 (National Ordinance establishing annual accounts 2015)
SM/15-18-NO	National Ordinance establishing the budget for the year 2019 (National Ordinance Budget 2019)
SM/05-17 NO	Draft National Ordinance establishing the new Criminal Procedure Code (URGENT)
SM/10-17 NO	Draft National Ordinance amending the Criminal Code in connection with the implementation of some urgent International obligations
SM/11-17 NO	Draft National Ordinance to accept the proposal of the Kingdom law of the member van Laar, amending articles 14 and 38 of the Kingdom Charter of the Netherlands (restricting the possibility to issue a General Kingdom Measure without a legal basis)
SM-13-17 NO	Draft National Ordinance regulating a compulsory uniform insurance against medical expenses (URGENT)
SM/17-17 NO	Draft National Ordinance amending the national accounting ordinance in connection with promotion of the enforceability of public procurement rules
SM/18-17 NO	Draft National Ordinance establishing the annual financial statements of Sint Maarten for the year 2013
SM/19-17 NO	Draft National Ordinance establishing the annual financial statements of Sint Maarten for the year 2014

Government

COA ref. nr.

SM/01-18 ND	National Decree containing general measures, amending the electoral decree in connection with the change of location of the polling station in a number of voting districts
SM/02-18 ND	National Decree on designating positions of confidentiality and the execution of security screenings
SM/03-18 ND	Temporary National Decree to establish and organize the National Recovery Program Bureau
SM/04-18 ND	National Decree to ascertain the legal status of the Sint Maarten member of the Council of State of the Kingdom
SM/05-18 ND	National Decree to amend the decree on medical and nursing fees and establish the appendix
SM/06-18-ND	Draft National Decree, containing general measures, to regulate the setting up and organization of the secretariat of the Integrity Chamber, as well as to determine the financial provisions of the members and deputy members of the Integrity Chamber and the remuneration of the members and deputy members of the Council of Supervision of the Integrity Chamber (Implementation National Decree Integrity Chamber)
SM/07-18 ND	National Decree, containing general measures, establishing a funding system for education and rules regarding the procedure for submitting and processing applications for funding (National Decree on funding education)
SM/08-18-ND	National Decree, containing general measures, of the implementation of Article 61a of the General National Ordinance on National Taxes (National Decree on international assistance in the levying of taxes)

DIV

COA ref. nr.

SM/01-18 DIV	Request for advice regarding some legal questions pertaining to the election
SM/02-18 DIV	Presentation of the written declarations by ministers pursuant to article 3, sub two and six of the National Ordinance for the promotion of integrity of ministers Feb-19- 2018

SM/03-18-DIV	Request for advice pursuant to article 3, second and sixth paragraphs, of the National Ordinance on the promotion of the integrity of ministers
SM/04-18-DIV	Regulation of the Prime Minister to amend the instructions for the regulations of Sint Maarten in connection with the addition of instructions for independent administrative bodies and to rectify some technical imperfections.
SM/02-17 DIV	Request for advice on the revision of the Rules of Order of Parliament

Parliament INO

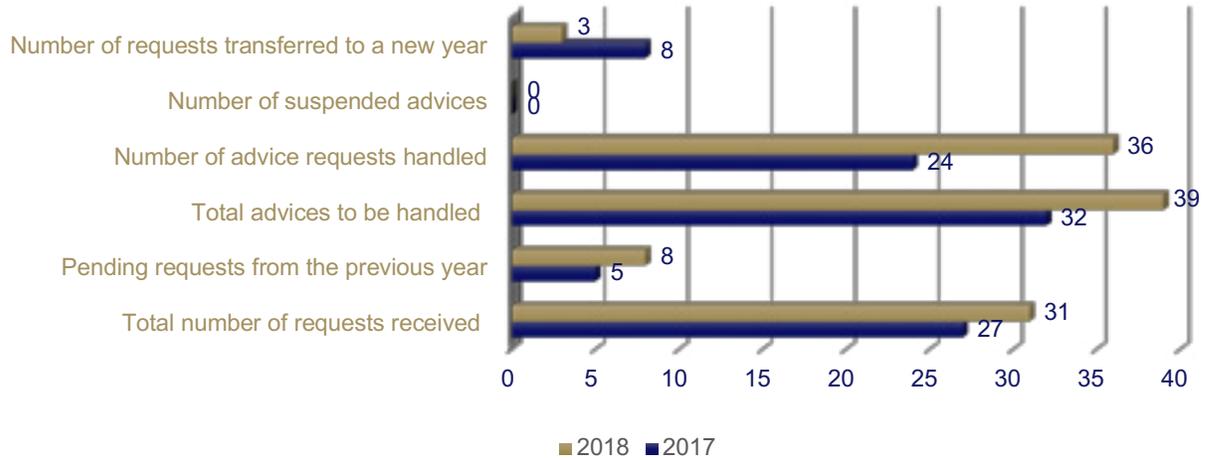
COA ref. nr.	
SM/01-18 INO	Initiative National Ordinance amending the Electoral Ordinance (AB 2010, GT no. 10)
SM/02-18 INO	Initiative National Ordinance amending the National Ordinance Registration and Finances of political parties (AB 2010, GT no. 11) and the Electoral Ordinance (AB 2010, GT no. 10)
SM/03-18-INO	Initiative National Ordinance amending the General Police Ordinance (AB 2013, GT no. 42) in relation to implementing a ban on plastic bags

RW

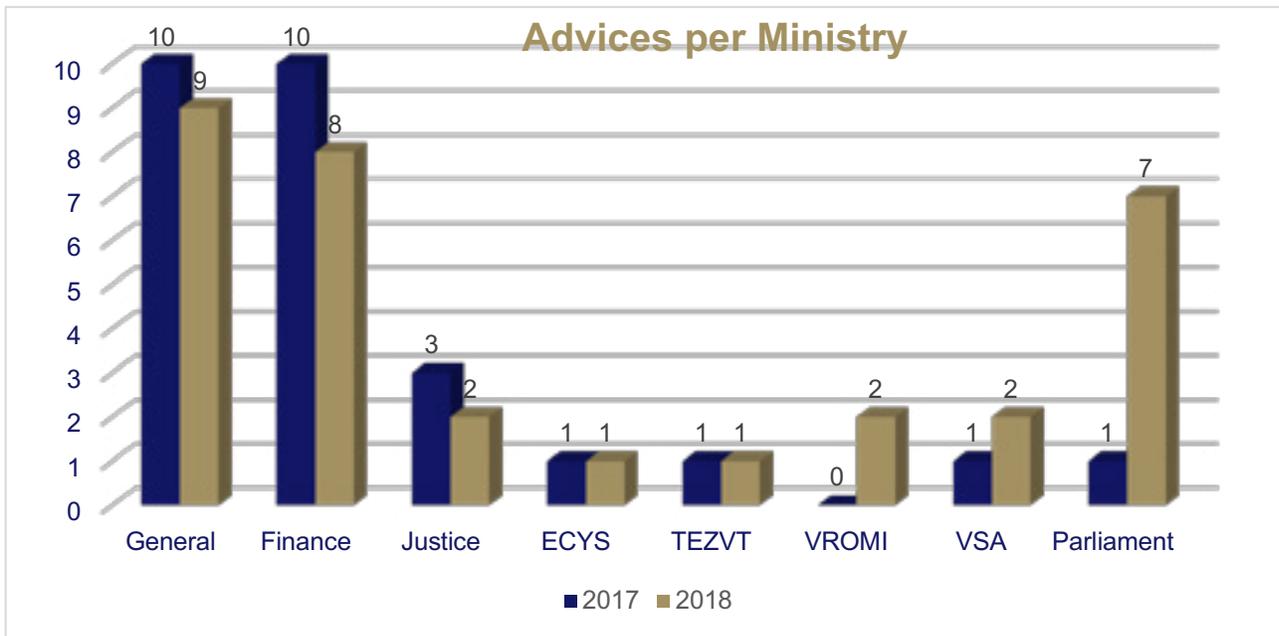
COA ref. nr.	
SM/01-18 RW	Kingdom law Kingdom dispute regulation

At the end of the year 2018 there were 3 advice requests that were pending. These advices were transferred to the new year.

Incoming/outgoing advice requests



The below chart reflects an overview of advice requests received in 2018 divided per ministry (including draft initiative laws of Parliament):



Below is an overview of the advices issued in 2018:

#	Subject	Dictum
Government		
1	Draft National Ordinance establishing the new Criminal Procedure Code (URGENT) Reference: SM/05-17 NO Advice: 2-Feb-18	To send the draft ordinance to Parliament after the observations of the Council have been considered.
2	Draft National Ordinance amending the Criminal Code in connection with the implementation of some urgent International obligations Reference: SM/10-17 NO Advice: 20-Mar-18	To send the draft ordinance to Parliament after the observations of the Council have been considered, in particular with article 39, second paragraph, of the Constitution.
3	Draft National Ordinance to accept the proposal of the Kingdom law of the member van Laar, amending articles 14 and 38 of the Kingdom Charter of the Netherlands (restricting the possibility to issue a General Kingdom Measure without a legal basis) Reference: SM/11-17 NO Advice: 10-Apr-18	To send the draft ordinance to Parliament after attention has been paid to the observations of the Council.
4	Draft National Ordinance amending the national accounting ordinance in connection with promotion of the enforceability of public procurement rules Reference: SM/17-17 NO Advice: 20-Feb-18	Not to send the draft ordinance to Parliament, until the observations of the Council have been considered.
5	Draft National Ordinance establishing the annual financial statements of Sint Maarten for the year 2013 Reference: SM/18-17 NO Advice: 20-Feb-18	To send the draft ordinance to Parliament after the observations of the Council have been considered.
6	Draft National Ordinance establishing the annual financial statements of Sint Maarten for the year 2014 Reference: SM/19-17 NO Advice: 20-Mar-18	To send the draft ordinance to Parliament after attention has been paid to the observations of the Council.
7	National Ordinance Budget 2018 Reference: SM/01-18 NO Advice: 6-Feb-18	Not to send the draft ordinance to Parliament, until the observations of the Council have been considered.
8	National Ordinance amending the National Ordinance Budget 2017 in connection with changes to the capital expenditures Reference: SM/02-18 NO Advice: 1-Mar-18	To send the draft ordinance to Parliament after the observations of the Council have been considered.
9	National Ordinance amending the National Ordinance on pension for civil servants (URGENT) Reference: SM/03-18 NO Advice: 22-May-18	To send the draft ordinance to Parliament after the observations of the Council have been considered.
10	National Ordinance to establish the National Recovery Program Bureau, as well as to regulate the establishing, composition, tasks and authority of the National Recovery Program Bureau (Temporary National Ordinance National Recovery Program Bureau) Reference: SM/04-18 NO Advice: 17-Apr-18	To send the draft ordinance to Parliament after the observations of the Council have been considered.

11	National Ordinance containing rules regarding building, use of land and to erect in the Middle Region area (National Ordinance Development Plan Middle Region) Reference: SM/05-18 NO Advice: 18-Sep-18	Not to send the draft ordinance to Parliament, until the observations of the Council have been considered.
12	National Ordinance Budget 2018 Reference: SM/06-18 NO Advice: 17-Apr-18	Not to send the draft ordinance to Parliament, until the observations of the Council have been considered.
13	National Ordinance containing rules regarding building, use of land and to erect in the Dutch Quarter area (National Ordinance Development Plan Dutch Quarter) Reference: SM/07-18 NO Advice: 13-Nov-18	Not to send the draft ordinance to Parliament, until the observations of the Council have been considered.
14	National Ordinance amending the Budget 2018 (National Ordinance Budget Amendment 2018) Reference: SM/08-18 NO Advice: 14-Aug-18	To send the draft ordinance to Parliament after attention has been paid to the observations of the Council
15	National Ordinance amending the National Ordinance on social insurance Reference: SM/09-18 NO Advice: 13-Nov-18	To send the draft ordinance to Parliament after attention has been paid to the observations of the Council
16	National Ordinance containing rules in order to comply with recommendation 29 of the Financial Action Task Force (National Ordinance Financial Intelligence Unit) Reference: SM/10-18 NO Advice: 2-Oct-18	Not to send the draft ordinance to Parliament, until the observations of the Council have been considered.
17	National Ordinance containing rules to prevent and combat money laundering and terrorism financing in response to the recommendations of the Financial Action Task Force (National Ordinance combatting money laundering and terrorism financing) Reference: SM/11-18 NO Advice: 16-Oct-18	To send the draft ordinance to Parliament after attention has been paid to the observations of the Council
18	National Ordinance second amendment to the Budget 2018 in connection with the financing of a number of changed policy objectives, as well as on the basis of advancing insights and finally in connection with revision of the multi-year estimates on the basis of adjusted policy objectives Reference: SM/12-18 NO Advice: 16-Oct-18	To send the draft ordinance to Parliament after the observations of the Council have been considered.
19	National Ordinance, of the restoration of a technical omission in the National Ordinance of 26th June 2017 amending the Sanctions National Ordinance implementing Recommendation 6 of the Financial Action Task Force to implement without delay the restrictive measures and some legislative technical adjustments Reference: SM/13-18 NO Advice: 1-Nov-18	To send the draft ordinance to Parliament.
20	National Ordinance establishing the budget for the year 2019 (National Ordinance Budget 2019) Reference: SM/15-18 NO Advice: 1-Nov-18	To send the draft ordinance to Parliament after the observations of the Council have been considered.

21	National Ordinance establishing the budget for the year 2019 (National Ordinance Budget 2019) Reference: SM/15-18 NO Advice: 1-Nov-18	Not to send the draft ordinance to Parliament, until the observations of the Council have been considered.
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#	Subject	Dictum
Government		
22	National Decree containing general measures, amending the electoral decree in connection with the change of location of the polling station in a number of voting districts Reference: SM 01-18 ND Advice: 30-Jan-18	Not to adopt the draft decree, containing general measures, until the observations of the Council have been considered.
23	National Decree on designating positions of confidentiality and the execution of security screenings Reference: SM/02-18 ND Advice: 7-Aug-18	Not to adopt the draft decree containing general measures in this manner.
24	Temporary National Decree to establish and organize the National Recovery Program Bureau Reference: SM/03-18 ND Advice: 22-Jul-18	To adopt the draft decree, containing general measures after attention has been given to the observations of the Council.
25	National Decree to ascertain the legal status of the Sint Maarten member of the Council of State of the Kingdom Reference: SM/04-18 ND Advice: 22-Jul-18	To adopt the draft decree, containing general measures after attention has been given to the observations of the Council.
26	National Decree to amend the decree on medical and nursing fees and establish the appendix Reference: SM/05-18 ND Advice: 12-sep-18	To adopt the draft decree, containing general measures after the observations of the Council have been considered.
27	Draft National Decree, containing general measures, to regulate the setting up and organization of the secretariat of the Integrity Chamber, as well as to determine the financial provisions of the members and deputy members of the Integrity Chamber and the remuneration of the members and deputy members of the Council of Supervision of the Integrity Chamber (Implementation National Decree Integrity Chamber) Reference: SM/06-18 ND Advice: 18-Sep-18	Not to adopt the draft decree, containing general measures, until the observations of the Council have been considered.
28	National Decree, containing general measures, establishing a funding system for education and rules regarding the procedure for submitting and processing applications for funding (National Decree on funding education) Reference: SM/07-18 ND Advice: 2-Oct-18	Not to adopt the draft decree, containing general measures, until the observations of the Council have been considered.

#	Subject	Dictum
Government		
29	Request for advice on the revision of the Rules of Order of Parliament Reference: SM/02-17 DIV Advice: 22-May-18	With regard to the questions submitted, the Council finds no conflict with the Constitution. However, the provisions discussed in this opinion can be clarified to promote both the function of the rules of order and the efficiency of the activities of Parliament.
30	Request for advice regarding some legal questions pertaining to the election Reference: SM/01-18 DIV Advice: 20-Nov-18	None.
31	Presentation of the written declarations by ministers pursuant to article 3, sub two and six of the National Ordinance for the promotion of integrity of ministers Feb-19- 2018/ Presentation of written declarations of ministers pursuant to article 3, second and sixth paragraph, National Ordinance Integrity Promotion Ministers Feb-27-2018 Reference: SM/02-18 DIV Advice: 1-Mar-18	In conclusion, the Council suggests that the Prime-Minister take into account the comments in this advice.
32	Request for advice pursuant to article 3, second and sixth paragraphs, of the National Ordinance on the promotion of the integrity of ministers Reference: SM/03-18 DIV Advice: 14-Aug-18	The Council advises the Prime-Minister to consider the comments in this advice.
33	Regulation of the Prime Minister to amend the instructions for the regulations of Sint Maarten in connection with the addition of instructions for independent administrative bodies and to rectify some technical imperfections. Reference: SM/04-18 DIV Advice: 11-Dec-18	In conclusion, the Council suggests that the Prime Minister considers the comments in this advice.

#	Subject	Dictum
Government		
34	Initiative National Ordinance amending the Electoral Ordinance (AB 2010, GT no. 10) Reference: SM/01-18 INO Advice: 16-Oct-18	The Council suggests the initiator to reconsider the desirability of the draft and advises Parliament to consider the comments in this advice.
35	Initiative National Ordinance amending the National Ordinance Registration and Finances of political parties (AB 2010, GT no. 11) and the Electoral Ordinance (AB 2010, GT no. 10) Reference: SM/02-18 INO Advice: 18-Dec-18	The Council suggests the initiator to reconsider the desirability of the draft and advises Parliament to consider the comments in this advice.

#	Subject	Dictum
Government		
36	Kingdom law Kingdom dispute regulation Reference: SM/01-18 RW Advice: 11-Dec-18	None.

3.2 Frequent advisory comments

The Council evaluates in principle each advice request on its own. Nevertheless, there are points that often return in the advices: the frequent advisory comments. In 2018 the three most mentioned advisory comments were on the following aspects:

1. Financial paragraph

These comments concerned inadequately substantiating the financial impact of the draft legislation. In particular article 10 of the Accountability Ordinance was infringed upon because the financial paragraph did not delve into the financial consequences of the plans or underestimated the financial impact.

2. Quality of the legislation

These comments pertained to the quality of the draft legislation. More specifically, these comments focused on the fact that parts of the drafts were not in accordance with the necessary rules for drafting legislation.

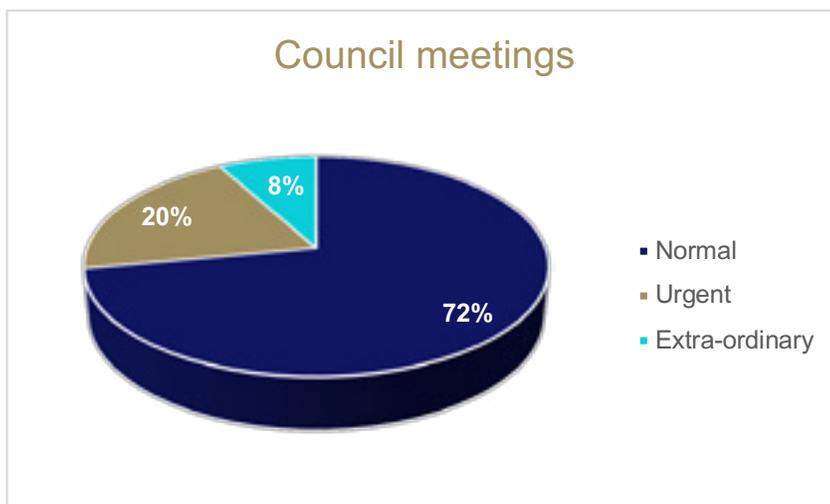
3. The elucidation

These comments pertained to shortcomings in the elucidation to the draft legislation. More specifically, where the draft required further elucidation or the elucidation could be made more accessible.

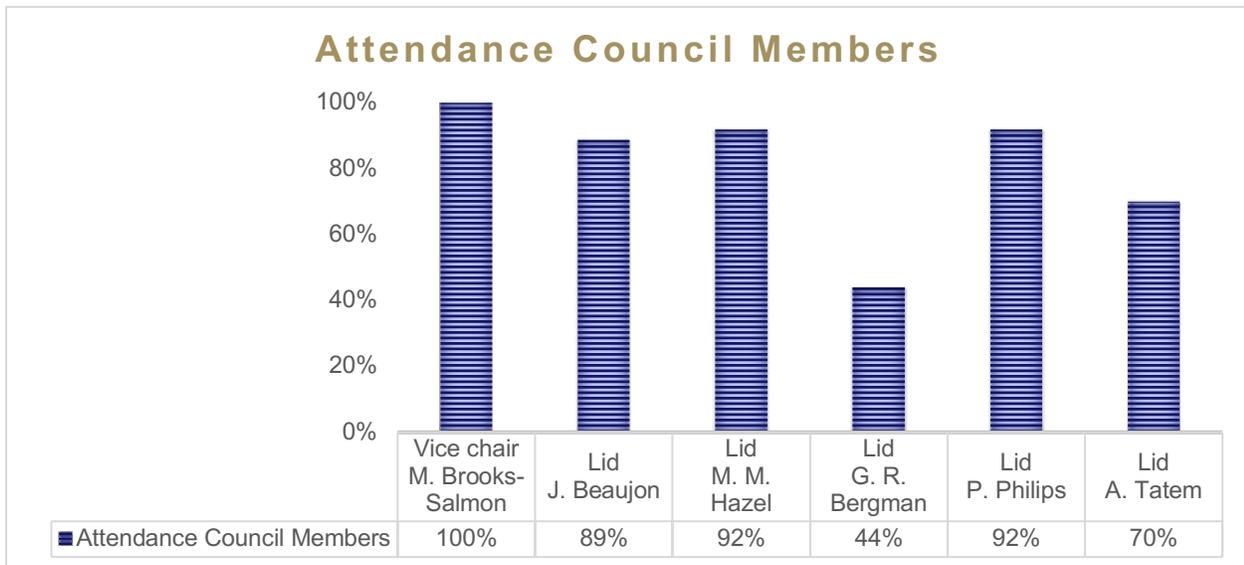
3.3 Meetings

A total of 25 meetings were held during the year 2018, of which 18 were regular meetings, 5 were urgent meetings and 2 were extraordinary meetings chaired by His Excellency the Governor.

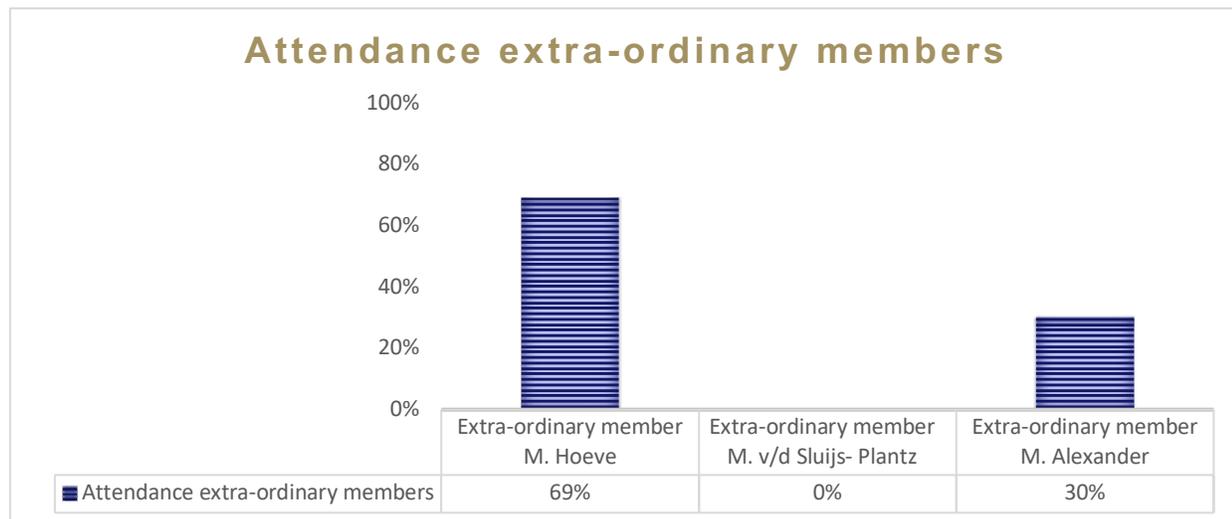
Below is an overview of the attendance of the extraordinary members of the Council:



Below is an overview of the attendance of the members of the Council:



Below is an overview of the attendance of the extraordinary members of the Council:



3.4 Expenditures

The total cost of advising by the Council was budgeted in 2018 at **NAf.** 2,031,256.00.



Theme: The (Caribbean) Financial Action Task Force (C)FATF in the international fight against money laundering, financing of terrorism and the proliferation of weapons of mass destruction.

Money laundering, financing of terrorism and the proliferation of weapons of mass destruction pose a worldwide threat to the integrity and stability of the financial sector and the broader economy. Money laundering involves the processing of assets generated by criminal activities to disguise the link between the funds and their illegal origin. With the financing of terrorism, money is raised to support terrorist activities. The proliferation or in other words spreading of weapons of mass destruction refers to the financial facilitation of the distribution and use of chemical, biological, radioactive and nuclear weapons. These illegal acts can discourage foreign investment, disrupt international capital flows, cause a loss of prosperity, withdraw resources from productive economic activities and even have destabilizing effects on other countries. Due to the interconnectedness of the global financial system, the harmful impact of this type of activity often has a cross-border effect. Criminals misuse the inherent complexity in the global financial system and abuse the differences between national laws. Jurisdictions with weak or ineffective controls are then often targeted. This underscores — also for Sint Maarten — the importance of establishing and maintaining a strong regime against such threats. Considering the nature of the advice-requests received by the Council, reporting year 2018 was largely focused on achieving this goal.

Financial Action Task Force (F ATF)

In 1989, the Financial Action Task Force (FATF) was established as an intergovernmental body to set standards to combat money laundering, the financing of terrorism and other related crimes — more commonly known as ‘Anti- Money Laundering and Combating the Financing of Terrorism (AML/CFT)’ — which damage the integrity of the international financial system.¹ The standards developed by the FATF, commonly known as the 40 FATF-Recommendations (Recommendations), are recognized as the international standard for combating money laundering, the financing of terrorism and the proliferation of weapons of mass destruction through the use of the international financial system.² The Recommendations were first issued in 1990 and have since been revised several times to ensure topicality and relevance as well as universal applicability.³ Together with other international stakeholders including the International Money Fund (IMF), the FATF is working on identifying national vulnerabilities with the aim of protecting the international financial system against abuse. The director of the IMF says the following about this:

“There is no doubt that money laundering and terrorist financing can threaten a country’s economic stability, which is why the IMF has become increasingly active in supporting and promoting the AML/CFT efforts of our member countries, based on the [Financial Action Task Force] standard. What started as a small endeavor some 20 years ago has become part of our core work — from analysis and policy advice, to assessing the health and integrity of financial sectors, to providing financial assistance when needed, to helping countries build institutions and increase operational effectiveness.”⁴

- Christine Lagarde, Managing Director of the IMF

The FATF has furthermore set itself the task of ensuring effective implementation of legal, regulatory and operational measures to prevent abuse of the financial system. As a policy-making body, the FATF is constantly working to generate the necessary political will to bring about national legislative and regulatory reforms.

1 <https://www.fatf-gafi.org/about/>

2 International standards on combating money laundering and the financing of terrorism & proliferation, The FATF recommendations, adopted by the FATF Plenary in February 2012.

3 Revision took place in 1996, 2001, 2003, 2012 and most recently in 2015.

4 <https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/16/31/Fight-Against-Money-Laundering-the-Financing-of-Terrorism>

Caribbean Financial Action Task Force (CFATF)

As a country within the Kingdom of the Netherlands, Sint Maarten is not an independent member of the FATF.⁵ The membership of Sint Maarten is, with the Kingdom of the Netherlands as so-called *Cooperating and Supporting Nation* (COSUN) and itself a member of the FATF, supported by another body, namely the *Caribbean Financial Action Task Force* (CFATF).⁶ This is a regional (associated member of the FATF) organization of states and territories of the Caribbean basin that have committed to take common measures against misuse of the financial system. The organization of the CFATF was established as the result of two important meetings that were held in the early 1990s in Aruba and Jamaica.⁷ In November 1996, twenty-one (21) members of the CFATF signed a Memorandum of Understanding which now serves as the basis for the objectives and work of the CFATF.⁸ In this document, CFATF members have agreed, inter alia, to subscribe to and implement the Recommendations and to take other measures to prevent and control the laundering of the proceeds of all serious crimes as defined in the local laws of every country. Over time the CFATF has grown into an organization of twenty-five (25) Caribbean jurisdictions, all of which have agreed to implement international standards on money laundering and the financing of terrorism and proliferation i.e. the Recommendations.

40 FATF - Recommendations

As a member of the CFATF, Sint Maarten has accepted the obligation to adhere to the 40 recommendations of the FATF. These recommendations focus on, among other things, the improvement of international legal systems in the field of combating money laundering and terrorist financing; the role of financial institutions and the strengthening of international cooperation. With regard to the role of financial institutions, the Recommendations focus on being able to find out and verify the identity of clients or third parties, giving the necessary attention to unusual or suspicious transactions and risky relationships, and developing internal procedures and taking measures to prevent the institution from becoming involved in money laundering. In addition, the Recommendations focus on measures such as freezing terrorist balances and sending information with digital bank transfers.⁹

The implementation of the Recommendations on St Maarten

The CFATF periodically subjects its members to an evaluation. Using a pre-published methodology, a dedicated team of experts assesses the system set up by the country in question to combat money laundering and terrorist financing. The outcome of the evaluation is reported by the CFATF to all its members. Thus, the CFATF identifies through its procedures jurisdictions with strategic deficiencies and works with these jurisdictions to address the deficiencies that pose a risk to the international financial system. For other countries and financial institutions, the evaluations serve as an important source to assess the level of security/sensitivity of the financial system of the evaluated jurisdiction.

The aforementioned evaluation methodology can be briefly described as follows.¹⁰ It focuses on two main facets: (1) technical compliance and (2) effectiveness. The technical compliance evaluation looks at the legal and institutional framework of the relevant jurisdiction and the extent to which it implements the 40 recommendations of the FATF. The evaluation of effectiveness focuses on testing the results that are expected with an effective framework. The FATF has drawn up eleven specific 'outcomes' for this purpose.¹¹ The results of the evaluations are ultimately translated into ratings which are assigned to the evaluated jurisdiction.

5 <https://www.fatf-gafi.org/about/membersandobservers/>

6 <https://cfatf-gafic.org/index.php/home/cfatf-overview>

7 The meeting in Aruba took place in May 1990 and the meeting in Jamaica took place in November 1992.

8 Caribbean Financial Action Task Force, Annual Report 1996-1997 and CFATF Memorandum of Understanding, Memorandum of Understanding Among Member Governments of the Caribbean Financial Action Task Force, November 2011 (Updated).

9 <https://www.toezicht.dnb.nl/2/50-202292.jsp#>

10 In 2013, the FATF published a new methodology which was updated in February 2019. "FATF Methodology for assessing technical compliance with the FATF Recommendations and the Effectiveness of AML / CFT systems", February 2019. See also: "Central bank of Curacao and Sint Maarten, Provisions and Guidelines on the Detection and Deterrence of Money Laundering and Terrorist Financing for Money Transfer Companies, November 2013" and "Annual report 2013, FIU Sint Maarten".

11 <http://www.fatf-gafi.org/publications/mutualevaluations/documents/effectiveness.html>

One of the last mid-term evaluations with regard to the progress on Sint Maarten concluded that although progress has been made when it comes to shaping the legal and institutional framework, there is still much to be done in order to be fully compliant from a technical perspective.¹² In 2018, the following legislative proposals were reviewed by the Council in this regard:¹³

- National Ordinance amending the Penal Code in connection with the implementation of some urgent international obligations;¹⁴
- National Decree designating confidential positions and security investigations;¹⁵ National ordinance containing rules to comply with recommendation 29 of the Financial Action Task Force (National Ordinance Reporting Center for Unusual Transactions);¹⁶
- National Ordinance on Combating Money Laundering and Terrorist Financing;¹⁷ and the
- National Ordinance amending the Sanctions National Ordinance to implement Recommendation 6 of the Financial Action Task Force.¹⁸

In 2017, the CFATF-secretariat worded the shortcomings of St Maarten as follows:

“Since the adoption of the Mutual Evaluation Report (MER) by Sint Maarten, the deficiencies highlighted have been clarified gradually through eight Follow-up Reports (FURs) in a period of more than four years until today. From the 14 Core and Key Recommendations rated as PC [Partially Compliant] or NC [Non-Compliant], 10 remaining outstanding (5, 10, 3, 23, 35, 36, 40, I, III and V) and 1 partly outstanding (SRII), which makes the AML/CFT system in Sint Maarten a vulnerable system for the risks posed in the region.

[...]

Considering the overall framework and current situation of Sint Maarten, it is strongly recommended to prioritize the approval and entry into force of the AML/CFT legislation [...].”

A key realization here is that AML/CFT compliance is an ongoing process that needs to be worked on continuously. Parties who act in bad faith are constantly finding new ways to abuse the international financial infrastructure. That is why a periodic review of the control and protection measures that countries take jointly is so important. CFATF plays a crucial role in this for Sint Maarten.

Measures against Sint Maarten

Countries that receive a positive assessment after their evaluation follow a regular reporting process within the CFATF (Regular Follow-Up). Based on the less positive outcomes from the latest MER¹⁹ of Sint Maarten, the country has been placed under enhanced supervision by the CFATF (Enhanced Follow-up).²⁰ This is a step-by-step process

12 Caribbean Financial Action Task Force Report on Sint Maarten, May 2017 Plenary.

13 Legislative efforts, however, cover several years (2015-2019) and relate to the following drafts: National Ordinance Supervision Money Transaction Offices; National ordinance updating and harmonization of supervisory regulations of the Central Bank of Curaçao and Sint Maarten; National Ordinance Administrative Enforcement; National Ordinance Notification of Cross-border Money Transport; Sanction country regulation; Revision National Ordinance Book 2 of the Dutch Civil Code and the National Ordinance establishing a new Code of Criminal Procedure.

14 RvA no. SM/10-17-LV.

15 RvA no. SM/02-18-LB.

16 RvA no. SM/10-18-LV.

17 RvA no. SM/11-18-LV.

18 RvA no. SM/13-18-LV.

19 CFATF Mutual Evaluation Report, Anti-Money Laundering and Combating the Financing of Terrorism, Sint Maarten, January 8th, 2013.

20 See the “CFATF FOLLOW-UP PROCESS FLOWCHART” at <https://www.fatf-gafi.org/media/fatf/documents/process%20and%20procedures.pdf> and <http://www.fatf-gafi.org/faq/mutualevaluations/>. Also, St. Maarten at that time was placed in the ‘International

of interim assessments and possible countermeasures. In the manual for the third round– evaluations, five concrete countermeasures (increasing in severity) are summed up:²¹

Letter

The Chairman of the (C)FATF can send a letter to the government of the relevant jurisdiction to draw attention to the fact that the recommendations are not complied with sufficiently. This may also include a written appeal to take appropriate steps to improve compliance. In January 2017 then Chairman of the CFATF Mr. Basil Williams sent a letter to Sint Maarten to discuss the lack of meaningful progress and to encourage increasing compliance.²²

Mission

The (C)FATF can carry out a so-called ‘high-level’-mission to the respective jurisdiction in order to emphasize the message that was previously sent by letter towards the relevant ministers and other senior officials. The mission to Sint Maarten took place on 24 August 2018.²³ The delegation consisted of Mr. Basil Williams (Chairman), Mrs. Dawne Spicer (Director), Mr. Glenford Malone (co-Chairman of the International Cooperation Review Group (ICRG²⁴) and Ms. Ana Folgar (Legal Adviser).

Statement

Within the context of the implementation of Recommendation 19 (Higher -risk countries) by its members, the (C)FATF can publish two types of statements (warning-lists).²⁵

The first statement is known as the ‘Improving Global AML/CFT Compliance: ongoing process’-statement. This includes a list of countries that have strategic deficiencies in their AML/CFT system, but that have committed themselves to address these deficiencies in a timely and adequate manner.²⁶ Through this list, the CFATF urges the international community to take into account the risks arising from these strategic deficiencies. This can affect the risk assessments that financial institutions make with regard to these countries. If the jurisdiction does not make timely and acceptable progress, the (C) FATF may decide to increase the pressure by placing the country on the second warning list.

The second warning list is known as the ‘public statement’. This list identifies two types of jurisdictions. First, jurisdictions that have shown insufficient improvement or have not committed to carrying out a targeted action plan.²⁷ Proportional measures can be taken against these countries such as an enhanced customer due diligence by foreign institutions.²⁸ Second, jurisdictions with such serious and long-standing strategic deficiencies - which have not progressed even after an enhanced customer due diligence - that the (C)FATF calls on the international community, in addition to existing measures against these jurisdictions, to actively take counter-measures to protect the international financial system.²⁹ Countermeasures range from specific elements of enhanced customer due diligence and systematic reporting of transactions with that country to a restriction or total ban on financial transactions with that country.³⁰

Concerning Sint Maarten, the (C)FATF has not yet issued any statement, but the probability that this could happen in the near future is high. At the plenary meeting of the CFATF on May 29, 2019, it was decided to maintain the status quo for Sint Maarten. But if progress (adopted AML/CFT laws to date) is considered insufficient by November 2019, a new decision will be made as to whether or not to issue a public statement about Sint Maarten. The general consequences of this can be summarized as follows:

Cooperation Review Group (ICRG)’- process of CFATF so that it could directly monitor the progress of Sint Maarten.

21 FATF Reference Document, Third Round of AML/CFT Mutual Evaluations, *Process and Procedures*, October 2009, p.14

22 <http://guyanachronicle.com/2018/08/19/ag-leads-high-level-cfatf-delegation-to-st-maarten>

23 <https://stmaartennews.com/finance/cfatf-anti-money-laundering-system-remains-vulnerable/>

24 [https://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/more/moreabouttheinternationalco-operationreviewgroupicrg.html?hf=10&b=0&s=desc\(fatf_releasedate\)](https://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/more/moreabouttheinternationalco-operationreviewgroupicrg.html?hf=10&b=0&s=desc(fatf_releasedate))

25 [https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/more/more-on-high-risk-and-non-cooperative-jurisdictions.html?hf=10&b=0&s=desc\(fatf_releasedate\)](https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/more/more-on-high-risk-and-non-cooperative-jurisdictions.html?hf=10&b=0&s=desc(fatf_releasedate)).

26 Countries currently on the list are: The Bahamas, Botswana, Cambodia, Ethiopia, Ghana, Pakistan, Serbia, Sri Lanka, Syria, Trinidad & Tobago, Tunisia and Yemen.

27 [http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/?hf=10&b=0&s=desc\(fatf_releasedate\)](http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/?hf=10&b=0&s=desc(fatf_releasedate)).

28 For example, a stricter customer due diligence may include (i) collecting additional information about clients and ultimate beneficiaries, including information regarding the purpose and nature of the business relationship, the origin of the funds associated with the business relationship, whether transaction is being used and the source of assets of clients and of ultimate beneficiaries, (ii) increased frequency of updating client and final stakeholder data, (iii) increased control over the business relationship with and transactions of clients and (iv) to collect additional information on the background and rationale for intended or executed customer transactions.

29 Iran and North Korea are currently on this list.

30 For example, the (C) FATF can call on countries to block international payments with a country. For more examples of countermeasures see the ‘Interpretative Notes’ to Recommendations 10 (Customer Due Diligence) and 19 (Higher-Risk Countries).

“If the CFATF issues such a public warning, it means that Sint Maarten is considered a country that poses a risk to the international financial system due to its strategic shortcomings. The Member States are then called upon to take countermeasures. This may mean that international banks then have to take extra precautions when transacting with Sint Maarten. For that reason, they can also refrain from making transactions with the Caribbean island. Both consequences could have serious repercussions for foreign payments, for the attractiveness of Sint Maarten to foreign investors and for tourism, and therefore for employment. This can hamper economic growth, which means that public finances will not be in order for a longer period of time. In addition, Sint Maarten can also suffer reputational damage, which can have negative consequences for economic growth.”³¹

The exact impact of a public statement cannot be precisely quantified in advance. It can be said however, that such a countermeasure will have a negative gripping effect in many areas. Preventing a public statement is therefore strongly recommended.

Suspension

If the public statement also does not lead to the desired results, the (C)FATF may decide to suspend membership of the jurisdiction until the Recommendations have been implemented. Past experience has shown that the threat of imposing this measure has led countries to take immediate action (Austria and Turkey).³² At this stage there is no question of a suspension of the membership of Sint Maarten of the CFATF.

Termination

The last and most severe measure that can be imposed by the (C)FATF is the termination of the membership of a jurisdiction. To date this has never happened. The consequences are therefore difficult to estimate. It is however conceivable that this will result in a total exclusion of the global financial system. A disastrous scenario.

Recap

Sint Maarten is faced with the challenge of contributing to the international fight against money laundering, financing of terrorism and the proliferation of weapons of mass destruction — crimes which threaten the integrity and stability of the global financial system. The FATF was established to shape and supervise a coordinated approach on an international level. Efforts are focused on the Caribbean through the regional body of the CFATF. These are jurisdictions in the region that have all committed themselves to implementing and enforcing the FATF Recommendations. The Recommendations fall into three main categories: recommendations aimed at improving international legal systems in the field of combating money laundering and terrorist financing; recommendations that focus on the role of financial institutions and recommendations that focus on strengthening international cooperation.

Previous evaluation reports show that Sint Maarten is partly on track to meet its obligations, but certainly has some catching up to do. This is subject to a considerable time pressure (November 2019).³³ Technical compliance or the legal and institutional framework is still not completely in place, while at this stage the attention should gradually shift towards assessing the effectiveness of the system.

If it is not possible to get the technical compliance in order in the short term, there is a real risk that Sint Maarten will eventually be placed on the public statement-list. If this public statement leads countries to take measures against Sint Maarten, this can have disastrous consequences. For example, for international money transfers to and from the island, where foreign banks must take extra precautions and residents and visitors may no longer initiate foreign banking transactions or are confronted with additional administrative burdens. Or the influence on the investment climate and tourism, partly as a result of reputational damage. This can again have an effect on the employment opportunities. In short, an overall impediment to economic growth, with consequences for the sustainability of the public finances and the already vulnerable local economy.

³¹<https://koninkrijksrelaties.nu/2019/06/17/sint-maarten-playing-with-fire-failure-of-financial-legislation-can-very-big-consequences-have-for-the-economics/>

³² Jea-myong Koh, ‘Suppressing Terrorist Financing and Money Laundering’, Springer Science & Business Media, July 25, 2006, p. 163-164.

³³ <https://www.721news.com/top-story/minister-de-weever-averts-island-from-a-public-statement/>



5.1 Annex 1 – Secondary activities of the members in 2018

Member	Secondary activities
Mrs. Mavis Brooks-Salmon LL.M. MA (Vice-chair and also member)	<ul style="list-style-type: none"> - Director children Catholic choir - Harbour View Owners Foundation - Now Generation Committee
Mr. Jan Beaujon (Member)	<ul style="list-style-type: none"> - Chairman of the Board of Directors of the Nature Foundation Sint Maarten - Member of the Supervisory board of the Foundation Cooperative Funds - Board member of the Foundation for the Conservation of monuments. - Member of the Supervisory Board of the Windward Islands Bank N.V - Member of the Supervisory Board of the Windward Islands Bank International N.V.
Ms. Marcella Hazel (Member)	<ul style="list-style-type: none"> - Official translator by Federal Decree - Advisor of the Community Council of South Reward
Mr. Rik Bergman LL.M. (Member)	<ul style="list-style-type: none"> - Partner/lawyer/mediator at BSZE Attorneys at Law/ Tax Lawyers St. Maarten - Chairman of the Supervisory board of Fabro Houdstermaatschappij B.V. d.b.a. Visser Pharma Group - Board member of de University of St. Martin - Board member of the Parkinson's Foundation Sint Maarten - Member of the Disciplinary Board of Lawyers - Member of the St. Maarten Bar Association - Board member of the Foundation Behoud Fortkerk Curaçao
Ms. Patricia Philips (member)	<ul style="list-style-type: none"> - Owner of APAS - Board member of the Foundation for Advancement in Law - Board member of the Chuchubi Foundation - Member 'Cradle Roll Secretary' Philipsburg Methodist Church - Financial Administrator Philips -burg Methodist Church

Mr. Alphaeus Tatem MF. Acc. (member)	<ul style="list-style-type: none"> - Member and treasurer of the Philipsburg Seventh Day Adventist Church - Board member of the North Caribbean Conference of Seventh-day Adventist in het Caribbean area - Trustee of the SDA Foundation of Churches - Member of the Schoolboard of the St. Maarten Seventh-Day Adventist School - Treasurer of the ADRA (Adventist Development and Relief Association)
Mr. Miguel Alexander LL.M. (Extraordinary member)	<ul style="list-style-type: none"> - Commissioner of: <ul style="list-style-type: none"> • Maduro & Curiel's Bank N.V. in Curaçao; • Reon Investments N.V. in Curaçao; • Samsom Curaçao N.V. in Curaçao; • United International Bank N.V. in Curaçao; • The Windward Islands Bank N.V. and • The Windward Islands Bank International N.V. - Director of eighteen (18) "offshore" partnership companies and one belonging to the BCD/BORON Group - Director/owner of: <ul style="list-style-type: none"> • Cazalex Holding B.V.; • Notarispraktijk Alexander N.V.; • Cazalex Pensioenen N.V. • Alexander Corporate Legal Advisors B.V.; • Alexander & Baaten Legal Services B.V. (10% shareholder) - Director of: <ul style="list-style-type: none"> • Foundation SONA; • Foundation Cazalex; • Foundation Private Fund Cazalex; • Foundation Financing Task Force Tax Treaties • Foundation Pension Fund Chr. A. Peterson - Advisor to Notary office Kleinmoedig Alexander in Curaçao
Ms. Melinda Hoeve LL.M. (Extraordinary member)	<ul style="list-style-type: none"> - Board member of the St. Maarten Lions Club - Chairperson of the Supervisory Board for the Bureau for Intellectual Property of Sint Maarten - Board member of the Mental Health Foundation

Mrs. Maria Van der Sluijs-Plantz LL.M.
(Extraordinary member)

- State Councilor at the Council of State of the Kingdom on behalf of Sint Maarten
- Board member of Smallsteps Day-care
- Industry Specialist at JZ International
- Member of the Board of trustees/ Chairperson Audit Committee van het KNCV Tuberculosis Foundation
- Board member Telefonica Europe B.V.
- Member of the Board of Financial Supervision of Curaçao and Sint Maarten (Cft)
- Member of the Supervisory Board of Zuidweg & Partners
- Member of the Board/member of the remuneration committee of the TMF Group
- Member of the Salon - Foundation Donors Concert Hall Orchestra

5.2 Annex 2 – Established dicta

Dicta of the Council of Advice

The Council uses a final formal statement (dictum) at the end of proposed draft legislation. Depending on the observations made by the Council in its advice, the Council can advise one of the following dicta to government, concerning draft ordinances and draft decrees containing general measures.

I. Draft national ordinance

1. To send the draft ordinance to Parliament.

The Council does not have any substantial remarks, the so called blank advice.

2. To send the draft ordinance to Parliament after attention has been paid to the observations of the Council.

With this dictum, the Council wants to say that it has no serious objections to the draft and that it advises only a few amendments to the draft national ordinance itself and/or the explanatory notes.

3. To send the draft ordinance to Parliament after the observations of the Council have been considered.

With this dictum, the Council wants to say that it has no serious reservations but does have objections to one or more parts of the draft national ordinance.

4. Not to send the draft ordinance to Parliament, until the observations of the Council have been considered.

This dictum is used if the Council has major objections to one or more parts of the draft. These objections can usually be overcome by adapting the draft national ordinance.

5. Not to send the draft national ordinance to Parliament in this manner.

This dictum is used when the Council has fundamental objections, which can only be overcome by drastic amendment of the draft national ordinance.

6. Not to send the draft ordinance to Parliament.

Harshest conclusion.

II. Draft national decree, containing general measures

1. To adopt the draft decree, containing general measures.

The Council does not have any substantial remarks, the so called blank advice.

2. To adopt the draft decree, containing general measures after attention has been given to the observations of the Council.

With this dictum, the Council wants to say that it has no serious objections to the draft and that it advises only a few amendments to the draft decree containing general measures itself and/or the explanatory notes.

3. To adopt the draft decree, containing general measures after the observations of the Council have been considered.

With this dictum, the Council wants to say that it has no serious reservations but does have objections to one or more parts of the draft decree containing general measures.

4. Not to adopt the draft decree, containing general measures, until the observations of the Council have been considered.

This dictum is used if the Council has major objections to one or more parts of the draft. These objections can usually be overcome by adapting the draft decree containing general measures.

5. Not to adopt the draft decree containing general measures in this manner.

This dictum is used when the Council has fundamental objections, which can only be overcome by drastic amendment of the draft decree containing general measures.

6. Not to adopt the draft decree, containing general measures.

Harshest conclusion.

III. Draft Initiative ordinances

Advices on draft initiative ordinances do not have dictums. In this case the Council gives a brief summarizing conclusion.



Council of Advice
Raad van Advies