

COUNCIL OF ADVICE

RAAD VAN ADVIES

Strengthening our Democracy

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.

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.

ANNUAL REPORT 2013

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FOREWORD



The year 2013 can be characterized as a challenging one for the Council of Advice Sint Maarten (The Council). In the month of December for example the Council held no less than 6 meetings pertaining to the budget of Sint Maarten and related legislation. We did so to ensure that Parliament could be presented and would be able to establish the budget of Sint Maarten on time.

In so doing Sint Maarten was spared from receiving an instruction from the Kingdom Council of Ministers. On the other hand it can also be said that the year was very productive.

The Council was able to, under the guidance of his hardworking Secretary, draw up a new formation plan at the beginning of the year and has written 27 advices.

For the first time the Council has given an advice to Parliament pertaining to draft initiative laws written in the English language. Further on in this report, as a special theme, the Council will elaborate on this subject matter.

A high point for the Council is that the Quadripartite deliberation on Kingdom level was held here on Sint Maarten. During this Quadripartite meeting, common points of interest were discussed. The Councils of Advice of Curaçao, Aruba, Sint Maarten as well as the Council of State of The Netherlands expounded on mutual knowledge and experiences.

The communication plan of the Council was partly executed by giving a presentation about the Council to a group of students of the University of Sint Maarten.

In keeping with the communication plan, Mr. P.H. Donner, the newly appointed President of State, paid the Council and Sint Maarten a courtesy visit. The Council furthermore held its yearly meeting with the President of Parliament and the Prime Minister of Sint Maarten. As Vice Chair of the Council monthly meetings with the Governor of Sint Maarten were held.

In connection with expanding and deepening the knowledge of the members and staff, training sessions were organized by and for the Council and the Secretariat. The SOAB (Foundation Government Accounting Bureau) for example facilitated two trainings, namely “the Productive Way” and “Relations Management”.

Regretfully the Council had to take leave of an extra-ordinary member and liaison for the Council at the Council of State, Mr. Dennis Richardson MBA, who became Minister of Justice of Sint Maarten.



Furthermore the Council unfortunately also took leave of Mrs. Dr. I. Broekhuisje and in September the Secretary Director Mrs. Migdala Artsen-Clarinda LL.M.

The Council is thankful to above mentioned persons for their invaluable contribution.

The Council also welcomed two new legal advisors, Mr. Richard Jackson LL.M. and Mr. Keith de Jong LL.M. A new Secretary Director Mr. Ajamu Baly LL.M., was recruited and started to work as of January 2014.

In conclusion I would like to make use of the opportunity to thank everyone for their much appreciated cooperation and collaboration.

A special word of thanks goes out to the members of the Secretariat for their undeniable support and to the Council members for their dedication and contribution. In addition, I would like to extend a special thank you to Mr. Keith de Jong and Mr. Ajamu Baly for their contribution to the realization of this year report.

Mrs. M. Brooks-Salmon, LL.M., MA.
Vice Chair Council of Advice Sint Maarten.

1. 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 assessment framework is the Council's tool to ensure a high standard of quality, accuracy and fairness of the advices. The Council's assessment framework is included in annex 1.

1.2 Advisory time

The Council strives to complete an advice within three months, however the necessary time to complete an advice, depends on the complexity of an advice request and the amount of pending (urgent) advice requests to be handled by the Council.

1.3 Dictums 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). Depending on the observations made by the Council in its advice, the Council can consider using one of the following dictums.

Types of dictums for an advice request regarding a draft ordinance:

- To send the draft ordinance to Parliament (the Council does not have any material remarks, the so called blank advice);
- To send the draft ordinance to Parliament after attention has been given to the observations of the Council;
- To send the draft ordinance to Parliament after the observations of the Council have been considered;
- Not to send the draft ordinance to Parliament, until the observations of the Council have been considered;
- Not to send the draft ordinance to Parliament (the heaviest conclusion).

Types of dictums for an advice request regarding a decree, containing general measures:

- To adopt the draft decree, containing general measures (the Council does not have any material observations on the content, the so called blank advice);
- To adopt the draft decree, containing general measures after attention has been given to the observations of the Council;
- To adopt the draft decree, containing general measures after the observations of the Council have been considered;
- Not to adopt the draft decree, containing general measures, until the observations of the Council have been considered;
- Not to adopt the draft decree, containing general measures (the heaviest conclusion).

1.4 Draft initiative ordinances

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

2. OPERATIONAL MANAGEMENT OF THE COUNCIL OF ADVICE

2.1 Composition of the Council of Advice in 2013

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.

On the 1st of January 2013, the composition of the Council was as follows:

Chair:	His Excellency, the Governor of Sint Maarten, drs. E. B. Holiday
Vice-chair, also member:	Mrs. Mavis Brooks-Salmon LL.M. MA.
Members:	Mr. Jan Beaujon Mr. Gaston Bell LL.M. Mr. Marcel Gumbs Mr. Louis Duzanson
Extraordinary members:	Mr. Dennis Richardson MBA (until March 2013) Mrs. Marcella Hazel MA. Mr. Rik Bergman LL.M. Mr. Miguel Alexander LL.M.

2.1.1 Mutations in the composition of the Council in 2013

In May 2013, the Council said goodbye to Mr. Dennis Richardson who was appointed as Minister of Justice. Mr. Richardson was an extraordinary member of the Council of Advice and also held the position of Member of State of the Kingdom for Sint Maarten since the 25th of March 2011. The Council thanks him for his contribution.



On December 31st 2013, the composition of the Council of Advice was as follows:

Chair:	His Excellency, the Governor of Sint Maarten, drs. E. B. Holiday
Vice-chair, also member:	Mrs. Mavis Brooks-Salmon LL.M. MA.
Members:	Mr. Jan Beaujon Mr. Gaston Bell LL.M. Mr. Marcel Gumbs Mr. Louis Duzanson
Extraordinary members:	Mrs. Marcella Hazel MA. Mr. Rik Bergman LL.M. Mr. Miguel Alexander LL.M.

The secondary activities of the members of the Council of Advice are included in appendix 2.

2.2 Composition of the secretariat in 2013

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.



On January 1st 2013, the composition of the secretariat of the Council of Advice was as follows:

Secretary Director:	Mrs. Migdala Artsen-Clarinda LL.M.
Legal advisor:	Ms. Irene Broekhuijse LL.M. Ph.D.
Office Manager:	Mrs. Florencia Wilson
Allround Administrative Assistant:	Mrs. Mireya Ostiana-Wijman

2.2.1 Mutations in the composition of the secretariat in 2013

Until the beginning of March 2013 the composition of the secretariat consisted of a Secretary Director, one legal advisor and two administrative workers. In September 2012, the Council started the necessary preparations for the adjustment of the formation of the secretariat to include three legal advisors instead of only one legal advisor. The practice showed that for the proper support of the Council in carrying out its statutory duties it was necessary to change the formation of the secretariat. This resulted in the hiring of two additional legal advisors, Mr. Richard Jackson LL.M. and Mr. Keith de Jong LL.M., in the first quarter of 2013. At that moment there was a full formation.

In May 2013 the Council said goodbye to Ms. Irene Broekhuijse who was a legal advisor since the 1st of June 2012. In addition, the Council said goodbye to Mrs. Migdala Artsen-Clarinda as Secretary Director. After an efficiently conducted recruitment process, the Council decided to appoint Mr. Ajamu Baly as the new incoming Secretary Director.

On December 31st 2013, the composition of the secretariat of the Council of Advice was as follows:

Secretary Director:	-
Legal advisor(s):	Mr. Richard Jackson LL.M. Mr. Keith de Jong LL.M.
Office Manager:	Mrs. Florencia Wilson
Allround Administrative Assistant:	Mrs. Mireya Ostiana-Wijman

The Rules of Order for the members and the secretariat of the Council of Advice are included in appendix 3.

2.3 Knowledge policy and training

The Council values the development of knowledge for the staff of the Secretariat, as well as for the members themselves. For the proper performance of its tasks, 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 Council and the secretariat have attended various trainings and courses. The most important ones are listed below:

- In April, Prof. Willem Konijnenbelt LL.M. provided a mini course for the second time on legislation techniques to the Council and the secretariat, as well as to some other participants who were invited by the Council;
- The legal advisors visited the Council of Advice of Aruba and did an internship at the Council of State;
- The office manager successfully completed a QuickBooks course;
- A member of the Council as well as one of the legal advisor attended a financial masterclass in Aruba;
- One of the legal advisors attended a tax compliance course in Curaçao;

In addition to this, the Council signed an offer with the Academie voor de Wetgeving in September 2013, in which the Academie committed itself to provide a ten module course, spread over one and a half year. This course, called the Leergang Sint Maarten, offers the members, the Secretary Director and the legal advisors an extension of their knowledge in

the field of constitutional law, administrative law and the enforcement of the law, which are of importance for the responsibilities of the Council. Given the interest from both inside and outside Government, the Council decided to make it possible for other interested parties to follow the course as well.

The Council would like to take this opportunity to thank the Council of Advice of Aruba, the Council of Advice of Curaçao and the Council of State for their cooperation and assistance. The Council also expresses its gratitude to USONA for funding the abovementioned training expenses.

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: Comptabiliteitslandsverordening) 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 2014 to the Minister of Finance and Parliament in accordance with the National Government Accounting Ordinance.

2.5 Communication

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 Sint 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 Website

The website of the Council of Advice, www.councilofadvicesxm.com, was officially launched in 2013.

2.5.3 Four-Councils consultations

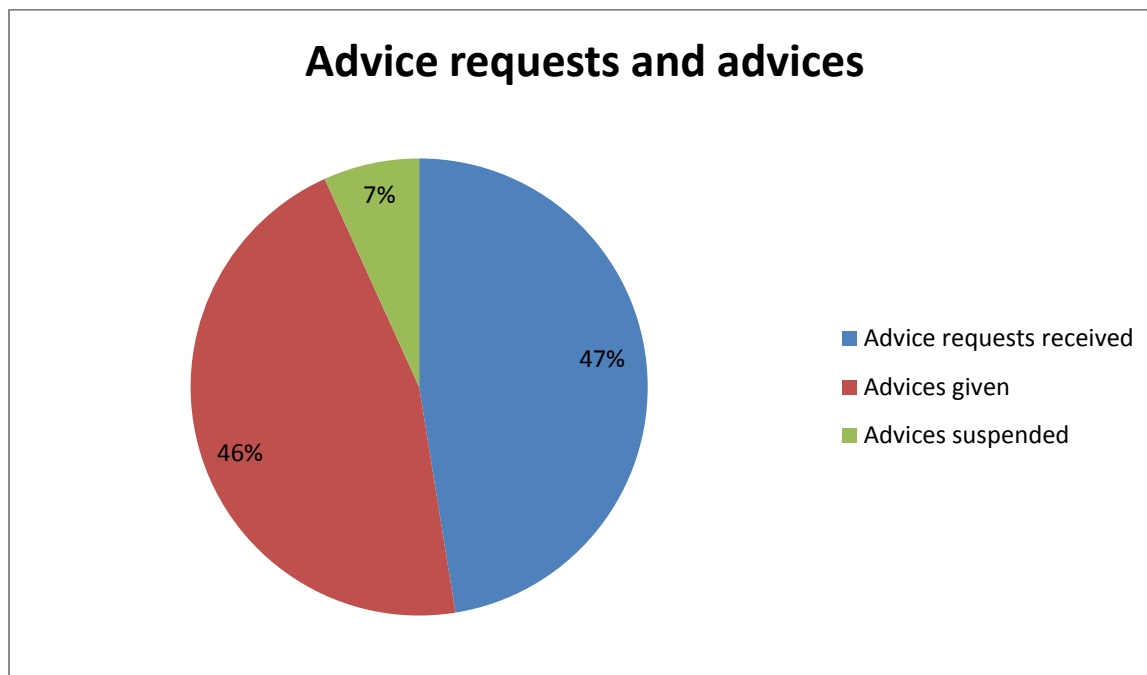
From the 20th of March until the 22nd of March the Council organized the Four-Councils consultations. During the Four-Councils consultations common areas were discussed and the Caribbean Councils of Advice as well as the Council of State, shared experiences of mutual concern with each other. A number of subjects that were discussed contained good governance, the position of the Governor, “checks and balances” and the constitutional embedding of a balanced budget. In addition, the issue of bilingualism in legislation was discussed thoroughly. The language issue is further elucidated in chapter four.



3. OUTPUT OF THE COUNCIL OF ADVICE

3.1 Advice requests and advices

In 2013, the Council received 28 advice requests and gave 27 advices. The Council decided to suspend 4 advice requests, due to important missing documents, which were necessary to be able to provide an advice. The Pie chart below shows the above mentioned.



The Council has not given an unsolicited advice to Government in 2013. At the end of the year 8 advice requests that were pending are transferred to the new year.

Overview inflow / outflow requests for advice in 2013	
Total number of received requests	28
Pending requests from the previous year	11
Total to be handled	39
Number of handled advice requests in 2013	27
Number of advice requests transferred to the new year	8

Below is a list of advice requests for 2013:

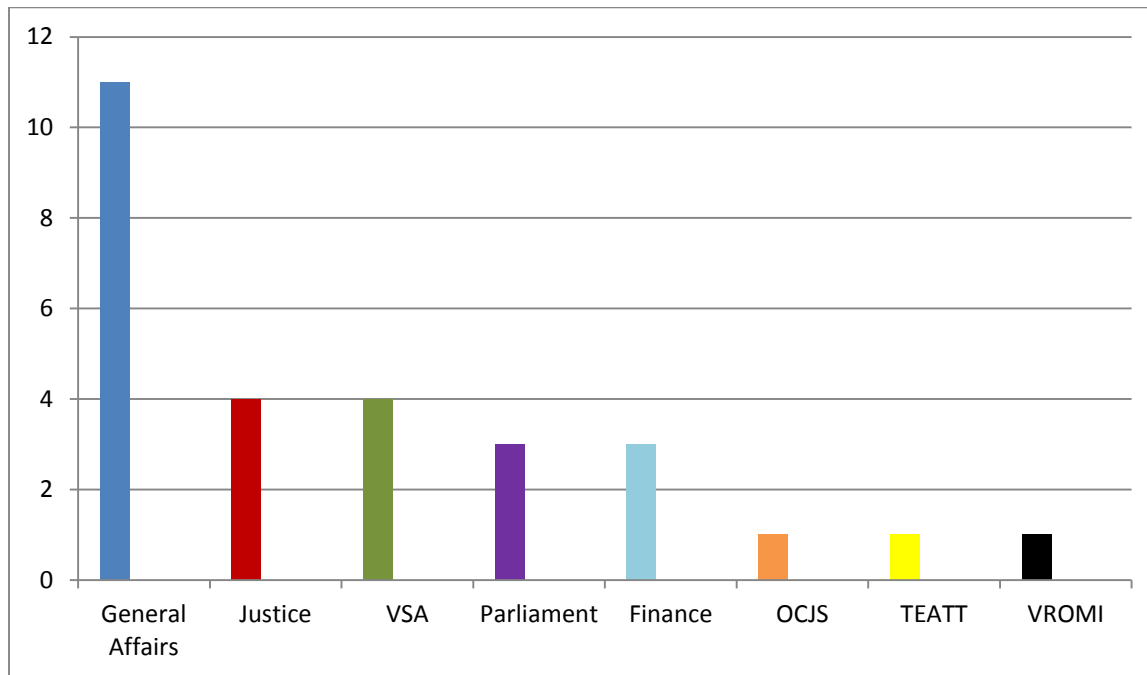
CoA Number	Subject
SM/26 A-12-LV	National Ordinance (NO) to amend the Ordinance on Motor Vehicle and the General Ordinance on National Taxes to introduce a new tax system on motor vehicles.(National Ordinance Amendment of Tax on Motor Vehicles)
SM/28-12-LB	National Decree (ND) executing article 2 of the Kingdom Law (RW) regulating compensation allowance for member of Council of State (RvS).
SM/31-12-LV	National Ordinance to establish the Budget of Sint Maarten for 2013
LB/12-11	Draft ND of general order to execute article 1 paragraph 1, part b under 16e , article 6 part d, under 12e and article 11 paragraph 2 of the national ordinance identification during service (ND to indicate services, data and supervisors, National ordinance identification during service rendering)
LB/04-12 SM/08-12-LB Zie SM/01-14-LB	The presentation of pre- announcement adaptations of National Decrees to price indexation.
LB/05-12 SM/09-12-LB Zie SM/01-14-LB	Adaptation of various National Decrees (AWW, AOV, and ZV/OV) to the price index of household consumption.
SM/23-12-LB	Draft ND of general order for the execution of provisions based on articles 3, paragraph 3, 13 and 14 of the National Ordinance Public Governance.
SM/24-12-LB	Draft National Decree of general order to cancel the price decree of bread on Sint Maarten.
SM/25-12-LB	Two (2) draft National Decrees of general order to cancel the: <ul style="list-style-type: none"> • Price decree on petroleum products on Sint Maarten (AB 2000 nr. 24) • Price decree on food(s) on Sint Maarten (AB 2008, nr. 12)
SM/27-12-LB	Draft ND on measures to establish requirements for the request of a drivers' license.
SM/30-12-LV	Draft NO regulating the archive system on Sint Maarten
SM/01-13-LB	Draft ND of general order to establish the amount of the remuneration and attendance fee for members and substitute members of the General Audit Chamber.
SM/01-13-LV	Draft NO to adapt various National Ordinances in connection with the succession to the throne. (NO legal technical adaptations regarding succession to the throne.)
SM/02-13-LB	Draft ND of general order to amend the establishment decree of the Committee Royal Decoration in connection with increase in allowance due to added activities.
SM/03-13-LB	Draft ND of general order to adapt various National Decrees in connection with the succession to the throne.
SM/04-13-LB	Draft ND of general order concerning appeals lodged by Civil Servants.
SM/05-13-LB	Draft ND of general order (dated) to amend the Organization Decree of General Affairs and the Organization Decree of Public Housing, Spatial Planning, Environment and Infrastructure in connection with transferring the task of providing street names and street numbers.
SM//02-13-LV	Draft NO to amend the NO Institution and Organization Government of Sint Maarten amending the naming and embedding of certain parts of the organization and other legal technical adaptations.(NO to amend NO Institution and Organization Country Sint Maarten)
SM/06-13-LB	Draft ND of general order to amend the ND Institution and Organization of the Secretariat of the Council of Advice.
SM/03-13-LV Zie	Draft NO regarding the increase of the old age pension and pension age

SM/07-13-LV	
SM/01-13-RW	Draft Kingdom law proposal to adapt the law on Military Criminal Administration of justice, the Military Criminal Law book and Military Discipline Law.
SM/04-13-LV	Draft NO to ratify the Cooperation Regulation concerning uniformed legal proceedings for Aruba, Curaçao and Sint Maarten
SM/08-13-LB	Draft ND of general order to amend article 13 of the Electoral Decree pertaining to simplifying the requirements of the ballot boxes.
SM/05-13-LV	Draft of a second memorandum of amendment to the NO of general order regulating the status, tasks and authorities/powers of the Bureau Intellectual Properties of the Netherland Antilles (NO BIE)
SM/06-13-LV	Draft NO to amend the approved NO draft budget 2013.
SM/07-13-LV Zie SM/03-13-LV	National Ordinance old age pension regarding increase in pension benefits and in pension age with inclusion of the advice of the Social Economic Council (SER).
SM/08-13-LV	Draft NO to amend the NO Basic Civil Servants' Right regarding organized consultation on the legal status of Civil Servants.
SM/09-13-LV	Draft NO to amend the NO on Sanctions due to the execution of the Sanction Ordinances or Sanction Decrees of the European Union.
SM/10-13-LV	Draft NO pertaining to the establishment of tariffs for judicial services and transactions and the amendment to the Fee Ordinance.
SM/11-13-LV	Draft NO to amend the NO on Admittance and Expulsion and the Fee Ordinance of 2013, with accompanying Memorandum of Elucidation.
SM/09-13-LB	Draft ND of general order to amend the Admittance Decree to accommodate levying administrative and retribution charges.
SM/12-13-LV	Draft NO to establish the budget of country Sint Maarten for the year 2014. (NO budget 2014)
SM/05-13-LV	Draft Second Memorandum of Amendment of the NO regarding the status, tasks and authorities/powers of the Bureau Intellectual Properties (BIE)
SM/13-13-LV	Draft NO to ratify the year account of Country Sint Maarten for 2011.
SM/10-13-LB	Draft ND of general order to establish the yearly contribution benefiting the General Fund Private Medical Expenses and cutting back on expenditure in connection with medical costs.
SM/10-13-LB	Draft ND of general order concerning rules to execute articles 9, 10 and 14 of the NO Health Care Institutions, with regard to the foundation Sint Maarten Medical Center. (ND specific regulations Foundation Sint Maarten Medical Center)

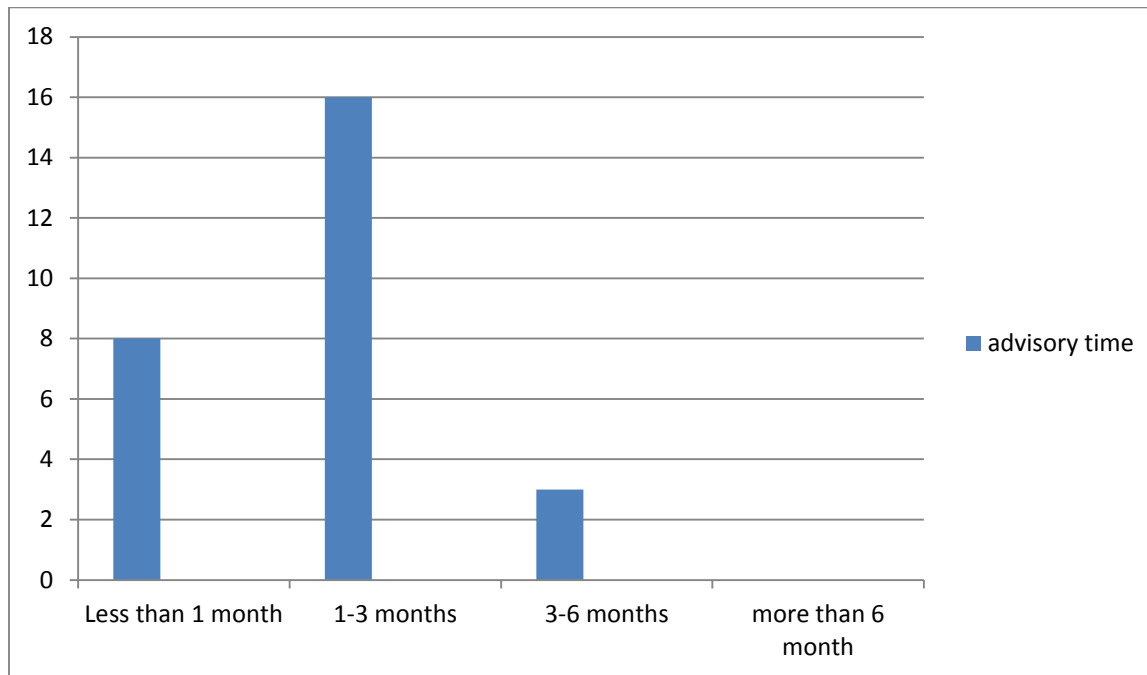
Below is a list of draft initiative law requests by Parliament in 2013

CoA Number	Subject
SM/ 01-13-ILV	Draft Initiative NO to amend Book 7 concerning Timeshare. (NO Revision Timeshare.)
SM/ 02-13-ILV	Draft initiative NO to establish aTimeshare Authority. (Sint Maarten Timeshare Authority Ordinance)
SM/04-13-ILV	Draft Initiative NO to amend the NO Nature Conservation Sint Maarten dated September 1, 2003.(AB 2003, no. 25) (ZJ 2012-2103-33)

The chart below gives a list of advice requests in 2013 divided per ministry (including draft initiative laws of Parliament):



The average time spent advising on a request for advice in 2013 was 48 days. See below for an overview of the advisory time for 2013.



Below is an overview of the issued advices in 2013:

CoA Number	Subject	Date of advice	Conclusion (in short)	Explanatory report
SM/26 A-12-LV	National Ordinance (NO) to amend the Ordinance on Motor Vehicle and the General Ordinance on National Taxes to introduce a new tax system on motor vehicles.(National Ordinance Amendment of Tax on Motor Vehicles)	22 January 2013	Not to send to Parliament, until consideration	No
SM/28-12-LB	National Decree (ND) executing article 2 of the Kingdom Law (RW) regulating compensation allowance for member of Council of State (RvS).	22 January 2013	To adopt, after consideration	No
SM/31-12-LV	National Ordinance to establish the Budget of Sint Maarten for 2013	22 January 2013	Not to send to Parliament, until consideration	Yes
LB/12-11	Draft ND of general order to execute article 1 paragraph 1, part b under 16e , article 6 part d, under 12e and article 11 paragraph 2 of the national ordinance identification during service (ND to indicate services, data and supervisors, National ordinance identification during service rendering)	22 October 2013	Not to adopt, until consideration	No

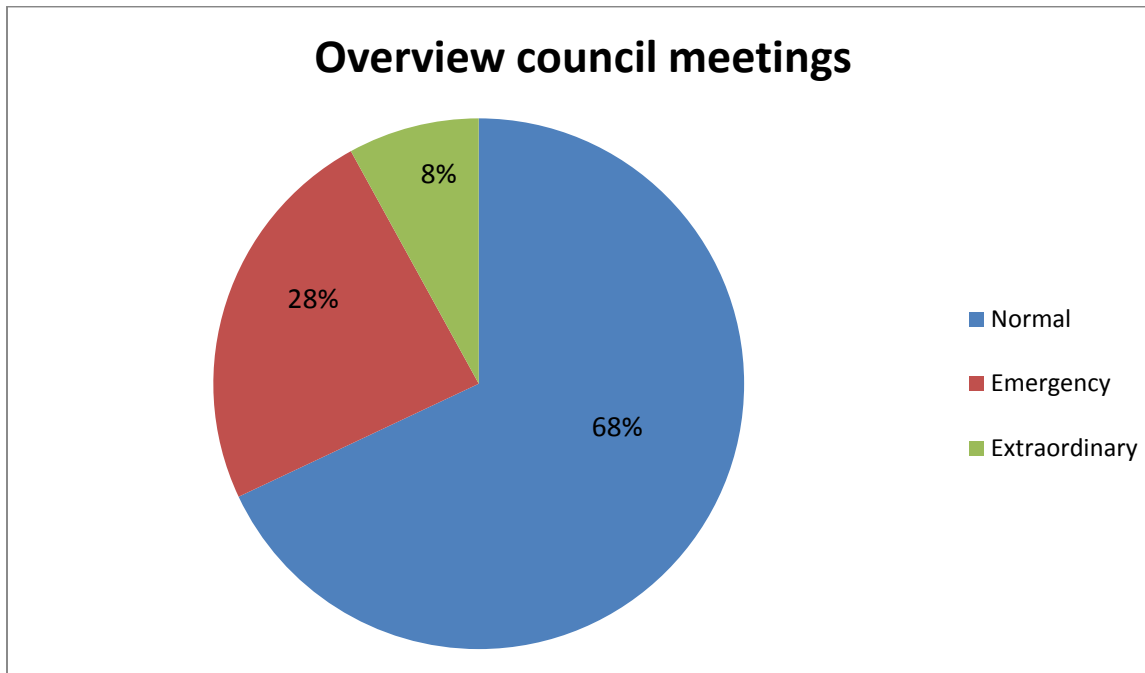
CoA Number	Subject	Date of advice	Conclusion (in short)	Explanatory report
SM/24-12-LB	Draft National Decree of general order to cancel the price decree of bread on Sint Maarten.	12 March 2013	Not to adopt	No
SM/25-12-LB	Two (2) draft NDs of general order to cancel the: <ul style="list-style-type: none"> • Price decree on petroleum products on Sint Maarten (AB 2000,nr. 24) • Price decree on food(s) on Sint Maarten (AB 2008, nr. 12) 	12 March 2013	Not to adopt	
SM/27-12-LB	Draft ND on measures to establish requirements for the request of a drivers' license.	2 April 2013	To adopt, after consideration	No
SM/30-12-LV	Draft NO regulating the archive system on Sint Maarten	2 April 2013	To send to Parliament, after consideration	No
SM/01-13-LB	Draft ND of general order to establish the amount of the remuneration and attendance fee for members and substitute members of the General Audit Chamber.	28 Feb. 2013	Not to adopt, until consideration	Yes
SM/01-13-LV	Draft NO to adapt various National Ordinances in connection with the succession to the throne. (NO legal technical adaptations regarding succession to the throne.)	28 Feb. 2013	To send to Parliament, after attention has been given	Unofficially obtained
SM/02-13-LB	Draft ND of general order to amend the establishment decree of the Committee Royal Decoration in connection with increase in allowance due to added activities.	2 April 2013	To adopt	No
SM/03-13-LB	Draft ND of general order to adapt various National Decrees in connection with the succession to the throne.	12 March 2013	To adopt, after attention has been given	Yes
SM/04-13-LB	Draft ND of general order concerning appeals lodged by Civil Servants.	21 May 2013	To adopt, after consideration	No
SM/05-13-LB	Draft ND of general order (dated) to amend the Organization Decree of General Affairs and the Organization Decree of Public Housing, Spatial Planning, Environment and Infrastructure in connection with transferring the task of providing street names and street numbers.	7 May 2013	To adopt, after consideration	No
SM//02-13-LV	Draft NO to amend the NO Institution and Organization Government of Sint Maarten amending the naming and embedding of certain parts of the organization and other legal technical adaptations.(NO to amend NO Institution and Organization Country Sint Maarten)	7 May 2013	To send to Parliament	Yes
SM/06-13-LB	Draft ND of general order to amend the ND Institution and Organization of the Secretariat of the Council of Advice.	2 April 2013	To adopt	Yes
SM/03-13-LV Zie SM/07-13-	Draft NO regarding the increase of the old age pension and pension age	22 October 2013	To send to Parliament, after consideration	Yes

CoA Number	Subject	Date of advice	Conclusion (in short)	Explanatory report
LV				
SM/04-13-LV	Draft NO to ratify the Cooperation Regulation concerning uniformed legal proceedings for Aruba, Curaçao and Sint Maarten	8 October 2013	Not to send to Parliament	No
SM/08-13-LB	Draft ND of general order to amend article 13 of the Electoral Decree pertaining to simplifying the requirements of the ballot boxes.	20 August 2013	To adopt	Yes
SM/06-13-LV	Draft NO to amend the approved NO draft budget 2013.	2 Sept. 2013	Not to send to Parliament, until consideration	Yes
SM/07-13-LV Zie SM/03-13-LV	National Ordinance old age pension regarding increase in pension benefits and in pension age with inclusion of the advice of the Social Economic Council (SER).	22 October 2013	To send to Parliament, after consideration	Yes
SM/08-13-LV	Draft NO to amend the NO Basic Civil Servants' Right regarding organized consultation on the legal status of Civil Servants.	12 Dec. 2013	To send to Parliament, after consideration	No
SM/09-13-LV	Draft NO to amend the NO on Sanctions due to the execution of the Sanction Ordinances or Sanction Decrees of the European Union.	23 Dec. 2013	To send to Parliament, after consideration	Yes
SM/10-13-LV	Draft NO pertaining to the establishment of tariffs for judicial services and transactions and the amendment to the Fee Ordinance.	18 Dec. 2013	To send to Parliament, after consideration	No
SM/11-13-LV	Draft NO to amend the NO on Admittance and Expulsion and the Fee Ordinance of 2013, with accompanying Memorandum of Elucidation.	23 Dec. 2013	To send to Parliament, after consideration	Yes
SM/09-13-LB	Draft ND of general order to amend the Admittance Decree to accommodate levying administrative and retribution charges.	23 Dec. 2013	Not to adopt	No
SM/12-13-LV	Draft NO to establish the budget of country Sint Maarten for the year 2014. (NO budget 2014)	12 Dec. 2013	Not to send to Parliament, until consideration	Yes
SM/10-13-LB	Draft ND of general order to establish the yearly contribution benefiting the General Fund Private Medical Expenses and cutting back on expenditure in connection with medical costs.	23 Dec. 2013	Not to send to Parliament, until consideration	Yes

A selection of issued advices in 2013 is found in annex 4.

3.2 Meetings

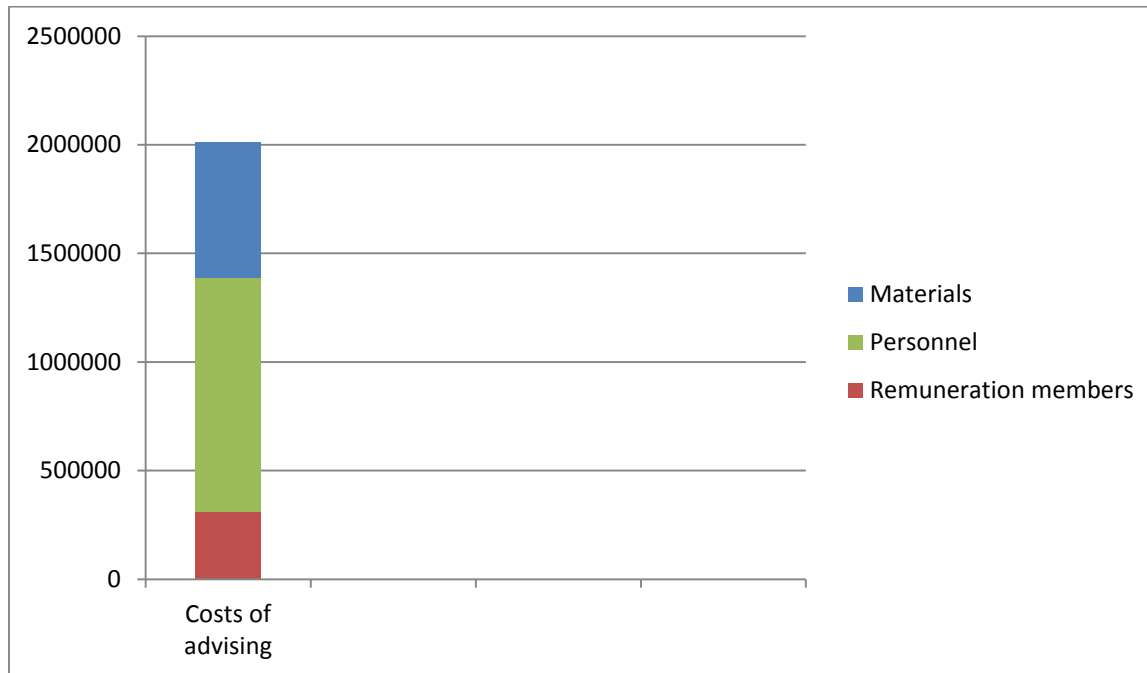
A total of 25 council meetings were held during the year, including 17 regular meetings, 6 emergency meetings and 2 extraordinary meetings chaired by the Governor.



Notes:

3.3 Expenditures

The total costs of advising by the Council was budgeted in 2013 at NAf. 2,010,503.00.



Notes:

4. Theme: Language issue in legislation

Legislation in the English language.

On January 15, 2013 the Council received 2 draft initiative legislations to give advice on.

The first one was a draft to amend the regulation pertaining to timeshare. The second one was about the establishment of a timeshare authority. What was remarkable about these draft laws is that they both were written in the English language. The Council held deliberations about the consequences of introducing legislation in the English language whereby the Secretariat of the Council played a very supportive role.

After many and long deliberations, the Council sent a letter to Parliament indicating that in the interest of legal certainty, the Council advises to translate the submitted law from the English language into the Dutch language and then present it to the Council of Advice.

The following issues were extensively discussed during the meetings of The Council:

- The Concordance principle and uniform legislation should always be taken into account and adhered to;
- There is a Constitutional duty to guarantee legal certainty;
- The Constitutional stipulation that there are two official languages, namely the Dutch and the English language. The availability of the Dutch regulations translated in the English language within a reasonable timespan;
- The statement in the elucidation of the Ordinance Official Language (LOT) that the role of the English language in jurisdiction (administration of justice) and in legislation should be limited until a few conditions are met; e.g. the establishment of legal and legislative terminology in the English language and also that enough capable judges and legislative lawyers are available;
- The possible risks for the incompatibility of the existing Dutch legislation if one chooses to use the English language for legislation at this present time;
- Dutch legislation should prevail until Government, together with Parliament, decide otherwise;
- The possible need of a plan of approach with short term and long term goals to map out what the legal, social and economic consequences are as well as to what extent there is the capacity to absorb the change in legislative language.

In studying the dual language issue it is very important that we take into account the history and the origin of our legal/judicial system. Sint Maarten's legal system is based on the Dutch

system. The Dutch legal culture originates from the Roman-Franco tradition, as far as the civil laws are concerned, while the public law has a partly autonomous development. Nevertheless the public law also attests to strong French and German influences. Apart from that, public law is in continuous contact with the civil law: we are dealing with one legal system with a consistent terminology dynamic.

When choosing for legislation in the English language, the legal terminology would be derived from the Anglo-American legal system. The (Anglo-) American law has a completely different culture and approach from that of the European-continental approach to which the Dutch (and therefore also the Sint Maarten) legal culture belongs, and use entirely different terms.

The existing Sint Maarten law as stated before is surely, as far as the legal culture is concerned, of Dutch origin. That goes as well for the structure, the mindset and the legal terminology. This is the reason why the Charter requires concordance in many aspects. Within the Kingdom there should be unity and uniformity of legislation. Different legal systems in one Kingdom would only lead to confusion and legal uncertainty. All countries within the Kingdom should strive together to guarantee the highest possible quality of legislation. The Caribbean part of the Kingdom can also make use of the Continental European part of the Kingdom's jurisprudence, without being obstructed in making our own choices. In Indonesia, a country that was part of the Dutch Kingdom, the transition to Bahasa Indonesia was inevitable. It has been experienced there how much maintaining contact with the origin of the legal culture, remained a necessity. Australia, neighboring country of Indonesia with their Anglo legal origin, has tried to help enhance the quality of the Indonesian legislature. They had to stop their attempts because the legal cultures were too far apart. At this moment the contact with the Netherlands has reassumed. For Sint Maarten the situation will not be any different. The contacts with the Dutch legal system (in the broadest sense) just can't be missed.

Aside from the legal history and the origin of our legal system, the translation choice is of great importance. The Council distinguishes four different possibilities for the translation choice of existing Dutch regulations into English, translation equivalents:

1. the functional equivalence;
2. the literal equivalence;
3. a descriptive translation and;
4. a defining translation.

The defining as well as the descriptive translation are likely to be relatively lengthy. In addition there is the risk that the translation could be interpreted by the reader in a way that was not the intention.

With the literal translation, the length of the text does not differ much from the Dutch text that is to be translated. The translation can be regarded as being equivalent to the Dutch legislation, with the stipulation that the Dutch language must prevail. Here too you run the risk of issues of misinterpretations of the translated text by the reader.

The danger of using the functional equivalent in the translation is that with the functioning of the legal term within a legal system, very often the meaning of that terminology deviates or has gotten a more nuanced interpretation that should be brought forward in the translation. An example thereof is: the English term “crimes against humanity” which can be translated into Dutch as “misdaden/misdrijven tegen de mensheid/menselijkheid”. In colloquial language the translation thereof is quite clear while a judicial/legal translation is much more complicated. An additional difficulty is the fact that legal documents are characterized by antiquated usage of the Dutch language.

It is of great importance that the chosen translation renders the meaning of the Dutch term in its context as unambiguous as possible. The user of the translated text should be able to understand the text without the risk of misconceptions. With Dutch legislation it is not possible to understand the text without a reasonable command of legal knowledge; the same is required for the translation into English. The Council is of the opinion that one should strive for clarity and simplification of legal regulations; strive for a steady distinctive quality thereof and that stipulations are formulated as concise as possible. Also words of which the meaning is unclear should not be used at all. In translating this will mean that the English texts must fulfill the same requirements of conciseness and clarity.

The decision about the language or languages in legislation is a very complex decision with extreme far reaching consequences that are difficult to oversee in its totality. Because of the possible geographical influence and the societal effect, this decision should be taken with utmost prudence.

In conclusion, the Council reiterates that an integral political decision pertaining to this issue is therefore of paramount importance.

5. ANNEXES

5.1 Annex 1: Assessment tools Council of Advice

The policy-analytical assessment

The policy-analytical assessment 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 policy-analytical assessment consists of three sections:

1. **Description of the problem:** What is the problem? Why is this a problem? And for whom? What is the context? These and other questions come up for discussion.
2. **Approach to the problem:** is this regulation a(n) (effective) solution for the defined problem?
3. **Execution and enforceability:** is the proposed execution adequate and can the regulation be enforced? Are there sufficient means and manpower available to execute and enforce the regulation?

When dealing with the policy-analytical assessment, the Council though not necessarily exclusively, shall examine the question whether or not and if so, to what extent the measures which are encountered in the draft law are proportional and effective for the intended purpose. The Council respects the fact that the development of the chosen policy is the prerogative of Government and/or Parliament, and therefore exercises restraint while analyzing the policy.

The judicial assessment

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

1. **Review against higher laws:** is the proposal in conflict with (international) higher laws? The Council examines written as well as unwritten laws.
2. **Does it fit within the existing law:** does the proposal fit within the existing legal system? Furthermore, is the draft proposal even necessary within this framework?

The legal technical assessment

With the legal technical assessment the technical quality of the proposal and the elucidation to the proposal are evaluated. Technical aspects such as logical and systematic structure, consistency and terminology are assessed. This assessment is effectuated on the basis of the Instructions for regulation of Sint Maarten (in Dutch: *Aanwijzingen voor de regelgeving*) and the manual for the development of laws and regulations of Sint Maarten (in Dutch: *Draaiboek voor de regelgeving*).

5.2 Annex 2: Secondary activities of the members in 2013

Name	Secondary activities
Mrs. Mavis Brooks-Salmon LL.M. MA (Vice-chair also member)	-
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 - Managing Director of The Windward Islands Bank (until the 30th of Jun 2013) - Advisor of The Windward Islands Bank (as of the 1st of July 2013) - Member of the Integrity Committee Sint Maarten (as of October 2013) - Chairman of the Sint Maarten Bankers Association
Mr. Gaston Bell LL.M. (Member)	<ul style="list-style-type: none"> - Attorney at HBN Law - Member of the Sint Maarten Bar Association - Substitute Member of the Disciplinary Board of Lawyers - Board member of the Foundation for Hope & Music Development - Board member Diamond Avandero Corporation N.V. - Congregational Steward Methodist church Sint Maarten - Member of the Taskforce Methodist Church Building Project

<p>Mr. Marcel Gumbs (Member)</p>	<ul style="list-style-type: none"> - Director M.F.A. Gumbs & Associates N.V. d.b.a. M.G.C. & Associates - Director Blue Green Recycling N.V. (presently not active) - Director Flydom N.V. d.b.a. Jetbudget - President of the La Chaine des Rotisseurs Foundation of Sint Maarten - Member of the Friends of the Library Foundation
<p>Mr. Louis Duzanson (Member)</p>	<ul style="list-style-type: none"> - Chairman of the Corporate Governance Council
<p>Mr. Dennis Richardson (until March 2013) (Extraordinary member)</p>	<ul style="list-style-type: none"> - Member of the Kingdom Council of State for Sint Maarten in The Netherlands
<p>Mrs. Marcella Hazel (Extraordinary member)</p>	<ul style="list-style-type: none"> - President of the Foundation Advanced Vocational and Adult Education (NIPA) - Official translator by Federal Decree - Advisor of the Community Council of Reward
<p>Mr. Rik Bergman LL.M. (Extraordinary member)</p>	<ul style="list-style-type: none"> - Partner at BSZE Attorneys at Law/ Tax Lawyers Sint Maarten - Board member of the University of St. Martin - Member of the Disciplinary Board of Lawyers - Member of the Sint Maarten Bar Association
<p>Mr. Miguel Alexander LL.M. (Extraordinary member)</p>	<ul style="list-style-type: none"> - Chairman of the Antillean & Aruban Notary Association - Commissioner of: <ul style="list-style-type: none"> • F. van Lanschot Overseas N.V. in Curaçao; • 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 the following BCD/Boron entities:

- **BCD Travel N.V.;**
- **BCD Holdings N.V.;**
- **Boron Management N.V.;**
- **PHC Ananzi N.V.;**
- **PHC Arend Holding N.V.;**
- **PHC Bever Holding N.V.;**
- **PHC Dolfijn Holding N.V.;**
- **PHC Iris N.V.;**
- **PHC Poppy N.V.;**
- **PHC Castor Holding N.V.;**
- **Taviant N.V.**

- Director/owner of:

- **Cazalex Holding B.V.;**
- **Notarispraktijk Alexander N.V.;**
- **Cazalex Pensioenen N.V.**

- Director of:

- **Foundation development Netherlands Antilles (SONA);**
- **Foundation Pension Fund RBTT Bank;**
- **Foundation Red Cross Bloodbank;**
- **Foundation Cazalex;**
- **Foundation private fund Cazalex;**
- **Sint Maarten Cultural Foundation in Curaçao**

5.3 Annex 3: Rules of Conduct

The Council of Advice strives to guarantee the principles of democracy and the Rule of Law in Sint Maarten, by providing independent advice to Government and to Parliament, which is effective, accurate, and of high quality. In order to realize this, the core values of the Council are taken into account at all times. These values relate to: integrity¹, soundness² and justice³.

The integrity, soundness and justice aspects of these rules of conduct are already included in the Rules of Order of the Council of Advice. More specifically, these rules ensure that the independence and the impartiality of the Council, its vice-chair, members and extraordinary members are guaranteed individually. These rules are discussed in the paragraph below titled 'Guaranteeing Impartiality and Independence of the Council' and are the foundation for the proper and reliable functioning of the Council.

In short, the Council of Advice is an independent body, which in spite of possible external pressure shall not give advice in any other way than for which it stands. In the rules of conduct, an explanation is given regarding the manner in which the Council of Advice shall preserve its independence. Furthermore, in the rules of conduct in question, attention has been given to avoiding (political) partiality and the semblance of such. This entails that the vice-chair, the members and the extraordinary members of the Council of Advice shall state their views regarding the topics of advice, without (political) prejudice. The vice-chair, the members and the extraordinary members are also expected not to publicly propagate any political preferences, for example by affixing party-political stickers to their cars or attaching such flags to their cars.

In order to strive for the highest quality and impartiality in its advice, the Council will utilize assessment tools previously agreed upon covering three areas, namely (1) the policy-analytical assessment, (2) the judicial assessment and (3) the legal technical assessment. The advice shall not be realized on any other grounds than these. By using these assessment tools one is not only acting impartially in this case, but it further promotes the quality of the advice. After all, the Council derives its authority from the quality and impartiality of its advice.

Prior to compiling the advice the Council uses these assessment tools in order to produce high academic-level advices. The rules of conduct to enhance the quality of the advice shall be discussed below.

1 By integrity is understood: adhering to the legislation because one is convinced that this is the proper manner in which to act, not because of external influences.

2 By soundness is understood: well founded

3 By justice is understood: acting in accordance with democratic and constitutional principles, guaranteeing the fundamental human rights, including social civil rights.

Guaranteeing Impartiality and Independence of the Council

By definition, membership of the Council is a part-time function and is therefore often performed in addition to a main function and/or another job. One must not lose sight of the fact that performing other functions promote the social involvement of the members, which in turn helps the advisory process. The following should, however, be taken into account:

1. Functions incompatible with the vice-chairship and the membership of the Council
 - a. The members and extraordinary members of the Council do not fill any offices or functions which are incompatible with membership and of which performance is undesirable in view of a proper fulfilment of the membership in the Council or the confidence therein.
2. Reporting main and other functions
 - a. Every (extraordinary) member must submit a written report to the vice-chair of his main or other functions, paid or not paid, at the time of or after his appointment.
 - b. The vice-chair submits a written report of his main or other functions, paid or not paid, which he holds at the time of or after his appointment, to the Council.
3. Criteria for main or other functions and other issues, which could cause a conflict of interest.
 - a. A conflict of interest constitutes a situation in which a person serves more than one interest, which could influence each other to such an extent, that the integrity of either one is at risk. Establishing of conflict of interest is therefore tantamount to the question, whether or not in the case of a(n) (extraordinary) member, other interests play such a role, thereby causing the possibility that an advice may not be realized objectively and impartially.
 - b. As criteria for the other offices or functions to be performed by the vice-chair and the other members of the Council, the following shall be used:
 - The risk that the vice-chair or the (extraordinary) member must excuse himself as a result of another function, personal or business interests;
 - The degree in which the organization or comparable organizations to which the main or other function is related, is a stakeholder, in a topic of advice;
 - The risk of conflict of interest.
 - c. The vice-chair or, as the occasion arises, the Council, subjects the main or other functions to be performed by the (extraordinary) member in question to the criteria mentioned in the abovementioned point.

4. Reporting conflict of interest

- a. Every (extraordinary) member who is of the opinion that there is a matter of conflict of interest involving himself or another member shall bring this to the attention of the vice-chair.
- b. In cases whereby there is a matter of conflict of interest involving the vice-chair, the (extraordinary) member brings this to the attention of the oldest appointed member of the Council.

5. Maintaining independence and impartiality

- a. The vice-chair or the other member in question of the Council shall not participate in the deliberations and shall not cast a vote, if this could be harmful to the impartiality and independence of the Council or if there is the appearance that the impartiality and independence of the Council could be damaged. The (extraordinary) member in question shall not take part in the deliberations in the abovementioned case.
- b. The vice-chair shall notify the (extraordinary) member in question as soon as possible in writing whether or not, in connection with the impartiality and independence of the Council, there are objections to occupying the main or other function; the (extraordinary) member in question neither be able to participate in the deliberations nor vote in regard to the topic at hand. In that case the (extraordinary) member in question shall be heard by the Council.
- c. If it concerns the vice-chair, the notice meant in the previous sentence shall be effectuated by the oldest appointed member. In that case the vice-chair shall be heard by the Council.
- d. If the vice-chair, in connection with the impartiality and independence of the Council has objections to the (extraordinary) member occupying a main or other function, the (extraordinary) member in question will neither be able to participate in the deliberations nor to vote regarding a topic of advice. If this (extraordinary) member persists in occupying the position or function in question, the entire Council shall decide.
- e. If a member or extraordinary member, in connection with the impartiality and independence of the Council has objections to the vice-chair occupying a main or other function or participating in the deliberations and participating in the voting with regard to an advice topic and the vice-chair persists in the exercising of the office in question or the function in question, the entire Council shall decide.

Rules of conduct for promoting quality of the advice.

6. Research.

- a. Before the Council of Advice arrives at a standpoint on the draft proposal for which advice will be given, a thorough research shall be conducted with regard to the topic of the proposal. The Council shall strive to maintain an academic level.

- b. In order to guarantee the objectivity of the Council's advice, the Council of Advice shall rely solely on facts, or on views, which are widely shared academically/based on academic research.

7. Participation of members and extraordinary members

The members and extraordinary members shall make their expertise available before the start of the research and before a draft advice is drawn up.

8. Guaranteeing the quality of the advice

The Council of Advice shall take the time necessary to come to an advice.

9. Foundations for assessments

The Council of Advice reviews a draft or proposal solely on the basis of the previously established assessment tools, consisting of a policy- analytical, judicial and legal technical assessment. These assessment tools are analogous to those of the Council of State in the Netherlands.

Policy-analytical assessment

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 policy-analytical assessment consists of three sections:

1. **Description of the problem:** What is the problem? Why is this a problem? And for whom? What is the context? These and other questions come up for discussion.
2. **Approach to the problem:** Is this regulation a(n) (effective) solution for the defined problem?
3. **Execution and enforceability:** Is the proposed execution adequate and can the regulation be enforced? Are there sufficient means and manpower available to execute and enforce the regulation?

When dealing with the policy-analytical aspect, the Council though not necessarily exclusive, shall examine the question whether or not and if so, to what extent the measures which are encountered in the draft law are proportional and effective for the intended purpose. The Council respects the fact that the development of the chosen policy is the prerogative of Government and/or Parliament, and therefore exercises restraint while analyzing the policy.

Judicial assessment

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

1. Review against higher law: Is the proposal in conflict with (International) higher law? The Council of Advice looks at the written and unwritten law.
2. Does it fit within the existing law: Does the proposal fit within the existing legal system? And, is the draft proposal even necessary within this framework?

Legal technical assessment

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.

10. Drawing up the advice

The task of the Council of Advice is to think along constructive lines with the legislator and regulator. The advice must therefore be effective and concentrated on the relevant issues which the topic or proposal is related to. If appropriate, the Council may endorse the vision of the legislator or the regulator.

In conclusion

Even though it falls outside of the scope of the rules of conduct, the Council concludes with the following points, which are taken into account for promoting the core values and enforcing the relevant rules of conduct.

These rules of conduct are equally applicable to the Secretariat.

The Council of Advice shall act as transparent as possible. The Council shall publish its advices in its annual report, on its website and in the media, when the advices have been made public by Government. In this way, everyone is able to take note of the activities of the Council. Indirectly these publications moreover, may contribute to the compliance with the rules of conduct. After all transparency offers the possibility of verifying if the Council has complied with the rules of conduct. In order to make the work of the Council as accessible as possible for the local population, advices shall be translated where possible or an English summary shall be provided.

In conclusion the Council of Advice, shall as stated in article 22 of the Rules of Order, execute a self-evaluation, once a year, prior to July 1st, which is solely intended for internal use of the Council, in order for the Council to remain vigilant at all times regarding compliance with the rules of conduct as such. On the basis of this self-evaluation the rules of conduct may be revised if there is reason to do so.

5.4 Annex 4 Selection of the issued advices

5.4.1 Advice on the draft ordinance to amend the Sanction ordinance in connection with the execution of sanction ordinances or sanction decrees of the European Union.

Date advice of the Council:	December 23rd, 2013
Summary:	The draft ordinance aims to amend the Sanction ordinance, to make the Kingdom policy as uniform as possible in connection with sanctions of the European Union.
Conclusion:	The Council advises Government to send this draft ordinance to Parliament, after the observations of the Council have been considered.

Preamble

The Council noticed that this draft ordinance aims to adjust legal technical deficiencies in the Sanction ordinance, besides the aim to amend the Sanction ordinance, to make the Kingdom policy as uniform as possible in connection with sanctions of the European Union. The Council advises to not only mention this in the explanatory memorandum, but also in the preamble. Furthermore, the Council advises to amend article 2 of the Sanction ordinance in accordance with article 2a of the draft, to maintain unity and clarity pertaining to the contents of the ordinance.

Cross-references

The Council is of the opinion that the cross-references that are mentioned in the draft ordinance unnecessarily complicates the draft. Instruction 61, second paragraph, of the Legislative instructions (in Dutch: Aanwijzingen voor de regelgeving) mention that it is preferred to avoid cross-references.

5.4.2 Advice on the draft ordinance to establish the budget of country Sint Maarten for financial year 2014.

In accordance with the Constitution of Sint Maarten, the draft budget is to be presented to Parliament no later than the first of September. This deadline was exceeded last year. The draft budget for 2014 was sent at the end of November 2013 to the Council for advice. The Council decided to hold additional council meetings from that time and worked tirelessly to advice on the draft budget and all other related draft laws and regulations, to ensure that the country would not be confronted with an Instruction of the Kingdom Council of Ministers. The advice regarding the draft budget was established within three weeks, on the 12th of December 2013.

Date advice of the Council:	12th of December 2013
Summary:	The draft ordinance aims to establish the budget for the Country for the year 2014.
Conclusion:	The Council advises Government not to send this draft ordinance to Parliament, until the observations of the Council have been considered.

What follows are the most important considerations of the Council:

General remarks

The Council notes that it is of the utmost importance that the budget is fully conclusive and that it is written down in a way that is orderly and controllable. The Council finds that in regards to the accompanying information in the General Considerations (in Dutch: Algemene Beschouwingen) the draft budget is more clear pertaining to the intentions and the plans for the coming year. Nevertheless, the Council notes that information regarding the policies is insufficient. The objectives, the operations that are required and the costs involved are very limited described.

The yearly reports

With the absence of the (provisional) yearly reports of 2012, an important source of information is missing that, together with the accompanied explanations, provide insight in the financial position of the public sector.

Capital investments

The Council notes that significant investments are planned for the year 2014. An estimated NAf 295 million will be invested. The Council notes that these investments are either not or very briefly explained. Because of this, it cannot be determined whether the budgeted capital expenditures are a realistic estimation.

The financing of the Government building by the General Pension Fund (APS)

In paragraph 6 of the summary of the General Considerations (page 12) it states that there is a striving to engage with the APS regarding the financing of the Government building. The APS would make the building ready for use. The Government would then rent the building from APS. This would result in a net deduction of Government debt of NAf 48 million. The Council notes that this intention of financing is only mentioned in the summary of the General Considerations, but not in the Budget Book (in Dutch: Begrotingsboek).

The Council is of the opinion that the explanation associated with this form of financing, which could have significant financial and legal consequences for stakeholders, is too limited described in the General Considerations.

The Kingdom Act on Financial Supervision (Rijkswet Financieel Toezicht Curaçao en Sint Maarten)

Article 14, first paragraph, of the Kingdom Act on Financial Supervision states that the Board of Financial Supervision (CFT) must receive, or have a prospect of receiving an adopted budget not later than on the 15th of December of each year. The Council gives Government into deliberation that these requirements are also applicable for this budget.