



General Audit Chamber

Algemene Rekenkamer

Administrative Appointments

An audit into the legitimacy and integrity of administrative appointments of supervisory board members

October 2016

This report is an English translation of the original document entitled "Bestuurlijke Benoemingen". In the event of textual contradictions or any other differences, the original Dutch text will prevail.



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PREAMBLE

The Board of the General Audit Chamber approved the project “Administrative Appointments” in 2016. With this project, the General Audit Chamber investigates which persons occupy supervisory board member positions (or similar functions) from 2014 going forward. In conducting this investigation, we focus on the actions of the respective minister responsible for appointments. The minister who represents a government entity is one of the responsible parties (if not the most important party), and must - at all times - be able to provide insight into the appointment process. Political appointments, conflicts of interest and dishonest acts should be avoided. The objective should be the placement of the most qualified person(s) in (a) suitable position(s). This is particularly necessary in the case of government-owned companies where remittances to government can amount to millions. In other words, there is a lot at stake. As with our 2014 report entitled “Baseline Study Sint Maarten, state of affairs institutional integrity management 2014”, we once again address the topic of integrity.

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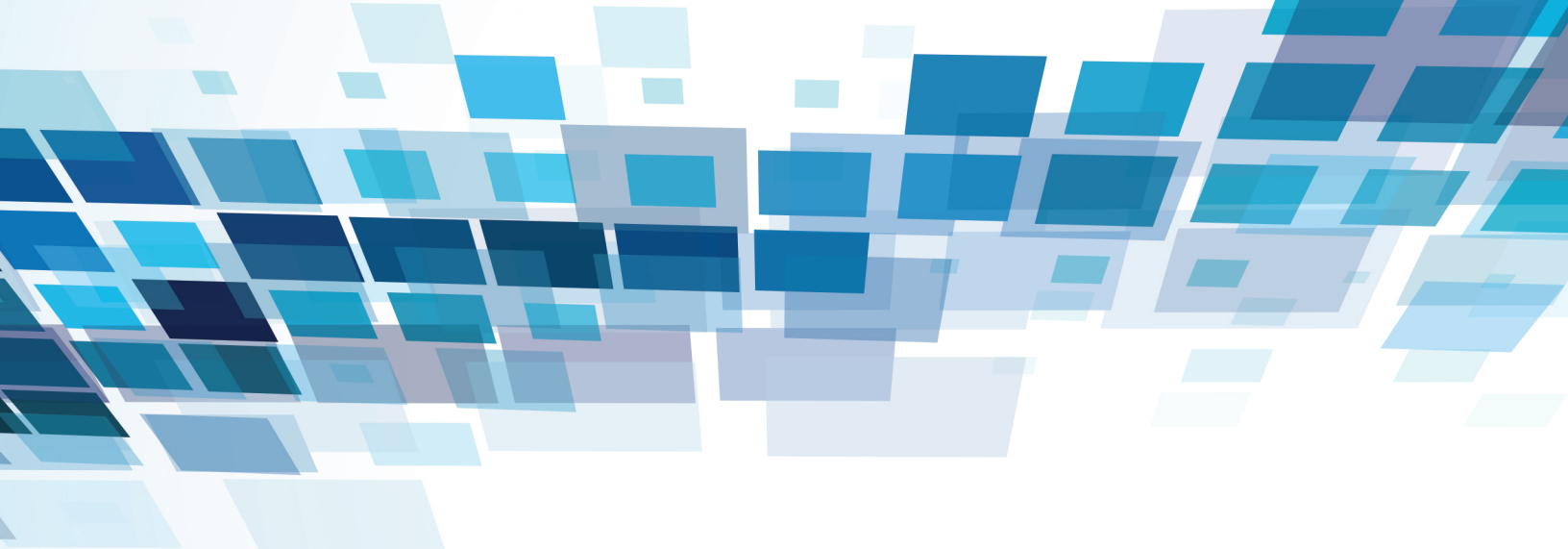
Lack of transparency in administrative appointments of supervisory board members constitutes a threat to the integrity of government. After St. Maarten obtained the status of country within the Kingdom, legislation came into effect with the aim of achieving effective business practices.

During our audit, we found that:

1. there is little, if any, transparency concerning the appointment procedure;
2. politically motivated appointments are possible;
3. supervisory board members are often involved in important decision-making; and
4. security screenings are not applicable for supervisory board members.

The lack of transparency is worrisome. As we indicated in our report “Baseline Study Sint Maarten, state of affairs institutional integrity management 2014”, we believe integrity (and therefore the transparency of the actions of the minister) is a prerequisite for confidence in government.

During the audit, we repeatedly requested information from ministers regarding the names of members of supervisory boards (or similar bodies). Obtaining information proved difficult. Deadlines for the submission of information were often exceeded, or even ignored. In that regard, we feel that the ministers in question displayed a disregard for our authority as stipulated by the National ordinance General Audit Chamber. Ultimately, we were able to obtain the information through other means, such as through interviews and from public sources (for example: Chamber of Commerce and publicly available annual reports). We present our results in this report.



We list (as much as possible) the names of the members of the supervisory boards (or related bodies) of the 35 entities reviewed. The entities are listed in Annex 1. Regarding the government-owned companies and foundations, we investigated whether the appointment procedure was correctly applied. Ministers were asked to verify the findings stated in the report. The Minister of General Affairs was the only minister who responded.

We are of the opinion that articles 8 and 9 of the National ordinance Corporate Governance, which describe the appointment- and profile procedures, are unclear. Adjusting the ordinance to clearly define the authorities of the minister is advisable.

We were unable to establish whether the Corporate Governance Council provided the legally required advice for 22 of 44 persons reviewed in our investigation. We also determined that security screenings are not applicable for supervisory board members (or related bodies), with one exception; the board of the General Pension Fund Sint Maarten.

Entities of major economic and strategic value should not be allowed to negatively impact the country's finances, especially in light of government's present precarious financial situation. Compliance with regulations related to effective business practices, transparency and integrity, is therefore essential.

SUMMARY

RECOMMENDATIONS

Regarding the role of ministers, we issue the following recommendations:

- ensure that the representing minister is aware of his rights and obligations, and encourage government-owned companies and foundations to provide documentation (such as annual reports and accounts) in a timely manner, as well as in accordance with the laws and articles of incorporation;
- make sure that the process of appointment is transparent, and that information regarding an appointment is always available;
- rescind the National ordinance Corporate Governance of the Netherlands Antilles, if this has not yet been accomplished;
- adjust article 9 of the National ordinance Corporate Governance so that the article is unambiguous in terms of the authority of the minister regarding the appointment of (or a recommendation to appoint) a board member. The same should be done for article 8 which regulates the authority of the minister in determining the procedural rules and establishing the profile of board members;
- require mandatory security screenings for supervisory board functions; and
- modify the National Decree establishing confidential functions and conducting security screenings, to easily allow the additions of new entities when necessary. Consider establishing a committee similar to the appointment committee for the Electoral Council. This committee will determine which functions are designated as confidential functions based on established criteria.

Regarding Parliament, we make the following recommendation:

- ensure that the minister representing a government-owned entity, correctly applies the appointment procedure. The communication and advices from the Corporate Governance Council should be used to support this effort.

1. THE AUDIT

With this report of the General Audit Chamber (hereinafter: Audit Chamber), we address the subject of the appointments of persons in supervisory boards (or similar entities) of government-owned companies and foundations. The Audit Chamber investigated whether the representing minister(s) correctly applied the procedure as stipulated in the National ordinance Corporate Governance (hereinafter: NOCG).¹ The point of departure for our audit was the year 2014. We focused on the execution of the authority of the responsible minister(s), and not on the authority of the entity, the supervisory board members or the council members themselves.

1.1 THE BASIS FOR THE AUDIT

It is clear that in cases where the appointment procedure of the NOCG is applicable, the minister must comply. In this report, we establish that the minister may ultimately deviate from the recommendation of the Corporate Governance Council (hereinafter: CGC).² Such a deviation is lawful.

However, the appointment procedure must be transparent and carried out in keeping with the principles of integrity. As such, we address the subject of good governance. After all, it remains within the purview of the minister to appoint a person of his choosing because he can deviate from the advice of the CGC. We have therefore chosen to conduct an integrity audit³ that includes regulatory aspects.

1.2 PURPOSE OF THE AUDIT

The audit has multiple objectives. First of all, we wish to establish whether appointments were done in accordance with the correct procedure. Where applicable, we reviewed the use of mandatory security screenings.

We also sought to identify which persons served on what supervisory board in the period 2014 to date. Based on that overview, we reviewed the applicability of the NOCG appointment procedure, as well as compliance with said procedure. Our review allows us to establish the level of transparency of the procedure. We have tried to report using information that is as up-to-date as possible (cutoff period coincides with the end of the consultation period at the end of September, 2016).

1.3 AUDIT QUESTIONS

In this report we attempt to answer to the following questions:

1. Who are the supervisory board members and council members of government-owned entities, organizations falling within the collective sector, as well as other entities from 2014 to date?
2. Did the representing minister act in accordance with the laws and regulations related to the appointment of supervisory board members and council members?

1.4 AUDIT FRAMEWORK

We reviewed the following entities⁴:

- Entities in the collective sector: every two years, the Minister of Interior and Kingdom Relations and the Minister of Finance of St. Maarten designate certain legal entities as belonging to the collective sector.⁵ These legal entities form the collective sector. Establishment of the collective sector is important for the borrowing capacity of St. Maarten.

1. In this report we used AB 2013, GT no. 19, which is the former Island ordinance Corporate Governance.

2. Article 9, fifth paragraph, of the National ordinance Corporate Governance.

3. Article 33, first paragraph, of the National ordinance General Audit Chamber.

4. The names of all entities that fall within our audit scope are listed in Annex 1.

5. Article 23 of the Kingdom Act Financial Supervision Curaçao and Sint Maarten.

The entities that fall within the collective sector are⁶:

- Uitvoeringsorgaan Sociale- en Ziektekosten Verzekeringen Sint Maarten
 - Marven N.V.
 - Sint Maarten Laboratory Services N.V.
 - Stichting Overheidsgebouwen Sint Maarten
 - Foundation Upkeep Sports Facilities
 - Small Business Development Foundation
 - Stichting Vrijwilligerskorps Sint Maarten
 - Stichting Sport Ontwikkeling
 - Sint Maarten Development Fund
 - Mental Health Foundation
 - Sint Maarten Medical Center
 - Stichting Sint Maarten Student Support Services
 - Gouvernement Opvoedings Gesticht
 - Stichting Justitiële Inrichtingen Bovenwinden
 - Bureau Telecommunicatie & Post
- Government-owned companies: these are companies in which government holds an interest. The 2014 financial statements of the country⁷ contain an overview of the government-owned companies.⁸ Figure 1 provides an overview of the companies and the percentage of shares owned by the Sint Maarten.

Figure 1: Overview of the companies, in which government has an interest (in %)

Company name	Shares owned by the Country (in %)
C-Post	25
DC-ANSP	18.75
Gebe	100
Luchthaven Veiligheid Financiering Maatschappij	100
Marven	100
Ontwikkelingsbank Nederlandse Antillen ⁹	9.81
PJIA Holding Company	100
Postal Services St. Maarten	100
Saba Bank Resources	28.23
St. Maarten Economic Development Corporation	100
St. Maarten Harbour Holding Company	100
St. Maarten Laboratory Services	100
St. Maarten Telecommunication Holding Company	100
UTS Telecommunication Services	7.83
Windward Airways International	92.05

6. *Determining the collective sector, interest expense norm and interest expense, 2013*, issued by SOAB to the Department of Statistics.

7. The 2015 financial statements of the country were not yet available at the time of preparation of this report.

8. Article 29, section f, of the National Government Accounting ordinance.

9. There are no members appointed by St. Maarten according to e-mail correspondence dated May 20, 2016, from the Managing Director of the OBNA. Therefore, this entity is excluded from the investigation.

- Other entities:
General Pension Fund St. Maarten (APS): government is obligated to pay pension premiums based on the gross salary of public servants.¹⁰

High Councils of State (with the exception of Parliament and the Ombudsman): Board- and council members receive remuneration from public funds. There is no board or council for the Ombudsman and as such, this entity is excluded from our investigation.

Social Economic Council: a permanent advisory body of government. Board members receive remuneration from public funds.

Electoral Council: members of this council receive remuneration from public funds. As such, they form a part of this investigation.

Corporate Governance Council: members of this council received financial advances from public funds.

The appointment procedure of the NOCG is not applicable on the 'other entities'. We elected to only list the names of the board members. The information is presented in Annex 1.

1.5 CONTENT

In chapter 2 we provide an overview of all supervisory board members and council members. Annex 1 is an important element in this regard. In addition to the names, we cite the source of our information and, where possible, we indicate the date of appointment and resignation of members. We also note that there are possibly two National ordinances Corporate Governance currently in force. The chapter concludes with a paragraph regarding the absence of security screenings for members of supervisory boards.

Chapter 3 provides an explanation of Corporate Governance. The role of the CGC is discussed in relation to the NOCG. We explain the concept of (co-)decision authority of a minister as this relates to the appoint procedure. The role of the Council for financial supervision (hereinafter: *College financieel toezicht - Cft*) in terms of Corporate Governance is found at the end of the chapter.

In Chapter 4 we report our audit results. We also present findings about the transparency of the process of administrative appointments. We conclude the chapter with the findings on other topics stemming from the audit.

The Minister of General Affairs responded to our report on September 8, 2016. Reactions from the remaining ministers have not been presented to us. The CGC provided input on September 23, 2016. We provide an epilogue based on the responses from both the Minister of General Affairs and the CGC. The epilogue can be found in Chapter 5.

10. Article 58 of the Pension ordinance Public Servants.

2. THE SUPERVISORY BOARD AND COUNCIL MEMBERS AS OF 2014

In chapter 2, we provide a listing of the members of supervisory boards or councils for the period 2014 to date. We base our findings primarily on annual reports, financial statements, information from the Chamber of Commerce and other public sources. In cases where no annual report was available, we approached the entity directly requesting that they provide documentation and/or the names of the supervisory board members.

2.1 REQUESTING INFORMATION: ANNUAL REPORTS 2014

In mid-May 2016, we issued requests for information to all of the ministries concerning the appointments of supervisory board members and council members. Provision of information was at best sporadic. We cannot determine the reason for the lack of information. Deadlines for the submission of information were often exceeded or ignored.

In this regard, we feel that the ministers in question have shown a disregard for our authority as set forth in the National ordinance General Audit Chamber. It is a requirement to provide us with information. Due to this situation, we resorted to seeking information from other sources.

2.2 THE DATA ANALYSIS

The listing of persons holding supervisory functions is presented in Annex 1 of this report. The listing is organized, where available, by name of the holder of a supervisory function for the period 2014 to date.

2.3 APPLICABILITY OF TWO NATIONAL ORDINANCES CORPORATE GOVERNANCE?

The Island ordinance Corporate Governance came into force on May 11, 2009, for the Island Territory of St. Maarten.¹¹

In addition, the National ordinance on Corporate Governance of the Netherlands Antilles came into force on December 29, 2009.¹² Based on the National ordinance transitional legal and administrative provisions,¹³ both the Island Ordinance Corporate Governance and the National ordinance Corporate Governance of the Netherlands Antilles (valid on Sint Maarten), came into force as of October 10, 2010. Figure 2 is a representation of the situation.

Figure 2: Commencement of the National ordinances Corporate Governance



11. AB 2009, no. 10.

12. P.B. 2009, no. 74.

13. AB 2010, GT no. 30.

2.4 SUPERVISORY FUNCTIONS ARE NOT CONFIDENTIAL FUNCTIONS

The Security Service of St. Maarten (hereinafter: Veiligheidsdienst Sint Maarten - VDSM) conducts security screenings for persons who will or already hold vital functions. These functions are considered critical to the country or certain areas of the private sector.¹⁴ The appendix to the National Decree establishing confidential functions and the conduct of security screenings (herein after: the National Decree confidential functions), lists the confidential functions.¹⁵ The confidential functions that fall within our audit are presented in Figure 3.

Figure 3: Confidential functions that fall within the scope of our audit

Function	Reason for designation
Vice-Chair of the Council of Advice	Possibility of structural knowledge of highly confidential state secrets.
Chairman of the General Audit Chamber	Possibility of structural knowledge of highly confidential state secrets.
Board of the General Pension Fund	Vital function. Impairment of integrity.

The appendix is an integral part of the National Decree confidential functions. The National Decree security screenings needs to be amended if an expansion of the list in the appendix is necessary.¹⁶ Required expansion may be necessary, for example, because of the establishment of new (vital) entities.

This procedure can lead to undesirable situations. New entities are currently not listed. The Bureau Intellectual Property and the Sint Maarten Tourism Authority are not on the list. A security screening is therefore not required. It was evident from the start that the list was not comprehensive. The ability to easily amend the list is a legislative oversight.¹⁷

As long as functions within new entities are not designated as vital, security screenings do not apply.

14. For more information on security screenings, see: Vertrouwensfuncties en veiligheidsonderzoeken, brochure of VDSM, November 2011.

15. National Decree containing general measures, AB 2012, no. 9.

16. In accordance with article 43 of the National ordinance Security Services Sint Maarten, confidential functions can also be designated in other national decrees, containing general measures. This is an undesirable situation and could result in a proliferation of confidential functions.

17. Interview with VDSM dated April 12, 2016. During the interview it was also indicated a project to evaluate the National Decree is ongoing.

We note that the list does not mention members of supervisory boards or similar bodies. These functions are not considered confidential functions, with one exception; board membership of the General Pension Fund. A supervisory board is primarily intended to exercise supervision of the governance of an institution in the interest of the community.¹⁸ Supervisory board members often decide on the legal status of management, approve decisions and advise management.¹⁹

A supervisory board -in many cases- will be aware of sensitive information or state secrets. The fact that in some cases supervisory board functions are not designated as vital, can be considered an omission.²⁰

A (candidate) member of a supervisory board is often aware of sensitive information and / or state secrets. He may be empowered to make important decisions. Such a person is not subject to a security screening.

The establishment of a committee tasked with designating vital functions, instead of a list, should be considered. Political influence should be avoided. The appointment committee of the Electoral Council can be used as an example.²¹

18. *Toolkit supervision, introduction*, National registry commissioners and supervisors, 2005.

19. *A future for supervisory boards?* Paragraph 2.4, mr. M.A. Luursema and Prof. dr. M.J.W. van Twist, 2003.

20. Interview VDSM, April 12, 2016.

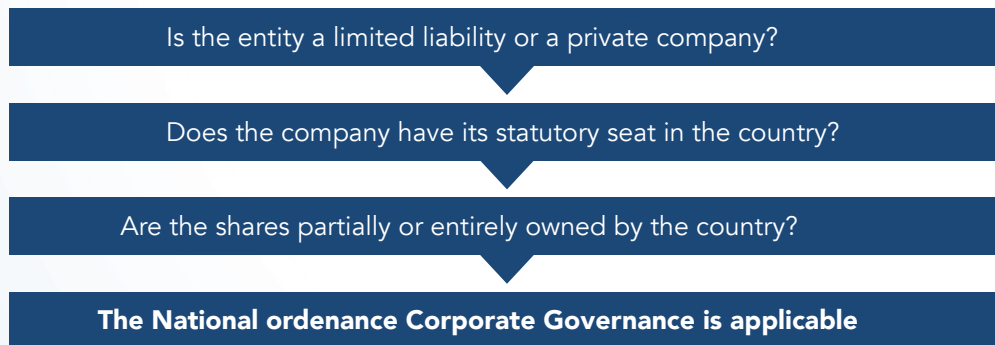
21. Article 5, fourth paragraph, of the National ordinance registration and financing political parties.

In accordance with the NOCG, the term **company** refers to:

“A limited or private company with the statutory seat in the country and whose shares partially or entirely, directly or through a third party, in economic or legal ownership, are owned by the country.”

The NOCG applies in the event that –in simple terms-a company maintains its statutory seat on St. Maarten and the shares are, partly or entirely, in the hands of the country. To determine whether the NOCG applies, the questions in Figure 4 have to be answered.

Figure 4: determining if the National ordinance Corporate Governance and the application procedure are applicable for government-owned companies



In order to answer the questions in Figure 4, we studied the articles of incorporation of the companies. If the answer to any of the first three questions is ‘no’, the NOCG does not apply. The results of our findings are presented in chapter 4.

3.3 (CO-)DECISION AUTHORITY OF THE MINISTER

What does (co-)decision authority mean and which minister is authorized?

The country is the shareholder in the case of a government-owned company.²⁶ The ministers are designated as representatives of the shareholder.²⁷ When the articles of incorporation stipulate that the shareholder is entitled to appoint a board member, the decision authority of the minister is established. In the case of foundations, the decision authority is also derived from the articles of incorporation.

The NOCG does not specify what is meant by (co-)decision. We define (co-)decision to mean that the minister is a part of the decision-making process. The minister does not have unilateral authority, for example, in the case of a company with multiple shareholders. In our opinion, article 9 of the NOCG, regarding appointment of board members, is unclear.²⁸ An amendment to the law that clearly stipulates the minister’s authorities is recommended.

Annex 1 contains information about the (co-)decision authority of the responsible minister for each company and foundation.

26. National Decree of October 23, 2013, no. LB-13/0820, National Gazette of March 21, 2014, year 2014, number 6. Verification by the Department of Legal Affairs & Legislation indicates that there were no formal amendments to the National Decree.

27. Also known as AVA.

28. We also find article 8 of the National ordinance Corporate Governance to be unclear regarding the procedure on profiles.

3.4 THE CORPORATE GOVERNANCE CODE

There is a Corporate Governance Code for St. Maarten (hereafter: the Code). This Code is an important element in terms of CGC's advisory role.²⁹ The Code states that:

"The Island Territory shall institute a Corporate Governance Council, which shall inter alia be in charge of advising the General Shareholder's Meeting relative to the appointment of Supervisory Directors and Managing Directors of the corporation"

The NOCG and the Code differ on the topic of decision authority. The NOCG mentions the prerequisite of a (co-)decision authority of the minister. The Code does not contain the prerequisite for establishing the existence of a (co-)decision authority of the minister. We are of the opinion that the regulations of the NOCG apply because it is a national ordinance. The Code is of a lower order.

3.5 THE PROFILE- AND APPOINTMENT PROCEDURE

The minister must seek the advice of the CGC in cases where he has a (co-)decision authority for:

1. the appointment or nomination of a board member; and
2. establishing a profile.

However, the CGC prefers that the minister refrain from intervening in the process of determining the profile. Establishing the criteria of a profile often requires technical knowledge. Moreover, the CGC believes that the minister should not play a role when amending existing profiles, unless he is specifically requested to do so by the entity in question.³⁰ CGC qualified this statement later during the audit. In correspondence received from the CGC, they state that profiles are best drafted by experts and that experts can be appointed by the minister. In that sense, the minister does have a (limited) role, according to the CGC.³¹

The Minister of General Affairs reacted on the position of the CGC regarding the intervening of ministers in the process of determining the profile. According to the minister, there is insufficient awareness of the financial interests related to government-owned companies and foundations, for which there is political responsibility and accountability. To secure the financial interests, the politically responsible government must be certain that these interests are addressed during the process of determining the profile.³²

Although the subject matter varies (profiles and appointments), the procedures are identical. Figure 5 illustrates both procedures.

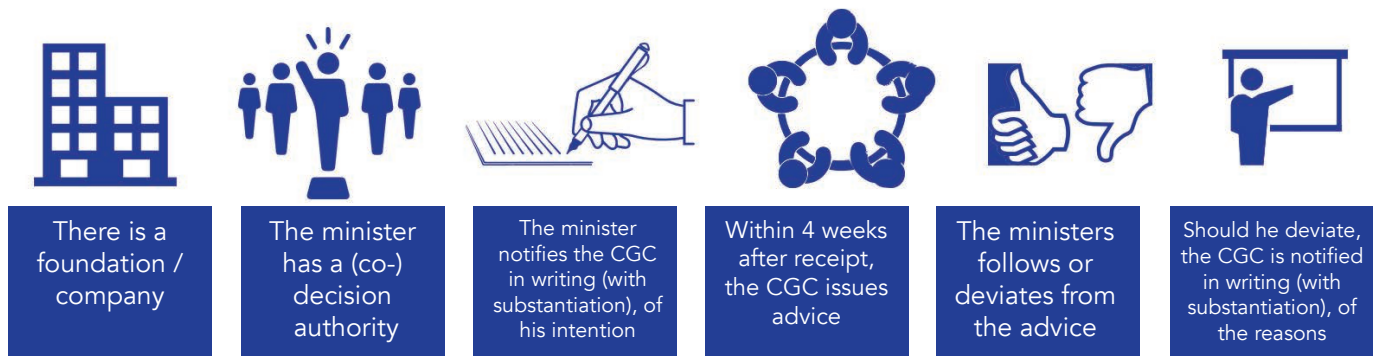
29. Corporate Governance Code for Island Owned Companies Sint Maarten.

30. Interview with the CGC dated May 17, 2016, verified per email by the CGC on June 7, 2016.

31. Response of the CGC regarding our findings, dated September 23.

32. Reaction of the Minister of General Affairs, dated September 8, 2016, with reference number: 11087/16B.

Figure 5: The profile and appointment procedure in accordance with the National ordinance Corporate Governance



Within a week after issuing an advice to the minister, the CGC sends a copy of their advice to Parliament. The drafters of the law have included a control mechanism for Parliament by virtue of this requirement.

3.6 THE ROLE OF THE COUNCIL FOR FINANCIAL SUPERVISION

Appointment of board members is an element of financial management. We believe that it is important to carefully deal with ministerial influence in the appointment of members of boards or councils. Government-owned companies are, after all, not political playthings.

Ultimately, public funds must be handled honestly, carefully and professionally. The appointment of board- or council members must occur based on established regulations. The current NOCG foresees in such rules, but cannot prevent political appointments.

The possibility of political appointments forms a risk³³:

***“Where no clear and responsible rules are present, or compliance with those rules is not sufficiently monitored, financial disasters can take place. Issuing authorities and capabilities to a person without a good system of ‘checks and balances’, can lead to excesses.*”**

As such, the guiding and advisory role of the Cft should not be underestimated. The Cft’s objective is to improve financial management.³⁴ Administrative appointments fall within that scope.³⁵ Based on information derived from the advices and reports issued by the Cft, we determined that corporate governance has previously received attention.

33. “Good governance on Sint Maarten: will it be a long or a short road from paper to practice”, mr. Karel Frielink, BZSE Attorneys at law.

34. Explanatory memorandum on the Kingdom Act Financial Supervision Curaçao and Sint Maarten, paragraph 3.5.2.

35. Explanatory memorandum on the Kingdom Act Financial Supervision Curaçao and Sint Maarten, paragraph 3.6.

Though we were unable to determine whether the Cft specifically reviewed the profile- and appointment procedures, the Cft maintains that corporate governance is of great importance, given that a significant portion of the economy is placed in government-owned entities.³⁶

Government, however, did not achieve the desired level of compliance in 2015.³⁷ Partly for this reason, we believe that the subject of administrative appointments deserves closer attention, including from the Cft. This study could encourage such activity.³⁸

According to article 19, paragraph 3 of the Rft, the CFT can issue recommendations based on, among others, the findings mentioned in this report.

36. "4th report of findings PEFA inventory financial management", Cft, December 2014.

37. CFT annual report 2015.

38. Letter from the Cft to the General Audit Chamber dated August 31, 2016.

4. THE AUDIT RESULTS

This chapter contains the findings of our audit. We present the cases where the appointment procedure and the profile procedure are applicable. In addition, we discuss the instances where we could not secure information.

4.1 THE NUMBER OF ENTITIES REVIEWED

For this audit we investigated a total of 27 entities. Specifically, 11 foundations and 16 companies. There is one single supervisory board governing the Harbour holding and its 12 subsidiaries. For the purpose of this audit, they were considered as a single entity. We apply the same approach when reviewing Telem. For that entity, there is one single supervisory board for the holding and 4 subsidiaries. These subsidiaries can be found in annex 2.

The NOCG is applicable on 18 of the 27 entities. In 3 cases it is not.³⁹ At 6 entities (4 companies and 2 foundations), we were unable to determine whether the NOCG was applicable due to the lack of information.⁴⁰

We now go over to the discussion of the (co-)decision authority of the minister. Based on the articles of incorporation, we determined that the minister has a (co-)decision authority regarding the appointment of board members for 14 entities. This means that the CGC must provide advice regarding appointments for these entities.

In terms of establishing profiles, the articles of incorporation indicate that the minister has a (co-)decision authority in 3 cases. The CGC must also provide advice in these cases.⁴¹ Figure 6 depicts the results.

Figure 6: The number of companies and foundations reviewed

	Reviewed	NOCG applicable	Authority of the minister regarding appointments	Authority of the minister regarding the profile
Companies	16	11	9	3
Founda	11	7	5	0
Totaal	27	18	14	3

As far as we are able to determine, profiles have been drafted for the Harbour and Telem Holding.⁴² We are unaware of profiles for Postal Services St. Maarten.

It is the prerogative of the entity –in keeping with the articles of incorporation and relevant internal regulations– to establish a profile for board members. We did not examine whether the profile procedure, beyond the articles of incorporation, was declared applicable or drafted. We consider the drafting of profiles as a good practice.

39. Entities where the NOCG does not apply are: UTS Telecommunication N.V. (not to be confused with UTS Eastern Caribbean Holding N.V.), S4 and Stichting Justitiële Inrichtingen Bovenwinden.

40. It concerns the following foundations: Government Opvoedingsgesticht en de Stichting Sport Ontwikkeling. For the companies it concerns: Marven N.V., Saba Bank Resources N.V., C-Post N.V. and DC-ANSP. We did not receive information regarding these companies.

41. Correspondence between CGC and Parliament, dated November 21, 2012, where the companies are listed for which profiles were drafted.

42. The profiles for members of supervisory boards apply to:
- Postal Services St. Maarten N.V.;
- St. Telecommunications Holding N.V.; and Maarten
- St. Maarten Harbour Holding N.V.

We found entities that drafted profiles even though their respective articles of incorporation do not include a (co-)decision authority for the minister. An example of this is Winair. Our results are shown in Figure 7.

Figure 7: Companies where the minister has a (co-)decision authority and where the profile procedure applies

Companies	Profile applicable?	Profile drafted?
Harbour Holding	Yes	Yes
Telem	Yes	Yes
Winair	No	Yes
PSS	Yes	unknown

We received information indicating that draft profiles were created for the PJIA Holding Company, and for the CGC as well.⁴³

4.2 ADVICE OF THE CORPORATE GOVERNANCE COUNCIL

A remaining question relates to the number of cases in which the CGC provided advice. To answer the question, we requested that the CGC provide us with all previously issued advices. In addition, we consulted CGC's annual reports for the period 2010 through 2014. We also formally requested the same information from Parliament.⁴⁴

Let's start with the **foundations**.

The appointment procedure applies in the case of 5 foundations. We were not able to obtain the names of the supervisory board members of 3 foundations.⁴⁵ Our results are illustrated in Figure 8. For more detailed information, we refer to annex 1.

Figure 8: Number of advices issued by the CGC, regarding administrative appointments within foundations

Foundations	Persons with advice	Persons without advice	Total number of persons
VKS	1	4	5
SBDF	0	3	3
FUSF	unknown	unknown	unknown
SOG	unknown	unknown	unknown
SMMC	unknown	unknown	unknown
Total	1	7	8

The profile procedure is, according their respective articles of incorporation, not mandatory for any of these foundations.

43. Derived from the letter of the CGC addressed to Parliament, dated November 21, 2012, where inter alia for the draft profiles for the PJIA Holding and the Corporate Governance Council, are mentioned. We were unable to determine whether those draft profiles have since been established.

44. Letter of the General Audit Chamber to Parliament, dated May 25, 2016, where we request all advices previously issued by the CGC.

45. It concerns the Foundation Upkeep Sports Facilities, de SMMC, and Stichting Overheidsgebouwen.

Next, we discuss the results related to the **companies**.

The appointment procedure applies to 9 companies. We chose to disregard the Luchthaven Veiligheid Financiering Maatschappij N.V., because it is dormant.⁴⁶ Therefore, a total of 8 companies were reviewed. The appointment procedure was properly applied at 2 companies. Specifically, the Harbour Holding N.V. and Winair N.V. Our results are shown in Figure 9.

Figure 9: Number of advices issued by the CGC, regarding administrative appointments within companies

Companies	Persons with advice	Persons without advice	Total number of persons
Harbour Holding	3	0	3
Winair	3	0	3
Gebe	12	2	14
PJIAH	1	4	5
PSS	unknown	unknown	unknown
SM EDC	unknown	unknown	unknown
SLS	1	5	6
Telem Holding	1	4	5
Totaal	21	15	36

Combining the results of figures 8 and 9 shows that CGC advices for **22 of a total of 44 persons** were not available for review.

4.3 A LACK OF TRANSPARENCY

When government is a shareholder, a representing minister may be authorized to (co-)decide on the appointment of a board member. That authority can be misused. The appointment procedure must be transparent. The Common Court of Justice ruled as follows⁴⁷:

"(...) In any case, after the appointment, the responsible parties should be able to give insight in the nature and manner in which the appointment procedure was conducted (...) and furthermore should be able to substantiate why the particular candidate was chosen."

46. According to the Chief of Administration of PJIA, in an email dated May 18, 2016.

47. AR 1215/07-H-505/09 (third-party proceedings). In the case (see verdict of February 11, 2008 no. 2007/594), that this verdict was based on, the Court noted that it was not clear why the Executive Council deviated from the public application procedure, as proposed by the STIP (the equivalent of the CGC in Curaçao). The Court identifies a purely political appointment, partly because the person in question had not even applied for the position, nor was it established whether the person was suited for that function. The Court ruled to revoke the decision, which was in conflict with good governance, citing the need for reasonableness and fairness. With that ruling, the appointment was reversed.

Our findings paint a worrisome picture. The Minister of General Affairs shares our concerns.⁴⁸ We were unable to review 22 CGC advices related to appointments. As such, one of the main objectives of good governance is disregarded. Specifically, the ability to guarantee the transparency of the appointment process. As we have indicated in our report: “Baseline Study Sint Maarten, state of affairs institutional integrity management 2014” (hereinafter: Baseline Study), the Audit Chamber considers integrity (and therefore the transparency of the actions of the Minister), a prerequisite for confidence in government.

During the conduct of our audit, we received a limited amount of information. We therefore conclude that while ministers regularly highlight the importance of integrity, in practice, little factual information is made available. The desire for transparency and integrity -vital to corporate governance- is in reality, marginal.

The fact that we cannot determine whether our recommendations, as published in the Baseline Study, will receive follow up, suggests a course contrary to *good governance*.

4.4 OTHER FINDINGS

A few of the more findings are worthy of specific mention.

- The chairman of the CGC was appointed on May 14, 2014.⁴⁹ The CGC chairman was possibly also a member of the supervisory board of Sint Maarten Laboratory Services (SLS) during his tenure at CGC. Correspondence from the SLS indicates that he was a member of the supervisory board until October 2014.⁵⁰

We received a response from the CGC on this matter. From the time that the SLS member was aware of his impending appointment as chairman of the CGC, he informed the remaining members of the SLS board. Involvement in meetings and/or decision-making within the supervisory board of the SLS ceased from that moment.⁵¹

Based on the reports from the SLS and the CGC, we were not able to unequivocally establish whether the chairman CGC served simultaneously as a member of the supervisory board of the SLS. In the event there was an overlap, we would have preferred that the chairman sever all ties with government-owned companies, upon appointment to the CGC.

48. Letter of the minister of General Affairs, dated September 15, 2016 (no: 11087/16D).

49. 2014 Annual Report of the CGC.

50. Email verifying information dated May 20, 2016 from the director of SLS.

51. Letter of the CGC, dated September 23, 2016, in reaction to the memorandum of findings.

- The articles of incorporation of Gebe N.V. were amended on April 8, 2014. The maximum number of members allowed on the supervisory board was changed from 5 to 7. The notarial deed references the National Decree no. LB-12/0916 in terms of the authority of the responsible minister.⁵² We note that this National Decree was revoked as of March 22, 2014, in accordance with article 8 of the National Decree of October 23, 2013, number LB-13/0820.⁵³ Article 8 of this National Decree states the following:

“All authorization decrees, including the National Decree dated December 14, LB-12/0916, to represent St. Maarten as a shareholder, approved prior to the entry into force of this decree, are revoked.”

We are of the opinion that the notarial deed of April 8, 2014, refers to a National Decree that was revoked as of March 22, 2014. What this means for the legality of the deed is outside the scope of our audit.

The minister of General Affairs reacted on this subject. In his opinion, the reference in the notarial deed has no direct legal consequences on the legality of the deed.⁵⁴

- The articles of incorporation of the Harbour Holding Company, dated August 10, 2009,⁵⁵ indicate that the supervisory board must consist of at least 5 members or a maximum of 7 members. Since 2014, the supervisory board is comprised of 3 members.⁵⁶ The supervisory board is responsible for the holding company and all 12 of its subsidiaries.
- The oath of office stipulated in article 7 of the National ordinance General Audit Chamber, does not match the oath as stipulated in article 77 of the Constitution. Because the Constitution is of a higher order, the members must take that oath.
- There are persons who were/are supervisory board members while employed by government. Conflicts of interest are possible. We addressed this matter in our Baseline Study.⁵⁷ Half of the respondents in our study were unfamiliar with the rules.

52. The National Decree no. LB-12/0916 is published in the National Gazette of March 21, 2014, year 2014, number 6.

53. The National Decree no. LB-13/0820 is published in the National Gazette of March 21, 2014, year 2014, number 6.

54. Letter of the minister of General Affairs, dated September 15, 2016 (no: 11087/16D).

55. We did not receive verification during the audit as to whether these are the most recent articles of incorporation.

56. We base this on email correspondence dated May 18, 2016 with the Harbour Holding N.V.

57. “Baseline Study Sint Maarten, state of affairs institutional integrity management 2014”, paragraph 2.4.2.3.

5. OUR EPILOGUE

We follow a specific protocol during the conduct of audits. At the conclusion of the investigation phase, we present our findings to the parties in question. Those findings are placed in a draft report, which we refer to as a Memorandum of Findings. The ministers and the CGC received the Memorandum of Findings on August 18, 2016, in order to verify the results. The Cft and VDSM also received a Memorandum of Findings based on information specific to them.

All parties were granted ten working days to provide a response to the Memorandum of Findings, in keeping with our protocol. Only the VDSM and the Cft responded within the time allotted.

In light of the limited response, we decided to extend due date by five working days. During that extension, we received a response from the Minister of General Affairs and the CGC. Based on the responses, which we value, we amended our draft report. Unfortunately, no responses were received from other ministers.

In this epilogue, we wish to emphasize that the provision of information is essential to the conduct of audits. One of the goals of our investigations is the identification of shortcomings within government, as well as the presentation of practical recommendations towards the improvement of the government apparatus. This approach requires cooperation.

We made this point clear during our individual introductory meetings with ministers. At these meetings, every minister cited the importance of our work. The lack of response to our requests for information is therefore that much more regrettable.

Nevertheless, we were able to collect the information we needed. This report is evidence of that effort. We wish to express our appreciation to the organizations and entities named in this report for their cooperation.

LIST OF ABBREVIATIONS

Abbreviation	Name
AP	Appointment procedure
APS	General Pension Fund St. Maarten
CGC	Corporate Governance Council
CoCI	Chamber of Commerce and Industry
Code	Corporate Governance Code
DC-ANSP	Dutch Caribbean Air Navigation Service Provider
ECYS	Minister of Education, Culture, Youth and Sport
FIN	Minister of Finance
FUSF	Foundation Upkeep Sports Facilities
GA	Minister of General Affairs
GOG	Government Opvoedingsgesticht
JUS	Minister of Justice
LB	National Decree
n/a	Not applicable
NOCG	National ordinance Corporate Governance
PPF	Profile procedure
PJIA	Princess Juliana International Airport
PJIAE	Princess Juliana International Airport Exploitatiemaatschappij (PJIA operating company)
PJIAH	Princess Juliana International Airport Holding
PSS	Postal Services Sint Maarten
SBDF	Small Business Development Foundation
SLS	St. Maarten Laboratory Services N.V.
SM EDC	Sint Maarten Economic Development Corporation
SMMC	Sint Maarten Medical Centre
SOAB	Government Accountant Bureau Office
SZV	Social and Health Insurances
TEATT	Minister of Tourism, Economic Affairs, Traffic and Telecommunication
VKS	Voluntary Corps St. Maarten
VROMI	Minister of Public Housing, Spatial Planning, Environment and Infrastructure
VSA	Minister of Public Health, Social Development and Labor
VSA	Minister of Public Health, Social Development and Labor

ANNEX 1: THE LIST OF NAMES OF BOARD- AND COUNCIL MEMBERS

Caption:

- = not applicable
- = unable to review CGC advice
- = unable to verify
- = reviewed CGC advice

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PFP applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?
Other entities (8)											
APS	FIN	LB-10/0022 and LB-12/0872					Chair	Franklyn Richards	Oct 10, 2010	-	●
		LB-13/0384					Member	Rene Gartner	May 1, 2013	-	●
		LB-14/0505					Member	Guiliano Saturnilla	Aug 26, 2014	-	●
		LB-10/0022 and LB-120873					Member	Richard Gibson Jr.	Oct 10, 2010	unknown	●
		LB-11/0975					Member	Michel Soons	Oct 31, 2011	unknown	●
General Audit Chamber	n/a	LB-12/0791 ¹					Chair	Ronald Halman	Aug 23, 2012	-	●
		LB-12/0791					Vice-Chair	Mark Kortenoever	Aug 23, 2012	-	●
		LB-12/0791					Member	Alphons Gumbs	Aug 23, 2012	-	●
		LB-12/0791					Sub member	Daniel Hassell	Aug 23, 2012	-	●
		LB-14/0316					Sub member	Sheryl Peterson	June 25, 2014	-	●
Bureau Telecom & Post	TEATT	Website of BTP: www.sxmregulator.sx					Chair	Brenda Brooks	Oct 10, 2010	-	●
							Member	Henry Lynch	Oct 10, 2010	-	●
							Member	Vincent Haakmat	Oct 10, 2010	-	●

¹ We were not able to conclude that this National Decree, in accordance with article 2, was published in the National Gazette. The same applies to LB-14/0316.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PFP applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?	
CGC	n/a	LB-13/0192					Chair (former)	Louis Duzanson	Oct 10, 2010	Feb 2014	●	
		LB-13/0192					Sub Chair	Maria van de Suijs-Plantz	Oct 10, 2010	Feb 2014	●	
		LB-13/0192					Member	Agnes Gumbs	Oct 10, 2010	Feb 2014	●	
		LB-13/0192					Member	Francis Carty	Oct 10, 2010	Feb 2014	●	
		Annual report 2014					Chair	Perry Wilson	May 14, 2014	-	●	
		Annual report 2014					Member	Madelon Dijkhoffz	May 14, 2014	-	●	
		Annual report 2014					Member	Joseph Lake	May 14, 2014	-	●	
		LB-14/0478					Vice-Chair	Charles Smith	15 July 2014	-	●	
		LB-15/0847					Member	Cindy Marica	19 Oct 2015	-	●	
Electoral Council	n/a	LB-13/0850 ²					Chair	Bert Hofman	Jan 11, 2014	-	●	
		LB-13/0850					Vice-Chair	Genara Richardson-Nicolaas	Jan 11, 2014	-	●	
		LB-13/0850					Member	Linda Richardson	Jan 11, 2014	-	●	
		LB-16/0509					Sub member	Marvel Hooi	June 26, 2016	-	●	
		LB-16/0509					Sub member	Oscar Williams	June 26, 2016	-	●	
		Appointment LB-13/0850. Resignation by LB no. 2015/1696					Sub member	Jeroen Veen	Jan 11, 2014	Aug 31, 2015	●	
		Appointment LB-13/0850. Resignation by LB-16/0509					Sub member	Marlene Mingo	Jan 11, 2014	June 26, 2016	●	

² National Gazette, year 2013, number 1, January 10, 2014.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PFP applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?	
Council of Advice	n/a	CoA Annual report 2010 and email July 5, 2016, verified by SG					Chair	His Excellency Eugene Holiday	Oct 10, 2010	-	●	
		CoA Annual report 2010					Vice-Chair	Mavis Brooks-Salmon	Oct 10, 2010	-	●	
		CoA Annual report 2010					Member	Jan Beaujon	Oct 10, 2010	-	●	
		LB-11/0193					Member	Gaston Bell	May 5, 2011	-	●	
		LB-11/0194					Member	Louis Duzanson	May 5, 2011	-	●	
		LB-11/0195 and Annual report 2014					Member	Marcel Gumbs	May 5, 2011	Dec 2014	●	
		LB-16/0597					Extraordinary member	Patricia Philips	July 29, 2016	-	●	
		CoA Annual report 2010					Extraordinary member	Miguel Alexander	Oct 10, 2010	-	●	
		LB-11/0276					Extraordinary member	Rik Bergman	June 14, 2011	-	●	
		CoA Annual report 2011 and LB-15/0290					Extraordinary member / member as of Jan 1, 2015	Marcella Hazel	May 5, 2011	-	●	
	Social Economic Council	n/a	LB-14/0428					Chair	Oldine Bryson-Pantophlet	May 1, 2014	-	●
			sersxm.org					Chair	Arthur Bute	Feb 20, 2014	Apr 30, 2014	●
			LB-14/0429 and email SG May 23, 2016					Vice-Chair as of May 1, 2014	Dwight Williams	May 1, 2011	-	●
			email May 23, 2016					Member	Francio Guadeloupe	2016	-	●
		email May 23, 2016					Member	Stanley Lint	May 1, 2014	-	●	
		LB-14/0307, LB-14/0876 ³					Sub member, later member	Ajay Rawtani	May 1, 2014 sub member, member as of Oct 1, 2014	-	●	
		LB-15/0921, email May 23, 2016					Member	Merril Temmer	July 1, 2015	-	●	
												●

³ National Gazette, year 2015, number 3, February 6, 2015.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PFP applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?
		email May 23, 2016					Member	Eveline Hendriquez-Dijkhoffz	2011	-	●
		LB-14/0307					Member	Bienvenido Richardson	May 1, 2014	-	●
		email May 23, 2016					Member	Theophilus Thompson	2011	-	●
		email May 23, 2016					Member	William Reed	2011	April 2014	●
		LB-14/0876 ⁴					Sub member	Brenda Brooks	Oct 1, 2014	-	●
		email May 23, 2016					Sub member	Shirley Gregoria-Pantophlet	2011	-	●
		email May 23, 2016					Sub member	Aurillio Baly	2011	-	●
		LB-14/0307					Sub member	Alberto Bute	May 1, 2014	-	●
		LB-14/0307					Sub member	Robbie Ferron	May 1, 2014	-	●
		LB-14/0307					Sub member	Damien Delano Richardson	May 1, 2014	-	●
		LB-14/0307					Sub member	Mandy Daal-Offringa	May 1, 2014	-	●
		LB-14/0099 and LB-14/0307					Sub member	Linda Richardson	Dec 1, 2013 and May 2014	-	●
		LB-16/0084					Sub member	Paul van Vliet	Jan 25, 2016	-	●
		LB-16/0084					Sub member	Peter van Dort	May 1, 2014	sept 2015	●
SZV	n/a	Media ⁵					Chair	Sharine Daniel	Aug 17, 2016	-	●
		Annual report 2014 and email SZV ⁶					Chair (former)	Michel Petit	Nov 1, 2014	Aug 2016	●
		Annual report 2014					Chair (former)	Jeroen Veen	Nov 1, 2013	Nov 1, 2014	●
		LB-13/0857 and Annual report 2014					Sub Chair	Antonio Rogers	Nov 1, 2013	-	●
		Annual report 2014					Sub Chair (former)	Glen Carty	Nov 1, 2013	Nov 30, 2014	●
		Annual report 2014					Member	Sandy Mourillon-Sandiford	June 1, 2014	-	●
		Annual report 2014					Member	Leroy de Weever	Aug 1, 2014	-	●

⁴ National Gazette, year 2015, number 3, February 6, 2015.

⁵ Sxmslandtime article dated August 21, 2016.

⁶ Email dated August 19, 2016 with the Legal Department of SZV, where the resignation of Dr. Michel Petit as Chairman of the SZV supervisory board, is confirmed.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PFP applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?
		Annual report 2014					Member (later Chair)	Michel Petit	May 27, 2013	Aug 2016	●
		Annual report 2014					Member (later sub Chair)	Antonio Rogers	Nov 1, 2013	Nov 1, 2014	●
		Annual report 2014					Member	Paul van Vliet	Oct 5, 2010	June 1, 2014	●
		Annual report 2014					Member	B. Hart	May 27, 2011	May 27, 2014	●
		LB-16/0551					Member (later Chair)	Sharine Daniel	July 13, 2016	-	●

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PF applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?
Foundations (11)											
Foundation upkeep Sports Facilities	ECYS	No info received regarding 2014 and further	5-7	Yes, art 12	Yes, art 4 ⁷	no	unknown	unknown	unknown	unknown	●
Government Opvoedings Gesticht	JUS	Not received info	unknown	unknown	unknown	unknown	No annual report ⁸	unknown	unknown	unknown	●
Mental Health Foundation	VSA	www.mhf-sxm.com	Max 7	Yes, art 14, par 2	no ⁹	no	Chair	Felix Holiday	unknown	unknown	●
		www.mhf-sxm.com					Vice-Chair	Aernout Kraaijeveld	unknown	unknown	●
		www.mhf-sxm.com					Secretary	Jimmy Challenger ¹⁰	unknown	unknown	●
		www.mhf-sxm.com					Treasurer	Arno Peels	unknown	unknown	●
		www.mhf-sxm.com					Member	Sonia Meade-Swanston	unknown	unknown	●
		www.mhf-sxm.com					Member	Erika van der Horst	Oct 2015	unknown	●
St. Maarten Development Fund	GA	Articles of incorporation dated May 30, 2012	3-7	Yes, art 11, par 1	no ¹¹	no	Chair	Richeida Emmanuel	May 30, 2012	unknown	●
								Joy Arnell	May 30, 2012	unknown	●
								Marinka Gumbs	May 30, 2012	unknown	●
Sint Maarten Medical Center	VSA	Not received info regarding the year 2014	3-5	Yes, art 15, par 1	Yes, art 9, par 2a ¹²	no	unknown	unknown ¹³	unknown	unknown	●

⁷ Where reference is made to articles, it refers to the articles of incorporation of the entity in question. In this case it concerns the articles of incorporation of the Foundation Upkeep Sports Facilities dated August 23, 2000.

⁸ Letter of the Minister of Justice, dated June 1, 2016 with reference 243-16B/Jus where the Minister notes that no annual reports are available regarding the Miss Laie Center.

⁹ Articles of incorporation of the Mental Health Foundation, dated October 10, 2001, amended on Aug 18, 2009.

¹⁰ According the Soulaganewsday.com (article of August 24, 2016) and smn-news.com (article of August 23, 2016) Mr. Challenger made his position at the Mental Health Foundation available.

¹¹ Articles of incorporation of the St. Maarten Development Fund, dated May 30, 2012.

¹² Articles of incorporation of the SMMC, dated April 25, 2008.

¹³ The annual report 2013 of the CGC refers to the advice of CGC dated August 3, 2013 with number 2013/146 regarding the appointment of members of the supervisory board of the SMMC. We were not able to determine the content of the advice, and for which members an advice was provided.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PFP applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?
Small Business Development Foundation	TEATT	CoCi extract June 17, 2014 and April 28, 2016	3-5	Yes, art 6, par 3a ¹⁴	Yes, art 6, par 3a ¹⁴	no	Chair	Ramzi Demmaoui	May 21, 2014	-	●
					Yes	no	Member	Mervyn Butcher	May 21, 2014	-	●
					Yes	no	Member	Michel Hollard	May 21, 2014	-	●
Stichting Justitiële Inrichtingen Bovenwinden	JUS	Annual report 2014 and CoCi extract April 28, 2016	Minimum 3	No ¹⁵	No, Minister appoints observant	no	Chair	Joy Arnell	Chair during the year 2014	In function on April 28, 2016	●
		Annual report 2014 and CoCi extract April 28, 2016			no	no	Member, later Vice - Chair	Eunício Martina	Member during the year 2014	In function on April 28, 2016	●
		CoCi extract April 28, 2016			no	no	Member	Robert Budlike	After 2014	In function on April 28, 2016	●
		CoCi extract April 28, 2016			no	no	Member	Ajamu Baly	After 2014	In function on April 28, 2016	●
		Annual report 2014 and CoCi extract April 28, 2016			no	no	Secretary / Treasurer	Judith Arndell	Member during the year 2014	No longer in function on April 28, 2016	●
Stichting Overheids-Gebouwen	GA	No info received	3-5	Yes, art 11, par 1	Yes, ¹⁶ art 4, par 3	No	unknown	unknown	unknown	unknown	●
S4	ECYS	Email Chair dated March 16, 2016 verifying the names	Minimum 3	no ¹⁷	no	no	Chair	Rinaldo Hassel	Aug 5, 2011	-	●
					No	No	Member	Gino Rombley	May 16, 2014	-	●
					No	No	Chair	Benjamin Brown	May 3, 2011	Feb 28, 2014	●
					No	No	Member	Afiba Inderson	July 19, 2013	May 1, 2014	●
					No	No	Member	Genevieve Mourillon	May 1, 2014	Oct 30, 2015	●

¹⁴ Articles of incorporation of the Small Business Development Foundation, dated May 21, 2014.

¹⁵ Articles of incorporation of the Stichting Justitiële Inrichtingen Bovenwinden, dated July 4, 2002.

¹⁶ Articles of incorporation of the Stichting Overheidsgebouwen Sint Maarten, dated November 16, 2006.

¹⁷ Articles of incorporation of the S4, dated November 24, 2004.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PFP applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?
Stichting Sport Ontwikkeling	ECYS	No information received	unknown	unknown	unknown	unknown	unknown	unknown	unknown	unknown	●
Stichting VKS Maarten	AZ	Articles of incorporation dated July 19, 2013 and CoCi extract Aug 19, 2013	5	Yes, art 5, par 1	Yes ¹⁸ art 5, par 1	no	Board member	Franklyn Richards	July 19, 2013	-	●
					Yes	No	Board member	Patrick Wokke	July 19, 2013	unknown	●
					Yes	No	Board member	Taco Stein	July 19, 2013	unknown	●
					Yes	No	Board member	Emilia Thomas	July 19, 2013	-	●
		Resolution VKS Sep 10, 2013			Yes	No	Board member	Antonio Rogers ¹⁹	July 19, 2013	June 2014	●

¹⁸ Articles of incorporation of the VKS, dated July 19, 2013.

¹⁹ CGC advice dated January 24 2013, regarding the appointment of Antonio Rogers.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PFP applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?
Companies (16)											
C-Post	unknown	Financial Statements 2013, no further info	unknown	unknown	unknown	unknown	Chair	K. Gijbertha	unknown	unknown	●
							Vice-Chair	S. Elias	unknown	unknown	●
							Member	R. Hanson	unknown	unknown	●
							Member	S. Howell	unknown	unknown	●
DC-ANSP	unknown	Financial Statements 2014	unknown	unknown	unknown	unknown	Chair	Mr. R.F. Emers	Chair during 2014	unknown	●
							Member	Mr. A. Agard	Member during 2014	unknown	●
							Member	Mr. Beringer	Member during 2014	unknown	●
							Member	Mr. A.S.V. Isadora	Member during 2014	unknown	●
							Member	Mr. R.F.Z. Tromp	Nov 1, 2014	unknown	●
GEBE N.V.	VROMI	Media ²⁰	3-7	Yes, art 21	Yes, art 12, par 3 ²¹	No	Chair	Roy Marlin ²²	June 2016	-	●
					Yes	No	Member	Romeo Pantophlet	June 2016	-	●
					Yes	No	Member	Oral Gibbs	June 2016	-	●
					Yes	No	Member	Tadzio Bervoets	June 2016	-	●
					Yes	No	Member	Sandy Offringa	June 2016	-	●
					Yes	No	Member	Agnes Monte	June 2016	-	●
		Media ²³			Yes	No	Member	Patrice Gumbs	Feb 18, 2014	- ²⁴	●
		Financial Statements 2014			Yes	No	Chair (former)	Rene Richardson ²⁵	Oct 1, 2014	May 26, 2016	●
		Financial Statements 2014			Yes	No	Chair (former)	Kelvin Bloyden ²⁶	Jan, 2014	Oct 1, 2014	●
		Financial Statements 2014			Yes	No	Vice-Chair	Kelvin Bloyden	Oct 23, 2014	end of 2015	●

²⁰ The Daily Herald, dated June 1, 2016.

²¹ Articles of incorporation of GEBE, dated May 12, 2012. The articles of incorporation have been amended on April 8, 2014.

²² CGC advice dated April 19, 2016 regarding the appointment of the supervisory board members of GEBE.

²³ Snn-news article dated February 19, 2014 and The Daily Herald dated June 1, 2016.

²⁴ CGC advice dated April 19, 2016 which mentions that Patrice Gumbs resigned after February 24, 2016, following from a letter of the Minister of VROMI dated, March 22, 2016. Later he was re-appointed.

²⁵ CGC advice dated May 25, 2012 (with number: 2012/99) regarding the appointment of Rene Richardson.

²⁶ CGC advice dated December 30, 2013 (with number: 2013/177) regarding the appointment of amongst others, Kelvin Bloyden.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PF applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?
		Media ²⁷			Yes	No	Vice-Chair until Oct, 2014	Veronica Jansen-Webster ²⁸	Jan, 2014	May 26, 2016	●
		Financial Statements 2014 Media ³⁰			Yes	No	Member	Zylena Bary ²⁹	Jan, 2014	May 26, 2016	●
		Financial Statements 2014			Yes	No	Member	Candia Joseph	Feb 18, 2014	end of 2015	●
					Yes	No	Member	Edwin Gumbs	2014	May 26, 2016	●
Marven N.V.	unknown	Inactive company ³¹	unknown	unknown	unknown	unknown	unknown	unknown	unknown	unknown	●
PJIA Exploitatie-maatschappij	TEATT	Annual report 2008 ³² and Annual report 2014	3-7	Yes, art 21 ³³	No	no	Member, later in 2010 appointed as Chair	Clarence Derby	Aug 1, 2008	Aug 14, 2014	●
		Annual report 2012			no	no	Member, former Chair (Aug 15 2014 until Sep 2014)	Cleavland Beresford	April 1, 2012	-	●
		Annual report 2006 and Financial Statements 2014			No	no	Member, Chair as of Sep 2014	Marlon Matser	before Oct 10, 2010	-	●
		Annual report 2010			No	no	Member	Melinda Hoeve	July 2, 2010	June 30, 2016	●
		Annual report 2010			No	no	Member	Whitfield Vlaun	July 2, 2010	June 30, 2016	●
		Annual report 2013			No	no	Member	Ludwig Ouenniche	Dec 2, 2013	-	●
		Annual report 2013			No	no	Member	Michel Hodge	Dec 2, 2013	-	●

²⁷ Sxmislandtimes article dated February 23, 2016.

²⁸ CGC advice dated May 25, 2012 (with number: 2012/99 regarding the appointment of Veronica Webster-Jansen.

²⁹ CGC advice dated December 30 2013 (with number: 2013/177) regarding the appointment of amongst others, Zylena Bary.

³⁰ Snn-news article dated February 19, 2014 and sxmislandtimes article dated February 23, 2016. The article of snn-news dated February 19, 2014, mentions that the CGC advised on February 10, 2014 regarding the members of the supervisory board. We were not able to determine the content of the advices regarding Candia Joseph and Edwin Gumbs.

³¹ Report SOAB: *Determining the collective sector, interest expense norm and interests*, 2013, dated September 4, 2013.

³² The names and dates are verified in an email from the Chief of Administration, dated June 27, 2016.

³³ Articles of incorporation of PJIA Exploitatiemaatschappij, dated August 10, 2009.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PF applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?
PJIA Houdster-maatschappij	TEATT	Financial Statements PJIAH Dec 31, 2013	3-7	Yes, art 21	Yes, art 10, par 2 ³⁴	No	Chair (former)	Marlon Matser ³⁵	Aug 16, 2013	March 31, 2014	●
		Annual report 2014			Yes	No	Chair	Michel Hodge	April 1, 2014	-	●
		Financial Statements PJIAH 2013			Yes	No	Vice-Chair	Vincent Doncher	Aug 16, 2013	May 29, 2016	●
		Annual report 2014			Yes	No	Member	Ludwig Ouenniche	April 1, 2014	-	●
		Financial Statements PJIAH Dec 31, 2013			Yes	No	Secretary	Richards Gibson Jr.	Aug 16, 2013	May 29, 2016	●
Luchthaven Veiligheid Financiering Maatschappij	TEATT	Dormant company ³⁶	1-3	Yes, art 18	Yes, art 8, par 3 ³⁷	No	none	none	unknown	unknown	●
Postal Services St. Maarten	GA	unknown	3-7	Yes, 23	Yes, art 9, par 4 ³⁸	Yes, art 9, par 4	unknown	unknown	unknown	unknown	●
Saba Bank Resources N.V.	VROMI	Financial Statements 2014	unknown	unknown	unknown	unknown	unknown	unknown	unknown	unknown	●
Sint Maarten Economic Development Corporation	unknown	unknown	5-7	Yes, art 17	Yes, art 7, par 3 ³⁹	no	unknown	unknown ⁴⁰	unknown	unknown	●
Sint Maarten Harbour Holding	TEATT	email May 18, 2016 Finance Manager	5-7	Yes, art 21	Yes, art 12, par 2 ⁴¹	Yes, art 12, par 2	Chair	Humbert Mezas ⁴²	unknown	-	●
							Member	Renald Williams	unknown	-	●
		Financial Statements 2013					Member	Jason Rogers ⁴³	March 4, 2013	-	●

³⁴ Articles of incorporation of PJIA Holding, dated August 10, 2009.

³⁵ CGC advice dated May 4, 2011, regarding the re-appointment of Marlon Matser as a member of the supervisory board of PJIA Holding.

³⁶ Dormant company, according to the Chief of Administration, following from an email dated May 18, 2016.

³⁷ Articles of incorporation of the Luchthaven Veiligheid Financiering Maatschappij, dated August 10, 2009.

³⁸ Articles of incorporation of Postal Services St. Maarten, dated October 8, 2010.

³⁹ Articles of incorporation of the St. Maarten Economic Development Corporation, dated August 10, 2009.

⁴⁰ According to the Annual Report 2011 of the CGC, they submitted their advice on May 12, 2011 regarding the appointment/re-appointment of the supervisory board members of the St. Maarten Economic Development Corporation. The names are not mentioned in the annual report.

⁴¹ Articles of incorporation of the St. Maarten Harbour Holding, dated August 2009.

⁴² CGC advice dated March 13, 2012 (with number: 2012/93) regarding the re-appointment of Renald Williams and Humphrey Mezas.

⁴³ CGC advice dated November 11, 2012 (with number: 2012/120) regarding the appointment of Jason Rogers.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PF applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?	
Sint Maarten Laboratory Services (SLS)	VSA	email May 20, 2016 Director SLS for verification	3-5	Yes, art 1	Yes, art 8, par 3 ⁴⁴	No	Chair	Ravi Daryanani	unknown	-	●	
		CoCi extract April 28, 2016					Member, later vice-Chair	Remco Stomp	unknown	-	●	
		CoCi extract April 28, 2016					Member	Diana Mathew ⁴⁵	after Dec 31, 2014	-	●	
		Email May 20, 2016 and response CGC dated September 23, 2016 ⁴⁶					Member	Perry Wilson	unknown	unknown	●	
		CoCi extract April 28, 2016					vice-Chair (former)	Pieter Offringa	unknown	before Jan, 2016	●	
		email May 20, 2016					Member	Ruth Boyrard-Brewster	unknown	Before Jan, 2016	●	
	TELEM Holding	GA	email CFO May 27, 2016 , verifying the names	5-7	Yes, art 20	Yes, art 12, par 2 ⁴⁷	Yes, art 12, par 2	Chair (former member)	Jairo Bloem ⁴⁸	May 23, 2008, Chair as of Oct, 2015	May 23, 2016	●
						Yes	Yes	Chair (former)	Raphael Boasman	May 23, 2008	Oct, 2015	●
						Yes	Yes	Member	Paul Marshall	Dec 1, 2013	Dec 1, 2017	●
						Yes	Yes	Member	Kendal Dupersoy	July 1, 2010	July 1, 2018	●
				Yes	Yes	Member	Steve Constance	Oct 31, 2014	Oct 31, 2018	●		

⁴⁴ Articles of incorporation of St. Maarten Laboratory Services, dated October 20, 2005.

⁴⁵ CGC advice dated December 30th, 2014 regarding the appointment of Diana Mathew as a member of the supervisory board of Sint Maarten Laboratory Services.

⁴⁶ See paragraph 4.4.

⁴⁷ Articles of incorporation of St. Maarten Telecommunication Company, dated June 21, 2010.

⁴⁸ According to the Annual Report 2013 of the CGC, they submitted their advice on March 28, 2013 regarding the re-appointment of Jairo Bloem as a supervisory board member of St. Maarten Telecommunication Holding Company.

Entity	Minister	Source	Number of members required SB/ Council	NOCG applicable	AP applicable	PFP applicable	Function	Name	Date of appointment	Date of resignation	CGC advice?
UTS Tele-communication Services	JUS	UTS Financial Statements 2013	unknown	No	No	no	Chair / Member, as of end of May 2016	Kenneth Gijssbertha	unknown	-	●
		UTS Financial Statements 2013					Member	Christian Peterson	Oct 30, 2013	-	●
		UTS Financial Statements 2013					Member	Charles Davelaar	Jan 16, 2014	-	●
		UTS Financial Statements 2013 and Media ⁴⁹					Member / Chair (May 2016)	Marisella Smith-Petronella	Jan 16, 2014	-	●
		UTS Financial Statements 2012					Member	Edsel Lourens	2012	-	●
		Media					Member	Emil Waile	unknown	-	●
		Media					Member	Gilbert Ricardo	unknown	-	●
UTS Eastern Caribbean Holding N.V.	JUS	Articles of incorporation UTS Eastern Caribbean Holding, dated May 23, 2014	3-5	Yes, art 23	No ⁵⁰	No	Chair	Christian Peterson	May 23, 2014	unknown	●
		Articles of incorporation			No	No	Member	Kenneth Gijssbertha	May 23, 2014	unknown	●
		Articles of incorporation			No	No	Member	Emil Waile	May 23, 2014	unknown	●
Windward Islands Airways International	GA	Email May 18, 2016 verifying the names by the Director	3-5	Yes, art 1	Yes, art 8, par 3 ⁵¹	No	Chair	George Greaux ⁵²	Oct 10, 2010	-	●
					Yes	No	member	Gerrit Draai	Oct 10, 2010	-	●
					Yes	No	member	Robert Budike	Oct 10, 2010	-	●

⁴⁹ Amigoe, dated June 3, 2016.

⁵⁰ Articles of incorporation of UTS Eastern Caribbean Holding, dated May 23, 2014.

⁵¹ Articles of incorporation of Windward Islands Airways International, dated December 19, 2011.

⁵² CGC advice dated June 10, 2011, regarding the appointment of George Greaux, Gerrit Draai and Robert Budike, as supervisory board members of Winair.

ANNEX 2: THE SUBSIDIARIES

Entity	Minister	Number of members required SB	Articles of incorporation
Sint Maarten Harbour Holding	TEATT	5-7	August 10, 2009
SMH Cargo Facilities	TEATT	See Holding	August 10, 2009
SMH Consulting	TEATT	See Holding	December 21, 2011, amended on March 1, 2012
SMH Crane Company	TEATT	See Holding	July 31, 2009
SMH Cruise Facilities	TEATT	See Holding	August 10, 2009
SMH Finance	TEATT	See Holding	December 21, 2011, amended on March 1, 2012
SMH Fueling Company	TEATT	See Holding	October 8, 2010
SMH Operations	TEATT	See Holding	December 21, 2011, amended on March 1, 2012
Sint Maarten Ports Authority	TEATT	See Holding	June 8, 1989, amended on July 31, 2009
Sint Maarten Seashore Development	TEATT	See Holding	December 18, 2012
Sint Maarten Ports Development	TEATT	See Holding	July 31, 2009
Simpson Bay Causeway	TEATT	See Holding	February 17, 2011
Simpson Bay Lagoon Authority Corporation	TEATT	See Holding	October 23, 2002, amended on April 8, 2010

Entity	Minister	Number of members required SB	Articles of incorporation
Sint Maarten Telecommunication Holding Company	GA	3-5	June 21, 2010
St. Maarten Telecommunications Operating Company	GA	See Holding	September 24, 2009
TELLCELL N.V.	GA	See Holding	September 24, 2009
TELNET N.V.	GA	See Holding	August 26, 2008 (merger with St. Maarten Telephone Company)
SMTCOMS	GA	See Holding	September 24, 2009