

Annual Report

2014



General Audit Chamber

Algemene Rekenkamer

June 2015

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Foreword

In this annual report for 2014, we outline the activities and achievements of our fourth year of operation.

The year 2014 proved to be a significant one for Sint Maarten. The first parliamentary election since the attainment of the status of Country was held late in the year. Integrity was a much debated and investigated topic in the public sector. For our institution, the General Audit Chamber, the past year was equally eventful.

In the initial years of operations, the General Audit Chamber published the results of primarily financial compliance audits. For 2014, reports based on performance and integrity audits were presented to Parliament and made publicly available. Our Baseline Study: Institutional Integrity Management was the first of three integrity investigations carried out within the public sector in 2014. This report was subsequently referenced and quoted by a number of entities and institutions.

With the variety of reports published in 2014, the General Audit Chamber demonstrated the ability to fulfill the scope of its legal mandate and was able to further contribute to the information stream that is required for proper public accountability.

The continued evolution of our productivity was in part supported by the positive results of previous years' efforts to strengthen the institution through recruitment of expertise as well as the investment in our staff. Our cooperative relationships with other audit institutions also were instrumental in achieving our productivity objectives, both in terms of the number of audit activities, as well as the quality of the published reports.

Improvement and production, however, does not occur for the sake of our institution. The work is a means to an end, which is to facilitate the growth of the process of accountability within the public sector. Accountability is legally imbedded in Sint Maarten's system of government. Parliament's authority to call government to account is a prerequisite within our democracy. Through our work, the General Audit Chamber strives to support Parliament. By expanding the number and types of investigations, we hope to provide Parliament with increased insight into public expenditure.

We strive to succeed in a similar fashion in the coming year, particularly because accountability is essential to the country's development. Although we are autonomous in our operations, our ability to successfully investigate is, in part, determined by the willingness and ability of others to comply with our requests for information. We will continue to invest in improving awareness regarding the importance of accountability.

Ronald C. Halman, MBA
Chairman

Joane Dovale-Meit, MA
Secretary-General

1. General

1.1. Overview

The General Audit Chamber is required by law, specifically, the National Ordinance General Audit Chamber, to submit a report, prior to July 1st, to the Governor and the Parliament, concerning our activities of the previous year. This annual report must include a review of the information arising from our investigations. Our report of activities and audits of the last year is meant to facilitate Parliament in terms of its supervision of government.

This annual report covers the period from January 1st, 2014, up to and including December 31st, 2014, and represents our fourth calendar year of operations.

We carried out investigations - usually referred to as audits - on a variety of topics in 2014. The General Audit Chamber is mandated to execute compliance, performance and integrity audits, and in 2014 at least one of each was initiated and/or completed. In keeping with the legal requirement, we published a report on our findings related to the audit of the Financial Statements of Sint Maarten (2013). In this compliance audit, we also focused on subsidies. In addition, we started work on the review of the 2012 Financial Statements of the pension fund (APS).

Our first integrity audit started late 2013 and in 2014 we published the results in a report entitled Baseline Study: Institutional Integrity Management. The report is based on our performance (value for money) audit regarding the Optimization of Tax Income, which was also published in 2014.

In preparation for other audit activities, among which the review of annual financial reports from political parties as mandated by the National Ordinance Registration and Financing Political Parties, we consulted with the Electoral Council.

We provided the newly elected Parliamentarians with a Master Class in October 2014, in support of building our relationship with Parliament.

Cooperative relationships with other institutions, among which the Council for Financial Supervision, the Advisory Council, the Netherlands Court of Audit, the Court of Audit of Curaçao and the SOAB were strengthened in the last year.

The pace of activity and the intensive training schedule kept the audit team busy.

In the following chapters, we provide details of these and other activities carried out in 2014. In chapter 2, we present details about our institution including our tasks and authorities. Chapter 3 provides information on the operational activities for the year 2014. Human resource management and development for the reporting year 2014 can be found in Chapter 4 of our report. Last but not least, we provide the financial review for our institution in Chapter 5.

2. The Organization

2.1. Position of the Institution

Article 74 of the constitution of Sint Maarten mandates that Sint Maarten will have an institution tasked with examining the effectiveness and compliance (financial and legal) of public expenditure. The manner in which the General Audit Chamber operates is set forth in the National Ordinance General Audit Chamber.

2.1.1. Tasks and authorities of the General Audit Chamber

Our institution falls into the category of High Council of State because of the autonomy we maintain in our relationship with Government and Parliament. This autonomy is regulated by law. The law provides for a broad degree of flexibility in the way we work. For example, to be able to examine the activities of government (in the broadest definition of the word), we must have access to information and this access is guaranteed by means of article 26 of the National Ordinance General Audit Chamber. The specifics about what we do, who we are, and how we operate, are found in this ordinance, as well as in the National Financial Accounting Ordinance.

Investigations, also referred to as audits, consist of three types:

- The **compliance (financial or legal) audit** of financial statements is an assessment of financial transactions and information reflected in the accounts prepared by the responsible persons (including accountants and managers of public funds). We also review whether management of the country's assets complies with regulations.
- The **performance audit** reviews broader management issues within government organizations or programs. With these investigations, we examine whether organizations or programs are achieving their objectives effectively, economically and efficiently. These audits are also called "value for money" audits because they seek to reveal whether there is value received for the money being spent.
- An **integrity audit** is a review into the administrative integrity of political or civil service officials in the execution of their functions and powers.

The findings of all our audits are recorded in reports and include our conclusions. Normally, our reports include recommendations that can be used by the organization that was investigated to address any shortcomings identified by the audit. More importantly, our reports are meant to facilitate Parliament in carrying out its supervisory task.

2.2. Strategy and Approach

The General Audit Chamber seeks to contribute to the improvement of the functioning of government and governance. We believe that government should always strive to be more effective and efficient in its use of public funds. Our points of departure are: accountability, efficiency and effectiveness of policy and management of government finances.

The General Audit Chamber has a level of autonomy vis a vis government. For example, we are free in our choice of audit topics, though there are a number of examinations that we are required to perform. For example, the law regulates that we review the annual financial statements of government. The same is true for the review at the General Pension Fund. The law also stipulates that we examine the financial reports of political parties (article 29 of the National Ordinance Registration and Finances Political Parties). Other topics of audit are chosen after an internal risk assessment.

Before choosing an audit topic, we identify, evaluate and estimate the risk associated with the topic.. For example, we assess:

- financial, social and environmental impact;
- urgency;
- our capacity to do the work; and
- our desire to cover a wide range of government programs and organizations.

It is important that the information we provide is useful, particularly in terms of facilitating Parliament's supervisory function.

2.3. Board

A three-person board is tasked with the governance of our institution; specifically, a chairman and two members. There is also a provision for deputy members to ensure there is continuity within the board. In June 2014, a new deputy member was appointed for a term of seven years. The other board members were appointed on October 15th, 2012¹.

Our board consisted of the following members in 2014:

- Mr. Ronald Halman, chairman
- Mr. Mark Kortenoever, vice chairman & member
- Mr. Alphons Gumbs, member
- Mr. Daniel Hassell, deputy member
- Ms. Sheryl Peterson, deputy member

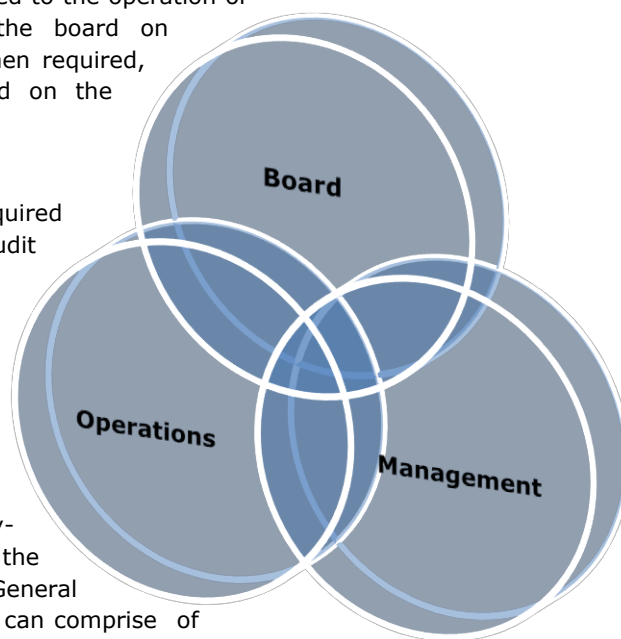
The board meets on a regular schedule, normally once every two weeks, and the meetings are conducted in accordance with the approved Rules of Order. In 2014, the board convened a total of nineteen times. Meetings include discussions related to the operation of the institution. The Secretary-General briefs the board on operational items as well as draft policy and, when required, the project leaders of audits inform the board on the progress of audits.

2.3.1. Remuneration

The remuneration of the board is regulated as required by article 8 of the National Ordinance General Audit Chamber. Membership is on a part-time basis. Expenses for remuneration are therefore limited to ensure sufficient resources are allocated to the core business of the General Audit Chamber.

2.3.2. Staff

Mrs. Joane Dovale-Meit is Secretary-General of the General Audit Chamber and has served in this capacity since December 2010. The Secretary-General is responsible for the operations of the institution (article 4 of the National Ordinance General Audit Chamber). The maximum staff complement can comprise of eight (8) persons, including the Secretary-General.



In 2014, the full time staff totaled five (5) persons, of which two were auditors. The audit team was augmented with a part-time Registered Accountant and an on-demand legal adviser.

2.4. Institutional development

Expanding the internal capacity of the institution continued to require creative solutions in 2014. The use of part-time staff as well as cooperation with other audit institutions proved essential in meeting the audit objectives during the year. For specialized audit work, experts were assigned as required.

2.4.1. Annual Work Plan

The work plan for 2014 was drafted by management in consultation with the audit team and presented to the board for approval. An audit plan was also developed and approved. The audit team developed this plan with input from the board. Our work plan outlined operational activities for 2014. Schedules and activities related to the daily operations were presented and prioritized. Activities included drafting of annual reports, quarterly reporting, training, communication, ICT and human resource planning. The latter was given a high priority, as this area remains challenging.

The audit plan listed all audits, required and optional, planned for the year 2014. The plan also outlined the audit framework, risks, schedule and cost estimates per audit. Our 2014 audit plan initially contained

¹ Term of appointment retroactive to August 23rd, 2012.

six (6) audits. Based on circumstances two audits were rescheduled. In addition, additional work from the year 2013 was carried over in the audit plan 2014.

In April 2014, the integrity audit entitled *Baseline Study: Institutional Integrity Management* was published, followed in May by the issuance of the report regarding the 2012 Financial Statements of Sint Maarten. The latter was delayed due to the late presentation of the financial statements by government (February 2014). The late presentation of the APS 2011 Financial Statements resulted in the publication of our results of our financial compliance audit in July 2014. Our performance audit report entitled *Optimizing Tax Revenue* was released in October 2014. We ended the year by issuing our report of the financial compliance audit of the 2013 Financial Statements of Sint Maarten. This last report was completed within the legally required timeframe and was published in December 2014.

Based on our initial audit planning, we expected to work on the review of the 2013 Financial Statements of APS. However, the board of the pension fund requested a postponement from the Minister of Finance in the issuance of the financial statements of 2013. Our planned review of VDSM's confidential expenditures did not take place in 2014. Initial investigations revealed that the confidential expenditure was not material in scope, and as such, did not justify the investment of our limited audit resources.

The pace of audit activity was higher than originally planned. Specifics regarding the audits are found in Chapter 3.

2.4.2. Governmental Relationships

Contact with Parliament in 2014 was limited. The Committee for Government Expenditures (*Commissie landsuitgaven CLU*) did not formally convene in 2014; however, the General Audit Chamber was requested to appear before the general assembly of Parliament in February. We provided a presentation of our operations, development and plans on February 27th. During that presentation, the General Audit Chamber clearly outlined the role and relationship with Parliament and urged the members to make use of the information contained within the various reports in the conduct of Parliament's supervision of Government. Following the Parliamentary elections of September 2014, the newly elected legislature was provided a Master Class entitled *Public Finance: an interactive examination of the laws, the roles, schedule, powers and responsibilities of Parliamentary budget authority*, on October 31st, 2014.



Given the intensive audit activity of the year 2014, contact with ministries, particularly the Ministry of Finance, was frequent. In general, the relationship with government remained professional.

2.5. Cooperation

The following is an overview of our cooperation with other audit and supervisory/advisory institutions during the year 2014.

The Netherlands

We arranged one mission in 2014 with the Court of Audit of the Netherlands. A senior researcher supported the audit team of the General Audit Chamber in finalizing two audits.

In addition, our Chairman represented the General Audit Chamber at the EUROSAI conference held in the Netherlands in June 2014. The Court of Audit of the Netherlands hosted the conference of European Supreme Audit Institutions. As the Court of Audit of the Netherlands was celebrating its 200th anniversary, colleague institutions within the Kingdom were invited to attend EUROSAI.

Council for Financial Supervision

We attended the bi-annual Financial Management workshops hosted by the CFT (*College Financieel Toezicht*) in February. During these workshops, information of mutual interest to the various entities involved in the financial cycle (Ministry of Finance of Curaçao Ministry of Finance Sint Maarten, CFT, SOAB, the Court of Audit of Curaçao and of course the General Audit Chamber of Sint Maarten) was discussed. In addition, we attended a separate conference of audit organizations organized by the CFT. The attendees included the SOAB, the Court of Audit of Curaçao, the General Audit Chamber and of

course the secretariat of the CFT. The focus during the conference was the audit function and audit activities.

Stichting Overheidsaccountants Bureau

We maintain frequent contact with the Government Accountants Bureau Foundation (*SOAB*). SOAB conducts the internal auditing of government necessitating close coordination of activities of audit activity and schedules, particularly in terms of the review of the financial statements.

The SOAB's Corporate University provided educational services in support of the training program for our staff. Their educational offerings are compatible with our training requirements given SOAB's knowledge of the government finances and the regulations. The training material for the Master Class workshop for Parliament was developed as a joint initiative between the SOAB and the General Audit Chamber.

Besides the contact among the professional auditors, the boards of the respective institutions met in March 2014. During the meeting issues of mutual interest and concern were discussed.

Other contact

Integrity was a focal area for a number of committees and institutions in 2014. The General Audit Chamber met with both the Committee Wit-Samson (*Commissie Integer Openbaar Bestuur Sint Maarten*), authors of the report "Doing the right things right" (July 2014), as well as the Steering Committee Oosting ("Integrity Inquiry into the functioning of the Government of St. Maarten" - September 2014).

The international agency, Transparency International (TI) was also engaged by government to conduct a National Integrity Assessment in 2014. Researchers from TI met with the General Audit Chamber first to introduce the assessment and team and thereafter to collect information. The role and functioning of the Supreme Audit Institution is included in the TI assessment. In the case of Sint Maarten, the General Audit Chamber is included. The final report of TI's National Integrity Assessment has not yet been published at the time of the writing of this annual report.

Representatives from the Ministry of the Interior Affairs and Kingdom Relations (BZK) paid a courtesy visit to the General Audit Chamber in November 2014.

3. Operations

3.1. Audits

The business of the General Audit Chamber is investigating the compliance and performance of public expenditure. In addition, we are mandated to conduct integrity investigations. In 2014, we issued reports for each of the audit types. The audit activities of 2014 are described below.

3.1.1. Integrity Audit: Baseline Study – Institutional Integrity Management

As part of our monitoring activities, reports about a number of integrity-related incidents in 2013 caught our attention. These incidents increased the focus on integrity in government. With our Baseline Study on Institutional Integrity Management we sought to contribute to the debate regarding the system of integrity management.



As integrity was a much discussed topic in 2014, we were aware of the issuance of a Royal decree dated September 30th, 2013, in which the Governor (as representative of the Crown) was instructed to commence an independent investigation into the integrity (proper and reliable) functioning of the public administration as appropriate to a country with democratic "rule of law". Government established an "Integrity Committee Public Administration Sint Maarten" (Wit-Samson committee), and separately announced its intention to have Transparency International execute a National Integrity Assessment.

Our work, which started late in the 4th Quarter of 2013, was completed in 2014 with the release in April of our final report. Our findings were based on the results of the catalogue (inventory) of regulations, the surveys (questionnaires) and interviews.

We concluded that in general:

- The basic "infrastructure" of organic legislation related to integrity management is in order.
- Few, if any formal regulations in the area of integrity are being implemented, though for some, limited implementation has recently started.
- Almost none of the ordinances requiring additional rules and regulations containing specific norms have been developed.
- Often, though not always, uniformity of implementation is not present at a ministry. Coordination of the interpretation and implementation of the National Ordinance substantive civil servant law is mostly absent within the civil service. There is no guarantee within the organization that there is equality in handling cases.
- To insure that there is equality in the actions of all competent authorities at the various ministries, norms and standards need to be further specified by means of "implementation regulations". Said regulations are mostly absent.
- About half of the persons surveyed were not familiar with the code of conduct for civil servants.
- It is unclear "who is responsible for which integrity topics within the civil service". In other words, there is a lack of clarity in terms of the responsibility and authority for integrity management.

In addition, we found:

- Many ambiguities and differences with regard to the procedures related to reporting suspected breaches of integrity;
- A lack of consistency of rules governing the relationship between civil servants and the press or Members of Parliament;
- Additional rules for compensation of travel and accommodation expenses were instituted as "policy guidelines" rather than the legally required form of a National Decree containing general measures;
- The process of public tender is very "integrity sensitive" and that additional norms and standards are lacking.

Unfortunately, we were unable to confirm certain elements such as:

- The existence of a regulation related to the acceptance of (small) gifts within government;

- The exact number of civil servant who had **not** taken the oath of office, since the oath taking was mandated by the Governor. The information provided suggests there are hundreds who haven't taken the oath of office;
- The exact number of risk analyses conducted related to activities and work processes vulnerable to integrity breaches;
- The degree to which funding of the Corporate Governance Council is properly arranged;
- The number of teachers (in public education) that have taken the oath of office;
- What, if any, measures are taken in the event of excessive use of government issued mobile phones.

As a result of our findings and conclusions, we recommended that government focuses on "hard controls" related to integrity management and specifically, the implementation of important integrity legislation and the development of the (required and many) implementation regulations. We suggested that a "fast-track" was needed for certain regulations, for example, by means of the establishment of a technical task force assigned the job of drafting legislation.

Furthermore, we advised incorporating the norms for which legislation does not exist (for example "revolving door schemes", acceptance of gifts, compensation for business travel with spouses (partners), compensation for extended business travel, compensation for professional certification and training, subscriptions to professional organizations/journals) into Codes of Conduct. Moreover, we recommended review of the Code of Conduct for Civil Servants and that the Code is provided a "status", for example, by enacting the Code by means of a Ministerial Decree or a National Decree.

Finally, we suggested that a campaign is needed (in short order) to eliminate the backlog of civil servants who have not yet taken the oath of office, and to include the teaching staff of public education. Due to the vulnerability related to public tenders or granting of contracts, we suggested prioritizing the development of the National Decree containing general measures as required by article 47 of the National Financial Accounting Ordinance.

3.1.2. Financial Compliance Audit: 2012 Financial Statements Sint Maarten



The 2012 Financial Statements of Sint Maarten should have been prepared by September 1st, 2013. Unfortunately, the financial statements were presented five (5) months after the date stipulated by law. We started our audit using preliminary data and upon receipt of the approved financial statements, we completed our review of the financial and material management of the ministries of Sint Maarten. We also evaluated whether the information contained in the financial statements regarding the finances and policy at the ministries was conducted in compliance with regulation and whether the financial statements were a true reflection thereof. In our reporting on the 2012 financial statements, we provided a comparative review with the results of the previous year's audit with the goal of illustrating the degree to which improvement had taken place.

The most important conclusions of our review of the financial statements 2012 were that:

- The financial information contained in the financial statements 2012 of Sint Maarten did not meet the requirements stipulated in the National Financial Accounting Ordinance (CV) and the National Ordinance General Audit Chamber;
- Operational Management was not 'in control';
- There was insufficient informational value contained in the financial statements.

We identified serious and substantial weaknesses that influence the internal control, and as a result, financial management of government. The absence of controls led to the presence of errors and uncertainties in the financial statements, as well as comprehensive budget over- and under spending. Despite a few positive developments within the 2012 Financial Statements, ministries of Sint Maarten were not 'in control' of their operations.

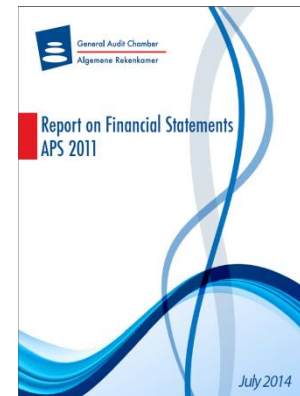
The financial statements did not contain sufficient information to allow users to form an opinion regarding the implementation of policy intentions and the management thereof. Because of these findings as well as the lack of significant improvement over the previous year, we noted that we would

consider making use of our right of objection, particularly if improvement remained absent in subsequent year's financial statements.

3.1.3. Financial Compliance Audit: 2011 Financial Statements APS

The assignment to review the General Pension Fund Sint Maarten (*Algemeen Pensioenfonds Sint Maarten* – APS, the Fund) is set forth in article 26 of the National Ordinance General Pension Fund Sint Maarten (Lv APS; AB 2013, GT nr. 65). Article 18, paragraph 10 of the National Ordinance General Pension Fund Sint Maarten requires that the General Audit Chamber submit the audited annual accounts (financial statements) along with comments to Parliament and the Minister.

The Board of the Fund was required to submit its approved 2011 financial statements as well as its annual report- including the independent auditor's report of the fund's external auditor- prior to November 1st, 2012, to the Minister of Finance, the Central Bank and General Audit Chamber. The Board of the Fund submitted the financial statements 2011 to us by letter of June 21st, 2013.



An external auditor audited the Fund's financial statements 2011. We conducted a thorough review of the audit performed by the external auditor. For the aspects relating to the actuarial assumptions in determining the pension obligations of the Fund, we were assisted by an external actuary.

We expected to complete our work in 2013; however, due to this audit being the first at the Pension Fund, work progressed at a slower pace than anticipated. Both parties, APS and the General Audit Chamber, labored to find a suitable working relationship.

Our audit focused on three main areas:

- the review of the financial statements;
- legal compliance; and
- governance, compliance and risk management.

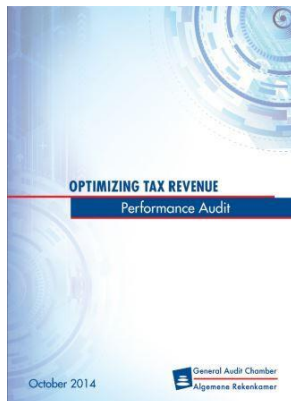
In terms of the financial statements, we concluded that there were substantial uncertainties in these statements regarding the division of assets of the former Netherlands Antilles, the completeness of the participant administration and the substantiation of the principles for the calculation of the pension obligation as well as the APC debt. We therefore refrained from issuing an opinion as to whether the financial statements provided a true and fair view of the financial situation of APS. We also were unable to conclude that the financial position as of December 31st, 2011 was healthy.

For the element of legal compliance, we found that formal decision-making regarding the Fund's organization, such as the appointment of a complete Board, was not taken in a timely fashion. In addition, the financial statements for 2011 and 2012 were not prepared in a timely fashion. There was no investment plan developed for 2011 nor for 2012. These findings are not compliant with the National Ordinance General Pension Fund Sint Maarten.

As such, we concluded that from the inception of the Fund on October 10th, 2010, up to the time of our audit, a number of legally required organizational requirements were not met. We were also unable to confirm whether the Central Bank's supervision of the Fund was in compliance with the National Ordinance General Pension Fund Sint Maarten.

In the area of governance, compliance and risk management, we determined that the supervisory activities related to the implementation and internal review of the investment policy were inadequately structured and inconsistently documented. As a result, it was not possible for us to determine if supervisory activities and the internal review thereof were adequately carried out. The General Audit Chamber was not able to form an opinion regarding the supervision of the Fund by the Central Bank during the years 2011 and 2012.

3.1.4. Performance Audit: Optimizing Tax Revenue



One of our tasks is the examination of the efficiency of the management of money and material, the organization, and the functioning of the government departments of the country. In this context, we initiated an audit of the “efficiency of the reform of the tax system and tax revenue compliance”. The results would ultimately contribute to the societal need for a fair and balanced fiscal system and a professional, customer-oriented and impartial Tax Department.

The basis for our review were the five objectives listed in the 2011 Budget: (1) improvement of tax assessment and collection, (2) simplification of the tax system, (3) harmonization of the tax system with French Saint Martin, (4) increasing compliance and eliminating free-riders, (5) review of the Tax Holiday facilities.

Not all of the measures related to the initial five policy objectives for optimizing tax revenue were implemented and achieved. We found that there was little or no attention given to the objectives of harmonizing the tax system with French Saint Martin, eliminating free-riders and reforming the Tax Holiday facilities. The focus was directed on the other objectives:

- the improvement of assessment and collection;
- simplifying the tax system; and
- increasing compliance.

An important condition for the realization of these objectives was the ‘upgrade’ of the Tax Department. This same Department is tasked with the execution of most of the improvement measures.

The Tax Department, by its own admission, cannot properly function without sufficient qualified staff and management personnel and certainly could not independently implement the required change process. Despite the use of external support and issuance of various reports, substantial elements required to strengthen the organization of the Tax Department were not achieved. The Inspectorate, the Receiver and the Audit and Criminal Investigation Department (*Controle en Opsporing*) continued to operate as separate entities (individual “islands”). Staff, resources (including housing) and systems were not integrated.

In terms of determining the performance, we found that costs associated with assessment and collection activities actually increased slightly and compliance, based on estimates provided, had significantly declined. We found that the result of tax audit activities was very difficult to determine due to mismatched systems and the absence of a comprehensive overview. Providing an answer to the question ‘how actual costs relate to budgeted costs’ was not possible.

Our findings led us to issue the following recommendations:

- Draft budgets in a more policy-based manner;
- The Plan of Action for the Integration and Strengthening of the Tax Department Sint Maarten (*Plan van Aanpak Project Integratie en Versterking Belastingdienst Sint Maarten*) should be adopted. This plan is based on the following point of departure: first complete the organizational reform of the Tax Department, specifically the integration of the organizational units of the Department, the integration and renewal of ICT-systems and housing the organization in a single location; then address the reform and simplification of the tax system;
- Draft additional rules regarding the execution of tendering (procurement) procedures as required by article 47, paragraph 6 of the National Financial Accounting Ordinance (*Comptabiliteitslandsverordening*). These rules are not yet drafted and as such, there is no guarantee that procurement is carried out in a transparent, objective and non-discriminatory fashion. Moreover, there is no definition governing when exceptions in the public interest are possible.

The issue of public tendering was also noted in our baseline study on institutional integrity.

3.1.5. Financial Compliance Audit: 2013 Financial Statements Sint Maarten

The Financial Statements for 2013 of Sint Maarten were presented within the legally required timeframe. As such, we reviewed the documents and found that the financial information did not conform to the requirements as stipulated in the National Financial Accounting Ordinance and the National Ordinance General Audit Chamber.

In this regard, we concluded that there were serious and significant deficiencies in terms of the internal control and in the financial management. These resulted in material errors and uncertainties in the financial statements as well as major budget overruns and budget underruns. Moreover, there were uncertainties due to the lack of information needed to verify the accounts. We were of the opinion that the absence of the information (documents, specifications, explanatory notes, etc.) was both avoidable as well as irresponsible. In our opinion, most errors and uncertainties are easy to correct, and in the future the financial statements could be drafted free of errors and uncertainties.

As was the case with the previous year's financial statements, we found that the ministries were *not* 'in control' in terms of their operations. In terms of the informational content of the financial statements, we concluded that it was deficient. For example, the annual report of the Minister of Finance provided insufficient information to Parliament regarding the effectiveness of public expenditures.

Because we investigated subsidies as part of our review, we were able to determine that ministers hardly, if ever, check whether the granting of subsidies occurred in accordance with the General Subsidy regulation.

In terms of accessing whether progress was taking place year over year, we determined that of the 10 elements we identified in our audit of the 2012 Financial Statements, as objectionable, 6 had been (partially) solved. Although these improvements had, after careful and lengthy deliberation, led us to reconsider issuing an objection on the statements of 2013, we maintain that priority should be given to further reform of the financial management. Case in point was the uncertainty regarding the legitimate use of at least ANG 220,000 of the Crime Fund. We remain very concerned about the financial management of said Fund.

Given the findings based on our audit of the 2013 Financial Statements of Sint Maarten, we issued the following opinion:

The 2013 Financial Statements of Sint Maarten do not meet the requirements and standards as required by the National Financial Accounting Ordinance and as such, the SOAB was justified in issuing a negative opinion in their audit report of these financial statements.

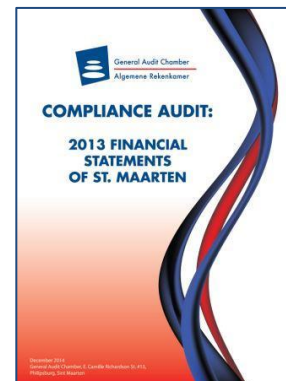
Although we provided a series of recommendations in our report, the one that is most significant relates to the development of a realistic plan by the Minister of Finance to ensure that the deficiencies we identified in terms of the financial management are resolved within a few years.

This plan should be presented by June 2015.

3.1.6. Financial Compliance Audit: 2012 Financial Statements APS

As stated under 3.1.3, The National Ordinance General Pension Fund requires the General Audit Chamber to review, among others, the financial statements. These should be prepared by a specified date. In our planning, we expected to commence our work in November 2013 on the 2012 Financial Statements. The board of APS presented us with the 2012 financial statements by letter dated August 12th, 2014.

We made use of the audit work carried out by the external auditor of APS. However, in doing so, we need to obtain a reasonable degree of surety regarding the reliability of the accounting information and the legal compliance of the APS. For this, the General Audit Chamber is expected to act as efficient as



possible. On the basis of our specific task and responsibility, the General Audit Chamber forms an opinion regarding the work carried out by others.

In our audit of the 2012 Financial Statements of APS, we sought to answer two audit questions:

- Are the 2012 Financial Statements of the General Pension Fund drafted in accordance with the stipulations of the National Ordinance General Pension Fund and the International Financial Reporting Standards? In addition, is the information contained in the statements regarding the financial position and the financial results accounted for in a reasonably reliable fashion?
- Has APS operated in compliance with:
 - a. The National Ordinance General Pension Fund and other related stipulations and guidelines?
 - b. The National Ordinance Civil Service Pensions (*Pensioenlandsverordening overheidsdienaren*, PB 1997, no. 312) and other relevant laws and regulations, in as much as these are present?
 - c. National Ordinance Corporate Governance (AB 2013, GT no. 19)?
 - d. Policy and Guidelines of the Central Bank of Curaçao and St. Maarten?

Similar to our review of the 2011 Financial Statements of APS, we reviewed legal compliance and governance, compliance and risk management in addition to the financial audit. For our review, we were assisted by an external actuarial expert.

The formal fieldwork was completed late in November 2014 and the first draft of the Memorandum of findings was completed in December 2014. In our annual report for 2015, we will report more extensively on the findings.

3.2. Advisory/consultative activities

A new cabinet was formed late 2014. The Parliamentary elections held in September 2014 resulted in a coalition being formed and the appointment of five ministers. There was intense scrutiny from the Kingdom Government in terms of selection and screening of ministerial candidates, partially as a result of the findings reported in a number of integrity investigations.

Part of the process of appointing ministers is regulated in the National Ordinance promotion of integrity of ministers (*Landsverordening integriteitsbevordering ministers*, AB 2010, GT no. 22). The General Audit Chamber provides advice to the Prime Minister (article 3 paragraph 2) regarding "*commercial interests, secondary positions and secondary activities are undesirable in the interests of proper performance of the office of minister or the preservation of the impartiality and independence, or of confidence therein*".

We received no requests for advice related to this ordinance in 2014.

Based on the National Ordinance Registration and Finances Political Parties, the General Audit Chamber is tasked with the review of the financial reports submitted to the Electoral Council by political parties. In anticipation of that assignment, we prepared a draft audit protocol for discussion with the Electoral Council.

Article 43 of the National Ordinance General Audit Chamber requires that we receive information from the Minister of Finance of all monetary loans. Documents of these obligations are required to be proof of registration by the General Audit Chamber. During 2014, we initiated contact with the ministry of finance to properly develop the process related to this requirement. We issued a proposal to the ministry.

3.3. Operational Activities

To be able to properly carry out audit work, the General Audit Chamber relies on operational activities in support of the functioning of our institution. We describe the activities of significant impact to operations below.

3.3.1. ICT

We use modern information systems and technologies as productivity multipliers. The Office Productivity & Information Management (OP&IM) is a system that is tailored to our needs but based on standardized information platform (Microsoft SharePoint). The system supports and facilitates the work of our audit team and also allows for the most of our operational processes to be automated. Through secure online access, our staff can work off-site and collaborate with colleagues or experts who may be based in other countries.

Furthermore, we manage almost 100% of document traffic within the system. Documents are registered and scanned into the system and accessible to users. Data is managed and stored within the system. Our basic financial administration is carried out using the OP&IM, as well as the maintenance of personnel records. The system garnered the interest of other institutions in 2014, including the Court of Audit of Curaçao.

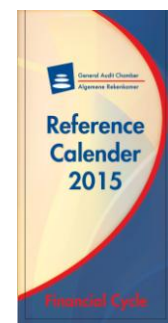
Limited hardware upgrades were implemented in 2014 though in future modernization of PC's and other ICT equipment will be necessary.

3.3.2. Communication

We generate information as a result of our audit activities. Our reports are, in first instance, issued to Parliament in support of their supervision of government. Thereafter, the reports are made public. We also are required to produce yearly reports. In addition to these items communication activities for 2014 included:

Master class

Given the Parliamentary elections of 2014, we contacted Parliament and offered to provide a workshop to the members. The *Master Class Public Finance: an interactive examination of the laws, the roles, schedule, powers and responsibilities of Parliamentary budget authority* was held on October 31st, 2014. Eight members of Parliament attended the Master Class. Relevant laws, the Kingdom Law on Financial Supervision and best practices were reviewed and discussed in a lively interactive session. We produced a reference calendar of important data related to the financial legislation for the Master Class which was distributed to both members of Parliaments as well as members of the Council of Ministers.



Media Contact

As has been our custom, after our reports are presented to Parliament, we issue press releases to the media and make our reports public (hard copy and via our website www.arsxm.org). This was done for every report issued in 2014. These press releases are available on our website.

School visits

We also received a request from a local secondary school, the St. Maarten Academy, to provide a presentation regarding our institution for a class on government. This presentation was provided in January 2014.

4. Human Resource Development & Management

The ability of the General Audit Chamber to investigate and report is dependent on our audit team and support staff. The activities for 2014 are outlined below.

4.1. Personnel

4.1.1. Staffing

Based on the current staffing plan the General Audit Chamber's staff complement is set at a maximum of eight (8). Staffing levels for 2014 remained on par with previous year, i.e. we maintained five (5) persons on staff for most of the year. We also maintained part-time "on demand" expertise by contracting a legal expert as well as a Register Accountant. The following table provides an overview of the staffing levels at our institution.

General Audit Chamber	
Function	Status
Secretary General	Full time
Senior Auditor	Full time
Auditor	Full time
Legal Advisor	On demand
Registered Accountant	Part-time
Policy Officer	Full time ²
Administrative Officer	Full time ³

4.1.2. Turnover

Late in 2014, two staff members resigned. Recruitment activities to replace both persons were started.

4.1.3. Management

As our organization is relatively small, the hierarchy is fairly flat. Management of operations is the responsibility of the Secretary-General who also serves as Secretary to the Board.

4.1.4. Activity levels

As evidenced by the review in Chapter 3, audit activities were intense in 2014, resulting in the publication of four reports. One audit carried over into 2015 though the bulk of the fieldwork was completed in 2014.

4.1.5. Training

Audit work demands that those working in the field maintain and improve their skills and knowledge on a regular basis. Furthermore, the General Audit Chamber is committed to insuring that the capabilities of our audit team continue to develop. Several training and educational activities were programmed for 2014. The following table provides an overview of all training opportunities provided to members of staff.

Course	Date	Participants
Use of OP&IM	Continuous	All
Auditing Subsidies ("controle subsidies")	July	Auditors ⁴
Professional supervision for independent auditors	September	Senior Auditor
Auditing methodologies ("controlesystematiek")	November	Auditor

² The policy officer resigned effective September 15th, 2014.

³ The administrative officer resigned effective November 28th, 2014.

⁴ The training was also made available to civil servants from the Ministry of Finance and to all Financial Controllers of the ministries

In addition to formal courses, our staff was encouraged to participate in workshops, seminars and lectures held throughout the year. For example, staff members participated in workshops and lectures on tax planning, pensions, corporate governance and the electoral process in 2014.

4.1.6. Performance management

Performance agreements were prepared in the beginning of the year and the cycle of interim review and final evaluation took place with staff.

4.1.7. External Support

While our ambition is to be able to be fully self-supportive in terms of the execution of audit activities, the reality is that in 2014, the work on strengthening the institutional capacity remained challenging. Our priority was, and continues to be, high quality research and meeting legally required deadlines for mandatory audits. As such, we made use of external expertise primarily from other audit institutions. As we have in prior years, we arranged a mission for a senior researcher from the Court of Audit of the Netherlands. Our “part-time” on demand members of the audit team were also used for the conduct of audit work. For the review of the financial statements of the General Pension Fund, we sought assistance from an actuarial specialist and IFRS-certified registered accountants. We believe that our strategic use of external experts was instrumental in maintaining our audit schedule, and given the broad scope of government, we need to remain flexible in terms of deploying the appropriate expertise depending on the audit type. We will continue to use external specialized skillsets, when necessary, in support of our audit activities, in a cost effective manner.

5. Financial Reporting

In the following sections we provide an overview of the implementation of our budget for the year 2014.

5.1. Budget 2014

The National Ordinance General Audit Chamber requires that the Chairman undertakes the financial management. Limited financial management authority was mandated to the Secretary-General for the conduct of normal operations. Quarterly reports regarding the use of the mandate were provided to the board by the Secretary-General during 2014.

Our budget represents a chapter in the annual budget of Sint Maarten. Our institution's budget is outlined the Chapter, *Parliament and High Councils of State*. In 2014, we were asked to reduce our budget by an amount of ANG 50,000 as part of a general budget cutting exercise to achieve a 'balanced budget'. As we determined that the requested adjustment would not materially affect operations, we adapted our budget to reflect the reduction as proposed by the minister.

In 2014, we continued to use the Service Level Agreement (SLA) between the High Councils of State and the Minister of General Affairs and Minister of Finance. This SLA outlines the activities provided to us by the aforementioned ministries. For example, the general financial administration continues to be carried out by the Finance Department.

5.1.1. Budget Realization 2014

Because the government's financial statement for 2014 is not due until September 1st, 2015, the following information has not been subject to audit and the results are provisional.

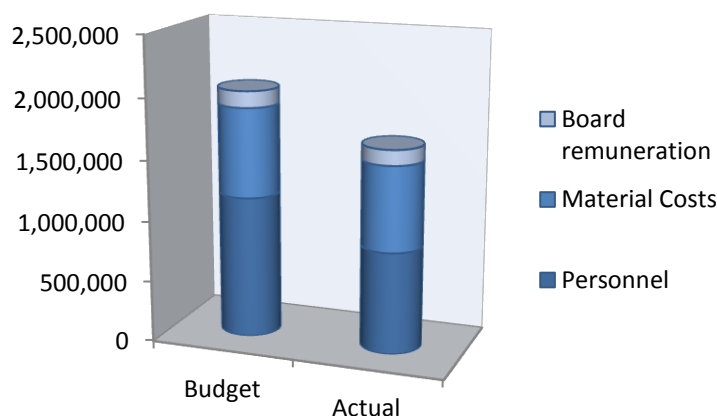
Budget item (ANG)	Budget 2014	Actual Expenditure	Balance	Realization (%)
Personnel Expenditures	1,165,441	834,430	331,011	72
Remuneration Board	134,400	125,800	8,600	94
Material costs, goods & services	735,000	698,574	36,426	95
Total	2,034,841	1,658,804	376,037	82

Overall, the budget realization was 82% of the budget. There was no budget overrun for 2014 despite the fact that the budget total was reduced by an amount of ANG 50,000.

Resignation of two members of staff as well as the slow pace of recruitment resulted in under spending of the personnel budget by approximately ANG 331,011.

Material costs of goods and services remained constrained partially due to the smaller staff size. For example, training expenditures and use of utilities were directly related to the size of personnel and hence, the level of consumption.

Delays in some audit activities, particularly the investigations at APS (2012 financial statements), led to additional costs. Given that external expertise was required for this audit, additional costs were incurred (see table on next page). By shifting among budget items, we were able to accommodate for the unforeseen expenditure.



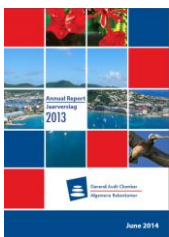
In the future, similar delays could prove to be challenging because when audit activities are not completed on schedule and carry over into the next year, the subsequent budget and audit plan can be

affected. Circumstances in 2014 resulted in lower than anticipated expenditures allowing us to adjust our budgets and plans to accommodate the delays. Timely receipt of information from entities subject to audit is, however, always preferable.

The following table provides a breakdown of the material costs, goods & services for the year 2014.

Budget item (ANG)	Budget 2014⁵	Actual Expenditure	Balance
41204 - Travel & accommodation	49,000	46,123	2,877
43101 - Electricity	20,000	12,468	7,532
43401 - Office Supplies	16,000	14,886	1,114
43403 - Books & Subscriptions	10,000	7,609	2,391
43420 - Water	4,500	3,013	1,487
43430 - Building maintenance	1,000	0	1,000
43439 - Other maintenance	2,500	1,647	853
43440 - Rent	89,000	86,904	2,096
43450 - Insurance building	5,000	4,232	768
43471 - Telecommunication	20,000	7,857	12,143
43472 - Courier & telegraph services	1,000	105	895
43474 - Representation	15,000	11,530	3,470
43476 - Legal & advisory services	406,000	432,784	-26,784
43480 - Training and education	50,000	32,915	17,085
43491 - Security	2,500	727	1,774
43499 - Other goods & services	42,000	35,112	4,008
43511 - Cleaning materials	1,500	663	837

5.2. Statement 2013



In our report for the year 2013, unaudited data had to be used because our reporting deadline precedes the issuance of the government's financial statements for the year in question.

As the 2013 financial statements have been audited, we present the summary of our operational expenditures based on the audited statements 2013 for the sake of completeness.

As we anticipated, there were no material restatements.

Budget item (ANG)	Budget 2013	Reported Expenditure	Actual Expenditure	Difference	Variance (%)
Total	1,980,636	1,633,366	1,626,192	7,174	0.4

⁵ The budget amount shown represents the end of the year budget item allocation. Revisions were made during the year within this economic category (material costs) to accommodate operational changes.



General Audit Chamber

Algemene Rekenkamer