

STATEN VAN SINT MAARTEN		
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Par.	✓	✓

Philipsburg, October 7, 2019

To:  
The President of the Parliament of St. Maarten

Your ref.: UV/128/2018-2019  
Our ref. : 443-19B/JUS

Re: Draft National Ordinance amending the Penal Code

Government hereby sends Parliament its response to the report No. 5 of the Central Committee meeting of September 12, 2019 on the Draft National Ordinance amending the Penal Code in connection with the implementation of some urgent international obligations<sup>1</sup>, hereafter referred to as: the Draft Ordinance.

Parliament in its meeting of the Central Committee has exchanged views with the Government on the Draft Ordinance and considers the present draft to be adequately prepared when the questions in aforementioned report are answered in time for the public meeting so that the Draft Ordinance can be discussed in a public meeting.

Government has taken good note of these questions. It must be understood that almost if not all questions have already been answered, both orally and in writing and also substantiated with other documents, during and after the sessions with Parliament's Central Committee. This reaction of Government to Parliament's report should therefore be read, understood and comprehended together with all the spoken (which have been on record) and written material of the former sessions with Parliament on this Draft Ordinance. This material should be regarded as entirely inserted and repeated here.

It is Government's hope that Parliament will soon approve this Draft Ordinance in the public meeting. With the approval St. Maarten will be one step closer to be fully compliant with the FATF recommendations and, therefore, may be able to avoid being publicly listed as a jurisdiction with weak measures to combat money laundering and terrorist financing (AML/CFT).

Pursuant to FATF Recommendation 19, there are two (potential) consequences of being publicly listed. This recommendation reads as follows:  
*"Financial institutions should be required to apply enhanced due diligence measures to business relationships and transactions with natural and legal persons, and financial institutions, from countries for which this is called for by the FATF. The type of enhanced due diligence measures applied should be effective and proportionate to the risks. Countries should be able to apply appropriate countermeasures when called upon to do so by the FATF. Countries should also be able to apply countermeasures independently of any call by the FATF to do so. Such countermeasures should be effective and proportionate to the risks."*

<sup>1</sup> Ontwerp van Landsverordening tot wijziging van het Wetboek van Strafrecht in verband met het doorvoeren van enkele dringende internationale verplichtingen.



Government wants to emphasize that these enhanced due diligence measures and/or countermeasures can have far reaching financial-economic consequences for not only individuals or financial and non-financial companies, but also for government and, therefore, for society as a whole.

*a.l.* Yours Sincerely,  
Minister of Justice

A handwritten signature in blue ink, appearing to be 'A. L. Smith', written in a cursive style. The signature is positioned below the typed name 'Minister of Justice'.