



STATEN VAN SINT MAARTEN

Ingek. 02 FEB 2020

Volgnr. 15/351/20-21

Par. GR

PRIME MINISTER OF SINT MAARTEN
Minister-President van Sint Maarten

Philipsburg, February 2, 2021

The President of the parliament of Sint Maarten
Mr. Rolando Brison
Wilhelminastraat #1
Philipsburg, Sint Maarten

Subject: Presenting the Note following the Final Report of Parliament on the Temporary National Ordinance on the standardization of top incomes and adjustment of employment conditions at (semi)public sector entities.

DIV# 11253/A

Honorable President of Parliament,

Please find attached the note following the final report on the above-mentioned draft temporary ordinance.

I trust to have informed you sufficiently.

Sincerely,




Silveria E. Jacobs
Prime Minister of Sint Maarten
Minister of General Affairs



GOVERNMENT OF SINT MAARTEN

Prime Minister and Minister of Finance of Sint Maarten

January 25th 2021

NOTE FOLLOWING THE FINAL REPORT

Parliament in its meeting of the Central Committee has exchanged views with the Government on the Draft National Ordinance on the Temporary National Ordinance on the standardization of top incomes and adjustment of employment conditions at (semi)public sector entities.

Parliament considers the present draft to be sufficiently prepared if the questions asked below are answered in time for the public meeting so that the draft can be discussed in a public meeting.

In order for Parliament to consider the present draft to be sufficiently prepared, so that the draft can be discussed in a public meeting, Parliament is hereby provided with the answers to the questions stated in its final report.

The text of the questions as stated in the final report is expressed in black, while the text of the answers are provided in blue and brown.

MP Buncamper

- 1) In which law are the teachers taken up as in one law we talk about “onderwijspersoneel as stated in the education law” and in the other law we talk about “a group of entities that are provided with a subsidy of more than 50% of their budget which also covers all teachers by all schoolboards that are subsidized”.
 - a) Are we talking about the same persons in 2 different laws and if not can this be clearly shown that they are different?

ANSWER: Teachers and school personnel of public and (semi)public schools are considered education personnel in accordance with article 1 sub 3 of the ‘*Bezoldigingslandsbesluit onderwijs*’ (National decree Remuneration Education). And as such, are considered to be ‘overheidsdienaren’ in accordance with the *Tijdelijke landsverordening COVID-19 bezuinigingen arbeidsvoorwaarden overheidsdienaren*.

This particular law is regulating the reductions as it relates to the top income earners (schoolboards/ management) of educational institutions as well as other employees of (semi) public entities who do not fall under the Tijdelijke landsverordening COVID-19 bezuinigingen arbeidsvoorwaarden overheidsdienaren, to be discussed under agenda point 3.

- b) Which union representatives were spoken to and negotiated with when coming to an agreement, were the personnel involved?

ANSWER: The Committee for Civil Servants Unions were consulted during the Consultative Meetings held back in May of last year. Though the CCSU did not render an advice on these amendments and temporary laws as proposed. Respectfully, MP, I'd like to go into this when we're presenting the National Ordinance regarding the Cost Cutting Measures to be applied to the Civil servants.

- c) Are the CLA's presently in effect being respected or did we use the overriding authority to discontinue such?

ANSWER: MP, this is a specific question, however, I would have to have more information in order to answer this question effectively. All Government Owned Companies and entities were updated by the Council of Ministers as it relates to these proposed cuts. In principle this is a matter between the employer and the employees. In case of any individual labor disputes, parties can always object or appeal.

- 2) Most companies do not truly pay dividend to the government and the question is why make people cut salaries if it means nothing to the government coffers qua dividend, but yet government must lose tax income from the wages in particular?

ANSWER: The lowering of salaries will lead to lower payroll premium and taxes. This will directly impact government revenue and that of SZV. On the other hand, lower expenses during this unpredictable economic period, should be considered prudent at this time and in the medium to long term reduce government risk of having to step in to assist financially.

- 3) What is exactly happening with retroactive part of the solidarity part?

ANSWER: In the explanatory notes it is stated on page 7 article 5, second paragraph: (semi)public sector entity has the freedom to apply the 12.5% reduction on the employment. They may follow the implementation of government, but they may also deviate as long as the employment packages are reduced with 12.5%. The reduction of the implementation of the entities must be published by the relevant ministers within 6 months after this ordinance goes into effect.

- 4) All regulations mention that the minimum wage will be the measuring stick for the lowest we can go, what about living wage?

ANSWER: The reference to the minimum wage in this context does not relate to the ongoing discussion about the minimum wage in St. Maarten, as it should not be considered a livable wage based on the cost of living. This minimum wage, however, was an acceptable minimum threshold for Cft and thus the Kingdom Council of Ministers.

For the record, none of the cuts affected base salaries of civil servants other than the top 10 earners, as will be explained further during the presentation of agenda point 1.

- 5) What is the timeframe of the effectiveness of the temporary ordinance, this is a temporary law, but how long? Then the answer is for an undefined period.

ANSWER: As the title reads it is a temporary law. The law includes an article allowing for the end date to be established by National Decree, as such there will be no need to come back to Parliament for this purpose.

Honorable MP, question 6 have been sent to WINAIR who will provide the Council of Ministers with an update and an overview of their execution of the Cost Cutting Measures. Once this has been done, these answers will be provided to the Honorable Members of Parliament in writing, please see the answers provided.

- 6) When I read in the papers that the government owned company Winair imposed a 25% cut in salaries where was the government?

a) To state that such isn't legally possible seeing the agreements on the table for the law is 12.5%. **ANSWER:** Winair is free to apply stricter measures as long as they maintain the 12.5% cut in salaries for personnel and the Jacobs norm for the management structure. In addition please see the response received from Winair:

Because 100% of Winair's revenues had been interrupted during shutdown, the company planned and enacted measures immediately to safeguard its existence and without this course of action, reserves would have been exhausted and bankruptcy would have been imminent. This was done independent of and well in advance of any arbitrary amounts of proposed salary/cost reductions measures brought about by the Netherlands liquidity support requirements. We were guided by Article 8.7 of our labor agreement when enacting this 25% cut in work hours resulting in a 25% cut in salaries. In solidarity, the managing board and supervisory board also took a 25% cut in salaries for the duration.

b) Why did the government allow the workers to be informed on April 29th that on April 30th they salary would be cut by 25%? **ANSWER:** Please see previous answer. In addition please see the response received from Winair:

Notice was given on April 29th as WINAIR had to wait for the legal opinion prior to notifying the various work groups. Once the legal advice was given, the notice was sent out to the affected parties. This was a business decision which required immediate action, and there were no guidelines provided under these unprecedented and trying times.

c) The CLA is an agreement between the company and the union and not the company and employees. Why did the government allow the company to break the law and say nothing? **ANSWER:** If the CLA's are not in line with the measures, then the employer will need to

engage with the Unions to come to new and or adjusted CLA's. In addition, please see the response received from Winair:

WINAIR informed both unions prior to these financial measures being implemented and although not happy with the short notice they concurred that measures needed to be taken immediately. SBOD and legal team were advised prior to any invoking of Article 8.7 of the CLA.

d) The CLA clearly states that only the months of September and October workhour cuts can be made yet the opposite happens? Please see the response received from Winair:

Article 8.7 invokes low season and is applicable under circumstances when revenues fall below stated threshold. As 100% of WINAIR's revenue had stopped these are and continue not to be normal conditions. We also informed both unions that these measures would remain in effect for 12-18 months, they cannot say they were not informed.

e) How can it already be decided that cuts are for some 12-18 months while the law states different? Please see the response received from Winair:

Our decision was based on unprecedented aviation industry conditions which remain true today. These factors are affecting all airlines worldwide with experts predicting 18-24 months before the industry will return to some degree of normalcy.

f) Are we allowing cuts in working hours versus cuts in the personnel packages even when we have a CLA or contracts? **ANSWER:** Winair and all other (semi) public entities remain free to determine how they will apply the minimum cut of 12.5%.

Yes, we have reduced pay commensurate with hours worked, no personnel are in fact working without being paid. Personnel were also paid when complete shutdown occurred and were not required to work during this period, again these were not normal conditions. Please note that in spite of the precarious financial situation in Q4 2020, the employees received all of the backlogged dues to them such as vacation allowance, training allowance, cessantia, extra hours worked, etc.

g) I understand that airlines have it difficult but if we are in so called solidarity why a loan against land at our airport? Why not the government having one of its companies grant that loan? **ANSWER:** As was stated before, Government explored all options possible for financial support. If the proposal of the Honorable MP was viable I'm sure this would have been done. I would reserve the further elucidation for the Honorable Minister of Finance if there's anything I missed. In addition please see the response received from Winair:

- 1. Whether it is a banking institution, another government owned company, or other financial institution or investor, the obligations to the shareholders/owners would still require security to be in place to satisfy the risk management of the lenders balance sheet, so regardless, a loan to Winair by another government owned company would have to have the same or similar securities in place in exchange for funding.*

2. *WINAIR sought capitalization or financing from the shareholders and was informed by the St. Maarten shareholder that there was no possibility of obtaining financing from their side and the company should seek financing wherever possible, including from the Netherlands shareholder. Note that since the change of ownership of Winair in 10-10-10, the company has never received any capital injection from either shareholder while it continues to operate in a negative equity position.*
3. *There are protection mechanisms in place with the Winair property deed that safeguards PJIAE's position in case it defaults in a mortgaged loan.*

h) Does the norm also apply to them directly and are they being cut also for 25%?

ANSWER: If you are referring to the management, then yes, the Jacobs norm does apply and the (semi)public entities are also required to implement at least the 12.5% for their personnel.

i) Are all the benefits being added up as many of these type of companies have benefits not visible to the naked eye and also not included as salary? **ANSWER:** Not necessary in this instance, as the (semi)public entities are free to apply the cuts as they see fit as long the 12.5% cuts are applied to the total employment packages.

j) We talk about justification of the human rights infringement yet we allow others to be destroyed with our eyes wide open because of money. Why is that? **ANSWER:** We have indicated that we agreed to the conditions for liquidity support 2e tranche and now we are looking to implement the measures. Thus far from the information we have, we believe that the situation allows itself to be falling under those instances of exemption. So that in these circumstances there is no infringement of human rights.

7) When last has government done the following;

a) Injected one dollar into Winair? **ANSWER:** No financial injection was provided by government to Winair. In 2014 NAF 2.7 mln wage taxes was owed by Winair which taxes were paid through their reserves. This resulted in a devaluation of their shares by the same amount. The devaluation was absorbed by the shareholder (government).

b) Why not sell or merge the company with a Kingdom partner or private company but maintain the national Carrier status?

Please see the response received from Winair:

WINAIR SBOD and Management received authorization in the November 19th 2020 Annual General Meeting to look into the possibilities for a potential partner or private company to help with financial assistance. When this plan materializes, it will be presented to the shareholders for approval.

MP Wescot – Williams

1. Inquire from the PM, what exactly is on its way to the Governor as the PM eluded to in her opening remarks?

ANSWER: On its way to Parliament is the retraction of the national ordinance on the cost cutting measures from civil servants and the submission of the new adjusted one based on the adjustment referred to in the “nader rapport”/further report. Also, the “inwerkingtredingsbepaling” is adjusted. Furthermore, two notas van wijziging are send to parliament to adjust the inwerkingtredingsbepaling for the other two draft national ordinances that addresses the point of the Ombudsman.

2. The matter of the confidentiality. Though the PM explained and apologized to the MPs, it troubles MP SWW. How does the government envision that? **ANSWER:** MP as having filled this position more than once; I know you understand that there are internal information sharing that is not always ready for general consumption and also not yet ready to put out in the political arena. Bearing that in mind I have always striven to keep this Parliament informed. In an attempt to do so we provided the information confidentially because indeed some of the documents shared in that same email were and remain confidential. There was an oversight that among the confidential documents the mutual agreement was also shared as confidential, for this oversight I have already apologized and endeavor to ensure that these matters do not reoccur.
3. Could the PM elucidate on, dealing with the start of the process, dealing with the three laws, the government overall vision and where the country packages can be hung up on under that vision, that Government has. **ANSWER:** The three laws, are regarding the cost cutting measures in order for St Maarten to receive the liquidity support for the second tranche. The Country package includes the projects for the structural reforms. As was mentioned in previous meetings, internally, under the coordination of the Department of Internal and Kingdom relations (BAK) of the Ministry of General Affairs, the organization did the comparison between the country package as first presented with the NDV and the draft Governing program, to make sure that the projects approved are on line with the vision of Sint Maarten.
4. Government frustrated negotiations. **ANSWER:** While Government most certainly experienced frustration, I would not agree with the statement that Government frustrated the negotiations. If anything Government used every possible means to reach more favorable terms for the liquidity loans that have been signed to. In several areas this was successful, and in others it was not. The fact that the three countries did not negotiate jointly, certainly weakened us all in our ability to reach better terms. At the end it was a “take it or leave it” situation. The fact that St. Maarten was the last of the three Dutch Caribbean Countries to agree to the terms has demonstrated our endurance and our commitment to working towards the best possible result. Having already agreed to the terms before we did, Curaçao and Aruba, made this already challenging feat more difficult. I must state, however it is easier to be critical of another's decisions when you are standing on the outside. And so Curaçao and Aruba I am sure did what they had to considering their situation at the time. I do maintain though that we are stronger together, regardless the challenge or the opportunity.
5. The Balkenende norm, might be fair in the Netherlands, how can that be transferred to Sint Maarten just as that, why 130%

ANSWER: Thank you MP for this question, I think it's a very good one because it gives me another opportunity to again outline the historical facts and experiences that transpired to bring us where we are today. As I indicated in my opening remarks. The Netherlands saw it

fit to attach these conditions to Liquidity support even though Sint Maarten was in a financial and economic crisis. I understand that for the MP's it's hard to keep track of the timelines and the events that have transpired because they are not dealing with these matters constantly, so it is very easy for it become muddle. Back then I was here every other week updating the Parliament on all things COVID including the much-needed liquidity support to continue to provide SSRP support and to be able to pay salaries. In the Meeting of May 20, 2020, to be exact I updated the parliament as follows:

“On Tuesday, May 12, 2020, the Prime Minister of the Netherlands Mark Rutte, Finance Minister Wopke Hoekstra and State Secretary Raymond Knops, in a hastily called meeting with the Prime Ministers of the Dutch Caribbean via video conference, verbally outlined the intentions of the Netherlands to assist the countries in this time of crisis and beyond. This discussion was held without documentation or specifics pertaining to the content of what would be proposed. While the Prime Ministers were given an opportunity to give feedback, it was without clear knowledge or understanding of what was on the table.

We were informed that the proposal would be added to the agenda for the Kingdom Council of Ministers meeting on May 15, 2020.

Finally, on Thursday May 14, the official documentation was received by the Council of Ministers, in order to give our representative Minister Plenipotentiary Rene Violenus instructions on how to respond. With less than 24 hours prior to the meeting of the RMR, the Council of Ministers had insufficient time to deliberate before this decision would be made.” For the rest of the remarks, I refer you to the Central Committee meeting of May 20, 2020.

Where I outlined to you that there were no negotiations, when we sent the letter that we accepted as long as it was in adherence to nation, regional and international law, the Netherlands sent back correspondence asking for clarity! They indicated verbally that nothing less than an unconditional yes will do! You cannot have a negotiation with one willing party and one party holding all the Power. It was the Netherlands that set the condition of the 130% norm as a condition for Aruba, Curacao and Sint Maarten back in May and it was a take it or leave it offer.

6. MinFin provided explanation on the amount the GOC cannot exceed. Can I receive after this meeting the presentation as given?

ANSWER: The presentation has been sent to Parliament

7. This norm also applies to consultants, however they can play with this amount as long as they do not exceed the norm. What is Government doing it now, how do we see this? **ANSWER:** The draft ordinance provides a mandate to maximize the tariffs of consultants as by Ministerial Regulation with the condition that the 130% norm may not be exceeded.

After the draft ordinance will go into effect the Ministerial Regulation will be introduced and the maximizing of these tariffs will be based on the proposal from SOAB.

8. To what extent can the Government comply with the Council of Advice's advice?

ANSWER: This question is not completely clear, but if the question is how Government

acted based on the advice of the Council of Advice, I would like to refer the MP to the “nader rapport” in which Government explains how the advice of the CoA is addressed.

9. How will you ensure compliance between July 2020 and now? **ANSWER:** In the explanatory notes it is stated on page 7 article 5, second paragraph: (semi)public sector entity has the freedom to apply the 12.5% reduction on the employment package. They may follow the implementation of government, but they may also deviate as long as the employment packages are reduced with 12.5%. In Article 5, second section, from the draft ordinance it is regulated that the reduction of the implementation of the entities must be published by the relevant ministers within 6 months after this ordinance goes into effect.

10. How many have enforced already, and which one not. In light of the retroactive working of the law? This question also applies to the private entities?
What will happen with these workers of these entities?
ANSWER: Once the draft ordinance will go into effect there is a legal basis to implement the measures as conditioned by the Netherlands. These measures will have to be implemented with retroactive effect as of July 1, 2020.
As through the ordinance pertaining to the reduction of the civil servants, salary cuts are prevented and avoided. As such any retroactive cuts that doesn't touch the salaries are advised to be applied. For example, vacation day's reduction, freeze in increments, overtime reduction etc. But the (semi)public sector entities are free to come with alternatives methods as long as the employment packages are reduced by 12.5%.

11. Government subsidized entities workers who make NAf 1,600 guilders, what is minimum wage in the Netherlands, what about those that are just above our minimum wage, how does this jive with solidarity? If the sentiment is we cannot go below minimum wage.
ANSWER: The Netherlands minimum wage is 1,635 per month as of June 2020. The two countries differ relatively in cost of living and economies of scale. Be that as it may, the Government of Sint Maarten did request liquidity support from the Netherlands in order to maintain its financial obligations.
As was reiterated time after time, the Government of Sint Maarten from the onset, were against ANY cuts that would affect any net salaries of civil servants, or the people of Sint Maarten at large

12. Government missed the opportunity to discuss the rationale with the Netherlands.
ANSWER: this comment is surprising, since Government in the periodic updating of the parliament mentioned several times that the Netherlands don't want to negotiate.

13. Salaries of the top earners within GOC/semi-public entities, is this out of proportion? Is the rationale that the salaries are out of proportion? Are high salaries paid within the public sector?
ANSWER: Proportion or out of proportion is not relevant to the discussions. While this may be the case in other countries, in Sint Maarten there are no exorbitant salaries paid. Probably this added to the challenge to attract high skilled employments.

14. How much difference do they have and how come we don't have those calculations or how are the financial components as envisaged by Government has not been divulged?

ANSWER: Without an approved ordinance, the measures are not valid, nor can they be implemented.

15. The cumulative effects this lvo has on the semi-public entities and the staff? The bigger picture of the savings and the cumulative effect this law has as indicated by the Council of Advice, this has not been provided and expect that this still takes place.

ANSWER: It would have been desirable to have detailed insight into the savings and cumulative effects of the measures.

In the further report, the government stated that it does not consider a detailed numerical substantiation of the savings in personnel costs and an investigation into contradictory side effects to be expedient at this time, partly because the measures in this draft stem from one of the conditions that the Netherlands has for Sint Maarten in order to be eligible for liquidity support. In addition, there are reports on the impact that the conditions of the Netherlands have on Sint Maarten. Both the Central Bank and IMF made reports on the impact of the COVID-19 and added that due to lack of data it is difficult to calculate the impact from these measures on Sint Maarten. These reports are made public.

16. The country packages should be part and parcel of the trajectory for its liquidity support?

ANSWER: The country packages are part of the liquidity support trajectory. First, we had to agree with the package to receive the recent granted loan. For any future liquidity support the compliance and progress on these packages will be looked at.

17. How come certain sectors can be excluded by the Netherlands and not our front liners?

ANSWER: I am certain that we all understand that The Netherlands is funding their own Stimulus Programs and as such can do as they please. As we depend on the Loans from The Netherlands to finance our stimulus programs, we are subject to conditions that are attached to receiving these funds.

18. Why should our police be a part of the cost cutting measures in the 2e tranche liquidity?

ANSWER: Please see answer to the previous question.

19. The leeway the semi-government differentiated approach and how come we (government) didn't have it? How does this apply?

ANSWER: Within the limitations established by the Netherlands, the government applied the cost cutting measures on the salary package based on the existing circumstances within government. The other entities for which this legislation, if approved, will become applicable may choose to apply the cut from the gross salary, instead of from the secondary benefits such as vacation allowance. As such the detailed application is left to the discretion of the entity to allow them to apply the measures in a way that suits the individual entity best, rather than applying one blanket approach.

As mentioned before, in the explanatory notes it is stated on page 7 article 5, second paragraph: (semi)public sector entity has the freedom to apply the 12.5% reduction on the employment. They may follow the implementation of government, but they may also deviate as long as the employment packages are reduced with 12.5%. The reduction of the implementation of the entities must be published by the relevant ministers within 6 months after this ordinance goes into effect.

MP Emmanuel

1. He has never told this country how much money we have in the bank?
ANSWER: The liquidity is presented in the quarterly reports that are provided to Parliament.
2. We (MP) are people to and have families too? **ANSWER:** Statement!
3. We sell our soul for 60 million, how much of the 60 million is left? **ANSWER:** The last liquidity support consisted of about NAf 20 mln support for government and NAf 40 mln earmarked for payroll support. The payroll support is executed by SZV and government transferred the total NAf 40 mln to SZV.
4. What is the economic plan? What happened to the experts?
ANSWER: The Government continues to seek alternative economic opportunities as well as develop economic sectors currently underdeveloped. Additionally, efforts to improve the investment climate continue. Details of this can be made available by the Minister of TEATT and I encourage Parliament to seek this information and debate the issues relevant to our economic future.
5. We playing a game with the Dutch government and are backs is against the wall. **ANSWER:** The Government of St. Maarten is most certainly not playing a game. The answer provided to MP Wescot to her 4th question, is applicable here as well.

Actual questions:

1. Can the government explain exactly what are these (semi)public entities? And are the schoolboards considered (semi) public sector entities?

ANSWER: In the draft ordinance the (semi) public sector entities are defined as:

1° een bij of krachtens landsverordening ingestelde rechtspersoon als bedoeld in bijlage 1 bij deze landsverordening;

2° een instelling die voor meer dan vijftig procent rechtstreeks door het land Sint Maarten wordt gesubsidieerd of bekostigd als bedoeld in bijlage 2 bij deze landsverordening;

3° een krachtens het tweede boek van het Burgerlijk Wetboek opgerichte vennootschap waarin het land Sint Maarten direct of indirect een aandeel heeft van meer dan vijftig procent als bedoeld in bijlage 3 bij deze landsverordening;

In annexes 1, 2 and 3 of the draft ordinance the (semi) public entities are listed.

2. GEBE is 100% owned by governments (Airport/harbor) what are these semi entities? Do the subsidized schools fall under these (semi)public entities- can we list what we consider the (semi) public sector.

ANSWER: There are lists included in the ordinance indicating which are considered semi-public-entities. School Boards do fall under the general definition. However, they also fall under the specific definition of public servants (overheidsdienaren) in the other ordinance dealing with public servants, and more specifically under the bezoldigingslandsbesluit onderwijs. Their interests are also guarded by the CCSU, just like the civil servants. For this reason, they were already covered in the ordinance regarding public servants. For the purpose of the 130% norm, they can stay on the list.

3. Where did this 12,5% come from, what role did government, play in it, can we explain?

ANSWER: The government received the 12.5% as a condition for receiving liquidity (loans). St. Maarten's part in this was, first, to object to it, secondly to apply it in a manner that would be most effective to our situation (namely reducing the 12.5% from the overall personnel expenses), finally after months of negotiations, multiple proposals and calculations, to finally present an option that was acceptable to the Cft and subsequently the Dutch Government.

4. What role is Government playing with regards to the 12,5% cut? **ANSWER:** See answer to previous question.

5. Can the minister provide what is the point of concern of the public entities and who will determine it's a concern? **ANSWER:** A point of concern could be for the exact measures to be established in an approved ordinance. As such Parliament is requested to approve the ordinance and create clarity and a legal basis for these entities to proceed.

6. Parliament passed a motion on May 19, 2020, that no condition to be accepted in contravention to the local, national and international laws of this country. Can the minister indicate how these conditions could have been accepted unconditionally? Has the COM lived up to the motion passed by the Parliament with the representation of the three laws?

ANSWER: The Parliament expressed itself in the motion. Parliament stated among others in the motion, that government should not break the local laws. We are not breaking the local laws and therefore are not acting in contradiction to the motion. What we have presented the Parliament with, is amendments to the local laws which accommodate the conditions of the loans granted by the Netherlands. If Parliament approves the laws, the implementation is enacted retroactively.

7. Please list the total labor benefits that these employees enjoy at these entities. Persons should not receive exorbitant salaries. Who decided that? Based on what study are these salaries considered exorbitant? What did BZK use to decide that the salaries are exorbitant?

ANSWER: Exorbitant is not a criterion used in the conditions from the Netherlands, nor in the draft legislation.

8. Can the minister list which income is exorbitant, and who decides on this? **ANSWER:** See answer to previous question.

9. Did Government call SOAB, what did Government use, sorry BZK, can the gov give a list?
ANSWER: see the two previous answers.
10. 2020 media reports the entities had to be informed that their benefits would be cut by 12,5%. Please indicate how these companies will apply these cuts? Were the cft and the Dutch informed that the implementation of these cuts would strip some the employees of the benefits? **ANSWER:** The Companies to which the law is applicable, are free to apply the 12.5% as they see fit, within the constraints of the law.
11. Cft will decided on how cuts would be applied and who give them this authority?
ANSWER” The State Secretary gave them that authority.
12. Cannot be increased as of 2021, which their income will be frozen, what does this mean exactly, what kind of increases will these people not be entitled to? **ANSWER:** Increases that impact the 12.5% reduction.
13. What is stated in the Mvt as it relates to art.8 according to the MVT of art 8, why the exemption: **ANSWER:** Art. 8 included in a previous draft version a transition period 1-3 year’s top income earners. Namely, in the draft ordinance provided to the Council of Advice a transition period was included for the 130% norm. After receiving the advice from the Council, the Government decided to not include the transition period. As such there is no transition period in the final draft version that was sent to Parliament and article 8 is now the ‘inwerkingtredingsbepaling’.
14. How does the 12,5% cut from the (semi)public translate to saving did Government do a study this will be added to the coffer- MinFIN what is the saving? And the (semi) public entities translate to savings for government. The 12,5 % will save government X amount. What will the savings be? **ANSWER:** Implementation of these measures results in an overall cost reduction of NAf 13.6 mln. These cost saving go towards reducing the increasing debt.
15. How does the realization of the cost contribute to the public interest being saved?
ANSWER: there are reports on the impact that the conditions of the Netherlands have on Sint Maarten. Both the Central Bank and IMF made reports on the impact of these measures COVID-19 has on our economy and added that due to lack of data it is difficult to calculate the impact from these measures on Sint Maarten. These reports are made public.
16. In government (semi)public a 12,5% is established so government can make its obligation and stand in solidarity I refer to the principle of equality 1 art. Protocol 1 infringing to the right or property,.... It is not fair play hear that is a violation, where is the good governance.
ANSWER: In the further report and the explanatory memorandum it is indicated that this is a justified infringement of property rights. Because it meets the three requirements, namely: (1) there must be a legal basis, (2) the public interest is served and (3) there must be a «fair balance». The first requirement is met once this draft ordinance is approved.

With regard to the requirement to serve the public interest, it can be stated that the organizations have a public task, which is funded with public funds which their directors should pay in an orderly fashion. Orderly means: balanced, socially responsible and not exorbitant. The general interest is also served because the provision of the second, third and fourth tranches of much-needed liquidity support is made dependent on the implementation of the measures provided for in this draft national ordinance.

With regard to the «fair balance», the individual interests of those involved, the size of the group of stakeholders and the foreseeability of the remuneration standards, the lowering of the total package of employment conditions, are weighed against the interest of the Country in keeping the remuneration standards or reduce the total package of employment conditions in this way.

Apart from the fact that the Country is currently required to implement these remuneration standards in order to comply with agreements, this draft is a necessary consequence of the financial situation in which the Country finds itself, as described above.

The choice to relate the remuneration of the top officials of (semi-) public sector entities to the income of the Prime Minister can be considered "fair". After all, there is no position higher than that of Prime Minister within the government, and the (semi) public sector entities, the name says it all: they are (semi) public sector entities. These organizations have (partly) a public task and are (partly) funded with public money.

The government also believes that there is a fair balance since other means would not have had the intended effect in the context of subsidiarity and considers the reduction to be proportional now that the monthly base salary and the related pension accrual are completely spared, and the reduction has been limited to 12.5%

It will be clear that in this case the general interest prevails over the interest of the employment conditions. Sint Maarten must limit the negative consequences of COVID-19 on its residents as much as possible and needs money for this. Especially now that after the hurricanes, government's coffers are significantly depleted as well as of companies and private individuals. In other words, the country is teetering on the brink of financial collapse.

The government now believes that acquiring the necessary support from the Netherlands at this time is in the interest of the entire population of Sint Maarten. The fact that employment conditions are negatively affected cannot prevail over the public interest.

17. Does GEBE fall under the (semi) public sector? Asking to allow GEBE management to make cuts to the employees of GEBE – is unacceptable. The discretion of GEBE employees, and TELEM workers, this is unacceptable. Don't this government have a conscious? **ANSWER:** yes, GEBE is owned by government and is listed in annex 3 of the ordinance.
18. Do consultants stand in solidarity?
ANSWER: Yes, the tariffs of the consultants are also being maximized
19. Are entities instructed to change their regulations? **ANSWER:** If entities have to change their regulations in order to comply with the draft ordinance, these changes have to be executed.

20. Why was the SER not asked for advice? **ANSWER:** Please see the answer provided in the further report
21. Substantiate that cuts have to be made, or in order to justify their cuts, **ANSWER:** Please be reminded that the cuts we are discussing are as a consequence of the conditions established by the Dutch Government to qualify for liquidity (loan) support.
22. By who and how are these measures monitored what are the consequences for these companies not adhering to the constraints. **ANSWER:** Everyone is expected to abide by the law. In their annual audited reporting, discrepancies should become evident to the Shareholder who can, within the confines of the powers attributed to it, do what is necessary to enforce i.e. provide resolutions on the execution of the decision made by the shareholders in accordance with good corporate governance.
23. Did the PM not say the VAT had to be updated in the amendment? Government only made mention to the “suggestion” of the Dutch Government. **ANSWER:** The Country packages suggest to consider the introduction of VAT in SXM. During the negotiations SXM raised its objection and arguments not to implement such a tax, at least not at that level. It was agreed during these discussions that St. Maarten’s arguments will be taken into consideration and will be discussed when we start the redesign of our tax regime.
24. Are technical teams showing solidarity? OM, Governors cabinet etc. This Government doesn’t have creative ways to generate money? Then do the honorable thing? Stop making it sound like others can’t do it. **ANSWER:** Not that such is evident to me.

MP George Pantophlet

1. Under the guise of getting criticism from posing this question, are the civil servants, MPs, ministers who are depending on salaries this week? Are we going be paid this week? **ANSWER:** The salaries have been paid by the end of last week.
2. If you don’t sign you receive not one cent? What is Government’s alternative? **ANSWER:** The fact of the matter is that we have received loans already pending the approval of these draft legislations. Without the loans there are no alternatives that can meet our immediate need.te

CLARIFICATIONS:

MP Buncamper

1. I am confused with regard to the schools boards, they are mentioned in attachment 2 and in the same time it is answered they are included in the draft ordinance on the ‘overheidsdienaren;

ANSWER: Let me offer some more clarity: the schoolboards are listed there because they receive more than 50% subsidy and are therefore considered semi-public. However, most of their personnel are considered to be public servants (overheidsdienaren) and therefore fall under the ordinance for public servants. However, the schoolboards, being foundations, can also have other personnel in their service that are not considered to be onderwijspersoneel. They would still fall under the working of this ordinance. “Onderwijspersoneel” is the personnel directly involved with the operation of a school.

2. Which unions did you speak to? **ANSWER:** the Windward Island Teachers Union also known as (WITU), Windward Islands Civil Servants' Union/Private Sector Union (WICSU/PSU) was represented in the meetings had with the Unions. It should also be noted that these unions are also represented for the most part in the platform of the GOA or CCSU.
3. CLA's of Government Owned Companies, are currently illegal. How does it work with those companies and their CLA's? Are these laws watertight? How does this work? **ANSWER:** It is unclear how the MP has come to this conclusion. The CLA are currently not illegal to my knowledge. What is necessary as a result is that these CLA's may need to be adjusted in line with the new cuts if they do not already fall within the parameters established by the CLA's
4. What is the timeframe for the duration for the law? Who decides when the Governor signs off the law and sends them to the Netherlands for nullification? Is it the governor via the Dutch Government or the Government of Sint Maarten? **ANSWER:** Again MP, the decision to draft the law on the revoking these amendments is a decision that would have to be taken by the Government. That is the trigger for the revoking of the law. Every national decree depends on the signing of the Governor and the Council of Ministers. This can be initiated by various circumstances. Now if the MP is hinting towards the geopolitical/political pressures that are influenced and exerted on the government through the Netherlands then I would to answer in the following manner. That political pressure is always constant and until we are no longer in a position that we need the Netherlands the political pressure will continue.
5. When last has government done the following;
 - a) Injected one dollar into Winair?

ANSWER: Government did not provide a financial injection into Winair. In 2014 NAf 2.7 mln wage taxes was owed by Winair which taxes were paid through their reserves. This resulted in a devaluation of their shares by the same amount. The devaluation was absorbed by the shareholder (government).

- b) Why not sell or merge the company with a Kingdom partner or private company but maintain the national Carrier status? **ANSWER:** As was stated before, Government explored all options possible for financial support. If the proposal of the Honorable MP was viable, I'm sure this would have been done. I would reserve the further elucidation for the Honorable Minister of Finance if there's anything I missed.

Please see the response received from Winair:

WINAIR SBOD and Management received authorization in the November 19th 2020 Annual General Meeting to look into the possibilities for a potential partner or private company to help with financial assistance. When this plan materializes, it will be presented to the shareholders for approval.

- c) Min FIN would you elucidate on the valuation of the GOC?

ANSWER: The draft report of the valuations has been received and are currently being reviewed.

6. When it comes to respecting the CLA's of all the semi-government owned companies and the 50% or more subsidized entities I have the following the questions;

a) Are the CLA's being placed on hold? **ANSWER:** The provisions of the CLA's that are not in contravention with the new draft law once establish will still be valid and can be used. The other parts will either have to be adjusted or removed that is for the Union and the Entities to address.

b) What labor laws are we using to justify these measures? **ANSWER:** The legal basis for these measures is now being proposed to you for your approval. The CLA's are to function within the parameters of the law and the 130% norm that is to be established in a National Ordinance under which the CLA is to fall. So, the CLA's may need to be adjusted this is something that the Unions to take up together with the entities

MP SWW

Received the answers to questions posed last Thursday during the Committee for General Affairs on the same subjects. The answers were also on different topics, these answers should be clarified:

1. (Firstly I would like for the ministers to clarify on the answers received in writing

a. SER these ordinances will still be send to the SER, in her oral presentation it was said could be send. Will it be send to the SER?

b. Answer provided regarding all the laws, on the SER: The Prime Minister indicated that these laws will still be sent to the SER. Will these draft laws be sent to the SER specifically asking for the SER's advice on these laws? **ANSWER:** Confirm that it will be sent to SER for their feedback once approved in Parliament, their advice can be taken along to be handled once the 6 weeks have passed and will be information that can also be used if necessary to amend the law.

c. Financial reports of the GOC, these reports are not supposed to be send to Parliament. This is correct, but the Parliament has requested these reports. So Parliament is requesting these documents.

ANSWER: Reports will be provided as requested by Parliament.

d. Consultancy what is the current policy on consultants

ANSWER: There is currently no consultant policy.

e. Airport saga: PM could not attend the meeting from last week, but PM would update Parliament, could this update be provided **ANSWER:** The minutes will be approved in the Council of Minister's meeting. I was briefed on the following; On Thursday, January 21, a virtual confidential meeting was held with the Supervisory Board of Directors and the Managing Director of the Princess Juliana International Airport Holding Company to receive insight on the process that was followed that led to the confidential letter that was sent to the CEO of the Princess Juliana International Airport Operating Company by the Holding. Clarification was provided by each member present. It was established that the questions that were raised by one of the Supervisory Board members were adequately addressed. All individuals also agreed to work together in the best interest of the Airport. Underlying documentation was requested which was recently received and are currently

being reviewed. The Council of Ministers as Shareholder continues to monitor the situation to ensure that the Corporate Governance regulations and guidelines are applied properly.

- f. CBCS and IMF reports, referred to website, did CBCS prepare a special report regarding the measures, or specific on the situation of Sint Maarten. CBCS prepared a specific report as it relates to our economic/ financial outlook regarding the measures as imposed by the Dutch Government?

ANSWER: Although discussed with the CBCS and requested, the impact studies done and received were never specific to the measures, rather these impact studies, provided a general economic impact of the general economic situation.

- g. Is the Government in possession of IMF report as mentioned in local media as mentioned by Mr. Gradus on the islands?

ANSWER: In The Daily Herald of January 26th 2021 in article with the Chairman of CFT, Mr Gradus refers to a unpublished report of the IMF. Stating that insufficient reforms have taken place on the island, and that these reforms must take place now and to make the island more resilient. It is not indicated which specific report Mr. Gradus is referring to. We are aware that it was a study requested by the CBCS.

SECOND ROUND

MP SWW

1. Please share the overview from BAK (to see if the landenpakket is in line with the Government vision) (PM)

ANSWER: This file will also be shared with Parliament.

2. When can Parliament look forward to have the discussion on the country package and can I receive: (PM)

- a. One: Organization SG platform

ANSWER: is regulated in our LIOL for more elucidation please see page 19 under 2.

3. 130% and Jacobs norm: however what I wanted to know, how many companies / positions will be affected in their position, do many of our companies have to cut the top salaries, overall speaking.

ANSWER: From the companies that responded to Government's inquiry on this matter, none were affected.

4. I would like to know, when we get to the budget, how much leeway we have to take the cuts from somewhere else than Government proposes.

ANSWER: Parliament has its own authority for decision making.

5. SOAB report can be shared with Parliament?

ANSWER: This is a preliminary document. When this exercise is completed we will share the information with Parliament.

6. PM in her oral contribution mentioned that the technical staff of the NRPB will also be affected by this cuts, but in writing it is indicated that NRPB does not fall under the cuts.

ANSWER: NRPB and Integrity Chamber should be listed here as well. However, in their case it makes no difference. In their own National Ordinance it is already regulated that the Legal Position of Civil Servants is applicable on their personnel. So since the ordinance applicable to civil servants cuts their benefits with 12.5% it will automatically apply to these two institutions as well.

MP Emmanuel

CLARIFICATION

1. What is financial situation (as mentioned in the MvT) of several of the entities which are a point of concern? Provide an explanation for each entity what the point of concern (Financial situation) is? **Please refer to answer 3.**
2. Please list the total labour benefits what employees in each entity enjoy. **ANSWER:** Government is not privy to this information as that is an internal matter of the entities, what benefits they offer their employees. We are just asking them to apply the 12,5% cost cutting measure.
3. Media reports, Please indicate how each entity would propose the 12,5% cut. What benefits will remain after 12,5% cut per entity? is this information not in the proposals sent in by the entities?

ANSWER: Page 2, 4th paragraph: The Netherlands did not categorize or classify the (semi) public sector entities. The Netherlands said implement the cuts. In article 1, we categorized the entities, because based on the conditions it is obvious they are either owned with a majority of shares, or receive a majority of their subsidy from the government budget, or they execute a government task for which they receive income. Based on this we can conclude the further classification is superfluous, because they have a common classification which is being a (semi) public entity for which the cost cutting measure is applicable. In the explanatory notes it is stated on page 7 article 5, second paragraph: (semi)public sector entity has the freedom to apply the 12.5% reduction on the employment. They may follow the implementation of government, but they may also deviate as long as the employment packages are reduced with 12.5%. The reduction of the implementation of the entities must be published by the relevant ministers within 6 months after this ordinance goes into effect.

4. How does each entity apply the 12,5% ?
ANSWER: Each entity has to make their own decisions on what measures fit best in their specific situation. To comply with the instruction they need to realize a reduction of the labor costs with 12.5%.
5. Average salary cannot increase while the cost of living will increase, please list what type of increases will these employees not be entitled to
ANSWER: This depends on the measures taken. If the entities chose to reduce the salary basis with 12,5% and not touch the emoluments, all cuts have to be reconsidered for 2022 (if applicable). Government chose not to grant increments in 2021. Depending on what will be done in 2022 these increments can be granted again.

6. Please financial statements for the statements that public entities create a list. Provide financial statements, public entities pose a financial risk to the subsidies from government?
ANSWER: The production of a list of available financial statements 2019 will take some time because of available capacity at “comptabiliteits-dienst”. We will provide such ASAP in writing.
 The statements over 2020 (the most relevant in the covid effects) are not due until May to Sept 2021.
7. What legal threat will be posed if entities are instructed to change their regulations/articles of incorporation to accommodate the draft national ordinances?
ANSWER: Government can monitor through the subsidies, financial statements. Discrepancies should become evident in the audited reports. Additionally, I cannot foresee that these amendments will require (semi) public sector to adjust their articles of incorporation to accommodate these amendments.
8. What type of increases will these employees no longer be entitled to? **ANSWER:** The specific application of the cost cutting measures as it refers to the draft legislation now being handled by Parliament is the responsibility of the entities. They apply it as they see fit so that I cannot say what benefits they will not receive.
9. Draft ordinance should be on a temporary basis, but it reads as permanent. The draft ordinance is of a temporary nature, is it expected that the change in regard to employment be permanent? (PM) **ANSWER:** I think the confusion may be due to how legislation is drafted in terms of the wording of the provisions however as is stipulated in the title of the Ordinance these amendments are temporary in addition Article 8 of the Temporary Ordinance regulates that the Ordinance expires through a National Decree.
10. If GOC and (semi)public entities do not adhere to the ordinance, what are the consequences for Government? (PM)
ANSWER: Such could ultimately lead to BZK withholding/stalling the payment of a next tranche of liquidity support.

MP Buncamper

1. TELEM in parliament, November 2020. Did the GOC receive an instruction to implement the 12, 5% measures based on the law? The implementation of the 12, 5% retroactive July 1st 2020 when this law passed? **ANSWER:** All Entities for which the cost cutting measures, as per the conditions set by the Netherlands, for the liquidity support apply, received a letter from government requesting them to submit a proposal to demonstrate how they would apply the 12.5% cost reduction. The Law has not passed yet, so clearly it’s not based on the law, but on the conditions set by the Netherlands.

Outstanding questions from MP SWW for PM:

1. How quickly can parliament and government meet on the country packages;
ANSWER: As soon as we have completed the discussion on these measures and amendments I would be happy to return to parliament on the Country packages.

2. If the sg platform is the one mentioned as in the LIOL

ANSWER: The Council of Ministers approved that the platform, as mentioned in article 23 of the Liol, the SG “Overleg”, should be the platform to monitor the execution of the country package. The obvious reason is that all Ministries (SGs are represented in that platform. Next to that, the SG Com has been added to the platform, and the responsibilities of the platform adjusted to be in line with the execution of the country package. Furthermore, the CoM also agreed to establish a monitoring committee in that structure. The SG Platform meets on a weekly basis. SG CoM was added to the platform considering the Secretariat’s role in the Country packages. Also no rotation of chairmanship will take place. For efficiency, it was decided to have the SG of the Ministry AZ be the constant chair considering his role in the negotiations with the NL and in the monitoring committee. The first document as approved by CoM on this platform is currently being reviewed and adjusted to have a better reflection of the way the structure functions in the practice and the role of the monitoring committee. We are at the beginning of this process so the ideas and the work process are still being fine-tuned.