



Central Committee Parliamentary Year 2019-2020

To the Public Meeting of Parliament
Present

Advice regarding the proposal to conduct a Parliamentary inquiry into Mullet Bay titled
"Parliamentary Inquiry Mullet Bay"

The Central Committee has the honor to forward the following advice to the Public Meeting of Parliament.

On August 13, 2019 Parliament received a letter from Members of Parliament Rolando Brison, Frans G. Richardson, Christophe T. Emmanuel, Silveria E. Jacobs, Egbert J. Doran, Ardwell M.R. Irion and William V. Marlin requesting Parliament to convene a Public Meeting to debate and vote on a proposal to conduct a Parliamentary inquiry into Mullet Bay (IS/1378/2018-2019 dated August 13, 2019; see attachment).

Based on article 64 of the Constitution of Sint Maarten, the Parliament has the right of inquiry, to be regulated by national ordinance. The elucidation to this article states that the right of inquiry is a far-reaching tool and is only used when it appears that the other rights of the Parliament to request and obtain information from the Government, don't function properly. The right of inquiry is one of the most powerful means of control of the Parliament.

The national ordinance as referred to in article 64 of the Constitution, is the National Ordinance Parliamentary Inquiry.

Article 2 of the National Ordinance Parliamentary Inquiry stipulates that the Parliament, on the initiative of one or more Members, can decide to hold a Parliamentary inquiry. This Parliamentary inquiry is then executed by a Committee of Parliament. The decision to hold a Parliamentary inquiry contains a description of the topic of the Parliamentary inquiry. The Parliament appoints the Committee members from amongst its own members. Once the Parliament has taken the decision to start a parliamentary inquiry, the Chairperson of Parliament has to make this decision known to the public in the National Gazette. In accordance with article 4, paragraph 3, of the National Ordinance Parliamentary inquiry, a Parliamentary inquiry doesn't end due to the parliamentary period (in principal 4 years based on article 46 of the Constitution) coming to an end or the dissolution of Parliament.

Besides article 64 of the Constitution and the National Ordinance Parliamentary Inquiry, the Rules of Order of Parliament, Chapter 14 to be exact (articles 81-89), contain some regulations concerning Parliamentary inquiries as well.

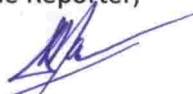
The aforementioned proposal was discussed in the Central Committee of October 10, 2019. The questions, comments and suggestions arising from that meeting were laid down in a report. Questions directed to the Government were forwarded to the Government.

The Central Committee would like to request the Public Meeting of Parliament to approve the attached proposal to conduct a Parliamentary inquiry into Mullet Bay.

Furthermore, the Central Committee suggests that the Committee that will conduct the inquiry comprises of 5 Members of Parliament.

Philipsburg, October 30, 2019

The Reporter,



W.V. Marlin



Parliament St. Maarten

STATEN VAN SINT MAARTEN
Ingek. 13 AUG 2019
Volgnr. 15/1378/18-19
Par. <input checked="" type="checkbox"/> 15 <input type="checkbox"/> 18 <input type="checkbox"/> 19

Honorable President of Parliament Sarah Wescot Williams
 % Mrs. Nancy Joubert, Secretary General
 of The Parliament of St. Maarten

Philipsburg, August 12th 2019

Re: Request for Public Meeting Parliamentary Inquiry Mullet Bay

Dear Honorable President,

i hereby, with the support of the undersigned, submit to you an initiative for a parliamentary inquiry into the property known as Mullet Bay, and request a Public Meeting to be called to debate and vote on this initiative. in accordance with Article 2 of the National Ordinance Parliamentary Inquiry, Parliament may decide to conduct a parliamentary inquiry, which then means it would require a decision of Parliament. As such the request for a public meeting to debate the attached proposal is necessary.

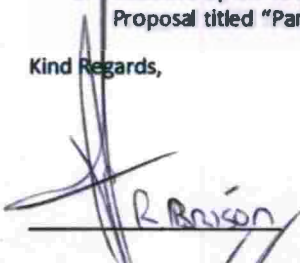
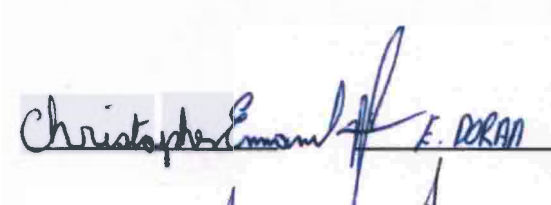
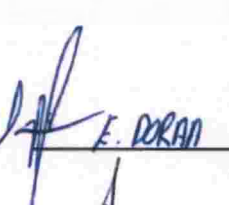
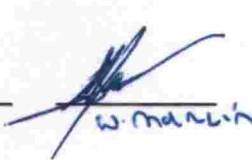
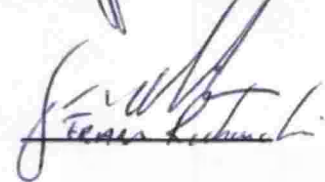
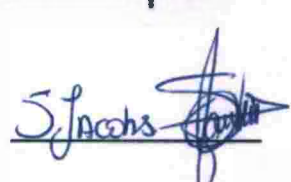
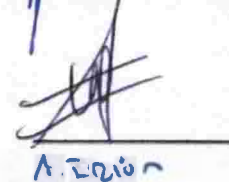
The attached initiative for Parliamentary Inquiry has been prepared in accordance with the National Ordinance Parliamentary Inquiry AB 2010, GT no. 16, a law derived from the constitutional right of Parliament to initiate inquiries, and having taken into account the explanatory notes of said National Ordinance Parliamentary Inquiry.

The salient point of this ordinance as it relates to the submission of a proposal for inquiry is detailed in article 2 of the ordinance which outlines the procedure for the proposal of a parliamentary inquiry approved by a resolution of parliament, that it shall be conducted by parliamentary commission and that the proposal (and subsequent decision) to conduct a parliamentary inquiry should have a detailed description of the inquiry included. it is the opinion of the undersigned that the attached proposal fulfills all these requirements, and thus is ready to be voted on.

As such, we are hereby requesting the public meeting be called with the following Agenda Point

1. Initiative by MP R. Brison to conduct a Parliamentary Inquiry into Mullet Bay as outlined in the related Proposal titled "Parliamentary inquiry Mullet Bay"

Kind Regards,

Parliament of St. Maarten

Parliamentary Year 2018-2019

USP Faction:
R. Brison
F. Richardson

Proposal for Parliamentary Inquiry: Giving Mullet Bay Back to the People

A Parliamentary Inquiry into the ownership of the Mullet Bay area, the current volatile situation that exists between its current owner, government and citizens, and the need for Parliament and Government to intervene in every feasible way possible to protect one of its most precious coastal and inland waterways in the national interest of the country.

Article 1: Acknowledgement, Inquiry Title and Subtitle

The following proposal for Parliamentary Inquiry has been prepared by the USP Faction in accordance with the National Ordinance Parliamentary Inquiry AB 2010, GT no. 16, a law derived from the constitutional right of Parliament to initiate inquiries¹, and having taken into account the explanatory notes of said National Ordinance Parliamentary Inquiry.

The salient point of this ordinance as it relates to the submission of a proposal for inquiry is detailed in article 2 of the ordinance which outlines the procedure for the proposal of a parliamentary inquiry approved by a resolution of parliament², that it shall be conducted by parliamentary commission³ and that the proposal (and subsequent decision) to conduct a parliamentary inquiry should have a detailed description of the inquiry included⁴.

¹ Constitution Article 64: Parliament has a right of inquiry, to be regulated by national ordinance.

² Article 2.1: Parliament may resolve to conduct a parliamentary inquiry on the proposal of one or more members.

³ Article 2.2: A parliamentary inquiry shall be conducted by a parliamentary commission.

⁴ Article 2.3: The decision to conduct a parliamentary inquiry shall contain a description of the subject to which the parliamentary inquiry shall relate. On the proposal of the commission conducting the parliamentary inquiry or otherwise, Parliament may alter the description.

This document is intended thus to 1) Formally describe the premise behind the proposal of the parliamentary inquiry in accordance with abovementioned legislation and 2) form the basis for the decision of Parliament should it ratify the proposal.

This document has also been modeled based on the two more recent parliamentary inquiries that were filed within the kingdom, namely the 2011-2012 Parlementaire enquête naar het Financieel Stelsel in the Netherlands⁵ and the 2013-2015 Fyra Parlementaire enquête⁶ also in the Netherlands.

The subject of this Inquiry: A Parliamentary Inquiry into the ownership of the Mullet Bay area, the current volatile situation that exists between its current owner, government and citizens, and the need for Parliament and Government to intervene in every feasible way possible to protect one of its most precious coastal and inland waterways in the national interest of the country.

Subtitle: Giving Mullet Bay Back to the People.

Preface

Article 2: History of Mullet Bay

Mullet Bay is from a historical and notarial perspective located in the Lowlands Area, and was referred to at the time of its first recorded notarial transfer in 1957 as “the area of land surrounding the Mullet Pond and Mullet Pond Bay” (now known as mullet bay beach)⁷. The land was first transferred November 16th 1957 for an amount of 10,000 NafL. Little development was seen on the property until 1969, where plans for a 600 room resort were revealed and construction had started⁸. On July 1st 1971, upon completion of construction of the resort, Kadaster Extracts show that the property was transferred to Sun Resorts LTD, who has since retained ownership of the property. 8 years later, the property grew almost 50% in size from 600 rooms to around 700 to 820⁹ rooms by 1979, making the resort the largest

⁵Process Report of the Financieel Stelsel Inquiry: <https://zoek.officielebekendmakingen.nl/kst-31980-61.html>

⁶Process Report (Summary Version) of the Fyra Inquiry: https://www.tweedekamer.nl/sites/default/files/atoms/files/publiekssamenvatting_rapport_fyra_281015.pdf

⁷Appendix A of this document - Kadaster Extract Page 1

⁸Excerpt from the book: Environment and Development in the Caribbean: Geographical Perspectives. Appendix 1 Excerpt 2. Note: Preliminary literature review has shows this to be one of the few printed sources of statistical data regarding the development of Mullet Bay's development.

⁹The number of actual rooms is contradicted by what has been submitted to Kadaster building permit departments of St. Maarten, versus what was actually built. While the plans show up to 1200 rooms being built, it appears that only a small portion of that was actually built. This is further complicated by how rooms were defined at the time, since many of the units were townhouse style with various rooms, but were only counted as one unit,

resort in the history of St. Maarten, which to date has never been surpassed.

During this period, between 1979 and 1988, the economy of St. Maarten grew by over 12% per annum, fueled primarily by the mullet bay property¹⁰. By 1990, the resort had accounted for 37% of the 3500 total rooms available on the Dutch St. Maarten¹¹. Over 1800 people were under permanent and part-time employ at peak from the resort, golf course and other surrounding facilities and services, making it the largest single private sector employer in the history of St. Maarten.

In 1995, Hurricane Luis had struck the island, and that was the last time the Mullet Bay resort would open. Nearly all the properties had sustained severe damage. According to former employees of the resort, there was a phased layoff conducted where first contract workers were allowed to expire, followed by foreign permanent workers being laid off after 1 year, and finally, after 2 years, all staff with the exception of some staff who continued working for the Golf Course and the Towers hotel, were ultimately laid off¹². By 1997, the resort had dropped from employing close to 1800 workers, to just under 80 staff.

Legal disputes also began between individual owners at the property and the developer; as a result of this and other unknown factors, ultimately the resort would never reopen.

The storm and subsequent layoffs brought with it another seemingly unforeseen revelation: The ownership of the coast and the mullet pond. Over the decades during which the resort remained closed, the Mullet Bay property owner's representatives have asserted that the beach, and even part of the ocean itself, belongs to them, and this has created various conflicts with local entrepreneurs who have been granted licenses to operate there^{13,14}. So while government was busy granting business permits and event permits for locals, and in particular former staff of the resort, Sun Resorts soon started to contest the legality of business operations on the beach. In their opinion, and based on a Certificate of Admeasurement they have claimed to possess, they own all the inland waterways in the area as

(or one room). There appears to also have been Villas built in the area under the same building permit that were sold, but still counted in the total room inventory. Therefore the most accurate estimate place the total number of rooms at mullet bay between 700 and 820 rooms.

¹⁰Appendix I: Excerpt 3

¹¹Appendix I: Excerpt 4

¹² Interview: Leopold York, former staff member of Mullet Bay Resort and current operator of Dalio Snack on Mullet Bay

¹³ http://thedailyherald.info/index.php?option=com_content&view=article&id=53748:-illegal-footings-removed-from-mullet-bay-beach&catid=1:islands-news&Itemid=54

¹⁴ <https://www.thedailyherald.sx/islands/78359-beach-bar-owners-win-lawsuit-over-their-mullet-bay-business>

well as the beach, and parts of the coral reef area which was traditionally known as the "Shark hole, Whale Hole and Boardwalk", and several feet into the ocean surrounding Mullet Bay. It soon became the norm for security guards to stop business people from doing business despite having licenses, or attempt to remove event permit holders from the beach.

The beach has also been hampered by limited access for parking since the surrounding area was blocked off by rocks placed by the owner of the surrounding property, limiting parking, and there being only one access road to the beach, despite it being one of the longest beaches on Dutch St. Maarten. The issue of "what means public access to the beach" is highlighted in this regard, as access to the beach is literally predicated on what access the owner of the surrounding lands allows. These many legislative deficiency has to date not been amended and the discussion as to "Who really owns Mullet Bay Beach" has continued despite decades of litigation, debate and inaction by so many governments.

Article 2: Geography and Environment

The area of Mullet Bay is typically considered to be the Mullet Pond Bay Beach, the surrounding golf course, and an area that was once known to house one of the largest resorts in the history of St. Maarten.



According to the most recent Kadaster extract, the size of the property is 667,500 M2. However, this is currently disputed for various reasons. One is that the size of the property claimed by Sun Resorts to be their own also includes the pond and the beaches. This may be in conflict with the civil code, which states that all beaches and water passages connected to the sea are property of the country of St. Maarten¹⁵. The Kadaster also notes discrepancies between the measurements used in the transfer in 1957 compared to the transfer in 1971. The Kadaster has made note of the changes that would be necessary to rectify the deed, but it is still unclear what implications this has on the actual ownership and certificate of admeasurement of the property.

One of the most significant geographical features of the area is the Beach. It has always been considered one of the most popular beaches by both locals and tourists, with Tripadvisor has the beach ranked Number 1 among beaches on both sides of the island¹⁶. The beach is unquestionably crucial to both the tourism product of the country, as well as an important icon of recreation and heritage for the residents.

¹⁵ (Civil Code Book 5, Article 26-1,2)

¹⁶<https://www.tripadvisor.co.uk/Attractions-g147346-Activities-c61-t52-StMaarten.html>

The area is also of important ecological significance, with the area being deemed one of the last intact mangrove ecosystem on the island¹⁷, is home to one of the few sea grape ecosystems on the island, and many land and seaborne local wildlife uniquely call the area their home.

Article 3: Problem Definition

As has been the custom in previous parliamentary inquiries within the Kingdom, a problem definition is considered a starting point in describing the need for a parliamentary inquiry. The problem faced with Mullet Bay is a broad, multifaceted one, but can perhaps be best summarized with the following problem definition:

What can the government of St. Maarten do to ensure that the economically dormant and heavily disputed property of Mullet Bay is being best used in the interest of the people of St. Maarten from an economic, environmental, heritage and legal perspective, and given that the ownership of the property maintains that they own the coast and inland waterways of Mullet Bay, which is in conflict with the Civil Code, what measures exist and should be taken by the Country St. Maarten?

For the past 22+ years since the passing of hurricane Luis in 1995, our flagship resort, the property that put St. Maarten on the tourism map and brought much prosperity to the island, Mullet Bay, has been dormant. That we have been able to survive without it and even thrive, speaks volumes to our ability to survive as a people. Having Mullet Bay Resort non-operational for so many years cannot be considered an ideal situation for the country, as the most valuable piece of property on the island, and arguably one of the most sought after properties in the entire Caribbean, is not bringing about any current economic benefit to its citizens.

This problem has also manifested to the ownership believing that they are owners of the beach itself, which was recently proven inconclusive by court verdict¹⁸; the fact is that the property was erroneously measured with the beach included, which even at the time was in conflict with the laws of the Netherlands Antilles (and still is in conflict with our laws today), requiring that all public beaches be the domain

¹⁷ Mullet Pond is a critical ecosystem for us on the island as it contains the last intact mangrove forest within the Simpson Bay Lagoon.

¹⁸ Appendix B Court Verdict Sun Resorts Vs Daleo's Snack: Claims made by Sun Resorts in court case Vs. Daleo's Snack: Sun Resorts' argument that it is the legitimate owner of the beach and that the Yorks were violating their right of ownership in exploiting a beach bar on their property was dismissed, as, according to the Civil Code, the beaches are property of Country St. Maarten. The Court said that Sun Resorts had failed to prove ownership of the beach and that it had failed to prove that the Yorks had acted in violation of any stipulation in the licence. The verdict is also attached to the appendix of this legislation.

of the government, unless decided upon through Landsverordening by the government of the Netherlands Antilles¹⁹- the latter was never done. Perhaps the error came from the measurement being executed by an American firm back in 1957, unfamiliar with our Antillean laws, which the Kadaster asserts was common back then due to the shortage of locally available surveyors at the time. However, this still needs to be deeply researched and proven in order to put this issue to bed once and for all.

Sun Resorts self-presumed ownership of the beach has resulted in them disallowing legal vendors from operating, preventing the public from hosting activities on the beach despite having government issued permits, and restricting access ways to the beach. While the most recent case of Mr. Leopold York et al Vs. Sun Resorts, the former of which having won a court verdict that prevented Sun Resorts from stopping them from operating their business on the beach despite them having the license from government to do so, other businesses have also had issues with Sun Resorts Management at this location.

And finally, the problem seems to have come to the proverbial boiling point, with the Central Bank of St. Maarten and Curacao CBCS having filed a complaint against Ennia (who have Mullet Bay listed as an asset) in connection with the US \$100 million that was taken out of Ennia, which was not in accordance with Central Bank instructions. Ennia has been under silent curatorship since October 1, 2016²⁰. After the emergency regulation was pronounced, CBCS announced that all directors, with the exception of Reinald Curiel, and the Supervisory Board of Ennia will be dismissed. Kadaster extract document obtained also shows that the property has been placed on conservative lien by the Openbare Ministerie of St Maarten. Whether this lien will lead to a forced sale or auction of the property remains very unclear. Whether government has an opportunity to recoup the property in the national interest of the country based on the lien placed, economic damage and/or outstanding taxes is also very unclear. There is so much lack of clarity surrounding such an important property to the Country, that it is the belief of the initiative taker that this inquiry is required to finally give clarity to these many issues.

¹⁹ Civil Code Book 5, Article 26: Artikel 26

- 1. De stranden van de zee, de grond onder de binnenwateren, alsmede de grote en kleine eilanden en platen die in die wateren voorkomen, worden vermoed eigendom te zijn van het Land.
- 2. Beperking van de openbaarheid van aan het Land toebehorende stranden door vervreemding, bezwaring, ingebruikgeving of anderszins, behoeft een bij landsverordening te verlenen bijzondere toestemming.

²⁰ <https://www.thedailyherald.sx/islands/713432-sun-resorts-lien-follows-ennia-emergency-ruling>

The fact of the matter is that the Central Bank as well as the prosecutors are A-Political entities that do not directly answer to the people of St. Maarten, yet the future of the most valued and important property on the island will be placed primarily in the hands of the central bank and the courts and their potentially extremely lengthy processes. It is the opinion of the initiative taker of this inquiry that St. Maarten cannot wait another 23 years: It is for this reason that this problem is seen as a crucial one that requires the ultimate level of urgency from parliament. With the strongest tool parliament has in its disposal being the Parliamentary Inquiry, a resolution is being sought from parliament by this faction (USP) to appoint a commission to begin the proceedings of an inquiry and present the solution to the problem at hand.

Article 4: Research objectives

Having described the problem definition, it can be further divided into the following 4 research objectives:

- Legislative shortcomings allowing for this problem to exist, and the effects of jurisprudence that may have resulted through litigation, particularly in regard to the ownership of conflict zones such as the beach and the pond, and how these shortcomings should be addressed (New legislation, amended legislation, budgetary amendments, instructions to government by means of an amendment in the governing program)
- What actions government can and should take to ensure the property is used in the best interest of the people of the country, being proactive ahead of potential irrevocable actions, such as auctions and/or settlements by the central bank, which may or may not be in the best interest of St. Maarten
- Finding a fully sustainable, environmentally friendly solution to the development of Mullet Bay, and continued protection of its natural resources— zoning, expropriation, assigning monument status
- The lack of economic activity for the area over 22+ years and what this has cost the country, and what economic benefits could be derived from the country if it were developed in a sustainable manner

Article 5: Inquiry Questions

The questions the inquiry will specifically aim to answer, based on the problem definition and resulting research objectives, are as follows:

Legislative shortcomings allowing for this problem to exist, and the effects of jurisprudence that may have resulted through litigation, particularly in regard to the ownership of conflict zones such as the beach and the pond, and how these shortcomings should be addressed (New legislation, amended legislation, budgetary amendments, instructions to government by means of an amendment in the governing program)

1. What is the current inventory of laws that deal with the protection of natural resources, crucial economic development area and situations where expropriation may be deemed necessary in the national interest?
2. Does St. Maarten sufficiently legislate for the protection of its beaches, ponds, the lagoon and other natural resources?
3. What detailed recommendations can the commission make as to the specific changes needed in our laws to prevent such abuse from happening ever again?

What actions government can and should take to ensure the property is used in the best interest of the people of the country, being proactive ahead of potential irrevocable actions, such as auctions and/or settlements, by the central bank, that may or may not be in the best interest of St. Maarten

1. With a lien having been placed on the property, can an ultimate decision to auction the property result in government owning it?
2. What would be the feasibility of government owning the property, and then leasing it out at rates that benefit the country while attractive to developers/investors?
3. Is the current owner willing to sell voluntarily?
4. Is the current owner going to be forced to sell the property by court order?
5. What legal measures exist for government to reclaim the property?
6. Should the Central bank impose fines on Ennia, which would thus lead to a debt to government, and an opportunity for these fines to be settled by reclaiming the property?

Finding a fully sustainable, environmentally friendly solution to the development of Mullet Bay, and continued protection of its natural resources – zoning, expropriation, assigning monument status

1. What does an ecological assessment of the area reveal about the ecological significance of Mullet Bay?
2. What sustainable and environmentally friendly options exist for the tourism development of Mullet Bay Area (Eco-Lodges, Eco-Tourism, Carrying Capacity)?

3. What are the guidelines that should be implemented for the protection of the natural resources for any construction in the area?

4. Is a golf course sustainable for St. Maarten from an environmental perspective (usage of land on a small island, irrigation and water usage, wildlife)?

The lack of economic activity for the area over 22+ years and what this has cost the country, and what economic benefits could be derived from the country if it were developed in a sustainable manner

1. What would a detailed analysis of Mullet Bay's potential Economic Impact show us about the effect a resort operating there would have on our economy?

2. What has the lack of economic activity cost the country annually, per capita, and in total over all these years?

3. What opportunities exist in the open market to develop a maximally environmentally friendly resort in the area?

4. Can this loss of income, and a projected increase in income for the country, be part of a justification for the country to do whatever is feasible to get the property operational again, including expropriation or penalty action by the central bank?

In the answering of these questions, special attention will be paid to the role of Parliament in all of this.

Article 6: Inquiry Process

6.1 Delineation and scope

This inquiry can be delineated in some ways to ensure that the scope of the inquiry is sufficiently focused and efficient. Some of the delineations include:

- 1957 Kadastral extract: Unless further research provides more data, the Kadaster shows transfers as early as 1957. Going back further is not expected to be necessary or expected to yield any new information unless more data becomes available.
- Mullet Bay Beach and Mullet Pond Area: Other areas and beaches that may have similar disputes will only be referenced if absolutely necessary, such as in the case of establishing jurisprudence. Specifically, this case deals with land referenced by number 114/1971 at the Kadaster owned by Sun Resorts LTD.

While the result of this inquiry can lead to changes that help areas outside of the scope outlined above, the inquiry will aim to keep within the scope while answering the questions as outlined earlier in this Inquiry proposal

The process for executing the inquiry has been modeled after the last inquiry to take place within the Kingdom, namely the Fyra Parlementaire Enquette, the final report of which was submitted in 2015²¹



Phase 1: Research Phase – The preliminary information gathering phase

Phase 2: Verification and Hearing Phase – the phase where the commission will be able to verify information, hear witnesses and seek advice from external entities for possible solutions

Phase 3: Reporting Phase – The information is placed by the commission into a report

Phase 4: Conclusions and Actions - the conclusions from the report are delivered and debated by parliament, actions agreed, and the commission continues to follow up to ensure action is taken after the report is debated by parliament

Phase 1: Research Phase

The research is carried out by means of interviews, working visits, fact finding efforts, public source scanning and (to be requested) documents within and outside the national government. During this phase, the commission may propose to parliament to adjust the description and scope of the parliamentary inquiry based on initial information found, in accordance with article Article 2.3 of the National Ordinance Parliamentary Inquiry²².

Phase 2: Verification and Hearing Phase

6.2 Closed Door Interviews

The private interviews are intended to test the findings from the fact-finding and to collect additional information. In addition, on the basis of these interviews, a selection is made of the persons who will be interviewed publicly.

6.3 Public Interrogation

In this phase the committee hears key players under oath. The purpose of these interrogations is to verify the findings and to clarify any remaining uncertainties. The national Ordinance Parliamentary Inquiry provides significant detail as to the rights of the commission, parliament and the interviewed in regards to the public testimonies under oath, and is one of the strongest tools the commission has to ensure that the truth is discovered and that real solutions can thus be found to the problem defined regarding Mullet Bay.

²¹ Parlementair onderzoek Fyra page 7: Onderzoekaankpak

²² National Ordinance Parliamentary Inquiry, Article 2.3: On the proposal of the commission conducting the parliamentary inquiry or otherwise, Parliament may alter the description.

The following is not an exhaustive list of those to be interviewed, but provides some examples:

- Government Advisory Bodies and ZBO's (SER, Chamber of Commerce, High Councils of State, Kadaster)
- Ministers, Secretary Generals, Government Departments, their heads and selected civil servants
- Tax Authorities/Receivers
- Related Ownership: Sun Resorts Management and Board, Ennia Management and Board
- Businesses and Individuals affected: License holders for Mullet Bay beach, Former property owners Mullet Bay, Relevant Notary
- Business, Trade and Commerce Organizations: St. Maarten Hospitality and Trade Association (SHTA), St. Maarten Timeshare Association (SMTA), St. Maarten Marine Trade Association (SMMTA), Indian Merchants Association (IMA)
- Other interests in the Hotel and Economic Sector
- Environmental and Agricultural groups: Nature Foundation, EPIC, St. Maarten Pride, St. Peter's Gardens, Freedom Fighters
- Community Councils, Town Halls: particularly those whose communities have beaches
- Other Financial and Insurance Institutions
- Investment Groups

Article 7. Planning and organization

7.1 Research staff

The committee of inquiry is supported by an official staff. This staff consists of a commission executive assistant, a research coordinator, a legal advisor, an economic advisor and a communications officer. A secretary General is to be provided by parliament's secretariat to support the commission and staff.

7.2 Quality Assurance

For quality assurance, an advisory board consisting of a group of external experts will be appointed by the commission for 6 members categorized by their respective expertise in the following sectors:

- Economy and Finance
- Tourism and Hospitality
- Environment
- Law and Government Procedures
- Research and Reporting
- Public Relations, Communication and Marketing

The advisory board group can provide the committee of inquiry with advice on the approach and the results of the research, throughout the entire process.

7.3 Planning and Timing

The planning and timing of this inquiry is somewhat based on others inquiries done within the Kingdom, however, it is to a much smaller scale than those in the Netherlands. Parliamentary commissions in the Netherlands can take up to 2 years, due to the much larger scale of inquiries conducted there. This proposal estimated a maximum duration of about 8 months (32 weeks) from beginning to end:

Week 1 to 2	- Recruitment and selection of research staff
Week 3 to 7	- Data Collection – Fact Finding
Week 8 to 9	- Preparation for Preliminary Discussions
Week 10 to 13	- Closed door Pre-Meetings
Week 14 to 16	- Preparation, execution and recording/reporting of public hearings
Week 17 to 18	- Preliminary debrief and parliamentary update
Week 19 to 26	- Draft report presentation
Week 27 to 28	- Draft report feedback, analysis and incorporation
Week 28 to 29	- Buffer Week
Week 29 to 30	- Final report due
Week 31	- Relevant permanent Committees debates
Week 32	- Plenary Debate, Finalization and conclusion

Note that the final 2 phases are the discretion of the Presidium and the relevant chairpersons of the permanent committees

Article 8: Parliamentary Inquiry Commission

In accordance with Article 2 sub 3 of the National Ordinance Parliamentary Inquiry, a parliamentary commission will also be selected by parliament. The proposed parliamentary commission is to be comprised as follows:

1. The commission will be chaired by its initiator
2. The presidium will select one of its members to join the commission in the dual-capacity of commission members and presidium liaison
3. 2 Members from each faction
4. For factions consisting of just one member, this faction member is automatically granted membership of the commission
5. 1 secretary general will be appointed by secretariat

Based on the current composition of parliament the commission could comprise of the following 7 members of parliament:

- Commission Chairman: MP Rolando Brison
- One member of the presidium
- 2 Members from the UD Faction
- 2 Members from the NA Faction
- 1 other member of the USP Faction (MP Richardson)
- 1 member of the SMCP Faction (only 1 faction member: MP Peterson)

Article 9: Parliamentary Inquiry Budget

In accordance with Article 3 of the National Ordinance Parliamentary Inquiry, this proposal must also include the budgeted expenditures related to this inquiry²³. It is important to note that the law allows for this not to be limited by budgetary constraints. As is explained in the Explanatory Memorandum of the National Ordinance Parliamentary Inquiry:

"Article 3 regulates that the costs of the inquiry should not be funded from the regular costs of Parliament, and is adopted from Article 3 of the Parliamentary Inquiries Act. This prevents financial arguments from playing a role in the decision on whether to conduct an inquiry."

The budget for the costs related to the execution of the inquiry are as follows:

Expense Item	Amount (NAF)	Rate (NAF)	Units
Commission Staff	120,000	24,000	5
Legal Council - Legislation/General	112,000	350	320
Notarial Expertise	20,000	200	100
Public Relations/Communication	24,000	200	120
Advisory Council Stipend	43,200	7,200	6
Financial/Economic Expertise	44,000	220	200
Travel Expenses	46,000	-	-
Other Expertise	18,000	-	-
Office Expense, ICT Services	48,000	1,500	32

²³ Article 3: 1. Parliament shall draw up an estimate of the expenditure that, in its view, is necessary for a parliamentary inquiry, analysed by budget years, and shall notify the Minister of General Affairs of this.

Town Halls/Meetings Expense	25,000	-	-
Misc. Expenses/Inquiries	20,000	-	-
Total Costs	519,200		

It may be important to note that the cost of this inquiry actually accounts for 519,200 NafL. It is the belief of the initiator that this cost is well worth the effort of finally "Giving Mullet Bay Back to the People".

Explanatory notes to budget

Procurement

This procurement process to be used will be the standard process that parliament currently uses for acquisition of services.

Commission Staff

This is the cost budgeted for the temporary staff that will be hired for the commission as outlined in section 7.1 – Research Staff. As explained here, the committee of inquiry is supported by an official staff. This staff consists of a commission executive assistant, a research coordinator, a legal advisor, an economic advisor and a communications officer. A secretary General is to be provided by parliament's secretariat to support the commission and staff.

The cost of the staff has been estimated based on the rates of similar positions in government, over a span of 32 weeks as per the time planning (section 7.3)

Legal Council/General Council

With the heavy amount of legislative work, and in anticipation of the inquiry yielding some legislative changes being proposed to parliament, there is a significant need for legal council from both a general or civil law perspective. This will allow the commission and its staff more efficiently analyze the problem as defined, and validate the information given by those interviewed by the commission more expediently.

A total of 320 billable hours is budgeted for, which amounts to 10 billable hours per week.

Notarial Expertise

Considering that the property is very large, is subdivided into many sections and that the solution could possibly require new deeds or

admeasurements to be issued, the expertise of a notary will be necessary.

A total of 100 hours is budgeted for, which amounts to just over 3 hours of billable hours per week.

Public Relations/Communication

This inquiry is not only being carried out by a commission comprised of elected representatives, but tax payer's dollars are going to be used to cover the costs. It is also a topic that many within the public are passionate about, as it has been so long since this issue with mullet bay has existed. Therefore it is crucial to ensure that the public is well informed throughout the process. The PR costs will cover advertising such as newspaper, radio and social media, but will also cover production costs such as videos, infographics and explainer videos. This will ensure that the public is sufficiently informed about the incipency, progress and final result of the inquiry.

Advisory Council Stipend

As per section 7.2 of this inquiry, for quality assurance, an advisory board consisting of a group of external experts will be appointed by the commission for 6 members categorized by their respective expertise in the following sectors:

- Economy and Finance
- Tourism and Hospitality
- Environment
- Law and Government Procedures
- Research and Reporting
- Public Relations, Communication and Marketing

Each board members will receive a nominal stipend of Naf1 1,200 guilders per months.

Financial/Economic Expertise

There are various financial and economic items that will require analysis for the commission. Particularly considering that one of the research items has to do with the economic viability of the area and possible feasibility of government re-acquiring the land, the needs for financial expertise is clear.

The amount of production from the financial and economic expertise should not be as high as that of the legal and legislation, so 200 hours are budgeted at 220 Naf1 per hour.

Travel Expense

There are some key components that will have to be interviewed that are not based in St Maarten such as the Central Bank, Ennia Group, and Court of Manhattan (as it relates to their role in the restructuring of Ennia and the Mullet Bay property). While it may indeed be that parties would be willing to travel and meet the commission, it is still wise to reserve an amount in the event it cannot take place. To save costs, only a selection of the commission will travel in the event the need arises.

Other Expertise

This could include environmental consultants, ICT or other consultants that may be required.

Office Expense, ICT Services

The staff will need a temporary place to work as the office space at parliament seems to have mostly been assigned. This budget will cover the cost of such rent for 32 weeks, as well as some ICT services.

Town Halls/Meeting expense

As part of the effort to create a transparent and informative throughout the inquiry process, town hall meeting will be held as interactive opportunities for the public to learn more about the progress of the Inquiry.

There may be some costs for holding meetings that may have to be held off premises, so this cost is also covered in this budget item.

Misc/Unforeseen

This is for unanticipated expenses and is about 4% of the total budget.

Appendix I: Excerpts from Literature Review – Environment and Development in the Caribbean:

Geographical Perspectives | 1995–D. Barker, D McGre Environment and Development in the Caribbean: Geographical Perspectives

St Maarten/St Martin

Tourism in St Maarten/St Martin is, in comparison to Bermuda, relatively new. Published documentation of the industry's origins and evolution is essentially nonexistent. Although Samson (1989) traces St Maarten's tourism development to 1960 following the closure of Cuba, St Maarten did not take off until 1970. At this time St Maarten was in Butler's involvement stage or what McElroy and de Albuquerque (1991: 1992) have labelled a 'low density emerging stage' Stage B. The town of Philipsburg (St Maarten) had a few hotels — Passengrahen (St Maarten's oldest one, formerly the governor's guest-house), Seaview Hotel, Great Bay Beach Hotel, and several guest-houses. There were a couple of guest houses on Simpson's Bay, and a few small hotels and guest-houses in Marigot on the French side.

Riadon's Cafe, Riadon's Drive-in, and a Chinese restaurant on Back Street were the three most popular eating places for locals. For the small but growing number of tourists there were a few French restaurants in Marigot (Grand Case was still a sleepy village without a restaurant), an Italian restaurant and the West Indian Tavern, a Philipsburg landmark built in 1830 on the site of an old

synagogue. Night-life was restricted to two clubs and a handful of bars, the most popular of which was Oceanic Cafe on Front Street in Philipsburg. St Maarten/St Martin was truly a friendly, unspoiled and relatively undeveloped island in 1970. It was dominated by a handful of local families, the most important of which were the Wadley family on the Dutch side and the Fleming family on the French side.

The construction of the 600 room Mullet Bay Resort in 1969/1970 represented a decisive turning-point in orienting the island's small-scale, informal, and loosely organized tourism industry onto a new growth trajectory. On the heels of Mullet Bay a number of new resorts appeared on Maho Bay, Capaco Bay, Bay Longue, Bate Rouge, Bate Orientale, Oyster Pond and Pointe Blanche. While some of these (La Samana, Oyster Pond Hotel) were decidedly upscale, Mullet Bay led the trend towards tapping the mass market. By the end of the 1970s, hotel construction was at a breakneck pace and in a three-year period (1979-81) close to 600 new rooms were added. The decade of the 1980s ushered in a virtual free-for-all in tourism construction, fuelled by very generous tax and other concessions (for example, government assistance in financing projects, subsidised water and power). Any semblance of rational planning soon disappeared, the permitting process was routinely bypassed, and building codes were not enforced. Indeed, the absence of controls led to a construction boom unparalleled in the region.

Excerpt 1: Genesis of St. Maarten's Tourism

To fuel the demand for construction workers and for workers in the tourist industry, large numbers of workers were recruited from other islands. With the exception of Antilleans from Curacao, Aruba, Saba, and St Eustatius and workers from elsewhere in the French West Indies, most of the workers were illegal. Some of these came from nearby English-speaking islands, but the vast majority were from the Dominican Republic and Haiti, two of the poorest countries in the region.

The number of hotel rooms in St Maarten more than doubled in the boom decade of the 1980s, from 1,670 in 1980 to over 3,500 in 1990, figures which actually understate activity on the island because they exclude the French side where much of the growth occurred after 1986. A considerable amount of the growth on both sides of the island was in the form of time share/vacation ownership with the trend towards time-shares being set by Pelican Resort in the mid 1980s.

Table 6.4 shows the enormous growth in visitor arrivals between 1970 and 1990 that accompanied this burgeoning construction. Air arrivals more than doubled between 1970 and 1980 and increased by over 2.5 times between 1980 and 1990. After virtually 20 years of uninterrupted growth in air arrivals, 1991 saw a slight decline. The greatest growth occurred in cruise ship arrivals, which increased by almost 500 percent between 1980 and 1990. Lured by de

Excerpt 1: Growth of the hotel industry relative to Mullet Bay

Excerpt 2: The development of Mullet Bay

Table 6.4 St Maarten/St Martin Visitor Arrivals by Mode of Arrival, 1970-1991

Year	Total		Walter Ansohn ^a (St Philipsburg)		Cruise (Ship/Passenger)	
	No.	% Change	No.	% Change	No.	% Change
1970	N/A		102,000		N/A	
1980	248,120		204,660	104.7	102,670	
1991	102,000	-4.3	110,000	7.8	104,304	6.1
1981	204,660	2.2	246,000	20.0	170,220	12.7
1982	102,000	0.0	245,267	23.4	112,900	21.3
1983	428,275	27.9	317,275	28.6	212,700	54.3
1984	643,150	26.2	399,217	26.3	148,070	29.3
1985	710,100	10.7	376,200	6.3	213,000	11.6
1987	102,000	10.4	461,244	14.0	207,120	24.0
1988	104,304	10.7	479,740	4.2	402,904	16.9
1989	172,716	4.8	502,704	5.0	472,000	4.7
1990	1,073,340	10.6	544,371	12.0	514,974	9.1
1991	1,000,202	-2.7	548,000	2.9	502,214	-2.5

Note: ^a Data for 1980-1991 represent arrivals of French for St. Philipsburg were estimated since they do not include the air arrivals for St. Philipsburg.

Source: Caribbean Tourism Organization (1997, 1998, 1999)

factories-free shopping there are no customs duties on St Maarten/St Martin the number of cruise ship calls increased dramatically. In the short space of 10 years, St Maarten became the fourth most popular cruise ship destination in the Caribbean, after the region's traditional historical leaders, Puerto Rico, The Bahamas and the US Virgin Islands.

Excerpt 2: Economic Impact of mullet bay and other hotels on St. Maarten