



## Aanmaning/Summons

To the Prime Minister  
of St. Maarten  
The Hon. Ms. Silveria Jacobs  
Government Administration Bldg.  
Pond Island, Philipsburg- PRESENT  
Via email: [secretariat@sintmaartengov.org](mailto:secretariat@sintmaartengov.org)

April 4, 2022

Excellency:

We bring to your attention the attached besluit (KB) dd. October 20, 2017, whereby the Kingdom Government annulled the so-called “80-20” “regeling” passed by the Parliament and Government of Curacao because the law was “onrechtmatig”. It was tested against International law, pursuant to article 21 of the Reglement van de Gouverneur of Curacao and was found to be in conflict with the principle of equality laid down in the European Treaty on Human Rights (EVRM).

This decision therefore, creates a precedent, an OBLIGATION for the Government and Parliament of St. Maarten to test each and every piece of legislation for conflict with international treaties and decrees of International Organizations, such as the UN. Failure to do so implies an unlawful act, an “onrechtmatige daad” according to the standard laid down in the abovementioned KB.

With respect to COHO, this KB suggests that it too should be screened for conflict with the following international treaties.

**Applicable International law: *The right to self-determination as found in the following treaties:***

*Articles 1 paragraph 2 and article 55 of the UN Charter, The International Covenant on Civil and Political Rights (BUPO Verdrag) art.1, The International Covenant on Economic, Social and Cultural Rights, art.1 (ICESCR)*

### **The Right to Self-Determination**

Here is what the Kingdom of the Netherlands says about the right to self-determination:

First of all, the Kingdom confirms that the right of self-determination is a peremptory norm of international law, *jus cogens*, a principle from which no derogation is allowed.

*According to the Kingdom of the Netherlands, the right of self-determination of peoples is not exhausted by a one-off exercise, but a permanent, continuing, universal and inalienable right*



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*with a peremptory character. (Written Statement of the Kingdom of the Netherlands, par. 1.5, feb. 28, 2018)*

### **What is to be understood under the “right to self-determination?”**

Again the Kingdom comes to our rescue by providing this definition:

*It is submitted that, on the basis of these formulations in international treaties and **authoritative** United Nations’ declarations, the right of self-determination of peoples relates to the determination of the political status of a people, and the pursuit of its economic, social, and cultural development and future.*

*On the basis of these formulations, it must also be concluded that the decisions on the political status and the economic, social, and cultural development are made by the people itself, or its legitimate representatives, **not by others**. Moreover, such decisions shall be made in full freedom, without any outside pressure or interference.*

*(Written Statement, op. cit., par. 2)*

Does COHO interfere with the right of the people of St. Maarten to freely pursue its economic, social and cultural affairs?

Was the decision concerning COHO made “*in full freedom, without any outside pressure or interference?*”

### **Was the Consensus based on “genuine free will?” The International Court of Justice (ICJ) criteria for the exercise of “free will”:**

*In the Court’s view, it is not possible to talk of an international agreement, when one of the parties to it, Mauritius, which is said to have ceded the territory to the United Kingdom, was under the authority of the latter. Having reviewed the circumstances in which the Council of Ministers of the colony of Mauritius agreed in principle to the detachment of the Chagos Archipelago on the basis of the Lancaster House agreement, the Court considers that this detachment was not based on the free and genuine expression of the will of the people concerned. (ICJ, 25 February 2019, Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, p. 172)*

The Government of the Netherlands demands that our laws must comply with international law, therefore Parliament and Government have the obligation to make an assessment as to whether the agreement to the Consensus Kingdom Law was based on the “free and genuine expression of the will” as established by the ICJ, which is the Supreme Source of International law.





### **Article 73 (Chapter XI) of the United Nations Charter: The Sacred Trust**

This is perhaps the most important treaty with which COHO must comply for the following reasons:

1. COHO must comply with the principle that the interest of the people is paramount
2. That the people themselves determine their own interest.
3. Article 73 states that the economic welfare of the people is a “sacred trust” of the administering state.
4. Can a sacred trust be converted into loans under onerous conditions by the administering state?

### **Summary and Summons:**

The Government is under the obligation to screen COHO for compliance with international law. Government is hereby summoned to within fourteen days of receipt of this letter inform us whether or not it will comply with its obligations and screen the Consensus Rijkswet COHO. Failure to comply with this request will result in legal measures being taken against the Government of St. Maarten.

Sincerely,

Mr. Renate Brison  
Secretary  
Pro Soualiga Foundation

