

# Memorandum

## **Constitution Reform of the Kingdom of The Netherlands and its impact on the maritime sector and the Maritime Authority of Curaçao (MAC)**

After a process of constitutional reform of the Kingdom of The Netherlands, the country Netherlands Antilles dissolves on **10 October, 2010**. As per that date, the islands of Curaçao and Sint Maarten obtain country status within the Kingdom of The Netherlands, comparable to that of the former Netherlands Antilles. As a consequence the Kingdom as per this date consists of four countries, namely the Netherlands, Aruba, Curaçao and Sint Maarten. The smaller islands of Bonaire, Sint Eustatius and Saba will have direct ties to the Netherlands, a position comparable to that of a Dutch municipality.

### **The reforms have no impact on issues of nationality and foreign relations :**

- No changes in the Kingdom's external borders;
- Like defence, nationality and foreign relations continue to be a "Kingdom affair";
- One Minister of Foreign Affairs for the whole Kingdom, based in the Netherlands;
- The Ministry of Foreign Affairs in The Hague and its overseas missions continues to serve the Kingdom and its constituent parts;
- Treaties and conventions are concluded by the Kingdom, not by its constituent parts (although their scope may be limited to one or more parts of the Kingdom);
- All treaties and conventions which apply to the Netherlands Antilles remain applicable to the new countries of Curaçao and St. Maarten, according to their present status.

### **Impacts of reforms on responsibilities of the Maritime Authority of Curaçao**

- The Directorate of Shipping & Maritime Affairs of the Netherlands Antilles will hence bear the name Maritime Authority of Curaçao (MAC);
- All vessels registered in Willemstad will continue to do so;
- Flag, Port and Coast State responsibilities as of the abovementioned date will equally be in force for Curaçao;
- In all matters related to Flag State responsibilities, including the ship register and the RO contract with the class societies, "Netherlands Antilles" is replaced by "Curaçao";
- There will be no change of the Committee of Investigation of Marine Casualties & Incidents and the Disciplinary Tribunal.

### **Coast Guard**

The Coast Guard of the Netherlands Antilles & Aruba is a Kingdom organisation and will remain as such. Its duties after the transition date include the two new countries of Curaçao and Sint Maarten, the islands of Bonaire, St. Eustatius and Saba under Dutch administration, as well as the existing country of Aruba. A possible name change of the organisation is foreseen, but has not yet been announced.

### **Port authority**

Each island has its own port authority and this remains as such. The Curaçao Port Authority is a private company, fully owned by the Government of Curaçao. The existing island ordinances governing port management, labour, operations and safety & environment gain the status of national laws of Curaçao. The same applies to Sint Maarten. A special Dutch law (WOLBES) governs the local laws of Bonaire, St. Eustatius and Saba.

### **Public Prosecution Service**

Under the new structure, investigative and prosecutorial powers rest with a single overarching procurator general for all parts of the Kingdom that currently comprise the Netherlands Antilles: the new countries of Curaçao and St. Maarten and the three islands that henceforth are part of the Netherlands (Bonaire, St. Eustatius and Saba). Each of the countries has its own advocate general, who is in charge of that country's public prosecution service, under the responsibility of the country's government.

### **Police**

The new countries of Curaçao and St Maarten each have their own police force. The islands of Bonaire, St Eustatius and Saba share a single police force, making a total of three forces for the five islands. These forces cooperate in many ways. Structural arrangements are made for cooperation in combating organised and cross-border crime and for operational support. Police officers are authorised to operate on and may be deployed to any of the islands. The jurisdiction of the justice department extends to all vessels registered at Willemstad, Curaçao where ever they might be in accordance with the provisions of the "Wetboek van Strafrecht (Penal Code) /Strafvordering" (Penal Proceeding Code).

*Dated 1<sup>st</sup> of October 2010*