

# TRADING - NETHERLANDS ANTILLES

## Naamloze Vennootschap

The Netherlands Antilles Naamloze Vennootschap (NV) is a limited liability company most commonly used in international trading and business operations in the Netherlands Antilles. The NV company is generally similar to the Inc (United States of America), Ltd (United Kingdom), GmbH (Germany), Sarl (France), and SA (Spain).

There are no minimum capital requirements. Shares can be issued with or without par value. The liability of the shareholder in a NV is limited to their capital contribution. Shares may only be issued in registered form but can afterwards be converted to bearer shares. Share certificates can also be issued. The shares can be denominated in any valid currency.

The NV company can act as a public company and as a closely held private company.

The NV company is incorporated by notarial deed before a civil law notary. The name of the NV company must be approved by the Government prior to incorporation. The draft articles of incorporation also have to be approved by the Government.

The incorporation normally takes about two to four days. The NA corporate laws are flexible and provisions can be incorporated in the Articles of Incorporation to meet a variety of arrangements for international investors.

At least one managing director must be a resident of the Netherlands Antilles (either an individual or a corporation). The NV company may have a one tier board of directors (a general board and an executive board, the latter is responsible for daily management) or a two tier board consisting of a board of managing directors and a separate board of supervisory directors. It is also possible to opt for an independent board of supervisory directors. Such a board cannot be dismissed by the shareholders in general meeting without a specified reason. However, implementing an independent board also requires that the company has its annual financial statements audited by an independent auditor.

The shareholders of the NV company meet at least once a year in a General Meeting, Extraordinary Meetings of shareholders may be convened to deal with matters that arise during the course of the year. The General Meeting of shareholders has the following powers (excluding powers specifically granted in the articles of incorporation):

- make changes to the Articles of incorporation;
- appoint, dismiss or suspend supervisory directors and managing directors;
- approve the financial statements;
- declare dividends and other capital distributions;
- dissolve the company; and
- execute all other powers that have not been assigned by law or in the articles of incorporation to another corporate body.



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The Annual General Meeting of shareholders should be held within eight months after the end of the company's financial year. The general meeting may be extended by six months at the most, based on 'special circumstances'. These circumstances are not further defined in the law or other regulations.

Unless the articles of incorporation state differently, decisions are made by a simple majority of votes. There are no quorum requirements. Written resolutions can also be made outside of a meeting, provided that all shareholders that are entitled to vote regarding the subject have cast their vote.

Extraordinary Meetings can be convened by the managing directors or the supervisory directors at the request of shareholders controlling 10% or more of the voting rights.

### Advance Cost Plus Tax Ruling

It is possible to obtain an advance tax clearance from the Netherlands Antilles Tax Authorities (tax ruling) concerning the Netherlands Antilles tax position of a specific N.V. company/structure. This increases the degree of certainty non-residents seek in establishing a Netherlands Antilles intermediate and/or banking company.

The re-invoicing activities will make use of a cost plus ruling, i.e. the general local operational expenses will receive an uplift of 5% which margin is the tax base, taxed against 34.5%. For example:

### PROFIT AND LOSS ACCOUNT FOR THE YEAR 2008

(All amounts are stated in United States Dollars)

|                                     |       | 01-Jan-2008<br>until<br>31-Dec-2008 | 01-Jan-2007<br>until<br>31-Dec-2007 |
|-------------------------------------|-------|-------------------------------------|-------------------------------------|
|                                     | NOTES |                                     |                                     |
| <b>OPERATING INCOME</b>             |       |                                     |                                     |
| Commission income                   |       | 381,442                             | 16,593                              |
| Commission expenses                 |       | (150,485)                           | (75,253)                            |
|                                     |       | <u>230,957</u>                      | <u>107,483</u>                      |
| <b>OPERATING EXPENSES</b>           |       |                                     |                                     |
| General and administrative expenses | 6     | 13,468                              | 8,127                               |
| Total operating expenses            |       | <u>13,468</u>                       | <u>8,127</u>                        |
| <b>RESULT ON OPERATIONS</b>         |       | <u>217,490</u>                      | <u>99,356</u>                       |
| <b>FINANCIAL INCOME/(EXPENSES)</b>  |       |                                     |                                     |
| Dividend income                     |       | 0                                   | 0                                   |
| Interest income late payment        |       | 3,488                               | 0                                   |
| Interest bankaccount                |       | 75                                  | 0                                   |
| Foreign exchange result             |       | 0                                   | 0                                   |
|                                     |       | <u>3,563</u>                        | <u>0</u>                            |
| <b>RESULT BEFORE TAXATION</b>       |       | <u>221,053</u>                      | <u>99,356</u>                       |
| <b>TAXES</b>                        |       | 232                                 | 140                                 |
| <b>RESULT AFTER TAXATION</b>        |       | <u>221,285</u>                      | <u>99,496</u>                       |

The tax charge is calculated as follows:

General and administrative expenses amount to USD 13,468, taxable is an uplift of 5% (cost plus),  $USD\ 13,468 * 5\% = USD\ 673.40$  against a tax rate of 34.5% is a charge of  $USD\ 673.40 * 34.5\% = USD\ 232.32$ , rounded to USD 232.

The main pre-assumptions are that the re-invoicing involves no significant risks to the company and that profit margins are not significant.

## Besloten Vennootschap

A Netherlands Antilles Besloten Vennootschap is a private limited liability company (NABV) used in the international trading industry in the Netherlands Antilles. The NABV company provides the same flexibility as British Virgin Islands and Cayman Islands companies. The NABV offers the same flexibility combined with the quality of the Netherlands Antilles jurisdiction, ultimately ruled by the Supreme Court in the Hague, the Netherlands.

There are no minimum capital requirements. Shares can only be issued in registered form with or without par value. The liability of the shareholder in a NABV is limited to their capital contribution. Share certificates can also be issued. The shares can be denominated in any valid currency.

The NABV company is incorporated by notarial deed before a civil law notary. The name of the NABV company must be approved by the Government prior to incorporation. The incorporation normally takes about one to two days. The NA corporate laws are flexible and provisions can be incorporated in the Articles of Incorporation to meet a variety of arrangements for international investors.

At least one managing director must be a resident of the Netherlands Antilles (either an individual or a corporation). The NABV company may have a one tier board of directors (a general board and an executive board, the latter is responsible for daily management) or a two tier board consisting of a board of managing directors and a separate board of supervisory directors. It is also possible to opt for an independent board of supervisory directors. Such a board cannot be dismissed by the shareholders in general meeting without a specified reason. However, implementing an independent board also requires that the company has its annual financial statements audited by an independent auditor.

The shareholders of the NABV company meet at least once a year in general meeting, extraordinary meetings may be convened to deal with matters that arise during the course of the year. The general meeting of shareholders has the following powers (excluding powers specifically granted in the articles of incorporation):

- make changes to the Articles of incorporation;
- appoint, dismiss or suspend supervisory directors and managing directors;
- approve the financial statements;
- declare dividends and other capital distributions;
- dissolve the company; and
- execute all other powers that have not been assigned by law or in the articles of incorporation to another corporate body.



The general meeting of shareholders should be held within eight months after the end of the company's financial year. The general meeting may be extended by six months at the most, based on 'special circumstances'. These circumstances are not further defined in the law or other regulations.

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