

[Coat of Arms of  
the Netherlands Antilles]  
OFFICIAL GAZETTE

NATIONAL DECREE of February 21 1996, no. 1, stipulating the insertion in the Official Gazette of the valid text of the National Ordinance Transfer of Seat third countries (Official Gazette 1965, no. 31).

THE GOVERNOR of the Netherlands Antilles,

Ofl the motion of the Minister of Justice;

Having regard to:

article II of the National Ordinance of February 21 1996 to amend the National Ordinance Transfer of Seat third countries (O.G. 1987, no. 128), inserted in O.G. 1996, no. 15);

HAS RESOLVED:

To stipulate that the text of the National Ordinance Transfer of Seat third countries (O.G. 1965, no. 31), as reading following introduction therein of the amendments laid down by  
10 the National Ordinance of March 2 1966 (O.G. 1966, no. 74),  
20 the National Ordinance of November 7 1986 (O.G. 1986, no.  
30 153) and  
the National Ordinance of February 21 1996 (O.G. 1996, no. 15)  
shali be inserted in the Official Gazette annexed to this National Decree.

Curaçao, February 21  
1996

J.M. SALEH

The Minister of Justice,  
P.J. ATACHO

Issued on February 29 1996  
The Minister of General Af fairs, a.i.  
S.H. INDERSON

TEXT of the National Ordinance Transfer of Seat third countries

<O.G. 1965, no. 31), as amended by National Ordinance of March 2 1966 (O.G. 1966, no. 74), the National Ordinance of November 7 1986 (O.G. 1986, no. 153) and the National Ordinance of February 21 1996 (O.G. 1996, no.15).

§ 1 The transfer of the statutory seat of legal entities

Article 1

1. A legal entity existing under the laws of another state or another country, may transfer its seat to the Netherlands Antilles if the laws, to which such legal entity is subjected, shall allow this or shall not oppose this.

2. The transfer of the seat to the Netherlands Antilles shall be effected through the approval by decree of the Minister of Justice of a resolution to the effect of the legal entity.

3. The Minister of Justice shall grant the approval only if the resolutions, referred to in the second paragraph and the fourth paragraph, second sentence, section b, were adopted by a body of the legal entity that was thereto authorized according to the laws to which the legal entity was submitted at the time the resolution was adopted and in the form as prescribed by law.

4. In order to obtain the approval, a petition to the effect shall be submitted to the Minister of Justice.

The following documents shall thereby be submitted in duplicate:

- a. the resolution referred to in the second paragraph;
- b. a resolution to amend the articles of association of the legal entity, for adaptation to the laws of the Netherlands Antilles;
- c. proof, adequate in the minister's judgment, that the legal entity is recognized as such in the country of origin;
- d. copy of the notarial deed, containing the articles of association of the legal entity, as these shall read.

5. The approval may be given retrospective force, but only to the day on which the resolutions, referred to in the second and the fourth paragraphs, second sentence, section b, were adopted.

Article 2

1. The legal entity that transferred its seat to the Netherlands Antilles pursuant to the stipulations of this National Ordinance, shall continue to exist and shall remain entitled to the assets and property belonging to it, and shall possess the status of a legal entity set up under the laws of the Netherlands Antilles.

2. It shall have a domicile within the Netherlands Antilles, as also a representative, competent to act on its behalf.

3. The legal entity shall be bound to publish the resolution to transfer the seat and the approval granted by the Minister of Justice, by publication in the gazette in which official notices are inserted by the government.

1. A limited liability company existing under the laws of the Netherlands Antilles may transfer its seat to another country and assume the status of a legal entity set up under the laws of that country, if:

- a. the deed of incorporation of the limited liability company shall permit this, and
- b. the resolution to transfer the seat has been adopted by the person or the body thereto designated by the deed of incorporation.

2. In respect of a deed of incorporation allowing the limited liability company to transfer its seat to another country, or in respect of an amendment of a deed of incorporation making such transfer of seat possible, the Minister of Justice shall grant no declaration of no-objection as referred to in article 38, first paragraph or, as the case may be, article 97, first paragraph, of the Code of Commerce of the Netherlands Antilles, if in his judgment the interest of the Netherlands Antilles shall oppose any such transfer of seat.

3. The transfer of seat and the acquisition of the status of a legal entity set up under the laws of another country shall be effected as soon as:

- a. the limited liability company shall have met the stipulations of the laws of such country to acquire the status of a legal entity set up under the laws of such country, and
- b. the point in time stated or described in the resolution to transfer the seat has been reached.

4. As soon as possible following the realization of the transfer of seat, the managers of the limited liability company shall be bound:

- a. to present for deposit, the resolution to transfer the seat, to the keeper of the trade register of the territory where the company was established within the Netherlands Antilles;
- b. to publish such resolution to transfer the seat, by publication in the gazette in which official notices are inserted by the government.

5. Without prejudice to other statutory stipulations with regard to the liability in several of managers, the judge in first instance, at a creditor's request, made within two months from the day on which the obligations stated in the fourth paragraph have been met, shall declare each manager at the time of the decision to actually execute the transfer of seat of a limited liability company, the seat of which has been or shall be transferred to another country, who fails to show that he cannot be blamed for the non-compliance by the limited liability company with commitments as against such creditor, arisen prior to or on the day on which the obligations stated in the fourth paragraph have been met, and that he has not been negligent in taking measures aimed at averting any such non-compliance, severally liable in respect of such obligations.

6. If through war, immediate risk of war, revolution or extraordinary circumstances comparable thereto, the presentation referred to in the fourth paragraph, section a, or the publication referred to in that paragraph, section b, cannot be effected

during at least one month, the liability in several shali concern no more than the obligations arisen prior to or on the first day of that month.

7. So long as through war, immediate risk of war, revolution or extraordinary circumstances comparable thereto, the request referred to in the fifth paragraph cannot be submitted, the term stated in such paragraph shail be suspended.

#### Article 4

1. A foundation existing under the laws of the Netherlands Antilles may transf er its seat to another country and assume the status of a legal entity set up under the laws of such country, if:

- a.
- b.

the articles of the foundation shail permit this, the resolution to transfer the seat is adopted by the body of the foundation thereto designated by the articles, and c. the Minister of Justice shail have approved the resolution

to transf er the seat, referred to in section b.

2. The Minister of Justice shali grant no approval if in his judgment the interest of the Netherlands Antilles shail oppose any such transf er of seat.

3. The transfer of seat and the acquisition of the status of a legal entity set up under the laws of another country shali be effected as soon as the foundation shail have met the stipulations of the laws of such country to acquire the status of a legal entity set up under the laws of such country.

4. As soon as possible following the realization of the transfer of seat, the managers of the foundation shail be bound:

- a. to present for deposit the resolution to transfer the seat and the approval granted by the Minister of Justice to the keeper of the foundations register, held by the Chamber of Commerce and Industry within whose territory the foundation was established within the Netherlands Antilles;
- b. to publish such resolution to transfer the seat and approval granted by the Minister of Justice, through publication in the gazette in which official notices are inserted by the government.

5. Article 3, paragraphs f ive to seven, inciusive, shail apply analogously.

#### § 2 Special fiscal provisions

#### Article 5

1. In the event of transfer of the statutory seat of a legal entity to a territory outside the Netherlands Antilles, no tax or charge shali be imposed in respect thereof.

2. Nor shail the legal entity be subject, following such transfer, to the Netherlands Antilles Profit Tax pursuant to Article 1, paragraph 2, last sentence, of the National Ordinance on Profit Tax 1940.

3. As regards the fiscal profit determination, the assets of a legal entity that transfers its statutory seat to the Netherlands Antilles pursuant to the provisions of this national ordi-

nance, shall be appraised at the value in economic transactions at the moment of such transfer.

### § 3 Final Provisions

#### Article 6

Documents, the presentation of which shall be required pursuant to the provisions of this national ordinance, shall be stated in the Dutch or the English language.

#### Article 7

This national ordinance may be cited as "National Ordinance Transfer of Seat third countries".

#### Article 8

To provide that this national ordinance shall be inserted in the Official Gazette.

#### Article 9

This national ordinance shall take effect as and from the day following that of its proclamation.

I, Mrs EYDA ELISABETH BUTÔT née BOOMGAART, a sworn translator residing in Curaçao, Netherlands Antilles, knowing the Dutch and English languages, hereby do certify that the foregoing is a true translation of Official Gazette Anno 1996, No. 16.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal of office on this nineteenth day of March, nineteen hundred and ninety-six.