

What benefits exist for US entrepreneurs? 22/07/2003 00:00

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As an American entrepreneur planning to set up in the Netherlands, I was recently made aware of a certain treaty between the Netherlands and the United States — the so-called Treaty on Friendship, Commerce and Navigation. What's the scope of this treaty?

A treaty is a special arrangement between countries and generally compels their governments to honour certain treaty-based obligations.

During 1956, the Dutch and American governments negotiated and drafted a Treaty on Friendship, Commerce and Navigation or in Dutch 'het Verdrag van Vriendschap, Handel en Scheepvaart tussen het Koninkrijk der Nederlanden en de Verenigde Staten van Amerika'.

The treaty, which came into effect on 5 December 1957, is aimed at strengthening the ties of friendship and peace, and to encourage closer economic and cultural relations between the American and Dutch peoples, resulting in mutually advantageous trade and investments.

The treaty parties are obliged to treat Dutch or American nationals or companies on a fair and just basis.

According to the treaty, citizens of either party may enter the territory of the other party and are allowed to reside there for trade purposes between the territories of both parties (Dutch-US trade) or to operate a business in which a substantial financial investment was made.

The treaty is (more or less) incorporated into Dutch rules and regulations. The Dutch legal system does not have a trader (E-1) or investor (E-2) visa category like its US non-immigration counterpart. The American system is in that sense more 'customised' to Dutch citizens coming to the United States for trade or investment purposes.

If a US national intends to start an enterprise in the Netherlands, he or she may obtain a special residence permit based on self-employment. I described the application procedure with Aliens Police/IND in my last column.

The aforementioned permit will allow the US national to reside in the Netherlands for trade activities and/or to operate the business in which an investment was made.

To qualify, the US national will have to submit detailed evidence regarding the international trade and US-Dutch trade figures of his or her company and/or evidence regarding the scope of the financial investment in the Dutch business.

If this business is set up as a sole proprietorship (*eenmanszaak*), proof of a minimum investment of NLG 10,000, is required. If the Dutch business is set up as a corporation (*besloten vennootschap* or *naamloze vennootschap*) the capital requirements range from NLG. 40,000 to NLG 100,000.

The US national will have to substantiate that the investment derives from his or her own personal funds. Loan-based investments will not be accepted. The US national will also have to register the new business with the Dutch Chamber of Commerce. (An original extract of the Chamber of Commerce is required as proof of this registration.)

And Aliens Police may demand proof of recent financial figures or prognoses — approved by an independent financial specialist — with regard to the business.

If the US national is allowed to reside in the Netherlands under the rules of the treaty, the spouse and children may join the US national in the Netherlands and reside here too.

All in all, the Treaty on Friendship, Commerce and Navigation offers distinct opportunities for US nationals who intend to reside in the Netherlands for trade purposes and/or who want to operate a Dutch business in which they have invested a substantial amount of money.

This column is for informative purposes only, is general in nature, and is not intended to be a substitute for competent legal and professional advice Dutch rules and regulations regarding aliens, work permits, visas and residence permits are continuously subject to change.

Patrick Rovers, 3 October 2001