

ORET programme

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As of October 2006

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This is the new consolidated edition of the ORET regulation. The first edition was published in the Netherlands Government Gazette (no. 139, 9 July 1999). Since then it has been revised several times (February 2000, 28 December 2000, July 2001, 22 March 2002, 3 February 2005, 18 May 2006 and 9 October 2006). This edition (9 October 2006) supersedes all earlier editions.
NB: this edition is a translation of the original Dutch text of the ORET regulation. In case of difference in interpretation, the Dutch text shall prevail.

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ORET PROGRAMME

1.1 Objectives and legal framework

The objectives of the Development-Related Export Transactions Programme (ORET) are to promote sustainable economic development and improve the business climate in developing countries by facilitating investment in their economic and social infrastructure. The programme reduces the costs to developing countries of eligible projects through the award of grants for the purchase of capital goods, services or works. These grants qualify as Official Development Assistance (ODA) according to international standards.

ORET is a grant programme of the Directorate-General for International Cooperation at the Ministry of Foreign Affairs. Since 01 januari 2007 a consortium of PricewaterhouseCoopers and Ecorys , from now on called Oret.nl, has been authorised to administer the programme in consultation with the Ministry of Economic Affairs.

The legal basis for ORET is article 7.3 part h of the Ministry of Foreign Affairs Grant Regulations (Government Gazette 2005, no. 251). The present document explains how the Minister for Development Cooperation, from whose budget the programme is financed, intends to use his powers in this area. This English version of the original Dutch text, is an un-official translation. In the event of dispute, only the Dutch version is authoritative.

The Dutch authorities and Oret.nl play no role in the selection of projects, transactions or suppliers. The recipient country decides what projects take priority, what tendering procedures are used and what supplier is selected. Oret.nl determines whether a transaction is eligible for a grant and monitors the quality of implementation.

ORET includes both a "tied-aid" and an "untied-aid" programme. Only transactions between businesses registered and operating in the Netherlands and countries on list A (see section 1.2) are eligible for the tied-aid programme. The countries on list B are the least developed countries (LDCs), which qualify for the untied-aid variant. This means that transactions with countries on list B are eligible for an ORET grant even if the company in question is not registered and operating in the Netherlands.

ORET includes a special facility for projects in the drinking water and sanitation sector in developing countries, known as the ORET Water Facility (ORET WF). For more information on ORET WF, see sections 1.2, 1.3, 1.5.5 and 3.4.

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1.2 List of eligible countries

The list of developing countries eligible for ORET grants can be found in annexe 2. It is based in part on international agreements made within the OECD (Organisation for Economic Cooperation and Development).

This country list may be amended. The list and any amendments are then published in the Government Gazette. The most recent version of the list, as well as the present document and its appendices, can be consulted on the internet (see www.oret.nl).

A. List of countries eligible for the tied-aid programme

List A comprises the countries eligible for the tied-aid programme. In transactions with these countries, the ORET grant may amount to 35% of the value of the transaction. This grant is subject to the condition that the suppliers must be companies registered and operating in the Netherlands. ORET assistance to countries on list A is therefore classified as tied aid. ORET transactions with those countries are governed by commitments that Western countries have made to curb state aid, under the auspices of the Paris-based OECD. These commitments are known as the Arrangement on Guidelines for Officially Supported Export Credits, or the Consensus. There are also European Union (EU) directives incorporating the terms of the Consensus.

B. List of countries eligible for the untied-aid programme

List B comprises the LDCs identified by the OECD in the Development Assistance Committee (DAC) List of Aid Recipients. In transactions with these countries, the ORET grant may amount to 50% of the value of the transaction. On 1 January 2002, the OECD DAC Recommendation on Untying Official Development Assistance to the Least Developed Countries came into effect. To comply with this recommendation, the Netherlands accepts applications for ORET grants relating to projects in LDCs even from companies that are not registered and operating in the Netherlands.

Countries on either list are eligible for ORET WF assistance. This assistance is untied when granted to LDCs (countries on list B) and tied when granted to other countries. In other words, transactions with countries on list A qualify only when the company involved is Dutch. ORET transactions in the field of drinking water and sanitation qualify for a grant equalling 50% of the value of the transaction, in all countries eligible for ORET assistance (whether on list A or list B).

1.3 The budget

The ORET budget is published annually in the *Government Gazette*.

Changes in the size of the budget are also published in the *Government Gazette*. Applications may only be approved if sufficient grant funding is available. The maximum grant that can be pledged to any one company or group of companies per year is 20% of the available annual budget. The same limit applies to the total annual grant that can be pledged to a single country.

Alongside the main ORET budget, additional funding will be available for the ORET WF programme. The size of the ORET WF budget will be published annually in the *Government Gazette* along with the size of the main budget.

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1.4 National authorities, the end user and the supplier

Three parties are involved in a standard ORET transaction:

- the national authorities of the developing country;
- the end user of the goods, services or works;
- the supplier of the goods, services or works, or applicant.

The ORET programme involves grants awarded by the Dutch authorities to authorities in developing countries. If these beneficiary states accept ORET grants and the conditions attached, they are obliged to use them to purchase capital goods, services or works from the companies named in the grant agreements. International rules relating to ODA require that grant agreements be concluded with the national authorities of recipient countries, usually with the Ministry of Finance, the Ministry of Planning or another body designated by the national authorities.

The end user of the goods, services or works is often another national authority, but may be a local or regional authority, a state-owned company, a public-private partnership or a private company. The end user must be demonstrably able to sustainably manage the transaction (in technical, organisational and financial terms). For the duration of Oret.nl's involvement, it may independently investigate whether the end user meets this condition. Even independently from the supplier, the end user is free to invite Oret.nl to become involved in assessing the feasibility of a transaction (see section 4.1 for other conditions).

The supplier of the goods, services or works, which is the applicant for the ORET grant, is a private company. Under the General Administrative Law Act (*Algemene Wet Bestuursrecht*; AWB), an ORET grant awarded to the national authorities of a developing country is considered a grant to the relevant supplier. A company that applies for an ORET grant to be awarded to a developing country is thus an applicant within the meaning of the AWB. ORET grant applications for projects in countries on list A may only be submitted by companies registered and operating in the Netherlands.

Applications for projects in countries on list B may also be submitted by companies registered or operating outside the Netherlands.

In either case, the applicant must have sufficient export experience and show adequate technical, organisational and financial capacity to successfully carry out the transaction. Applicants must also be able to provide guarantees on request. See sections 3.6 and 4.8 for further conditions.

However, the applicant must not have a controlling interest in the end user when the funds are pledged.

1.5 The transaction

The transaction covers that part of the project to which the applicant is committed under the contract with the end user. The supply of *capital goods, services, works or a combination of these* is eligible for ORET financing. If Oret.nl deems it necessary, the transaction must contain elements – such as technical assistance, the supply of spare parts for a reasonable number of years or agreements governing ongoing cooperation once the project is up and running – that ensure that the intended sustainable impact is achieved.

The application must give a clear and detailed picture of these different transaction components (goods, services, technical assistance etc.). See also the detailed instructions accompanying the application form.

1.5.1 Amount of the transaction

The amount of the transaction may not exceed €45 million. If there are two interrelated transactions in a single project, such as a major construction project and independent monitoring of this project, the upper limit will be applied to the total amount of the two transactions.

1.5.2 Transaction amount, financing costs, contingencies and profit

The transaction amount is the price which has been contractually agreed between the supplier and the end user. This amount must not include preparatory costs (feasibility studies) or costs incurred to secure the contract, because these costs are not eligible for ORET financing.

Agents' fees may be included in the transaction amount, up to a maximum of 5%. It must be shown that the fees are entirely for work performed during the implementation of the transaction. The terms under which this work is performed must be set out in a contract between the applicant and the agent, which must be submitted to Oret.nl for approval.

The grant can be used to cover up to 75% of financing costs (bank charges and insurance costs) which are part of the transaction amount, provided the costs are in keeping with the market and have actually been incurred. These costs should be itemised in the application. The financing costs should be proportionate to the project as a whole and to usual market practice, in the opinion of Oret.nl. A detailed specification of the financing costs that qualify for inclusion in an ORET grant is available from Oret.nl.

The amounts budgeted for risk supplement and for profits should be proportionate to the project as a whole. They must be in keeping with the market, in Oret.nl's opinion. The amount budgeted for contingencies is subject to the same condition. This amount will not be disbursed until Oret.nl has received an acceptable explanation of the costs.

1.5.3 Taxes

The authorities of the recipient country are expected not to levy taxes, import duties or other charges on transactions receiving ORET financing. However, if an exemption of this kind is not possible – under bilateral tax conventions, for instance – then any taxes, import duties and other charges levied must be excluded from the transaction amount and collected separately from the end user. Such costs are under no circumstances eligible for ORET financing. An exception may be made for local taxes (VAT) charged on goods and services supplied locally that are included in the transaction.

On the application form, the supplier must indicate the transaction amount excluding any taxes, import duties and other charges, and must affirm that when such costs arise they are collected separately from the end user. Furthermore, local spending to purchase land or to compensate for the appropriation of land may not be included in the transaction amount.

1.5.4 Technical assistance (TA)

In the interests of ensuring that the project will be sustainable and yield long-term benefits, the grant to the recipient country may in certain cases include 75% of the costs of technical assistance. The following conditions must then be met:

1. The technical assistance should continue for at least six months and at most five years after the end of the usual guarantee period for the transaction.
2. The technical assistance should go beyond training directly related to the transaction and focus on transferring knowledge and strengthening the organisational capacity of the end user

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(institutional development)¹.

3. The applicant should submit detailed Terms of Reference to Oret.nl, specifying the activities to be carried out, the desired results and the costs of the technical assistance.

This 75% grant for TA is available only if capital goods, services or works are also being supplied. Technical assistance that does not meet the above criteria will be considered a regular component of the transaction, and therefore eligible for a 35% grant in list A countries or a 50% grant in list B countries.

1.5.5 Foreign component

As a rule, projects in countries on list A may have a foreign component of up to 50%. The foreign component is the total purchase price of all parts and services obtained from a country other than the Netherlands (whether or not through Dutch intermediaries) that are needed to perform the contract, including costs to be incurred in the end user's country and commission/agent's fees to be paid to parties in a foreign country while the transaction is being carried out, but excluding the price of commodities and semi-manufactures obtained from countries other than that of the end user.

A foreign component of up to 70% may be acceptable if it is shown that most of the parts and services to be purchased are not available from the Netherlands, or only at substantially higher prices.

The local component of any ORET transaction, including ORET WF transactions in the drinking water and sanitation sector, may total at most 50% of the transaction amount, both in countries eligible for tied-aid transactions (those on list A) and in the LDCs (countries on list B), which receive untied aid. The local component comprises the added value produced in the end user's country.

1.6 Financing

ORET transactions are financed through a combination of grants and other means.

The grant allocation

When an ORET application is approved, the grant is allocated to the recipient country by Oret.nl. The grant agreement contains a clause whereby the recipient country authorises Oret.nl to make payments directly to the applicant from the grant. The grant agreement is concluded with the competent public authority in the recipient country, but is in fact used for these direct payments to the applicant.

ORET grants for projects in countries on list A equal 35% of the transaction amount, and those for projects in countries on list B equal 50% of the transaction amount, calculated in accordance with international rules. These grants are offered to the national government of the recipient country where the project is to be carried out. The grant may be used to pay part of the transaction amount, to reduce the interest payments on a loan or for some other purpose that is beneficial to the project. The ultimate percentage financed by the grant (i.e. the level of concessionality) will be calculated separately for each variant.

¹ Possibilities include temporary support for management, assistance in amending legislation, support for the introduction of environmental and safety standards, setting up a system for obtaining spare parts etc.

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Grants are disbursed in euros and figures in contracts should preferably be expressed in euros. If they are expressed in another currency, the amount in euros should be determined using the exchange rate on the day that the decision is delivered to the applicant.

The grant is disbursed by Oret.nl on behalf of the Dutch authorities. Oret.nl will outline the grant conditions in an agreement concluded with the national authorities of the recipient country (see section 4.7).

The national authorities of the recipient country are expected to pass on the grant directly as a grant to the supplier under the conditions set by Oret.nl.

Non-grant financing

The non-grant element may be provided by the end user from its own budget or may take the form of a bank loan, suppliers' credit or a lease agreement. It can even consist of soft loans or

grants from other donors. Guarantees of sufficient non-grant financing must be presented for approval by Oret.nl in advance. Lease agreements (and the like) are only permitted if ownership of the goods is transferred to the end user following payment of the final lease instalment.

Non-grant financing consisting of a contribution in kind by the end user is subject to supplementary conditions².

1.7 Negotiation and competitors

It is up to the national authorities of the developing country, or the end user, to decide *how* a contract should be awarded and *to whom*: either by issuing a national or international public call for tenders or by direct negotiation with one or more companies. For the untied-aid variant the procurement procedure should be in conformity with the requirements of the OECD as specified in *Good Procurement Practices for Official Development Assistance* (<http://www.oecd.org/dataoecd/12/62/36044494.pdf>) and with the national legislation of the beneficiary country. In practice this means that the contract should be awarded through international competitive bidding. Exceptions may be made in the case of repeat or follow-up orders or of emergency aid, provided the case is convincingly motivated.

In case a contract is awarded to the applicant based on direct negotiations a final contract may not be awarded by the national authorities or the end user to the applicant company before the ORET application is approved by Oret.nl.

The entire tendering procedure must, in Oret.nl's opinion, be sufficiently transparent and in line with local legislation. If it is not, the transaction will not be eligible for ORET financing. The price must be set in a way that is transparent and can be shown to be in line with the market.

The end user is also responsible for deciding *who* should be awarded the contract, even if more

² An external accountant to be appointed by Oret.nl will then annually audit expenditures by the end user related to the transaction and specifically to the contribution in kind. The costs of the audit will be borne by the end user and may be counted as part of the contribution in kind. The audit will be based on a protocol available at Oret.nl. For the purpose of the audit, the end user must keep separate accounts for the project, specifying receipts and expenditures.

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than one Dutch supplier applies for ORET financing for the same transaction. Oret.nl never releases any information about which suppliers have submitted an application. However, Oret.nl may publicly announce who has received ORET grants. Only in the case of an ORET application for financing ocean-going vessels it is necessary, under European Commission rules, to disclose the main details of the transaction to other builders of ocean-going vessels (see also section 3.3).

1.8 Decision-making

At most six months after confirmation of receipt of an application, a formal decision will be issued. If the application is successful, the decision will specify the grant conditions.

Any time taken by the applicant to supply additional information or to answer questions does not count towards the six-month period.

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2 REQUIREMENTS

2.1 The application

An application should be submitted sufficiently in time to allow The Netherlands to meet the OECD notification guidelines.

In practice this means that for countries on list A companies that intent to apply for ORET financing of a transaction must notify Oret.nl at least 30 working days plus 15 calendar days prior to the bid closing or commitment date, whichever is the earlier, thereby allowing The Netherlands sufficient time to initiate the notification to the OECD on time.

The following applies to countries on list A. Should the procurement procedure involve International Competitive Bidding companies that intent to apply for ORET financing of a transaction must notify Oret.nl at least 30 working days plus 15 calendar days prior to the bid *closing* or commitment date, whichever is the earlier.

For countries on list B the procurement procedure should be in conformity with the requirements of the OECD as specified in *Good Procurement Practices for Official Development Assistance* (<http://www.oecd.org/dataoecd/12/62/36044494.pdf>) and with the national legislation of the beneficiary country. In practice this means that for transactions with an untied ODA credit with a value of SDR five million or more the contract should be awarded through international competitive bidding. Exceptions may be made in the case of repeat or follow-up orders or of emergency aid, provided the case is convincingly motivated. Without such a motivation the application cannot be taken into consideration.

The following applies to countries on list B. Should the procurement procedure involve International Competitive Bidding companies that intent to apply for ORET financing of a transaction must notify Oret.nl at least 30 working days plus 15 calendar days prior to the *opening* of the bidding period.

Bidding periods should normally be not less than 45 calendar days, except for large projects (with a value of, or exceeding SDR 50 million), where bidding periods should normally be not less than 90 calendar days.

An application for ORET financing must include at least four documents:

- an application form, filled in correctly and completely and signed by the applicant;
- declaration by the competent national authority of the developing country;
- a feasibility study covering the entire project of which the transaction is a part;
- a declaration of intent signed by the end user and the applicant, in which they state that they plan to carry out the transaction jointly. In case the procurement regime utilised International Competitive Bidding the bid documents may be used for this purpose.

In these documents, the applicant must supply reasonable evidence that his application meets the programme criteria (see chapter 3). More information is given below on specific requirements.

The application must be submitted to Oret.nl in duplicate, i.e. with a full copy of the basic documents and any other annexes. The application and all the annexes should be in Dutch or English.

2.2 The application form

The application form can be obtained from Oret.nl. Application forms will be taken into consideration only if they have been completed in full and signed by the applicant acting in a corporate capacity and are accompanied by the documents mentioned above. As soon as Oret.nl begins processing an application, all relevant parties are notified in writing.

OECD Guidelines for Multinational Enterprises

By signing the application form, the applicant declares that he is familiar with the OECD Guidelines for Multinational Enterprises and will attempt to apply them in his enterprise to the best of his ability. The Guidelines encourage enterprises to conduct their business in a socially responsible way and set voluntary standards in areas such as the environment, competition, corruption, employment and industrial relations. They are available at www.oecd.org

2.3 Declaration by the national authorities of the recipient country

The second required component of any application is a declaration by the national authorities of the recipient country indicating the following:

- how the project will fit into the country or region's long-term strategy;
- how the project will be financed, taking into account the donor contribution (a clear indication should be given that sufficient funds will be available, such as a budgetary commitment from the national authorities themselves or a declaration from a bank, in a form that is acceptable to Oret.nl, stating that it will supply the necessary credit);
- what procurement procedure will be adopted (a call for tenders or direct negotiations; if a developing country issues a call for tenders (e.g. through International Competitive Bidding, ICB), the tender documents should be included in the application);
- that the procurement procedure is in accordance with local legislation;
- that the grant will be passed on to the end user in the form of a grant subject to the conditions included in the grant agreement by Oret.nl.

2.4 Feasibility study

The third required component of any application is a feasibility study covering the entire project of which the transaction is a part. The feasibility study must, in Oret.nl's opinion, include all the information needed to assess the project, the transaction (including figures and calculations), the end user and the applicant. See also the requirements for the feasibility study (annexe 3).

2.5 Declaration of intent

The declaration of intent should state the basic conditions under which the applicant and the end user are prepared to enter into a contract for the transaction. The declaration of intent must be signed by the end user and the applicant. In case the procurement regime utilised International Competitive Bidding the bid documents may be used for this purpose.

3 APPRAISAL

3.1 OECD commitments

ORET financed transactions are subject to the conditions of the OECD "Arrangement on Officially Supported Export Credits" and the OECD "Agreement on Untied ODA Credits Transparency". The Netherlands has also decided that all ORET applications, including those for countries on list B, must meet the standards of the OECD Consensus relating to commercial non-viability. An exception will be made for projects that are unsuitable for financing (see section 3.3).

The terms of the OECD Consensus are set out in Appendix III to the OECD document *Ex Ante Guidance for Tied Aid*. Applicants are advised to familiarise themselves with the OECD Consensus, *Ex Ante Guidance for Tied Aid* and the DAC Recommendation on Untying Official Development Assistance to the Least Developed Countries. These documents can be viewed on the website www.oecd.org.

3.2 Screening criteria

The project and transaction should meet the following criteria:

- The project should be commercially non-viable according to the OECD's two key tests (see section 3.3), i.e. financially non-viable or unsuitable for financing.
- The project should tie in with the aims of development policy.
- The end user must, in Oret.nl's view, be sufficiently capable, in all respects, of ensuring long-term sustainable management of the project.
- The applicant (and any partners) must, in Oret.nl's view, be sufficiently capable, in all respects, of successfully completing the transaction.
- In projects in countries on list A, the transaction must lead to demonstrable Dutch exports and meet the relevant conditions. In projects in countries on list B, local production/supply must equal at most 50% of the transaction amount (see 1.5.5).
- The price-quality ratio of the proposed transaction must be in keeping with market standards.
- For the untied-aid variant the procurement procedure should be in conformity with the requirements of the OECD as specified in *Good Procurement Practices for official Development Assistance* (<http://www.oecd.org/dataoecd/12/62/36044494.pdf>) and with the national legislation of the beneficiary country. In practice this means that the contract should be awarded through international competitive bidding. Exceptions may be made in the case of repeat or follow-up orders or of emergency aid, provided the case is convincingly motivated. The motivation will be used as one of the screening criteria for the application.
- In case International Competitive Bidding was utilised, Oret.nl must have been informed on time by the applicant in order for Oret.nl to meet the notification requirements (see section 4.6 for details) or the applicant must provide proof that the call for bids was notified on time by another OECD member state.

The assessment of the first two criteria will be based on the project as a whole. The following OECD definition of "project" will be used: "the smallest complete productive entity, physically and technically integrated, that fully utilises the proposed investment and captures all financial benefits that can be attributed to the investment".

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Sometimes, the project and the transaction are one and the same. More often, however, the transaction relates to only part of the project or is part of a larger overall package for the completion of the project as a whole.

All transactions in countries on list A (the tied-aid ORET programme) that, in Oret.nl's view, meet the criteria for an ORET grant will be reported to the OECD before a commitment is made. Transactions with countries on list B that are eligible for an ORET grant will be retrospectively reported to the OECD/DAC on an annual basis. With the help of the OECD secretariat, the Consensus participants ensure that commercially viable projects have not been artificially split into profitable elements which can be commercially financed and unprofitable elements for which tied aid is requested.

3.3 Commercial non-viability

Projects are eligible for ORET grants only if they are commercially non-viable, i.e. if financing in line with market standards is not feasible. A project is regarded as commercially non-viable if, on realistic assumptions about market prices, it would fail to generate sufficient income within 10 years to cover the initial capital investment and ongoing (operating and financing) costs. In assessing whether the market prices assumed are realistic, the OECD guidelines for appropriate pricing should be used.

Calculations to establish whether a project is commercially viable or not play a key role in the assessment of an application. They should take the form of a cash flow analysis resulting in a calculation of the accumulated cash flow in year 10 (plus a forward analysis of years 11 and 12). If the accumulated cash flow in year 10 is negative, the project is deemed commercially nonviable.

This cash flow analysis should take account of all the expenses and revenues associated with the project and assume fixed prices. Foreign loans should be ascribed an interest rate equal to the OECD's commercial interest reference rate (CIRR) for the euro. To arrive at the real CIRR on the basis of the nominal CIRR, correct for inflation in the euro area. The nominal CIRR for the euro (for a period of more than 8.5 years) is adjusted monthly and can be found on www.oecd.org.

The cash flow analysis covers the project as a whole. It is not applied just to the transaction (which is generally only part of a project), or to a project from which specific activities have been omitted. A clear definition of the overall project is therefore crucial.

A project is also deemed commercially non-viable if it is financially viable but could not obtain financing on commercial terms. The criterion in this case will be the regular cover provided for the recipient country by Export Credit Agencies in a number of OECD countries. If they tend to provide cover, it will be assumed that the project could not obtain financing on commercial terms and it will in principle be eligible for ORET financing. There is an additional requirement: the grant must not distort the market for other financiers, investors or parties in the recipient country.

The provision of development aid by an EU member state for the purchase of ocean-going vessels must, however, be reported to the EU and approved by the European Commission under the Framework on State aid to shipbuilding (2003/C 317/06, OJ C 317 of 30 December 2003). The Commission will examine, among other things, whether aid was open to bids from different shipyards. The criterion it applies is that Dutch shipyards should be notified of the potential shipbuilding transaction by letter at least one month before the ORET application is submitted.

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Given the nature of this EU procedure, it is only followed when the transaction concerned is with a country on list A.

3.4 Relevance to development policy

ORET grants are intended to facilitate investment in developing countries that contributes to sustainable economic development and a sound business climate. To determine whether this is the case, the project is appraised for (I) financial/economic impact, (II) technical sustainability, (III) environmental impact and (IV) social impact.

(I) Financial/economic impact

To obtain as realistic a picture as possible of the financial and economic impact, both (a) economic aspects and (b) financial aspects of the project are scrutinised.

(a) Economic sustainability

This requirement relates to the economic benefits that will accrue to the recipient country as a result of the project. This includes benefits for parties other than the direct end users of the ORET project, such as any stimulus to the local economy, additional public revenue, new jobs or the expected impact on the balance of payments. The overall impact must clearly be positive. The Economic Internal Rate of Return (EIRR) will be used in making this appraisal. This rate of return should be higher than the country's discount rate or hurdle rate. In most developing countries, the hurdle rate is 10%.

(b) Financial sustainability

During its life span, a project must generate sufficient returns to cover the costs of the initial capital investment (minus the ORET grant) and the operating and replacement costs. By supplying proof of this, the applicant shows that the investment is financially viable with the help of the ORET grant. The criteria in this case will be the accumulated cash flow at the end of the project's technical or economic life. If the accumulated cash flow is positive, the project is deemed

financially viable. If a project does not generate enough (or any) returns to cover operating and replacement costs, a state guarantee may be used to bridge the gap.

(II) Technical sustainability

The technical aspects of the goods, services and/or infrastructure supplied in the transaction must be such that the end user is capable of maintaining them. If local staff need technical or other training, the project should make provision for this. Where a recipient country applies certain standards or where standardisation is one of its aims, the goods supplied should comply with these standards. The transaction must provide for the supply of sufficient spare parts and other forms of aftercare.

(III) Environmental impact

The proposed project must not on balance be harmful to the environment. Oret.nl assesses environmental impact using the environmental and safety standards set by the World Bank and IFC (see annexe 4) or the developing country's own standards, whichever are stricter. An adequate environmental impact assessment is required in the case of major infrastructure projects and other "category A" projects (see annexe 4). The Dutch Committee for Environmental Impact Assessment may be called on to perform this assessment. An ORET application should always clearly indicate what environmental policy the end user has (or is developing) for the project in

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question. Are environmental issues addressed systematically? What impact has the policy had?

(IV) Social impact

The project for which a grant is being sought will have to conform to established international standards for social impact. Oret.nl will assess this aspect using ILO and World Bank frameworks.

This social impact assessment is part of the Dutch authorities' efforts to promote corporate social responsibility. Recipients of any export or investment-related grant awarded by the Dutch authorities are subject to a similar assessment.

It is possible to include additional technical assistance in the transaction, to make the project more sustainable in the above areas (I to IV; see section 1.5.4).

Projects in the drinking water and sanitation sector should make a demonstrable contribution to the achievement of the relevant Millennium Development Goal targets, which include halving the number of people who lack sustainable access to safe drinking water by 2015.

3.5 The end user

The end user of the project must, in Oret.nl's opinion, have sufficient capacity in all respects (including manpower and financial, technical and organisational capacity) to manage the project and continue running it independently. This will be appraised on the basis of knowledge and

experience, annual accounts or budgets for the past three years, staff size, financial and technical capacity, and the application of the principles of corporate social responsibility.

The extent to which the end user practises good corporate governance in day-to-day business administration will also be considered. This involves the manner in which the end user is supervised, the degree of transparency of its financial management (annual accounts, independent audit reports etc.) and the role and influence of shareholders (if applicable). If more effort needs to be put into these and other aspects of corporate governance (please refer also to the OECD's Principles of Corporate Governance), it is advisable to include appropriate activities in the technical assistance component of the transaction. It should also be clear what obligations and competences the end user has and what his relationship is with the national authorities in his country.

Training in management, financial management, planning and other skills can strengthen the end user's capacity in the above-mentioned areas. Such training may therefore be included in the transaction as technical assistance and receive grant financing (see 1.5.4). Applications for ORET grants that leave unresolved issues about the institutional capacity of the end user will not be successful.

3.6 The applicant

The applicant must, in Oret.nl's opinion, be capable in all respects of successfully completing the transaction. One criterion will be the applicant's demonstrable international experience in carrying out similar transactions. The applicant should also have the necessary human resources and technical capacity and a sufficiently strong financial position that is in proper proportion to the size

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of the transaction, so that it is certain to complete the transaction successfully. This will be determined in part through annual reports and independently audited annual accounts for the previous three years. See also article 1.1.4 of the Ministry of Foreign Affairs Grant Regulations (available in Dutch at www.minbuza.nl).

3.7 Price-quality assessment

A price-quality check is carried out routinely during the appraisal of ORET applications. The proposed deliveries and transaction amounts are compared with current prices and market quality standards. The application is then broken down to the level of individual components of the transaction, cost prices, profit margins, contingencies, agent's costs etc. The price-quality assessment can result in specific conditions being attached to an ORET grant and to applicants being asked to adjust the price, quality and/or volume of the goods, services or works supplied. Oret.nl may select external experts to perform the assessment, which will also examine the foreign and local components of the transaction using the information available at the time.

3.8 Adjustments following assessment

Occasionally, the content and amount of a proposed transaction must be adjusted following this assessment. This could reduce the amount, or it could lead to an increase, for example if Oret.nl makes the offer of ORET assistance conditional on extra training or the inclusion of other provisions in the transaction. Both the applicant and the end user should be aware that in that event, the contract and its financing must be adjusted.

4 PROCESSING OF APPLICATIONS

4.1 Preparation

Oret.nl will provide a copy of the present regulations and the ORET application form on request. However, both documents can be consulted and downloaded directly on the website www.oret.nl.

Potential end users that are considering using an ORET grant in financing a project are advised to consult with Oret.nl at the earliest possible stage. It can then give an indication of whether the project or transaction is likely to be eligible for ORET assistance. At the end user's request, Oret.nl may, under certain conditions, provisionally award a grant to the authorities in countries on list B, if it has determined that the project/transaction in question meets the ORET screening criteria. This award becomes final as soon as a supplier has been selected through a tendering procedure (see section 5.3) to carry out the transaction.

The feasibility study will play a key role in the appraisal of the project. Given the requirements which this study must meet, it may be advisable to engage a professional consultant to help draft it or to adapt and expand an existing feasibility study which has been compiled by the principal/end user. The costs of the study are eligible for reimbursement if the study is drawn up as part of the PESP programme managed by the Agency for International Business and Cooperation (EVD). See the following websites for more information on other programmes and instruments: www.internationaalondernemen.nl and www.evd.nl. The feasibility study should be based on the requirements in annexe 3.

4.2 Submitting the application

Applications must be submitted to Oret.nl in duplicate, i.e. with the originals and complete copies of the basic documents and any annexes, and must be in Dutch or English. All applications will be registered by Oret.nl on receipt. Applicants will be sent an acknowledgement of receipt within two weeks. If the application is complete, then in conformity with the AWB the date of its receipt by Oret.nl marks the official start of the assessment procedure, which will take up to six months to complete (see section 1.8).

If an application is incomplete, i.e. does not contain the basic documents described in chapter 2, the procedure does not begin. Instead, the applicant is given the chance to complete the application within a reasonable period to be specified by Oret.nl. If the application is not completed within this period, the applicant receives a formal decision informing him that it will not be processed due to incompleteness.

4.3 Appraisal

Oret.nl may consult with independent experts when appraising an application. The appraisal will be based on the information supplied by the applicant and any other available information that Oret.nl considers necessary. It may take the initiative to contact any party connected with the project.

The applicant will have the opportunity to answer supplementary questions that are necessary for

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an adequate appraisal of the project and the application. The application may be rejected if satisfactory answers to these questions are not submitted by the stated deadline. The time taken by the applicant to respond to the supplementary questions is not included in the six-month period within which the procedure must be completed.

4.4 The decision

If the application is approved, Oret.nl sends the applicant a formal decision stating that it is prepared to conclude a grant agreement with the authorities of the recipient country, which will be used to finance part of the proposed transaction between the applicant and the end user in the recipient country. At the same time that the decision is issued, a grant agreement will be offered to the national authorities in the recipient country. Oret.nl may include specific provisions in that agreement on the end user's obligations with regard to the transaction and the project.

The decision and grant agreement will only be issued if Oret.nl has received and approved a signed contract between the applicant and the end user. If no contract has yet been signed, a provisional grant agreement will accompany the decision (see section 4.7).

Once given, a decision establishes a provisional right to grant financing. Oret.nl determines the definitive amount of the grant after the transaction is complete, using the final report (see section 6.4).

The decision lists the general and specific obligations of the applicant. The general obligations relate in part to the progress report and the final report (see section 6.4), the right to inspect projects and audit accounts, and rules about irregularities (see section 5.2). The specific obligations differ for each project.

If Oret.nl decides that the application is not eligible for an ORET grant, the applicant will be sent a formal decision stating the reasons.

4.5 Objections and review

Decisions on ORET applications constitute grant decisions within the meaning of the AWB. Both the approval and rejection of applications constitute decisions against which applicants can register an objection and apply for judicial review. Both the decisions themselves and the AWB specify the statutory deadline by which objections must be lodged: six weeks after the decision is sent. After

hearing an objection and reconsidering the original decision, Oret.nl decides on the objection. The decision on the objection is open to judicial review by the district court in the jurisdiction where the person who lodged the objection resides. If the applicant is not located in the Netherlands, The Hague District Court is responsible for judicial review.

4.6 Notification

Pursuant to article 46 of the Arrangement on Officially Supported Export Credits The Netherlands has the obligation to notify the OECD at the earliest possible stage, but no later than 30 working days before the bid closing or commitment date whichever is earlier, of its intention to provide ORET financing for a transaction with a country on the A list. Other countries that participate in the OECD Consensus then have 30 working days to submit questions or raise objections based on the

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perceived commercial viability of the project of which the transaction is a part. The Netherlands also has the obligation to notify the EU.

The following applies to countries on list A. Should the procurement procedure involve International Competitive Bidding companies that intent to apply for ORET financing of a transaction must notify Oret.nl at least 30 working days plus 15 calendar days prior to the bid *closing* or commitment date, whichever is the earlier.

For countries on list B the procurement procedure should be in conformity with the requirements of the OECD as specified in *Good Procurement Practices for Official Development Assistance* (<http://www.oecd.org/dataoecd/12/62/36044494.pdf>) and with the national legislation of the beneficiary country. In practice this means that for transactions with an untied ODA credit with a value of SDR five million or more the contract should be awarded through international competitive bidding. Exceptions may be made in the case of repeat or follow-up orders or of emergency aid, provided the case is convincingly motivated. Without such a motivation the application cannot be taken into consideration.

The following applies to countries on list B. Should the procurement procedure involve International Competitive Bidding companies that intent to apply for ORET financing of a transaction must notify Oret.nl at least 30 working days plus 15 calendar days prior to the *opening* of the bidding period.

Bidding periods should normally be not less than 45 calendar days, except for large projects (with a value of, or exceeding SDR 50 million), where bidding periods should normally be not less than 90 calendar days. In order to enable The Netherlands to initiate the notification to the OECD on time Oret.nl should be notified at least 30 working days plus 60 calendar days, or at least 30 working days plus 105 calendar days respectively, prior to the closing of the bidding period. The OECD provides public notification of proposed untied aid transactions on its website http://www.oecd.org/document/1/0,2340,en_2649_201185_34552193_1_1_1_1,00.html and through the DAC Bulletin Board <http://webdomino1.oecd.org/comnet/dcd/untiedpubliccws.nsf>.

If the relevant tender has not been notified on time by The Netherlands or any other OECD member state, ORET applications cannot be taken into consideration. Oret.nl will inform companies of the information it needs for notification.

Failure by the OECD or member countries to respond within 30 working days of the notification constitutes tacit approval for a period of two years. If no consensus can be reached, all Consensus participants are prohibited from supporting the transaction or project with tied development aid and Oret.nl must reject the application.

If major changes take place in the size or nature of the transaction or project, it must be reassessed by Oret.nl, and a new notification procedure takes place.

Grants awarded for projects benefiting countries on list B are also retrospectively reported to the OECD on an annual basis by means of an Ex-Post notification template, which inter alia contains information on the donor, the recipient country, the contract amount and the awarded company. The project description is subject of the Ex-Ante notification to which the Ex-Post notification refers.

4.7 Grant agreement

If an application has been approved, Oret.nl offers a grant to the national authorities of the recipient country and drafts a grant agreement. The grant agreement is governed by Dutch law. It contains provisions on the payment procedure and a number of general conditions, for example in respect of financial and other securities, taxes and arbitration and any specific project-related conditions. Oret.nl may include specific provisions in that agreement on the end user's obligations with regard to the transaction and the project. Oret.nl sends the agreement to the national authorities or the competent authorities in the recipient country to sign before signing it itself.

If an application is approved before the contract between the supplier and the principal is signed, Oret.nl first sends a general declaration of intent (preliminary grant agreement). This agreement remains in effect for six months and may be extended once by another six months, at the request of the recipient country. It then lapses.

Oret.nl offers the final grant agreement after:

- it has approved an original signed contract between the applicant and the end user (including any annexes, a detailed breakdown of the transaction sum and the financing agreement governing the non-grant component of the transaction);
- it has approved the financing arrangement for the non-grant component of the transaction (see section 1.6).

The grant agreement must be signed within six months after it is offered. This period may be extended once for a maximum of six months at the request of the developing country or the supplier, after which the offer expires.

The grant agreement will take effect once all the conditions specified in it have been met. After Oret.nl signs the grant agreement, the end user has six months to meet the conditions contained in it. If these conditions precedent are not met within that period, the grant agreement lapses.

The grant agreement may also lapse if, in Oret.nl's opinion, material adverse changes take place in the project or transaction while the offer or grant agreement is in effect. The parties affected are then informed in writing by Oret.nl.

Once a grant agreement or offer lapses, it will not be made again. If the national authorities of the recipient country subsequently decide they are interested in the grant, the applicant must submit a new application and the entire ORET assessment procedure has to be repeated.

If for any reason the national authorities of the recipient country or the applicant withdraw from the transaction, the applicant or the national authorities must inform Oret.nl. The Bank will then withdraw the offer, close the file and cancel the allocations made for the project.

If the national authorities or the end user violates the conditions of the grant agreement, Oret.nl may decide to impose sanctions, such as stopping payment or reducing the grant.

4.8 Payments

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After the grant agreement takes effect, the applicant must furnish Oret.nl with a down payment guarantee to cover the associated risk. The guarantee should be equal in amount to the down payment to be made from the grant component. Oret.nl, acting on behalf of the recipient country, will then make a down payment to the applicant from the grant component of the transaction, amounting to 10% of the transaction at most. If the total down payment exceeds the down payment from the grant component, the difference must come from the non-grant component of the transaction.

Subsequent payments by Oret.nl to the applicant will be made in accordance with the contract and the grant agreement, the provisions of which must be consistent. Oret.nl will disburse the rest of the grant component in a fixed proportion to non-grant financing (*pro rata*). The payments from the non-grant financing and by Oret.nl are always made successively. Oret.nl will not make a payment if the non-grant payment is not made.

The final grant instalment is always 5% of the transaction amount. Payment of the final instalment will be made after all the conditions set by Oret.nl have been met and it has approved the supplier's final report and determined the amount of the grant (see section 6.4). If the applicant is prepared to issue a bank guarantee (on which Oret.nl can draw) for this final instalment and to meet the entire cost of such a guarantee, the final instalment can be paid earlier, when the transaction is completed.

5 ISSUES REQUIRING SPECIAL ATTENTION

5.1 Confidentiality

Under section 10, subsection 1 (c) of the Government Information (Public Access) Act, any business and product information provided to ORET by the applicant in support of the application does not have to be shown to third parties. All applications are treated in the strictest confidence and no information about the existence of individual applications is ever passed to third parties unless permission has first been obtained from the companies concerned. However, the nature of the proposed transaction, an indication of the transaction amount, the amount of the grant and the name of the end user (but not the applicant) are publicised internationally during the notification process (see section 4.6). Information about ORET grants that have been awarded may be disclosed to the public.

5.2 Fraud, corruption and other irregularities

Please note that a major amendment of legislation on bribery of public officials and corruption among public officials came into force on 1 February 2001 (Act of 13 December 2000, *Bulletin of Acts and Decrees* 616). The most important changes involve:

- making the penalties more severe;
- extending Dutch jurisdiction to cover acts of corruption committed abroad; and
- defining the crimes more broadly (in particular, offering a service may now be considered a form of bribery).

No grant will be awarded if there is evidence that the parties in question have committed or intend to commit irregularities such as fraud, price-fixing, forgery, bribery – within the meaning of article

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177, 177(a), 178(a), or 328ter (bribery and corruption not involving public servants or 362, 363 or 364 of the Criminal Code – or other illegal activities, either in order to obtain the grant or during the implementation of the project or the application of its results.

If such irregularities are suspected, Oret.nl will arrange an investigation into the specific circumstances. Involvement in such practices leads to withdrawal of the grant and full or partial recovery of the funds disbursed (see also section 6.7). If Oret.nl finds evidence that irregularities have taken place, it reports it to the Ministry of Foreign Affairs, which may decide to lay an information before the competent authorities.

5.3 Tendering procedure

Oret.nl should be given the opportunity to evaluate the manner in which the selection of the supplier takes place or has taken place. Furthermore, Oret.nl may, if it sees fit, arrange an independent investigation of the procedure followed. Under no circumstances may the tendering procedure conflict with local legislation.

5.4 Liability of the Dutch authorities

The Dutch public authorities and Oret.nl are not party to ORET transactions, other than as a financier. They are thus in no way liable for any damage resulting from or associated with breach of contract or irregular acts by one of the parties to an ORET transaction.

6 OBLIGATIONS AFTER A GRANT IS AWARDED

6.1 Conditions and obligations

By signing the grant agreement, the national authorities of the recipient country commit themselves to the arrangements and provisions contained in it. Oret.nl will monitor the end user's compliance with any working arrangements included in the grant agreement (see sections 4.4 and 4.7). The applicant is required to meet the obligations imposed by the grant agreement.

6.2 Reporting changes

If at any time following submission of the application or during the implementation of the transaction, events should occur with ramifications for the circumstances or content of the transaction, the applicant must report this immediately and submit any proposed changes to the transaction to Oret.nl in advance for approval. If major changes take place in the size or nature of the transaction or project, it must be reappraised by Oret.nl, and a new notification of OECD Consensus participants takes place.

6.3 Progress report

Within the framework of the ORET programme, the applicant is obliged to provide narrative and financial reports to Oret.nl on the progress of the transaction every six months. The reports should cover the periods July-December and January-June, respectively. These semi-annual reports should be submitted to Oret.nl by 1 March and 1 September. This reporting obligation takes effect as soon as the grant period specified in the formal decision has begun. It therefore begins to apply even before the transaction has begun, for instance during the contracting stage. At this stage, the applicant reports any factors delaying the start of implementation and assesses his chances of securing the contract. Reports must be drawn up according to the model appended to the decision. Special attention should be devoted to the environmental and social aspects of the project, as well as any progress made by the end user in the area of corporate governance (see section 3.5).

If a progress report is not received on time, Oret.nl may suspend the entitlements conferred by the grant decision. If the applicant's progress report is more than six months overdue, Oret.nl may decide to withdraw the decision. The parties to the transaction must cover the costs of any resulting damage.

Oret.nl also reserves the right to approach the end user while the transaction is being carried out for information about the progress of the project and the transaction.

6.4 Final report

The applicant is obliged to submit a request that the definitive amount of the grant be determined

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to Oret.nl no later than six months after the transaction has been completed.³ It should at the same time submit the following documents for approval:

- a Final Certificate of Completion of the activities covered by the transaction, issued by the end user;
- a narrative report and financial statement summarising the implementation of the entire transaction, drafted by the applicant, including an account of the extent to which the obligations were met and the objectives achieved and justification of any contingencies that were used. The financial statement should also include a final calculation of the transaction, including an analysis of any differences from the preliminary calculation included in the application form;
- an auditor's report drawn up by a reputable independent auditing firm acceptable to Oret.nl to the effect that the completed transaction and the financial report have been audited and approved, i.e. that the activities were carried out as agreed and stated in the formal decision. Oret.nl's auditing protocol should be used in preparing this auditor's report.

The final report and documentation should give third parties a clear indication of the way in which the overall transaction was implemented, both in practical and in financial terms.

6.5 Project conclusion

Once the final report and documentation have been approved, Oret.nl will issue a formal decision establishing the definitive grant amount and the final instalment will be paid (unless this has already taken place on the basis of a bank guarantee, see section 6.8). At this point, Oret.nl's active involvement in the transaction, except for the evaluation (see section 6.6) is formally terminated. It is only at this stage that the applicant's reporting obligations cease. Any remaining bank guarantees for the final instalment will be returned and therefore expire.

The decision establishing the definitive amount of the grant may be withdrawn or amended within five years after the transaction has been completed (see section 6.7).

6.6 Evaluation

A year after the conclusion of the project, Oret.nl asks all the parties involved to give a current evaluation of the sustainable impact of the transaction. Oret.nl can also have this evaluation carried out by third parties. In the interests of the evaluation, all involved parties are obliged, even after completion of the transaction, to provide all information requested concerning the implementation of the transaction and to allow inspections and financial audits to be carried out.

6.7 Failure to meet obligations

If it becomes clear that the applicant has not fulfilled its obligations, or has not fully met the obligations arising from the formal decision to award the grant, Oret.nl may take one of the following steps:

- withdraw or amend the decision to award a grant;
- reduce the amount of the grant; or
- suspend the payments.

³ The date of completion of the transaction is assumed to be the end date agreed in the contract between the applicant and the end user.

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The effect of these three sanctions is that the grant ultimately received is lower than the maximum amount referred to in the decision awarding the grant. In such cases the applicant will be required to repay some or all of the money that it has already been paid.

Any decision to withdraw or amend the grant decision or to impose other sanctions will be taken only after consultation with the applicant.

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For more information on Dutch public-sector programmes and instruments in support of the private sector, see www.minbuza.nl, www.internationaalondernemen.nl and www.evd.nl.

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ANNEXE 1: LIST OF ABBREVIATIONS

AWB	General Administrative Law Act (<i>Algemene Wet Bestuursrecht</i>)
CIRR	Commercial Interest Reference Rate
DAC	Development Assistance Committee
EIRR	Economic Internal Rate of Return
EU	European Union
EVD	Agency for International Business and Cooperation, falling under the Ministry of Economic Affairs
EZ	Ministry of Economic Affairs
IFC	International Finance Corporation
LDC	Least Developed Country
ODA	Official Development Assistance
OECD	Organisation for Economic Cooperation and Development, Paris
ORET	Development-Related Export Transactions Programme
PESP	Economic Cooperation Projects Programme

ANNEXE 2: ORET COUNTRY LISTS

A

List of countries eligible for the tied-aid ORET programme

Albania	Georgia	Nicaragua
Algeria	Ghana	Nigeria (2)
Armenia	Guatemala	Pakistan
Azerbaijan	Guyana	Palestinian Territories
Belize	Honduras	Peru
Bolivia	India (1)	Philippines
Bosnia-Herzegovina	Indonesia	Serbia & Montenegro
Cameroon	Iran	Sri Lanka
China	Jamaica	Suriname
Colombia	Jordan	Syria
Côte d'Ivoire	Kazakhstan	Thailand
Cuba (1)	Kenya	Tunisia
Dominican Republic	Macedonia	Vietnam
Ecuador	Moldova	
Egypt	Mongolia	
El Salvador	Morocco	
Fiji	Namibia	

- 1) Cuba and India cannot receive ORET assistance until the national authorities of those countries decide to allow tied aid again.
- 2) Nigeria cannot receive ORET assistance due to its debt exposure.

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B

List of countries eligible for the untied-aid ORET programme (LDCs)

Afghanistan	Guinea	Samoa
Angola	Guinea-Bissau	São Tomé and Príncipe
Benin	Haiti	Senegal
Bhutan	Kiribati	Sierra Leone
Burkina Faso	Laos	Solomon Islands
Burundi	Lesotho	Somalia
Cambodia	Liberia	Sudan
Cape Verde	Madagascar	Tanzania
Central African Republic	Malawi	Timor Leste
Chad	Maldives	Togo
Comoros	Mali	Tuvalu
Congo, Dem. Rep. (Congo Kinshasa)	Mauritania	Uganda
Djibouti	Mozambique	Vanuatu
Eritrea	Myanmar (1)	Yemen
Ethiopia	Nepal	Zambia
Gambia	Niger	
	Rwanda	

1) Myanmar is excluded from the programme because of an ILO decision against it.

ANNEXE 3: ORET PROJECTS: REQUIREMENTS FOR FEASIBILITY STUDIES⁴

The feasibility study should address the following issues. Please enclose all documentary evidence relating to the information supplied in the feasibility study.

1. Description of the project

- Give a brief project history and project description.
- Explain what problems the project will solve and describe how it will do so.
- Project definition: A distinction is made between the project and the transaction. The supplier is responsible for carrying out the transaction, which is often just a part of the project. The definition of "the project" is "the smallest productive entity, physically and technically integrated, that fully utilises the proposed investment and captures all financial benefits that can be attributed to the investment".
- Describe the objectives of the project. Please distinguish between its short-term objectives and long-term impact.
- Briefly describe the level of economic development in the region, to the extent relevant for the project (*per capita* GDP, major economic sectors in terms of GDP and employment etc.).
- Financial status of the consumers: Are the consumers able to pay for the final products? Describe the type of consumers (households, businesses or public institutions), their average income and the price they are willing and able to pay.
- Technical/economic lifetime of the project: What is the duration of the project? Normally it will equal the technical life of the equipment, i.e. the period that the equipment can stay in operation without major investment. In some cases – for example, if rapid technological progress is made – the duration of the project will be shorter, e.g. because it will be cheaper to invest in another project than to continue with the original project (this can happen, for instance, in projects involving computers). If this is the case, the economic life of the project should be indicated.

2. Description of the transaction

- The supplier must in all respects be sufficiently capable of completing the transaction. Please provide information on the knowledge, experience, finances (include annual statements covering the preceding three years) and technical capabilities of the supplier.
- Goods and services to be supplied: Please provide the technical specifications of the transaction, such as:
 - equipment, incl. capacity;
 - spare parts required;
 - technical assistance in man-months (indicating fields of expertise) for construction, start-up and commissioning, as well as technical assistance in other areas aimed at guaranteeing long-term sustainability;
 - scope and duration (man-months) of technical assistance for training, as well as a detailed training plan (number of persons to be trained, duration and place of

⁴ For a detailed version of this check list, we refer to our website <http://www.oret.nl>

training, level of trainees, number of trainers).

- Scheduling and organisation of activities: What activities are involved (procurement, design, construction/installation, etc.) and at what stage will each one be carried out?
- Management and supervision: Who will be responsible for what activities? For example, the Dutch supplier may be responsible for installation of equipment and the end user for operation and maintenance of equipment. Will national authorities of the recipient country play a role in the project? Are there any other relevant stakeholders?
- Assumptions and risks: Please state any factors that may influence the outcome of the project and their potential impact.

3. Costs and revenue of the project

- Total investment costs: Please state the total investment costs, broken down into transaction components and local investments. Please specify the components of the investments (quantities, prices, exchange rate used, etc.).
- Financing of the project and financing conditions: How will the transaction be financed? How will the local investments be financed? Will these investments be financed with a domestic or foreign commercial loan, the applicant's own resources, or grants from other donors? What are the conditions of financing (duration of the loan, interest rates, grace periods etc.)?
- Financing of operations: If the costs will be greater than the revenues when the project is in operation, please indicate how this difference will be financed (source, method and conditions of financing).
- Operational costs: Please provide figures on the annual quantities and prices of inputs (e.g. electricity costs, wages, etc.) for the period that the project is in operation. Specify the depreciation methods to be used and describe the method for calculating tax on profits and other taxes that are part of the costs of the project.
- Operational revenues: Please provide figures on annual quantities and prices of output (sales prices, specifying sales costs, sales tax, VAT and duties) for the period that the project is in operation.
- Other revenues and costs: Please state whether there will be any other costs or revenues during the project (e.g. capital costs, maintenance costs).
- Relevant taxes and subsidies: Are there any taxes on or subsidies for the inputs used in the production process, the investment or the outputs (e.g. health care provided free of charge to the poor as a result of government subsidies or subsidised water used in the production process). Please indicate the effects of any taxes and subsidies on prices.

4. Proof that the project meets the criteria

1. *Commercial non-viability*: A project is regarded as commercially non-viable if, under freemarket conditions, it would fail to generate sufficient income within ten years to cover the initial capital investment and ongoing (operating and financing) costs. Applicants are obliged to prove the commercial non-viability of the project by preparing a cash flow projection identifying all annual costs and revenues over the first ten years of the project. The difference between these costs and revenues should lead to a negative accumulated cash flow in year ten; otherwise, the project is considered commercially viable. Because the analysis is based on free-market conditions, the ORET grant cannot be taken into

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account, and it should be assumed that all project investments are financed at commercial interest rates. Taxes and subsidies should also be excluded from the analysis.

Please note that commercially viable projects must not be artificially split into profitable elements that can be commercially financed and unprofitable elements for which tied aid is requested. Please provide evidence that this is not the case for the project under consideration.

2. Relevance to development

- *Economic impact*: please indicate the annual costs and benefits to society of the project (i.e. its effect on country level, instead of company level) during the life of the project. These effects may include time savings, balance of payment effects etc. Please quantify the costs and benefits as far as possible. The overall impact must be positive.
- *Sustainability of the project*: Please provide evidence that the project is sustainable in the following ways:
 - *Financial sustainability*: During its life span, a project must generate sufficient returns to cover the costs of the initial capital investment (excluding the ORET grant, to which no costs are attached) and the operating and replacement costs. In addition, given the real interest rate (or an approximation thereof), the net cash flow should be positive. If a project does not generate enough returns to cover operating and replacement costs (or any returns at all), a government guarantee may be used to bridge the gap. Again, a cash-flow analysis should be made, identifying all costs and revenues on a cash-flow basis during the life of the project. Unlike the analysis for the purpose of determining commercial viability, this analysis may include the ORET grant and all taxes and subsidies.
 - *Technical sustainability*: The technical characteristics of the goods, services and/or infrastructure supplied in the transaction must be such that the end user is capable of operating and maintaining them. If local staff need technical training in operation and maintenance, the project should make provision for this. Where a developing country applies certain standards or where standardisation is one of its aims, the goods supplied should comply with these standards. The transaction must provide for the supply of sufficient spare parts and other forms of aftercare. Please state whether and how the project fulfils these requirements.
 - *Institutional sustainability*: The organisation responsible for the project must have sufficient capacity in all respects (including manpower and financial, technical and organisational capacity) to manage the project and continue running it independently. Please provide information on the knowledge, experience and personal qualifications, finances (through financial statements or budget overviews for a period of at least three years) and technical capabilities of the management and shareholders of the end user, with attention to the principles of corporate governance and social responsibility. Please also note whether training will be provided, and if so, how this will improve the institutional sustainability of the project.
- *Environmental impact*: *The proposed project must not on balance be harmful to the environment. Please state whether the project meets the environmental and safety standards set by the World Bank or the developing country's own standards, whichever are stricter. An adequate environmental impact assessment is required in the case of major infrastructure projects and projects in environmentally sensitive areas. Please also indicate how the project will deal with environmental impact (e.g. disposal/treatment of waste or measures to limit pollution); in other words, what is the end user's environmental policy?*

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- *Social impact: The project for which a grant is being sought will have to conform to established international standards for social impact. Please indicate how this project fits into ILO and World Bank frameworks in this respect. Please show how the project will contribute to the creation of sustainable employment in the developing country. Attention should also be paid to the impact of the project on poverty and the status of women.*

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ANNEXE 4: ENVIRONMENTAL AND SOCIAL ASSESSMENT FRAMEWORK

The environmental assessment framework comprises the following policy memoranda and guidelines produced by the World Bank and the IFC:

Safeguard Policies

www.ifc.org/ifcext/enviro.nsf/

Environmental, Health and Safety Guidelines

www.ifc.org/ifcext/enviro.nsf/Content/EnvironmentalGuidelines

Category A projects are defined as follows:

A proposed project falls into this category if it has various irreversible, significant adverse environmental impacts that are large in scale and scope or unprecedented in their sector. Examples:

- Dams and reservoirs
- Extractive industries
- Large-scale agriculture or forestry
- Large-scale industrial projects
- Large-scale oil or natural gas extraction, including pipelines
- Large-scale metal working
- Large thermal power or hydropower plants (> 50 MW)
- Waste processing industry
- Construction of major infrastructure, such as ports, airports etc.
- Manufacturing, transport and use of dangerous or toxic substances
- Projects involving large-scale relocation of people
- Projects with a major potential adverse impact on local communities or workers
- Projects entailing major occupational or health hazards

Please note: These are just examples. The specifics of each project will be taken into consideration.