

1	ORET PROGRAMME	1
1.1	Objectives and legal framework	4
1.2	List of eligible countries	4
1.3	Budget	5
1.4	National authorities, end user and supplier	5
1.5	Transaction	6
1.5.1	Amount of transaction	6
1.5.2	Transaction amount, financing costs, provisions and profit	6
1.5.3	Taxes	7
1.5.4	Technical assistance	7
1.5.5	Foreign component	8
1.6	Financing	8
1.7	Negotiations and competitors	9
1.8	Decision-making	10
2	REQUIREMENTS	11
2.1	Application	11
2.2	Application form	12
2.3	Declaration of national authorities of recipient country	12
2.4	Feasibility study	12
2.5	Declaration of intent	13
3	ASSESSMENT	14
3.1	OECD commitments	14
3.2	Screening criteria	14
3.3	Commercial non-viability	15
3.4	Relevance to development policy	16
3.5	End user	17
3.6	Applicant	18
3.7	Price/quality assessment	18

3.8	Adjustments following assessment	18
4	PROCESSING OF APPLICATIONS	19
4.1	Preparation	19
4.2	Submitting the application	19
4.3	Assessment	19
4.4	Decision	20
4.5	Objections and review	20
4.6	Notification	21
4.7	Grant agreement	21
4.8	Payments	22
5	ISSUES REQUIRING SPECIAL ATTENTION	24
5.1	Confidentiality	24
5.2	Fraud, corruption and other irregularities	24
5.3	Tendering procedure	24
5.4	Liability of Dutch authorities	24
6	OBLIGATIONS AFTER AWARDING OF GRANT	26
6.1	Conditions and obligations	26
6.2	Reporting changes	26
6.3	Progress report	26
6.4	Final report	26
6.5	Project conclusion	27
6.6	Evaluation	27
6.7	Failure to meet obligations	27
	ADDRESSES	28

APPENDIX 1 – LIST OF ABBREVIATIONS	29
APPENDIX 2 – LIST OF ORET COUNTRIES	30
APPENDIX 3 - ORET PROJECTS: REQUIREMENTS FOR A FEASIBILITY STUDY	31
APPENDIX 4 – ENVIRONMENTAL AND SOCIAL ASSESSMENT FRAMEWORK	35

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 to improve the business climate in developing countries by facilitating investments in their economic and social infrastructure. The ORET programme provides developing countries a reduction in the costs for eligible projects by awarding grants for the purchase of capital goods, services or works. In accordance with international agreements, the grants qualify as Official Development Assistance (ODA).

The current ORET-programme is published on 18 May 2006 (Netherlands Government Gazette number 97). As from the 1 January 2007 the ORET programme is implemented on behalf of the Dutch Ministry of Foreign Affairs by ORET.nl, a consortium of PricewaterhouseCoopers N.V. and Ecorys Nederland B.V.

The Dutch authorities and Oret.nl do not play a part in the selection of projects, transactions, or suppliers. Recipient countries set priorities as to projects, tendering procedures and suppliers. Oret.nl determines whether a transaction qualifies for a grant and monitors the quality of its implementation.

ORET distinguishes between a "tied-aid" and an "untied-aid" programme. Only transactions between businesses established and operating in the Netherlands and countries of list A (see paragraph 1.2) qualify for the tied-aid programme. The countries of list B are Least Developed Countries (LDCs), which qualify for the untied-aid programme. This means that transactions between countries of list B and non-Dutch businesses may also qualify for an ORET grant.

ORET has a special facility for projects in the drinking water and sanitation sector in developing countries, the ORET Water Facility (ORET WF). For further specifications on ORET WF, see sections 1.2, 1.3, 1.5.5. and 3.4.

1.2 List of eligible countries

Appendix 2 includes a list of developing countries eligible for an ORET grant. The list has been drawn up on the basis of, inter alia, international OECD (Organisation for Economic Co-operation and Development) agreements.

The above list may be adjusted. Both the list and any adjustments are published in the Netherlands Government Gazette. The most recent version of the list as well as the present document and its appendices can be consulted on the internet (www.oret.nl).

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

List A states the developing countries qualifying for the tied-aid programme. Transactions with these countries may qualify for a grant of 35% of the value of the transaction. As the grant is subject to the condition that suppliers have to be businesses established and operating in the Netherlands, ORET assistance to countries of list A is considered tied-aid. ORET transactions with countries of list A are governed by the 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. European Union (EU) directives have incorporated the Consensus, as well.

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

List B states the Least Developed Countries (LDCs) identified by the OECD in the Development Assistance Committee (DAC) List of Aid Recipients. Transactions with these countries may qualify for a grant of 50% of the value of the transaction. On 1 January 2002, the OECD DAC Recommendation on Untying Official Development Assistance to the LDCs came into effect. In order to comply with the recommendation, the Netherlands also accepts applications for ORET grants relating to projects in LDCs from non-Dutch, foreign companies.

All of the ORET countries are eligible for ORET WF. The facility is untied for the LDCs (countries of list B); for the other countries (of list A) it is tied to activities of Dutch companies. In other words, transactions with countries of list A qualify only if the company involved is Dutch. ORET transactions in the field of drinking water and sanitation qualify for a grant of 50% of the transaction's value in all of the ORET countries (both of list A and of list B).

1.3 Budget

The grant maximum (budget available for implementation of the ORET programme) is publicised in the Netherlands Government Gazette on an annual basis. The budget of 2007 has been set to 119 million Euros.

Changes in the budget are also publicised in the Netherlands Government Gazette. Applications can only be approved if sufficient grant funding is available. The maximum grant awarded to one single company or group of companies per year is limited to 20% of the annual budget available to ORET. The same limit applies to the total of grants awarded to one single country in a year.

1.4 National authorities, end user and supplier

A standard ORET transaction involves three parties:

- the **national authorities** of the recipient country;
- the **end user** of the goods, services or works;
- the **supplier** of the goods, services or works, i.e. the **applicant**.

The ORET programme provides for grants that the Dutch authorities may award to authorities in developing countries. If the authorities of a developing country accept an ORET grant and the related conditions, they are obliged to use the grant to purchase capital goods, works or services from the companies specified in the grant agreements. International ODA rules require that grant agreements be concluded with the **national authorities** of a recipient country, usually the Ministry of Finance, the Ministry of Planning or another body designated by the national authorities.

The **end user** of the goods, works, or services often forms part of the national authorities, but it may also be a local or regional authority, a state-owned company, a public-private partnership or a private company. The end user has to be demonstrably capable of sustainably managing the transaction in technical, organisational and financial terms, whether or not with outside technical assistance. For the duration of its involvement, Oret.nl may independently investigate whether the end user meets this condition. The end

user may also ask Oret.nl to assist in assessing the feasibility of a transaction, regardless of the supplier (for further conditions see section 4.1).

The **supplier** of the goods, services or works, i.e. the **applicant** for the ORET grant, is a private company. Under the Dutch General Administrative Law Act (*Awb*), an ORET grant awarded to the national authorities of a recipient country is considered a grant awarded to the supplier. This means that a company applying for an ORET grant which is to be awarded to a developing country is an applicant within the meaning of the AWB. ORET grant applications for projects in countries of list A may only be submitted by companies established and operating in the Netherlands.

Applications for projects in countries of list B may also be submitted by non-Dutch companies. The recipient can, in the preparational phase of a project in countries of list B, submit an application, which can result in the conditional attribution of a grant. After the supplier has been selected for the execution of the transaction, the final application shall have to be submitted by the selected supplier.

In either case, the applicant has to have sufficient export experience and show adequate technical, organisational and financial capacity to successfully conduct and complete the transaction. The applicant may be asked to offer guarantees. For further conditions, see sections 3.6 en 4.8.

The applicant is not permitted to have a controlling interest in the end user when the grant is awarded.

1.5 Transaction

The **transaction** relates to the project part to which the applicant is bound because of a contract with the end user. Supplying capital goods, works, services or a combination thereof is eligible for ORET financing. At the discretion of Oret.nl, the transaction is to contain components ensuring the intended sustainable impact, 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.

The application is to give a clear and detailed picture of the different transaction components (goods, services, technical assistance, etc.). See the additional information on the application form.

1.5.1 Amount of transaction

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

1.5.2 Transaction amount, financing costs, provisions and profit

The **transaction amount** is the price of the transaction which the supplier and the end user have agreed by contract. This amount is to exclude preparatory costs (feasibility studies) and costs incurred to secure the contract (acquisition costs), as those costs are not eligible for ORET financing.

Agents' fees may be included in the transaction amount; up to a maximum of 5% of the transaction amount. Fees have to be shown to solely relate to work performed in the course of implementation of the transaction. In addition, the terms under which this work is performed are to be set out in a contract between the applicant and the agent, which contract has to be submitted for approval to Oret.nl.

Financing costs (bank charges and insurance costs) included in the transaction amount can be covered by the grant for 75%, provided the costs are actually incurred and they are on market terms. The costs are to be broken down in the application. The financing costs have to be proportionate to the project as a whole and to usual market practice, both at the discretion of Oret.nl. A detailed specification of financing costs qualifying for an ORET grant is available at Oret.nl.

Provisions for **additional risk premium** and **profits** have to be proportionate to the project as a whole and they have to be on market terms, at the discretion of Oret.nl. This also applies to the provision for **contingencies**. The amount for this provision will not be paid out until Oret.nl has received an acceptable break-down.

1.5.3 Taxes

The authorities of a recipient country are expected not to levy any tax, import duty or other charges on transactions receiving ORET financing. However, if such an exemption is not granted – under bilateral tax treaties, for instance – the tax, import duty or other charges imposed will have to be excluded from the transaction amount and settled separately with the end user. Such costs are under no circumstance eligible for ORET financing. An exception may apply to local taxes (VAT) levied on goods or services supplied locally in the context of the transaction.

On the application form, the supplier has to state the transaction amount exclusive of any tax, import duty or other charges and to affirm that, if such costs arise, they will be settled with the end user separately, that is to say outside of the transaction amount. In addition, local expenses incurred to purchase land or to compensate for the expropriation of land may not be included in the transaction amount.

1.5.4 Technical assistance

In the interest of ensuring the project's sustainability and long-term yield, a grant of 75% of the costs for **technical assistance** (TA) may in certain cases be awarded to the recipient country. The following conditions have to be met to qualify for said higher percentage:

1. The technical assistance has to continue for at least six months and at most five years following the expiry of the transaction's usual guarantee period;
2. The technical assistance has to go beyond training in direct relation to the transaction itself and focus on transferring knowledge and strengthening the end user's organisational capacities (institutional development¹);

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.

3. The applicant has to supply detailed Terms of Reference to Oret.nl, specifying the activities to be carried out, the envisaged outcome and the costs for technical assistance.

The 75% grant for TA is available only if capital goods, works or services are supplied, as well. Technical assistance that fails to meet the above conditions will be considered a regular component of the transaction and consequently be eligible for a 35% grant for countries of list A or a 50% grant for countries of list B.

1.5.5 Foreign component

As a rule, projects in countries of list A may have a foreign component of up to 50% of the transaction amount. **Foreign component** is understood to mean the purchase price of all parts and services needed to carry out the contract and obtained from a country other than the Netherlands (whether or not through a Dutch intermediary), including costs incurred in the end user's country and commission/agents' fees paid to parties in a foreign country during the period in which the transaction is carried out, but exclusive of the price for raw materials and semi-finished goods obtained from countries other than that of the end user.

A foreign component of up to 70% of the transaction amount may be acceptable if most of the parts and services purchased are shown to be unavailable in 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 cover at most 50% of the transaction amount, both in countries eligible for tied-aid transactions (list A) and in the LDCs receiving untied aid (list B). The local component is understood to mean the added value generated in the end user's country.

1.6 Financing

ORET transactions are financed with a combination of grants and other means, hereinafter referred to as non-grant financing.

Grant allocation

If an ORET application has been approved, Oret.nl will award a grant to the recipient country. The grant agreement contains a clause under which the recipient country authorises Oret.nl to make direct payments to the applicant. Although the grant agreement is concluded with a competent governmental body of the recipient country, the grant itself is in effect used to make direct payments to the applicant.

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

Grants are paid out in euro. Contracts are also preferably expressed in euro. If a contract is expressed in another currency, the amounts will be converted into euro using the exchange rate applicable on the date on which the decision is delivered to the applicant.

Grants are made available by Oret.nl on behalf of the Dutch authorities. Oret.nl will outline the grant conditions in a grant agreement concluded with the national authorities of the recipient country (see section 4.7).

The national authorities of the recipient country are to pass on the grant directly as a grant to the supplier with due observance of 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 bank loans, suppliers' credit or lease agreements. It may even consist of soft loans or grants from other donors. Guarantees of sufficient non-grant financing have to be presented for approval by Oret.nl in advance. Lease agreements (and similar structures) are only permitted if the ownership of the goods is transferred to the end user upon payment of the final lease instalment (purchase commitment).

Additional conditions apply to non-grant financing by means of a contribution in kind made by the end user².

1.7 Negotiations and competitors

The national authorities of the recipient country, or the end user, are to decide how a contract is awarded and to whom; either by issuing a national or international call for tenders or by direct negotiations with one or more companies. For the untied-aid variant, the contracting procedure has to be in conformity with the OECD requirements 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 contracts have to be awarded by means of international competitive bidding. Exceptions may be made in cases of repetition or follow-up of orders or in cases of emergency aid, provided the case is convincingly motivated.

If a contract is awarded on the basis of direct negotiations, the national authorities of the recipient country, or the end user, is not permitted to conclude a contract with the applicant until the ORET application has been approved by Oret.nl.

The entire contracting procedure has to be sufficiently transparent and in line

² For the duration of the transaction, an external auditor to be appointed by Oret.nl will annually audit the expenses incurred by the end user in relation to the transaction and, more specifically, to the contribution in kind. The costs for the auditors' report will be borne by the end user and may be considered 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 is to keep separate accounts for the project, specifying income and expenditures.

with local legislation, at the discretion of Oret.nl. If it is not, the transaction will not be eligible for ORET financing. It has to be transparent how prices have been determined and it has to be possible to verify whether they are on market terms.

The end user is also to determine who should be awarded a contract, even if more suppliers apply for ORET financing for one and the same transaction. Oret.nl never releases any information on suppliers that have submitted an application. On the other hand, it may be disclosed who has received ORET grants. Only in connection with ORET applications for financing ocean-going vessels, European Commission rules require the disclosure of the transaction's main details to other builders of ocean-going vessels (see also section 3.3).

1.8 Decision-making

A formal decision will be issued no later than six months after confirmation of receipt of an application. If the application is approved, the decision will specify the grant conditions.

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

2 REQUIREMENTS

2.1 Application

Applications have to be submitted in good time to allow the Netherlands to meet the OECD notification guidelines (see section 4.6).

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

The following applies to countries of list A. If the contracting procedure involves international competitive bidding, companies intending to apply for ORET financing of a transaction will have to notify Oret.nl at least 30 working days plus 15 calendar days prior to the bid closing date.

For countries of list B, the contracting procedure has to be in conformity with the OECD requirements 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 contracts have to be awarded by means of international competitive bidding if they are for transactions with an untied ODA credit with a value of SDR 5 million or more. Exceptions may be made in cases of repetition or follow-up of orders or in cases of emergency aid, provided the case is convincingly motivated. Without proper motivation, the application cannot be taken into consideration.

The following applies to countries of list B. If the contracting procedure involves international competitive bidding, companies intending to apply for ORET financing of a transaction will have to notify Oret.nl at least 30 working days plus 15 calendar days prior to the opening date of the tendering stage.

As a rule, a tendering stage does not last less than 45 calendar days. For projects with a transaction value of over SDR 50 million, the tendering stage usually does not last less than 90 calendar days.

An ORET application has to contain at least four documents:

- An application form, completed correctly and fully and signed by the applicant.
- A declaration (priority declaration) of the competent part of the national authorities of the recipient country.
- A feasibility study covering the entire project of which the transaction forms a part.
- A declaration of intent, signed by the end user and the applicant, in which they state that they intend to carry out the transaction jointly. For

international competitive bidding, the tender documents may be used for this purpose.

In the above documents, the applicant is to make plausible that the application meets the programme criteria (see chapter 3). More information on specific requirements is given below.

Each document has to be submitted to Oret.nl in duplicate: one original version and one electronic version (with the exception of the declaration of intent). In addition, an extra hardcopy version of the application form and the feasibility study has to be submitted. Documents have to be compiled in either Dutch or English.

2.2 Application form

Application forms can be obtained from Oret.nl. Forms will only be taken into consideration if they are fully completed and signed by the applicant, acting in its corporate capacity, and if they are accompanied by the above documents.

OECD Guidelines for Multinational Enterprises

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

2.3 Declaration of national authorities of recipient country

The second requirement for applications is a declaration of the national authorities of the recipient country indicating the following.

- how the project will fit into the country's or region's long-term strategy;
- how the project will be financed, taking into account any donor contributions. There has to be a clear indication that sufficient funds will be available, for example, by means of a budgetary commitment from the national authorities themselves or a declaration from a bank stating that it will supply the necessary credit, in a form that is acceptable to Oret.nl;
- which 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 will have to 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, including the conditions set out by Oret.nl in the grant agreement.

2.4 Feasibility study

The third requirement for applications is a feasibility study covering the entire project of which the transaction forms a part. The feasibility study has to include, at the discretion of Oret.nl, all of the information needed to assess the project, the transaction (including figures and calculations), the end user and the applicant. See in this context the feasibility study format (appendix 3).

2.5 Declaration of intent

Declarations of intent have to state the basic conditions under which the applicant and the end user are prepared to conclude a contract for the transaction. A declaration of intent is to be signed by the end user and the applicant. For international competitive bidding, the tender documents may be used for this purpose.

3 ASSESSMENT

3.1 OECD commitments

Transactions financed by ORET are subject to the conditions of the OECD “Arrangement on Officially Supported Export Credits” and the OECD “Agreement on Untied ODA Credits Transparency. In addition, the Netherlands has decided that all ORET applications, including those for countries of list B, are to 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 have been set out in Appendix III to the OECD document, *Ex Ante Guidance for Tied Aid*. Applicants and end users are advised to familiarise themselves with the OECD Consensus, the *Ex Ante Guidance for Tied Aid* and the DAC Recommendation on Untying Official Development Assistance to the Least Developed Countries. These documents can be consulted on the website www.oecd.org.

3.2 Screening criteria

The project and transaction have to meet the following criteria:

- In accordance with the OECD guidelines (see section 3.3), the project is commercially non-viable, or unsuitable for financing (two “key tests”);
- The project should fit in with the aims of development policy;
- In all respects, the end user has to be sufficiently capable, at the discretion of Oret.nl, to ensure long-term sustainable management of the project;
- In all respects, the applicant (and any partners) has to be sufficiently capable, at the discretion of Oret.nl to successfully complete the transaction;
- As to projects in countries of list A, the transaction is to lead to demonstrable Dutch exports and meet the relevant conditions. As to projects in countries of list B, local production/supply is limited to a maximum of 50% of the transaction amount (see section 1.5.5);
- The price/quality ratio of the proposed transaction is to be on market terms;
- For the untied aid variant, the procurement procedure has to be in conformity with the OECD requirements 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 the contract has to be awarded by means of international competitive bidding. Exceptions may be made in cases of repetition or follow-up of orders or in cases of emergency aid, provided the case is convincingly motivated. The motivation will be used as one of the screening criteria for the application;
- In cases of International Competitive Bidding, the applicant has to provide proof that the call for bids was notified to Oret.nl in good time for it to meet the OECD notification requirements (see section 4.6 for details), or that the call for bids was notified in good 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”.

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 realisation of the project as a whole.

All transactions in countries of list A (the tied-aid ORET programme) that meet the criteria for an ORET grant, at the discretion of Oret.nl, will be reported to the OECD before a commitment is made. Transactions with countries of 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 that can be commercially financed and unprofitable elements for which tied aid is requested.

3.3 Commercial non-viability

Transactions are eligible for an ORET grant only if they are commercially non-viable, i.e. if financing on market terms 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 or not a project is commercially viable 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 non-viable.

Said cash flow analysis should take account of all 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, the nominal CIRR has to first be adjusted for inflation in the euro area (real CIRR). 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 to the individual 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 to 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 (market) parties in the recipient country.

Development aid that is provided by an EU member state for the purchase of ocean-going vessels has to 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, inter alia, 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 in writing at least one month before the ORET application is submitted. Given the nature of the EU procedure, it is only followed if the transaction concerned is conducted with a country of list A.

3.4 Relevance to development policy

ORET grants are intended to facilitate investments in the infrastructure of developing countries, which investments contribute to sustainable economic development and a sound business climate. To determine whether this is the case, the project is assessed as to (I) financial and economic impact, (II) technical sustainability, (III) environmental impact and (IV) social impact:

Ad (I) Financial and economical impact

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

Ad (a) Economic sustainability

This requirement relates to the economic benefits that will accrue to the recipient country as a direct result of the project. This includes benefits for parties other than the direct end users of the ORET project, such as stimuli to the local economy, additional public revenue, new jobs or an 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 assessment. 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%.

Ad (b) Financial sustainability

During its life span, a project is to 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 in this context, the applicant is to show that the investment is financially viable with the help of an ORET grant. The criteria in this case will be the accumulated cash flow at the end of the project's technical or useful life. If the accumulated cash flow is positive, the project is deemed financially viable. If a project does not generate sufficient (or any) returns to cover operating and replacement costs, a state guarantee may be used to bridge the gap.

Ad (II) Technical sustainability

The technical aspects of the goods, works and/or services supplied in the transaction have to be such that the end user is capable of maintaining them. If local staff need technical or other training, the transaction will have to make a provision for this. If a recipient country applies certain standards or if standardisation is one of its aims, the goods supplied will have to comply with these standards. The transaction is to provide for the supply (afterwards) of sufficient spare parts and other forms of aftercare.

Ad (III) Environmental impact

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

Ad (IV) Social impact

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

The 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 are to 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 End user

At the discretion of Oret.nl, the end user of the project has to 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 assessed 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 its 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 the 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 or other aspects of corporate governance, it is advisable to include appropriate activities in the transaction's technical assistance component (please also refer to the OECD Principles of Corporate Governance). It should also be clear which obligations and competences the end user has and what its relationship is with the national authorities in its country.

Training in management, financial management, planning and other skills can strengthen the end user's capacity in the above 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 Applicant

At the discretion of Oret.nl, the applicant has to 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 of the transaction, so that it is certain the transaction can be completed successfully. This will be determined in part through annual reports and independently audited annual accounts for the previous three years. See also Article 4 of the Ministry of Foreign Affairs Grant Regulations (Netherlands Government Gazette 2005, 137).

3.7 Price/quality assessment

A price/quality assessment is always carried out during the assessment 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, provisions, agents' fees, etc. The price/quality assessment may result in specific conditions being attached to an ORET grant or to applicants being asked to adjust price, quality and/or volume of the goods, services or works supplied. Oret.nl may select external experts to perform the assessment. These experts will also examine the foreign and local components of the transaction using the information available at the time.

3.8 Adjustments following assessment

Occasionally, contents or amount of a proposed transaction have to be adjusted following the assessment. This could reduce or increase the amount granted, for example if Oret.nl awards the grant on the condition of 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 will have to be adjusted.

4 PROCESSING OF APPLICATIONS

4.1 Preparation

On request, Oret.nl will provide a copy of the present regulations and the ORET application form. Both documents can also be viewed and downloaded directly from the website www.oret.nl.

Potential end users who consider using an ORET grant in financing a project are advised to consult with Oret.nl at the earliest possible stage. This is possible by filling in a checklist project idea, available on the website, and by sending it to Oret.nl. The accountmanager operating on the specific sector of the project will then contact the potential applicant. This provides potential applicants with an indication 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 of list B, if it has been determined that the project/transaction in question meets the ORET screening criteria. This award can become final as soon as a supplier has been selected through a tendering procedure (see section 5.3) to carry out the transaction and the definitive application is submitted.

The feasibility study will play a key role in the project's appraisal (Visit 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 format in appendix 3.

4.2 Submitting the application

If an application is incomplete, i.e. if it does not contain the basic documents stated in chapter 2, the procedure will not start. Instead, the applicant will be given a chance to complete the application within a reasonable period, in general four weeks. If the application is not completed within that period, the applicant will receive a formal decision informing the applicant that the application will not be processed due to incompleteness.

4.3 Assessment

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

The applicant will have the opportunity to answer supplementary questions that are necessary for an adequate assessment of the project and the application. The application may be rejected if satisfactory answers to these questions are not submitted by the deadline given. The time taken by the applicant to respond to the supplementary questions is not included in the six-month period within which the procedure has to be completed.

4.4 Committee of Approval

The assessment will result in a report which is presented

to the Committee of Approval. This Committee exists of independent and external experts with a dual role:

- to assess if the evaluation is carried out following the right methodology and if all points of interest were taken into consideration (risk factors, socio-economic, cross-cutting criteria, developing aid objectives, realistic scenario's for the sensitivity analysis); and
- to decide about the application: positive or negative.

The Committee assembles about every six weeks for the assessment of the applications then present. Decision-making occurs with a majority of votes.

4.5 Decision

If the application is approved, Oret.nl will send 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 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 contract between the applicant and the end user that is signed by both. If no contract has been signed yet, a provisional grant agreement will accompany the decision (see section 4.7).

Once a decision is given, it 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 thereof.

4.6 Objections and review

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

If an objection is lodged to a decision the objection is judged upon by the Committee of Objection which has an independent chairman. Any decision on an objection is open to judicial review by the District Court of the jurisdiction in which the person lodging the objection resides. If the applicant is not located in

the Netherlands, the The Hague District Court will be responsible for the judicial review.

4.7 Notification

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, 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 receiving the notification constitutes tacit approval for a period of two years. If no consensus can be reached, all Consensus participants will be prohibited from supporting the transaction or project with tied development aid and Oret.nl will have to reject the application.

If major changes are made as to the size or nature of the transaction or project, the transaction or project will have to be reassessed by Oret.nl. In that case, a new notification procedure will take place.

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

4.8 Grant agreement

If an application has been approved Oret.nl first sends a preliminary offer to the national authorities of a recipient country. The offer remains in effect for six months and may be extended for another six months once, at the request of the recipient country, after which it expires.

Oret.nl offers the final grant agreement after:

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

The grant agreement is governed by Dutch law. It contains provisions on the payment procedure and a number of general conditions, for example, conditions in respect of financial or other securities, taxes or arbitration and any specific

project-related conditions. Oret.nl may include specific provisions in connection with 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.

The grant agreement has to be signed within six months after it was offered. The period may be extended for a maximum of six months once, at the request of the developing country or the supplier, after which the offer will expire.

The grant agreement will take effect once all conditions stated therein have been met. After Oret.nl has signed the grant agreement, the end user has six months to meet the conditions it contains. If the conditions are not met within said period, the grant agreement will lapse.

The grant agreement may also lapse if, in Oret.nl's opinion, considerable changes are made to the project or transaction while the offer or grant agreement is in effect. In that case, the parties affected will be informed in writing by Oret.nl.

Once a grant agreement or an offer lapses, it cannot be repeated. If the national authorities of a recipient country decide afterwards that they are interested in the grant, the applicant will have to submit a new application and the entire ORET assessment procedure will have to be repeated.

If for any reason the national authorities of a recipient country or the applicant withdraw from the transaction, the applicant or the national authorities will have to inform Oret.nl. The bank will then withdraw the offer, close the file and cancel any allocations made in connection with the project

If the national authorities or the end user violate the conditions of the grant agreement, Oret.nl will be able to impose sanctions, such as ceasing payments or reducing the grant amount.

4.9 Payments

After the grant agreement takes effect, the applicant will have to furnish Oret.nl with a down payment guarantee to cover the associated risk. The guarantee amount should equal 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, which will not exceed 10% of the transaction. If the total down payment exceeds the down payment from the grant component, the difference will have to be borne from the non-grant component of the transaction.

Subsequent payments made by Oret.nl to the applicant will be made in accordance with the contract and the grant agreement, the provisions of which have to 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 the payments made by Oret.nl are always made successively. Oret.nl will not make a payment if the non-grant payment has not been 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 after Oret.nl has approved the supplier's final report and determined the amount of the grant (see section 6.4).

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 need 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 the relevant 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, Netherlands Government Gazette 616). The most important changes involve:

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

No grant will be awarded if there are indications that the parties in question have committed or intend to commit irregularities, such as fraud, price-fixing, forgery, bribery – within the meaning of article 177, 177(a), 178(a), or 328ter (bribery and corruption not involving public servants) or 362, 363 or 364 of the Dutch Criminal Code – or other illegal activities, either in order to obtain the grant during the project's implementation or the application of its outcome.

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 indications that irregularities have taken place, it will report this to the Dutch Ministry of Foreign Affairs, which may decide to report this to the competent authorities.

5.3 Tendering procedure

Oret.nl should be given the opportunity to evaluate the manner in which suppliers are or have been selected. Furthermore, Oret.nl may decide to arrange an independent investigation into the procedure followed. Under no circumstance may the tendering procedure conflict with local legislation.

5.4 Liability of Dutch authorities

The Dutch public authorities and Oret.nl are not party to ORET transactions, other than as a financier. They are therefore in no way liable for any damage

resulting from or associated with breach of contract or wrongful acts by one of the parties to an ORET transaction.

6 OBLIGATIONS after awarding of grant

6.1 Conditions and obligations

By signing the grant agreement, the national authorities of the recipient country commit themselves to the arrangements and provisions it contains. 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 after the application was submitted or during the transaction's implementation events should occur that have ramifications for the circumstances or contents of the transaction, the applicant will have to report this immediately and submit any proposed changes to the transaction to Oret.nl in advance for approval. If major changes are made as to the size or nature of the transaction or project, the transaction or project will have to be re-assessed by Oret.nl and a new notification of OECD Consensus participants will be made.

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. These semi-annual reports have to be submitted to Oret.nl by 1 March and 1 September, respectively. This reporting obligation takes effect as soon as the grant period specified in the formal decision has begun. The obligation therefore exists 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 its chances of securing the contract. Reports are to be drawn up according to the model appended to the decision. Special attention should be paid to the projects environmental and social aspects, 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 an applicant's progress report is more than six months late, Oret.nl may decide to withdraw the decision. The parties to the transaction will then have to cover the costs of any resulting damage.

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

6.4 Final report

Applicants are obliged to submit a request to Oret.nl for determining the definitive amount of the grant no later than six months after the transaction³

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.

has been completed. Within the same period of time, they have to 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 statements 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 statements should also include a final calculation of the transaction, including an analysis of any differences from the preliminary calculation included in the application;
- an auditors' 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 has to be used in preparing said auditors' report.

The final report and documentation have to give a clear indication to third parties 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 on the definitive grant amount and the final instalment will be paid (unless this has already been done on the basis of a bank guarantee, see section 4.8). At this stage, Oret.nl's active involvement in the transaction, apart from the evaluation (see section 6.6), has formally come to an end. It is only at this stage that the applicant's reporting obligations end. Any still outstanding bank guarantees for the final instalment will be returned and therefore expire.

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

6.6 Evaluation

One year after the project's conclusion, Oret.nl will ask all of the parties involved to give a current evaluation of the transaction's sustainable impact. Oret.nl may also deploy third parties to carry out said evaluation. In the interest of the evaluation, all parties involved will be obliged, even after completion of the transaction, to provide all information requested concerning the transaction's implementation and to allow inspections and financial audits to be carried out.

6.7 Failure to meet obligations

If an applicant turns out not to have fulfilled its obligations, or if it has not fully met the obligations ensuing 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;
- suspend the payments.

The effect of these three sanctions is that the grant ultimately received will be 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 it has already received.

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

ADDRESSES

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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 or www.evd.nl.

Appendix 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
MOL	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
TA	Technical Assistance

Appendix 2 – List of ORET countries

A

List of countries eligible for the tied-aid ORET programme

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

- 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.

B

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

Afghanistan	Guinea-Bissau	Senegal
Angola	Haiti	Sierra Leone
Benin	Kiribati	Solomon Islands
Bhutan	Laos	Somalia
Burkina Faso	Lesotho	Sudan
Burundi	Liberia	Tanzania
Cambodia	Madagascar	Togo
Cape Verde	Malawi	Tuvalu
Central African Republic	Maldives	Uganda

Chad	Mali	Vanuatu
Comoros	Mauritania	Yemen
Congo, Dem. Rep.	Mozambique	Zambia
Djibouti	Myanmar (1)	
East Timor	Nepal	
Eritrea	Niger	
Ethiopia	Rwanda	
Gambia	Samoa	
Guinea	São Tomé and Príncipe	

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

Appendix 3 - ORET Projects: requirements for a feasibility study⁴

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 consumers able to pay for the end products? Describe the type of consumer (households, businesses or public institutions), their average income and the price they are willing and able to pay.
- Technical/useful life 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 having to make major investments. 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

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

project (this may happen, for instance, in projects involving computers). If this is the case, the useful life of the project should be indicated.

2. Description of the transaction

- In all respects, the supplier has to 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, including 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 training, level of trainees, number of trainers).
- Scheduling and organisation of activities: What activities are involved (procurement, design, construction/installation, etc.) and at which stage will they each 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 its potential impact.

3. Costs and revenue of the project

- Total investment costs: Please state 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 input (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 for the period that the project is in operation (e.g. capital costs, maintenance costs).
- Relevant taxes and subsidies: Are there any taxes on or subsidies for the input used in the production process, the investment or the output (e.g. free health care for the poor as a result of government subsidies or subsidised water used in the production process). Please indicate the effects on prices of any taxes and subsidies.

4. Proof that the project meets the criteria

1. Commercial non-viability: A project is regarded as commercially non-viable if, under free market 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 project's commercial non-viability 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 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 project's annual costs and benefits to society (i.e. 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 has to 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 has to 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 sufficient 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 are to 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 will have to make a provision for this. If a developing country applies certain standards or if standardisation is one of its aims, the goods supplied will have to comply with these standards. The transaction has to provide for the supply of sufficient spare parts and other forms of aftercare. Please state whether and how the project meets these requirements.

- *Institutional sustainability*: The organisation responsible for the project has to 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, while paying 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 project's institutional sustainability.

• *Environmental impact*: On balance, the proposed project may not 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 the environmental impact (e.g. disposal/treatment of waste or measures to limit pollution); in other words, what is the end user's environmental policy?

• *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 project's impact on poverty and the status of women.

Appendix 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 and 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 metallurgical industry
- Large thermal power or hydropower plants (> 50 MW)
- Waste processing industry
- Construction of major infrastructure, such as ports, airports, etc.
- Projects involving manufacturing, transporting or using dangerous or toxic substances
- Projects involving the large-scale relocation of people
- Projects with a major potentially 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.