

**Development-related Infrastructure Facility (ORIO)**  
*a new scheme adapted from the ORET programme*

Ministry of Foreign Affairs

Sustainable Economic Development Department

The Hague  
+31 (0)70 348 5349

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## 1. Executive summary

### Background

The adaptation of the ORET programme was announced in the coalition agreement. This memorandum outlines the shift from an instrument aimed at development-related export transactions (ORET) to one aimed at development-related infrastructure (ORIO).

### More focus

ORIO is aimed at a smaller number of countries and at a limited number of priority sectors in each country.

### More sustainable

ORIO supports the entire infrastructure development process: the preparation of a project, its implementation, operation and maintenance. This will strengthen the sustainability of projects and make them more attractive to the private sector.

### More development related and demand driven

Ideas for projects are identified by consortiums made up of the national government concerned and private sector actors (right of initiative). Projects will be selected on their relative merits rather than the 'first come, first served' principle. The assessment process will consider the extent to which projects are demand driven and development related, and the level of involvement from small and medium-sized enterprises (SMEs).

### Attractive to business

The level of support available for the entire infrastructure development process and the retention of companies' right of initiative make the ORIO facility attractive to the private sector. Implementation will be organised as simply as possible, limiting the administrative burden for participating companies.

### ORIO A for least developed countries (LDCs)

The development of a selected idea into a full project proposal is coordinated by an executive agent, and may involve the appointment of consultants. The executive agent will work closely with the national authorities concerned. Completed proposals will then be reassessed against the ORIO criteria. Qualifying projects will be put out to tender on the basis of international competitive bidding (ICB). Support for the operation and maintenance of a project is an integral part of the contract. The successful contractor will be commissioned by the national authorities to carry out the project and will also enter into a

grant relationship with the ORIO executive agent. This means that the agent can continuously monitor the quality of the project, including its sustainability. In this way, the ORIO A facility for LDCs complies with the OECD/DAC and OECD Participant commitments on untied aid. In LDCs, the ORIO grant will generally be higher than in non-LDCs. In fragile states the grant component may be as high as 80% or more.

#### ORIO B for non-LDCs

For non-LDCs, selected project ideas will be developed by a consortium comprising the national authorities and the company that will implement the project. This means that the private sector's project development capabilities are utilised to their fullest extent. Half the approved budget for the development phase is drawn from ORIO funding. The other 50% is paid by the consortium applying for the grant. Support received for the development of a project does not guarantee the award of the contract for its implementation, however. The executive agent and the consortium make clear agreements in advance regarding intermediate results and decision moments ('go, no go'). If intermediate results are not achieved, or if otherwise unacceptable developments should occur, the project will be halted. If the 'go, no go' decisions are positive, the ORIO executive agent will then work alongside the implementing consortium throughout the entire process, including operation and maintenance. Because in principle no separate bidding process based on ICB will be held for the developed project, the OECD Participants consider this arrangement *de jure* to be tied aid. The submission of project ideas is, however, open to all countries, which means that *de facto* the ORIO B facility for non-LDCs is untied aid.

## 2. Introduction

The adaptation of the ORET programme was announced in the coalition agreement. The instrument needs to be made more relevant and accessible for SMEs in the Netherlands and in developing countries. In their letter of 29 June 2007 to the House of Representatives on private sector development in developing countries, the Minister for Development Cooperation and the Minister for Foreign Trade indicated that increasing projects' sustainability and relevance to development were also priorities in adapting the programme. After all, evaluations of the ORET<sup>1</sup> programme suggest that while most projects achieve their expected results, they do not score highly on poverty reduction (or on relevance to the Dutch exporting company in the form of repeat orders). What is more, concepts such as sustainability and the transfer of knowledge and expertise are not embedded in the programme's existing form. The adapted programme is therefore aimed at achieving long-term partnerships, anchored in institutions, training and development, as well as financial reserves for maintenance and replacement. This ensures a continual focus on public infrastructure.

As the coalition agreement makes clear, the adapted instrument will remain accessible to Dutch companies, and particularly SMEs, specifically in those areas where Dutch companies have distinctive and competitive knowledge and expertise. The policy letter 'Our Common Concern', presented to the House of Representatives on 16 October 2007 by the Minister for Development Cooperation, Bert Koenders, states that the adapted programme will focus more closely on infrastructure that actually has an impact on poor people's access to energy, clean water and markets.

There is an enormous need for infrastructure in developing countries. Billions of people have no sustainable access to energy (1.6bn), water (1.1bn) and sanitation (2.4bn). Infrastructure is also a precondition for economic growth, and for participation by the poor in that growth. Studies of obstacles in the enterprise climate invariably highlight the need for infrastructure. Besides contributing indirectly to achieving the MDGs by means of economic growth, infrastructure also has a direct impact. Roads and reliable bridges, for example, allow producers to get their products to market more cheaply (MDG1), raise girls' school attendance (MDGs 2 and 3), provide access to medical assistance (MDGs 4, 5 and 6) and facilitate international trade (MDG8).

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<sup>1</sup> ORET China evaluation, House of Representatives 30800 V, no. 6 (September 2006) and ORET-wide evaluation, House of Representatives 30800 V, no. 56 (January 2007)

### 3. Facility for the least developed countries: ORIO A

The Netherlands is committed to implementing the DAC recommendations on untied aid.<sup>2</sup>

All aid to the least developed countries (LDCs) must be untied and this therefore also applies to the adapted ORET programme, the Development-related Infrastructure Facility (ORIO). The consensus within the OECD Participants group is that aid provided through programmes like ORET is untied if the individual projects are put out to tender on the basis of international competitive bidding (ICB). Under the 'old' ORET programme<sup>3</sup> ICB was made mandatory for the LDCs in May 2006. Since then only a very limited number of applications have been received for this group of countries. The reason is that the obligation to invite tenders for completed project proposals based on ICB has discouraged private sector participation in the project preparation phase. After all, a company will generally finance the development of a proposal itself, while the contract to execute the project may ultimately be awarded to a competitor. What is more, the ICB procedures require that parties involved in the project development phase be excluded from tendering for the actual implementation of the project. This entails a loss of the project development skills of those companies interested in implementing infrastructure projects. Furthermore, as the national authorities concerned usually have too little capacity to effectively manage the preparation phase (including the tender procedure based on ICB) themselves, ORET now receives very few infrastructure project proposals for LDCs.

To solve this problem, ORIO will support LDCs during the project development phase. This support will be coordinated by an executive agent, appointed by the Minister for Development Cooperation. Consultants may be engaged to develop project proposals and supervise the ICB process. The company that wins the ICB process will implement the project, and will be involved in the operation and maintenance of the completed infrastructure. Both the World Bank and European Commission operate similar systems. The risk, however, is that on a technical level, 'consultancy-driven' solutions may not be

<sup>2</sup> DAC Recommendations on Untying Official Development Assistance to the Least Developed Countries, DCD/DAC (2001)12 FINAL, amended on 15 March 2006 – DCD/DAC(2006)25 & DCD/DAC/M(2006)3.

<sup>3</sup> Following the adoption of the DAC Recommendation on 1 January 2002, ORET was closed to the LDCs. In 2005 the programme was reopened to LDCs with the obligation, from May 2006, to conduct tendering on the basis of ICB.

sufficiently compatible with what contractors have to offer. Correcting this mismatch during the implementation phase will generate additional costs.

In order to reduce the problem of compatibility, the Minister for Development Cooperation will appoint one executive agent for the entire programme, from the project development phase through to implementation, operation and maintenance. The management of the entire process by a single executive agent will promote sustainability.

For each eligible country, a limited number of sectors (2-3) will be selected in consultation with the authorities and embassies concerned. Infrastructure development activities should be focused on these specific sectors. The choice of sector will be determined mainly by the needs of the country concerned, as laid down in PRSPs and sector plans, and the Minister for Development Cooperation's desire that the adapted programme be aimed more at infrastructure that will actively help achieve the MDGs. Under the 'old' ORET programme, the sectors generally identified were drinking water, health care, water infrastructure, transport and energy. Consortiums of national authorities and interested companies can submit proposals to the executive agent for projects to be developed in a selected country and sector. It is important that the private sector be able to show initiative and involvement in the proposal phase, as businesses are best placed to indicate whether or not a project is technically – or indeed otherwise – viable.

On behalf of the Minister, the executive agent has the authority to determine which of the project ideas received are sufficiently development related to be approved for further development. A points system will be used to manage this process, to ensure that selection is based on relative merits rather than the 'first come, first served' principle. With the European directive on the award of public contracts in mind, the further development of the project idea will be assigned to a consultant. The executive agent is responsible for awarding this assignment on behalf of the national authorities concerned. If required, the consultant may also support the authorities in the international bidding process (ICB) for the completed project proposal. If this is the case, this role should be formalised as an integral part of the assignment. Project development costs are met entirely from ORIO-A funds but, where possible, will be partly recouped from the national authorities when implementation of the project begins.

The executive agent will then assess the completed project proposal to establish whether it qualifies for an ORIO A grant. Applications for an ORIO A award may also be received for

project proposals that have been developed without the involvement of the executive agent. Naturally, these must also be appropriate to the country concerned and the sectors that have been selected.

The proposal's relevance to development will also be assessed. Sector-specific assessment indicators and criteria will be established, reflecting the Millennium Development Goals. An assessment will also be made as to whether, under OECD guidelines, the project is commercially viable or financeable. Finally, the project must tie in with the long-term strategy of the country in question and must be anchored in a broader framework, such as the Poverty Reduction Strategy Paper (PRSP).

Unlike the existing ORET programme, projects that are subject to an international bidding process will not be aimed exclusively at the export component of the transaction. Support for the operation and maintenance phase will be an integral part of the contract. This is designed to promote the sustainability of infrastructure projects. Sustainability is controlled by linking staged payments of the ORIO A award to performance indicators in the operation and maintenance phase.

Under ORIO the executive agent's role is more complex than under ORET. However, the implementation process will be kept as simple as possible, limiting the administrative burden for participating companies. One of ORIO's fundamental principles is that it should impose a lower administrative burden than the ORET programme.

The tendering process should include the funding arrangements for a project. The ORIO A grant percentage can be established by sector, taking account of the IMF and World Bank's minimum concessionality requirements for the country concerned. The minimum grant percentage varies from 35% to 60%. This figure is also the basis for the sustainable loan policy agreed recently at OECD level and anchored in the Debt Sustainability Framework (DSF).

Non-grant financing should be provided by the country concerned, not least as a sign of the recipient government's commitment to the project. The credit risk posed by many LDCs means that the options for attracting non-grant financing by means of commercial loans is limited. What is more, the export credit insurance necessary for this kind of loan is virtually, if not entirely, impossible for Dutch companies to obtain. Countries in this category that are not partner countries (i.e. countries with which the Netherlands has a long-term development relationship) are therefore excluded from the ORIO A facility. But a number of partner

countries also fall into this category. Given the importance of contributing to the creation of public infrastructure in these countries too, the concessional financing component (the ORIO A grant) will often be high for these countries.

### **Fragile states**

For fragile states such as Afghanistan, Burundi, the Democratic Republic of Congo, Sudan and the Palestinian Territories, the concessional financing component may be as much as 80%. In the case of such a high grant component, obligations under the OECD Participants' Consensus cease to apply. In this case, contracts for individual projects do not automatically have to be awarded by means of ICB. The DAC is satisfied with a sufficient degree of international openness at programme level. For these countries, the award of a contract to further develop a project idea (on the basis of ICB) will be accompanied by an assurance that, in principle, the same party that satisfactorily develops the project may also implement it. At the end of the development phase, the executive agent will decide autonomously on behalf of the Minister for Development Cooperation whether or not he or she wishes to proceed. Should there be an adverse development in the country concerned or regarding the project itself in the meantime, the project will be halted and/or ORIO A financing will be terminated. In the case of a concessional grant component of 80% or more, the rules applied are similar to those concerning the ORIO B facility (see next section).

## 4 • Facility for non-LDCs: ORIO B

Experts agree that the private sector's project development capabilities are essential to achieving viable, high-quality infrastructure projects. As described in the previous section, the agreements made within the OECD entail the loss of a significant amount of development expertise in projects in LDCs. In non-LDCs, however, this expertise can be fully utilised. The adapted ORET programme for these countries, the ORIO B facility, places great emphasis on companies' project development capabilities.

Just as for LDCs, a limited number of sectors are chosen for each country, and infrastructure development must be focused in these areas. And as previously, consortiums made up of the national authorities concerned and interested companies can submit project ideas to the executive agent. (The private sector thereby retains the right of initiative). Requests for project ideas are announced internationally. Two grant tender procedures are organised annually, always involving half the available budget for the year in question. The executive agent selects the most viable and development-related applications based on a points system (similar to the assessment method used within the co-financing system but less stringent). The available funds are therefore distributed not on a 'first come, first served' basis, but on the relative merits of the proposals. Successful project ideas will then be further developed and implemented by the project consortium in consultation with the executive agent. Support for the development of the project, however, does not guarantee the award of the contract for its implementation. Clear agreements regarding intermediate results and decision moments ('go, no go') must be made in advance, enabling the executive agent to continuously monitor the quality of the project, including its sustainability and relevance to development. These factors will determine whether the completed project proposal will actually be implemented. If intermediate results are not achieved, or if otherwise unacceptable development should occur, the project will be halted. Half the approved budget for the development phase is paid from ORIO B funds. The other half is paid by the consortium applying for the grant.

A consortium may also submit a fully-developed project proposal without making use of the opportunities to obtain support in developing proposals.

While this approach, which ties the entire process together, from the identification of projects to the development, implementation, operation and maintenance phases, is considered *de*

*facto* to be to be an untied aid programme by the OECD Participants, it is not *de jure* recognised as such. In practical terms, it is untied because the submission of ideas for investment projects to be developed with ORIO B is open to international businesses across the world. At the start of the process, anyone is eligible to participate. Due to technical OECD rules, however, it is regarded *de jure* as tied aid. In principle, once the project development phase has been completed, no separate ICB process will be held. It is possible that in time the programme will be recognised as untied aid, specifically if in practice a substantial number of project contracts are awarded to non-Dutch companies. The Dutch government will also actively seek such recognition from the OECD Participants. Initially, however, the programme will be seen as tied aid by the OECD Participants. This is permissible for non-LDCs, but is not in line with our aim of achieving the complete untying of aid. Nonetheless, the obligation that all aid must be untied currently applies only to LDCs.

## **5. Relevance to SMEs**

The coalition agreement states that the ORET programme should be made more relevant and accessible to SMEs in the Netherlands and in developing countries. The nature of the projects developed using the ORIO facility – public infrastructure works – dictates that SME involvement will generally remain indirect, probably taking the form of a supplier or subcontractor role. This was also the case under the ‘old’ ORET programme.

Due to the fact that ORIO no longer works on the principle of a minimum share of Dutch supplies (currently 50%), there is now more room for local suppliers, including local SMEs. Greater involvement by SMEs can also be encouraged by taking account of this issue in the project selection process.

## 6. Choice of country

The choice of countries for the adapted ORET programme is based on the following factors:

- All 40 of the partner countries named in the policy letter 'Our Common Concern' appear on the list of countries, with the exception of Eritrea (where the development relationship is being wound down and where export credit insurance coverage is not available) and Sri Lanka (where, due to the security situation, the Netherlands only provides humanitarian aid).
- All other LDCs are included on the country list, provided they are eligible for export credit insurance coverage.
- Promising countries: Algeria, Montenegro, Morocco, Peru, the Philippines, Serbia and Thailand.
- For countries with whom the development cooperation relationship is being wound down, as well as the promising countries listed, commitments may be entered into until the end of 2011 (with payment obligations continuing for some years thereafter).
- For countries with whom the Netherlands has broader relations (such as Vietnam), commitments may be entered into until the end of 2014 (again, with payment obligations continuing for some years thereafter).
- For China and India, the Minister for Foreign Trade is establishing a Facility for Countries in Transition, worth €20 million a year, aimed primarily at promoting exports. Eventually, this facility may also be opened up to other countries.

The proposed country list, based on the above principles, is enclosed as annexe 1. The list can be amended for each new grant tender procedure, based on up-to-date information regarding the above criteria.

## **7. Budget**

From 2009, up to €120 million can be committed annually to new projects. This is expected to result eventually in annual spending of approximately €90 million (not including implementation costs), which is in line with the budget spent annually in recent years under the 'old' ORET programme.

In their letter to the House of Representatives of 29 June 2007 on private sector development in developing countries, the Ministers for Development Cooperation and for Foreign Trade indicated that this policy would be directed primarily at the poorest people. For that reason, the intention is to award at least 50% of the annual available ORIO commitment budget to the least developed countries, under the ORIO A facility. The remaining share can be allocated among the non-LDCs. From 2011, this lower limit of 50% for LDCs should have been reached.

## **Annexe 1: List of countries**

### **ORIO A**

Afghanistan  
Angola  
Bangladesh  
Benin  
Bhutan  
Burkina Faso  
Burundi  
Cape Verde  
Democratic Rep. Congo  
East Timor  
Ethiopia  
Gambia  
Kiribati  
Malawi  
Maldives  
Mali  
Mozambique  
Niger  
Rwanda  
Samoa  
Saõ Tomé and Príncipe  
Senegal  
Sudan  
Tanzania  
Tuvalu  
Uganda  
Vanuatu  
Yemen  
Zambia

### **ORIO B**

Albania  
Algeria  
Armenia  
Bolivia  
Bosnia-Herzegovina  
Colombia  
Egypt  
Georgia  
Ghana  
Guatemala  
Indonesia  
Kenya  
Kosovo  
Macedonia  
Moldova  
Mongolia  
Montenegro  
Morocco  
Nicaragua  
Pakistan  
Palestinian Territories  
Peru  
Philippines  
Serbia  
Suriname  
Thailand  
Vietnam  
South Africa