

UNOFFICIAL TRANSLATION OF THE DUTCH POLICY RULES

This document contains an unofficial and courtesy English translation of the Dutch Policy Rules

Decree issued by the Minister for Foreign Trade and Development Cooperation of 3 June 2015, no. MINBUZA-2015.284090, on the establishment of policy rules for granting subsidies with a view to financing development-related infrastructure projects in developing countries (DRIVE)

The Minister for Foreign Trade and Development Cooperation;

In view of Article 6 of the Ministry of Foreign Affairs (Grants) Decree;

In view of Article 7.2 of the Ministry of Foreign Affairs (Grants) Regulations 2006;

In view of Article 32 of the Government Accounts Act 2001;

Hereby decides as follows:

Article 1

The policy rules attached to this decree as an appendix shall apply to granting subsidies with the intention of financing development-related infrastructure projects in developing countries in connection with the DRIVE program.

Article 2

For purposes of this decree, a subsidy ceiling of €150 million shall apply from the date that this decree takes effect up to and including 31 December 2016.

With reference to the calculation of the amount available for furnishing subsidies which is chargeable to this ceiling, funds furnished which have been repaid by subsidy recipients to the Minister pursuant to the obligations associated with the subsidy shall be allocated to the ceiling.

Article 3

Applications shall be handled in the decree in which they are received.

Article 4

The Decree by the State Secretary for Foreign Affairs of 30 March 2012, No. DDE-41/2012¹, establishing policy rules for providing grants to government bodies in developing countries with a view to developing, implementing and operating public infrastructure (ORIO Grant Facility 2012)¹ is hereby repealed, on the understanding that it shall continue to apply to grants executed under the policy rules.

¹Government Gazette 2012, 8239.

Article 5

The decree shall become effective following the date of the Government Gazette in which it is published, and shall expire on 15 June 2020.

This decree shall be published with the appendix in the Government Gazette.

*The Minister for Foreign Trade and Development Cooperation,
E.M.J. Ploumen*

APPENDIX

DEFINITIONS

The following terms shall have the following meanings in these policy rules:

Tender: the procedure which a commissioning authority utilises to conclude a contract with an appropriate contracting partner to execute a contract;

Least developed countries, other low income countries, low middle income countries and territories and upper low middle income countries: the countries designated as such in the most recently adopted List of Recipients of Official Development Assistance by the Development Assistance Committee (DAC) of the Organization for Economic Co-operation and Development (OECD);

Fragile states: the countries designated as such in the annex of these policy rules.

DRIVE countries: the countries listed in the annex to these policy rules;

Local government authority: a government body or agency associated with the government in one of the DRIVE countries;

Concessionality: the degree to which a local government authority receives a benefit from a loan provided at a rate lower than the market rate, calculated in accordance with the manner stated by the OECD's DAC and expressed as a percentage of the loan's nominal value. In the case of a variable interest rate, the concessionality shall be determined at the time of commitment based on an expected average interest rate over the course of the loan. Grants – or subsidies without repayment obligations as applicable in connection with these policy rules – shall be fully concessional. The concessionality of grants which are part of a total financing package shall be determined based on the size of the grant as a percentage of the total financing package's nominal value;

Project: the investment in, and/or building, of development-related public infrastructure in one of the DRIVE countries which occurs with the help of a DRIVE contribution;

Financing costs: the total costs related to taking out financing, consisting of the interest on the financing, the premium for taking out the financing and the premium related to obtaining guarantees or insurance;

Minister: the Minister for Foreign Trade and Development Cooperation;

Public-private partnership: a long-term contract between a private party and a local government authority to provide a public good or service, in which the private party generally bears a major portion of the risk and is responsible for the associated operational and/or maintenance activities, in which remuneration is linked to performance.

CHAPTER I. GENERAL

1.1. Policy context

A new agenda for aid, trade and investment was presented in the policy letter A World To Gain². The agenda focuses on three goals: eliminating extreme poverty, promoting sustainable, inclusive growth throughout the world and ensuring success for Dutch companies abroad. Although poverty is decreasing throughout the world, not everyone has benefited from this. Indeed, 900 million people the world over still live below the poverty line. Each year, 300,000 women die giving birth. Women and labor rights are still subject to intense pressure. Low and middle-income countries do not have many options for charting their own paths towards growth.

To ensure that everyone can benefit from trade and investment, obstacles precluding development need to be removed and opportunities must be created for vulnerable groups in low and middle-income countries to participate fully in the economy and in society. Investments aimed at improving conditions for developing a private sector foster a better business climate owing to the fact that they enable people in low and middle-income countries to better provide for themselves. Subsequently, aiding countries make the transition from aid to trade while enhancing sustainable economic growth.

Accessible, well-functioning infrastructure is essential for the development of a private sector, enabling effective entrepreneurship and foreign trade and investment and giving people the chance to provide for themselves.

1.2. Objective

The governments of developing countries often lack suitable financial resources for development-related infrastructure projects which cannot be financed and operated on a commercial basis. DRIVE³ offers these governments an attractive, flexible source of financing by furnishing subsidies to businesses. For the government tendering, this reduces the costs of transactions that tie in with DRIVE's objectives. Moreover, DRIVE offers financing tools which increase the financial security of projects.

DRIVE concentrates on private sector development: It aims to help people support themselves by improving the business climate in areas of public infrastructure as this promotes growth through local entrepreneurship, and an increase in jobs and productivity. Investments in public infrastructure directly or indirectly relating to this can be assisted by DRIVE in one or more of the following sectors:

- food security;
- water;
- sexual and reproductive health and rights (SRHR);
- climate.

The infrastructure to be completed must support and/or build on the Dutch agenda for aid, trade and investment, by, for instance, tying in with initiatives already undertaken as part of Dutch development policy.

1.3. Target group and territorial scope

DRIVE is open for application from companies across the globe which/who wish to be considered for contracts to carry out public infrastructure projects in one of the DRIVE countries, unless the country where the company is located and the sector in which it operates are subject to UN or EU sanctions. This safeguards the untied character of the program and maximizes the contribution which (international) businesses can make to development.

CHAPTER II. LEGAL BASIS

2.1. Parties

Multiple parties can be involved in DRIVE project, based on various legal relationships between them. A local government authority desires to improve access to public infrastructure calls for tenders for this project. As part of the tendering process, companies can make a bid including a financing proposal with the backing from a financier and the help of a DRIVE contribution.

2.2. Tools

DRIVE is essentially a subsidy program. Parties may be eligible under DRIVE for:

- a subsidy in the form of financial assistance which does not have to be repaid;
- a guarantee;
- a loan or
- a combination of these.

Such assistance may provide companies with the opportunity to make an attractive bid during the tendering process by offering the subsidy to cover the financing costs and possibly reimbursement, as a result of which a certain degree of concessionality can be acquired. Moreover, DRIVE may also provide a guarantee through one of the company's financiers. By the same token, a DRIVE loan can also be included in the financing proposal in the company's bid to the local government authority calling for tenders.

In any case, the contribution under DRIVE – whether it is provided directly or indirectly to the company – shall permit the company to compete for a contract awarded by the local government authority with a concessional financing proposal which would otherwise be unavailable.

2.3. Subsidy

The legal nature of the relationship between the company and DRIVE shall be a subsidy: a claim to financial resources, furnished by an administrative body with an eye to specific activities by the applicant and not as payment for goods, works or services delivered to the administrative body. The subsidy relationship between DRIVE and the company shall not only encompass the subsidy directly provided to the company and the loan or guarantee offered by DRIVE to the company, but shall also pertain to the DRIVE guarantee and DRIVE loan which may be furnished to the company's financier and the local government authority in connection with the intended project (the contract which the company is trying to secure). In the case of the latter the company will have a claim under which DRIVE must offer a guarantee or loan to the financier or local government authority if the company wins the tender. The claim, of course, cannot be enforced until the tender has resulted in the company being awarded a contract and the total financing package has definitively been agreed on. Thus, concluding the contract and arranging the financing shall be prerequisite for the subsidy. The same shall be true for cooperation by the financier and the local government authority: if the guarantee or loan offered cannot be executed because the financier or the local government authority unexpectedly turns out to be unwilling to enter into a guarantee or loan agreement with DRIVE under the proposed terms, DRIVE will be unable to honour the company's claims in this regard.

2.4. Decision and implementation agreement

The subsidy relationship shall be laid down in a subsidy decision. The guarantee or loan agreement shall be considered an agreement implementing this decision, even if the subsidy recipient (the company) is not itself a party to the agreement. In such instances, the consequences of any revocation or nullification of the decision shall be addressed in the agreement.

A DRIVE loan or guarantee shall be laid down in a loan agreement or guarantee agreement which is part of the subsidy decision as an implementation agreement⁴. The establishment of the subsidy decision shall be governed by public law, while the content of the agreement shall be governed by private law. The subsidy decision shall, therefore, not include the details of the agreement. This portion of the subsidy shall also be granted subject to the condition precedent that the intended agreement has come about within a period set in the decision. Accordingly, a favourable decision shall not in itself provide certainty to the applicant that the intended project will go forward; such certainty shall only exist if none of the conditions precedent arises. The decision does, however, signal the intention that DRIVE seeks to reach an agreement. If a guarantee is granted, the guarantee shall in fact be furnished subject to the condition precedent that the requesting financier actually furnishes the financing for which the guarantee was requested.

CHAPTER III. SUBSIDY AND FINANCING TOOLS

3.1. General

Various types of financial contributions may be provided under these policy rules. These contributions can take the form of subsidies without repayment obligations, loans and guarantees, both separately and in combination with one another. The idea is to make complete and concessional funding of infrastructural projects possible through DRIVE. Under this arrangement, the Netherlands Enterprise Agency (RVO.nl), the programme administrator, shall assist the applicant in structuring the financing of infrastructure projects in low and middle-income countries. RVO.nl shall determine whether the project meets these policy rules' criteria and whether the project is therefore eligible for support. The financing (including non-grant financing) needs to have been secured in a manner approved by the Agency beforehand. To safeguard the continuity of the project, financing (including the non-grant financing) from commercial sources is preferred. Lease contracts (or similar structures) shall only be permissible if ownership of the goods is transferred after the final lease payment to the tendering government or government agency (purchase obligation). If co-financing is obtained from other concessional sources, the DRIVE subsidy without repayment obligation shall be proportionately reduced.

Depending on the expected development impact of the underlying project, the income category of the country and the willingness of other financiers to provide co-financing, a subsidy without repayment obligation, a guarantee, financing or a combination of these tools may be furnished. RVO.nl shall independently perform a risk assessment for each tool.

For additionality reasons, the option of combining a subsidy without repayment obligation with commercial financing (combined or not, in turn, with export credit insurance provided by an expert credit insurer) shall be examined first. The Minister can also make guarantees available, insofar as the normal range of export insurance tools does not apply to the type of projects supported under DRIVE. A loan may be furnished only in very exceptional cases, after all other financing options have been exhausted.

For a contribution chargeable to DRIVE to be provided, the applicant must obtain the contract, a full concessional financing package must be available with the DRIVE contribution, and an agreement on the package must be reached by the applicant, the local government authority and financiers.

3.2. Subsidy without repayment obligation

At an applicant's request, the Minister may grant a subsidy without repayment obligation for the purpose of implementing development-relevant public infrastructure in one of the DRIVE countries. This subsidy concerns the portion of the total financing package for the project that is not linked to repayment obligations. The subsidy amounts to maximum of 20%, 35% or 50%, depending on the income category (higher middle-income, lower middle-income or lower-income country/least developed country/fragile state), being a percentage of the costs as stated in Section 4.3. This subsidy is intended to reduce the total costs of financing the project and thus to enable complete and concessional financing of public infrastructural projects in lower- and middle-income countries.

Furthermore, in the event that a country requires a minimum concessionality, pursuant to IMF and World Bank debt sustainability requirements, the subsidy must at minimum conform to the corresponding amount.

In the case of public-private partnerships (PPP; see also Section 3.5), the DRIVE subsidy without repayment obligation is limited to an amount of EUR 15, 21 and 30 million for the previously mentioned country categories.

If the project uses co-financing from other concessional sources, the DRIVE subsidy without repayment obligation is reduced on a pro rata basis, unless and to the extent that the applicant demonstrates the necessity of co-financing to finance the project in full, where appropriate in derogation from the percentages stated in this Section.

In the context of the DRIVE financing, the Minister can also agree a grant arrangement for a project with the government of the country concerned. That government, with application of the most suitable public procurement procedure, grants the contract for executing the DRIVE project to a company. This company subsequently applies for the DRIVE subsidy. In that case, the requirements for intake and application as stated in Sections 6.2 and 6.3 do not apply. The requirements for project size as stated in Section 4.3 apply to the entire project.

3.3. Guarantees

At a company's request, the Minister can provide a guarantee to cover both any losses on financing which has been provided and which a financier has contracted under an agreement with

the local government authority to make development-related investments in the public infrastructure of a DRIVE country.

Through this option, DRIVE can stand surety for up to 80% of the financing amount which a financier provides. The Minister shall take over a portion of the risks, and the financier shall thereby be more inclined to furnish financing or to furnish it under more favourable conditions. This tool is supplementary to the regular export credit insurance options by export credit agencies in the context of the OECD Arrangement⁵.

3.4. Loans

At a company's request, the Minister can provide a loan for the local government authority of up to 50% of the transaction amount with to the aim of financing development-related investments in the public infrastructure of a DRIVE country. The loan may be provided through a financier.

This tool may only be used if all other options for arranging the (residual) financing (including non-grant financing) have been exhausted. The higher loan management expenses must be justified based on the envisaged development impact.

The fee for the loans must be in line with market conditions. If a market-based fee cannot be determined through benchmarking, the fee percentage shall be set based on the Communication from the Commission on the revision of the method for setting the reference and discount rates⁶. The fee to be set may include a variable component in addition to a fixed fee.

3.5. Financing in connection with public-private partnerships

DRIVE can also offer financial support for public infrastructure tenders in which a public-private partnership carries out the contract, provided the project is not commercially feasible or bankable (or not in full). In principle, the same tools shall be available for these kind of projects as for fully public infrastructure projects. Given the nature of these kinds of projects, which generate their own revenue, utilising financing tools (guarantees or loans) shall be looked at first. The budgetary costs for these tools (including any guarantee payments) will be limited to at most €15 million, €21 million and €30 million for projects in upper-middle-income countries, lower-middle-income countries and low-income/least-developed countries respectively. The application must show the need for a subsidy in this respect.

If the public-private partnership does not have legal personality, the financing and/or subsidy under the Ministry of Foreign Affairs (Grants) Regulations 2006 may only be granted to one of the parties in the partnership which does have legal personality, notwithstanding Article 4.1 of the Ministry of Foreign Affairs (Grants) Decree. The subsidy recipient shall be subject to all of the obligations associated with the subsidy, irrespective of which party in the partnership is actually responsible for performing the relevant work. The application shall also include a description of the manner in which each party shall contribute to the public-private partnership's work and the manner in which decisions shall be taken in the public-private partnership.

If the public-private partnership does not have legal personality, the subsidy application shall too include an agreement between the parties under which the fulfilment of the obligations associated with the subsidy is ensured for the Minister.

⁵ <http://www.oecd.org/tad/xcred/theexportcreditsarrangementtext.htm>.

⁶ OJ 2008 C 14/6.

Because these types of situations involve complicated partnerships and financing structures, with expensive documentation and preparation, with which DRIVE countries still have little experience, a DRIVE contribution for such 'PPP' arrangements shall be limited to no more than two projects a year. Each year, the Minister shall evaluate this pilot to determine whether it should be continued, expanded or terminated.

CHAPTER IV. THE PROJECT AND THE PROJECT COSTS

4.1. General

DRIVE contributions may be awarded for the delivery of capital goods, works or services or a combination thereof for purposes of investment in the construction of development-related public infrastructure in one of the DRIVE countries.

4.2. The project

The project shall pertain to the contract to deliver capital goods, works or services which fit within the DRIVE objectives through which the applicant is associated with the local government authority. If this is necessary in RVO.nl's judgment, the project must include components which ensure the intended sustainability of the project, such as training, the delivery of spare parts for a reasonable number of years or agreements about further cooperation concerning operations. The application must present a clear, detailed picture of the various project components (goods, services, technical assistance and so forth).

4.3. Maximum project size

In the case of infrastructure purely intended to be publicly financed and operated, the total costs of implementing the project as agreed upon in the contract plus the financing costs may not be lower than EUR 5 million or higher than EUR 60 million. If the overarching project appealing for the DRIVE subsidy comprises additional contracts, the limit of EUR 60 million applies to these contracts taken together. Although public-private partnerships in principle do not have a project limit, there is a limit to the maximum DRIVE subsidy for PPPs as stated in Section 3.5.

4.4. Eligible project costs

Project costs that are eligible for a DRIVE subsidy include the costs of implementing the project as agreed upon in the contract plus the financing costs, without prejudice to the provisions of Sections 3.2 and 3.5. All costs must be specified in the application. The subsidisation of these costs is part of the subsidy without repayment obligation as stated in Section 3.2. All subsidy amounts are determined and made payable in euros.

4.5. Provisions and profit

The profit mark-up and the item 'provisions' must be reasonably proportional to the project. These items must, in RVO.nl's judgment, be in line with the market. Payment may not be obtained for the item 'contingencies' until substantiation has been given to RVO.nl and the Agency has accepted such substantiation.

CHAPTER V. ASSESSMENT CRITERIA

5.1. Threshold criteria

To qualify for a subsidy or financing under these policy rules, the application must at least:

- relate to a project in one of the DRIVE countries listed in Annex 1;
- relate to a project with a value of at least €5 million and at most €60 million, notwithstanding the provisions in Sections 3.2 and 3.4;
- clearly set out a qualitative and quantitative operating and maintenance plan for the public infrastructure concerned and the structural costs thereof;
- include an Environmental and Social Impact Assessment Criteria (ESIA) which is consistent with the IFC Performance Standards⁷ with respect to Category A or B projects as referred to in these Standards;
- clearly detail the supervision of compliance with the contract, which must be provided for by the local government authority;
- represent a value not exceeding the subsidiary percentages applicable to the particular country under these subsidy rules;
- include a feasibility study;
- contain the applicant's current and operational International Corporate Social Responsibility (ICSR) policy.

In addition, the applicant may not be listed in the World Bank's List of Ineligible Firms & Individuals, and the application may not include any activities listed in the exclusion list of the Dutch Entrepreneurial Development Bank (FMO)⁸.

5.2. Additionality

The subsidies and financing to be furnished shall be supplementary to the market and shall not compete with existing commercial financiers (no 'crowding out' effects). Consequently, subsidies and financing can only be requested if the commercial market is not willing to provide the financing (or not fully) or if the local government authority may not borrow on commercial terms based on the IMF's debt sustainability guidelines. The subsidies and financing to be furnished may be used for supplementary and/or joint financing solutions.

5.3. Development impact

The project which is the subject of an application shall be reviewed under DRIVE for development impact on the basis of the project information, the applicant's bid for delivering goods, works and services in connection with the project, and the local context.

Project proposals shall be assessed based on the objectives below. The score for each of the factors must at least be 'satisfactory'.

- The project positively contributes to private sector development, that is, it improves the business climate, leading to inclusive growth through local entrepreneurship, more jobs and greater productivity, so that people can better provide for themselves.
- The project ties in with the policy objectives of the country or region concerned and, in that regard, meets the needs of the intended end users, so that there is ownership of, and support for the project.
- The impact of building the project outweighs the costs incurred for this in terms of quantity and quality. Value for money is key.
- The project is sustainable from a technical, institutional, legal, social and ecological standpoint and is able to withstand the effects of climate change. Local content and the sustainable transfer of skills are also considered, with there being sufficient commitment and capacity on the part of the relevant parties or an action plan to raise this to the appropriate level. The use of fossil fuels in projects in the field of power supply is excluded, if in the local context less-polluting alternatives are also available.

5.4. Programmatic coherence

Programmatic coherence: The Infrastructure Project ties in with a coherent programmatic approach based on focus and synergy:

- focus: the infrastructure to be constructed not only contributes to the development of the private sector but will preferably also act in support of one of the priorities in Dutch policy in the field of food security, water and sexual and reproductive health care and rights, and the Dutch objective of promoting climate-relevant investments;

⁷ <http://www.ifc.org/performancestandards>.

⁸ <http://www.fmo.nl/exclusion-list>.

- synergy: the infrastructure to be constructed will support or expand on the Dutch agenda for aid, trade and investments, for example by tying in with initiatives already undertaken in the framework of Dutch development policy.

5.5. International Corporate Social Responsibility (ICSR)

The ICSR assessment shall be an integral part of the subsidy application. Applicants must satisfy the OECD guidelines for multinational enterprises⁹. These guidelines specify what the Dutch government expects in terms of companies' conduct. They offer a reference point for corporate codes of conduct for dealing with different aspects of corporate social responsibility. The guidelines discuss labour issues (including working conditions), taxes, consumer interests, anti-corruption efforts, information, competition, human rights, the environment, basic principles and supply chain management, and science and technology.

Within the framework of the OECD guidelines, companies need to take their supply chain responsibilities seriously. They must perform a risk analysis in accordance with the OECD guidelines regarding calling for tenders – and purchasing services and products – for the activity to be financed. The service and product supply chains necessary to manufacture the end product must be analysed.

Applicants should have good reputations with respect to ICSR. This should be apparent from the company's own recorded ICSR policy. The ICSR policy must be based on the OECD's basic principles and possibly certified under ISO 26000 or another provider of sustainable reporting methodologies. The application shall state how the ICSR policy is put into practice and who is responsible for this.

In regards to the project, the information supplied for the ICSR assessment shall be reviewed against the laws and regulations applicable in the specific DRIVE country and the IFC Performance Standards¹⁰.

Based on the risk analysis, a plan must at least be drawn up for high-risk projects to avoid or mitigate any negative effects and to optimise positive effects. Agreed ICSR measures shall be part of the terms under which the subsidy is granted. The applicant shall execute the measures proposed in this plan and report to RVO.nl on them.

DRIVE shall not finance any activities mentioned on the FMO exclusion list¹¹. Applicants shall also be prohibited from using artificial constructs to reduce their profits or the withholding taxes to be paid by them in relation to the project. 'Artificial constructs' shall mean any legal or other constructs which are solely designed to avoid taxes in whole or in part or to artificially reduce the tax assessments in those countries. The financing shall be subject to the specific reporting requirement referred to in the Reporting Requirements for Subsidies (Administrative Penalty) Act.

The recipient of the financing must ensure that the project partners and the first material supplier do not use child labour and/or forced labour, neither for the project to which the application pertains nor for other activities. The recipient must immediately report to RVO.nl any facts or circumstances which indicate the use of child labour or forced labour at these businesses.

5.6. Applicant

The applicant must comply with the ICSR requirements described in Section 5.5. Further, it must be sufficiently demonstrable to RVO.nl that the expertise, trustworthiness, financial standing and stability of the applicant is guaranteed. This must be shown, for instance, by the applicant's demonstrable international experience in effectuating similar projects. Moreover, the applicant's financial position must be sufficiently strong and appropriate for the scope of the project, so that successful completion can be guaranteed.

⁹ OECD Guidelines for Multinational Enterprises, 2011 version, see <http://www.oecd.org/corporate/mne/>. For the Dutch version, see <http://www.oesorichtlijnen.nl>.

¹⁰ <http://www.ifc.org/performancestandard5>.

¹¹ <http://www.fmo.nl/exclusion-list.nl>.

5.7. Procurement

To ensure value for money for the goods, works and services purchased with DRIVE's help, the goods, works and services procured in connection with the project to which the DRIVE application relates must take place on a transparent and competitive way, in accordance with the laws of the specific country. The OECD Good Procurement Practices for Official Development Assistance are used as guide. The responsibility for the procurement process rests with the local authorities.

5.8. Contract supervision

Qualitative supervision of contract compliance is essential to support the execution of a project receiving a DRIVE contribution. Supervision in this sense shall entail monitoring the project's execution and the quality assurance and progress monitoring for the project's execution, including the stated environmental and social requirements. Thus, the applicant must demonstrate that project compliance is being supervised qualitatively. An independent third party should preferably perform the supervision.

CHAPTER VI. PROCEDURE

6.1. Administrator

The Minister has assigned responsibility for administering these policy rules to RVO.nl and has granted the Agency an appropriate mandate and authorisation to that end. The Agency is part of the Ministry of Economic Affairs. In applying these policy rules, the Agency shall work under the responsibility of the Minister for Foreign Trade and Development Cooperation.

On the RVO.nl website a manual has been published with a detailed explanation of the requirements for applications under these policy rules. The manual is a guide for completing the intake and the application form. When discrepancies between policy rules and manual would arise, the text of the policy rules prevails.

6.2. Intake

Before submitting an application, the applicant must submit an intake request to RVO.nl. The Agency shall make an intake form available. The purpose of this intake shall be to assess at an early stage the feasibility of a potential DRIVE application. This will save companies from unnecessarily starting a subsidy application process, with all the related administrative costs. The intake procedure is also intended to get a better view on the total financing possibilities for a project and to provide support at an early stage to structure such financing. RVO.nl can act as an intermediary here.

It is the responsibility of the potential applicant to submit the intake request at such time that a worthwhile intake procedure is possible. An intake request which is submitted too late to make the intake procedure worthwhile shall in many cases result in an application which does not have much chance of success. An intake procedure shall generally take at least two months. This period may be longer for large and/or complex projects.

During the intake procedure, the requirements regarding the project's development relatedness and regarding the ICSR aspects shall in any event be reviewed. Any financing instruments envisaged shall also be reviewed during the intake procedure. RVO.nl may also ask substantive questions about the project which the potential applicant needs to discuss with the government of the country concerned. An intake procedure shall, therefore, not only include an intake request and an intake interview, but also progress interviews with the Agency with a view to generating additional written information to the Agency.

6.3. Application

After the intake procedure is completed, an application may be submitted to RVO.nl. An application which is submitted without a prior intake request and follow-up intake procedure shall not be taken into consideration. RVO.nl shall handle the applications in the decree in which they are received. The Agency shall make an application form available. The application may be submitted in Dutch or in English.

An application must be submitted no later than 30 business days plus 15 calendar days before the date the tender for the project is closed or the date the commitment is established when that is earlier. This will enable the Netherlands to notify the OECD of the proposed support for the project in accordance with the OECD's notification guidelines.

The application must be supplemented with the notice of publication of the tender for the project and the related documents within one week after the tender is published. The application shall not be complete until this information and any other required information which may be missing is received by RVO.nl. In dividing the budget among the applications submitted, the final date of receipt of the information resulting in a complete application shall be considered the date of receipt of the application.

A decision shall be taken on the application no later than two weeks before the tendering process concerned ends.

6.4. Decision-making for loans or guarantees

If an application pertains in whole or in part to a loan or guarantee, RVO.nl shall decide whether the application shall be handled separately or in combination with other financiers. The Agency's mandate is to enter into both indirect and direct financial agreements with a financier or local government authority based on the Agency's own evaluation.

6.5. Grounds for rejection

Applications shall be reviewed first against the admissibility requirements referred to in Part 4.1.1 of the General Administrative Law Act. The applications taken up pursuant to this admissibility test shall then be assessed in light of these policy rules' criteria. The Minister shall at any rate reject an application if one or more of these criteria are not satisfied.

In addition, the Minister can reject an application if granting the application would result in an uneven spread of projects as referred to in Article 8.3(d) of the Ministry of Foreign Affairs (Grants) Decree.

6.6. Transparency

For transparency reasons, the notification provided to the OECD in connection with the proposed support for the project shall be made public. Publication of the notice shall not include any information about the application or applicant or information which is otherwise company sensitive.

6.7. Reporting changes

If, at any time after the application is submitted or while the project is being executed, events occur which affect the background or substance of the project, the applicant must immediately report this and present any changes in the project to RVO.nl beforehand for approval. If major changes occur in the nature and scope of the project, this shall lead to a new assessment by the Agency and a new notification to the OECD.

6.8. Advance payments

Advance payments shall be paid in instalments, with the amount and payment date being stated in the decision granting the subsidy.

6.9. Progress reports

Each calendar year, the applicant must provide a substantive and financial report on the project's progress to RVO.nl. This reporting obligation shall take effect when the applicant's agreement with the government is concluded. The reports must be drawn up in conformity with the model included with the decision. If the progress report is not received on time, the Agency may suspend the rights under the decision.

6.10. Final report

Within six months after the work under the project is finished, the applicant must submit a request to RVO.nl to determine the subsidy. It must submit the following documents for approval:

- a 'Final Certificate of Completion' issued by the local government authority with respect to the activities falling under the project executed;
- a summary, substantive, and financial report written by the applicant concerning the entire execution of the transaction, which includes an explanation of the extent to which the obligations have been fulfilled and the stated goals have been achieved, as well as the extent to which and why the item 'contingencies' had to be utilised. The financial report should also include the subsequent costing for the project, with an analysis of any differences with the cost estimate set forth in the application form;
- a statement drawn up by a reputable, external accounting firm (the firm must be deemed acceptable by RVO.nl) that the executed project and financial report were audited and found to be in decree, that is, the work was carried out as agreed with the government and for the activities for which the subsidy was granted. The Agency's auditing protocol must be followed for this accountant's statement.

The final report must enable the Minister to obtain a good substantive and financial picture of the entire execution of the transaction.

6.11. Monitoring and evaluation

To monitor and evaluate the effect of the policy rules and the results and objectives achieved, RVO.nl may request the necessary information from the applicants concerned. This may be made public as part of the Netherlands' report to the IATI (International Aid Transparency Initiative). to that end An obligation may be attached to the decision or implementation agreement.

ANNEX

LIST OF COUNTRIES

For the purposes of these policy rules countries marked 'F' are considered to be fragile states.

Afghanistan (F)
Albania
Algeria
Angola
Armenia
Bangladesh
Bhutan
Bolivia
Burkina Faso
Cambodia
Chad (F)
Colombia
Democratic Republic of the Congo (F)
Djibouti
Egypt
Ethiopia
Philippines
Gambia
Georgia
Ghana
Guatemala
Guinea
Haiti (F)
India
Indonesia
Ivory Coast (F)
Jordan
Cape Verde
Kenya
Kosovo (F)
Laos
Lebanon (F)
Liberia (F)
Madagascar
Malawi
Maldives
Mali (F)
Morocco
Moldavia
Mongolia
Mozambique
Myanmar (F)
Nepal
Nicaragua
Niger
Nigeria
Pakistan
Palestinian Territories (F)
Peru
Rwanda
São Tomé and Príncipe
Senegal
Sierra Leone (F)
Somalia (F)
South Africa
Sri Lanka
Tanzania

Togo (F)
Tunisia
Uganda
Vietnam
Zambia