



PRESIDENT van de REPUBLIEK SURINAME

Telefoon: (597)420102 e-mail: secretariaat@president.gov.sr

Aan: De Voorzitter van De Nationale Assemblée,

Mw. Drs. Jennifer Simons

Onderwerp:

Aanbieding Ontwerpwet houdende goedkeuring van de 'Agreement for the Encouragement and Protection of Investment'

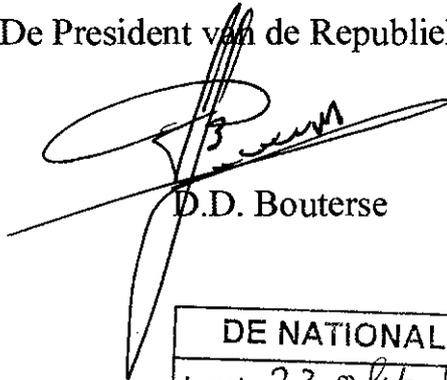
**kenmerk: secpres/1660/19
Paramaribo, 18 oktober 2019**

Geachte Voorzitter,

Hierbij doe ik u, krachtens de artikelen 103 en 104 van de Grondwet, voor behandeling door De Nationale Assemblée toekomen de Ontwerpwet als in hoofde genoemd met de bijbehorende Memorie van Toelichting, alsmede de documenten waarop de Ontwerpwet betrekking heeft.

Indien De Nationale Assemblée de voorkeur geeft aan een stilzwijgende goedkeuring van deze Overeenkomst, dan verneem ik zulks gaarne van u en verzoek ik u om in dat geval de bijgevoegde Ontwerpwet als ingetrokken te beschouwen.

De President van de Republiek Suriname,



D.D. Bouterse

cc Vicepresident
Minister van Financiën
Minister Buitenlandse Zaken
Secretaris van de Staatsraad

DE NATIONALE ASSEMBLEE	
Ingek.	23 oktober 2019
Agenda no.	2144/19
Verwezen	
Naar	

WET van.....,
houdende de goedkeuring van de Agreement
for the Encouragement and Protection of Investment

ONTWERP

DE PRESIDENT VAN DE REPUBLIEK SURINAME,

In overweging genomen hebbende, dat het nodig is om de Agreement for the Encouragement and Protection of Investment aan de goedkeuring van De Nationale Assemblée te onderwerpen, welke goedkeuring ingevolge artikel 104 lid 1 van de Grondwet, bij wet moet worden verleend;

Heeft, de Staatsraad gehoord, na goedkeuring door De Nationale Assemblée, bekrachtigd de onderstaande wet:

Artikel 1

De op 12 april 2019 getekende "Agreement for the Encouragement and Protection of Investment" wordt goedgekeurd.

Artikel 2

1. Zij wordt in het Staatsblad van de Republiek Suriname afgekondigd.
2. Zij treedt in werking met ingang van de dag volgende op die van haar afkondiging.
3. De Minister van Financiën is belast met de uitvoering van deze wet.

Gegeven te Paramaribo, de2019

DESIRE D. BOUTERSE

WET van.....,
houdende goedkeuring van de Agreement
for the Encouragement and Protection of Investment

Memorie van Toelichting

De "Agreement for the Encouragement and Protection of Investment (AEPI) is op 12 april 2019 getekend tussen de Republiek Suriname, vertegenwoordigd door de Minister van Financien en The Opec Fund For International Development (OFID) . Middels deze overeenkomst zal OFID investeringen in Suriname mogelijk maken ter stimulering van de private sector. De getekende "Agreement for the Encouragement and Protection of Investment" geeft het raamwerk aan voor investeringen. Hiermee wordt de weg geopend voor Suriname om gebruik te maken van de private sector instrumenten van OFID.

Het belangrijkste doel van deze overeenkomst is het bevorderen van de economische ontwikkeling door het stimuleren van productieve particuliere ondernemingen en het ondersteunen van de ontwikkeling van lokale kapitaalmarkten. Door deze overeenkomst zullen mogelijkheden beschikbaar zijn voor private ondernemingen alsook voor financiële instellingen ten behoeve van kleine, middelgrote en micro-ondernemingen. In het kader van deze overeenkomst zullen leningen worden verstrekt aan financiële instellingen voor doorlening aan kleine, middelgrote en micro-ondernemingen, alsook rechtstreeks aan specifieke projecten. Deelnemingen in aandelen in particulieren ondernemingen zullen ook worden ondernomen.

Ingevolge artikel 3.01 van de overeenkomst, zal OFID voorafgaand aan elke investering het gastland, in deze de Republiek Suriname op de hoogte stellen van een beoogde investering in de vorm van een schriftelijk projectvoorstel. Een dergelijk voorstel bevat een samenvattende verklaring met betrekking tot de beoogde investering en zal door OFID worden toegezonden aan de minister van Financien voor verdere overweging.

Artikel 3.02 geeft voorts aan dat OFID geen investeringen zal plegen op het grondgebied van Suriname, indien zij een bezwaar van de regering ontvangen tegen een beoogde financiering. Als voorwaarde voor het mogelijk maken van investeringen door OFID in ons land, vereist deze organisatie een ondertekening van een standaardovereenkomst met het betrokken land voor het aanmoedigen en beschermen van investeringsactiviteiten. De ondergetekende overeenkomst strekt daartoe.

Ingevolge artikel 13.01 van de AEPI zal deze agreement in werking treden wanneer het instrument voor ratificatie is ingediend en goedgekeurd door OFID.

Het onderhavige wetsontwerp is noodzakelijk ter voldoening aan het bepaalde in artikel 104 lid 1 van de Grondwet van de Republiek Suriname.

Paramaribo,

DESIRE D. BOUTERSE



OFID The OPEC Fund for International Development

**AGREEMENT FOR
THE ENCOURAGEMENT AND PROTECTION
OF INVESTMENT**

BETWEEN

THE REPUBLIC OF SURINAME

AND

**THE OPEC FUND FOR
INTERNATIONAL DEVELOPMENT (OFID)**

Dated: April 12, 2019

OFID The OPEC Fund for International Development

AGREEMENT between the Republic of Suriname (hereinafter called the Host Country) and the OPEC Fund for International Development (hereinafter called OFID).

Whereas OPEC Member States, being conscious of the need for solidarity among all developing countries and aware of the importance of financial cooperation between them and other developing countries, have established OFID to provide financial support to the latter countries, in addition to the existing bilateral and multilateral channels, through which OPEC Member States extend financial assistance to other developing countries;

Whereas OFID Member States have, in addition, empowered OFID to partake in the stimulation of capital flows thereto and, specifically, to assist in financing private sector activities involving entities located in the territories of other developing countries, including the Host Country, with a view to optimizing the aforementioned objective of financial cooperation;

And whereas the Host Country and OFID being mindful that a stable framework for the envisaged Investments will conduce to the effective utilization of economic resources and contribute towards the improvement of living standards; and, accordingly, have resolved to conclude an agreement for the encouragement and protection of such Investment activities;

Now, therefore, the parties hereto hereby agree as follows:

ARTICLE I
DEFINITIONS

1.01 Wherever used in this Agreement, and unless the context otherwise requires, the following terms have the following meanings:

- (a) "Investment" means every kind of investment owned or controlled directly or indirectly by OFID in the Territory of the Host Country and, without prejudice to the generality of the foregoing, includes investment consisting or taking the form of:
- (i) shares, stock, and other forms of equity participation, and bonds, credits, debentures, and other forms of debt interests, in a Company;
 - (ii) tangible property, including real property; and intangible property, including rights, such as leases, mortgages, liens, pledges and rights to payment arising under any form of debt instrument of whatever nature;
 - (iii) contractual rights, such as those under construction or management contracts, production or revenue-sharing contracts, concessions, or other forms of contracts;
 - (iv) rights conferred by or pursuant to law, such as licenses and permits; and
 - (v) intellectual property, including copyrights and related rights, patents, industrial designs, as well as advisory services and confidential business information.
- (b) "Company" means any entity established under or pursuant to the Host Country's laws and regulations, whether or not wholly or partially owned or controlled privately or by the state or any organ thereof, including a corporation, partnership, sole or joint venture or proprietorship, association or any other organization.

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- (c) "Force Majeure" means an event which is beyond the reasonable control of a party to this Agreement and which makes such party's performance of its obligations under this Agreement impossible, or so impractical, as to be considered impossible under the circumstances.
- (d) "OFID" means the OPEC Fund for International Development established by the Member States of the Organization of the Petroleum Exporting Countries (OPEC) by virtue of the Agreement signed in Paris on January 28, 1976, as amended.
- (e) "Host Country" means the Republic of Suriname, including all political or administrative subdivisions, and any agency or instrumentality thereof.
- (f) "Territory" means the territory of the Host Country, including its territorial sea as well as the exclusive economic zone over which the Host Country exercises sovereign rights for the purposes of exploring and exploiting, conserving and managing the natural resources, whether living or non-living of the water superjacent to the sea bed and of the sea bed and its sub-soil.

* * *

ARTICLE II **GENERAL PRINCIPLES**

2.01 With respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of Investments, the Host Country shall accord treatment thereto no less favourable than that it accords, in like situations, to Investments in its Territory by any other multilateral development finance institution operating in the Host Country (hereinafter referred to as "most favoured party").

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2.02 The Host Country shall ensure that its laws, regulations, administrative practices and procedures of general application, and adjudicatory decisions, that pertain to or affect Investments are promptly published or otherwise made publicly available.

2.03 The Host Country shall provide effective means of asserting claims and enforcing rights with respect to Investments and shall not in any way impair, by unreasonable or discriminatory measures, the management, conduct, operation, sale or other disposition of any such Investment.

2.04 The Host Country shall at all times accord to Investments in its Territory fair and equitable treatment and full protection and security, and shall in no case accord less favourable treatment than that required by or under international law.

2.05 The Host Country shall pursuant to its laws and regulations accord to OFID and its Investments or, as the case may require, the officials, agents and other representatives of OFID, treatment no less favourable than the Host Country accords to the most favoured party and its Investments (hereinafter referred to as "most favoured party treatment"), and such treatment shall extend but not be limited to the issuance of visas or permits to enter and remain in its Territory for the purpose of initiating, appraising, establishing or administering, winding up or otherwise terminating any Investment or any other activity connected therewith located in its Territory.

2.06 The most favoured party treatment shall not be construed so as to oblige the Host Country to extend to Investments the advantages resulting from:

- (a) any existing or future customs or economic union, a free trade area or regional economic organization of which the Host Country is or becomes a member; or
- (b) without prejudice to Article VII, any international or bilateral agreement or arrangement relating wholly or mainly to taxation.

2.07 The failure of either party to this Agreement to fulfill any of its obligations under the Agreement shall not be considered to be in breach of, or default under, this Agreement insofar as such inability arises from an event of Force Majeure, provided that the party affected by such event:

- (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Agreement, and
- (b) has informed the other party about the occurrence of such event, as soon as possible.

* * *

ARTICLE III
PRIOR NOTIFICATION OF INVESTMENT PROPOSAL

3.01 OFID shall prior to each Investment inform the Government of the Host Country about the envisaged Investment in the form of a written project proposal. Such proposal will contain a summary statement regarding the envisaged Investment and will be forwarded by OFID to the Minister of Finance, or other representative of the Host Country designated in that behalf, for further consideration.

3.02 OFID shall not finance any Investment in the Territory of the Host Country, if OFID receives an objection from the Government of the Host Country to such financing. Such objection can be conveyed to OFID by the Government of the Host Country, by official communication, in the form of Annex 1.

* * *

ARTICLE IV
EXPROPRIATION

4.01 The Host Country shall not expropriate or nationalize an Investment either directly or indirectly, through measures tantamount to expropriation or nationalization except for a public purpose; in a non-discriminatory manner; upon payment of prompt, adequate and effective compensation; and in accordance with due process of law and the general principles of treatment provided for in Article II above.

4.02 Compensation shall be paid without delay and shall be equivalent to the fair market value of the expropriated Investment immediately before the expropriatory action was taken; and be fully realizable and freely transferable. The fair market value of such Investment shall not be adversely affected by any change in value occurring because the expropriatory action had become known before the date of expropriation or its implementation.

* * *

ARTICLE V
COMPENSATION FOR LOSSES

5.01 The Host Country shall accord most favoured party treatment to Investments as regards any measure relating to losses that Investments suffer in its Territory owing to war or other armed conflict, revolution, state of national emergency, insurrection, civil disturbance or similar events.

5.02 The Host Country shall effect restitution, or pay compensation in accordance with Section 4.02 above, in the event that Investments suffer losses in its Territory, owing to war or other armed conflict, revolution, state of national emergency, insurrection, civil disturbance, or similar events, that result from:

- (a) requisitioning of all or part of such Investment by the Host Country's forces or authorities; or
- (b) destruction of all or part of such Investments by the Host Country's forces or authorities that was not required by the necessity of the situation.

* * *

ARTICLE VI
PAYMENTS AND TRANSFERS

6.01 The Host Country shall permit all transfers relating to an Investment to be made without restrictions and without delay into and out of its Territory. Such transfers include:

- (a) contributions to capital;
- (b) profits, capital gains, and proceeds from the sale of all or any part of the Investment or from the partial or complete liquidation of the Investment;
- (c) principal, interest, royalty payments, management fees, technical assistance and other fees;
- (d) payments made under a contract; and
- (e) compensation pursuant to Articles IV and V.

6.02 The Host Country shall permit transfers to be made in a freely convertible currency at the market rate of exchange prevailing on the date of transfer.

6.03 Notwithstanding sections 6.01 and 6.02, the Host Country may prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:

- (a) bankruptcy, insolvency or the protection of the rights of creditors;

- (b) issuing, trading or dealing in securities;
- (c) criminal or penal offences; or
- (d) ensuring compliance with orders or judgments in adjudicatory proceedings.

6.04 Notwithstanding Sections 6.01 and 6.02, transfers and other payments receivable by OFID in respect of an Investment may be subject to any generally applicable foreign exchange restrictions, regulations and controls in force in the Host Country arising from exceptional balance of payments difficulties of limited duration and in consonance with the exercise in good faith of powers conferred in that behalf by law.

* * *

ARTICLE VII
EXEMPTION FROM TAXATION

7.01 In compliance with the general principles set out in Article II and, in particular, the stipulations relating to most favoured party treatment, OFID, its assets, property, operations, any obligation or security issued or guaranteed by OFID and any other transactions undertaken by OFID in connection with any Investment in the Territory of the Host Country, authorized by or pursuant to this Agreement, shall be exempt from any withholding tax or any other form of taxation on dividends or on any other payment or transaction specified under or pursuant to Section 6.01 or levies or duties chargeable or otherwise imposed by, or in the Territory of, the Host Country; and references in this Article to OFID shall, *mutatis mutandis*, be construed as including references to the officials, agents and other representatives of OFID specified in Section 2.05 above.

7.02 Notwithstanding Section 7.01, it is hereby understood that:

- (a) the reference therein to the officials of OFID shall not include nationals and other third parties resident in the Host Country;
- (b) any Company in which OFID has an Investment shall at all times be deemed to be subject to the laws of the Host Country and, without limiting the generality thereof, shall include all applicable tax or other form of fiscal legislation.

* * *

ARTICLE VIII
CONSULTATION

8.01 The parties to this Agreement agree to consult promptly, on the request of either, to resolve any dispute, controversy or claim in connection with this Agreement or the breach, termination or invalidity thereof or otherwise relating to the interpretation or application of this Agreement or the realization of the objectives of this Agreement.

* * *

ARTICLE IX
ARBITRATION

9.01 Any dispute, controversy or claim arising out of or relating to this Agreement or the breach, termination or invalidity thereof or otherwise relating to the interpretation or application of this Agreement, that is not resolved through consultations, shall be submitted upon request of either party to an arbitral tribunal for a binding decision in accordance with the applicable rules of international law. In the absence of an agreement by the parties to the contrary, the UNCITRAL Arbitration Rules, in force and effect on the date of this Agreement, shall govern.

9.02 The Host Country and OFID will each appoint one arbitrator and the two arbitrators so appointed shall together appoint the third arbitrator as chairman, failing which such third arbitrator shall be appointed by the International Court of Arbitration in Paris, France. Where the UNCITRAL Arbitration Rules do not provide for a particular situation, the arbitrators shall in their absolute discretion determine what course of action should be followed and the arbitrator's decision shall be final.

9.03 Any arbitration under this Agreement shall be held in a state (not being the Host Country or any Member State of OFID) that is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done in New York, United States of America, on June 10, 1958; and the English Language shall be used throughout the arbitral proceedings.

9.04 Each party to this Agreement hereby waives any right of sovereign immunity as to it and its property in respect of the enforcement and execution of any award rendered by an arbitral tribunal constituted under or pursuant to this Agreement.

* * *

ARTICLE X
GOVERNING LAW

10.01 This Agreement and all documents executed in connection therewith as well as their validity, enforcement, interpretation and all disputes arising thereunder, shall be governed by the applicable provisions of this Agreement and shall be supplemented by the applicable principles of international law and *ex aequo et bono*.

* * *

ARTICLE XI
MAINTENANCE OF OTHER RIGHTS
AND OBLIGATIONS

11.01 This Agreement shall not be construed so as to derogate from any obligations of the Host Country under the following measures, especially in cases where such measures entitle Investments to treatment more favourable than that accorded by this Agreement, that is to say:

- (a) the laws and regulations, administrative practices or procedures, or administrative or adjudicatory decisions of the Host Country;
- (b) international legal obligations; or
- (c) any other obligations assumed by the parties to this Agreement, including those contained in an Investment authorization or an agreement or other legally enforceable undertaking for or in connection with an Investment.

* * *

ARTICLE XII
COMMUNICATIONS

12.01 Any notice or other communication required or permitted to be given or made under this Agreement shall be in writing. Such notice or communication shall, as appropriate for the concerned requirement, be deemed to have been duly given or made when it has been delivered by hand, mail, telefax or other electronic means to the party to which it is required to be given or made, at the party's address specified below or at any other address as the party shall have specified in writing to the party giving the notice or making the communication.

OFID The OPEC Fund for International Development

For the Host Country:

Minister of Finance
Ministry of Finance
Tamarindelaan 3
Paramaribo
SURINAME

Telefax: (+597) 476314

For OFID:

The Director-General
The OPEC Fund for International Development
P.O. Box 995
A-1011 Vienna
AUSTRIA
Telefax: (+43-1) 5139238

* * *

ARTICLE XIII **ENTRY INTO FORCE,** **DURATION AND TERMINATION**

13.01 This Agreement shall enter into force following the receipt by OFID of the instrument of ratification, a legal opinion or certification, or other documentary evidence of approval by the Host Country of this Agreement and upon the written certification by OFID that all its internal legal requirements for the entry into force of this Agreement have been fulfilled.

13.02 This Agreement shall remain in force for a period of ten years and shall continue in force unless terminated in accordance with Section 13.03.

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13.03 Each party may terminate this Agreement at the end of the initial ten years period or at any time by giving one year's written notice to the other party.

13.04 Notwithstanding the termination of this Agreement, all other provisions thereof, except those relating to the establishment of a new Investment, shall continue to apply to any Investments established or acquired prior to the termination date of this Agreement.

* * *

OFID The OPEC Fund for International Development

IN WITNESS whereof, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in Washington D.C., USA, in two copies in the English language, each considered an original and both to the same and one effect.

FOR THE HOST COUNTRY:

Signature:

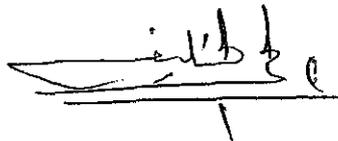


Name:

H.E. Gillmore Hoefdraad
Minister of Finance

FOR THE OPEC FUND FOR INTERNATIONAL DEVELOPMENT (OFID):

Signature:



Name:

Abdulhamid Alkhalifa
Director-General



* * *

ANNEX 1

*[to be printed on the official letterhead of the Ministry of Finance
or other government authority issuing the statement]*

LETTER OF OBJECTION

To: The Director-General
OPEC Fund for International Development (OFID)
Vienna, Austria
Fax No.: +43 1 513 92 38

This is in reference to the *Agreement for the Encouragement and Protection of Investment (AEPI)* between the Republic of Suriname and the OPEC Fund for International Development (OFID), which entered into force on [insert the date of AEPI effectiveness communicated by OFID].

In accordance with Article III of AEPI, I hereby convey the "objection" of my Government to the proposed OFID loan to [insert title of the project] in response to your letter of [insert the date of OFID letter].

[if applicable insert "Furthermore, kindly note that the proposed financing facility is not consistent with my Government's development program"].

Signature:

Name:

Title:

Date: