

Title
<p>3 NOVEMBER 2001 - [Act of 3 November 2001 on the establishment of the Belgian Investment Company for Developing Countries.] <L 2017-11-23/16, art. 48, 005; In force as of: 01-01-2018> (NOTE: Consultation of previous versions as of 17-11-2001 and updated until 20-11-2018)</p> <p>Source: FOREIGN AFFAIRS, FOREIGN TRADE, INTERNATIONAL COOPERATION Publication: 17-11-2001 number: 2001015130 page: 39093 IMAGE File No.: 2001-11-03/34 Entry into force: 17-11-2001 A11 *** 17-11-2001 A12 *** 17-11-2001 A13 *** 17-11-2001 A14</p>

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<p>CHAPTER I. – General provision.</p> <p>Article 1. This Act governs a matter referred to in Article 78 of the Constitution</p> <p>CHAPTER Ibis. [¹ - Definitions]¹ ----- (1)<Inserted by L 2016-07-21/21, Art. 2, 004; In force as of: 21-08-2016></p> <p>Art. 1bis. [¹ In this Act, the terms below shall have the meanings provided: 1° "MSME" (Micro, Small and Medium-Sized Enterprises): enterprises that do not reach the limits set by the European Commission on annual turnover and balance sheet total (recommendation 2003/361/EC of 6 May 2003); 2° "countries of intervention": developing countries belonging to the following categories as defined by the Development Cooperation Committee of the Organisation for Economic Cooperation and Development (OECD):</p> <ul style="list-style-type: none"> - the least developed countries; - low income countries 		

- lower middle income countries
- upper middle income countries;

3° "technical assistance": all measures intended to reinforce the competencies of enterprises and support their activities in technical, financial, administrative, social, and environmental areas, as well as in relation to management, [2, good governance and digitization] 2. The aim of technical assistance [2....] 2. is to improve their performance in economic, social, environmental and developmental areas;

4° "feasibility study": a study that examines whether or not a project is technically feasible and economically profitable. The study formalises a project in terms of costed, realistic, measurable and attainable objectives in a given context and indicates the resources necessary to achieve them;

[24/1° "the interested parties": the economic actors in the company's production and market chain in the country of intervention;] 2

5° "intermediate structure": the investment funds, holdings or investment companies focusing solely on enterprises established in the countries of intervention, as well as financial banking and non-banking institutions such as commercial or cooperative banks, micro-finance banks and institutions, leasing companies, factoring companies and insurance companies that offer services to companies and to the populations of the countries of intervention;

6° "final beneficiary": the enterprise established in the country of intervention that receives the intervention.¹

(1)<Inserted by L [2016-07-21/21](#), art. 3, 004; In force as of: 21-08-2016>

(2)< L [2018-10-25/14](#), art. 2, 006; In force as of: 01-01-2019>

CHAPTER II. - Establishment of the Belgian Investment Company for Developing Countries.

Art. 2. The Belgian State and the Belgian Corporation for International Investment NV/S.A. may jointly establish the Belgian Investment Company for Developing Countries, abbreviated to BIO. BIO is incorporated in the form of a "société anonyme" (public limited liability company).

The Belgian State and the Belgian Corporation for International Investment S.A. may participate in the capital of BIO and provide it with any other form of financing. Companies with specific experience in the field of foreign investment or companies with a specific experience in financing local enterprises [¹ or in the field of social economy]¹ in developing countries [¹as well as organisations and companies whose corporate object includes the funding of local entrepreneurship in developing countries]¹, may also participate in the capital of BIO or provide it with other forms of financing.

With regard to the establishment of BIO, the Belgian State is represented by the Minister competent for Development Cooperation. The same member of government also represents the Belgian State at the General Meeting.

(1)<L [2014-01-20/09](#), Art. 2, 003; In force as of: 23-02-2014>

Art. 2bis.¹ § 1. The Board of Directors is composed of twelve members and includes an equal number of French and Dutch speaking members.

§ 2. The Board of Directors is composed so that it collectively has a useful and demonstrable experience in the area of:

- 1° international development and development cooperation;
- 2° international investments;
- 3° financial analysis;

4° business management.

The Board of Directors is composed of members from:

1 ° federal government institutions;

2 ° the business world;

3 ° the academic environment;

4 ° civil society organisations,

institutional and governmental actors and international organisations.

This can involve both people in active careers and pensioners.

At least one member of the Board of Directors should have an additional knowledge and expertise

in the field of audit and organisation management.

At least one member of the Board of Directors should have an additional knowledge and expertise

in the field of personnel and personnel evaluation.

At least one member of the Board of Directors should have a specific knowledge and expertise in the field of investments

§ 3 In its composition, the Board of Directors respects the legislation on gender.

§ 4. The members of the Board of Directors are appointed by Royal Decree, issued after deliberation by the Council of Ministers,

§ 5. The members of the Board of Directors are appointed for a renewable five-year term.

§ 6. The general meeting determines the remuneration of the members of the board of directors. This remuneration is borne by BIO.

§ 7. When a mandate of a member of the Board of Directors becomes vacant, the remaining members of the Board of Directors will arrange to temporarily fill this vacancy until the definitive appointment of a new member in accordance with paragraph 4

§ 8. Without prejudice to other restrictions stipulated by or pursuant to a law or by the articles of association of BIO, the mandate of member of the board of directors is incompatible with the following mandates or functions:

1 ° member of the European Parliament or the European Commission;

2 ° member of the Chamber of Representatives or of the Senate;

3 ° member of the federal government or member of the policy unit of the federal minister competent for development cooperation;

4 ° member of a community or regional parliament;

5 ° member of a community or regional government;

6 ° governor of a province, including the deputy governor of the province of Flemish Brabant and the commissioner of the federal government who holds the title of vice-governor, appointed in the administrative district of Brussels-Capital, district commissioner or member of a provincial council;

7 ° member of the staff of BIO;

8 ° mayor, alderman or chairman of the public welfare centre of a municipality with more than 50 000 inhabitants;

9 ° holder of a full-time mandate or a full-time position in an intermunicipal company or its derivative structures.

If a member of the Board of Directors fails to comply with the provisions of the first paragraph, s/he must abandon the relevant mandates or functions within a period of one month. If s/he fails to do so, s/he shall be legally deemed to have abandoned his/her mandate with BIO after this period has expired, without prejudice to the validity of the

acts s/he has since rendered or of the deliberations in which s/he has been engaged in the relevant period.

§ 9. The Director-General for Development Cooperation and Humanitarian Aid represents the Directorate General for Development Cooperation and Humanitarian Aid of the FPS Foreign Affairs, Foreign Trade and Development Cooperation within the Board of Directors. S/he is not entitled to vote. His/her remuneration is equal to that of the members of the Board of Directors and is charged to BIO.

§ 10. All members of the board of directors sign the charter of the member of the board of directors of public companies, as adapted to BIO and included in the annex to the management contract.]¹

(1)<L [2018-10-25/14](#), art. 3, 006; Entry into force: 01-01-2019>

Art. 2ter. [¹ The King, by a decision taken after consultation in the Council of Ministers, appoints the chairman of the board of directors as well as the vice-chairman, who is of the other language group and of the opposite sex than the chairman, among the members of the board of directors.

The chairman and the vice-chairman will be dismissed by a royal decree established after consultation in the Council of Ministers based on a motivated opinion of the board of directors, approved by an absolute majority.

The dismissal of the chairman or of the vice-chairman in their capacity as members of the board of directors automatically brings about their dismissal as chairman or vice-chairman.

In the event of a tie of votes in the board of directors, the chairman's vote or, in his/her absence, the vice-chairman shall be decisive.]¹

(1)<Inserted by W [2018-10-25/14](#), art. 4, 006; Entry into force: 01-01-2019>

Art. 2quater. [¹ The board of directors establishes an audit committee, an investment committee and a human resources committee.

These committees have an advisory vote.

The board of directors may set up any other committee that it deems necessary to assist the board of directors.

The board of directors determines the composition, powers and functioning of the committees and draws up internal rules for each committee.]¹

(1)<Inserted by W [2018-10-25/14](#), art. 5, 006; Entry into force: 01-01-2019>

Art. 2quinquies. [¹ § 1. BIO is responsible for the high-quality execution of its corporate purpose and the assignments assigned to it, in accordance with the provisions of this Act and other applicable legislation, the management contract and the articles of association.

§ 2. The management contract between the Belgian State and BIO determines the criteria for the management capacity that BIO must meet in order to fulfil these responsibilities, the applicable procedures for testing them and the consequences when BIO does not meet the aforementioned criteria.

§ 3. In the context of the preparation of a new management contract, during the last

year of the current management contract, it will be verified whether BIO meets these criteria. Upon the establishment of a new management contract, BIO will be deemed to have the necessary management capacity for the duration of that management contract.

§ 4. BIO has the responsibility to meet these criteria for the duration of the management contract.

§ 5. BIO can obtain accreditations from recognized bodies or international organisations. Obtaining an accreditation serves as proof of the management capacity for the object of the accreditation for the duration of the accreditation.

The King determines by decree in consultation with the Council of Ministers the list of recognized and international accreditations that qualify for this.

§ 6. During the term of the management contract, each government commissioner, after discussion in the board of directors and after the failure of remedial measures, can propose that it be verified whether BIO still meets these criteria.

The Minister for Development Cooperation will take a formal; motivated decision within fourteen days of notification of the advice of one or both government commissioners.]¹

(1) < W [2018-10-25/14](#), Art. 6, 006; In force as of: 01-01-2019 >

Art. 3.¹ BIO's corporate object is to invest directly or indirectly in the development of:

1° MSMEs and social economy enterprises located in the countries of intervention;

2° MSMEs and enterprises located in the countries of intervention, which contribute either to (i) improving access to energy for enterprises and the population of the countries of intervention, or (ii) improving access to digital technologies for companies and the population of the countries of intervention or (iii) that contribute to combating climate change in the countries of intervention;

3° MSMEs and enterprises established in the countries of intervention active in the production, processing, trading or marketing of agricultural raw materials, agricultural products and food products, thus directly or indirectly contributing to the improvement of food safety in the countries of intervention;

4° MSMEs and enterprises established in the countries of intervention whose purpose is to supply basic services to the populations of these countries.

BIO may invest if the interventions envisaged in subparagraphs 1.1 to 1.4 fulfil the following conditions:

1° they are intended to contribute to the economic and social progress of the countries of intervention and thus offer an adequate outlook for performance in terms of development;

2° they result, directly or indirectly, in sustainable productive employment, respecting fundamental labour rights as defined in the conventions of the International Labour Organisation;

3° [² offer expected returns that meet the yield objective determined in accordance with article 9, § 2, with respect to the interventions financed by the contributions in capital and outside capital and in accordance with Article 9, § 4, first paragraph, with regard to capital subsidies]²;

4° they are supplementary.

BIO shall perform its tasks without restriction. Direct or indirect financing shall not be conditional on the purchase of goods or services from Belgian enterprises.

BIO pursues an ambitious policy in terms of equality between men and women with a view to achieving fair distribution of the direct or indirect financing granted.]¹

(1) <L [2016-07-21/21](#), Art. 5, 004; In force as of: 21-08-2016>

(2) <L [2016-07-25/14](#), Art. 7, 006; In force as of: 01-01-2019>

Art. 3bis. [¹ With a view to achieving its corporate object, BIO may, in particular, undertake the following actions under market conditions:

- 1° incorporate foreign companies alone or jointly with other investors;
- 2° incorporate a management company under Belgian law, with a view to creating an investment fund;
- 3° take a direct participation in the capital of Belgian or foreign enterprises, including through the acquisition of subscription rights or other financial instruments that are convertible into capital;
- 4° grant medium-term or long-term financing in the form of loans or in other forms, such as the subscription of bonds or other debt instruments. The debt may or may not be subordinated, and may or may not be accompanied by the right to convert into capital or accompanied by sureties;
- 5° create or engage in minority participations in development funds, investment funds, investment companies or holdings established under Belgian or foreign law, focused exclusively on the countries of intervention, provided that the corporate object of these funds or companies is compatible with its own corporate object. If BIO is the sole manager of such development or investment funds, these funds shall be established under Belgian law;
- 6° manage or advise the funds or companies envisaged in paragraph 5 and provide other services to support the activity of such funds or companies, alone or in partnership, either directly or indirectly through enterprises that it establishes for this purpose or in which it has taken a participation;
- [² 6° /1 managing third-party funds with a view to realizing investments in the countries of intervention in accordance with the further rules to be agreed with the third parties concerned or advising third parties on investments in countries of intervention;]²
- 7° grant guarantees;
- 8° manage, grow and liquidate its interests and participations and directly or indirectly participate in the management, supervision, control and liquidation of companies, enterprises and associations;
- 9° study, develop and manage projects at the request of third parties;
- 10° perform all industrial, commercial, financial and promotional transactions and transactions in securities and real estate that are necessary or useful to the performance of its corporate object.]¹

(1) <Inserted by L [2016-07-21/21](#), Art. 6, 004; In force as of: 21-08-2016>

(2) <L [2018-10-25/14](#), art. 8, 006; In force as of: 01-01-2019>

Art. 3ter. [¹ § 1. BIO grants subsidies with a view to financing the following actions:

- 1° training programmes;
- 2° technical assistance programmes;
- 3° feasibility studies;
- 4° investment support programmes for MSMEs in the form of a financial grant for certain costs and assets with a view to the start-up or improvement of a company or new activity;
- 5° the analysis and production costs of investment files in the context of a probable financing by BIO.

The interventions referred to in the first paragraph are intended for the development of:

1 ° the companies referred to in Article 3, first paragraph, provided that the company concerned, at the time of granting the subsidy, is financed directly or indirectly by BIO through a financing as referred to in Article 3bis, 1 °, 3 °, 4 °, 5 ° or 7 ° or qualifies for such financing, but has not yet received such financing;

2 ° the interested parties of companies referred to in 1 °, provided it is demonstrable that a positive economic impact can be expected for the companies referred to in the provision under 1 °, as well as an important development impact on the interested parties concerned;

3 ° the intermediate structures financed by BIO;

4 ° the companies associated with the companies referred to in the provision under 1 ° within the meaning of Article 11, 1 ° of the Company Code, provided it is demonstrable that a positive economic impact can be expected for the companies referred to in 1 ° ;

5 ° the companies to be set up as referred to in Article 3, first paragraph, that directly or indirectly qualify for financing by BIO as referred to in Article 3bis, 1 °, 3 °, 4 °, 5 ° or 7 °.

The interventions referred to in the first paragraph, 2 °, may also relate to the professional associations or organisations of which the companies referred to in the second paragraph, 1 °, are members, provided that the intervention in question directly relates to the activities of the companies referred to in the second paragraph, 1 °.

§ 2. The beneficiaries of the grants are:

1 ° The companies referred to in paragraph 1, second paragraph, 1 °, 3 ° and 4 ° and third paragraph;

2 ° the promoter of the companies referred to in paragraph 1, second paragraph, 5 ° ;

3 ° the fund manager in the context of an investment fund financed by BIO whereby the subsidy is intended to finance interventions in favour of the companies financed by that investment fund.

If the grants are awarded to finance interventions intended for the development of interested parties, the beneficiary will always be an enterprise referred to in paragraph 1, second paragraph, 1 °.

§ 3. The subsidy amounts to a maximum of 350,000 euros per company referred to in paragraph 1, second and third paragraphs.

If the subsidy concerns the financing of a feasibility study, the amount referred to in the first paragraph is limited to 100,000 euros.

§ 4. The subsidy from BIO covers only part of the costs of the intervention concerned, in a ratio to be determined by BIO.

If the subsidy concerns the financing of a feasibility study, the financing of BIO is limited to a maximum of 50 percent of the costs of the feasibility study.

The subsidy must be additional.

§ 5. The subsidy is awarded by signing an agreement between BIO and the beneficiary.

The grant agreement contains:

1 ° the description of the interventions;

2 ° the further rules of the financing;

3 ° the reporting obligations, including the justification of the use of the funds, the control possibilities of BIO and the reimbursement conditions of the subsidy.

§ 6. The interventions referred to in paragraph 1 are financed with the subsidies referred to in Article 9, § 1, 4 °, and are not subject to a target in terms of returns.]¹

(1) < L [2018-10-25/14](#), art. 9, 006; In force as of: 01-01-2019 >

Art. 3quater. [¹ § 1. BIO itself is responsible for implementing the support programmes pursuant to article 3ter, § 1, subparagraph 1, for the development of one or more enterprises envisaged in article 3ter, § 1, subparagraph 2 and 3, either through its own human resources or through the intervention of experts that it appoints.

§ 2. The enterprise or enterprises targeted by the support programme will be precisely identified.

The use of this type of support must be justified adequately for each support programme.

§ 3. The cost of the support programme borne by BIO is fixed at a maximum of 350,000 euros per support programme.

When the support programme is a feasibility study, the amount envisaged in subparagraph 1 is limited to 100,000 euros.

§ 4 BIO only bears part of the costs of the intervention concerned, in a proportion to be determined by BIO.

When the support programme is a feasibility study, the cost borne by BIO is limited to a maximum of 50% of the cost of the support programme.

§ 5. The interventions referred to in paragraph 1 are financed by the subsidies referred to in Article 9, § 1, 4 °, and are not subject to a target in terms of returns.]¹

(1) < L [2018-10-25/14](#), Art. 10, 006; In force as of: 01-01-2019 >

Art. 3quinquies. [¹ § 1. BIO cannot invest directly or through an intermediate structure when the final beneficiary of the intervention or the intermediate structure is established in a country envisaged in article 307, § 1, subparagraph 5, a), of the Income Tax Code 1992, with the exception of countries of intervention considered by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes as not having substantially and effectively implemented the OECD standard during a period of less than five years.

§ 2. BIO cannot invest directly or through an intermediate structure when the final beneficiary of the intervention or the intermediate structure is established in a country envisaged in article 307, § 1, subparagraph 5, b), of the Income Tax Code 1992. This list is determined by Royal Decree issued after deliberation by the Council of Ministers.

§ 3. BIO cannot invest directly or through an intermediate structure when the final beneficiary of the intervention or the intermediate structure is established in a country included on the list of States that decline to negotiate and sign an agreement for the automatic exchange of tax and banking information with Belgium as of 2015, in accordance with the standards set by the OECD. This list is drawn up by Royal Decree issued after deliberation by the Council of Ministers.

§ 4. [²The limitations envisaged in paragraphs 1 to 3 also apply to support programmes funded by subsidies granted by BIO or directly implemented by BIO.]²¹

(1) < Inserted by L [2016-07-21/21](#), art. 9, 004; In force as of: 21-08-2016 >

(2) < W [2018-10-25/14](#), art. 11, 006; In force as of: 01-01-2019 >

Art. 3sexies. [¹ If the Directorate-General for Development Cooperation and Humanitarian Aid of the FPS Foreign Affairs, Foreign Trade and Development

Cooperation does not have the required expertise, the Belgian State may entrust BIO with commissions concerning:

- 1 ° management or consultancy services within the framework of the holdings held by the Belgian State in the development banks;
- 2 ° consultancy and training services relating to the development of the private sector in the countries of intervention.]¹

(1)<Inserted by W [2018-10-25/14](#), art. 12, 006; Entry into force: 01-01-2019>

Art. 4. BIO is a public limited liability company (“*société anonyme*”/“*naamloze vennootschap*”) governed by the coordinated laws on commercial companies, subject to any derogation therefrom in this act.

BIO's articles of association and the amendments thereto are resolved upon by the General Meeting. The draft deliberations of the General Meeting must be sent to the government commissioners at least fifteen days prior to the meeting.

Art. 4bis. [¹ § 1er. The special terms and conditions according to which BIO implements its corporate object are set out in a management contract between the Belgian State and BIO.

§ 2. The management contract covers at least the following subjects:

- 1 ° the policy framework;
- 2 ° BIO's missions and values;
- 3 ° the strategic priorities of BIO's investment policy as regards regional, sector and thematic concentration, specific rules for investment and criteria for granting financing;
- 4 ° the terms and conditions of BIO financing, both through contribution to own funds as well as subsidies, chargeable to the general budget for expenses of the Federal State;
- 5 ° the specific and measurable objectives to be achieved by BIO;
- 6 ° the specific rules for cooperation and development of synergies between BIO and other parties involved in Belgian Development Cooperation;
- 7 ° the procedures and objective parameters for the annual assessment of the management agreement;
- 8 ° the financial sanctions in the event a party does not comply with its commitments under the management agreement;
- 9 ° the obligations with regard to internal audit. [² ;]²
- [² 10 ° the way in which BIO implements the laws and conventions on gender;
- 11 ° the obligations regarding mutual communication;
- 12 ° the criteria and procedures for testing the management capacity to which BIO complies as well as the consequences when BIO does not meet the criteria of management capacity referred to in Article 2 quinquies;
- 13 ° the financial further rules concerning:
 - a) the provision of resources to BIO;
 - b) financial reporting and accountability;
- 14 ° the charter of the member of the board of directors of public companies, as adapted to BIO;
- 14 ° the charter of the member of the board of directors of public companies, as adapted to BIO;
- 15 ° the further rules concerning the capital subsidies referred to in Article 9, § 4, in particular:
 - (a) the minimum return targets associated with the capital subsidies;
 - (b) the strategic orientation on geographic and sectoral concentration of the

interventions financed by the capital subsidies;

(c) the nature and extent of the investments financed by the capital subsidies;

16° the further rules concerning the assignments referred to in Article 3bis, 6° / 1;

17° the detailed rules for granting the subsidies referred to in Article 3ter and the selection criteria applicable to that framework, including additionality, complementarity and synergy;

18° the additional conditions and the further rules concerning the interventions referred to in Article 3quater;

19° the detailed rules of the cooperation between the Belgian State and BIO within the framework of the assignments referred to in Article 3sexies.]²

§ 3. Any explicit termination clause in the management agreement is considered unenforceable.

Article 1184 of the Belgian Civil Code does not apply to the management agreement. The party with regard to whom an obligation set out in the management contract is not honoured may only oblige the other party to honour the obligation and, as the case may be, request indemnities, without prejudice to the application of any sanction provided for in the management agreement.]¹

[² § 4. The management contract is not a deed or regulation referred to in article 14 of the laws on the Council of State, coordinated on 12 January 1973.

All clauses are deemed contractual.]²

(1)<Inserted by L [2014-01-20/09](#), art. 9, 003; In force as of: 23-02-2014>

(2)<L [2018-10-25/14](#), art. 13, 006; Entry into force: 01-01-2019>

[Art. 4ter.](#) [¹ § 1. When negotiating and entering into the management agreement, the Federal State is represented by the Minister responsible for Development Cooperation.

§ 2. When negotiating the management agreement, BIO is represented in accordance with the law and the articles of association. The management agreement is submitted to the competent body of BIO that decides in accordance with the law and the articles of association.

§ 3. The management agreement shall only enter into force after it has been approved by the King, by means of a decree issued after deliberation by the Council of Ministers, on the date specified in the decree.]¹

(1)<Inserted by par L [2014-01-20/09](#), art. 10, 003; In force as of: 23-02-2014>

[Art. 4quater.](#) [¹ § 1. The management agreement is assessed yearly and, if required, amended in accordance with the amendments in the legislation applicable to BIO and the developments in the sector in which BIO evolves, in accordance with an objective procedure and objective parameters set out in the management agreement.

§ 2. Any amendment to the management agreement other than as referred to in § 1 proposed by one or both parties shall be made in accordance with Article 4ter.]¹

(1)<Inserted by L [2014-01-20/09](#), art. 11, 003; In force as of: 23-02-2014>

[Art. 4quinquies.](#) [¹ § 1. The management contract is entered into for a term of five years.

§ 2. BIO shall submit a draft of a new management agreement to the Minister responsible for Development Cooperation at least six months before the expiry of the management agreement.

If no new management agreement has entered into force upon expiry of the management agreement, the management agreement is automatically extended until such time as a new management agreement enters into force. Notice of such extension is published in the Belgian Official Gazette by the Minister responsible for Development Cooperation.

If no new management agreement has entered into force one year after the extension referred to in subparagraph 2, the King may, by means of a Decree issued after deliberation by the Council of Ministers, establish provisional rules regarding the matters referred to in Article 4ter, §2. These provisional rules shall be considered as a new management agreement and shall apply until such time a new management agreement, entered into in accordance with Article 4ter, enters into force.]¹

(1)<Inserted by L [2014-01-20/09](#), art. 12, 003; In force as of: 23-02-2014>

Art. 4sexies. [¹ The Decrees approving a management agreement or amendments thereto, and Decrees determining provisional rules, are published in the Belgian Official Gazette.

The provisions of the management agreement are published in the Annexes to the Royal Decree, except for those that are subject to a confidentiality undertaken by or pursuant to the law or the publication of which would be contrary to public order.]¹

(1)<Inserted by L [2014-01-20/09](#), art. 13, 003; In force as of: 23-02-2014>

Art. 4septies. [¹ BIO will draw up a business plan each year that will be approved by the Board of Directors. The business plan will contain the strategic and operational goals, including the associated indicators and a multi-year financial plan.]¹

(1)< Inserted by L [2018-10-25/14](#), art. 14, 006; In force as of: 01-01-2019>

Art. 5. [¹§ 1. BIO comes under the supervision of the Minister competent for Development Cooperation and the Minister competent for the Budget.

This control is performed by two government commissioners.

Each of the two members of government appoints one government commissioner. A substitute is appointed for each government commissioner in the event they are unable to perform their duties. In that case, the substitutes have the same powers as the government commissioners.

The two government commissioners are entitled to:

- 1° take note of all resolutions taken by the General Meeting, the Board of Directors, the committees established by the Board of Directors and the body responsible for day-to-day management.
- 2° make the requisite audits
- 3° to be furnished with all useful information for the audits as referred to under 2°.

If they deem it useful, they attend meetings of the General Meeting, the Board of Directors and the body responsible for day-to-day management. They attend with an advisory vote. The agendas of these meetings must be sent to them in due time. The government commissioners will receive the reports of these meetings.

§ 2. Every government commissioner can inspect on-site at all times, the accounts, correspondence, reports and all documents and writings of BIO.

Each government commissioner can request from the members of the Board of Directors, from the body responsible for the daily management and the employees of BIO all clarifications or information and carry out all the verifications s/he deems necessary to carry out his/her mandate.

BIO will immediately send to each government commissioner the remarks of the commissioners referred to in Article 5a, as well as the answers given for these remarks. Each government commissioner will communicate in writing with the Commissioners concerning the matters within his/her competence.

BIO will provide the government commissioners with human and material resources decision that are necessary to carry out their mandate.

The minister competent for development cooperation and the minister competent for Budget can, each for their competences and if they deem it useful, have the government commissioners assisted by experts. The remuneration of the experts is at the expense of BIO.

§3°. All the government commissioners can, with the minister that appointed him/her, file a suspensive appeal of any decision that s/he considers to be contrary to laws, decrees, the articles of association, management contract, business plan or the general public interest.

The government commissioner appointed by the minister competent for Development Cooperation will also ensure the embedding of development cooperation as one of the instruments of Belgian foreign policy, as well as the coherence of Belgium's foreign operations.

The government commissioner appointed by the Minister competent for Development Cooperation also ensures that all investment decisions are in accordance with the criteria set out by the Development Cooperation Committee of the Organisation for Economic Cooperation and Development referred to in Article 32 of the Act of 19 March 2013 on the Belgian Development Cooperation.

The government commissioners have seven business days as from the moment they become aware of a decision to suspend that decision.

The member of government concerned has fourteen calendar days as from the time s/he becomes aware of the suspension by the government commissioner, to annul the suspended decision.

He/she will notify the chairman of the Board of Directors of the decision.

If the Minister does not annul the suspension or does not announce this within this period, the decision may be implemented.

Subject to providing its motivation, the Board of Directors may invoke extreme urgency. In that case, the government commissioners have four business days from the time they become aware of the decision to submit the a suspensive appeal to their

respective member of government. In that case, the period of time referred to in the fifth subparagraph is shortened to four business days.

§4. The government commissioners' remuneration is set by the King. The cost is borne by BIO.

§ 5. When the compliance with laws, decrees, statues, the management contract, the business plan or the general interests require it, the minister competent for Development Cooperation or any government commissioner can require the competent governing authority to deliberate about this within the deadline s/he establishes.

If necessary for incorporating development cooperation as one of the instruments of Belgian foreign policy, or for the coherence of Belgium's foreign relations, the minister competent for Development Cooperation or the government commissioner appointed by him/her, can require the competent governing authority to deliberate about this within the deadline s/he establishes.]

(1)<W [2018-10-25/14](#), art. 15, 006; Entry into force: 01-01-2019>

[Art. 5bis](#). < L 2002-12-24/31, art. 459; In force as of: 10-01-2003> § 1. Two auditors shall conduct the audit of the financial situation, the annual accounts and the regularity of the transactions included in the annual accounts, from the point of view of the law and the articles of association of BIO.

§ 2. The Court of Auditors appoints one auditor from amongst its members. [¹ The Board of Directors]¹ appoints the other auditor amongst the members, natural or legal persons, of the Belgian Institute of Company Auditors.

§ 3. The auditors are appointed for a period of three years that is renewable.

(1)<W [2018-10-25/14](#), art. 16, 006; Entry into force: 01-01-2019>

[Art. 6](#). BIO may subscribe to private loans on the national or international capital market. The King may grant state guarantees for these loans.

[Art. 7](#). BIO drafts an annual report that is communicated to the House of Representatives by the Minister competent for Development Cooperation. The Minister competent for Development Cooperation may add to this report such notes as s/he deems fit.

[¹ [² BIO submits an annual justification report to the Minister competent for the use of resources referred to in article 9, § 1, 3° and 4°, to the member of government competent for Development Cooperation.

The report includes the following data:

1. a statement of the activities conducted;
2. the financial statement;
3. the assessment of the financial and developmental results obtained;
4. any amendments to be considered in relation to the strategy followed in accordance with the management agreement.]¹

(1)<L [2016-07-21/21](#), art. 10, 004; In force as of: 21-08-2016>

(2)<L [2018-10-25/14](#), art. 17, 006; Entry into force: 01-01-2019>

[Art. 8](#). [¹ § 1. BIO's actions are in line with the general objective of the Belgian Development Cooperation, in particular sustainable human development, as referred to

in Article 3 of the Act of 19 March 2013 on the Belgian Development Cooperation.

§ 2. Furthermore, BIO's interventions must satisfy the criteria set by the Development Cooperation Committee of the Organisation for Economic Cooperation and Development as referred to in Article 32 of the Act of 19 March 2013 on the Belgian Development Cooperation, i.e. relevance, effectiveness, efficiency, viability, impact and sustainability.]¹

(1)<L [2014-01-20/09](#), art. 15, 003; In force as of: 23-02-2014>

[Art. 9.](#) [¹ § 1. The Belgian State can grant resources to BIO by:

- 1 ° contribution to capital;
- 2 ° transferring outside capital by registering for profit certificates called development certificates;
- 3 ° capital subsidies;
- 4 ° subsidies other than capital subsidies;
- 5 ° fees for the assignments referred to in Article 3sexies.

§ 2. The use by BIO of the resources referred to in paragraph 1, 1 ° and 2 ° is bound by a target in terms of returns which means that the contribution can always be classified as a participation in the public sector in accordance with the European system of national law and regional accounts.

§ 3. The profit-sharing certificates referred to in paragraph 1, 2 ° are unavailable in the same way as the capital. They benefit from the same tax as the contribution to capital.

§ 4. The capital subsidies referred to in paragraph 1, 3 ° may be used to realize investments that have a lower target in terms of returns than as referred to in paragraph 2.

The cumulative amount of capital subsidies granted by the Belgian State to BIO represents a maximum of 15 per cent of the resources referred to in paragraph 1, 1 ° and 2 °.

The investments financed by the capital subsidies must be monitored separately in the BIO accounts.

The allowances for write-downs and the capital losses on the basis of the investments are made directly from the capital subsidy, as are the costs associated with the management of the investments made with the capital subsidies.

The amount invested by BIO as a result of the repayment of loans or the sale of capital participations financed by capital subsidies can only be used for new investments as referred to in the first paragraph. The proceeds of these investments are used for new investments as financed by capital subsidies.

§ 5. The subsidies referred to in paragraph 1, 4 ° are used to finance the interventions referred to in articles 3ter and 3quater and are not subject to a target in terms of returns.]¹

(1)<W [2018-10-25/14](#), art. 18, 006; Entry into force: 01-01-2019>

[Art. 9bis.](#) [¹ BIO's staff members are hired under an employment contract in accordance with the Act of 3 July 1978 on employment contracts.

Where BIO does not have the necessary expertise itself, it can call on third parties that have recognised competency, with a view to preparing investment decisions and supervising their implementation.]¹

(1)<Inserted by L [2016-07-21/21](#), Art. 11, 004; In force as of: 21-08-2016>

[Art. 10.](#) § 3. In Article 161, 1, of the Code of registration, mortgage and registry fees, the words 'deeds issued in the name of or in favour of the public limited liability company ("*naamloze vennootschap*" / "*société anonyme*") BIO' are inserted after the words 'voluntary deeds issued in the name of or in favour of the public limited liability company ("*naamloze vennootschap*" / "*société anonyme*") A.S.T.R.I.D.'

[CHAPTER III.](#) <Cancelled by W [2018-10-25/14](#), art. 19, 006; Entry into force: 01-01-2019>

[Art. 11.](#) <Cancelled by W [2018-10-25/14](#), art. 19, 006; Entry into force: 01-01-2019>

[Art. 12.](#)

<Cancelled by W [2018-10-25/14](#), art. 19, 006; Entry into force: 01-01-2019>

[Art. 13.](#)

<Cancelled by W [2018-10-25/14](#), art. 19, 006; Entry into force: 01-01-2019>

[Art. 14.](#)

<Cancelled by W [2018-10-25/14](#), art. 19, 006; Entry into force: 01-01-2019>

[CHAPTER IV.](#) – Entry into force.

[Art. 15.](#) This Act enters into force on the date of its publication in the Belgian Official Gazette.

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We hereby promulgate this Act, and order that it shall bear the seal of the State and be published in the Belgian Official Gazette.

Done in Brussels on 3 November 2001.

ALBERT

By the King:

The Minister of Foreign Affairs,

L. MICHEL

The Minister of Telecommunications and Public Enterprises and Participating Interests, responsible for Small Businesses,

R. DAEMS

The Secretary of State for Development Cooperation,

E. BOUTMANS.

"Ik zweer dat ik mijn opdracht in eer en geweten, nauwgezet en eerlijk vervuld heb."

Voor eensluidende vertaling ne varietur van het Nederlands naar het Engels

Gedaan te Buggenhout, op 15 januari 2019

FOD Justitie ID nummer : 30366 - Angelo Antinoro, beëdigd vertaler

