

## Annex 7 – Lessons Learnt

The review of evaluation reports of the PHARE programmes shows deficiencies previously encountered, as follows:

**The Interim Evaluation Report No. R/RO/ENV/02113** (Phare Programmes RO 0006.14 and RO 0107.15) - **findings:** “The objectives of the assessed programmes are relevant to the needs of the beneficiaries. However, in most cases, the design is too complex, given the time and resources available. Overall, there is scope for improving efficiency [...]. In general, coordination between stakeholders has not been satisfactory. However, flexibility of approach is evident, thereby assisting implementation.”

**The Interim Evaluation Report No. R/RO/ENV/03040** (Phare Programmes RO 0006.14, RO 0107.15 and RO-2002/000-586.04.12) - **findings:** “All programmes are *relevant* to the beneficiaries need to transpose and implement the environmental Acquis and are in-line with government policy and agreed priorities. The programmes are well structured, however, in most cases, the design appears ambitious, given the limited capacity of the environmental administration. In terms of *efficiency*, performance under Phare 2000 was adequate due to the efforts of individuals but this is expected to decline under Phare 2001 and 2002. With few exceptions, understaffing and lack of financial resources constrain efficiency.”

Regarding the programme’s *relevance*, it is mentioned: “Programme design is well structured with the output from one project being used as an input for another. Programme preparation is generally good but most programmes appear very ambitious considering understaffing, high staff turnover and subsequent limited absorption capacity across the environmental administration. The quality of the Indicators of Achievement and identification of risks and assumptions as given in the Project Fiches are variable; whilst for 2000 and 2001 they are poorly defined, for 2002 they are improved but still lack the necessary quantification.”

The experience of the MEWM from previous Phare projects implementation has shown that the most important is to prepare a logical project proposal: from the identification of the problems, setting realistic objectives, results and activities, establishing management organisation, to monitoring on the basis of objectively verifiable indicators. The preparatory works (drafting tender documents) should be done in time and all needs assessment regarding equipment acquisition ready before the project can actually start.

It should be noted that the development of the project fiche is taking into account the previous experience gathered from designing and implementing PHARE programmes fiches for 2001, 2002 and 2003.

The project fiche has been improved by virtue of better definition of actions, expected results, indicators of achievement, realistic and correct identification of risks and assumptions.

The sector programme was designed based on the recommendations provided on PHARE programmes, such as:

- Programme’s targets are achievable with the available and/or planned number of staff;
- Responsibilities and co-ordination mechanism are clearly defined;
- Actions are clearly defined and affordable within the planned budget.

**The Interim Evaluation No. R/RO/ENV/0410** - from Nov.2004 (Programmes covered: **RO-0107.15**, **RO-2002/000-586.04.12** and **RO 2003/005-551.04.11** - Author: Ecotec Research and Consulting) - **Key achievements, findings:** “All programmes are *relevant* to the beneficiary needs as they address the transposition of remaining legislation and the need to accelerate implementation of environmental directives. The majority of the programmes build on outputs from previous programmes and the selection of assistance instruments appears appropriate.

As a result of the corrective actions taken the majority of programmes have been or are expected to be *effective*. Progress has been made regarding legislative transposition. Administrative systems and structures are being defined, established and strengthened. However, questions remain as to operational matters regarding the execution of duties by the different authorities and agencies within the environmental administration and the transfer of responsibilities.

The programmes’ *impact* will be realised in the long-term through improvements to the environment. Generally, the programmes represent the beginning of a process that will take considerable time. A key element is the concept of cost effectiveness and the implications this has for strategic planning. There is little evidence that environmental issues are given sufficient consideration or are integrated into other sector strategies.”

**The Interim Evaluation No. R/RO/ENV/0526** - date: **10 November 2005** (Programmes covered: **RO-0107.15**, **RO-2002/000-586.04.12** and **RO 2003/005-551.04.11** – Author: Ecotec Research and Consulting)

“All programmes are *relevant* to the beneficiary needs as they address the transposition of remaining legislation and the need to accelerate implementation of environmental Directives. Overall the programmes are more concerned with institutional capacity building; only one project is exclusively investment. The majority of the programmes build on outputs from previous programmes and the selection of assistance instruments appears appropriate. The structure of the projects is generally good but there is a lack of precision in some programme documents.

Staff turnover following Ministerial restructuring initially affected project implementation. However, throughout the project cycle the capacity of the various levels of environmental administration has steadily improved and many of the earlier difficulties were overcome by more *efficient* management, co-operation between the stakeholders, and contractors’ flexibility.

As a result of the corrective actions taken, the programmes are achieving their objectives and, on this basis, the assessment of *effectiveness* across the sector is good. Progress has been made regarding legislative transposition and administrative systems and structures are being defined, established and strengthened. Although training has been generally well appreciated, its effectiveness is diminished as a result of staff turnover and institutional changes.

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Although the environmental administration is engaged in a staff recruitment campaign, *sustainability* is threatened as staff recruitment and retention remains a challenge across the public administration. Many of the deliverables – planning documents, guidelines, and templates – devised under the programmes are sustainable but using them requires retaining suitably trained staff. The cost of compliance with the environmental *acquis* has been estimated in a range from 29.3 billion € to 39 billion €. This, by any measure, is a significant cost and is indicative of the challenges facing the environmental sector administration”.

**The European Commission's 2005 Comprehensive Monitoring Report on Romania towards Accession** states the following in the **environmental field**:

.....  
*'Horizontal legislation is largely in place and in line with the acquis. Transposition has to be completed with regard to implementing legislation related to the Strategic Environmental Assessment and Access to Information Directives. Administrative capacities are in place, but further strengthening, recruitment and staff training have to take place to ensure the correct implementation of the transposed legislation.*

*In the field of **air quality**, legislation is in place and in line with the acquis. The relevant administrative capacities have been established and are beginning to function. Measures for the improvement of air quality management and monitoring as well as for the development of air quality plans and programmes have to be continued and enhanced. Transitional arrangements, with intermediate targets, have been agreed until the end of 2007 and the end of 2009 for volatile organic compound emissions for a certain number of installations.*

*As regards **waste management**, legislation is in place and in line with the acquis. The necessary implementing legislation on the special regime of the management and control of polychlorinated biphenyls (PCBs) and polychlorinated terphenyls (PCTs) has been taken. Administrative structures are in place and functioning but need further strengthening.*

*Regional waste management plans still have to be adopted. Recycling and recovery rates for various packaging materials have to be gradually increased according to the agreed schedule.*

*A database of the **historical contaminated sites** and a strategy and an action plan for the rehabilitation of historical contaminated sites must be elaborated.*

*Regarding the healthcare waste management, this is regulated by the Minister of Health Order no. 219/2002 (amended by MHO no.1029/2004 and 997/2004) for the approval of the Technical Norms concerning the healthcare waste management and the data collecting Methodology for the healthcare waste national database. The sanitary units are still in the implementation stage of the legislation. Taking into account the last years, it can be observed differences and improvements. The main progresses were achieved in packaging field. The healthcare waste is collected on categories (hazardous and non-hazardous) in special packages. The most sanitary units are making efforts to accomplish the required standards.*

*The significant problems still exist in the final disposal phase, because of the generated hazards that may have a major impact on human health and environment. The hazardous wastes generated by sanitary units are burned in rudimentary facilities (crematoria), which present a lot of deficiencies, the main being represented by pollutants' emissions directly evacuated in the environment.*

*Risk assessments on five tailing ponds in the **mining industry** are being prepared and will need to be completed. The study on the possibilities to decrease cyanide concentration at Aurul Recea has been completed. Preparations for the closure of 47 non-complying industrial hazardous landfills by end of 2006 have to continue. Delays have been registered in the establishment of collection systems as well as recovery and recycling facilities for electrical and electronic waste.*

*Further efforts are needed as regards implementation measures for the **shipment of waste** and the end of life vehicles should continue. Transition periods have been granted until 31 December 2011 for certain targets in the field of packaging waste, until 31 December 2009, 31 December 2013 and 16 July 2017 for certain types of landfill of waste, until 31 December*

2011 for the shipment of waste and until 31 December 2008 for certain targets in the field of electrical and electronic waste.

In the area of **water quality**, legislation is largely in place and in line with the *acquis*. The *Acquis* on urban wastewater and discharges of dangerous substances into the aquatic environment has been transposed, but further implementing steps are needed to achieve full compliance. Administrative structures are largely in place and the implementation of the legislation is functioning. As regards investment in water infrastructure, Romania should secure the necessary funds to ensure proper implementation in particular in smaller communities. The register for discharges of dangerous substances needs to be progressively improved, and action plans for vulnerable zones under the nitrates directive will have to be finalized and adopted. The monitoring of water quality requires further enhanced efforts.

Transitional arrangements have been agreed until 31 December 2018, with intermediate targets, for **urban wastewater treatment**, until 31 December 2009 for discharges of dangerous substances and until 31 December 2010 and 31 December 2015 for drinking water.

Concerning **nature protection**, legislation is in place, but transposition of certain requirements of the birds' Directive has to be completed by the date of accession. While administrative capacities have been established, the roles and responsibilities of the various institutions involved should be clearly defined and put into practice. Further staff is needed to fulfil the *acquis* requirements. Preparatory works for the establishment of the Natura 2000 network have advanced, NGOs have been involved in the identification and classification of sites of Community importance, and the focus should now be directed on the next steps to implement the directive including preparations to ensure that relevant protection measures are applied by accession. Attention should be paid to more coordination with the implementation of the water framework directive.

In the field of **industrial pollution**, the necessary legislation is largely in place and in line with the *acquis*. The transposition of the national emission ceiling directive has to be completed.

Administrative capacities have been established but need urgent strengthening, especially at regional level.

The capacity to issue integrated permits of a sufficient quality by the date of accession for all industrial installations subject to the Integrated Pollution Prevention and Control (IPPC) directive represents a major challenge and requires serious efforts. By September 2005, 13 integrated permits had been issued out of the 716 required by accession. The recruitment of additional experienced staff should be carried out as a matter of priority.

Preparations for the implementation of the large combustion plant directive should continue. In a first report on the closure of non-complying installations for thermal treatment of hazardous waste and the quantities of medical waste treated in 2004, Romania indicated that 52 incinerators were closed in 2004 and 14 incinerators were closed in the first five months of 2005. Transitional arrangements have been agreed until between 31 December 2008 and 31 December 2015 for certain numbers of installations under the IPPC directive, until 31 December 2013 and 2017 for certain emissions and certain installations under the large combustion plant directive and until 31 December 2007 and 2008 for certain incinerators under the incineration of waste directive.

The legislation concerning **chemicals and genetically modified organisms** is in place and largely in line with the *acquis*, except for biocides, where transposition has to be completed.

*Implementation structures have been established and work adequately, but further implementing steps are needed in order to comply with the acquis. Inventories of biocide products are being prepared and enforcement activities are proceeding as planned. A proper notification system for new substances including data processing is still to be elaborated. Further staff training should be enhanced.*

*On **noise**, legislation is largely in place and in line with the acquis. Further transposition is needed to ensure full alignment with the directive on noise from outdoor equipment. The transposition of the directive on the assessment and management of environmental noise is still to be assessed. The administrative capacity is still to be considerably reinforced (additional staff and staff training). Implementing measures are proceeding as planned.*

*As regards **nuclear safety and radiation protection**, the transposition of the relevant legislation is still to be completed, in particular on the supervision of the shipment of radioactive waste. Administrative structures are established and function adequately. Some adjustments and further preparations are needed for the setting up of a supervision system for the shipment of radioactive waste.*

### **Conclusion**

*Romania is generally meeting the requirements for membership and, subject to good progress being maintained both in the alignment of legislation and administrative capacity, is expected to be in a position to implement the acquis in the areas of **air quality, nature protection, chemicals and genetically modified organisms, noise and nuclear safety and radiation protection** by accession. Romania should complete the legal alignment in these areas.*

*Furthermore, Romania should improve air quality management and monitoring and finalize air quality plans and programmes. In the field of nature protection, Romania should ensure that relevant protection measures are applied by accession.*

*Increased efforts are needed in the areas of **horizontal legislation, waste management and water quality** to finalize the transposition process and to ensure the implementation of the transposed legislation. Waste management plans have to be adopted and recycling and recovery rates have to be increased. The improvement of the internal healthcare waste management and finding the proper solutions concerning the final disposal of the hazardous healthcare waste according with the national and European standards. The monitoring of water quality requires further improvement and action plans have to be adopted.*

*Serious concerns exist in relation to **industrial pollution**. Considerable efforts are required to ensure that relevant permits are issued at local and regional level and complied with for all relevant IPPC installations by accession. Romania must also considerably accelerate its efforts to strengthen the administrative capacity of the environmental authorities in this field at all levels.*

*Overall, although Romania has made progress as regards **administrative capacity**, both in terms of the recruitment and training of personnel, further strengthening are required in particular at regional and local level. Lack of proper co-ordination between national, local and the relatively newly established regional environment authorities remains an area of serious concern and it must be addressed in order to ensure correct implementation of the environment acquis.'*

**Report on the conclusions of the last Peer Review Mission on Romania (7-10 February 2006)**

The third Peer Review Mission was the most complex of its kind from the point of view of the time span and the scrutinised domains (6): **air quality, climate change, waste management**, the implementation of the **IPPC Directive**, chemicals and **genetically modified organisms** (GMOs). Nine experts have participated: 4 from the Commission, 1 from DG Enlargement and 3 from DG Environment and 5 experts from the Member States, as follows: Italy – for the air quality sector, France – for the waste management sector, Sweden – for the chemicals sector, and Great Britain – for the IPPC Directive and climatic changes sector. The Mission evaluated:

- The general and sectorial institutional capacity for the protection of the environment (specific structures and collaboration relations with other ministries/institutions), the exact number of the employed personnel, the stage of the new staff recruitment, their qualifications, the trainings that had taken place, the specific budget allocated for the protection of the environment, strategies, short and medium term plans and programmes
- On-the-spot visits to check stage of implementation and the law enforcement process for every sector (except for the climatic changes sector, where no on-the-spot visit was demanded).

### **Waste management:**

#### *Recommendations:*

- Intensifying the implementation activities, especially at the REPA's level;
- Determining some clear steps, with a well-defined time span, which will contribute to the realisation of the commitments made by Romania, especially in those domains for which transition periods were secured;
- The elaboration of sectorial plans in case of identification of specific problems, in view of their quick solution;
- Intensifying the control activity of the National Environmental Guard;
- Encouraging the private-public partnerships, in keeping with the National Strategy.

The tremendous efforts made in this sector were noticed. These efforts must continue in the future also, taking into consideration the team of experts activating at the national, regional and local levels.

### **Chemicals**

#### *Recommendations:*

- Efforts should be made for the implementation of the legislation, taking into consideration the short period of time remaining until accession;
- Expertise should be secured concerning chemicals risk evaluation, analysis of the technical security fiches, evaluation of the conformity of the chemicals control, and responsibilities should be clarified (especially at the level of the Health Ministry and of the structures in its subordination, concerning the inventory of the biocide products);
- Re-evaluation of the control system is necessary in order to prevent supplementary costs – the Ministry for Economy and Commerce should clarify its own responsibilities in this domain;
- The institutional capacity should be strengthen, at the level of the MEWM, but also for the REPA and the NEG (in terms of personnel and expertise);
- The contribution of the experts in the work groups should be intensified;

- Training of the specific personnel should continue, even through study visits in the Member States with a relevant expertise in this domain;
- The sanctions system is insufficient;
- In view of Romania's accession, the activity concerning the notification of the chemicals on Romanian territory and do not exist in the EU should be intensified; the enterprises and companies which qualify should be contacted in order to prepare the notification.

### **Genetically modified Organisms (GMOs):**

#### *Recommendations:*

- An evaluation of the responsibilities of the institutions involved is needed (there seem to be far too many institutions involved, and their role is not clearly defined);
- Supplementary financial and human resources must be allocated at the level of the NEPA and the NEG;
- Attention must be given to the costs supported by the state and the companies in the process of implementation of the specific legislation.

### **Air quality:**

#### *Recommendations:*

- Although the maintenance of the laboratories is already provided for, financially speaking, for the next two years, financial and human resources are still needed, for the maintenance of the equipment at high standards;
- Although the location of the laboratories is fixed, there is a need for flexibility concerning their positioning so that they can work at their full capacity;
- Although there are problems with the primary pollutants (SO<sub>2</sub> and NO<sub>x</sub>), the acquisition of equipment being in progress, the most important future pollutants will be the particulate matters and the ozone, for which studies should be conducted;
- A national inventory of emissions is necessary, which would use a chemical model for the elaboration of strategies and prognosis, in view of the implementation of the measures concerning the reduction of emissions;
- Collaboration at the national and regional level should be improved;
- The centres for the public's information should improve their activity by acquiring performing equipment.

### **Climatic changes:**

#### *Recommendations:*

- A synergic team should be built at the level of the REPA, dealing with IPPC issues;
- There are some concerns regarding the elaboration of the National Plan for Emission's Allocation (which will be finalised only in September 2006); its completion as quickly as possible should be a priority, with an accent on 2012 projections.

### **The implementation of the IPPC Directive**

#### *Recommendations:*

- The NEG representatives must disseminate their understanding of the IPPC concept;
- The ones giving the integrated environment authorisation must fully comprehend why a certain authorisation is given or not;
- The short time presupposes a degree of intolerance concerning the delayed applications (pressure on operators is needed);

- The procedure has many steps and, although it is well managed, time must be considered;
- The actualisation of the waters management authorisation (which is part of the integrated authorisation) should ensure a speeding up of the procedures;
- The necessary conditions must be provided for the modification of the authorisation when the BAT/ BREF suffer modifications.

## **CONCLUSIONS:**

- The efforts, progress made and the Mission's organisation were appreciated;
- The progress made in the recruitment of personnel was appreciated; the process must continue (it should not stop at the end of 2006);
- The implication of the other ministries was appreciated; still, a better coordination is necessary especially in the domain of chemicals;
- The activity of the NEPA is well defined, but there are still some responsibilities which need transferring from the MEWM to the NEPA;
- Continuous efforts are still necessary in preparing the Nature 2000 List (an aspect which was signalled, even if it was not part of the evaluated sectors);
- A larger involvement of the NEPA, REPA, and LEPA is needed;
- There is a need to intensify the allocation of funds (especially towards the REPA);
- A system of penalties and a suitable rise of fines is necessary;
- The availability of the EC experts to offer assistance in sensitive domains. The Romanian counterpart mentioned that it will ask for TAIEX assistance in the field of chemicals – clarifying the responsibilities of the institutions involved, and in the domain of air quality – the elaboration of models for the measurement of the ozone and particulate matters emissions;

**The progress made was significant, but there are still many matters to be considered.**