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COMMITTEE ON ENVIRONMENTAL POLICY

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**REPORT ON MAJOR POLICY ISSUES EMERGING FROM THE CURRENT
ENVIRONMENTAL PERFORMANCE REVIEWS**

I. INTRODUCTION

1. The Committee on Environmental Policy will review the environmental performance of three countries at its eighth session: Romania, Uzbekistan, and Estonia. For Estonia, this is the second review.
2. During the meeting of the Ad Hoc Expert Group of the Environmental Performance Review Programme (EPR), scheduled for 19-21 September, in Geneva, experts will conduct a detailed review of environmental performance respectively of Romania, Uzbekistan and Estonia. A list of topics that will be covered for each country is shown in the Annex.
3. The Expert Group will present its findings to the Committee on Environmental Policy during its afternoon session on 25 September. The Committee will have the opportunity to address any of the issues raised in the context of the Environmental Performance Reviews at that time.
4. On 26 September, the Committee will discuss some of the broader policy issues emerging from the Environmental Performance Reviews. This paper is intended to provide a basis for that discussion.
5. For each country there are specific issues of particular importance. For Uzbekistan, water, agriculture and energy are perhaps the most pressing and critical concerns. For Romania, it may be mining, chemicals and waste management, and for Estonia, air pollution and energy, particularly through the burning of oil shale. Each of these issues, and others, will be discussed in depth during the Expert Review. The full reports, with recommendations, are also before the Committee.

6. This paper examines some of the cross-cutting issues that are common to all three countries as well as to many other countries in the region: these include: (i) integration of environment into other sectors; (ii) the use of economic instruments for the environment; (iii) the impact of privatisation on the environment; and (iv) the impact of foreign assistance and international cooperation on environmental management.

II. INTEGRATION OF ENVIRONMENT INTO OTHER SECTORS

7. One of the biggest challenges to any country is that of integrating environment into planning and policies for energy, transport, agriculture, water, industry, and other sectors. Obstacles are many. The structural design of most ministries is sectoral. Emphasis is often put on economic growth *over* environmental concerns rather than viewing them in concert. People are not trained to think cross-sectorally nor are they educated in the environmental implications of their work. And there is often a lack of high-level political support for the environment, particularly in countries that are experiencing economic difficulties.

8. Integration may be achieved through many tools and mechanisms. Among them, two are briefly discussed here. These are policy-making and programming and decision-making structures. A third tool, economic instruments, is discussed under a separate theme.

Policy-making and Programming

9. All three countries under review have broad goals of integration expressed in their environmental policies.

10. In **Romania**, the 1998 National Environmental Action Programme includes priorities for all economic sectors, including, for example, transport, industry and agriculture. Both the NEAP and the National Medium-term Development Strategy of the Romanian Economy for 2000 to 2004 specify the links and coordination required among Ministries in order to implement the proposed action. The oil and gas section has developed environmental policies. The EU Accession Process has also been an efficient tool in promoting the elaboration of sectoral strategies that integrate environmental problems.

11. **Uzbekistan's** medium-term (2000-2005) and long-term (2005-2010) development plans cover different social and economic aspects, and sector programmes are to be integrated into the overall development plan. The integration of environmental considerations into several of the sectors is reflected in both the National Environmental Action Plan (1998) and the National Strategy for Sustainable Development (1999). To harmonize tasks among different governmental institutions and ministries and to coordinate implementation of the NEAP, in 1999 the Cabinet of Ministers approved the State Programme for Environmental Protection for 1999-2005. This plan includes priority legislative, institutional and investment measures, as well as concrete projects, in a number of areas.

12. Uzbekistan has developed other programmes that integrate environment and sectoral concerns, in the chemical industry, mining industry, oil and gas industry, transport, agriculture, and health.

13. In **Estonia**, the National Environmental Strategy (NES) is the main document that brings together environmental problems caused by the various sectors. In 1998, a National Environmental Action Plan was developed on the basis of the NES, specifying projects, responsible organizations, estimated costs and human resource requirements. The Act on Sustainable Development, adopted in 1995, specifically introduced the concept of integration of environmental, social and economic concerns into all sectors of activity. In 1997 the Act was amended in favour of elaborating master plans for the most important branches of the economy (energy, transport, agriculture, forestry, tourism, chemicals

industry, building materials industry and food industry sectors). Most of these sectoral strategies still need to be completed.

14. Overall, therefore, in all three countries, there has been considerable attention at the policy level to integrating environmental concerns into other sectors. However, to date, less attention has been given to the specifics of implementation.

15. In Romania, the various policies and plans fall short in providing the mechanisms needed for implementation, organization and financial means, as well as concrete measures and actions for achieving goals. In addition, implementation of the NEAP has been hampered by delays in launching the economic reforms on which it was based, and especially those concerning privatization and market liberalization.

16. In Uzbekistan, one of the primary obstacles to implementation is lack of financial resources and staff. The process of programming through the Public Investment Programme is another obstacle. Programming is complex, and economic and environmental indicators based on feasibility studies are not always taken into account. Tasks divided among different ministries and government authorities make harmonization lengthy and bureaucratic. In spite of some changes in the budgeting process, changes in traditional decision-making, budgeting and accounting continue to be slow and often exclude environmental considerations or keep them on a very general level. Finally, as is the situation in Romania, implementing mechanisms are not always identified, and broad goals and objectives fail to be translated into specific projects and targets.

17. Estonia, now in its second review, has progressed much farther. As noted above, the Act on Sustainable Development has led to a series of sectoral master plans of an integrative nature, and the National Environmental Action Plan included elements for implementation. Estonia's commitment to improved environmental performance through, inter alia, integration is clear. However, the lack of environmental targets in many areas makes evaluation only possible in qualitative terms. Neither the NES nor the sectoral strategies set sufficient quantitative targets, and the sectoral strategies are being translated into individual projects without specifying the environmental benefit or contributions the project has in solving or mitigating environmental problems.

Structure for Integration

18. In all three countries under review, there is a central environmental authority as well as a number of other authorities that have some environmental responsibilities. In such cases, integration can only take place if there is some mechanism, whether formal or informal, for coordination.

19. According to the provisions of the Law on Environmental Protection in **Romania**, the central authority for environmental protection is the Ministry of Waters and Environmental Protection (MWEP) and the local Environmental Protection Inspectorates. At the ministry level, coordination is formally ensured with other sectoral ministries through specific units (a least one specialized staff member) on agriculture, transport, energy, industry and statistics.

20. The MWEP is responsible for the development of general environmental policy and legislation and for the monitoring and the control of their implementation in the field of waters and environmental protection. It collects data on the state of the environment and makes them available to the general public, and it is active in the EU approximation process

21. Other Ministries involved in environment-related decisions are the Ministry of Health and the Family, the Ministry of Public Works, Transport and Housing, the Ministry of Industry and Mineral Resources and the Ministry of Agriculture, Food and Forests.

22. The MWEF chairs an Inter-ministerial Committee that coordinates the NEAP. The same coordinating mechanisms were put in place for the National Programme for the adoption of the EU body of environmental law. Sectoral working groups established in 1999 within the harmonization process offer another opportunity for coordination on environmental policy and legislation.

23. Nonetheless, there are still problems. Coordination among institutions remains weak because there is a lack of interaction among the responsible persons in the different ministries. Structure does not automatically ensure cooperation. As a result, coordination has failed to lead to common actions or concrete projects.

24. In **Uzbekistan**, the key executive power in environmental protection is vested in the State Committee for Nature Protection. According to the Constitution, the Committee occupies a unique position in that it reports directly to *Olij Medjlis* (Parliament). Such status allows the Committee to be independent from competing interests, but it also removes it from the Council of Ministers, which appears to be a disadvantage with respect to integration, coordination and resource allocation. The Committee was set up in 1989, and it is responsible for State control over nature protection and the use of natural resources. It issues permits for the emission of pollutants, collects pollution charges, carries out control and monitoring functions, manages the Environmental Fund, and initiates liability actions.

25. Certain environmental functions are also assigned to the Ministry of Health, the Ministry of Internal Affairs, the Ministry of Agriculture and Water Management, the State Administration on Hydrometeorology, the State Committee for Geology, the State Committee for Safety in the Manufacturing and Mining Industries, and the State Cadastre Agency. The Ministry of Macroeconomics and Statistics issues short- and long-term forecasts and data on the state of the environment, including natural resources.

26. The State Committee for Nature Protection is the main coordinator for environment protection activities among the State entities. Environmental coordination is also undertaken by various inter-agency commissions, including (i) the Inter-agency Coordination Commission for the implementation of the programme to phase out ozone-depleting substances; (ii) the National Council for the Coordination of Enforcement and Control; (iii) the National Commission for Sustainable Development; (iv) the Emergency Anti-Flood Commission; and (v) the National Commission for the International Hydrological Programme.

27. Integration has nominally take place, but an examination of sectoral policies indicates that environment is still largely a residual concern in such areas as agriculture and water. Distribution of environmental responsibilities and especially inspection and monitoring, is dispersed, and there is no strong central unit capable of coordination or follow-up.

28. Since the first EPR in **Estonia**, the Ministry of Environment and the national bodies for which it is responsible were reorganized. New units have been set up within the Ministry of Environment to strengthen capabilities in the areas of legislation and strategic planning as the EU accession process has been particularly demanding in these matters over the past four years. With economic activities picking up and the EU accession process accelerating, special attention was also given to integrated pollution prevention and control and the introduction of new technology, leading to the creation of technology and investment departments specializing in ISPA projects.

29. As with other countries, environment is also a matter of concern to other ministries, such as in transport, energy and agriculture. Since 1999, when Estonia opened up the environmental chapter in the EU accession process, it chose to integrate and coordinate the issues not through a special office in the MoE, nor through an inter-ministerial process. Rather, it chose to assign responsibility for adjustment to EU directives to the various departments themselves, each specialized unit – for water,

waste, air, or technology - dealing with the integration process in its specific field, with overall coordination ensured by the international cooperation department. This task sharing has, so far, been fully satisfactory.

Issues for Discussion

1. Countries use policies and plans to attempt to integrate environmental concerns into other sectors. Perhaps the most important obstacle has been the inability to make them implementable through responsible actors, actions and resources. How may that be improved? Is it an issue of capacity building, of information, of resources, of political will, or another issue?
2. Integration of environment into other sectors appears almost always to be environment-driven. There is a sense of environmental concerns being *imposed* on other ministries, and particularly those most important to the economy. What measures are needed in order to encourage other ministries to become more environmentally aware and responsible? What approach should be taken: inter-ministerial consultations, restructuring of the sectoral ministries, changing the composition of staffing within sectoral ministries, training, or other approaches?
3. At the level of centralized coordination of environment, what have been the most effective mechanisms? Examples might include standing inter-ministerial bodies, ad hoc inter-ministerial bodies, inter-departmental working groups, coordination units within the environment authority, and so forth. Who should chair these bodies: the Prime Minister; the economic authority; the environment authority, etc.?

III. THE USE OF ECONOMIC INSTRUMENTS FOR THE ENVIRONMENT

30. Before their independence, Romania, Estonia and Uzbekistan had no experience with the use of economic instruments for the environment. In the 1990's all three countries introduced systems for pollution charges and payments for natural resource use to raise revenues for environmental investments, create incentives for pollution control and reduction, enforce permit requirements, and implement the Polluter Pays Principle. Although the present systems of pollution charges are extensive, they do not function properly. They fail on what should be their main goal: to modify the behaviour of people and institutions toward better environmental protection. The instruments provide little incentive for pollution reduction, and revenue has been mainly their most important goal.

31. The underlying reasons for this are:

- Low prices for use of natural resources;
- The low level of pollution charges, which are not high enough to influence the polluter's behaviour significantly;
- The low effectiveness of fines and penalties for non-compliance, which do not provide real incentives for reducing emissions in excess of allowable limits;
- The high number of pollutants on which charges are levied and the administrative complexities of the system;
- The low collection rate of pollution charges, because of poor enforcement and limited monitoring capacity; absence of strong inspection mechanisms to control payment of fines and penalties; and the lack of complementarities with command-and-control instruments
- The wide discretionary powers of environmental authorities, which give them the right to adjust emission limits and waive payments;
- A lack of or poor understanding of the links between policy instruments, environmental priorities and environmental investment;
- A limited institutional capacity to design the detailed programmes and mechanisms for implementing the instruments;
- The perception that economic instruments are not viable under the present economic situation;

- Controversies regarding the use of revenues, which also influences cross-ministerial and sectoral cooperation;
- The clear dominance of revenue-raising considerations in the choice and design of the economic instruments.

32. Many of these problems are linked to an apparent inability to explain overall environmental policy aims and contents to business, banking and the general public and subsequently to explain the tools and methods for implementing the policies. Therefore, the public is unimpressed and unaware of the results, and merely considers most instruments as 'new Government taxes'. Social, economic and business acceptance and understanding of environmental policy integration is limited.

33. Estonia is one step further in the successful development of the basic framework for economic instruments, and has developed a comprehensive and consistent range of environmental taxes and charges. Several attempts have been made to introduce advanced economic instruments, such as a package excise tax, a CO₂ tax and substitution schemes. However, there is a need for increased economic capacity within the Ministry of Environment to monitor and analyse the effects and impacts of the instruments.

34. The impacts of economic instruments depend on collection rates, on compliance by enterprises and acceptance of the economic instruments, on monitoring and evaluation of the effects of the use of these instruments, on their design which must be based on consideration of the costs they impose versus the expected environmental improvements, and finally the overall functioning of the market economy.

Issues for Discussion

1. What is the experience of other countries in the region in using and applying economic instruments for affecting behaviour toward the environment? What has and has not worked, and why?
2. How could the existing economic instruments in Estonia, Romania and Uzbekistan be adjusted to market economy conditions and to levels that ensure sustainable resource use?
3. What are the most effective ways of using economic instruments, including pricing of natural resources, to raise revenue for environment-related activities?
4. How can economic instruments be "sold" to the public and to enterprises? Are there examples of education campaigns or other means that could assist in this process?

IV. THE IMPACT OF PRIVATISATION ON THE ENVIRONMENT

35. Romania, Estonia and Uzbekistan have seen a significant increase in the share of privatised enterprises in industrial, agricultural and service sectors and the establishment of a large number of new enterprises over the past few years. Moving these enterprises from the public domain to the private is not neutral in environmental terms as it raises the issue of responsibility for environmental impacts from past and ongoing operations as well as the broader concerns of environmental management. The new commercial enterprises often lack experience in responsible environmental management and face strong competitive pressures to 'profit now' and cut costs.

36. In Romania, up to 1999 there were no specific environmental considerations behind the restructuring of privatisation. The aim was national capital restructuring and short-term profitability. In 1999, a new Law on Privatisation Methodology stipulated that all companies that are earmarked for privatisation have to prepare an environmental assessment. The environment authorities define the objectives for environmental quality, and the firms are allowed to find the most efficient ways of

meeting these objectives. In practice, however, several factors conflict with environmental considerations:

- Land prices are generally low and therefore set a natural limit on the sales price. The environment liabilities may easily be higher than the market value of the company;
- The environmental assessments (and the buyers' liability) do not include hazards from old equipment and buildings above ground even though these may present serious environmental risks;
- The countries are in urgent need of the sales revenue, not least foreign investments representing capital and new technology. There is a risk that the assessment level may be set deliberately too low, thus reducing the buyer's clean up obligations and cost;
- Buyers are only required to provide a bank guarantee for the purchase price, not for the environmental liabilities. In case of non-compliance, a penalty may be imposed, but such sanction has never been applied.

37. In Uzbekistan, the Law on Privatisation did not establish specific environmental obligations, nor did it address who is liable for past pollution. Furthermore, the privatisation transaction does not require an environmental audit, or any other environmental investigation to clarify environmental conditions and liability issues before privatisation. Environmental concerns should be included in the legislation on privatisation.

38. The privatisation process in Estonia is almost complete, and the Privatisation Agency will soon be dismantled. Since 1996, a governmental resolution defined that 5 per cent of the funds from an enterprise privatisation was to be devoted to the environment, a measure that was continued under the Environmental Impact Assessment (EIA) procedure. The money was channelled to rehabilitation works. At negotiation time, the buyer can either choose that the burden of past damage would remain the responsibility of the state, or that it will become the liability of the new owner. In the latter case, the selling price is decreased and the new owner assumes responsibility for rehabilitation.

39. Support for privatisation implies support for a sufficient degree of private sector insulation from government intervention. At the same time, developing and maintaining a rigorous and balanced environmental regulatory regime is necessary in order to protect environmental health, ensure a clean environment and secure natural resource supplies for the future. Environmental policies, laws and regulations of relevance to privatisation should be analysed. This is particularly important in overall country and sector strategies for privatisation, or in conjunction with individual sectoral or large-scale privatisation projects.

40. Cases in Estonia have proven that environmental audits are useful instruments to analyse existing conditions at and around a specific site (e.g. industrial enterprise), and could be a major form of environmental analysis in privatisation operations.

Issues for Discussion

1. Countries are invited to share their experience on the environmental impact of the privatisation process.
2. If responsibility belongs to the State, how can clean up be financed? Are there mechanisms through the privatisation process that can assist with this financing?
3. What measures can be adopted to ensure that clean up of pre-privatised environmental damage is undertaken? Are voluntary programmes more successful than mandatory laws and regulations?
4. For countries that may be just entering or still in the early stages of privatisation, what would be the best approach to ensure that the process proceeds with full concern for environmental impacts? What elements of legislation, regulation and voluntary agreements might be adopted?
5. Who should be responsible for monitoring and enforcing the environmental agreements between the State and the new owners? How should penalties be used?

V. THE IMPACT OF FOREIGN ASSISTANCE AND INTERNATIONAL COOPERATION ON ENVIRONMENTAL MANAGEMENT

41. In the early years of transition, poor communication among donors, international financial institutions (IFIs) and recipient countries, together with the lack of common strategy, often hindered the effectiveness of international assistance and financing. Over the course of transition, there has been improvement in the effectiveness of cooperation efforts and an increase of communication. The environmental authorities in Romania, Estonia and Uzbekistan have gained more experience working with donors and IFIs. Offices within the respective ministries and the State Committee have been set up to manage external assistance.

42. In Uzbekistan, the Cabinet of Ministers adopted a resolution in 1995 on improving the Coordination of Foreign Activity in the Republic of Uzbekistan. A special body for implementing this Resolution, the Department for the Coordination of External Economic Activity, was established within the structure of the Cabinet of Ministers.

43. The process of accession to the European Union (EU) in Romania and Estonia has transformed the nature of assistance and financing. The EU has set up new financing mechanisms, and IFIs support the accession-driven projects. In Romania and Estonia, the accession process has greatly intensified cooperation with the European Commission and EU Member States. New EU grant programmes provide for a considerable increase in funds to be invested in the environment. Technical Assistance within the EU programmes provides training of staff for the implementation of international projects.

44. This process increases attention to environmental issues within Romania and Estonia, but it could also threaten to replace domestically determined environmental priorities with ones driven by accession requirements.

45. Despite progress, donors, IFIs and the recipient governments can still take important steps to improve the effectiveness of assistance and financing. Donor coordination and donor-recipient communication have in many cases remained insufficient.

Issues for Discussion

1. Estonia, Romania and Uzbekistan may wish to identify issues related to international assistance that need to be addressed. These might include, for example:
 - (a) Concerns with coordination of assistance,
 - (b) Competing priorities between donors and recipient States,
 - (c) Constraints to the efficient use of international assistance for implementing concrete projects, and
 - (d) The extent to which international assistance to all sectors and programmes is consistent in its environmental objectives.
2. Other countries in the region that are recipients of international assistance may wish to share their experience in these areas as well.
3. Donor countries may wish to identify the problems they face in providing assistance to countries in the region, including coordination among ministries as well as among donors, competing priorities, and consistency of environmental objectives, among other issues.
4. The Committee may also wish to address the obstacles associated with the absorptive capacity of countries receiving international assistance, with particular reference to the banking system and staff within ministries and agencies responsible for project elaboration and implementation.

ANNEX

ESTONIA

Part I: Evolution of Environmental Policy and Management From 1996 to 2000

- Chapter 1: Overview of environmental decision-making framework
Chapter 2: Environmental conditions and management of pollution and natural resources

Part II: Current Priorities of Environmental Policy and Management

- Chapter 3: Water management trends and water basin schemes
Chapter 4: Waste management
Chapter 5: Biological diversity management and compensation schemes
Chapter 6: Further development of environmental economic instruments
Chapter 7: Sectoral integration and partnership with the private sector

ROMANIA

Part I: The Framework for Environmental Policy and Management

- Chapter 1: Legal and policy framework, institutional arrangements and environmental regulations
Chapter 2: Spatial planning
Chapter 3: Economic instruments and privatisation –their impact on environmental protection
Chapter 4: Environmental information and public participation in decision-making
Chapter 5: International cooperation

Part II: Management of Pollution and of Natural Resources

- Chapter 6: Air pollution***
Chapter 7: Water management
Chapter 8: Waste management
Chapter 9: Nature and biodiversity conservation
Chapter 10: Mineral resources

Part III: Sectoral Integration

- Chapter 11: Environment and agriculture
Chapter 12: Environment and transport
Chapter 13: Environment and energy
Chapter 14: Human health and the environment and the environment

UZBEKISTAN**Part I: The Framework for Environmental Policy and Management**

- Chapter 1: Legal instruments and institutional arrangements for environmental protection
Chapter 2: Instruments for environmental protection
Chapter 3: Economic development and instruments of environmental management
Chapter 4: International cooperation

Part II: *Management of Pollution and of Natural Resources*

- Chapter 5: Water resources management
Chapter 6: Air pollution
Chapter 7: Waste management
Chapter 8: Biodiversity management
Chapter 9: Mineral resources

Part III: *Economic and sectoral integration*

- Chapter 10: Land, agriculture and the environment
Chapter 11: Environment and energy
Chapter 12: Human health and the environment
