



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.05.1998
COM(1998) 294 final

**Communication from the Commission
to the Council, the European Parliament,
the Economic and Social Committee,
the Committee of the Regions
and
the Candidate Countries
in Central and Eastern Europe**

on

Accession Strategies for Environment :

**Meeting the Challenge of Enlargement
with
the Candidate Countries
in Central and Eastern Europe**

TABLE OF CONTENTS:

INTRODUCTION: THE ENVIRONMENTAL APPROXIMATION PROCESS

1	Challenges:	2
	1.1 The legislative challenge	2
	1.2 The institutional challenge	2
	1.3 Main sector specific challenges	3
	1.4 The financial challenge	4
2	Priorities:	5
	2.1 Introduction	5
	2.2 Prioritisation of the environmental <i>acquis</i>	5
	2.3 Full compliance for all new investments	9
	2.4 Priorities beyond legal approximation- Nuclear Safety	9
3	Community assistance:	10
	3.1 Mobilising financial resources to support the strategy	11
	3.2 Environmental approximation advice and assistance	13
	3.3 Co-ordination of Community and Member State approximation assistance	13
	3.4 Support for implementation and enforcement activities	14
	Conclusions	15
	Annexes	
	Annex 1: Estimate on costs of environmental compliance	
	Annex 2: Programming and monitoring of the transposition and implementation of the environmental <i>acquis</i>	

INTRODUCTION: THE ENVIRONMENTAL APPROXIMATION PROCESS

In the forthcoming enlargement of the Union the environmental dimension will present greater challenges than in any previous accession.

This relates both to the sheer scale of past environmental liabilities and the gap in the level of environmental protection in Central and Eastern Europe compared with the situation in the EU. On the other hand, the candidate countries also possess vast areas of untouched nature which contribute considerably to biological diversity in the whole of Europe. To keep these assets and at the same time to develop and manage an economically and environmentally sustainable framework, is the major challenge ahead.

The cornerstone for such a framework is the environmental *acquis* of the European Union. However, as recognized in the Commission's Agenda 2000, full compliance with the environmental *acquis* will probably only be achievable in the long term for all candidate countries in Central and Eastern Europe. Against this background, Agenda 2000 proposed that a special strategy for the adoption and implementation of the environmental *acquis* should be set up and combined with a reinforced Community pre-accession assistance strategy where investment for adoption of the environmental *acquis* is one of the priorities:

*In partnership with the Union, realistic, national, long-term strategies for gradual effective alignment should be drawn up and start being implemented in all applicant countries before accession, in particular for tackling water and air pollution. These strategies should identify key priority areas and objectives to be fulfilled by the dates of accession as well as timetables for further full compliance; ensuing obligations should be incorporated in the accession treaties. All new investments should comply with the *acquis*.*

Important domestic and foreign financial resources, in particular from the private sector, will have to be mobilised in support of these strategies. The Union will be able to make only a partial contribution.¹

This special strategy for the environmental approximation calls for special measures and consideration both in the candidate countries and in the Community. The aim of the Communication is to examine, in view of the indications in Agenda 2000 some of the practical considerations which the Commission believes that the candidate countries should take into account when further developing their national strategies for achieving full compliance with the environmental *acquis*. This examination does not prejudice the allocation of the future pre-accession facilities.

The Communication falls within the Union's reinforced pre-accession strategy. It aims to complement the Accession Partnerships, and to provide assistance to the candidate countries in the refinement of their National Programmes for the Adoption of the *Acquis*. It does not in any way prejudice the accession negotiations, or the scope and duration of any transitional arrangements that might be the result of these negotiations.

¹ See COM(97)2000 Volume 1 p 65

The Communication focuses on issues related to the ten candidate countries of Central and Eastern Europe. Cyprus also faces the task of environmental approximation, but has different challenges. It is the intention of the Commission to propose a separate document reflecting the specific circumstances for Cyprus at a later stage.

1. THE CHALLENGES

This chapter presents an overview of the challenges of compliance with the environmental *acquis*, including the legal and institutional aspects

1.1. The Legislative Challenge

All candidate countries have started to transpose the environmental *acquis* into their national legislation. There is, however, a lack of a strategic approach towards legal transposition. Only a few countries have so far done a comprehensive analysis of legal gaps between their existing national legislation and the corresponding EU *acquis*. This is needed to support the task of prioritisation and drawing up realistic timetables for the transposition work.

Shortage of legal expertise, in particular in relation to the environmental *acquis*, and language barriers, are still a problem in all the candidate countries although to a varying degree.

1.2. The Institutional Challenge

The Commission's opinions identified, for all the ten applicant countries, a need to strengthen the administrative structure necessary for environmental management. This general weakness varies in level from country to country and some further investigation is needed in order to identify the precise scope of the problem and develop solutions.

One of the key tasks of the ministries of environment is to draft the necessary legislation and to provide for all measures to implement this legislation, which in many cases will require considerable investment, new or reorganised institutions, or both. Environmental approximation has to be seen as a task for the whole ministry. In many countries, there is still a lack of understanding of the scope of the challenge ahead and of the question of responsibility for the co-ordination of the approximation process.

Some of the issues considered to be "environmental" in the European Union are, however, within the responsibilities of other ministries, such as chemicals, genetically modified organisms, radiation protection or drinking water. This requires particular attention, as a lack of or weak intra-ministerial co-ordination could be a serious obstacle in the approximation process.

Implementation and enforcement of environmental legislation is often delegated to regional or local authorities or other institutions responsible for monitoring, issuing of permits and inspection. In many cases, the work of these bodies will be seriously affected by the new legislation, with additional obligations requiring more efficient

management and additional staff training. The development of regional and local environmental administrations will need specific attention in all the candidate countries.

1.3. Main Sector Specific Challenges

Air

Most of the countries will face great difficulties in meeting EU air quality requirements. This is largely due to problems of emissions from stationary sources such as power plants and local district heating installations. As one of the first steps, the countries need to identify zones and urban agglomerations where EU limits are being exceeded. Some countries have developed action plans for dealing with these zones. Other countries have as yet made little progress in putting in place the necessary facilities and institutions in order to meet the basic requirements of the air quality legislation such as monitoring and data collection.

Most countries have not yet developed implementation plans for compliance with standards for air emissions from large combustion plants and plans to close down facilities which are not in compliance. Several countries face financial problems in adapting their refineries to meet the present and future fuel quality standards of the EU.

Waste

In the waste sector, much remains to be done in all the applicant countries. However, steps in defining policies and approximating legislation have accelerated during 1997 in some countries.

The directives dealing with the incineration and management of municipal and hazardous wastes present the greatest challenge. While some are actively developing investment programmes for the waste sector, a large number of waste incinerators will need retrofitting and restructuring to meet EU standards.

Water

Major investment programmes to improve drinking water quality and the management of waste water are underway and planned in most of the countries.

As regards cross-border pollution of water, a particular challenge will be the establishment and implementation of an integrated river basin management approach by the riparian states of international rivers, such as the Danube and Oder.

In transposing and implementing the nitrates directive, none of the countries appear to have made much progress. With the current decline in agricultural production and lower fertiliser use, candidate countries tend to see this as a low priority. However, it is important to establish the required management structures to limit non-point source nitrate pollution as the economies improve.

Industrial Pollution Control and Risk Management

Transposition of the Seveso directive and its implementation needs more attention, as this would considerably reduce the risks of major accidents from industrial installations throughout the region. Much remains to be done to reach the *acquis* in this area.

Most of the candidate countries have specific industrial 'hot spot' areas, due to the concentration of heavily polluting industries and energy production. While many industrial plants in these areas are being restructured into modern and viable plants, some of them, especially energy utilities, are likely to remain in operation for several years yet with pollution levels which do not comply with EU requirements. The use of oil shale and brown coal in a few countries remains a particular problem.

The candidate countries should be encouraged to set in place the Directive on Integrated Pollution Prevention and Control (IPPC) which provides the new framework for managing industrial pollution problems in an integrated way.

Nuclear Safety and Radiation Protection

In all the countries a basic law on nuclear safety and radiation protection has recently been adopted. This framework law needs to be supplemented by several pieces of legislation in order to ensure full compliance with the *acquis*. It is important to note that most of this legislation is needed even if there is no nuclear power sector.

Institution building should be regarded as a priority. Nuclear Safety authorities are faced with high demands for specialised technical support and scarce financial and human resources. Independent regulatory authorities have to be further supported.

1.4. The Financial Challenge

Based on first region-wide estimates, the total investment costs of meeting the environmental *acquis* are likely to be around ECU 100 - 120 billion for all the ten candidate countries (See Annex 1). The bulk of the investment is likely to be needed for infrastructure in air pollution abatement, water and waste water management and waste management. In addition, setting up and reinforcing environmental management structures for efficient implementation, monitoring and enforcement will also need substantial resources. The scale of these is more difficult to estimate. Detailed and reliable information about the financial implications of single directives for individual candidate countries is not yet available. Some countries, however, have started work on costing in relation to specific directives as a first step towards the elaboration of financing strategies. This work on costing should be given immediate priority in all the candidate countries.

2. PRIORITIES

2.1. Introduction

Agenda 2000 proposes that the candidate countries, in partnership with the Union, *before accession* draw up – and start implementing – realistic national long-term strategies for gradual and effective alignment with the environmental *acquis*, in particular for tackling water and air pollution. These long-term national strategies should include

- *key priority areas*
- *objectives to be fulfilled by the dates of accession*
- *timetables for further full compliance*

Ensuing obligations should be incorporated in the accession treaties.

Additionally, Agenda 2000 proposes that

- *all new investments should comply with the acquis.*

In the framework of the Accession Partnerships, the candidate countries have drawn up National Programmes for the Adoption of the *Acquis*, (NPAA). These national programmes will evolve.

Within this context, this chapter deals with the question of setting priorities for the process of implementation of the *acquis* with the aim to contribute to the further development and detailing of the NPAA's in the Candidate Countries, within the above mentioned framework laid down in Agenda 2000. Some practical questions related to the establishment of the programmes are discussed in Annex 2.

2.2. Prioritisation of the Environmental *Acquis*

A number of different priorities have to be considered and reconciled within the overall process of approximation.

Meeting the *acquis* is an indispensable condition for membership of the Union, but not an end in itself. The important environmental problems and priorities in each candidate country should be addressed in the process. Approximation to the EU *acquis* will give focus and direction to national efforts. Finally, the economic implications – both in terms of constraints and potential incentives for growth and competitiveness – have to be considered carefully.

The first set of priorities to consider relate to the specific environmental problems and priorities in the individual country:

Environmental priorities cannot be determined from an abstract analysis of the *acquis*, but have to be decided on the basis of a detailed assessment of the

environmental situation in each country. Based on the analysis carried out for the preparation of the opinions in Agenda 2000, the Commission has given a first indication of such environmental priority areas for each country in the Accession Partnerships.

The general emphasis given to 'measures to tackle pollution of water and air' in Agenda 2000 does not imply that these parts of the *acquis* are inherently more important than other parts, but is based on the recognition that all the candidate countries have considerable problems in these key areas. As mentioned in chapter 1 waste management is also a key area in which all the candidate countries have to make a serious effort in order to reach existing EU standards.

Even if some common problems and priorities can be identified, environmental priorities have to be country-specific, taking the particular environmental needs and problems into account. The National Programmes for the Adoption of the *Acquis* will include such country-specific priorities.

The second set of priorities concern the **legislative and administrative gaps** which have to be filled in order to meet the *acquis*.

The establishment of such legislative and administrative priorities has to be based on a detailed comparison of existing national environmental legislation and EU environmental legislation, provision by provision, in order to identify gaps to be filled. But this analysis of formal legislative compliance can not stand alone. It has to be accompanied by an assessment of the administrative and institutional needs to be met in order to ensure effective implementation, monitoring and control of the legislative measures.

The analytical examination ('screening') of the *acquis*, which was launched in March 1998, will assist the candidate countries in identifying the legislative gaps².

Two Commission documents provide further guidance in this area:

The Commission Staff Working Paper from 1997, "Guide to the Approximation of the European Union Environmental Legislation"², contains a detailed survey of the bulk of EU environmental legislation, identifying key issues and steps to take by authorities in the candidate countries in order to bring national environmental legislation and administrative practices in line with the EU environmental *acquis*.

The Guide structures the environmental *acquis* in different sectors and 'families' of legislation pertaining to the same environmental subject matter, but does not directly aim at identifying the pieces of legislation within the *acquis* which for systematic legislative or administrative reasons should be set in place first.

However, for the environmental legislation which has a direct impact on the functioning of the Internal Market (i.e. the product-related environmental legislation) such a classification into 'Stage 1' and 'Stage 2' legislation can be found in the

² SEC(97) 1608

Commission's White Paper from 1995 on 'Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the Union'.³

The White Paper comprises roughly half of the total environmental *acquis*. The priorities (i.e. the identification of 'Stage 1' and 'Stage 2' legislation) found in the White Paper remain valid for this part of the *acquis*

The criteria that were used in the White Paper for identifying 'Stage 1' legislation may - with a slight modification - also be used for selecting of this type of priority⁴ legislation in relation to the other half of the environmental *acquis*, which was not covered by the White Paper. These criteria for selection of priority measures are⁵:

- measures that establish the overall framework for more detailed legislation;
- measures that address fundamental principles or provide for the basic procedures which govern the sector concerned;
- measures that in one way or another are a pre-condition for the effective functioning of environmental protection⁶ in that sector.

Using these criteria, two types of basic environmental legislation can be identified as systematic, administrative priorities:

- *basic procedures for environmental administration* with the objective of ensuring a rational assessment of environmental impacts of different types of private and public projects, transparency and access to environmental information for the public and procedures for reporting on implementation of legislation;
- *environmental framework legislation* in the areas of water protection, protection of air quality, waste management, nature protection, industrial pollution control, risk assessment of chemicals and protection against major industrial hazards;

A third set of priorities concern **the economic implications** of the measures to be implemented.

Within the environmental *acquis* a relatively small group of legislation stands out because they require very costly investments for their implementation.

This group of legislation concerns infrastructure installations in relation to:

- Drinking water supply and waste water management
- Large combustion plants

³ COM(95) 163

⁴ The White Paper does not aim to identify priorities in the sense of the relative 'importance' or 'impact' of the different legislative measures, but "identifies the key measures in each sector and suggests the sequence in which approximation could be tackled" in order to facilitate the task of approximation for the candidate countries.

⁵ See COM(95)163 final/2, p. 3.

⁶ The White Paper has: "for the effective functioning of the Internal Market in that sector."

- Waste management

The implementation of this group of legislation typically requires comprehensive physical investments to upgrade infrastructure installations which, for technical and economic reasons, will take considerable time to implement. It should be noted that this group of legislation, when adopted, allowed for considerable lead times for achieving full compliance in existing Member States. However, because very important gains for environment and public health are to be made from the implementation of this legislation and because the full technical implementation will require considerable time, it is very important that the legislative framework is set in place and that first steps to implementation are taken as soon as possible.

Integration: Environmental *and* general economic and competitive improvements can be achieved at the same time only through full *integration* of environmental considerations into sector policy and investment decisions. The candidate countries with economies still in transition can combine environmental improvements with economic competitiveness when preparing for entry into the EU internal market. To achieve this, the integration of environmental concerns into sector policies needs to be reinforced already now.

Integration can be achieved in practice by introducing comprehensive environmental impact appraisal procedures, by pursuing the “precautionary principle” and “polluter pays principle” and by using sound scientific assessments for all relevant investment and policy decisions. In order to ensure least-cost solutions and an overall enhancement of both the economic and the environmental efficiency of the approximation process, the candidate countries should consider carefully how the environmental priorities and objectives could be integrated into other public policies and programmes.

When further developing their National Programmes for the Adoption of the *Acquis* the candidate countries therefore need to consider

- How programmes for promoting energy efficiency, cleaner technologies, waste minimisation and recycling, rail and public transport, etc. can be integrated into the national economic and sectoral policies.
- How industrial or agricultural production can be focused in a sustainable manner taking into account the environmental and resource constraints of the country.
- How the environmental gains resulting from the economic decline during the first years of transition can be maintained at the same time as the economies are growing.

A forward-looking approach to the challenge of meeting the *acquis* can reap benefits, which go well beyond meeting the legislative requirements for accession in an individual area of EU policy. It will lead to a very considerable increase of the level of protection of human health and the environment in the candidate countries themselves and also in the European Union, due to the transboundary nature of environmental impact. But it will also make an important contribution to industrial and agricultural

competitiveness and economic growth in the candidate countries, if the process is well managed from the start.

2.3. Full Compliance for All New Investments

Agenda 2000 clearly underlines the importance of integrating environmental considerations into economic development both in the private and the public sectors right from the start when it states that 'all new investments should comply with the *acquis*.'

It is generally less costly to introduce pollution reduction measures as an integral part of a new physical investment than to retrofit installations already in place. This also applies to situations where an existing plant or installation is being enlarged or substantially rehabilitated. Full compliance with relevant environmental requirements should therefore also be applied in these situations. This approach promotes the introduction of least-cost and efficient production technologies. It will lead to competitive industries, promote joint-ventures and stimulate the market for environmental technology which will have a positive employment effect both in the EU and in the candidate countries. That this requirement makes good sense also from a financial point of view can be seen from the fact that financiers and serious industrial investors in the region already take the EU accession process and its requirements into account.

Candidate countries will be well advised to follow this principle themselves in relation to domestic investments *during the pre-accession period*. The community funding will be made conditional of compliance with this requirement. The International Financing Institutions should be encouraged to apply a similar conditionality. The obligation will be incorporated in the Accession Treaties, as foreseen by Agenda 2000, for the period *after accession*

2.4. Priorities beyond legal approximation – Nuclear safety

Nuclear safety in the applicant countries is a major political issue and challenge in the enlargement process, which goes well beyond the environmental approximation process. The Commission's overall strategy is not only to reduce the risk which is actually associated with the civil use of nuclear energy in these countries, but also to bring the general safety standard for power production as well as waste management up to a level which is comparable to that which prevails in the EU. This implies both technical improvements and institution building.

Inter alia, in each country with a nuclear power sector there is a need for a competent and independent national regulatory body which licenses and monitors the operation of the plants and ensures that the right priority is given to nuclear safety. In Agenda 2000 it is proposed that after 2000, it may be possible to increase the amount of EU financing. The future of the nuclear sector in the candidate countries must be seen in the wider context of national energy strategies which plan for alternative and complementary sources of supply, generate sufficient income to pay for decommissioning and future investments in safety standards, energy efficiency

measures and the rehabilitation of thermal plants which today do not meet EU environmental standards. The commitments made by Bulgaria (1993) and Lithuania (1994) to close down inherently unsafe installations, in accordance with the Nuclear Safety Account Agreement with the EBRD, must be respected. Although it has not taken on any international commitment, Slovakia faces a similar challenge concerning the closure of two reactors.

3. COMMUNITY ASSISTANCE

While the candidate countries themselves will have to mobilise the necessary resources for focused and cost-efficient implementation of the environmental *acquis*, Community assistance can play a catalytic role in accelerating actions. In these activities, both the Community as a whole and the Member States with their bilateral programmes, will have an important role to play.

To date, the Commission has gradually intensified its efforts in assisting and guiding the applicant countries in their environmental approximation process, in particular through the Phare programmes and the multi-disciplinary sub-committees within the framework of the Europe Agreements.

In addition to these efforts, the Commission intends to focus in the coming years also on the following activities:

- Mobilising further financial resources, as part of pre-accession structural assistance, for environmental improvements in the accession process as a whole,
- Reinforcing support for environmental approximation including co-ordination of Community and Member States' assistance
- Promoting institution building activities for strengthening implementation and enforcement.
- Participation of the candidate countries, which so wish, in the Community financial instrument for the environment (LIFE).
- Participation of the candidate countries in the European Environment Agency (EEA).
- Support from the RTD framework programme for research projects, pilot and demonstration projects and accompanying measures, as appropriate.

3.1. Mobilising Financial Resources to Support the Strategy

The resources required for full compliance with the environmental *acquis* will be substantial but justified, not only from an environmental, but also from an economic point of view. The implementation of the EU environmental *acquis* will lead to modernised, efficient and competitive industries with healthy and safe products, and to cost-efficient and sustainable environmental infrastructure (water, waste, and energy

services). The need for technological modernisation and restructuring of industry and agriculture in the candidate countries is not only a consequence of the criteria set for accession to the European Union, but also of the more fundamental need to ensure economic growth and general welfare through adaptation of economies to cope with free-market conditions. The environmental investments needed to meet the environmental *acquis* are to a very large extent investment which the countries would have found necessary to make independent of the enlargement process. The economic challenge raised by the environmental approximation process as such is therefore mainly one of timing. In spite of clear economic benefits from required investments the relatively quick implementation required to ensure accession within a reasonable time-horizon will be difficult due to the scarce financial and other resources in the candidate countries.

Most of the candidate countries are already making significant efforts to mobilise more resources for environmental improvements. Overall increases in recent years have been over 30% on average. Currently, expenditure levels in the candidate countries are, on average, at a similar level to the EU or higher in terms of share of GDP.

Agenda 2000 proposals include several financing instruments to assist the candidate countries in mobilising further resources for environmental improvements.

Existing resources

In 1998 and 1999 the Phare programme will remain the main Community financial instrument for assistance through the pre-accession strategy. For assistance related to environment, nuclear safety and civil protection the following considerations need to be taken into account:

- The Accession Partnerships - the single framework for prioritising Community assistance including Phare assistance- as well as the candidate countries National Programme for the Adoption of the Acquis will be followed closely and monitored regularly.
- The infrastructure investment required in order to implement the environmental *acquis* is enormous and constitutes one of the priority areas for pre-accession support from Phare for large infrastructure and other projects. This priority will be reflected in all future Phare programming. The new Large Scale Infrastructure Investment Facility, LSIF, combining national and Phare resources with funding from international financing institutions, will be developed into a important tool for financing investments with environmental benefits on transboundary, regional and global levels next to transport infrastructure investments. As such, the LSIF is a precursor of the newly proposed Instrument for Structural Policies for Pre-accession Assistance, ISPA.
- The Phare multi-beneficiary programme for environment should contribute to assist the countries in developing and implementing their environmental approximation strategies and work programmes focusing on fostering harmonised policies and approaches in line with EU policies and on joint cost-effective assistance programmes. There may also be a need to finance regional co-operation projects, for example to establish objectives for implementing key framework directives for

water and air and for meeting their international acquis related obligations (climate change, acidification, etc.).

The future

On 18 March 1998 the Commission adopted two proposals for regulations for new pre-accession instruments, namely the Instrument for Structural Policies for Pre-Accession (ISPA)⁷ and the Pre-Accession Measures for Agriculture and Rural Development⁸. Community pre-accession assistance for the environment will therefore increase considerably after the year 2000. When applying the Community pre-accession and post-accession financing instruments, the following possibilities should be explored further:

- The sustainable adaptation of agriculture and the promotion of sustainable transport and energy policies require specific attention in the candidate countries. For transport this implies the development of environmentally sustainable modes of transport and transport services such as rail, waterborne and public transport and the integration of several modes of transport (intermodality). The Commission has recently launched a project within the multi-country Phare transport programme to develop a cohesive strategy in the candidate countries to mitigate the effects of transport-related environmental problems through a regional approach.
- In its proposal for the new ISPA instrument, the Commission has proposed environment along with transport as the areas for assistance. An appropriate balance will need to be struck between these two fields. Special attention needs to be paid to securing sustainable and cost-efficient assistance which mobilises national and other international financing for individual projects.
- From the proposed Community initiatives, co-ordination and synergy between INTERREG and Phare in cross-border co-operation should be enhanced in order to solve regional cross-border environmental problems.

With these limited resources the Community will try to achieve the maximum multiplier effect for each aid measure. Community grant financing will act as a catalyst and provide leverage in combination with loan financing by international financing institutions and national resources. Experience from projects financed by international financing institutions shows that leverage worth up to 2-4 times the EU grants for investment could be achieved. In order to maximise this leverage and to avoid *ad hoc* subsidising of investments a comprehensive financial strategy and operational modalities for the use of Community financing instruments within the framework of the Accessions Partnerships and the National Programmes for the Adoption of the Acquis should be established.

3.2. Environmental Approximation Advice and Assistance

Agenda 2000 proposes increased attention to the approximation of legislation assistance: "As the applicant countries start irreversibly to adopt the Community

⁷ COM(1998)138

⁸ COM(1998)153

acquis, it will be necessary to increase the assistance provided by the Union with regard to the approximation of laws." The Commission will reinforce the existing activities focusing *inter alia* on: legislative approximation; development of environmental accession programmes; the establishment of harmonised monitoring and progress reporting mechanisms; programmes for reinforcement of implementing institutions; technical assistance for the preparation of investment programmes and implementation; regional environmental co-operation programmes.

It is proposed in Agenda 2000, that TAIEX would expand its assistance on legislative transposition to the entire environmental, nuclear safety and civil protection *acquis*. The type of environmental accession guidance, as currently provided under the DISAE facility (Development of Implementation Strategies for Approximation in Environment) should therefore be continued within the framework of TAIEX. In addition, investment related technical assistance for project preparation will be made available through the Phare Large Scale Infrastructure (LSI) Facility. Environmental assistance and institution building measures will be reinforced through Phare national programmes when the programmes are related to the implementation of national accession priorities. Before the new pre-accession instruments come into force, technical assistance will be also made available through Phare for the preparation of the administrative and financing bodies, such as the National Environmental Protection Funds. This preparation will also include assistance for a correct application of the EIA-Directive.

The participation of the candidate countries into the LIFE programme has started where countries so chose and will continue. National contribution may be supplemented by Phare funds. This will facilitate support for the introduction of the Community environmental policies in the applicant countries.

The Commission also intends to assist the authorities in the candidate countries by providing further guidance documents related to the practical development and implementation of national approximation programmes and strategies.

3.3. Co-ordination of Community and Member State Approximation Assistance

The EU Member States have extensive bilateral assistance programmes for environmental approximation. Synergy between such programmes and the Community programmes is being pursued to reinforce environmental approximation assistance. Informal information exchange and co-ordination between the Commission programmes and bilateral schemes has been ongoing since 1996 providing a good overview of the state of play. These informal contacts will continue in order to identify assistance gaps and to achieve an even greater synergy.

3.4. Support for Implementation and Enforcement Activities

Given the importance of implementation of the environmental *acquis* and taking into account the Commission's Communication to the Council and the European Parliament on "*Implementing Community Environmental Law*"⁹ it becomes obvious

⁹ COM(96) 500 final

that implementation is a crucial item on the enlargement agenda because all legislation would remain dead letter if it was not properly applied and enforced.

The European Union informal Network for the Implementation and Enforcement of Environmental Law, IMPEL, was formed in 1992, with the main objective of creating the necessary impetus in the Community to make progress in ensuring a more effective application of environmental legislation. The Commission has initiated the creation of a parallel network for the candidate countries which will be closely linked to the IMPEL and will use its experience to address implementation and enforcement issues related to the application of Community environmental legislation.

This will be supplemented by integrating the applicant countries into the work of the European Environment Agency with a specific focus on European State of Environment reports and implementation of EU environmental legislation.

The EU Research, Technological Development and Demonstration (RTD) Programmes are playing an increasing role in extending participation to actors from CEE countries. The collaboration of networking of partners in RTD activities from candidate countries will facilitate and accelerate transboundary and inter-sectoral environmental co-operation. In addition, the environmental activities foreseen in the Information Society Research programme (Fifth Framework Programme) will foster co-operation between national and local authorities, research organisations and industry between the EU and the CEECs.

As local governments are assuming increased responsibilities in implementing EU environmental legislation, the Commission intends to assist the cities in the candidate countries to participate in the European Sustainable Cities and Towns Campaign. Through this network the cities will be better equipped to develop integrated and least-cost plans for implementing the new legislation.

CONCLUSIONS

- In spite of the efforts towards environmental approximation in all the candidate countries, substantive additional work will be necessary to achieve full compliance with the environmental *acquis*.
- These additional efforts are of a legislative, administrative and financial nature, with major human resource implications.
- While resource mobilisation for required environmental investments will be one of the more difficult challenges of the accession process, special attention also needs to be paid to reinforcing a wide range of environmental institutions, from regional and local environmental inspectorates into networks of non-governmental organisations.
- Effective, prioritised management of the approximation process is crucial, in particular with respect to the limited resources, and requires careful strategic planning and cost-effective programmes.
- Compliance with the EU environmental *acquis* is justified both for environmental and economic reasons. The implementation of the environmental *acquis* will result in modern and more efficient industries, energy production and improved and cost-effective urban environmental infrastructure services. However, in spite of clear economic benefits from these investments quick implementation will be difficult due to the scarce financial and other resources.
- Preventive measures through integration of environmental and sustainable development considerations into sectoral policies, such as transport, energy and agriculture, need adequate attention both in the applicant countries and in Community financing and other policies. The process of environmental approximation should not be seen as the exclusive responsibility and concern of the ministers of environment in the applicant countries.
- The Union's financial assistance will only cover a minor part of all the resources required, but their proper use can have a catalytic effect in mobilising other resources. In order to maximise this leverage and to avoid *ad hoc* subsidising of investments a comprehensive financial strategy and operational modalities for the use of Community financing instruments within the framework of the Accessions Partnerships and the National Programmes for the Adoption of the Acquis should be established.
- As financial resources will be limited, it is important to ensure that the external assistance is focused, co-ordinated and targeted so as to achieve the greatest possible benefit. The Commission therefore has agreed to extend the dialogue and co-operation with Member States and International Financing Institutions (IFIs) in order to enhance the co-ordination and efficiency of the assistance and other environmentally related activities in the EU enlargement process. Guiding principles for co-operation and co-ordination with the IFIs have been laid down in the

Memorandum of Understanding between the Commission, the European Bank for Reconstruction and Development and the World Bank.

- The Commission will also increase its efforts to provide information, guidance and technical assistance to the candidate countries in legal and administrative areas relevant to the implementation of the environmental *acquis*. This includes support for networking mechanisms for the applicant countries, such as the network of inspectorates and local governments and the gradual integration of the applicant countries into the LIFE programme, and the activities of the European Environmental Agency.
- Scientific research implemented through joint projects/concerted actions constitutes a key objective and a source of knowledge for the sustainable management of natural resources.
- The enlargement process offers challenges and opportunities for the environment not only in the applicant countries, but for Europe as a whole. Coherent policies need to be applied and synergies sought between the enlargement process, wider regional environmental co-operation in Europe and global environmental issues.
- Meeting the environmental *acquis* is not the end-goal, neither for the candidate countries, nor for the European Union. The challenge of full integration of environmental and sustainable development dimension into all major policy areas remains a major and urgent challenge for the whole of the European Union. The process of enlargement should be seen in this wider perspective and should be managed in such a way as to bring the objective of a genuinely sustainable development closer to home.

ANNEX 1:

ESTIMATES ON COSTS OF ENVIRONMENTAL COMPLIANCE

In the preparation process for the Agenda 2000 proposal the Commission conducted a review of 15 different studies related to the costs of the approximation of EU environmental legislation in the 10 associated countries of Central and Eastern Europe. The main reference documents for methodological approach and factual information used were OECD reports on pollution abatement and control expenditure in OECD countries, the World Bank programmes in the region and country specific costing work conducted by candidate countries themselves.

The Commission asked EDC Consultants from Ireland to make a critical analysis of these studies, to compare the findings with similar work done for the Cohesion countries and to take into account the practical experience from the German unification process. The findings of this critical assessment are summarised in the report "Compliance costing for approximation of EU environmental legislation in the CEEC", May 1997, EDC Consultants.

The findings of this work can be summarised as follows:

- The total investment costs of meeting the environmental *acquis* are likely to be up to ECU 120 billion for all the ten associated countries in Central and Eastern Europe.
- The bulk of the investment is likely to be needed in air pollution abatement, water and wastewater management and management and disposal of municipal and hazardous waste
- These costs and their impact will depend on the timing of investments and the selection of most cost-effective policy measures.

More detailed country and sector specific information can be found in the above report.

To promote the realistic and coherent further costing work in the region OECD organised in April 1997 a seminar for the candidate countries on methodological approach. In March 1998 environmental economists from Member States debated methodologies for environmental approximation costings. Further guidance and assistance to the applicant countries on practical costing work has been arranged through Phare programme. Recent country specific information confirms that the order of the magnitude of the first estimates is correct.

ANNEX 2

PROGRAMMING AND MONITORING OF THE TRANSPOSITION AND IMPLEMENTATION OF THE ENVIRONMENTAL *ACQUIS*

This annex looks at the key steps to be followed for one of the major elements of this strategy, namely the national programmes for the adoption of the environmental *acquis*.

The establishment of such detailed national programmes for environmental approximation will form the basis, both for the management of the pre-accession process under the Accession Partnerships, and further full compliance after accession.

Requirements of the Environmental *Acquis*

The starting point for an approximation programme will be to determine the overall requirements of the *acquis*. The Commission has recently published a "Guide to the Approximation of European Union Environmental Legislation" (SEC(97) 1608), which will be available in all the national languages of the candidate countries and can be used by the countries to identify key issues and steps in the process of transposing and implementing the environmental *acquis*.

Legal Gap Analysis

Having established the baseline requirements, the next step will consist of a comprehensive legal gap analysis to identify the areas where existing national legislation will have to be modified or developed in order to comply with the environmental *acquis*. This should be done thoroughly, directive by directive and article by article, in order to ensure full coverage. "Tables of concordance" are the practical instrument for this analysis.

Identification of Institutional Needs

Often, specific obligations to establish an administrative infrastructure result directly from the directives. Directives foreseeing permits, notifications, inspections, monitoring, record keeping, making available information to the general public, reporting to the European Commission, clearly call for national authorities to fulfil these requirements.

It is entirely up to the current and future Member States to define the responsible bodies and the distribution of competencies between national, regional or local authorities. This does not necessarily require a complete change of the existing administrative framework in the candidate countries. Wherever possible, existing structures and experience should be used. There are, however, areas in most of the candidate countries which have not been covered at all by any legislation, where it will be necessary to create new authorities. Examples of this are genetically modified organisms and the chemical accidents covered by the Seveso-directive. Often the environmental *acquis* can only be implemented by strong regional and local

implementation bodies. As many of the applicant countries have not yet been able to develop such bodies, this is likely to need special attention and additional efforts.

Legislative Programmes for the Adoption of the Whole Environmental *Acquis*

The legislative gap analysis visualised by the tables of concordance and the administrative needs assessment, form the basis for amending or drafting the necessary legislation. It is advisable to set up a proper legislative programme with precise timetables for the different stages of the legislative process. Transparency and public participation should be pursued through consultation procedures.

Strengthening of the administrative infrastructure.

Strengthening of the administrative infrastructure has been understood as the regulatory distribution of competencies and the attribution of responsibilities. In addition, it will be necessary to provide the administration - as defined in the legislation - with the practical means to fulfil its obligations. This includes technical infrastructure and sufficient human resources with suitable professional backgrounds. It is very likely that substantial institution building programmes will have to be elaborated and implemented in order to ensure the efficiency of the environmental administration.

In addition to the national tasks for the administration, countries should be aware that, on the day of accession, participation in a large number of formal and informal Council and Commission working groups will be expected. This places a considerable burden particularly on small countries. A review of the environmental *acquis* considering the establishment of formal regulatory or advisory committees will give a first idea about the number of people likely to be involved.

In order to assist the strengthening of environmental administrative structures in the candidate countries, the Commission is developing the concept of institution building in priority sectors through twinning between candidate country administrations and corresponding administrations in the existing Member States. Environment has been identified as a key priority in the Accession Partnerships and will be given special attention in this context.

Long-term secondments of Member State officials and practitioners involved in the implementation and enforcement of the *acquis* will constitute the backbone of twinning operations, which may also include other measures required to achieve well-specified objectives.

Implementation Programmes

Implementation programmes containing an environmental sectoral analysis, priorities, annual costs for the implementation of the various sectoral parts of the programme, financing strategies, and realistic timetables specifying target dates of compliance are a crucial component of the National Programme for the Adoption of the *acquis*.

A mechanism for continuously monitoring the completion of the programme and for annual reporting on progress should be included. Implementation programmes will

normally consist of a strategic conceptual planning and a project development and implementation phase.

A first step of the directive-specific implementation programmes will be to define the scope of each individual directive, such as the number of installations covered by the large combustion plants directive, or the potential zones subject to mandatory monitoring as foreseen in the air quality framework directive. These first step assessments should include rough cost estimates.

This primary information will form the basis for further strategic planning to take the necessary steps for full compliance with the *acquis*. Strategic implementation plans need to be detailed and specific enough in order to facilitate focused decision making. Strategic overall planning will be a basis for individual implementation decisions, thus shifting the work from national to regional and local levels and to the private sector. The individual implementation decision will be the responsibility of these implementing agencies. However, the national government remains responsible for ensuring that implementation progresses according to timetables, using available mechanisms for this, such as efficient enforcement of the legislation.

Co-ordination and Monitoring

All the activities which have been envisaged for the pre-accession period, have to be subject to regular monitoring and review. A comprehensive monitoring mechanism is important when the number of stakeholders involved is likely to increase during the approximation process.

It would therefore be advisable to establish more formal and structured systems, particularly for communication and reporting.