

SR3

Safeguards Diagnostic Review
for
Piloting the Use of Romanian Systems to Address
Environmental and Social Safeguard Issues in the
Proposed World Bank-Assisted

Romania

Municipal Services Project
and
Transport SWAp Project

Equivalence and Acceptability Assessment Report

Draft January 2006

Table of Contents

Acknowledgements.....	iii
Abbreviations	iv
Executive Summary ..	v
1.0 Background.....	1
2.0 Project Description.....	2
2.1 Romania Municipal Services Project.....	2
2.2 Romania Transport Sector-Wide Approach (SWAp).....	2
3.0 Equivalence Assessment	4
3.1 Bank’s Safeguards Policies Applicable to the Proposed 4 Pilot Projects	4
3.1.1 Romania Municipal Services Project.....	4
3.1.2 Romania Transport Sector-Wide Approach (SWAp).....	4
3.2 Process for Determining Equivalence.....	5
3.3 Equivalence Assessment – Environmental Assessment	5
3.3.1 Romanian Laws and Regulations Applicable to the Project.....	5
3.3.2 Analysis of Gaps.....	8
3.3.3 Proposed Measures to Address the Gaps of the Romanian EA System.....	9
3.4 Equivalence Assessment – Cultural Property	9
3.4.1 Romanian Laws and Regulations Applicable to the Projects	9
3.4.2 Analysis of Gaps.....	12
3.4.3 Current and proposed Measures to Improve the Equivalence.....	12
3.5 Equivalence Assessment – Dam Safety	12
3.5.1 Romanian Laws and procedures.....	13
3.5.2 Analysis of Gaps.....	13
3.5.3 Current and Proposed Measures to Improve the Equivalence	13
3.6 Equivalence Assessment – Involuntary Resettlement	13
3.6.1 Romanian Laws and Procedures	14
3.6.2 Equivalence and Analysis of Gaps	15
4.0 Acceptability Assessment.....	23
4.1 Scope of the Acceptability Assessment.....	23
4.2 Methodology Followed in Determining Acceptability.....	23
4.3 Acceptability Assessment – Environment Assessment (EA)	23
4.3.1 Implementation Practices and Institutional Capacity.....	23
4.3.2 Gap Analysis.....	25
4.3.3 Current and Proposed Measures to Increase the Acceptability	25
4.4 Acceptability Analysis – Cultural Property	26
4.4.1 Implementation Practice and Institutional Capacity	26
4.4.2 Gap Analysis.....	27

4.4.3	Current and Proposed Measures to Increase the Acceptability	27
4.5	Acceptability Assessment – Dam Safety	27
4.6	Acceptability Assessment – Involuntary Resettlement	28
4.6.1	Implementation Practice and Institutional Capacity	28
4.6.2	Gap Analysis.....	29
4.6.3	Current and Proposed Measures to Increase the Acceptability	29

ANNEXES

Annex I:	Legal and Institutional Framework.....	31
Annex I A:	Relevant Legal Texts	31
Annex I B:	Romanian Licensing and Permitting procedures.....	36
Annex I C:	Government of Romania’s Current and proposed Measures that would Improve and Sustain Acceptability.....	41
Annex II:	Summary Matrices for Assessment of Equivalence	46
Annex II A:	Environmental Assessment	46
Annex II B:	Cultural Property	51
Annex II C:	Dam Safety.....	55
Annex II D:	Involuntary Resettlement (Expropriation for Public Utility	57
Annex III:	List of Persons Met.....	64
Annex IV:	December 12, 2005 Public Consultation	68
Annex IV A:	Summary Minutes	68
Annex IV B:	List of Participants.....	71

TABLES

Table 1.	EIA Categorization of proposed Sub-Projects Under the Romanian Law	7
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FIGURES

Figure 1.	Procedures for issuing the environmental license to start-up investments of a new facility.....	45
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The report was reviewed by a Working Group in the Ministry of Environment and Water Management of Romania, to provide policy guidance and ensure that the results of the study are accurate and reflect national priorities and support. The working group is lead by Mr. Silviu Stoica, Director of the Environment Department (MEWM), and includes the following specialists: Ms. Adriana Baz (Director, Department of Nature Conservation, Biodiversity, and Biosecurity, MEWM); Ms. Elena Dumitru (Director, Department of Solid and Hazardous Waste Management, MEWM); Ms. Angela Filipas (General Director, Department of Impact Assessment, Control Pollution and Risk Management, MEWM); Ms. Camelia Calatan (Department of Authorization and Horizontal Legislation, NEPA); and Ms. Doina Cioaca (Department of Nature Conservation, Biodiversity and Land). The Working Group also coordinated input from other Ministries. A public consultation on the major findings of this review took place in Bucharest, Romania on December 12, 2005, following disclosure of the Executive Summary of the November 22nd version of this report. This revised report is being disclosed in English in the World Bank InfoShop and in Romanian on the MEWM web site in mid-to-late January, 2006.

Abbreviations

EA	Environmental Assessment
EGO	Emergency Government Ordinance
EIA	Environmental Impact Assessment
EIS	Environmental Impact Study
EMF	Environmental Management Framework
EMP	Environmental Management Plan
EMAS	Eco Management and Audit Scheme
GD	Government Decision
FI	Financial Intermediary
ICIM	National Research Development Institute for Environmental Protection
IPTANA	Roads Design Institute
ISPCF	Railway Design Institute
LEPA	Local Environmental Protection Agency
MCRAM	Ministry of Culture and Religious Affairs
MEWM	Ministry of Environment and Water Management
MO	Ministerial (MEWM) Ordinance
M.Of	Official Gazette of Romania
MPF	Ministry of Public Finance
MTCT	Ministry of Transport, Construction and Tourism
NCA	National Commission for Archaeology
NCMNR	National Company for Motorways and National Roads
NEAP	National Environmental Action Plan
NEG	National Environmental Guard
NEPA	National Environmental Protection Agency
REPA	Regional Environmental Protection Agency
SNCFR	National Railway Company CFR SA

Executive Summary

Introduction

- Following extensive global notification and consultations, in March 2005, the World Bank Board approved a pilot program to test the use of borrower or “country” systems for meeting the objectives of World Bank environmental and social safeguard policies. This led to the issuance of World Bank Operational Policy 4.00¹, which lays out specific criteria for advancing pilot projects. It was recognized in the background paper for Board consideration that sector-specific Bank operations in new member states and candidates for EU accession hold particular promise as pilots.
- Two operations proposed for Romania are being considered for piloting under OP 4.00 and is the subject of review in this report: the Municipal Services Project (MSP) and the Transport Sector-Wide Approach program project (Transport SWAp). The Municipal Services project will support the rehabilitation and improvement of wastewater, stormwater and drinking water systems to reduce pollution, improve public health, and assist Romania in meeting environmental requirements for European Union accession. The Transport SWAp will provide funds to rehabilitate and improve major road and rail systems.
- In cooperation with Romanian officials, and with the support of the European Commission staff, the World Bank has compared the Romanian systems (including those which stem from EU directives) against the Operational Principles laid out in OP 4.00-Table A1 for key safeguards that would normally apply to these two Bank-assisted projects. This assessment included a legal and technical review; both on paper and through field interviews and site visits. Report conclusions were discussed at a public meeting in Bucharest on December 12, 2005, following disclosure in Romania of a draft Executive Summary. Disclosure of the full report is planned for mid-January 2006.

Principal Observations - Environmental Assessment (EA) and Cultural Property

- The World Bank examined the acceptability of the EA process along two lines: EA approval procedures, and compliance monitoring during construction and operation. The Bank is pleased to note that there is a well defined process in place for screening, review, public consultation, disclosure, and approval of EA documents. Regarding screening (i.e. determination of the appropriate EA category), projects falling on Romania’s Annex I list² would typically fall in the World Bank’s EA Category A. These mandatory EAs require a level of attention to assessing risk, alternatives and mitigation/monitoring (i.e. scoping) which is comparable to World Bank requirements for Category A projects. Both the Municipal Services and Transport SWAp projects are currently categorized, however, as Category B for Environmental Assessment under the World Bank system, so if sub-projects fall under Annex I of the Romanian system, they would receive more thorough due diligence for EA than they would under a stand-alone World Bank project.

¹ <http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/tocall/E49CED1645FB433885256FCD00776B19?OpenDocument>

² Annex I to GD 918/2002; projects subject to mandatory EA; based on EU Directive 85/337/EEC as amended

- The approach to EA for projects on Romania’s Annex II list was also examined. The vast majority of these projects correspond to World Bank Category B though through the formal Romanian EA process, the few that would correspond to Category A of the World Bank would receive an Annex I level of preparation and review. All sub-project categories being considered under the Municipal Services and Transport SWAp projects will likely, therefore, be subjected under the Romanian system to at least an equivalent approach to EA screening, scoping and analysis as set forth in World Bank OP 4.00.
- While the EA documents are prepared by project proponents, an independent Technical Committee is established by government to review each project. The committee include representatives of local and regional environmental agencies, local officials, representatives of the Health services, the National Environmental Guard (inspection service), the Romanian Water Company (“*Apele Romane*”), research institutes, etc.. Public participation during the EA process includes at least one public consultation, and as many as three public announcements in local newspapers or on the local environment agency website. This approach should achieve comparable outcomes as envisaged by the Bank under OP 4.00. Environmental sections of standard bidding documents for roads and rail projects were examined and found comparable to the core mitigation and monitoring aspects of stand-alone Environmental Management Plans normally included as a requirement of World Bank safeguard policies.
- Regarding implementation, a successful project application results in the issuance of two documents which are comparable in aim to the Environmental Management Plan required for Bank projects. Following the acceptance of the EA, an *Environmental License to Construct* (called the “environmental agreement”) is issued for all projects with civil works. After construction, the project proponent is required by law to apply for the *Environmental Permit to Operate* (sometimes called “environmental authorization”), which is issued only after a review by local or regional environmental authorities. The *Environmental License* would have measures/conditions to mitigate adverse impacts during construction and is issued by the competent environmental authority based on the information obtained during the environmental impact assessment procedure. Based on the “environmental agreement” the City Hall issues the *License to Construct*. The *Environmental Permit* includes measures to be implemented during operation and is issued only by the local EPA. The permitting process includes setting wastewater discharge limits (by *Apele Romane*). Discharge standards and wastewater management programs (e.g. receiving water quality) set by Romanian authorities are aligning with comparable EU directives on wastewater and watershed management (as transposed into Romanian law), and are quite consistent with the Bank’s narrative descriptions of good water quality management programs in the Pollution Prevention and Abatement Handbook (Part II).
- The World Bank review included meetings and site reviews in cooperation with environmental officials at the local and regional levels. In Romania all key environmental responsibilities fall under the Ministry of Environment and Water Management (MEWM). Preparation for EU accession has led and will likely continue to lead to considerable increases in staff at both the policy and field levels. A core group of environmental specialists are also on staff in key regional offices responsible

for rails and roads; a very important element in practical implementation of environmental requirements.

- Regarding compliance monitoring, an independent agency under the MEWM – the National Environment Guard (NEG) – is tasked to carry out this responsibility. The NEG is being staffed up and responsibilities strengthened through passing of bylaws and establishment of good working procedures. An ambitious training program is also being implemented. If violations in licenses or permits are found, the NEG has a range of administrative orders and penalties to issue at its disposal. There seems to be serious commitment at the senior management level to improve the overall compliance level. The trend is positive, with reportedly increased fines for violations, more transparency, and reduced ambiguity in setting the fines (thereby helping reduce corruption). It should be noted, however, that a fully staffed NEG will not be in place for about a year, so effectiveness cannot yet be fully documented.
- In the area of Environmental Assessment, the review concludes that there are no major gaps regarding the equivalence of Romanian systems that would inhibit piloting. Smaller differences in process or application of policies (for example continuing consultation during relatively higher risk sub-projects) do not appear to apply to the types of sub-projects expected to be carried out under the pilots. Strengthening of the EA system has been accomplished recently as part of the EU accession process and further strengthening would be helpful more broadly for environmental performance improvement, but is not necessary to meet the due diligence requirements for the Municipal Services and Transport SWAp projects. It should also be noted that the Bank's proposed Environmental Management Loan (slated for delivery in FY07) is expected to provide considerable capacity building which will directly and positively improve Romanian systems at both the policy and field levels.
- Regarding cultural property, the Bank believes that Romanian systems are appropriate for application to both operations. If either operation would require construction or rehabilitation near to historic buildings or other physical cultural resources, or if "chance finds" are encountered, we believe that Romanian systems are at least as effective as those outlined in OP/BP 4.00 on such points. Inventories of buildings and sites of cultural significance are available, and are consulted to assess whether proposed investment projects might cause impact. Local experts on archeology, architecture and other relevant fields are brought in for assessments before construction decisions are made, and after if "chance finds" are encountered during construction.
- With respect to EA implementation practices (the core of the "acceptability analyses") the Bank finds the current approach and direction of Romanian institutions in carrying out sub-sector laws and policies (including compliance and enforcement) to conform with the goals of OP 4.00. While several areas would benefit from strengthening (as part of the country's overall improvement in environmental management and implementation of sectoral policies), these are not significant enough to hinder the Municipal Services or Transport SWAp projects from being approved as pilots. Capacity-building under European Union programs, as well as the proposed World Bank Environmental Management Loan, will also be very supportive.

Principal Observations – Involuntary Resettlement

- The two pilot projects will only involve small-scale land acquisition, not physical relocation of households or businesses. For this assessment, we commissioned a thorough legal analysis of expropriation and related legislation, met with officials in national and local governments who deal with expropriation, property assessors, and people whose land had been expropriated. Our analysis focuses on the principles of OP 4.00 that are applicable to expropriation and land acquisition.
- Unlike the case of Environmental Assessment, the EU does not have community-wide policies or directives regarding the expropriation of land by government, or the subsequent resettlement of people or loss of income. Each member state has its own laws and procedures on these matters, and Romania is no exception. Little expropriation was carried out in Romania for many years following the fall of the Ceausescu regime, as there was little infrastructure development or rehabilitation activity. More recently, however, significant investments in highway construction on the national level, and rehabilitation and expansion of infrastructure on the local level, have increased the incidence of expropriation in the country.
- Expropriation in Romania is governed by Law 33/1994 which establishes principles and the framework for expropriating private land for public use. This law is supplemented by Government Resolution 583/1994, which specifies procedures for investigations required to establish public use. The law and procedures apply to expropriation carried out by all levels of government—national county and local.³
- The two investment projects may involve small-scale land acquisition, with little chance that households or businesses will be relocated. The proposed Municipal Services Project may fund the extension of wastewater and storm sewage systems and the rehabilitation of drinking water distribution and treatment systems in Bucharest and Arad. The individual projects may require rights-of-way for pipes and acquisition of small plots for pumping. Most of the pipes will be buried under streets, for which the local government will issue concessions for the right-of-way.
- The proposed Transport SWAp will fund the rehabilitation of roads and improvements to railways. The road rehabilitation component is not expected to require the acquisition of land or removal of illegal encroachments. The railway component may entail improvements in railway alignments close to existing tracks, for which land would be acquired.
- Looking at the Operational Principles of OP/BP 4.00 governing pilots, we see equivalence in most key areas such as; emphasizing alternatives that do not require expropriation; applying similar standards and procedures at all governmental levels and for all aspects of an investment; establishing baseline ownership conditions; including consultations, public participation and systematic disclosure of decisions and designs; using market value as the compensation standard, with the possibility of

³ For highway construction, Law 198/2004 was adopted, which applies only to highways and national roads. It was supplemented by Methodological Rules of June 10, 2004. In addition to existing provisions of Law 33/1994, Law 198/2004 prescribes the use of escrow accounts to enable the expropriator to pay compensation in cases where ownership is unclear or contested, thereby speeding up the expropriation process. The 2004 law does not apply to the pilot projects.

additional compensation for damages and lost benefits; requiring prompt payment; providing compensation for the loss of assets by third parties and persons without formal rights; and, there are only a few key differences that would need to be addressed.

- We found a few areas in which Romanian expropriation laws and procedures are not equivalent to principles in OP/BP 4.00. Neither Romanian laws nor practices explicitly: require a baseline socio-economic survey for expropriation; call for follow-up monitoring and assessment; notify affected persons of their rights; grant special consideration to the poor, vulnerable or other special groups; or give preference to a land-based strategy. We conclude that three of these differences would not significantly affect achieving the objectives of OP/BP 4.00 in the pilot projects. The lack of a socio-economic survey would not materially affect outcomes, as the combination of compensation for loss of assets and “prejudice,” (damages and lost benefits) should be adequate to enable affected persons to maintain their socio-economic status. Similarly, the law is applied uniformly regardless of the physical or economic status of affected persons, although the provision of prejudice may be invoked to compensate for damages. Finally, affected persons have access to an open land market which enables them to purchase alternative lands, if they wish, without requiring an administered land replacement system. Two differences are salient, however. First, Romanian authorities do not systematically inform affected people of their rights, as required in OP/BP 4.00. Second, as compensation is assumed to be adequate, there is no monitoring or assessment of the impacts of expropriation. The team concludes that these differences can be mitigated, as indicated below, making it suitable to include this policy in the pilot.
 - Notify owners of rights and procedures. Notification is inadequate. The letter announcing the intent to expropriate should be accompanied by a brochure that clearly outlines the expropriation process and the rights of owners at each step, including how to document a claim for damages (prejudice), including relocation costs and assistance to address impact on livelihoods, if applicable
 - Monitor. The pilot projects should provide resources for local independent monitors to report periodically on expropriation activities and their impacts. The Bank will monitor the promptness and adequacy of compensation, including prejudice, and the impacts of expropriation during regular supervision missions and recommend steps to resolve significant problems that emerge during implementation as identified by project officials and independent monitors
- Regarding acceptability, we conclude that the expropriation process in Romania is implemented according to the law and is markedly consistent with OP/BP 4.00. Some key strengths in the expropriation process are: legislation and procedures apply uniformly to all administrative levels; the systematic involvement of a wide range of institutional stakeholders in the preparation and review of expropriation decisions; the use of market value as the compensation standard with the provision of additional compensation for damages; judicial review of all purchase agreements and resolution of disputes; clear payment requirements; and the requirement that all expropriation must be completed before a Construction License is issued.

- The team also notes weaknesses in a few areas which need to be addressed. The issues and the team's recommendations for mitigation measures are as follows:
 - Share valuation assessments carried out by qualified assessors. Compensation is based on valuation assessments mostly made by qualified assessors, but the assessments are not necessarily shared. As market value is the basis for the assessments, they should be carried out by qualified assessors and shared with affected persons prior to negotiations.
 - Pay compensation at the assessed value of land, structures and damages. The law sets a compensation threshold at the assessed value of assets, but officials may attempt to pay less. Negotiators should be instructed to ensure that they document and pay the legal minimum.
 - Inform of exceptional cases. The expropriation of businesses and residences is reported to be rare, thus there is little documentation of compensation for many of the things that would be covered by prejudice. The Bank and borrower should agree on arrangements to address unusual cases and then discuss and agree on specific actions to be taken in the following cases: acquisition of residences; acquisition of parts of an agricultural holding where the remainder is not adequate to allow people to sustain their livelihoods, compelling affected people to change their occupations; acquisition of commercial structures or businesses; and expropriation of land used by people without claim to legal title.

Principal Observations – Dam Safety

- There is a possibility that some Municipal Services sub-projects may rely on drinking water supplies obtained from dams or other control structures. New dams will not be financed by the project, nor will dams be rehabilitated under the project, but the capability of Romanian authorities to ensure dam safety is important should water supplies be associated with control structures. Good alignment was found between Romanian requirements and those of the Bank for dam safety. Experience by the World Bank in ongoing projects in Romania also suggests that the country's system for ensuring the safety of existing dams that are utilized for water supply is adequate for piloting.

Principal Observations – Other Issues

- Regarding Natural Habitats, there is no information at this stage to indicate that this safeguard-related policy area will be triggered by the proposed MSP and Transport projects. If site-specific Natural Habitats issues arise during the final stages of project preparation or during implementation, normal Bank and Romanian safeguard policies will be applied as appropriate. If the issues are of relatively low risk and Romanian systems are found equivalent and acceptable to the Bank, then a revision to this report will be prepared and disclosed. No other safeguard-related issues are being considered for piloting.

- The International Waterways Safeguard may be triggered by some sub-projects in the Municipal Services project, and World Bank procedures under OP/BP 7.50 will apply. As per OP 4.00, this policy cannot be piloted for the use of borrower systems.

Conclusions

- We believe that the Romanian system of laws, regulations and practices in the sub-sectors to be supported by the proposed Municipal Services and Transport SWAp projects is sufficiently equivalent to those of the World Bank, and sufficiently acceptable in practice, to support piloting under OP/BP 4.00 in four safeguards-related areas. Two of these areas, environmental assessment and cultural property, require very little if any gap-filling. Gap-filling is needed to a greater extent for piloting involuntary resettlement. Should dam safety issues arise in association with the Municipal Services project, we believe that Romanian systems are also equivalent and acceptable for piloting with very little if any gap-filling.
- World Bank supervision on safeguard-related matters will continue throughout the implementation of the two proposed projects to: (i) ensure compliance with “equivalent and acceptable” Romanian procedures, (ii) assess implementation of gap-filling measures, (iii) ensure compliance with Bank policies if/where they apply in lieu of Romanian systems, and (iv) looking more broadly, track results in terms of environmental and social development outcomes. This will include review of monitoring reports as agreed with the borrower.

1.0 Background

Starting in 2005, and extending over a two year period, the Bank will be supporting a limited number of pilot projects in which lending operations will be prepared using the borrowing country's systems⁴ for environmental assessment and other environmental and social safeguards, rather than the Bank's operational policies and procedures on safeguards. The rationale for using country systems is to scale up development impact, increase country ownership, build institutional capacity, facilitate harmonization and increase cost effectiveness. These pilot operations will be governed by a new operational policy⁵ (OP 4.00) on "Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects". This Policy elaborates on the approach, enumerates the criteria for assessing country systems, and specifies documentation and disclosure requirements and respective roles of the client country and the Bank.

The Bank considers a borrower's environmental and social safeguard system to be equivalent to the Bank's if the borrower's system is designed to achieve the objectives and adhere to the applicable operational principles set out in Table A1 of OP 4.00. Since equivalence is determined on a policy-by-policy basis in accordance with Table A1, the Bank may conclude that the borrower's system is equivalent to the Bank's in specific environmental or social safeguard areas in particular pilot projects, and not in other areas⁶. Before deciding on the use of borrower systems, the Bank also assesses the acceptability of the Borrower's implementation practices, track record, and institutional capacity. The above approach and criteria for assessment were developed with inputs from external stakeholders such as representatives of governments, bilateral and multilateral development institutions, civil society organizations, and the private sector and is consistent with commitments made by the development community in the March 2005 Paris Declaration on Aid Effectiveness.

Romania is one of the initial few countries that are being considered for piloting the use of country systems, specifically in the proposed Bank-assisted Municipal Services Project and the Romania Transport Sector-Wide Approach (SWAp) Project. The following sections describe the equivalence and acceptability assessments, carried out by the Bank staff in cooperation with Romanian officials, European Commission officials, and consultants. The proposed pilot is expected to bring the added benefit of moving towards harmonization of environmental and social safeguards requirements among the Government, the World Bank and other development partners such as the European Union, European Bank for Reconstruction and Development, European Investment Bank, and other financial institutions and donors who support similar projects in Romania.

⁴ Country systems is defined as the country's legal and institutional framework, consisting of its national, sub-national, or sectoral implementing institutions and relevant laws, regulations, rules, and procedures that are applicable to the proposed pilot project.

⁵ OP 4.00 can be viewed at this web-site:

<http://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/tocall/E49CED1645FB433885256FCD00776B19?OpenDocument>

⁶ The Bank's environmental and social safeguard policies will apply to the areas which the Bank has determined not to be equivalent to its applicable policy framework and will continue to apply to all projects that are not part of the pilot program.

2.0 Project Descriptions

2.1 Romania Municipal Services Project

The proposed Romania MSP is a Category B project for Environmental Assessment⁷ to be implemented largely in Bucharest and Arad with the following components highlighted for attention:

An **investment component**, which may include the following types of investments⁸ for which the MPF will make the proceeds of the loan available to utilities and regional operators:

- Rehabilitation of existing drinking water networks;
- Rehabilitation of existing sewerage lines;
- Rehabilitation of existing storm water drainage lines;
- Rehabilitation and upgrading of existing drinking water treatment plants;
- Rehabilitation and upgrading of existing waste water treatment plants;
- Possibly rehabilitation of existing landfills;
- Construction of new drinking water networks;
- Construction of new sewerage lines;
- Construction of new storm water drainage lines;

A **technical assistance activity** (within the second component) consisting of:

- Strengthening of the water/waste water regulator that was created in 2002; and
- Institutional strengthening of ministries and agencies as needed to develop investment priorities.

2.2 Romania Transport Sector-Wide Approach (SWAp)

The proposed Romania SWAp (Transport Project) is categorized as a Category B project for Environmental Assessment, will be structured as an investment lending, and be implemented by the Ministry of Transport, Construction and Tourism (MTCT). As a SWAp, it will assist the government's national transport rehabilitation and improvement program, and will consist of the following components:

A **roads component** comprising:

- Periodic maintenance and primary rehabilitation of selected key sections of the national road network, in line with the Governments on-going program;

⁷ Earlier versions of the Bank's Integrated Safeguards Data Sheet (ISDS) noted a proposed FI category with possible A and B sub-projects in several cities. The project as now envisaged does not include landfills or wastewater treatment plants, nor is it currently slated to provide co-funding for cities beyond Bucharest and Arad. With a focus on rehabilitation and minor systems expansion, the latest ISDS notes the more appropriate Category B rating.

⁸ At the time this report is being prepared, investments in solid waste management and drinking water and wastewater treatment are not envisaged for financing but since the Equivalence and Acceptability Analysis considered these aspects we are including them for completeness.

- Improvement of capacity within the NCMNR to effectively manage road maintenance and rehabilitation, through the implementation of modern pavement and bridge management systems, in addition to staff development for NCMNR; and

A **railway component** consisting of:

- Periodic maintenance of existing infrastructure (e.g. railway track, bridges and tunnels);
- Modernization of signaling, power supply, and inter-modal equipment at border stations;
- Procurement of diesel and electrical motorized units as well as other rolling stock for passenger services, subject of the results of a market study; and
- Institutional strengthening for the implementation of railway infrastructure maintenance management systems.

3.0 Equivalence Assessment

3.1 Bank's Safeguards Policies Applicable to the Proposed Pilot Projects

3.1.1 Romania Municipal Services Project

The proposed MSP will be assisting Romania in its efforts to meet the cost of water, wastewater, and storm sewerage investments, to comply with wastewater discharge, and water quality standards set by EU directives⁹. Though these are environment friendly investments aimed to reduce the current pollution load, they could result in adverse environmental impacts if inappropriate design, construction and operational practices are followed. In order to address these potential adverse impacts, the Bank Policy on EA is applicable to the proposed MSP¹⁰. Potential adverse impacts are expected to range from local and reversible impacts during implementation/construction only, to more significant effects.

Under the current scope of the proposed MSP, the Bank Policy on Physical Cultural Resources is also considered applicable since investments may take place in historic districts, potentially affect historic structures, or influence other physical-cultural resources. Furthermore, although the scoping of the extent of any involuntary resettlement required for the proposed project is still in process, it is expected that some land may be needed, for example to extend sewerage networks. Therefore, the Bank's policy on Involuntary Resettlement is also considered applicable to the proposed MSP. In any case, involuntary land acquisition will be minimized and an attempt will be made to meet any land requirements by voluntary donation or voluntary relocation within the same community.

There is a possibility that some Municipal Services sub-projects may rely on drinking water supplies obtained from dams or other control structures. This will not be fully ascertained at appraisal. While new dams will not be financed by the project, nor will dams be rehabilitated under the project (two more sensitive and risky settings), the capability of Romanian authorities to ensure dam safety is important should water supplies be associated with control structures. International Waterways (OP 7.50) may be triggered for the MEP, but this safeguard policy is not authorized for piloting and normal World Bank procedures would be followed.

3.1.2 Romania Transport Sector-Wide Approach (SWAp)

As described above, the proposed Transport Project will be assisting Romania in its efforts to maintain, rehabilitate and modernize its roads and railways. Rehabilitation and maintenance activities under the proposed project could result in some adverse environmental impacts, unless appropriate design, construction and operational practices are followed. Potential adverse environmental impacts are expected to be local, and occur during

⁹ A list of relevant EU directives can be found in Annex I

¹⁰ Under the Bank's OP/BP 4.01 the MSP would be classified as environmental "B". Earlier versions of the Bank's Integrated Safeguards Data Sheet noted a proposed FI category with possible A and B sub-projects. The project as now envisaged does not include new landfills or wastewater treatment plants, nor is it currently slated to provide co-funding for other cities. With a focus on rehabilitation and minor systems expansion in Arad and Bucharest, the Category B rating is more appropriate. The ISDS is being updated at this time.

implementation/construction only. Few if any of them are expected to be irreversible. In order to address the potential adverse impacts, the Bank policy area on EA¹¹ is applicable.

Under the current scope of the project, investments (such as resurfacing of roads, improvement of signaling, and maintenance of rail) are largely expected to incur within the existing right of way. However, it cannot be excluded that acquisition of small amounts of land may be needed for instance for maintenance of yards or sub-stations, and the Bank's policy area on Involuntary Resettlement is therefore also considered applicable to the proposed Transport Project. In any event, involuntary land acquisition will be minimized.

Currently, there is no information to indicate that other environmental and social safeguard policies of the Bank are applicable. However, as for the MSP, all respective sub-projects will be screened during implementation as standards procedure for their potential impacts and other relevant Bank safeguard will be applied as appropriate.

3.2 Process for Determining Equivalence

This equivalence assessment was carried out by the Bank staff in co-operation with Romanian and EU officials, consultants and legal and environmental counsel¹². The methodology included desk review of current in-force Romanian legislation, Romania's treaty of accession to the EU, relevant European Union's Directives and International Conventions, discussion with Romanian officials and EU Commission staff, and review of EU and Bank reports and studies. Matrices comparing the policy objective and operational principles, as stated in Table A1 of OP 4.00, with requirements under Romanian Law are included as Annex II, and formed the basis of equivalence assessment.

3.3 Equivalence Assessment - Environmental Assessment

3.3.1 Romanian Laws and Regulations Applicable to the Projects

Annex I contains a list of laws, regulations, rules and procedures that govern EIA categorization in Romania. In addition, it lists relevant EU directives and international treaties to which Romania is party. Matrices comparing Romanian systems to the requirements of OP 4.00 for Environmental Assessment are included as Annex IIA to this report.

Joining the European Union is one of the central development objectives of Romania with the recently signed Accession Treaty committing the government to EU membership in 2007. Article 148 (2) of Romania's Constitution (titled "on Integration into the European Union") provides that, as a result of accession, the provisions of the constituent treaties of the European Union as well as the other binding community regulations shall take precedence of the opposite provisions of the national law, in compliance with the provisions of the accession act.

European Union law on environmental protection comprises over 200 legal acts covering horizontal legislation, water and air pollution, management of waste and chemicals,

¹¹ Under the Bank's OP/BP 4.01 these project would be classified as environmental category "B", and EMPs and consultation of project affected groups and NGOs, instead of a full fledged EIA would be required.

¹² Key officials met during the major September 2005 study mission are mentioned in Annex III; the input of other staff during previous and follow-on meetings and discussions is gratefully acknowledged.

biotechnology, nature protection, industrial pollution and risk management, noise and radiation protection. If it finds that an EU member state is not applying EU law, and therefore not meeting its legal obligations, the European Commission takes steps to put the situation right, though a process called the 'infringement procedure'. If this procedure fails to correct matters, the Commission must then refer the matter to the European Court of Justice, which has the power to impose penalties. The Court's judgments are binding on EU member states and institutions.

Preparation for EU accession has required wide ranging reforms of the Romanian administration and legal system in order to prepare for acceptance of the so-called *acquis communautaire*, and to improve the physical infrastructure. General framework Law 294/2003 approving the EGO no91/2002 which amended Law no.137/1995 was adopted, introducing a compulsory procedure for EIA for certain projects, including those with transboundary effects. The GD no.918/2002 (transposing the EIA Directives) and four Ministerial Ordinances¹³ were adopted establishing the competencies, procedural stages and instructions including on public participation and preparation in the EIA procedure (screening of projects, scoping of EIS, and review)¹⁴. Screening of projects, to determine whether significant environmental impacts are likely to occur, and a full EIA has to be carried out, is based on quantitative and qualitative criteria. Competent authorities are MEWM (for certain important projects) and NEPA at national level, REPAs and LEPAs, depending of the type and anticipated impact of a proposed project. Annex I.1 and I.2 of MO 860/2002, as amended by MO 210/2004 and MO 1037/2005, determines which competent authority is responsible with regards to which type of project. A Technical Review Committee comprised of several representatives of ministries and representatives of civil protection and the fire brigade, and which may be enlarged with experts as needed, participates in all stages, notably, screening, scoping, and quality review of the EIS. The EIS may only be carried out by certified specialists.

New projects, and any change, extension, or dismantling of projects that may have significant environmental impacts, related to activities listed in GD 918/2002 (environmental impact assessment framework) and EGO no.152/2005 (on integrated pollution prevention, mitigation and control) require an environmental license to construct¹⁵, and in some instances (such as sanitary landfills) an integrated, including a summary description of the project, its impacts and appropriate mitigation measures¹⁶. A full EIA is required for projects of the types listed in Annex 1 of GD no.918/2002, and for the types listed in Annex 2 of that same Governmental Decision, when the competent authorities have so determined on a case by case basis (screening). The following table aims to provide an overview of EIA procedures applicable to the proposed projects. Investment projects not subject to EIA are subject to simplified environmental licensing procedures in view of issuing the Unique Agreement.¹⁷

¹³ The regulatory instruments in Romania include Laws, Decisions and Ministerial Ordinances. Decisions are issued to organize the application of laws. Ordinances are issued within the limits and conformity with the provisions of enabling laws. Laws are passed by the Parliament. Decisions and Ordinances are signed by the prime Minister and countersigned by the Minister(s) who carry-out their execution.

¹⁴ For detailed references see legislation listed in Annex IA

¹⁵ Romanian law uses the term "environmental agreement" in this context.

¹⁶ MO 860/2002, Art 5 (1)

¹⁷ MO 860/2002, Art 5(3) – the Unique Agreement is given for those investments that are subject to environmental procedure without an environmental agreement (license to construct) and therefore for which it is not necessary to develop an EIA.

Table 1. EIA Categorization of Proposed Sub-projects Under the Romanian Law

Project component	Investments for which EIA is mandatory under the Romanian Law (annex 1 GD 918/2002 and Annex I.1 of MO 860/2002	Investments for which the need for EIA is determined on a case by case basis (annex 2 GD 918/2002 and Annex I.2 of MO 860/2002	List of investments for which Unique Agreement is required, but is not subject to full EIA
Municipal Services Project¹⁸			
1. Rehabilitation of existing drinking water networks		Any change or extension of investments listed at point 10, b) Urban development	860/2002
2. Rehabilitation of existing sewerage lines		Any change or extension of investments listed at point 10, b) Urban development	860/2002
3. Rehabilitation of existing storm water drainage lines		Any change or extension of investments listed at point 10, b) Urban development	860/2002
4. Rehabilitation and upgrading of existing drinking water treatment plants		Any change or extension of investments listed at point 10, b) Urban development	860/2002
5. Rehabilitation and upgrading of existing waste water treatment plants		Any change or extension of investments listed in Annex 1 or 2 [i.e. waste water treatment plants with a capacity exceeding 150,000 population equivalent] which may have significant effects on the environment (annex 2 cat 13a) [note: changes to smaller waste water treatment plants are subject to the screening stage]	
6. Rehabilitation of existing landfills		Any change or extension of investments listed in Annex 1 or 2 [i.e. installations for the disposal of waste] which may have significant effects on the environment (annex 2 cat 13a) If the screening stage decision does not require an EIA, this project is subject to Unique Agreement procedure without an EIA.	860/2002
7. Construction of new drinking water networks		Installations of long-distance aqueducts (annex I.2 cat. 10(j))	860/2002
8. Construction of new sewerage lines		Investments listed at point 10, b), Urban development	860/2002
9. Construction of new storm water drainage lines		Investments listed at point 10, b), Urban development	860/2002
Transport SWAp Project			
10. Maintenance and primary rehabilitation of selected key sections of the national road network	- Construction of motorways and express roads (annex 1 cat 8.3) - Construction of a new road of four or more lanes or realignment and/or widening of an existent road, of two lanes or less so as to provide four or	Construction of roads (not included in Annex I.2) Any change or extension of investments listed in Annex 1 or 2	

¹⁸ At the time this report is being prepared, investments in solid waste management and drinking water and wastewater treatment are not envisaged for financing but since the Equivalence and Acceptability Analysis considered these aspects we are including them for completeness

	more lanes, where such new road or realigned and/or widened section of road would be 10 km or more in a continuous length (annex 1 cat 8.4)	which may have significant effects on the environment (Annex 2 cat 13a)	
11. Maintenance of existing infrastructure (e.g. railway track, bridges and tunnels)	Construction of lines for long distance railway traffic (annex 1, cat. 8.1)	Construction of railways (projects not included in Annex 1) Any change or extension of investments listed in Annex 1 or 2 [i.e. lines for long distance railway traffic] which may have significant effects on the environment (Annex 2 cat 13a)	
12. Modernization of signaling, power supply, and intermodal equipment at border stations	Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km (annex 1.1, cat 3.9)	Transmission of electrical energy by overhead cable Construction of intermodal terminals Manufacture of railway equipment Any change or extension of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km [i.e. projects listed in Annex 1 or 2] which may have significant effects on the environment (annex 2, cat 13a)	

3.3.2 Analysis of Gaps

As can be seen from the equivalence review matrix in Annex IIA, the Bank's EA policy and the Romanian EIA system have many common features and principles and are considered compatible in many aspects. Both the Romanian EIA system and the Bank's policy on EA classify projects and activities into categories. The positive list of projects and activities subject to full environmental assessment or a more limited environmental analysis under the Romanian legislation is by nature similar to the classification in Category A and Category B projects under the Bank's policy.

Overall, the Romanian system screening process is comprehensive and provides adequate procedural details (including checklists for the competent authorities). However, the differences in the Romanian EIA process and the principles stated in the Bank's OP/BP 4.00 relate to (a) continuing consultation throughout implementation of high-risk projects and (b) use of independent advisory panels during the implementation of such projects.

Regarding point (a) it must be underlined that during the construction phase the competent public authorities must visit the location of the construction and draw up minutes of this visit. When the construction works are finalized the competent environmental authority carries out inspection visits in order to verify the fulfillment of all the conditions stipulated in the "environmental agreement". Continuing consultation with the authorities involved in the EIA procedure takes place during the procedure for issuing the "environmental agreement". For this purpose there is a Technical Review Committee set up at the national and local levels under which the consultations take place.

3.3.3 Proposed Measures to Address the Gaps of the Romanian EA System

The above mentioned gaps are not likely to be relevant for the majority of investments under the proposed projects. If there were higher risk Category A sub-projects (e.g. larger landfills and wastewater treatment plant construction) we would be seeking strengthening in terms of consultation during implementation and advisory panels as appropriate. Inclusion of these sub-projects was a possibility in pre-appraisal but have been dropped from the MSP.

Romania is committed to improve the EA system as part of the EU accession process regarding the transposition and implementation of Directive 2003/35/EC which amends the EIA Directive and would be helpful more broadly for environmental performance improvement, but is not necessary to meet the due diligence requirements for the Municipal Services and Transport SWAp projects. It should also be noted that the Bank's proposed Environmental Management Loan (slated for delivery in FY07) will provide considerable capacity building which will directly and positively improve Romanian systems at both the policy and field levels.

3.4 Equivalence Assessment - Cultural Property

Under the proposed Municipal Services project, it is possible that investments may take place in historic districts, potentially affect historic structures, or influence other physical-cultural resources. The equivalence assessment, therefore, focuses on all aspects of Romanian legislation covering protection of physical and cultural resources (PCR).

The EU has limited legislation in this area, primarily addressing standards for the export of cultural goods/national treasures as well as measures to return illegally traded cultural property. Each member state has its own laws and procedures for protecting PCR which go well beyond those of the EU in terms of comparability in scope to that of the World Bank safeguard policies.

3.4.1 Romanian Laws and Regulations Applicable to the Projects

Our comparison of Romanian systems for Cultural Property/PCR to those of the World Bank under OP/BP 4.00 is included as Annex IIB.

PCR protection in Romania is comprehensively governed by several pieces of legislation, the most pertinent being: Law 422/2001 on protection of historic monuments and Government Ordinance No. 43/2000 (GO 43/2000) on Archaeological Heritage Protection and Declaring of Certain Archaeological Sites as Areas of National Interest (modified text following the Law No. 378/2000 and the Law No. 462/2003).

Law 422/2001 establishes the principle of classification of historic monuments: Group A being historic monuments of national and universal interest, and Group B being historic monuments representative of the local cultural heritage. Classification for both groups is performed under an Order of the Minister of Culture and Religious Affairs (MCRA), at the proposal of the National Commission for Historic Monuments (NCHM)¹⁹. Owners and the public as well as the NCHM, the National Commission for Archaeology (NCA), the local

¹⁹ The NCHM is a 21 member body which meets once a month to advise the MCRA on classifications (particularly Group A), national strategies and methodologies for PCR protection, general urban plans, and criteria for selecting specialists and experts in PCR protection. Its membership comprises representatives from: the Romanian Academy, Ministry of Education and Research, Ministry of Public Works, Transport and Housing, NGOs, and the MCRA.

mayor, and local or county councils are entitled to participate in the listing process, as they can make proposals for listing; proposals that have to be taken into account by the county services of the Ministry of Culture. Any order of classification must be communicated to the owner of the property and the local public administration within 30 days of the decision being taken. On the other hand, the owner of a building proposed to be listed or rejected for listing is entitled to appeal against the decision at the MCRA within 30 days of receiving the communication.

Law 422/2001 also contains provisions entitling the owner to receive scientific, technical, material and financial support for the conservation and restoration of his/her monument. This mechanism helps to bring the public effectively into the process of both listing and preserving historic monuments. There are approximately 29,000 listed monuments in Romania.²⁰

For each monument, an area of protection is created by the local public administration (with the engagement of qualified staff), and the protected area must be demarcated within the General Urban Plan of the municipality. Until a protection area has been established for a historical monument, it is considered to have a protection radius area of 100 meters in towns, 200 meters in villages, and 500 meters in the countryside. Newly listed buildings must be included in the General Urban Plan within 12 months of being listed, and the plan must be communicated to the MCRA every five years, along with all up-to-date information concerning historic monuments.

Without exception, there can be no intervention upon listed buildings without the prior consultation and authorization of the MCRA. This means that the building permission request must be seen by the local representative of the MCRA, who will provide advice and recommendations on the construction works in the form of an administrative document. Only after receiving this document can a County Council, following the qualified advice of the MCRA and the NCHM, grant or refuse a construction request affecting a listed building / site. If the works are approved, they must involve design supervisor engineers and/or architects who have specific qualifications in the field of historical buildings, certified by MCRA.

The same principles apply to located archaeological sites (the National Archaeological Repertory), which is maintained by the MCRA and includes some 5,600 locations²¹. GO 43/2000 on Archaeological Heritage Protection set up a comprehensive system of preservation for Romania's archaeological heritage from areas of archaeological potential and from the urban development areas, following on the provisions of the Council of Europe Convention of La Valetta (1992). The law makes it mandatory for an infrastructure project investor to carry out field surveys at the feasibility study stage of the project, using qualified specialists. They must also pay for archaeological surveillance over the entire period of the works to protect the archaeology and chance finds. Research carried out in this manner is known as 'preventive archaeological research' and aims to find the most likely archaeological remains, to study them and to protect them in a specialized institution before the investment project could affect them. In certain cases, especially when there are structures with great historic, cultural or scientific importance that cannot be moved, the archaeological team can recommend the preservation of the remains by changing the initial plans. Planned building works on located archaeological sites cannot go ahead without the MCRA issuing a

²⁰ The list, which includes UNESCO World Heritage Sites can be consulted on-line at <http://www.cultura.ro/Documents.aspx?ID=89>

²¹ This list may be consulted on-line at: <http://www.cimec.ro/scripts/ARH/RAR-Index/cauta.asp>

certification that all archaeological patrimony has been revealed and fully examined (the so-called “Archaeological Burden Discharge Certificate”)²². If archaeology is discovered during any archaeological research, the location can be added by the MCRA to the National Archaeological Repertory and the National Office for Cadastre, Survey and Mapping must include these areas of located heritage on cadastre plans and topographical maps.

Under the terms of GO 43/2000, ‘chance’ archaeological finds discovered during building works, or any human activity, must be reported to the town mayor within 72 hours of discovery. Following the discovery, and until the Archaeological Discharge Certificate is issued, the building permit is suspended or the town Mayor can order the interruption of all activity. Scientific, managing and technical measures must then be adopted to preserve the vestiges uncovered by chance until the classification of those assets or until conclusion of the archaeological research. Law enforcement officials must also be notified to guard the area.

Environmental Protection Law 137/1995 also stipulates measures for cultural heritage protection within the Environmental Impact Assessment procedure (detailed in Government Ordinance 860 / 2002). In particular, type A stamps on the technical fiches of projects with insignificant environmental impact, can only be issued after the project site location has been checked against its relative position to, *inter alia*, protected areas, and natural or archaeological monuments. The EIA must specify effects on material assets and cultural heritage at each stage of the process (screening, scoping and review) and, as necessary, experts from structures responsible for archaeological sites and historical monuments may participate in the Technical Review Committee for EIA. In addition, public consultation is foreseen at publication of the assessment study, before which the public may forward justified proposals concerning the EA.

Romania became a member of the Council of Europe in 1993. They are also bound to a number of conventions relating to the protection of cultural property, including the European Cultural Convention, the Convention for the Protection of the Architectural Heritage of Europe, and the European Convention on the Protection of the Archaeological Heritage.

To summarize, Romanian law specifies that inventories of buildings and sites of cultural significance are consulted to assess whether proposed investment projects might cause impact. Local experts on archeology, architecture and other relevant fields are brought in for assessments before construction decisions are made, and after if “chance finds” are encountered during construction. Only when the finds have been fully analyzed are investment projects allowed to proceed.

3.4.2 Analysis of Gaps

We believe that there are no significant gaps between Romanian law and regulations compared with the requirements set by OP 4.00 on PCR for piloting. While Romanian PCR legislation is largely comprehensive it does not, however, provide for comprehensive public consultation. Owners of property (archeology and/or monuments) that is to be classified are notified of the process and made aware of the obligations of having their property listed and can contest the decision. For an investment project affecting a site, however, there is no

²² The certificate may be issued by the local offices of the MCRA, in the case of researches made necessary for the construction of private homes.

public consultation foreseen in the law following the delivery of the MCRA's 'Archaeological Burden Discharge Certificate'. Public consultation, however, does occur during the EIA process, and hence we deem this equivalent to OP/BP 4.00. We do note that the PCR law says little about the issue of 'institutional strengthening' directly to deal with impacts on PCR discovered during project implementation.

3.4.3 Current and Proposed Measures to Improve the Equivalence

Both projects proposed for the pilot are Category B projects. This means that EA will be required and that consultation of project-affected groups and local non-governmental organizations (NGOs) about the project's environmental and PCR aspects must be held. We therefore do not envisage any gap filling measures.

While the MCRA, the NCHM and NCA together do work out programs for training specialists, as well as plans of teaching and specialization in the field of protecting PCR, broader capacity building measures will be considered as part of Bank supervision.

3.5 Equivalence Assessment - Dam Safety

3.5.1 Romanian Laws and Procedures

There is a possibility that some Municipal Services sub-projects may rely on drinking water supplies obtained from dams or other control structures. New dams will not be financed by the project but the capability of Romanian authorities to ensure dam safety is important should water supplies be associated with control structures. The Romanian legislation (Water Law 107/1996 modified by Law 310/2004, and Government Ordinance 244/2000) and regulations (Ministerial Ordinance 128/2005) for dam safety are sufficiently broad and include coverage for water retention structures. Both categories were considered under the Bank-financed Hazard Risk Mitigation and Emergency Preparedness Project (HRMEP), currently under implementation. Good alignment was found between Romanian requirements and those of the Bank. Experience by the World Bank in ongoing projects in Romania also suggests that the country's system for ensuring the safety of existing dams that are utilized for water supply is sufficiently equivalent to applicable aspects of the Municipal Services project. Depending on risk, key aspects of this system includes, for example, the assurance that:

- For each of the control structure associated with the project, emergency preparedness plans (EPP) would be in place and periodically updated.
- That operations and maintenance plans are in place for each dam or control structure.
- For higher risk control structures, a Panel of Experts (POE) including certified independent experts would be tasked to undertake reviews of designs and technical specifications for works; the POE will further advise on construction quality.

Dam safety is not envisaged as a factor in the Transport project.

3.5.2 Analysis of Gaps

For the very limited application of dam safety provisions in the Municipal Services project, we believe there are no significant gaps in Romanian law and regulations as compared to the requirements set by OP 4.00 for piloting.

3.5.3 Current and Proposed Measures to Improve the Equivalence

For the very limited application of dam safety provisions in the Municipal Services project, we do not envisage gap-filling measures.

3.6 Equivalence Assessment - Involuntary Resettlement

The equivalence assessment focuses on expropriation and land acquisition, rather than physical relocation of households or businesses over long distances, as the two pilot projects are not likely to cause physical relocation. No future large scale resettlement is envisioned. Romanian laws and procedures apply to the expropriation of private land for public use, but a specific Act of Parliament is required for the relocation of a village, presumably because the cost of such an undertaking would be considerably higher than simple expropriation. Displacement for mining is the only exception, but it is based on negotiation with landowners, rather than expropriation.

The EU does not have a common policy or standards regarding resettlement or expropriation. Each member state has its own laws and procedures for expropriation.

Expropriation at all levels is governed by a general framework Law 33/1994, the implementation of which is guided by Government Resolution 583/1994.²³ The basic principles are straightforward: expropriation must be justified and minimized; compensation is in cash based on market value and damages; all contracts are subject to judicial review and ratification; failed negotiations regarding compensation are settlement by the court, informed by an expert valuation assessment; and civil works can start only after the transfer of the title is ordered by the court and full compensation is paid.

3.6.1 Romanian Laws and Procedures

The Romanian Constitution (Art. 44, para. 3, 6) protects the ownership of private property and provides that “nobody may be expropriated unless for a cause of public use, established according to the law, subject to a fair and prior compensation.” Implementation of this clause is the subject of the Expropriation Law (33/1994) regarding the Process of Land Acquisition for Reasons of Public Utility, referred to as the “Expropriation Law.” Procedures for establishing public use are articulated in Government Resolution 583/1994, Regulation regarding the procedure of the commissions for performing a prior investigation to declare a public use for national or local interest works. The Expropriation Law specifies conditions under which different governmental authorities (national, country and local) can expropriate private land and outlines procedures for doing so. Government Resolution 583/1994, a companion to Law 33/1994, sets procedures and the functioning and membership of review commissions involved in making the expropriation decision. These procedures apply to all levels of government. The process consists of three stages that are described in Law 33/1994. We have assigned titles to the stages for clarification:

²³ Another law, No. 198/2004, accompanied by Methodological Rules of June 10, 2004, for the application of Law 198/2004, simplifies expropriation for highways and national roads by establishing provisions to use escrow accounts to deposit funds for complicated cases involving disputes, absentee owners or uncertain owners. This law does not apply to the pilot projects, although there is an attempt underway to pass similar legislation for the railroads.

- ③ Declaration of Public Use—based on a feasibility study and economic analysis, in the expropriation request the expropriator must demonstrate public need; document that the investment is included in the urban or regional plan; and include a preliminary assessment of land acquisition and cost. Documentation is reviewed by a commission (county, local), which obtains inputs from utilities, agencies and interested parties. People who feel they may be affected can inquire and raise objections at this time. The commission either accepts the proposal and issues a Location Permit, or returns it to the expropriator. Minutes of the decision meeting are posted and distributed to affected parties. The Location Permit is posted in the County or Local Council and published in a local newspaper.
- ③ Administration—based on the Technical Design, which specifies ownership of affected parcels (approved by the Cadastre office) and compensation levels set by authorized assessors, the expropriator acquires land or rights-of-way. The design and proposed aggregate compensation is posted in the County or Local Council and published in a local newspaper, and owners are notified of the intent to acquire land or right of way. Interested parties can challenge the technical design by writing to the mayor, who appoints a commission to review and respond to all inputs. The minutes of the deliberation of the commission are posted and the commission either endorses the design or instructs the expropriator to modify it. Owners must provide documentation of ownership to negotiate. By law, the expropriator cannot offer an amount less than the assessed value of the property (Law no. 33/1994, Chapter IV, Art. 27). If the expropriator and owner agree on the compensation amount, a purchase contract is prepared and signed. The agreement becomes effective when it is ratified by the court and compensation is paid. If the two parties do not agree on a compensation amount, the case is submitted for court adjudication.
- ③ Adjudication—all agreements are reviewed by the court to determine whether or they followed proper procedures fulfilling legal requirements; if so, they are ratified and the transfer is immediate upon payment. In case of a dispute over compensation, the court commissions an expert valuation and sets the level of compensation. Ownership is deemed transferred when the transaction is registered in the cadaster and compensation is paid. The court also has the authority to sanction expropriation if owners cannot be located or ownership is disputed.

Land acquisition must be completed before a Construction License is issued, after which civil works can start.

The process can be time consuming, particularly if ownership is unclear or disputed, if owners cannot provide documentation of ownership or if owners cannot be located. Compensation for disputed lands is decided by the court and the expropriator deposits funds that are distributed once the dispute is settled. In cases where documentation is incomplete, the expropriator helps legitimate claimants acquire documents. If owners are not located, the expropriator follows a prescribed notification procedure. The law does not clearly limit the time required to complete expropriation or provide adequate guidance on how to conclude the process for complicated cases²⁴. Consequently, the expropriation process can be protracted.

²⁴ Law 198/2004 was enacted to simplify procedures for the construction of highways and national roads. Methodological Rules were issued to guide application of the law (June 10, 2004). The new law differs from

Once the court ratifies the arrangement, and money is deposited in a bank account, the transfer can take place. The owners of the land that was expropriated have three years to challenge the compensation amount, but cannot reverse the court decision to transfer ownership. The public disclosure process is the same under both laws.

Disputes over ownership are resolved through a separate process outside the scope of the Expropriation Law. The process involves the cadastre office as well as courts, which make the final determination of the validity of conflicting claims and the distribution of assets.

3.6.2 Equivalence and Analysis of Gaps

The expropriation system in Romania is broadly consistent with the objectives and many of the key principles of OP/BP 4.00. A number of the “Principles” listed in Table A1 of the OP do not have specific corresponding requirements in Romania, however. The discussion below highlights similarities and differences between principles in OP/BP 4.00 and Romanian legal requirements and practices. The discussion is structured to follow the statements of principles listed in OP/BP 4.00 Table A1 (see summary matrix as Annex II to this report).

Objective: *To avoid or minimize involuntary resettlement and, where this is not feasible, to assist displaced persons in improving or at least restoring their livelihoods and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.*

The Romanian Constitution protects private property and provides that “*nobody may be expropriated unless for a cause of public use, established according to law, subject to a fair and prior compensation*” (Art 44, para. 3, 6). These principles were subsequently spelled out in the Expropriation Law (33/1994) and Government Resolution 583/1994 to establish standard practices that apply to all levels of government. Each act of expropriation is based on a request for an expropriation decision, which must justify “*the national or local interest, the economical-social, environmental or any other kind of advantages that justify the necessary character of works and could not be carried out except by means of expropriation*” (Art. 10 Expropriation Law).

The Expropriation Law is based on the assumption that compensation at market value and “prejudice” (real value of the premises and the prejudice caused to the owner or other entitled persons (Art. 26, Expropriation Law). This should be adequate to enable the affected people to maintain the value of their assets and, if relevant, to re-establish themselves under similar circumstances. Article 26 of the Expropriation Law loosely characterizes prejudice as “*damages caused to the owner or, if the case may be, to other entitled persons, also considering the justification submitted by them.*” The Civil Code defines prejudice as “*damage effectively suffered and unrealized benefits.*” Expropriation cancels tenancy agreements and the tenants are “*entitled to compensation*” (Art. 28, Expropriation Law). It appears that prejudice thus covers impacts on income and livelihoods beyond the cost of affected assets, including impacts on third parties.

Law 33/1994 in one principal respect—the introduction of escrow accounts to deposit compensation when ownership is unclear or disputed or owners cannot be located. This law is not applicable in the pilot projects.

Operational Principles:

1. Assess all viable alternative project designs to avoid, where feasible, or minimize involuntary resettlement.

Article 10 of the Expropriation Law requires the expropriator to justify the need for expropriation and to demonstrate that the investment cannot occur without expropriation. A commission (national, county or local) is set up to review each proposal, obtain technical inputs from government agencies and inputs from interest parties, and recommend an expropriation decision or return the proposal to the investor. Various agencies and ministries also append specific requirements that must be fulfilled in the technical design. The process is essentially repeated again when the technical design is completed and affected persons are identified.

2. Through census and socio-economic surveys of the affected population, identify, assess, and address the potential economic and social impacts of the project that are caused by involuntary taking of land (e.g. relocation or loss of shelter, loss of assets or access to assets, loss of income sources or means of livelihood, whether or not the affected person must move to another location) or involuntary restriction of access to legally designated parks and protected areas.

The expropriation process does not require a baseline census or socio-economic survey. The expropriation request must identify economic and social benefits of the investment, however, and the Technical Design includes detailed information about land ownership and use (confirmed by the Cadastre Office) and estimated value of the land to be expropriated. This constitutes a de facto household census. Cases involving physical relocation and loss of access to assets are identified through the process of collecting information for the technical design. The loss of income sources or means of livelihood and transition costs can be included in calculations of compensation for “prejudice,” but they must be claimed by the owner or other affected person.

No socio-economic surveys are required for expropriation.

3. Identify and address impacts also if they result from other activities that are (a) directly and significantly related to the proposed project, (b) necessary to achieve its objectives, and (c) carried out or planned to be carried out contemporaneously with the project

Legal expropriation standards and procedures and compensation standards apply equally to all aspects of an investment.

4. Consult project-affected persons, host communities and local nongovernmental organizations, as appropriate. Provide them opportunities to participate in the planning, implementation, and monitoring of the resettlement program, especially in the process of developing and implementing the procedures for determining eligibility for compensation benefits and development assistance (as documented in a resettlement plan), and for establishing appropriate and accessible grievance mechanisms. Pay particular attention to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, Indigenous Peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.

Investments must be embedded in urban or regional spatial plans, which are adopted and revised through open meetings. Documentation related to justifying an investment and implementing it, to obtain a Location Permit and then Construction License, must be posted in County and Local Councils, offices of the expropriator, the official gazette and local newspapers. The documentation constitutes both expropriation and construction plans, owners and proposed compensation. The documentation prepared to request an expropriation decision and to obtain a Location Permit, is reviewed by officials from different agencies. The process is relatively open, although there are no public meetings. Affected persons are not specifically contacted at this point, but they and all other interested parties have access to officials to discuss various aspects directly or submit written questions or objections, which are considered in making the decision.

Once the Location Permit is issued, the Technical Design is completed and posted in the country or local government offices, as well as the office of the expropriator. Interested parties who have questions or objections can express their reservations in writing to the mayor or head of the county, who establishes a commission to review and address each petition and consult with interested parties. These consultations can lead to revisions of the technical design. For example, input from local people, through the mayor, prompted the relocation of a bypass (Transport Restructuring Project) away from the city to give more room for urban development. Although there are no resettlement plans, as such, the documentation for the expropriation decision and the technical design can be seen as a reasonable proxy for a land acquisition or resettlement plan, especially since the system is almost exclusively based on paying cash compensation for affected assets.

Grievance mechanisms exist at successive stages in preparation and design of the investment. Prior to the issue of the Location Permit and completion of the Technical Design, interested parties can address their concerns regarding location, alignments and the scope of expropriation to agencies involved in the decision-making process, the mayor, and negotiation representatives of the expropriator (Art. 12-19 Expropriation Law). Expropriation must be concluded before the Construction License is issued. Once that occurs, affected persons can challenge the level of compensation in the courts, but cannot reverse the expropriation process.

There are no regular mechanisms for public participation in monitoring the implementation of the investment and the impact of expropriation, although controversial projects are generally actively scrutinized by the press.

Eligibility for compensation is consistent and straightforward, including owners, tenants and other individuals who occupy land to be expropriated (Art. 28 Expropriation Law). Tenants are compensated for damages and illegal occupiers may be compensated for the loss of above ground assets (Art. 29 Expropriation Law) (“value-added”).

There are no special provisions for the vulnerable, minorities or others and, with the exception of squatters, there appear to be no displaced persons or minorities who are not protected through national land compensation legislation.

5. Inform displaced persons of their rights, consult them on options, and provide them with technically and economically feasible resettlement alternatives and needed assistance, including (a) prompt compensation at full replacement cost for loss of assets attributable to the project; (b) if there is relocation, assistance during relocation, and residual housing, or

housing sites, or agricultural sites of equivalent potential, as required; (c) transitional support and development assistance, such as land preparation, credit facilities, training or job opportunities as required, in addition to compensation measures; (d) cash compensation for land when the impact of land acquisition on livelihoods is minor; and (e) provision of civic infrastructure and community services as required.

Owners are notified by letter of the intent to expropriate, which includes a copy of the minutes of the expropriation decision. Since compensation is in cash, affected people are not given different options; rather, it is assumed that they can use the compensation to choose their own options.

a) Land acquisition must be completed—compensation must be paid and titles transferred—before a Construction License is issued for the investment. Compensation must be paid within 30 days of court judgments. Compensation is at market value, plus prejudice, which is considered sufficient to replace assets and restore incomes, therefore, equivalent to replacement cost. Occupants without legal titles to affected land can be compensated for their affected above-ground assets, expressed as “value added.” Affected persons and third parties who seek compensation for prejudice must present their cases to negotiators or the court. Crop loss is the only form of damage that is explicitly stated in the law; claims for other losses must be documented by affected persons on a case-by-case basis. They must claim compensation as “prejudice.”

b) Residences are rarely affected. If they are, the residents of expropriated properties move to housing arranged by themselves, following negotiation, compensation and the transfer of titles. If they ultimately need to be evicted, the expropriator must provide another “*dwelling space, in conformity with the law*” (Art. 29 Expropriation Law). Tenants and illegal occupants of expropriated residences, even more rare, must be provided with acceptable alternative housing to which to move (Art. 29 Expropriation Law).

c) Relocation costs would be included in compensation for “prejudice.” Owners and others who have cause must make the claim for damages during the negotiation process or, in court, if their claim is not resolved to their satisfaction. The court renders final decisions on compensation levels that are under question. In the absence of strict guidelines, “prejudice” can cover a range of impacts, but it is up to the claimant to make the case.

d) Cash compensation is the norm. If most of a parcel is subject to expropriation, and the remainder is not viable or without value, the owner can appeal to have the whole parcel expropriated (Art. 24 Expropriation Law).

e) No community-wide involuntary physical relocation is envisioned under the pilot projects. Thus the expropriation law would apply to all expropriation related to project investments. In the event that there is relocation of individual households, which occurs rarely, people would move to residences with appropriate infrastructure and community services, rather than a greenfield site.

6. Give preference to land-based resettlement strategies for displaced persons whose livelihoods are land-based

Expropriation laws and procedures are based on cash compensation at market rate, which is assumed to enable owners to purchase land to replace the expropriated land. Land

replacement is not prohibited by the law, but it is not expected and it would be impractical in the Romanian context to make administered land substitution a standard policy, given limited amounts of state land and the prevalence of ownership issues related to re-privatization and restitution of previously nationalized lands.

Land can be bought and sold freely in urban and rural areas. The rural land market is open, but it is not really active, as sales are very limited. All informants claim that owners are generally amenable to sell land and buyers can find land easily. Reportedly, those who lose land to expropriation can readily purchase alternative land from others who would like to sell. Consequently, as the land market is open and active on the supply side, affected persons use the market for land and housing, if needed, and there is sufficient supply of land and housing, a land-based expropriation strategy is not necessary.

Municipalities and local self-government authorities may own land that can be sold and/or exchanged to owners of expropriated land on a case-by case basis. When this occurs, if the alternative plot is either more valuable or less valuable than the expropriated land, the difference is settled in cash. For example, Arad has implemented such arrangements, as it has both urban and rural land available.

7. For those without formal legal rights to lands or claims to such land that could be recognized under the laws of the country, provide resettlement assistance in lieu of compensation for land to help improve or at least restore their livelihoods.

The investor advises owners on the registration process for unregistered lands. This is a mutual interest, as lands have to be registered to be purchased. People who have been using state land for 30 years can apply for ownership and registration (governed by Civil Code and Civil Procedure Code). Households living on or using land they do not own are only compensated for their “value added” contributions (lost above-ground assets) (Art. 26 and 28 Expropriation Law). There is no specific provision for resettlement assistance in lieu of compensation for land, except as it would be claimed and included under “prejudice.”

8. Disclose draft resettlement plans, including documentation of the consultation process, in a timely manner, before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders.

Proposals for expropriation and Location Permits and technical designs are prepared in the local language and made available in the respective county or local council office and the expropriator’s office and are posted in the official gazette and local newspapers before expropriation is initiated. Interested parties, including actual or potential affected persons, can register their concerns verbally or in writing when the expropriation decision is under consideration and later, after the technical design is completed. No formal resettlement or land acquisition plans are issued in addition to the documentation required to justify expropriation and the technical design, but these documents are essentially equivalent to the plans specified in the principle. Documentation of the consultation process includes the minutes of the expropriation decision and the findings of the commission established by the mayor to respond to complaints and objections.

9. Apply the principles described in the involuntary resettlement section of this Table, as applicable and relevant, to subprojects requiring land acquisition.

The principles apply to all aspects of an investment involving expropriation, at each level of government, including all subprojects.

10. Design, document, and disclose before appraisal of projects involving involuntary restriction of access to legally designated parks and protected areas, a participatory process for: (a) preparing and implementing project components; (b) establishing eligibility criteria; (c) agreeing on mitigation measures that help improve or restore livelihoods in a manner that maintains the sustainability of the park or protected area; (d) resolving conflicts; and (e) monitoring implementation.

This issue is not relevant to the pilot projects.

11. Implement all relevant resettlement plans before project completion and provide resettlement entitlements before displacement or restriction of access. For projects involving restriction of access, impose the restrictions in accordance with the timetable in the plan of actions.

Expropriation must be completed before a Construction License is issued, which enables the investor to start civil works.

There are no restrictions on access that require mitigation.

12. Assess whether the objectives of the resettlement instrument have been achieved, upon completion of the project, taking account of the baseline conditions and the results of resettlement monitoring

No ongoing monitoring of the expropriation process is required. Similarly, no follow-up assessments are undertaken, as compensation is assumed to be adequate unless it is revised by a court decision in response to a challenge.

Analysis of Differences

There are no salient differences between Romanian expropriation laws and OP 4.00 in the objectives and principles 1, 3, 8, 9 and 11. Principle 10 is not relevant for the pilot projects.

The principles in which there are differences are discussed below, with abbreviated titles of the respective principles.

2. Census and Survey. The expropriation documents and technical design include household land ownership, which constitutes a proxy for a household census. The second principle requires a baseline household socio-economic survey to be carried out, Romanian expropriation laws and procedures do not require a survey. The pilot projects primarily involve land acquisition, not physical relocation, and would not require affected persons to change occupations, for which a socio-economic survey might have some value. This difference does not compromise the objectives or outcome of the process and thus is not a significant issue that would prevent the application of OP 4.00

4. Consultation, Entitlements and Special Groups. The consultation and disclosure process is adequate, although a specific resettlement document is not required. The team concludes that

the documents prepared for the expropriation decision and the technical design are reasonable proxies for the plan specified in the principle.

Eligibility for compensation is based on documentation of ownership or claims for damages. Within 15 days of the completion of the technical design, which identifies affected persons specifically, they are notified by letter of the intent to expropriate, along with a copy of the minutes of the expropriation decision. Negotiation for compensation can be complicated if the land is not titled and ownership is contested, however. The estimated cost of expropriation is included in the expropriation request and refined in the technical design, which includes estimates of the value of each parcel. Affected persons must request compensation for “prejudice,” during negotiation or in the court, if they are not satisfied with the outcome of negotiations.

The process does not give special consideration to the vulnerable or excluded groups, but that difference is not considered to be significant if (a) assessed valuation is adequate and consistent and (b) people are informed of their rights and entitlements. It is not clear whether or not expropriation in the pilot projects will affect squatters or illegal occupants. Informants indicated little experience with the issue, thus it needs to be monitored closely in implementation.

5. Inform People of Rights, Compensate and Support Transition. There are no provisions that require the expropriator to inform people of their rights. If information is provided, however, it is cursory and appears to be inadequate. This is a salient divergence from the principle which could have significant impact if it results in compensation below market value and people are unaware of opportunities to contest the amount. This gap would need to be mitigated.

Prompt payment of compensation is required, and consistent with the principle, but violations of this principle in major highway construction have been reported, thus the issue needs to be monitored closely during implementation.

Property values are assessed by certified assessors. Informants indicated some discrepancies in the extent to which specific assessment reports are prepared and whether they are prepared before or after negotiations. If the reports are prepared before negotiations, they are not necessarily shared with owners, thus potentially disadvantaging them in negotiations. This is a salient divergence which can be mitigated by standardizing the timing of assessments as well as the requirement that they be shared with owners at the start of negotiations.

The quality and consistency of assessors appears to be subject to dispute, which undermines public confidence in the valuation process and could result in under-valuation, which would violate the principle. This divergence in practice would need to be mitigated.

If people are adequately informed about their rights, a combination of compensation for assets and prejudice should be adequate for households to restore their assets, livelihoods and, if relevant, transition to another location. Improved dissemination of information will help reduce the likelihood that compensation is inadequate, making the process and practice equivalent to the principle. To address the divergence in practice related to information dissemination, the letter that announces the intent to expropriate needs to be accompanied by a brochure that clearly describes the expropriation process and the rights of owners in the process, including the scope of prejudice.

If affected persons are compensated adequately for their losses, there is land available for owners to make their own adjustments, thus the divergence from the principle of a land based strategy is not considered to be material. Special cases involving major land losses and the loss of businesses and residences would need to be managed on a case-by-case basis in consultation with the Bank until there are adequate assurances that the system works.

6. Preference for a Land Based Strategy. The use of cash compensation for expropriation in Romania differs from the principle that compensation of people displaced from land-based livelihoods and expropriation should be land based. Given the complex landholding situation in Romania and the lack of availability of State land that could be traded, and given the availability of private land for purchase and open access to the land market, the current arrangement should be adequate to enable affected households to pursue a land based solution on their own, if they so desire. This difference from the principle is therefore not considered to be significant.

7. Provide Resettlement Assistance to those Without Formal Legal Rights to Land. Informants indicated little experience expropriating land used by people who are without use or ownership rights. Romanian law does not make specific provision for people without legal rights to land although they may be eligible to claim damages (prejudice). Although it is not expected that the pilot projects will encounter such situations, Bank and Romanian authorities would need to agree on a mechanism to address this issue in the unlikely event that people without legal title to land are affected by the pilot projects. Each case should subsequently be monitored.

8. Follow-up Monitoring and Assessment. Romanian law and practices do not require monitoring or assessment of the impact of expropriation. This is a divergence that would need to be addressed through independent monitoring and regular Bank supervision.

4.0 Acceptability Assessment

4.1 Scope of the Acceptability Assessment

The previous sections on “equivalence” looked at the Romanian system of laws and by-laws, -- as augmented by formalized procedures – relative to the Operational Principles of OP/BP 4.00. The previous discussion showed consistent alignment in a number of key safeguard-related areas. The next step in the analysis is whether there is sufficient capability to carry out due diligence on the types of transport and municipal services projects intended to be supported by the World Bank loans in question. It should be noted that the Bank will continue to supervise pilot projects during implementation; in fact with no diminution of attention. Ensuring a good “track record” in advance of project implementation should, however, solidify lessons gained from piloting.

4.2 Methodology Followed in Determining Acceptability

To complete this review of “acceptability” for piloting several key factors were considered: (i) whether there are good formal or informal processes in place to implement the laws, by-laws and procedures, (ii) capability in the field, as judged through selected field interviews, site visits and desk reviews of Bank-supported projects, (iii) evidence of progress towards meeting EU targets on transposition of legislation, staffing and budgets where these apply, (iv) informal consultations with specialist and stakeholders, and (v) how the track record for Romania compares with other Bank middle-income countries in these regards.

Regarding the field reviews, World Bank specialists visited ongoing, proposed and completed projects (Bank, Romania and EU-financed) in representative key cities slated for the Municipal Service and Transport SWAp projects, including Bucharest, Brasov, Tirgu Mures, Arad, and Calarasi. Selected bidding documents and environmental reports were reviewed, as were government procedural manuals, compliance checklists and other information sources. Interviews with EU officials responsible for peer reviews of Romanian environmental systems, and for determining progress with accession requirements were also helpful. The World Bank files for the Railway Rehabilitation project (closed in September 2003) and ongoing Roads 2 and Transport Restructuring projects, showing satisfactory progress on safeguards, were also reviewed.

4.3 Acceptability Assessment – Environment Assessment (EA)

4.3.1 Implementation Practices and Institutional Capacity

Romania is committed to making enormous investments in environmental protection and management as part of its EU accession process. This commitment includes: (i) completing the transposition of the comprehensive EU environmental *aquis*; (ii) strengthening the institutional capacity in the environmental sector at local, regional and central level; (iii) investing in pollution control to meet media-specific directives; (iv) building enforcement and control capacity.

Environmental protection investments in infrastructure are increasing dramatically; for example about Euro 347.8 million were spent during the period of January-July, 2005 alone on technology; largely in water and air pollution control by industry. An additional amount of Euro 1,200 million has been allocated to Romania under the EU’s ISPA program (through

2006) for critical investments in water and transport infrastructure; supported by environmental capacity-building at the local level.

Capabilities on the institutional front are also getting stronger and, we believe, are sufficient to support piloting of Environmental Assessment. The establishment of an over-arching Ministry of Environment and Water Management (MEWM) with specialized Departments and Directions is considered by European Commission officials to be a very positive step. MEWM has eight Regional Agencies (REPA) and 42 County Agencies (LEPA). Staff are organized to carry out oversight (in parallel with routine World Bank supervision) on the types of investments planned to be supported by the Municipal Services and Transport SWAp projects. Staffing in the MEWM has been increasing with approximately 949 specialists being added recently in the environmental sector at central, regional and local levels. Overall, the MEWM has developed a strategy regarding the environment personnel increase by 1,660 persons/civil servants until 2006; driven again by meeting expectations of the EU regards with regards to capacity needs. The MEWM, its entities and supporting administrative structures implement relevant EA laws, by-laws, and established procedures through a practice which is embodied in the application, review and approval (or denial) of various licenses (to construct) and permits (to operate). As presented in more detail in Annex IB, these are effective analogies to World Bank procedures for the review of proposed projects under relevant safeguard policies.

The importance of training and public awareness components have been recognized in the move towards EU accession. A total of twelve (12) training seminars for experts in the MEWM and their subordinate structures are scheduled to take place during 2005; eight of these seminars had already taken place by September. About ten EU-twinning projects totaling Euro 13.5 million are developed and/or scheduled to be launched during the period of 2005-2006 with a focus on training and technical assistance of government personnel. Public education and awareness programs are aimed at business operators, public officials and local stakeholders.

In addition, environmental inspection, compliance and control is on track for significant improvement through the consolidation and growth of the National Environmental Guard (NEG), the national institution under the MEWM that is in charge with: (i) the inspection and enforcement activities for environment protection; and (ii) the issuance of penalties for exceeding discharges and emission limits. Control and monitoring actions have strengthened during the last year. For example, during the period of July 1st-August 15, 2005, the representatives of NEG performed inspections at 958 sites; a significant increase over previous periods. The process of assigning fees and fines has also evolved to reduce the potential for corruption, as contrasted to more favorable investments in pollution control technology.

The NEG works closely with other institutions on monitoring; for example the National Water Agency “*Apele Romane*” responsible for ambient water flow and quality and. On the transport side, we also found capability for setting and tracking environmental requirements in such institutions as: (i) National Railway Company (SNCFR), (ii) Roads Design Institute (IPTANA) and (iii) Railway Design Institute (ISPCF). These entities help set performance or technical standards in bid documents for maintenance projects, for example, which are comparable to the Bank’s Environmental Management Plans for such relatively lower risk investments.

The National Environmental Protection Agency is an entity inside the MEWM with growing responsibilities and influence. It plays a key advisory role in policy and strategy formulation and implementation. Key Directorates include one for nature conservation, biodiversity and soil protection, and another for monitoring and data coordination and synthesis. Additional institutional information is provided in Annex IC.

4.3.2 Gap Analysis

Regarding system design and general implementation, there are no major gaps regarding the acceptability of Romanian systems that would inhibit piloting for Environmental Assessment. It is recognized, however, that some regional and local arms of the MEWM (including the NEG) are still staffing up, and that experience is only now being gained on new monitoring, inspection and compliance programs. Therefore the only gap is a “track record” of improved performance under a strengthening structure. As noted below, however, this can be addressed through mutually-beneficial pilot project implementation.

4.3.3 Current and Proposed Measures to Increase the Acceptability

To avoid any significant differences in the environmental protection outcome of the EA process, as well as to gain familiarity with the actual application of Romanian systems during the pilot program, the Bank and Romania should agree on an initial approach to jointly reviewing and clearing sub-project EAs²⁵, as follows:

- on an *ex-ante* basis, sub-project EAs which fall in Annex I of the Romanian system. (Given that both the MSP and Transport SWAp projects are currently Category B for EA under the World Bank system, sub-projects are not likely to fall in Annex I of the Romanian system, however).
- on an *ex-ante* basis sub-projects which fall in Annex II of the Romanian system if evidence suggest these might fall in Category A of the World Bank. (While this is theoretically possible, the current Municipal Services and Transport SWAp projects do not envisage such projects being brought forward for World Bank support).
- on an *ex-ante* basis, the first three EAs which fall in Annex II of the Romanian system;
- on an *ex-poste* basis thereafter, selected EAs which fall in Annex II of the Romanian system; and
- as an integrated part of the normal procurement practice (with commensurate *ex-ante* and *ex-poste* provisions), review of relevant annexes of bid documents describing environmental mitigation and monitoring procedures to be carried out by works contractors, supervisory contractors, etc..

This initial approach can be revised during project implementation as needed. To reinforce the importance of good compliance, monitoring and enforcement, the Bank will receive

²⁵ This includes stand-alone environmental impact reports and/or affiliated analyses/documentation associated with permits and licenses.

regular updates of sub-project compliance with Romanian environmental laws. To the extent practical, the Bank will coordinate supervision visits with local environmental officials.

Strengthening of the EA system is underway as part of the EU accession process and would be helpful more broadly for environmental performance improvement, but is not necessary to meet the due diligence requirements for the Municipal Services and Transport SWAp projects. It should also be noted that the Bank's proposed World Bank Environmental Management Loan (slated for delivery in FY07) will provide considerable capacity building which will directly and positively improve Romanian systems at both the policy and field levels. A strong and well equipped administration is needed for the application of the acquis²⁶.

4.4 Acceptability Analysis - Cultural Property

4.4.1 Implementation Practice and Institutional Capacity

As noted earlier, the Romanian system of laws, procedures and practices is comprehensive with respect to the key aspects of cultural property protection suitable for piloting under OP 4.00. Bank staff reviewed Romanian practices in this regard in connection with the implementation of Bank projects, and more broadly in discussions with officials in Bucharest, Arad, Brasov and other cities.

In practice, we note that the wide applicability and comprehensiveness of the Romanian legal system can mean a backlog on processing applications by relevant bodies, with the potential for some applications not getting full review. This is not unexpected given the rapidity of investment growth in the country. In addition, the level of public awareness of the law on protection of PCR is fairly limited and, if known, often seen as being of secondary importance to new investments and development (especially in historic town centers which often have older road, energy, telecommunications, and water infrastructure). Although the MCRA has carried out awareness raising campaigns of the law in national newspapers, local museums do not always have a particularly interactive dialogue with the public, seeing themselves more as research institutes. The lack of awareness is aided by the fact that not all historic monuments are marked with a clearly identifiable sign, as mandated in Law 422/2001.

The MCRA has a decentralized staff, with one representative in each of the 42 Counties of Romania. Most municipalities, however, do not have services for PCR analysis and support, so this work is typically carried out by local museums (according to a list of experts maintained by the MCRA). In addition, the MCRA notes that in only three counties do they have an archaeologist working at local level for the MCRA. In practice, the principles and procedures outlined in section 3.4.1 work satisfactorily but, as noted, there are instances when applications for building permission do not get fully reviewed, and occasions when the local representatives of the MCRA are not consulted prior to applications being granted. In addition, not all General Urban Plans are being systematically communicated to the MCRA and reviewed by the NCHM.

²⁶ http://europa/Eu.int/enlargement_negotiations/chapters/chap22/index.htm. Capacity-building support through the EU IMPEL/ECENA networks is particularly relevant.

Public consultation is provided under EIA procedures, whereby PCR must be identified during the screening, scoping and review phases. This can help to supplement the traditional lists of classified monuments and sites by taking into account, through studies and consultation, the entire project impact area.

4.4.2 Gap Analysis

The law governing EA procedures only requires experts ‘as needed’ from structures responsible for archaeological sites and monuments to sit on the Technical Review Committee that oversees the EA process. In addition, while there are high standard procedures for authorizing the environmental experts that work on EIA studies, there is no standard provision for PCR experts to work on EIA studies.

4.4.3 Current and Proposed Measures to Increase the Acceptability

In light of the assessment above the only area in which practice diverges from World Bank safeguards on PCR concerns EIA procedures. For the two proposed projects we recommend that:

- Representatives from the MCRA are included in the EIA Technical Review Committee/s
- PCR experts, as identified by the MCRA, are used to help draft the PCR aspects of the EIA study
- Where appropriate, provisions safeguarding PCR, including those for ‘chance finds’ should be included in the Environmental Management Plan, with provisions for monitoring by PCR experts during project implementation.

With these measures taken, we do find the system acceptable for the purposes of the two proposed Bank projects which will rely on: (i) inventories of buildings and sites of cultural significance, (ii) inventories being supplemented by in-field surveys where inventories are insufficient, (iii) use of local experts on archeology, architecture and other relevant fields for assessments before construction decisions are made, and after if “chance finds” are encountered during construction, and (iv) full approvals by relevant local bodies before construction and operation takes place.

4.5. Acceptability Assessment - Dam Safety

OP 4.00 allows piloting of borrower dam safety requirements as they apply to three types of projects: (i) construction of new dams, (ii) rehabilitation of existing dams, and (iii) carrying out activities that may be affected by an existing dam. The World Bank has financed projects covering points (ii) and (iii) and, regarding acceptability, has found good progress to date. Dam safety safeguards requirements are implemented by the Borrower (through the Ministry of Environment and Water Management).

In Romania the implementation of the dam safety policy is achieved through ten consulting firms experienced in dam safety design. The MEWM has five specialists, who work closely with CONSIB (two of them being also members) while the National Agency "Apele Romane" has ten specialists including two in the headquarter office and eight in the regional branches (one for each river basin department). The CONSIB experts are in charge with the

review of the dam safety designs as well as with periodic inspections and reviews of dam safety operations.

Training options on dam safety were scarce. Recently, the World Bank HRMEP project currently under implementation in Romania offered the opportunity of an USBR training course on dam safety and plans to continue to enhance the technical capacity of the Romanian engineers in the field. Contacts with international experts are held periodically through participation in seminars, workshops, but the participation is limited to a small number of experts.

We find satisfactory progress since:

- A Panel of Experts (POE) including independent experts certified by MEWM and members of CONSIB was selected by the implementing agency to undertake reviews of designs and technical specifications for works;
- The POE advises on construction quality;
- For each of the dams included in the project, emergency preparedness plans (EPP) are in place and periodically updated;
- During the floods which occurred this year no dam was compromised and the functionality of Emergency Preparedness Plans was assessed, and
- Operation and Maintenance plans are in place for each dam, and the dams subject to rehabilitation are operated under restrictions which were fully observed during recent floods.

There is a possibility that some Municipal Services sub-projects may rely on drinking water supplies obtained from dams or other control structures (condition iii above). New dams will not be financed by the project, nor will dams be rehabilitated under the project, but the capability of Romanian authorities to ensure dam safety is important should water supplies be associated with control structures. The Bank has noted good practice on dam safety since implementation of HRMEP, and finds Romanian procedures acceptable for piloting under OP 4.00 in the rather targeted application to the Municipal Services Project.

4.6 Acceptability Assessment - Involuntary Resettlement

4.6.1 Implementation Practice and Institutional Capacity

The proposed Municipal Services Project will fund the rehabilitation and extension of water and wastewater systems in Bucharest and Arad. Individual investments may require rights-of-way for pipes and the acquisition of very small parcels for pumping stations. Most of the pipes will be buried under streets, for which the local government will issue concessions for the right-of-way.

The proposed Transport SWAp will fund the rehabilitation of roads and improvements to railways. The road rehabilitation component is not expected to require land acquisition or the removal of illegal encroachments. The railway component may entail improvements in railway alignment, close to existing tracks, for which land would be acquired.

Implementing agencies and local governments have adequate staff with appropriate skills to undertake the land acquisition satisfactorily. In turn, they have access to qualified assessors,

although the level and consistency of assessments deserves close attention during implementation.

Our investigations for the acceptability analysis revealed that agencies at all levels consistently and systematically adhere to the standards and procedures specified in the Expropriation Law and related regulations. Responsible officials are fully versed in the law and knowledgeable about both required practices and shortcomings. The official process required justifying expropriation and practical considerations of the problems associated with establishing ownership and conducting negotiations are an effective deterrent to frivolous use of the expropriation process. Moreover, expropriating residences and businesses is even more difficult thus, in practice, alternative designs are considered and designs are revised to eliminate the need to abolish structures and relocate households. For example, the alignments of bypasses to be constructed under the Transport Restructuring Project deliberately avoided residences.

4.6.2 Gap Analysis

The Equivalence Assessment discussed above identified two areas that need to be addressed if the projects are used as pilots for the use of country systems for compliance with safeguards: notification of affected persons of the expropriation process and their rights and opportunities for redress; and monitoring of the impact of expropriation. Recommendations for addressing these issues are discussed in the next section.

The Acceptability Assessment concluded that the expropriation process is clear and consistently executed, but there are three areas of weakness. First, the law requires that property valuation be carried out by certified experts, but the process is not fully transparent. Presumably, the purpose of the requirement is to protect the interests of both the government and private parties. The valuation assessments should serve both parties, not just the expropriator, thus they should be shared with owners, as well, in order to level the playing field. Second, compensation must be no lower than assessed valuation, but the lack of transparency in the valuation and negotiation processes makes it difficult for owners to be confident that they have received fair price for their assets. Third, our discussions covered pretty standard examples of expropriation plans and practices, but we received little documentation regarding some of the more complicated issues that the Bank's policies are designed to address, such as compensation for loss of livelihoods, illegal occupation, and direct and indirect impacts on businesses. The team concluded that the lack of experience in dealing with these issues is an opportunity for an ongoing dialogue between the Bank and expropriators to give both parties the assurance that best practices are followed.

Recommendations regarding how to address these three issues are also discussed in the following section.

4.6.3 Current and Proposed Measures to Increase the Acceptability

The few areas in which Romanian laws and practices diverge significantly from the principles in Annex A, OP 4.0, and areas in which experience is too limited to determine whether practices ultimately achieve the principles, have been discussed above. These divergences are discussed below, together with recommended actions to be taken during project preparation and implementation to comply fully with the Bank's fiduciary responsibilities.

Notify Owners of Rights and Procedures. The Bank should seek assurances that the client prepares a readable brochure for each government level (national, county and local) that outlines steps in the expropriation process; discusses the valuation and negotiation processes; describes the steps in obtaining compensation for damages (prejudice), including relocation costs and assistance to address impact on livelihoods, if relevant; provides information on the rights of owners at each step of the process and avenues of recourse at each step; and advises on how owners can obtain legal assistance, if needed. The brochure should be distributed with each letter that notifies an owner of the intent to expropriate. The practice should be specified in any guidance documents and manuals of the respective agencies.

Share Assessments carried out by Qualified Assessors. The Bank and the Client should agree on the timing of valuation assessments and the qualifications of assessors, such as the requirement that they be certified and trained in market-based assessments. In addition, the Client should revise require field staff to share assessment reports with owners at the start of negotiations, and incorporate the requirement in operational guidelines and manuals.

Pay Compensation at the Assessed Value of land and Damages. Expropriators are expected to document the fact that they did not pay too much for land, but not that the compensation at least equals the assessed value of land and other assets. Negotiators should be instructed to ensure that they pay assessed value at a minimum and that they document this in each expropriation file.

Inform of Exceptional Cases. The expropriation of residences and businesses appears to be rare, and there is little follow-up, thus there is some uncertainty about the final status of owners who lose more than land due to expropriation. Consequently, the Bank needs assurances that unusual cases are handled appropriately. The Bank and the borrower would need to agree on specific arrangements to address such cases. The Bank would therefore be informed promptly of cases such as those listed below and apprised of the proposed remedial approach, based on agreed arrangements, before proceeding. The following circumstances would require notification: acquisition of residences; acquisition of parts of an agricultural holding where the remainder is not adequate to allow people to sustain their livelihoods, compelling affected people to change their occupations; acquisition of commercial structures or businesses; and expropriation of land used by people without claim to legal title.

Monitor. The pilot projects should provide resources for local independent monitors to report periodically on expropriation activities and their impacts. The Bank will monitor the promptness and adequacy of compensation, including prejudice, and the impacts of expropriation during regular supervision missions and recommend steps to resolve significant problems that emerge during implementation as identified by project officials and independent monitors.

If these conditions are met, the projects can proceed as pilots for the use of Country Systems according to OP 4.0

Annex I - Legal and Institutional Framework

Annex I A - Relevant legal texts

International law

Article 11(2) of Romania's Constitution (as revised by Law No. 429/2003) provides that treaties ratified by Parliament according to the law are part of national law.

The following treaties to which Romania is party relate to the protection of natural habitats:

- Ramsar Convention on Wetlands (Ramsar, 1971), ratified by Romania on 21/9/91.
- The Danube Delta and Small Island of Braila have been designated as Ramsar Sites.
- Convention on the Conservation of Migratory Species (Bonn, 1979), ratified by Romania on 1/7/98.
- Convention on Biological Diversity (Rio de Janeiro, 1992), ratified by Romania on 17/8/94.
- Convention on the Conservation of European Wildlife and Natural Habitats (Berne, 1979). Accession by Romania on 18/5/93.
- Convention concerning the protection of the World Cultural and Natural Heritage (Paris, 1972). Accession by Romania on 16/5/90. Several areas, including the Danube Delta are designated as UNESCO World Heritage Site.
- Danube River Protection Convention signed in 1994.

On environmental assessment, relevant treaties ratified by Romania include:

- UN/ECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus, 1998), ratified by Romania on July 11, 2000.
- Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991), ratified by Romania on March 29, 2001.

The following treaties ratified by Romania relate to cultural property:

- European Convention on the Protection of the Archaeological Heritage (revised) (Valetta, 1992), ratified by Romania 20/11/97²⁷.
- Convention concerning the protection of the World Cultural and Natural Heritage (Paris, 1972). Accession by Romania on 16/5/90. Several areas, including the Danube Delta are designated as UNESCO World Heritage Site.

²⁷ This convention makes the conservation and enhancement of the archaeological heritage one of the goals of urban and regional planning policies. It is concerned in particular with arrangements to be made for co-operation among archeologists and town and regional planners in order to ensure optimum conservation of archaeological heritage

European Union's "acquis communautaire"

Relevant legal texts include:

- Treaty concerning the Accession of the Republic of Bulgaria and Romania to the European Union, signed by the EU Member States and Bulgaria and Romania in Luxembourg on 25 April 2005.
- Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union (Annex VII; list referred to in Article 20 of the protocol; transitional measures, Romania; Section 9 on environment).

Environmental Assessment

- Council Directive 85/337/EEC of 27 June 1985 (as amended by Directives 97/11/EC and 2003/35/EC), on the assessment of the effects of certain public and private projects on the environment.
- Directive 2001/42/EC on Strategic Environmental Assessment.

Pollution Prevention and Control; Integrated Permitting

- Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (as amended by Directive 2003/35/EC of 26 May 2003).

Waste Management²⁸

- Council Directive 1999/31/EC of 26 April 1999, on the landfill of waste.
- Council Regulation EEC/259/93 of 1 February 1993, on the supervision and control of shipments of waste within, into and out of the European Community.
- Council Directive 75/442/EEC of 15 July 1975, on waste (as amended by Council Directive 91/156/EEC, Commission Decision 94/3/EC, Commission Decision 96/350/EC and Commission Decision 2000/532/EC).
- Council Directive 86/278/EEC of 12 June 1986, on the protection of the environment, and in particular the soil, when sewage sludge is used in agriculture (as amended by Directive 91/692/EEC).
- Council Directive 91/689/EEC of 12 December 1991, on hazardous waste (as amended by Council Directive 94/31/EC, Council Decision 94/904/EC and Commission Decision 2000/532/EC and implemented by Commission Decision 96/302/EC).
- Council Directive 94/62/EC of 20N December 1994 on packaging and packaging of waste (as implemented by Commission Decisions 97/129/EC and 97/138/EC and amended by Directive 2004/12).

Water and Waste Water

- Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment, as amended by Commission Directive 98/15/EC.
- Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption.

²⁸ This information is included for illustrative purposes only; no new waste disposal sites are now currently envisaged for financing under the MEP.

- Council Directive 75/440/EEC of 16 June 1975 concerning the quality required of surface water intended for the abstraction of drinking water in the Member States (as amended by Council Directives 79/869/EEC and 91/692/EEC).
- Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (as amended by Council Directive 91/692/EEC).
- Council Directive 79/869/EEC of 9 October 1979 concerning the methods of and measurements and frequencies of sampling and analysis of surface water intended for the abstraction of drinking water in the Member States (as amended by Council Directive 91/692/EEC).
- ③ Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances (as amended by Council Directive 91/692/EEC).

Nature Protection²⁹

- Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna.

Air Quality

- ③ Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management.
- ③ Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air (amended by Commission Decision 2001/744/EC of 17 October 2001).

Romanian Law

- Relevant Romanian law includes the following:

Environmental Assessment

- Law 137/1995 (amended by EGO 91/2002, published in M.Of no. 465 of 06/28/2002, approved by Law 294/2003, published in M.Of no. 505, of 07/14/2003). Framework Law on Protection of the Environment.
- GD 918/2002 (published in M.Of no. 686 of 09/17/2002) (as modified by GD 1705/2005 M.Of no. 970 of 10/22/2004). Framework procedure for environmental impact assessment, and approval of list of public and private projects subject to this procedure.
- MO 860/2002 (published in M.Of no. 52 of 01/30/2003) (as modified by MO 210/2004, published in M.OJ no. 309 of 04/07/2004) as amended by MO 1037/2005, published in M.Of no. 985 of 11/07/2005). Procedures for approval of the EIA and the issuance of environmental agreement.
- MO 863/2002 (published in M.Of. no. 52 of 01/30/2003)
- Guidelines on EIA methodology (screening, scoping, and review of study)

²⁹ This information is included for illustrative purposes only; the Natural Habits safeguard is not expected to be triggered under either project though if this does occur, normal Bank procedures and Romanian law applies.

- MO 864/2002 (published in M.Of. no. 397 of 06/09/2003) on procedures and public consultation in case of transboundary impacts.
- MO 171/2005 (published in M.Of. no.236 of 03/22/2005) setting up Technical review Committee at central level.
- MO 210/2004 (published in MO 309 on 04/07/04) Methodology of reviewing the EIA and approving the environmental license to construct
- MO 1037/2005, published in M.Of. no.985 of 11/07/2005
- MO 978/2003 (published in MO 3 on 01/05/04) Rule that attests physical and juridical persons that develop the EIA
- MO 97/2004, published in M.Of. no.504 of 06/04/2005
- MO 876/2004 (published in MO 31 on 01/1/05) Methodology for the approval of the Environmental Permit for activities with significant impact on the environment

Strategic Environmental Assessment

- GD 1076/2004 (published in M. Of nr. 707 of 05.08.2004) on procedures for environmental assessment of plans and programs.

Dam Safety

- Law 107/1996, modified by Law 310/2004 – Water Law
- EGO 244/2000, approved with amendments by Law 466/2001 - on safety of dams
- MEWM Ordinance 128/2005 – regulations regarding responsibilities and organization of the National Commission on Safety of Dams (CONSIB)

Nature Protection³⁰

- EO 236/2000 regarding the management of protected natural areas and the conservation of natural habitats, wild flora and fauna
- Law 462/2001, regarding the management of protected areas and the conservation of natural habitats, wild flora and fauna
- GD 230/2003
- MO 552/2003
- MO 850/2003

Waste, Waste Water, Air and Noise Pollution

- MO 1141/2002 for the approval procedure and competencies for issuing water management permits and authorizations
- Water Law 310/2004 for the amendment and completion of Water Law 107/1996
- Law 456/2002 regarding drinking water quality, modified by law 311/2004
- GD 974/2004 on inspection and monitoring of drinking water
- GD 168/2005 on inspection of monitoring systems
- GD 162/2002 regarding management of solid waste, amended by GD 349/2005

³⁰ This information is included for illustrative purposes only; the Natural Habits safeguard is not expected to be triggered under either project though if this does occur, normal Bank procedures and Romanian law applies.

- GD 188/2002 for the approval of certain norms concerning the conditions of discharging waste water into the aquatic environment
- GD 662/2002 regarding management of oil waste
- GD 349/2002 regarding management of collection and storage of solid waste
- GD 856/2002 regarding records of disposal and collection of solid waste and approval of list including hazardous waste
- Law 426/2001 approval of EGO 78/2000 regarding classification of solid waste
- GD 1159/2003 Modification of GD 662/2001 regarding disposal of oily waste published in O.M. 715/October 14, 2003
- Law 294/2003 Approval of UGO 91/2002 regarding modification and completion of Environmental Protection Law 137/1992
- MO 592/2002 Norms regarding minimum permissible values and evaluation methods for SO₂, NO_x and NO₂, suspended solids (PM₁₀ and PM_{2.5}), Pb, CO, O₃, and benzene in the air.
- Law 655/2001 Law for approval of UGD 243/2000 regarding environmental protection
- GD 1470/2004 (MO 954/2004) regarding approval of National strategy for solid waste management and National Plan for solid waste management

Cultural Property

- Law 422/2001 on protection of historic monuments
- Law 43/2000 on protection of the archaeological heritage (as amended by Law 462/2003)
- Law 150/1997 ratification of the European Convention on the Protection of Archeological Heritage (Valetta, 1996)

Annex I B – Romanian Licensing and Permitting Procedures

1. Introduction

In conformity with the Law of Environmental Protection No.137/1995 including the respective updates - the Emergency Ordinance No.152/2005, the Governmental Decision No. 918/2002, and the Ordinance of the Ministry of Environment and Water Management No. 860 and 863/2002, the decision making process of the EIA regarding the issuance of the Environmental License to construct and the Environmental Permit to operate is well developed. The Environmental Protection Law sets out the EIA requirements and principles; the GD 918/2002 sets out the procedures, while the OM 860/2002 and 863/2002 present in detail the procedures for EIA and for issuing the environmental license.

Based on the Romanian law, any development of a new facility or modification of an existing one requires the approval of an EIA before the environmental license (environmental agreement) and permit to operate (environmental authorization) is approved by LEPAs. For any activities not covered in the list of mandatory EIA (Annex II of the GD no.918/2002), the LEPAs or REPAs use selection criteria to determine whether such activities could have a significant environmental impact. Existing facilities require an environmental permit from the LEPAs, which includes assessment of compliance with the environmental standards (e.g., conditions related to air, water, and soil reflecting existing standards).

The GD 918/2002 presents the steps of the procedure, the requirements that the physical or legal certified persons to prepare the impact studies, and the list of activities which are subject to the EIA procedure. Overall, the EIA procedure includes a screening stage, a scoping stage, and a validation stage.

2. Procedures for Receiving an Environmental License to Construct (OR the Environmental Agreement)

The procedure for issuing the environmental license to construct is described in detail in the following steps and briefly presented in the flow chart.

Step 1. The initial screening of the new project/investment

This is determined by the local EPA responsible for the location (commune, city) where the investment will develop. When requesting the *Environmental License to Construct, the Beneficiary/the Investor* (e.g., *National Railways Company SCNCF „CFR” SA; the City Hall*) is responsible to present to the local/regional EPA or MEWM a Technical File including the following documentation:

- Request Form of the EA in conformity with the MO No. 860/2002; this request is attention to the local or regional EPA or to the MEWM depending on the geographical location of the project;
- Urban Planning Certificate and the corresponding licenses and permits (obtained at the level of Feasibility Study) based on the corresponding law;
- Contracts with the local solid waste company for collection of the solid wastes and with “Apele Romane” for water supply and sewage discharges (other authorizations from local utilities may be required based on necessity);

- Technical Memorandum (standard form) in conformity with Annex II.2 of the MO No. 860/2002 (prepared by the Consultant/Firm that developed the Feasibility Study);
- Technical Note (standard technical form) in conformity with the OMEWM No. 1943/2001 (prepared by the Consultant/Firm that developed the Feasibility Study);
- Fee (differs depending on the stage of the EA process);
- Public announcement regarding the request to obtain the Environmental Permit in conformity with Annex II.4 of the MO No. 860/2002.

Within the EPA, a Technical Review Committee (TRC) is formed based on the Ordinance of Prefect, which includes members of the local/regional EPA, the National Environmental Guard (NAG), the National Water Company „Apele Romane”, Sanitary and Urban Institutes and those authorities responsible for environmental permits authorizations. The TRC members analyze the documentation presented within the Technical File and issue one of the following three classifications of the project investments: (i) activities are of insignificant environmental impact and therefore the project is NOT subject to environmental procedure³¹; (ii) activities are of low environmental impact and the *simplified licensing procedure* will apply³²; and (iii) activities are of significant environmental impact and the *full environmental permitting procedure* will apply³³. Furthermore, (for cases (ii) and (iii)) the EPA authorities together with the members of TRC and the Beneficiary are visiting the site of the future investment to: (i) verify its location as presented in the Technical File; and (ii) complete the *List of Control* developed according to the OMEWM No. 863/2002.

Step 2. EIA Report Preparation

The EPA reviews and approves the *List of Control* which includes the conclusion presented by the TRC, based on which documents it announces the Beneficiary of his obligation to develop the EIA study (the impact study).

The Beneficiary is obliged to:

- Prepare the EIA report in conformity with the OMEWM No. 863/2002. The EIA report should be developed only by physical persons or consulting firms independent³⁴ of the Beneficiary and the person who developed the Feasibility Study, that are accredited for developing such technical studies for Infrastructure Projects/Investments (as defined in the Annex 4 of the OM No. 978/2003) including the legal conditions stipulated in the OM No. 978/2003 and 97/2004;
- Hire based on contract and competition through expression of interest/invitation to submit proposals process the firm/physical person who will develop the EA report;
- Prepare and sponsor the public announcement of the definition of the project (this is the 2nd public information in the EIA process approval);

³¹ Stamp "A" will be placed on the technical file by the environmental authority.

³² Stamp "B" will be placed on the technical file and the project is subject to environmental procedure WITHOUT an environmental agreement

³³ Stamp "B" will be placed on the technical file and the project is subject to environmental procedure WITH an environmental agreement

³⁴ The EA report could be developed by foreign firms/persons if they possess an accreditation issued by an EU country and approved by the Romanian National Accreditation Institute

Step 3. The review of the EIA Report

At this stage, *the EPA* is in charge with the following steps: (i) completes the *List of Control* for the EIA Report analysis process; (ii) prepares the *Public Consultation*³⁵; and (iii) communicates the results to the Beneficiary.

The Beneficiary is obliged to:

- Present to the local EPA the EIA report, with the help of the consulting firm that developed the EIA;
- Prepare and launch the public consultation in the presence of those affected, NGOs, or interested persons including presentation of the project and the EIA Report during of a public debate;
- Evaluate the discussions and conclusions received during the public consultation;
- Reply to the public comments and requests with a valid technical solution.

Step 4. Decision and Approval of the Environmental License to construct

The EPA issues the Environmental License to start construction of the investment within 30 days after the final decision.

The Beneficiary is obliged to:

- Announce the public³⁶ about the approval of the Environmental License;
- Request of Environmental Permit to Operate

Additional points:

- The EIA report is prepared at the level of the project's Feasibility Study, in conformity with GD No. 918/2002;
- The minimum information presented by the Beneficiary during the request to obtain the Environmental License should be also completed based on conditions recommended by the foreign donors (EBRD, WB, EIB) and/or as required by the EU legislation and the Romanian legislation in force;
- For those investments obtained through ISPA or SAPARD funds, the conditions during the project operation established through the Environmental Permit will take in consideration the limits of the pollutants' discharges required by the EU and Romanian legislation. However, the national limits will prevail if they are more restrictive than those imposed by the EU legislation.
- The Environmental License is valid during the entire period of the project construction, but will expire if the investment works will not start in maximum 2 years from its approval. During the period of investment constructions, the local environmental protection authorities will monitor those conditions imposed by the Environmental License (please note detailed information on the monitoring process in the next section);

³⁵ The Public Consultation preparation activities are financed by the Beneficiary

³⁶ During the EIA approval process there are three public information sessions [(i) when the Beneficiary submits the technical file to the EPA; (ii) at the end of screening phase; (iii) the public debate; and (iv) when the Environmental Approval is issued by the local EPA].

- The Beneficiary is obliged by law to inform the environmental protection authorities in writing any time when there is a significant modification of the initial conditions of the project based on which the current Environmental License was issued.

3. Procedures for Obtaining an Environmental Permit to Operate³⁷

The Environmental Permit to Operate investments with significant impact on the environment is issued by the EPA in conformity with OMEWM No. 876/2004. The local EPA together with the local National Environmental Guard as well as representatives of National Agency “Apele Romane” is inspecting the site after construction and issue a technical note with observations at the site (e.g., Environmental Audit).

The Environmental Audit of existing facilities is carried out only by certified persons paid by the Investor and includes: (i) a checklist including characteristic elements of the investment; (ii) an environmental study including data collection and technical review of all environmental aspects, before taking a decision on the scale of potential or existing environmental impacts from the site; and (iii) site investigations to quantify the potential scale of contamination of the site. Compliance programs are usually required based on the result of the environmental audit.

The Beneficiary is in charge with:

- Request the Environmental Permit to the local EPA;
- Prepare a *Technical File* as in the previous case;
- Announce the public about the request to start operations;
- Annual renewal of the permit once it is issued (it is valid for 5 years).

Standards (ambient and emission limits) are usually followed to comply with the environmental protection as requested by EU. Currently there are ambient standards for air, noise, waste and discharges of certain substances in the water³⁸.

4. Monitoring Capacity During the Constructions Period and After the Issuance of the Environmental Permit to Operate

During constructions, LEPAs together with the NGA and “Apele Romane” are in charge with visiting the site of the project and inspecting the environmental compliances stipulated in the Environmental License and Environmental Permit. Also, within the technical Department of SNCFR, one permanently evaluates the impact of the railway activity regarding water, air, soil and noise pollution. This monitoring is achieved by analyses and measurements of environmental factors concentrations performed in the environmental protection laboratories network of SNCFR (there are 8 regional laboratories). These laboratories are certified by the European RENAR.

The NGA inspectors may accompany the LEPAs’ inspectors for site visits according to an inspection program. Following the site visit and checking the compliance, the inspectors prepare a report based on which they may advise the operators on how to meet standards and permit conditions. If a facility/project does not comply with relevant standards, it will first receive a warning from the inspector followed by a certain amount of time necessary to take

³⁷ Issued for existing activities or when a new investment starts its operation

³⁸ Standards required by Law are listed in Annex I A

care of the steps that comply with the permit. If these steps are not performed, an administrative fine will be imposed (the size of the fine varies as presented in the legislation). Finally, non-compliance will result in court action.

Annex I C - Government of Romania's *Current and Proposed Measures* that would Improve and Sustain Acceptability

Introduction

The costs that Romania needs to adjust to the EU environmental requirements by 2018 -the final year of the longest transition period obtained by Romania to comply with the EU environmental requirements - totals Euro 29.3 billion, out of which about 20% will be covered from the State and local budgets, 34% from the EC funds, 26 % by the business operators, and the rest of about 20% from other sources (credits, loans, bilateral agreements). The environmental protection investments totaled about Euro 347.8 million during the period of January-July, 2005, representing mainly the business operators' contribution in the industrial pollution control and air quality. The water sector requires the highest costs of the total needed expenses, specifically 65% (or Euro 19 billion) are estimated to account for wastewater treatment while about Euro 6.5 billion will be needed for the drinking water quality sector.

The commitment undertaken by Romania during the Chapter 22 Environment negotiations refers to the following actions: (i) finalization of the environmental aquis transposition by the end of 2006; (ii) strengthening the institutional capacity in the environmental sector at local, regional and central level; and (iii) enforcement and control of the relevant legislation.

In order to strengthen the administrative and institutional capacity for implementation of the environmental legislation at national, regional and local level and for the country preparation for EU accession, the Government of Romania undertook a number of steps during 2004 and 2005 which are outlined in the following sections.

Transposition of the EU Legislation and Its Enforcement

By the third quarter of Calendar Year 2005, 95% of the EU environmental aquis is transposed, specifically the water quality sector, nature protection, noise and nuclear safety and radio-protection. In sectors such as air quality or industrial pollution control, chemicals and waste management, transposition rates are about 90%; all institutional capacity of structural and cohesion funds absorption have been built and enhanced; all technical implementation measurements currently scheduled for 2005 have been completed.

In the **water sector** the main legal acts are the Environmental protection Law and the Water Law 107/1996, recently amended in order to amend the Water Framework Directive. In order to improve the quality of waters, the 2004 National Report including management plans for the development of hydrographic basins in Romania was developed. Moreover, the maximum limits of certain dangerous chemical substances discharged into the surface waters were established. Also, the activity of reviewing and transposing the permit conditions of wastewater treatment plants discharges in surface waters has been launched.

In the **transport sector**, the air quality problem is approached by imposing the use of less pollutant fuels and by rehabilitating the trans-European roads (GD 343/2002). In addition, regulations were adopted on certification of vehicle equipment, spare parts and materials (Law 671/2002), on periodical inspection of the vehicle technical quality to ensure safety on roads and environment protection (Law 167/2003), and on gas and particle emission

limitation from internal combustion engines used for mobile equipment that are not vehicles (GD 743/2002).

Institutional Consolidation

Institutional consolidation through establishment of specific institutions for an adequate enforcement of the environment aquis and through approval of supplemental staff positions in the main institutions responsible for environmental protection to increase the efficiency of environmental activity (Table xx). There are currently institutions with very clear responsibility in the implementation and control of the environment legislation enforcement as following:

- the MEWM, by its specialized Departments and Directions (e.g., EU Integration; Environment; and Water), is in charge only with the development and supervision of application of the environment protection policy and strategy, programs and plans and concentrates on the coordination, elaboration, and promotion of norms that entirely transpose the EU legislation into the Romanian legislation. The MEWM has in its subordinate the NEPA, together with its eight Regional Agencies (REPA) and 42 County Agencies (LEPA);
- the NEPA is the national institution that: (i) ensures the technical support of the MEWM; (ii) coordinates REPAs and LEPAs; and (iii) implements and monitors the environmental action plans at national, regional and county level;
- the REPAs (8) are in charge with the environmental management at regional level and coordination of the LEPAs;
- the LEPAs (42) are in charge with the coordination, implementation and monitoring of the environmental action plans at county level;
- the NGA, which is directly subordinated to the MEWM, is the national authority for control and complying with the environmental protection legislation. The NGA is in charge with: (i) the inspection and enforcement activities for environment protection; and (ii) the issuance of penalties for exceeding discharges and emission limits;
- the National Agency “Apele Romane” is the governmental authority responsible for the management of water quality and quantity of the Romanian hydrographical basins. Together with MEWM is the institution in charge with water as physical resources.
- The MTCT is in charge with development of policies and activities in the transport sector, being the main regulation authority for vehicle emissions. Responsible also for activities concerning land use planning and tourism.
- The Environmental Fund identifies environmental priorities and totals about Euro 50 million in 2005 mainly from environmental taxes.

Other institutions involved:

- ICIM – operates under the MEWM authority and carries out complex research studies concerning surface and underground water quality, air quality, pollution sources, environmental radioactivity, technical assistance and environmental expertise, training courses for the personnel in the environmental and water field. Although plays an important role in the overall functioning of the MEWP (including harmonization process, environmental monitoring and coordination of data provided by local EPAs, reference body for the Danube river areas conservation), ICIM has no regular yearly income secured from the State budget and about 85% of its funding is

based on contracts with economic agents and private sector (e.g., EIA studies, environmental audits);

- Institute of Meteorology, Hydrology and Water Management – operates under the National Agency “Apele Romane” authority and monitors, forecasts, and carries out research on meteorology, hydrology and water resource management as well as information on the ozone layer and wind speed;
- SNCFR – implements the environmental implementation programs of an ecological railway transport in the country
- ISPCF – designs the railway infrastructure
- IPTANA – designs the roads infrastructure

Approximately 949 additional experts have been employed in the environmental sector at central, regional and local level. Overall, the MEWM has developed a strategy regarding the environment personnel increase by 1,660 persons/civil servants until 2006, as noted in the following table:

Approved positions for additional staff in state institutions

Institution	Supplemental Staff approved in 2004	Staff positions filled-in as of September 2005 (of total # approved for 2005)
MEWM	50 (in the General Direction for Management of Structural Funds)	23 (of 96)
NEPA	100	33 (of 95)
REPA (8)	88	36 (of 70)
LEPA (42)	498	55 (of 222)
NARW		63
ARBDD		8 (of 15)

The Control and Monitoring Activities process including the prevention, observation and penalty application for avoiding the law regarding environmental protection strengthen during the last year. For example, during the period of July 1st-August 15, 2005, the representatives of NEG performed inspections at 958 economic agents concluding the following: (i) about 47% of the required environmental measures were adopted totaling 121,170 RON; and (ii) about 53% of other environmental protection investment measures proposed for 2005 were already developed totaling about 70,760 RON. Moreover, the NEG will perform a regular inspection together with representatives of MEWM (e.g., “Apele Romane”) and LEPA/NEPA in conformity with a program approved by the MEWM and LEPA/NEPA.

Personnel Training

A total of twelve (12) training seminars for experts in the MEWM and their subordinate structures are scheduled to take place during 2005 (eight of these seminars already took place during the first eight months of 2005). About ten (10) twinning projects totaling Euro 13.5 million are developed (and/or scheduled to be launched) during the period of 2005-2006 involving the daily training of REPA personnel as well as regular technical assistance for the personnel of NEPA and of the General Direction in charge with managing the Structural Funds within the MEWM. In 2004, the SNCFR achieved the training of 4 employees in

Management integrated systems for quality (ISO 9001), environment (ISO 14001), and health and work security (OHSAS 18001). Also, 7 SNCFR employees participated at ISO 1400 training while other 2 employees participated at the environmental auditors testing laboratories (ISO/EC 17025).

Financing and Other Activities

Financing and facilitating access to viable environmental technologies through strengthening the Environment Fund capacity: the number of applications and concrete projects using allocation of appropriate amounts from the EF has increased considerably. The amount of Euro 1,200 million allocated to Romania under the ISPA program until 2006 for the improvement of the environmental infrastructure has been covered through the projects submitted so far to Brussels. A new portfolio of projects able to absorb the future funds that Romania will benefit from in the future is in process to be established.

Supporting public education and awareness through specific programs related to environmental issues: numerous actions and awareness raising campaigns regarding the possibility of business operators, public administration, and all stakeholders in the environment protection have been carried-out.

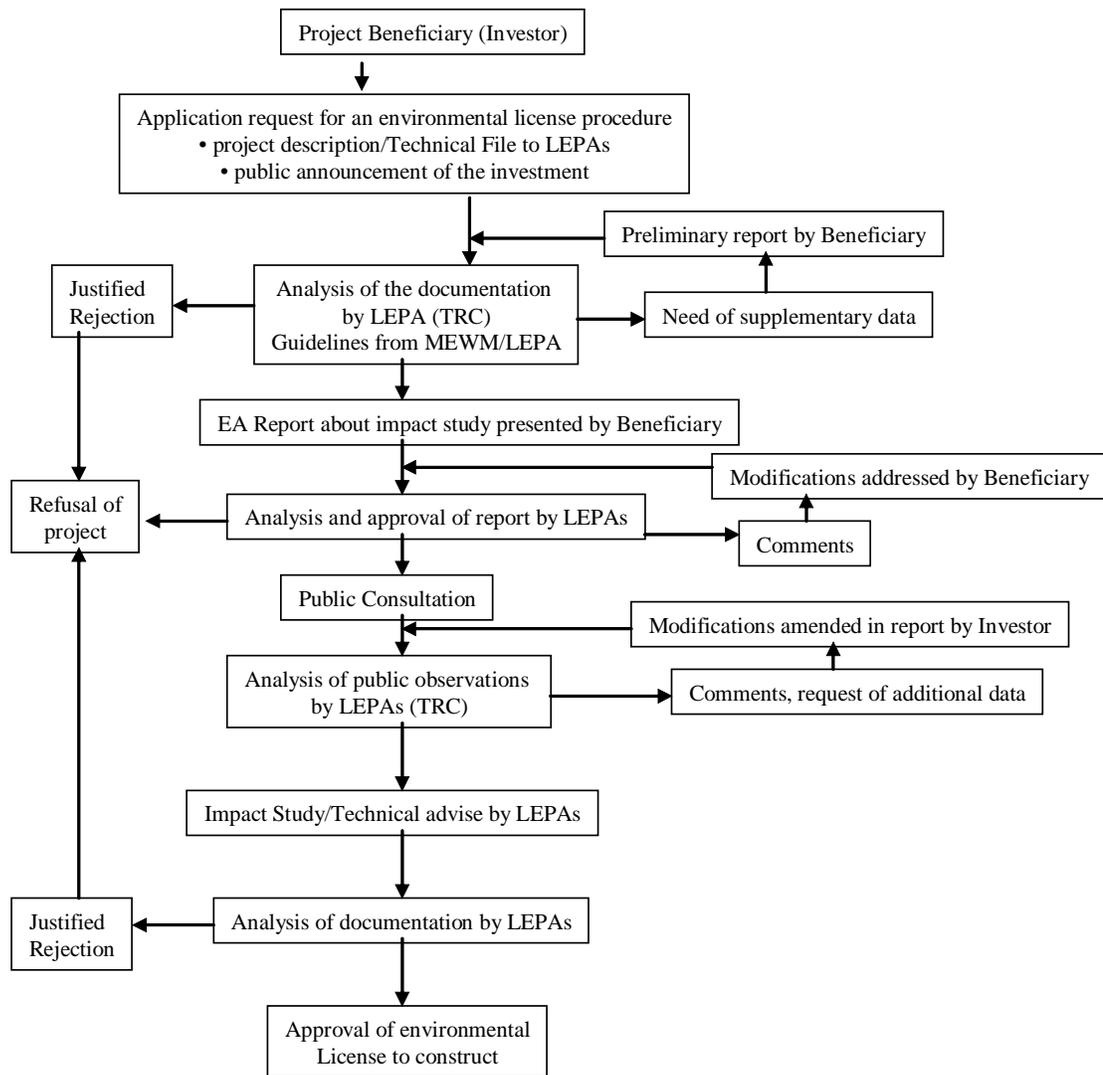


Figure. Procedures for issuing the environmental license to start-up investments of a new facility

Annex II – Summary Matrices for Assessment of Equivalence

Annex II A - Environmental Assessment

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Government of Romania’s Equivalent Requirements		Significant differences between OP 4.00 and Romania’s requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania’s corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania’s corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
<p>Objective: To help ensure the environmental and social soundness and sustainability of investment projects. To support integration of environmental and social aspects of projects into the decision- making process.</p>	<p>protection of the environment and leading to sustainable development of society</p> <p>EIA aims at stating the measures of reduction or avoidance of the negative impact of the project on the factors mentioned enumerated in paragraph (1) and determines the decision of achieving or not achieving the project on the chosen site. Factors enumerated in paragraph (1) are: (a) human beings, fauna, flora, (b) soil, water, air, climate and the landscape, (c) material assets and cultural heritage, and (d) the interaction between (a), (b), (c).</p>	<p>Art 1 Law 137/1995</p> <p>Art 3(2) GD 918/2002</p> <p>More generally, environmental assessment is governed by the following Romanian legislation: Law 137/1995 GD 918/2002 MO 860/2002 MO. 863/2002 MO 864/2002.</p>	<p><i>No significant gaps.</i></p>	<p><i>None required</i></p>
<p>Operational Principles:</p> <p>1. Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment (EA) so that appropriate studies are undertaken proportional to potential risks and to direct, and, as relevant, indirect, cumulative, and associated impacts. Use sectoral or regional environmental assessment when appropriate.</p>	<p>A screening process is in place and consists of three categories: (a) projects that require the preparation of a full EIA, either mandatory or after screening by the competent authorities (Category A); (b) projects that are subject to an “unique agreement” and require only a summary description of the project, its impacts and appropriate mitigation measures (Category B); (c) projects that do not require an EA (Category C).</p> <p>Competent environmental authorities review all category A and B projects for their potential impacts and determine the scope of the EIA, or a limited environmental analysis</p>	<p><u>On Category A</u> GD 918/2002, Art 3(4) EIA is achieved in 3 stages as follows: (i) the environment impact assessment screening stage; (ii) the environmental impact assessment scoping stage and (iii) the review of the environmental impact statement stage.</p> <p>Art 6(2): EIA is mandatory for projects of Annex 1 of GD 918/2002. Art 6(3), (4), (5): screening is mandatory for projects of Annex 2, using criteria of annex 3, to determine need for full EIA.</p> <p>Art 8: Competent authority provides guidance to developer on type and extent of issues to be addressed in impact study. Minimum information to be provided by the project developer at the screening stage is listed in Annex 4 of the same GD 918/2002, and includes direct, indirect, secondary, cumulative, positive and negative impacts.</p>	<p><i>No significant gaps.</i></p>	<p><i>None required</i></p>

³⁹ Romanian law uses the term “environmental agreement” in this context.

Bank Policy (OP 4.00) Requirements	Government of Romania's Equivalent Requirements		Significant differences between OP 4.00 and Romania's requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
(Objective and Operational Principles)	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
		<p>Details of the screening and scoping procedures are given in MO 860/2002 and MO 863/2002, that include checklists for both the screening and scoping stages.</p> <p><u>On Category B</u></p> <p><u>GD 860/2202</u> Art 5(1') New projects, and any change, extension, or dismantling of projects that may have significant environmental impacts, related to activities listed in GD 918/2002 (environmental impact assessment framework) and EO 152/2005 (on integrated pollution prevention, mitigation and control) require a license to construct³⁹, and in some instances (such as sanitary landfills) an integrated [permit to operate], including a summary description of the project, its impacts and appropriate mitigation measures</p> <p>MO 860/2002 Artt 7, 10 (standard application form), 11, 13(a), Art 33 (model and minimum content of environment agreement).</p>		
2. Assess potential impacts of the proposed project on physical, biological, socio-economic and physical cultural resources, including transboundary and global concerns, and potential impacts on human health and safety.	EIA shall identify, describe and assess in an appropriate manner in the light of each individual case the direct and indirect effects of a project on (a) human beings, flora and fauna; (b) soil, water, air, climate and the landscape; (c) material assets and the cultural heritage; (d) interaction between factors mentioned under (a), (b) and (c).	<p>GD 918/2002 Art 3(1)</p> <p>Furthermore, MO 863/202 provides detailed guidance to competent authorities on factors to be both screening and scoping. Assessment of global concerns not explicitly mentioned but addressed in the content MO 863/2002 (climate change, ozone depletion, pollution of international waters, biodiversity)</p> <p>Art 13 of GD 918/2002 and MO 864/2002 provide detailed procedures for environmental assessment of projects likely to have transboundary effects. Law 22/2001 ratifies the ESPOO Convention on transboundary environmental impact assessment.</p>	<i>No significant gaps.</i>	<i>None required</i>
3. Assess the adequacy of the applicable legal and institutional framework, including applicable international environmental agreements, and confirm that they provide that the cooperating government does not finance project activities that would contravene	Romania is committed to EU membership in 2007 and adoption of the EU's environmental acquis (including several international conventions). Upon EU accession, non-compliance would result in an infringement procedure. Also, as mentioned in Annex I, Romania is signatory to several international conventions related to Natural Habitat and Cultural Property and Convention on EIA in a	There are no explicit provisions under Romanian law; but provisions in the Constitution (Article 11) however recognize that international treaties once ratified are part of national law. Article 148 of the Constitution provides that binding EU regulations take precedence over contrary national laws.	<i>No significant gaps</i>	<i>None required</i>

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Government of Romania's Equivalent Requirements		Significant differences between OP 4.00 and Romania's requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
	transboundary context (Espoo, 1991).			
4. Provide for assessment of feasible investment, technical, and siting alternatives, including the "no action" alternative, potential impacts, feasibility of mitigating these impacts, their capital and recurrent costs, their suitability under local conditions, and their institutional, training and monitoring requirements associated with them.	The "no project" alternative must be considered under the EIA for categories "A" projects. The other points listed under principle 4 are referred to in varying degrees of detail.	GD 918/2002. Annex 4 and Art 10 require that EIA includes at least (i) description of measures taken into account in order to avoid, reduce, and if possible remedy negative effects on the environment; (ii) description of environmental aspects potentially affected; (iii) general presentation of main alternatives studies by developer with indication of reasons for his choice. MO 863/2002, Annex 2, Part I, point 2.1 and table 1 list a range of alternatives, (including siting and technology), to be considered by the competent authorities during scoping. The zero alternative must be considered. MO 863/2002, Annex 2, Part I, points 3.1 and 3.2 and table 2 (scoping checklist) provide a list of potential impacts to be considered during scoping. MO863/2002 Annex 2, Part II, Annex 3 (guidelines on review of EIA report) includes review by competent authorities of whether the responsibilities and funding for implementation of mitigation are clearly defined.	<i>No significant gaps.</i>	<i>None required</i>
5. Where applicable to the type of project being supported, normally apply the Pollution Prevention and Abatement Handbook (PPAH). Justify deviations when alternatives to measures set forth in the PPAH are selected.	No reference to PPAH guidelines in Romanian Law	Emissions, waste management, water, wastewater discharge, and air pollution standards are set in various pieces of Romanian legislation. MO 860/2002. Art 33(3) and Annex III.1 provide a model and minimum content of the environmental agreement that include allowed levels of emissions. MO 860/2002 Art 34. For investment projects that are and to be financed from (EU) community funds the installation parameters and operating conditions established by the environmental agreement shall consider pollutant emission discharge conditions set by EU legislation. National limits shall apply when more restrictive.	<i>No significant gaps, since Romanian standards are more comprehensive and equally/more stringent</i>	<i>None required</i>
6. Prevent and, where not possible to prevent, at least minimize, or compensate for adverse project impacts and enhance positive impacts through	The EIA emphasizes both positive and negative impacts with major focus on the mitigating measures for addressing negative impact. However, no specific	MO 860/2002 Art 49] The environmental agreement shall be issued only if the project provides the removal of the negative consequences on the environment in relation to the applicable provisions of the technical norms and regulations in force.	<i>No significant gap</i>	<i>None required</i>

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Government of Romania's Equivalent Requirements		Significant differences between OP 4.00 and Romania's requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
impacts through environmental management and planning that includes the proposed mitigation measures, monitoring, institutional capacity development and training measures, an implementation schedule, and cost estimates.	requirements are given for EMP	<p>MO 860/2002 Annex No III.1 regards Contents of Environmental Agreement (Model)</p> <p>MO 860/2002 Annex II.2 on standard contents for the technical memorandum for <i>integrated</i> environmental agreement; point V provisions on environmental monitoring.</p> <p>MO 860/2002 Art 50, the environmental agreement shall be revised if new elements [become known?]. Project proponent must inform competent authorities of substantial change of data that formed basis of issuance of environmental agreement.</p> <p>MO 8676/2004</p> <p>Standard bidding documents are used in all projects that include requirements for onsite mitigation measures during construction</p>		
7. Involve stakeholders, including project-affected groups and local nongovernmental organizations, as early as possible, in the preparation process and ensure that their views and concerns are made known to decision makers and taken into account. Continue consultations throughout project implementation as necessary to address EA-related issues that affect them.	<p>Public involvement foreseen at screening, EIA review, and decision stage.</p> <p>No provision for continuing consultation throughout project implementation of high risk projects.</p>	<p>Requirements for public participation (information and consultation) are in Art 12, 14, and 15 of GD 918/2002</p> <p>Detailed arrangements (including timeframes, model public announcements, forms for recording and for evaluating comments) are provided in chapter III (public information and consultation) of MO 860/2002. Procedure includes information to be made available, public debate, and consideration of written comments</p>	<i>Gap with respect to continuing consultation throughout project implementation of high risk projects such as large new landfills.</i>	<i>None required since high risk will not be financed by either project.</i>
8. Use independent expertise in the preparation of EA where appropriate. Use independent advisory panels during preparation and implementation of projects that are highly risky or contentious or that involve serious and multi-dimensional environmental and/or social concerns.	<p>Certified expertise required for EIA study</p> <p>Review of EIA by TRC</p>	<p>Art 11(1) of GD 918/2002: EIA study is achieved on the basis of guidance foreseen in Art 8 (i.e. scoping by competent authority) through specialized units, independent of the developer and certified by law.</p> <p>GD 918/2002 – Technical Review Committee at central and local level comprised at central of representatives of certain public central and/or local authorities. It may be enlarged with experts as the specific conditions of the project will impose. MO 863/2002 makes checklists compulsory for</p>	<i>Gap with respect to use of independent advisory panels during implementation of high risk projects</i>	<i>None required since high risk will not be financed by either project.</i>

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Government of Romania's Equivalent Requirements		Significant differences between OP 4.00 and Romania's requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
		<p>every stage of the EIA procedure (screening, scoping, review of EIA report) and to be reviewed by TRC with aim to ensure quality.</p> <p>Independent Panel of Experts during implementation for risky/contentious/multi-dimensional projects not envisioned.</p>		
9. Provide measures to link the environmental assessment process and findings with studies of economic, financial, institutional, social and technical analyses of a proposed project.	<p>There is no specific requirement</p> <p>However, composition of TRC allows for input from the various parts of the administration and for intergrated decision making</p>	MO 171/2005	<i>No significant gaps</i>	<i>None required</i>
10. Provide for application of the principles in this Table to subprojects under investment and financial intermediary activities.	Concept of subproject not mentioned in Romanian legislation, [but all investment types are covered]	<p>Under Law 137/1995, GD 918/2002 and its executive regulations, the competent authorities are required to screen and review all investment projects for their potential impacts.</p> <p>GD 860/2002 Art 5(1) provides that applying for an environmental agreement is mandatory for all new investment projects and any change or extension that may have significant effects on the environment, including for dismantling projects, related to activities as established by GD 918/2002 on the environmental impact assessment framework procedure and the Emergency ordinance 152/2005 on integrated pollution prevention and control.</p> <p>GD 860/2002 Art 5(2), (3) For investment projects related to activities not subject to an EIA, public authorities for environmental protection shall apply simplified environmental licensing procedures (...) only an environmental permit shall be issued.</p>	<i>No significant gaps.</i>	<i>None required</i>
11. Disclose draft EA in a timely manner, before appraisal formally begins, in an accessible place and in a form and language understandable to key stakeholders.	Romanian law has comprehensive disclosure and consultation requirements – the national/regional or local EPA is responsible for organizing public consultation/debate on draft EIA and publish its decisions, including those of Technical Review Committees's in local newspapers and their websites.	MO No. 860/2002	<i>No significant gap.</i>	<i>None required</i>

Annex II B - Cultural Property

Bank Policy (OP 4.00) Requirements	Government of Romania's Equivalent Requirements		Significant differences between OP 4.00 and Romania's requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
(Objective and Operational Principles)	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
<p>Objective: To assist in preserving physical cultural resources (PCR) and avoiding their destruction or damage. PCR includes archaeological, paleontological, historical, and sacred sites, including graveyards, burial sites, and unique natural values.</p>	<p>Protection of historic monuments is in the public interest.</p> <p>Aim is to protect archaeological heritage and to certify certain archaeological sites as areas of national interest (including structures, constructions, groups of buildings, developed sites, moveable objects, monuments of other kinds as well as their context, whether situated on land or under water, war memorials and graveyards).</p>	<p>Law 422 / 2001</p> <p>Government Ordinance 43 /2000 (as amended by Law 378/2000 and Law 462 / 2003)</p>	<p>No significant gap</p>	<p>None required</p>
<p>Operational Principles:</p> <p>1. Analyze feasible project alternatives to prevent or minimize or compensate for adverse impacts and enhance positive impacts on PCR, through site selection and design.</p>	<p>In the case of infrastructure projects in areas with located archaeology, investors are obliged to finance any modifications to the project necessary to protect archaeological discoveries. In some cases, if there are structures with great historic, cultural or scientific importance that cannot be moved (such as churches, temples, monumental tombs, fortified settlements), the archaeological team can recommend the preservation of the remains by changing the initial plans.</p> <p>For projects likely to have insignificant environmental effects such determination can only be made after checking the application, the site location within the urban development plan and in relation to its relative position with regards to protected areas or buffer zones, natural or archaeological monuments, restricted development zones.</p>	<p>Government Ordinance 43/2000 Article 6</p> <p>Government Ordinance 860/2002</p>	<p>No significant gap</p>	<p>None required</p>

Bank Policy (OP 4.00) Requirements	Government of Romania's Equivalent Requirements		Significant differences between OP 4.00 and Romania's requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
2. If possible, avoid financing projects that significantly damage PCR. As appropriate, conduct field based surveys using qualified specialists to evaluate PCR.	<p>Any intervention on a listed monument or archaeological site must be authorized by the Ministry of Culture and Religious Affairs.</p> <p>In the case of any infrastructure project, investors are obliged in the feasibility study to carry out field surveys using qualified specialists. They must also pay for archaeological surveillance over the entire period of the works to protect the archaeology and chance finds.</p> <p>Qualified specialists are specified on a Register of Archaeologists, maintained by the Ministry of Culture and Religious Affairs.</p>	<p>Law 422 / 2001, Article 22, 28 (f,g), 55 Government Ordinance 43 / 2000, Article 5 (9)</p> <p>Government Ordinance 43/30 Article 6</p> <p>Government Ordinance 43/ 2000 Article 10 (h)</p>	No significant gap	No significant gap
3. Consult local people in documenting the presence and significance of PCR, assessing the nature and extent of potential impacts on these resources, and designing and implementing mitigation plans.	<p>Owners whose building is subject to a protection classification procedure must be informed of this by the County department for culture, religious and national public patrimony. They are entitled to challenge the procedure at the Ministry of Culture and Religious affairs within 30 days of being notified.</p> <p>Local public administration authorities are responsible for modifying general urban plans in order to protect archaeological patrimony. They must also define the limits of the priority archaeological interest area, and inform the public of the special regime of protection for that area.</p> <p>PCR protection is covered in Environmental Impact Assessment procedures and public involvement foreseen at screening, EIA review, and decision stage.</p> <p>Under the detailed arrangements for public information and participation in the EIA</p>	<p>Law 422 (2001), Article 13, Article 60 (2)</p> <p>Government Ordinance 43 (2000), Article 20 (c)</p> <p>Government Decision 918 / 2002, Articles 12, 14, and 15</p> <p>Government Ordinance 860 / 2002, Chapter III, Articles 13 to 17</p>	<p>No significant gap</p> <p>For infrastructure projects affecting historic monuments and sites, public consultation is not enshrined in Law 422 or GO 43. This is only foreseen in EIA procedures, which require inclusion of PCR experts 'as needed'.</p>	No significant gap

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Government of Romania's Equivalent Requirements		Significant differences between OP 4.00 and Romania's requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
	process, the public has the right to present proposals. Procedure includes information to be made available, public debate, and consideration of written comments			
4. Provide for the use of "chance find" procedures that include a pre-approved management and conservation approach for materials that may be discovered during project implementation.	<p>Mandatory reporting to authorities within 72 hours of a find.</p> <p>The Town Mayor can order the interruption of all activity / revoke the building permit, following authorization from the decentralized services of the Ministry of Culture and Religious Affairs.</p> <p>Scientific, managing and technical measures should be adopted to preserve the vestiges uncovered by chance until the classification of those assets or until conclusion of the archaeological research.</p> <p>The area of archaeological patrimony accidentally revealed must be delimited, as suitable, either as: the entire area of the building authorization / a radius of 50 meters from the place of discovery / the entire area affected by the action of a natural event that revealed the find.</p> <p>Police must be notified to guard the area. Only when the discovery has been fully analyzed by qualified experts can the MCRA authorize a "Archaeological Discharge Certificate".</p>	<p>Government Ordinance 43 (2000) Article 4 (3)</p> <p>Government Ordinance 43 (2000) Article 5 (10)</p> <p>Law 422 /2000 Article 48 (d)</p> <p>Government Ordinance 43 (2000) Article 5 (1)</p> <p>Government Ordinance 43 (2000) Article 2 (j)</p> <p>Government Ordinance 43 (2000) Article 11 (e) Government Ordinance 43 (2000) Articles 5 (1,2, & 3)</p>	None	None required
5. Define and undertake measures for strengthening institutional capacity to implement mitigation plans and to deal with impacts on PCR identified prior to and/or discovered during project implementation.	<p>During the feasibility study for a project, the investor is obliged to establish the measures and necessary funds for the protection of PCR.</p> <p>The MCRA is responsible for establishing the methodology of planning, execution and control</p>	<p>Government Ordinance 43 (2000) Article 6</p> <p>Government Ordinance 43 (2000) Article 10 (f1)</p>	The law says little about measures to strengthen 'institutional capacity' to deal with impacts on PCR discovered during project implementation.	None required;

Bank Policy (OP 4.00) Requirements	Government of Romania's Equivalent Requirements		Significant differences between OP 4.00 and Romania's requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
	<p>regarding preventive archaeological research.</p> <p>MCRA and the NCHM are responsible for elaborating and organizing a national system for education, training and improvement for specialists in protection of PCR</p>	<p>Law 422/2001 Article 28 (r), Article (p)</p>		
<p>6. Disclose draft mitigation plans, in a timely manner, before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders.</p>	<p>Under the detailed arrangements for public information and participation in the EIA process, the public has the right to present proposals. Procedure includes information to be made available, public debate, and consideration of written comments</p>	<p>Government Ordinance 860 / 2002, Chapter III, Articles 13 to 17</p>	<p>No significant gap</p>	<p>None required</p>

Annex II C – Dam Safety

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Government of Romania's Equivalent Requirements		Significant differences between OP 4.00 and Romania's requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
To assure quality and safety in the design and construction of new dams and the rehabilitation of existing dams, and in carrying out activities that may be affected by an existing dam.	To provide a framework for quality assurance of design and construction of new dams or rehabilitation of existing dams, and for their safety operation.	<ul style="list-style-type: none"> • Law 107/1996, modified by Law 310/2004 • Gov. Ordinance 244/2000 • MEWM Ordinance 128/2005 	No difference	None required
1. Identify existing dams and dams under construction that can influence the performance of the project and implement necessary safety measures/remedial works	In case a new project would need to be linked to an existing dam or a dam under construction, the new project must fully comply with the dam safety regulations	<ul style="list-style-type: none"> • Law 107/1996, modified by Law 310/2004 	No significant differences	None required
2. Use experienced and competent professionals to design and supervise the construction, operation and maintenance of dams and associated works.	Design of dams can be undertaken only by firms specialized and certified by MEWM. Construction supervision can only be undertaken by site supervisors certified in this field.	<ul style="list-style-type: none"> • Law 107/1996 modified by Law 310/2004 • Gov. Ordinance 244/2000 	No significant differences	None required
3. Develop detailed plans, including for construction supervision, instrumentation, operation and maintenance and emergency preparedness.	It is mandatory that, for all dams, the owners have detailed plans for instrumentation, operation and maintenance, and emergency preparedness. During construction phase, the supervision programs are prepared by the designer	<ul style="list-style-type: none"> • Law 107/1996 modified by Law 310/2004 • Gov. Ordinance 244/2000 	No significant differences	None required
4. Use independent advice on the verification of design, construction, and operational procedures and appoint independent panels of experts for large or high hazard dams.	All engineering designs must be verified by certified, independent, verifiers. Also, the operational plans need to be reviewed and accepted by an independent panel of experts members of CONSIB (the National Commission on Dam Safety)	<ul style="list-style-type: none"> • Law 107/1996, modified by Law 310/2004 • Gov. Ordinance 244/2000 • MEWM Ordinance 128/2005 	No significant differences	None required
5. Use contractors that are qualified and experienced to undertake planned construction activities.	For large and medium size dams, the works can be contracted only with qualified and experienced contractors. For small dams, of local importance, other contractors can be considered, under close supervision of the designer.	<ul style="list-style-type: none"> • Law 107/1996, modified by Law 310/2004 	No significant differences	None required

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Government of Romania's Equivalent Requirements		Significant differences between OP 4.00 and Romania's requirements.	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sectoral guidelines.		
6. Carry out periodic safety inspections of new/rehabilitated dams after completion of construction/rehabilitation, review/monitor implementation of detailed plans and take appropriate action as needed.	Annual safety inspections are mandatory for all dams, conducted under the supervision of independent experts. Annual reports are evaluated periodically as part of the process of renewing the licence for dam operation.	<ul style="list-style-type: none"> • Law 107/1996, modified by Law 310/2004 • Gov. Ordinance 244/2000 • MEWM Ordinance 128/2005 	No significant differences	None required

Annex II D - Involuntary Resettlement (Expropriation for Public Utility)

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Romania's Equivalent Requirements		Differences between OP 4.00 and Romania's requirements.	Differences that are significant and material to the Pilot Projects and would need to be addressed	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sector guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sector guidelines.			
<p>Objective: To avoid or minimize involuntary resettlement and, where this is not feasible, to assist displaced persons in improving or at least restoring their livelihoods and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p>	<p>a) Expropriation can occur only after the need for "public use" is demonstrated in a legal process and compensation is made. Therefore, the need to minimize involuntary resettlement is implicit.</p> <p>b) Compensation is paid at market value and "prejudice" (damages actually suffered and lost benefits, such as loss of income, relocation costs, etc). Assumed to enable affected people to maintain the value of their assets and restore their livelihoods and standards of living.</p>	<p>a) Constitution, Art. 44, para. 3, 6 "nobody may be expropriated unless for a cause of public use, established according to the law, subject to a fair and prior compensation." Law No. 33/1994 (referred to as the Expropriation Law)</p> <p>a) Expropriation Law, Art. 1, 10.</p> <p>b) Expropriation Law, Art 26. Pecuniary damages consist of the real value of the premises and the prejudice caused to the owner or other entitled persons. Expropriation Law Art. 28 "The usage, the usufruct, superficies, as well as any other real rights and concession and award into possession will be extinguished as a result of expropriation, the holders being entitled to receive pecuniary damages.</p>	<p>The principles are not explicitly stated, but are embedded in legal requirements and procedural requirements.</p> <p>The Romanian law does not establish a standard for mitigating social impacts; rather, it assumes that compensation is adequate mitigation..</p>	<p>"Prejudice" which captures impacts on incomes and livelihoods, needs to be claimed by the affected persons as part of negotiations and is not an automatic entitlement.</p>	<p>Need to inform affected people about compensation standards and prejudice and procedures to claim prejudice.</p>

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Romania's Equivalent Requirements		Differences between OP 4.00 and Romania's requirements.	Differences that are significant and material to the Pilot Projects and would need to be addressed	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sector guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sector guidelines.			
Operational Principles: 1. Assess all viable alternative project designs to avoid, where feasible, or minimize involuntary resettlement.	An expropriation decision is issued by a relevant authority (national, county, or local depending on the level of the authority that is investing), based on a "Prior Investigation File" that justifies the works requiring expropriation and demonstrates that they cannot be carried out without the specific expropriation requested. The need to minimize involuntary resettlement is implicit in this requirement. (any basis in the regulations on the need to avoid structures?)	Expropriation Law, Art. 7, 8, 10,	No significant difference in practice, as expropriation must be justified and residences are assiduously avoided in designs.(is there any reference to this in the regulations)	None required	None required
2. Through census and socio-economic surveys of the affected population, identify, assess, and address the potential economic and social impacts of the project that are caused by involuntary taking of land (e.g. relocation or loss of shelter, loss of assets or access to assets, loss of income sources or means of livelihood, whether or not the affected person must move to another location) or involuntary restriction of access to legally designated parks and protected areas.	a) The Prior (Preliminary) Investigation File identifies the "economic-social, environmental or any other kind of benefits" of the work as well provides data "to describe expropriation, economic, social environmental or any other kind of inconveniences. b) Once public interest is established, a Technical Design is completed, which includes details regarding alignment, specific parcels affected, ownership details from cadastre, and other assets affected and compensation standards and total cost.	a) Government Decree No. 583/1994, On Working Procedures of the Commissions in Charge of Conducting Preliminary Investigations in Order to Establish Public Usefulness for National or Local Interest Works, Annex 1, b) Expropriation Law Art. 3	The expropriation documents and Technical Design include household land ownership, which constitutes a proxy for a household census. No household socio-economic surveys are carried out, as stipulated in Principle 2, as compensation standards and prejudice are assumed to be adequate to offset losses.	This deficiency does not compromise the objectives or outcome of the process and this is not a significant issue that would prevent the application of OP 4.00 especially since the pilots involve only land acquisition and cash compensation without any need to change occupations.	None required
3. Identify and address impacts also if they result from other activities that are (a) directly and significantly related to the proposed project, (b) necessary to achieve its objectives, and (c) carried out or planned to be carried out contemporaneously with the project.	Legal expropriation and compensation requirements apply to all aspects of an investment.		No significant difference.	None required	None required
4. Consult project-affected persons, host communities and local nongovernmental organizations, as appropriate. Provide them opportunities to participate in the planning, implementation, and monitoring of the resettlement program, especially in the process of developing and implementing	a) Works must be entered into Urban and regional spatial plans (a public process) before an expropriation request can be made are revised to include new investments and changes in land use through public meetings.	a) Expropriation Law, Art. 8, 10. Law No. 71/1996 regarding approval of the National Territory Planning – Section I – Means of Communication	The consultation, disclosure and appeals processes are consistent with the principle and adequate. Although a specific	While affected people are not involved in implementation and monitoring, they are carried out on the basis of established laws and guidelines. Similarly,	None required

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Romania's Equivalent Requirements		Differences between OP 4.00 and Romania's requirements.	Differences that are significant and material to the Pilot Projects and would need to be addressed	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
	Objectives and Operational Principles as stated in Romania's corresponding laws, rules, regulations, procedures, and sector guidelines.	Romania's corresponding laws, rules, regulations, procedures, and sector guidelines.			
the procedures for determining eligibility for compensation benefits and development assistance (as documented in a resettlement plan), and for establishing appropriate and accessible grievance mechanisms. Pay particular attention to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, Indigenous Peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.	<p>b) Documents related to the declaration of public utility (the expropriation decision) are posted in administrative offices (Ministry, County or Local, depending on the scope), offices of the expropriator and newspapers (national, county or local).</p> <p>c) The Technical Design, providing details regarding siting, ownership, and proposed compensation levels are posted in the county or local office "in order to be consulted by interested persons."</p> <p>d) Within 15 days of publication of the Technical Design, affected owners are notified of the proposals for expropriation, given minutes of the expropriation decision and requested to prepare ownership documents for negotiation. They have 45 days to contest the decision to the Mayor of the relevant local or county government. The Mayor appoints a Committee to review disagreements, offers and claims. Membership includes local landowners.</p> <p>e) The Committee reviews documents, hears interested parties, asks for additional information, and issues decisions recorded in Minutes.</p> <p>f) The Committee can accept the proposal of the expropriator or reject it and call for new drawings.</p> <p>g) If a second proposal is rejected, the expropriator or owners can challenge the Committee's decision in the Court of Appeals.</p> <p>h) Interested parties agree on the transfer and level of compensation and</p>	<p>b) Expropriation Law, Art. 11.</p> <p>c) Expropriation Law, Art. 12.</p> <p>d) Expropriation Law, Art. 14., 15, 16</p> <p>e) Expropriation Law, Art. 17</p> <p>f) Expropriation Law, Art. 18, 19.</p> <p>g) Expropriation Law Art. 20.</p> <p>h) Expropriation Law, Art. 4.</p> <p>i) Expropriation Law, Art. 21, 22, 24-29.</p> <p>j) Expropriation Law, Art. 30</p>	<p>resettlement document is not prepared, the documents prepared for the expropriation decision and the Technical Design are reasonable proxies for the plan specified in the principle.</p> <p>Eligibility for compensation, based on documentation of ownership and claims for damages, is straightforward, although actual receipt of compensation can be complicated if the land is not titled and ownership is contested. There is little scope for participation in defining eligibility criteria, as called for in the principle</p> <p>There is no explicit or implicit involvement of affected people in implementing and monitoring the expropriation program. .</p> <p>Affected persons must claim for compensation for "prejudice," which can cover development assistance, as necessary.</p> <p>The law does not explicitly refer to the entitlements of squatters and illegal occupants, although it is</p>	<p>since eligibility is straightforward, there is no need to involve affected people in determining eligibility.</p> <p>Inadequate information about compensation for damages ("prejudice") may constrain people from demanding and receiving adequate compensation.</p> <p>There appears to be little documented experience in dealing with illegal</p>	<p>Include a discussion of prejudice in the brochure that would be sent out.</p> <p>Have independent monitors monitor expropriation of businesses and other assets and transaction costs that should be compensated as damages.</p>

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Romania's Equivalent Requirements		Differences between OP 4.00 and Romania's requirements.	Differences that are significant and material to the Pilot Projects and would need to be addressed	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
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	damages prior to invoking expropriation, i) If negotiations for compensation fail, owners cannot be located or ownership is disputed, the expropriator appeals to the County Low Court or Bucharest Municipality Court to resolve disputes and set compensation, based on the findings of an expertise. The claims of "other entitled persons" are also resolved in the court. j) The expropriator must pay compensation within 30 days, after which the title is considered transferred and work can begin. Owners can still contest compensation levels or demonstrate ownership and eligibility for compensation after payment		presumed that they would be among the "other entitled persons" (Art. 26 of the Expropriation Law) or other "holders being entitled to receive pecuniary damages (Art. 28 of the, Expropriation Law). The process does not give special consideration to the vulnerable or excluded groups	occupants, so the team was unable to determine how or if they are compensated in practice. The lack of special attention to vulnerable groups is not considered to be significant if assessed valuation is adequate and consistent and people are informed of their rights and entitlements.	Notify the Bank of instances of expropriation involving squatters and illegal occupants. Independent monitors will monitor and the Bank will supervise.
5. Inform displaced persons of their rights, consult them on options, and provide them with technically and economically feasible resettlement alternatives and needed assistance, including (a) prompt compensation at full replacement cost for loss of assets attributable to the project; (b) if there is relocation, assistance during relocation, and residual housing, or housing sites, or agricultural sites of equivalent potential, as required; (c) transitional support and development assistance, such as land preparation, credit facilities, training or job opportunities as required, in addition to compensation measures; (d) cash compensation for land when the impact of land acquisition on livelihoods is minor; and (e) provision of civic infrastructure and community services as required.	Owners are notified that their land is to be expropriated and given a copy of the minutes of the expropriation decision. Although they have 45 days to contest, the law does not require the expropriator to notify them of their rights a) Land acquisition must be completed—compensation must be paid and ownership transferred—before a construction license is issued for the investment. b) If relocation is required, the expropriator must ensure an alternative dwelling, in conformity with the law, is made available. c) Relocation costs, transitional support and development assistance, as needed, would be included in compensation for "prejudice." d) Cash compensation is the norm.	Expropriation Law, Art 13, 14 a) Constitution, Art. 44, para. 3, 6; Expropriation Law, Art. 31. b) Expropriation Law, Art. 29. c) Expropriation Law, Art. 26, 28. d) Expropriation Law, Art. 26 e) Expropriation Law, Art. 7. Expropriation of entire urban or rural localities requires a special law; Art. 29.	The law does not require provision of information on rights or options, as required by the principle. This is a salient divergence from the principle. . a) Prompt payment of compensation is required, and consistent with the principle b) No significant difference c) No damage payments are automatic, except for standing crops. Affected persons must claim prejudice.	Notification of rights is unreliable not systematic or adequate. and . could have significant impact if it results in compensation below market value and people are unaware of opportunities to contest the amount. This should be mitigated c) As above, due to inadequate information, affected persons may not claim prejudice.	Prepare information to be given to owners before negotiation to inform of rights, including provisions for prejudice. Independent monitoring of payments. Monitor during Bank supervision. Obtain agreement on timing of assessments and assurance that assessors are certified. (EU and USAID are training assessors for capacity building). Obtain agreement to share assessments with owners prior to negotiation. Introduce instructions in guidance documents. Independent monitoring of compensation to ensure that it is not lower than value determined by assessors. Manage special cases involving major land

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	e) No community-wide involuntary relocation is envisioned in the pilot projects. In the event of relocation of individual households, it would be to sites with appropriate infrastructure and community services.		d) Property values are to be assessed by certified assessors. e) No significant difference.		losses and the loss of businesses and residences on a case-by-case basis in consultation with the Bank until there are adequate assurances that the system works. The following circumstances would require notification: acquisition of residences; acquisition of parts of an agricultural holding where the remainder is not adequate to allow people to sustain their livelihoods, compelling affected people to change their occupations; acquisition of commercial structures or businesses; and expropriation of land used by people without claim to legal title.
6. Give preference to land-based resettlement strategies for displaced persons whose livelihoods are land-based.	. Expropriation laws and procedures are based on cash compensation at market rate.	Expropriation Law, Art. 1, 26.	The use of cash compensation in Romania differs from the principle that resettlement of people displaced from land-based livelihoods and expropriation should be land based. Given the complex landholding situation and the inability to be confident that substitute land under State control is available, and given the availability of land for purchase, the current arrangement is appropriate, as it would enable households to pursue a land based solution on their own. This divergence from the principle is therefore not considered to be significant.	None required	None required
7. For those without formal legal rights to lands or claims to such land that could be	A person who occupies state land for 30 years or more can obtain ownership.	Expropriation Law, Art 26, 28	The law does not clearly address the entitlements of	The lack of recognition of the status of landless	The Bank should be appraised in a timely manner if there are any situations in which

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lands or claims to such land that could be recognized under the laws of the country, provide resettlement assistance in lieu of compensation for land to help improve or at least restore their livelihoods.	Other residents without formal legal title to affected land can be compensated for lost assets (value added) and relocation assistance as prejudice.		people without land ownership,	is a gap between Romanian law and principle 7. It is not likely to be an issue in the proposed pilot projects, and therefore the gap is not significant.	affected persons have no tenancy arrangements or rights to title and informed of proposed actions to be taken. Each case should subsequently be monitored by independent monitors.
8. Disclose draft resettlement plans, including documentation of the consultation process, in a timely manner, before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders.	Proposals for expropriation and Location Permits and Technical Designs are prepared in the local language and made available in the respective county or local council office and the expropriator's office and are posted in the official gazette and local newspapers. The minutes of the expropriation decision and minutes of the Commission established to review and assess objections are also disclosed in administrative offices.	Resettlement Law, Art. 11, 12, 18.	Romanian laws do not require the preparation of resettlement plans or their disclosure, but the Preliminary Investigation File for expropriation and the Technical Design constitute a reasonable proxy for a resettlement plan. Disclosure of each is adequate and consistent with principle 8.	The gap is not significant.	None required
9. Apply the principles described in the involuntary resettlement section of this Table, as applicable and relevant, to subprojects requiring land acquisition.	The laws and procedures apply equally to all expropriation required for an investment.		No difference	None required	None required
10. Design, document, and disclose before appraisal of projects involving involuntary restriction of access to legally designated parks and protected areas, a participatory process for: (a) preparing and implementing project components; (b) establishing eligibility criteria; (c) agreeing on mitigation measures that help improve or restore livelihoods in a manner that maintains the sustainability of the park or protected area; (d) resolving conflicts; and (e) monitoring implementation.	This issue is irrelevant to the pilot projects.		Irrelevant	None required	None required
11. Implement all relevant resettlement plans before project completion and provide resettlement entitlements before displacement or restriction of access. For	Expropriation must be completed before a Construction License is issued to begin civil works.) Constitution, Art. 44, para. 3, 6; Expropriation Law, Art. 1, 31.	No differences	None required	None required

Bank Policy (OP 4.00) Requirements (Objective and Operational Principles)	Romania's Equivalent Requirements		Differences between OP 4.00 and Romania's requirements.	Differences that are significant and material to the Pilot Projects and would need to be addressed	System improvements that would be undertaken by the Government of Romania before implementation of the project activities
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displacement or restriction of access. For projects involving restriction of access, impose the restrictions in accordance with the timetable in the plan of actions.					
12. Assess whether the objectives of the resettlement instrument have been achieved, upon completion of the project, taking account of the baseline conditions and the results of resettlement monitoring.	No follow-up assessment required beyond financial audit.		Romanian law and practices do not require monitoring or assessment of the impact of expropriation. This is a significant difference .t	If compensation is at market value and claims and payments for prejudice are adequate, it is assumed that expropriation impacts will be negligible. The assumption has not been tested, however.	Fund independent monitors to report periodically on expropriation activities and their impacts. Bank should supervise regularly and recommend steps to resolve problems that emerge. Carry out an assessment at completion.

Annex III – List of Persons Met

September 2005 Study Mission

Ministry of Environment and Water Management (MEWM)

Mr. Constantin Popescu	Secretary of State, Environment Department
Ms. Lucia Ana Varga	Secretary of State, Water Resources Department
Mr. Attila Korodi	Secretary of State, European Integration Department
Mr. Silviu Stoica	General Director, Environment Department
Mr. Gheorghe Constantin	Director, Water Resources Department
Ms. Adriana Baz	Director, Natural Habitat, Biodiversity and Biosecurity Division, Environment Department
Ms. Liliana Chirila	Director, SOP Environment, Structural Instruments Management Department
Ms. Angela Filipas	Director,
Ms. Maria Theodorescu	Counselor, Environment Department
Ms. Daniela Pineta	Counselor, Environment Department

National Administration "Apele Romane" ("Romanian Waters")

Mr. Petru Serban	Director, Department of Management and Operation of Hydrographic Basins
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National Environmental Protection Agency (NEPA)

Mr. Ioan Gherhes	President
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Bucharest Regional Environmental Protection Agency (REPA)

Ms. Simona Catrina	Executive Director
Ms. Ana Maria Nistorescu	Manager, Environmental Policies Implementation Department
Ms. Roxana Costache	Manager, IPCC Implementation Department

Bucharest Local Environmental Protection Agency (LEPA)

Ms. Sanda Petrisor	Director, EU Implementation
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National Environmental Guard

Mr. Silvian Ionescu	General Director (Comisar)
Mr. Ion Vasilescu	Regional Director Sibiu
Mr. Dan Sachelarescu	Director, Justice Department

Environmental Protection National Research and Development Institute (ICIM)

Ms. Mariana Ghineraru	General Director
Ms. Violeta Visan	Senior Researcher, EIA Department

Targu Mures City Hall

Mr. Dorin Florea Mayor

Targu Mures Local Environmental Protection Agency (LEPA)

Mr. Dan Stefanescu Director

Ms. Gabriela Boca Manager, Monitoring Department

Targu Mures Local Water Administration “Apele Romane”

Ms. Monica Gheorghe Counselor

Targu Mures Roads Department

Mr. Gheorghe Ispas Director

Arad City Hall

Mr. Razvan Popa Executive Director, Technical Department

Mr. Tamas Petru Director, Economic Department

Ms. Magda Matzeil Counselor, Economic Department

Arad Water Company

Mr. Marius Toma Technical Director

Ms. Lia Botezatu ISPA Team Leader

Timisoara Regional Environmental Protection Agency (REPA)

Ms. Francisca Schultz Manager, Authorizations and Controls Department

Arad Local Environmental Protection Agency (LEPA)

Ms. Dana Danoiu Director Executiv

Ms. Gabriela Vesa Manager, Authorizations and Controls Department

Ms. Orasan Adina Counselor, Authorizations and Controls Department

Ms. Marina Ilisie Manager, Monitoring Department

Other Government

Mr. Stefan Daniel Dragulin Vice President, Calarashi County Council

Mr. Corneliu Ion Totoian Property Assessor

Additional Experts

Mr. Ionut Apostol Executive Director, *TERRA Mileniul III*

Ms. Serena Adler General Director, *AWMS* Independent Environmental Services

Mr. Cristian Popa-Dumitru Senior Consultant, RomAir Consulting Ltd.

Mr. Mihnea Crihan Technical Consultant, RomAir Consulting Ltd.

Ms. Adina Luta Financial Consultant, RomAir Consulting Ltd.

Mr. Frits Jakma Consultant, Jakma Water Consulting

November 2005 Study Mission on Cultural Property

Ministry of Culture and Religious Affairs (MCRA)

Mr. MirceaVictor Angelescu Counselor

Ministry of Environment and Water Management (MEWM)

Ms. Angela Filipas Director,
Ms. Maria Theodorescu Counselor, Environment Department
Ms. Daniela Pineta Counselor, Environment Department

National Environmental Protection Agency (NEPA)

Ms. Mihaela Petcu Director General

National Office of Historic Monuments

Ms. Anca Bogdan Director

Pro Patrimonio Foundation (NGO)

Ms. Maria Berza Executive Vice-President for Romania
Ms. Ms. Mioara Lujanschi Director

Brasov City Hall

Ms. Gabriela Plopeanu Manager Environment Program, EU Integration Department

Brasov County Council

Mr. Mihai Sarbu Architect
Ms. Dana Jenei Art Historian, Direction of Cultural Heritage, Department for
Historical Monuments

UNESCO National Commission of Romania

Mr. Alexandru Mironov General Secretary
Mr. Srban Ursu Science Program Specialist

Annex IV - December 12, 2005 Public Consultation

IV A - Summary Minutes

A half-day public discussion on the proposal to pilot the use of Romanian systems to address environmental and social safeguard issues in two proposed World Bank supported projects (under Bank Operational Policy 4.00), was organized by the Romanian Ministry of Environment and Water Management (MEWM) and the World Bank (WB) on December 12, 2005. The meeting attracted about 35 specialists including municipal government representatives, environmental authorities (MEWM, National Environmental Protection Agency (EPA), regional and local EPAs), the local design institutes for roads and railways, as well as NGO groups, private sector consultants, and other members interested in the subject. The meeting was held in Bucharest at the council hall of the MEWM headquarter. The invitation, the proposed agenda and the list of participants are attached.

Background

The meeting was an important step in consultation with stakeholders as required by the World Bank OP/BP for piloting country systems. The informative and informal meeting discussed the primary conclusions of the noted draft report for which an Executive Summary had been sent to the attendees in advance and posted on the MEWM web site. The full draft report (comprising the detailed technical and policy analyses which supported the conclusions of the Executive Summary) were then under review by a Working Group organized by the MEWM to ensure factual representation and the Government view on the proposed study. Their comments will be incorporated and a revised draft will be available for public review in early January 2006. This disclosure date will be in advance of formal World Bank project appraisal, thereby meeting the World Bank's policy on this point.

Introduction/Opening Section

Opening remarks for the MEWM were given by Mr. Attila Korodi, Secretary of State for EU Integration; touching on the overall goals of two WB proposed project investments for piloting, the situation of the country's needs in the water and transport sector (expansion and rehabilitation of sewerage networks, railway and secondary roads rehabilitation), and the proposed funds to cover these needs. It was underlined the necessity of increasing the country's capacity on implementing systems related to the assessment of the impact on environment, cultural property and safety of dams. The role of the National Environmental Guard (GNM) as an independent agency within the MEWM, with the respect to project compliance was also highlighted.

Opening Remarks for the World Bank were presented by Mr. Ron Hoffer, ECA Regional Safeguard Coordinator, who recognized the tremendous amount of work that is underway in Romania on all fronts to transpose and adopt EU systems. It was underlined that Romania is making great strides in strengthening environmental and social protection to meet the requirements of both the EU environmental acquis, as well as the interest of citizens and business. He emphasized that the discussed pilot program will not lead to a lowering of standards

or the WB's supervision of project implementation, but allows Romania to substitute the Bank's process on some areas of environmental and social safeguards to achieve comparable positive end points. It was underlined that international best practices will continue to be followed but in a way that supports the good direction that Romania is going. Furthermore, the agenda was presented and the main presentations were announced while the public was invited to listen and comment on any discussed aspects. The introduction section closed with an invitation to the members of the public to introduce themselves.

Background Presentation on the Use of New World Bank Policy on Country Systems

Presentations on (i) background on Bank's policy piloting the use of Romanian System to address Safeguards and (ii) comparison of systems, approach to equivalence and to assess adequacy were made by Mr. Ron Hoffer before the participants articulated their own perspectives. The principal observations related to the potential safeguards policies triggered by the two proposed pilot projects - Environmental Assessment, Involuntary Resettlement, Cultural property and Safety of dams – were presented and conclusions related to the overall study goal were listed.

Overview of Romanian EA systems

Ms. Angela Filipas, Director of the EIA Division in the MEWM, highlighted the new key developments in the Romanian legislation, almost entirely transposed to the EU, related to the application of the EIA in the country.

Progress on EU Accession

Mr. Attila Korodi briefed on the progress of the country to the EU accession, highlighting in particular the legislation update related to the solid waste management and IPPC.

Overview of World Bank Romania Municipal Services Project

The consulting firm (Romair Ltd.) that developed the feasibility studies for the proposed investments under the Municipal Services Project briefly presented the main objective of the project, the envisaged investments and affiliated costs as well as the benefits achieved by the affected population.

Questions and Answers Section

Following the presentations, Mr. Hoffer invited questions and comments from members of the public. The following issues were raised:

- (i) A representative of the REPA asked where the storm waters are envisaged to be discharged. The reply included explanation based on the feasibility study findings.
- (ii) A representative of the MEWM (Biodiversity Conservation Department) asked for explanation on the two types of natural habitats defined by the World Bank in the new operational policy OP/BP 4.00-Table A1. A follow-up question requested

- information on the classification of those sites that are not included in the Natura 2000 network. Information on these points was provided by the World Bank.
- (iii) A question was raised on the status of highway bypasses with World Bank financing in the Targu Mures area. It was clarified that these are supported by a different World Bank project and progress on technical and safeguards aspects was satisfactory.
 - (iv) A comment was made on the new approval of Romanian Order 60 (GD 918) related to shorten the period of certain documents during the approval of the EA process. It was confirmed that these are not related to the public consultation schedule but rather to the timing allowed to read and send comments on the main documentation. It was also underlined that according to the Romanian law each environmental project and its impact will be evaluated differently based on the site characteristics.

Action Points/Next Steps

All comments received from the meeting and comment period on the Executive Summary, as well as input from the MEWM Working Group and other Ministries will be incorporated in the revised full Report. Comments from the public on the Executive Summary of the draft study will be accepted by the MEWM until December 22, 2005. During the week of January 9, 2006, the Final Report will be entirely disclosed in Romania (listed on the MEWM website). In the same time, the Final Report will be disclosed in the World Bank's Infoshop achieving the Bank's public disclosure requirements. Following the public disclosure, the Municipal Services Project team is allowed to proceed with project appraisal. The Report will be updated if there are any significant comments or corrections on the full draft.

Closing Remarks

Mr. Ron Hoffer (WB) and Director Silviu Stoica (MEWM) thanked everybody for participating and contributing to the meeting.

IV B - List of Participants

No.	Name	Institution/Organization
1	Atila Korodi	MEWM, Secretary of State
2	Constantin Popescu	MEWM, Secretary of State
3	Marian Constantinescu	IPTANA, Bucharest
4	Ana-Maria Nistorescu	REPA, Bucharest
5	Vasilica Daescu	ICIM Bucharest
6	Mariana Badea	ICIM Bucharest
7	Carmen Calatan	NEPA Bucharest
8	Doina Cioaca	NEPA Bucharest
9	Daniela Stancu	ISPCF Bucharest
10	Danut Stefanescu	REPA, Targu Mures
11	Narcis Jeler	MEWM
12	Gabriela Pietrareanu	ICIM Bucharest
13	Octavian Ciobota	Ecological Foundation Romania
14	Ioan Ignat	City Hall Arad
15	Gheorghe Ghiocel	RomAir Consulting
16	Daniela Radulescu	National Agency "Apele Romane"
17	Fritz Schweiger	Posch&Partners
18	Cristian Popa	RomAir Consulting
19	Marius Nistor	EPTISA Romania
20	Nina-Maria Rahailescu	ISPCF Bucharest
21	Adela Tanasoiu	NCMNR
22	Mihaela Balan	NCMNR
23	Cristina Rucareanu	EPTISA Romania
24	Adrian Chesaru	MEWM
25	Lacramioara Cristogel	Brasov City Hall
26	Luminita Mlenajek	ICIM Bucharest
27	Aurora Smarandescu	SNCFR Bucharest
28	Luminita Danciu	MEWM
29	Fritz Jakma	EPTISA
30	Iordan Catalina	MEWM
31	Adriana Baz	MEWM
32	Angela Filipas	MEWM
33	Serena Adler	Director, AWMS

World Bank

34	Ron Hoffer	ECSSD, Washington
35	Stan Peabody	ECSSD, Washington
36	Sudipto Sarkar	ECSIE, Washington
37	George Moldovean	ECCRO
38	Alexandra Caracoti	ECCRO
39	Ruxandra Floroiu	ECSSD, Washington

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