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FINAL REPORT

*Building Environmental Citizenship to
Support Transboundary Pollution
Reduction in the Danube River:
A Pilot Project in Hungary and Slovenia*

**The Regional Environmental Center for Central and Eastern
Europe (REC)**

Resources for the Future (RFF)

New York University School of Law (NYU)

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Section I: Introduction

This Final Report documents the activities undertaken, results achieved, and lessons learned in the GEF-funded project entitled *Building Environmental Citizenship to Support Transboundary Pollution Reduction in the Danube: A Pilot Project in Hungary and Slovenia*¹ that commenced officially on April 1, 2000. The Project provided capacity building and technical assistance to government officials and NGOs in Hungary and Slovenia to enhance and operationalize public access to environmental information and public participation in environmental decisionmaking in these countries in order to advance the goals of reducing toxic and nutrient discharges to the Danube River Basin. It was also designed to promote these countries' compliance with access to environmental information obligations established by the Aarhus Convention and EU law.

This Pilot Project focused its efforts on Hungary and Slovenia, with the expectation that its activities might subsequently be extended to other countries in the Danube region. Its ultimate goal is to support and enhance implementation of the pollution reduction goals of the Strategic Action Plan for the Danube ("SAP") and the Danube Pollution Reduction Programme.

The Project was implemented by a partnership of three organizations: the Regional Environmental Center for Central and Eastern Europe ("REC")², the International Environmental Legal Assistance Program of New York University School of Law ("NYU")³ and Resources for the Future ("RFF")⁴ (henceforth referred to as "the Project Implementation Team," or "PIT").⁵ The PIT management team from REC, NYU and RFF brought a wealth of expertise and experience to provide the maximum level of assistance to the client countries. The REC has been a leader in regional efforts to increase environmental public participation since its founding in late 1989. The U.S. partners have extensive experience working, and in some cases living, in the countries in transition, and brought to the effort personal experience implementing U.S. information access laws from the perspective of government, the public interest environmental

¹ Henceforth "Building Environmental Citizenship", "The Pilot Project", or "The Project." The partnership of the REC, NYU and RFF will henceforth be referred to as "The Partnership," "The PIT," "The Implementation Team," or "The Project Implementation Team."

² The Regional Environmental Center for Central and Eastern Europe (REC) is an international organization, founded in 1990 and located in Budapest, that supports environmental reform in Central and Eastern Europe. REC's main participants are: Magda Toth Nagy, Marianna Bolshakova and Steven Stec.

³ New York University School of Law's International Environmental Legal Assistance Program, is a program of the Law School's Center on Environmental and Land Use Law. NYU's main participants are: Jane Stewart, Professor Richard Stewart, and Isaac Flattau.

⁴ Resources for the Future is located in Washington, D.C. RFF's main participant is: Ruth Greenspan Bell.

⁵ The Project was funded as an eighteen month project. The REC has requested and received a no-cost extension in order to extend the completion date of the project to October 31, 2001 and to keep the financial books open until [insert date]. The request was based on the need for extra time to complete a large number of project products and outputs, and scheduling the final meeting in early October, to assure maximum attendance at the Project final meetings.

community and the private sector. This experience is highly relevant because many of the Aarhus provisions are modeled on U.S. law and practices.⁶

Environmental, Legal and Institutional Background

The Danube has suffered extensive contamination by discharges of nutrients and toxics. These discharges, including discharges from Hungary and Slovenia, have significant transboundary impacts, including contamination of downstream reaches of the river and the Black Sea.⁷ Fifty-eight percent of the total nitrogen and 68% of the total phosphorus load of the Black Sea is delivered by the Danube, making the Danube a significant contributor to Black Sea eutrophication. The sources of these high levels of nutrients and toxins include chemical fertilizers and manure from intensive, large scale livestock and other agricultural operations, municipal wastes, and industrial sources. Efforts to restore the Danube are organized through several agreements among countries in the region, including Hungary and Slovenia, all of which also recognize the need for public engagement in the process of cleanup. These agreements recognize that the public's understanding of the state of the Danube and public ability to participate in the clean-up of the river through participation in environmental decision making and through various remediation and prevention activities, are key to the long-term health of the river.

Experience in the United states, Western Europe, and elsewhere demonstrates that enhancing public access to environmental information promotes, through a variety of mechanisms, more effective environmental protection. Enhanced access to information makes the public more informed and aware of environmental problems, leading them to demand and support government measures to protect the environment. It promote public participation in government environmental decision making and problem-solving, which tends to produce stronger and better-implemented environmental programs. Public access to environmental information promotes government accountability for program results. It can help nurture public trust and acceptance of government decisions that will involve burdens in meeting environmental goals. It can also enlist the public as part of the solution to environmental problems by informing them and encouraging them regarding changes in their conduct that will promote environmental goals.

The key role of public access to environmental information is reaffirmed in the United Nations Economic Commission for Europe (UN-ECE)-sponsored Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, adopted at Aarhus, Denmark on June 25, 1998 (hereafter referred to as the Aarhus Convention). Numerous countries in the Danube Region, including Hungary and Slovenia, are parties to this agreement, which sets standards for public

⁶ An expert on European Union environmental law and the accession process, Jürgen Lefevre, was added as a consultant, in view of the importance to Hungary and Slovenia of assuring that any new laws, regulations and practices are consistent with EU requirements. Two in-region consultants, Dr. Sándor Fülöp in Hungary, and Milada Mirkovic in Slovenia did basic research that assured that the Project efforts were firmly grounded in Hungarian and Slovenian law and practice. They were also closely involved in the preparation of a number of Project outputs.

⁷ Countries whose activities affect the health of the Danube include Bulgaria, Croatia, Yugoslavia, Bosnia and Herzegovina, Romania, Ukraine, the Czech Republic, Slovakia, Moldova, Austria and Germany.

access to environmental information, for public participation in environmental decision making, and for access to justice when the standards of the Convention have been abridged. An upcoming European Union Directive on Access to Information will incorporate the standards set by the Aarhus Convention. This Directive will impose new and additional obligations for public access to information on EU member states and on Danube countries, such as Hungary and Slovenia, that are seeking accession to the EU.

There is extensive experience in the United States and in a number of Western European countries with laws requiring government to provide information (including environmental information) to citizens. US laws and experience played an important role in the development of the Aarhus Convention. Through workshops, study tours, and other capacity-building measures, the project drew extensively on experience in the United States and Western European countries, including in particular the Netherlands, in order to assist Hungarian and Slovenia government officials in implementing effectively their countries' access-to-information laws and programs, which are in an earlier stage of development.

Project Objectives, Scope and Approach

The Danube countries, including Hungary and Slovenia, currently experience significant barriers to effective public access to information, which in turn have impeded effective public participation and support for measures to control transboundary pollution. These barriers include the legacy of state secrecy and public passivity from prior undemocratic regimes; inadequate laws, implementing regulations and guidance to public officials; dysfunctional institutional arrangements; limited government experience, know-how, and resources in providing public information; and limited NGO and public capacity and experience in demanding and obtaining information. The overall goal of the project was to assist Hungary and Slovenia and other regional countries in overcoming these barriers and thereby promote effective public support for and involvement in reduction of toxic and nutrient discharges to the Danube River with transboundary effects.

The pilot project was designed to identify these barriers, develop practical and effective measures to overcome them through capacity building activities, including training and technical assistance, and evaluate the success and replicability of this approach. It was anticipated that if the activities and outcomes of the pilot project in Hungary and Slovenia were successful in producing measures that will improve public access to environmental information in these countries and were replicable, other countries in the region facing similar constraints to public involvement might benefit from a follow-on project informed by lessons learned through the pilot effort.

Hungary and Slovenia were chosen as the participant countries in the pilot project because they experience barriers to effective public access to environmental information that are similar to those throughout the region. They have also made substantial commitments to regional efforts to restore the Danube, have acknowledged the important role that non-governmental actors and the public generally must play in these efforts including through participation in environmental decisionmaking, and have demonstrated

strong interest in implementing the Aarhus Convention and Danube commitments and in adopting current and proposed EU Directives on access to information as well as the EU Water Framework Directive. They were accordingly considered good cases to test the pilot project's potential usefulness in other Danube Basin countries.

The decision to focus initially on these countries in this effort was validated over the course of the 18-month Project. The government and NGO participants from both countries demonstrated outstanding initiative and commitment. Their efforts, assisted through the capacity building activities of the pilot project, produced measures and built expertise that will increase public access to environmental information in their countries and provide a good model for other countries in the region facing similar challenges.

The project adopted an approach that was country-driven, highly practical, and designed to identify and test elements that might be both effective in the Hungary and Slovenia and replicable and applicable to other countries in the Danube Basin. Using this approach, the project systematically identified barriers to effective public access to environmental information in these countries and developed practical and effective measures that are both tailored to the needs of each pilot country and replicable. These measures will serve as useful models to other CEE countries in the Danube Basin that are facing similar barriers to public involvement. Participation of NGOs and many other key stakeholders at all stages of project implementation helped assure that the measures to improve public access to environmental information developed through the project are responsive to the concerns and needs of a variety of actors whose participation is crucial to the success of Danube restoration efforts. Moreover, because in-region participants took substantial responsibility for devising these significant new measures, the PIT is optimistic that they will produce sustainable gains in public involvement in efforts to achieve the important environmental goals of the Danube SAP.

Project Assessment of Needs, Identification of Objectives, and Activities

The first operational step in the project was to analyze existing laws, institutions, practices, and attitudes regarding public access to environmental information in Hungary and Slovenia and identify barriers to effective implementation. These steps were accomplished through a needs assessment undertaken with government officials and NGO representatives. The Needs Assessments presented detailed analysis of the laws and practices in Hungary and Slovenia and identified the specific legal, institutional, and practical barriers to public access to environmental information in each country. The barriers that were identified included: inadequate legal and institutional frameworks for public participation; inadequate guidance and training for public employees implementing existing laws and requirements; inappropriate or unworkable laws governing confidential business information and official and state secrets; and limited practical experience government officials in providing, and NGOs in asking for and obtaining, environmental information from their governments.

The Needs Assessments also disclosed that the manifestations of these common barriers differed in some respects in the two countries. For example, the Needs Assessment for

Hungary found that the country's basic laws governing public access to environmental information are basically sound and do not require amendment at this time; the main legal barrier in Hungary is the lack of guidance to public officials on how to implement the requirements established by these laws. The Needs Assessment for Slovenia identified gaps in that country's present Environmental Protection Act (EPA), as well as the lack of guidance to government officials on implementation of the EPA, as the main legal barriers to public involvement that needed to be addressed.

The Project participants also reviewed two potential case studies and selected one for each country that provided concrete examples of situations that further illuminated the barriers to public access to environmental information and helped draw the connection between such access (or its absence) and opportunities for public involvement in reducing discharges of toxic and nutrient pollution to the Danube River. The case study selected for Hungary was a cluster of "hot spots" along a stretch of the Tisza River (which flows into the Danube River), which had been impacted by a cyanide spill originating in Romania. The case study selected for Slovenia was a large pulp and paper mill near the border with Croatia that is a major source of discharges of nutrients and toxic pollutants to the Danube River.

Based on the needs assessments and case studies, and the priorities identified by the participants, the PIT worked with the participants to refine and particularize the project activities to address and remedy the barriers to effective public access to information identified in the pilot countries. These included capacity-building workshops in both countries, in-region plenary meetings, a 2-week Study Tour in the U.S. and the Netherlands, and on-going technical assistance in the preparation of measures to improve public access to environmental information.

Quite significantly, the participants also themselves devised and implemented capacity building activities not originally contemplated in the Project Document, but that were consistent with the Project's objectives and indeed contributed greatly to the Project's overall success. These participant-initiated activities included: roundtable discussions with high-level government officials in Slovenia designed to gain consensus and support for reform measures being developed through the Pilot Project; meetings of NGOs and government officials in Hungary to discuss how to improve information provision, and a "mini" study tour of key Slovenian participants to Hungary to learn from successes of Hungary's Public Information Office in providing environmental information to the public.

As an essential part of these training and technical assistance activities, the project produced a large number of written resource materials, which are appended to this Report. They included the following:

- A highly user-friendly Practices Manual containing reference information from the United States and Europe (with special emphasis on the Netherlands), and promising practices being developed in the countries of the former Soviet bloc;
- Extensive materials prepared for and provided to participants in the Study Tour on public access to water-related environmental information in the U.S. and the

Netherlands, including documents detailing the legal framework for providing public access to environmental information; how such information is made publicly available in the U.S.; how citizen requests for environmental information are tracked and responded to; what systems government environmental agencies use to facilitate information access; how confidential business information is handled; and how NGOs use publicly available sources of water-related information to participate in efforts to reduce harmful discharges to water bodies;

- A model to help countries prepare guidance for government employees as they manage their responsibilities for responding to citizen requests for environmental information, illustrating how to provide answers to commonly asked questions, and offering specific procedures for accepting, logging, routing and responding to information requests, and sample letters and forms to facilitate responses and reduce government work-load;
- A model to help NGOs in each country prepare citizens guides to encourage and facilitate citizen requests for environmental information;
- Analytic materials in the form of a Technical Assistance Option Paper providing information about various means for treating claims of confidential business information; and
- Responses to issues and specific questions posed by the Project Hungarian and Slovenian consultants and Project participants during preparation of project measures.

Project Outputs and Results, Lessons Learned, Conclusions and Recommendations

Outputs

The Project produced the following output and results:

Output 1, “Identified the legal, institutional, and practical barriers to public access to environmental information to support public involvement in Hungary and Slovenia in furtherance of Danube pollution reduction goals” was completed at the outset of the Project through the Needs Assessments and Case Study Analyses, described in Section IX of this Report.

Output 2, “Improved capability of Hungarian and Slovenian public authorities to provide public access to environmental information and related opportunities for public participation,” was accomplished through numerous training and technical assistance building activities of the Project described in Section IX.

Output 3, “Appropriate legal, regulatory, and policy recommendations in support of public access to environmental information identified, drafted and under consideration for adoption by policy makers in Hungary and Slovenia,” was accomplished through preparation of an extensive Handbook for public officials in Hungary, Guidelines for public officials in Slovenia, and important new measures to improve public involvement that are now under consideration and anticipated to be adopted by the respective governments of the pilot countries.

Output 4, “Key Government and Non-Governmental stakeholders trained in development of well-functioning public access to environmental information and public involvement programs” was completed through the Project training activities described in Section IX, all of which included key government officials and NGOs from both countries. In addition, NGOs participants undertook to produce a guide for citizens that will help other NGOs and members of the public to successfully obtain water-related environmental information that can be used to inform their participation in support of Danube restoration and other environmental protection goals.

Output 5, “Lessons learned materials developed and recommendations made and disseminated concerning replicable elements of pilot program,” is found in Sections XI and XII of this Report, along with steps taken to assure their region-wide dissemination.

Measures Developed to Improve Public Access to Environmental Information

In addition to building capacity for implementing public access to environmental information in Hungary and Slovenia, the Project resulted in the development of three new effective and concrete measures for improving public involvement in the pilot countries:

- A Hungarian Handbook providing guidance for Hungarian government employees responsible for responding to requests for Danube, and other water-related and environmental information and public participation in environmental and water-related decision-making;
- Guidelines for implementing existing legislation on public access to water-related and environmental information in Slovenia;
- A Citizen’s Guide to public access to water-related and environmental information in Hungary prepared by NGOs;

The guidelines for public officials will help the government employees in both countries who actually receive requests for environmental information relevant to Danube restoration (and other environmental initiatives) to understand their specific obligations to provide this information, thereby increasing the flow of vital information to the public and enabling public participation. The Citizens Guide in Hungary will improve NGO and citizen’s ability to obtain Danube and water-related environmental information by providing guidance to citizens on their rights to such information, as well as practical information on how to make a valid request, to which governmental agency such requests should be directed, rights appeal of denials of information requests, and the other related issues.

These measures, as well as all of the written resource materials produced through the project, as well as other information on the project and links to relevant web sites have been posted on the new Website, <http://www.rec.org/REC/Programs/PublicParticipation/DanubeInformation/Outputs.html> created to help disseminate the results of the project.

Other Results

Other Project results include the transfer of knowledge and lessons learned from the Pilot Project to other countries in CEE, and the development of a PDF-B/Concept document proposing that a follow-on effort modeled on the Pilot Project be conducted in other Danube countries in the region. This new initiative would build upon and extend the capacity built and lessons learned through the Pilot Project in Hungary and Slovenia to the wider region.

Lessons Learned and Conclusions

Major lessons learned through the Pilot Project include the following:

1. The approach developed and used in the Pilot Project--“country-driven”; “bottom-up” and practical; and replicable elsewhere, but tailored to participating country needs—has been instrumental in the Project’s achievement of its goals.
2. Identifying options gleaned from “good practices” in the U.S. and other countries with well functioning regimes for providing public access to environmental information has been a highly effective capacity building strategy, and has provided useful models on which to base effective public involvement measures in the pilot countries and other countries in the region.
3. The Project methodology—to begin by identifying the significant barriers to public access to environmental information, to build government and NGO capacity through training and on-going technical assistance activities, and to identify and develop measures to overcome the identified barriers—is sound and replicable region-wide.
4. Needs assessments and case study analyses are very useful tools for identifying the barriers to public access to environmental information; they provide a good starting point for developing measures to overcome these barriers.
5. The core activities of the Project--in-region meetings, an in-depth study tour and on-going technical assistance activities-- were highly effective and essential to improving the capability of participants and developing effective measures to increase public access to environmental information and related opportunities for public participation;
6. Participant-initiated activities that built on the Project’s planned capacity-building program, expanded the effectiveness of that program and contributed substantially to achievement of the Project’s objectives; this kind of initiative also contributes to the sustainability of project results.
7. The measures developed through the Pilot Project to increase public involvement—guidelines for government officials and a citizens guide—will help to

address barriers to public access to environmental information identified in Hungary and Slovenia that hinder public participation

8. Because many other countries in transition in the Danube River Basin face similar barriers to public involvement, the measures to improve public access to environmental information developed for the pilot countries provide good models for other Danube countries that are committed to increase public involvement in support of reducing pollutant discharges to the Danube with transboundary implications.
9. Including NGOs and other key stakeholders in Danube restoration in all phases of the Project is essential to developing measures to improve public involvement that are effective and sustainable.

Based on these conclusions and lessons learned, the project recommends that a follow-on project be conducted in other Danube countries in transition, using the model developed through the pilot project as adapted to the needs of the new participating countries; a PDF-B/Concept document for the follow-on project that we recommend is appended to this Report.

Organization of Report

This Final Report is comprised of twelve sections. Section II provides background on the sources discharges to the Danube with transboundary implications, the role of the pilot countries in generating and addressing these pollution sources, and how improving public access to environmental information is a crucial step towards increasing public involvement in support of the goals of the Danube SAP. Section III describes the Project's objectives. Section IV explains the approach and methodology employed in the Pilot Project to enable it to achieve its stated objectives. Section V provides a narrative description of inputs to the Project. Section VI details how finances were managed over the course of the Project. Section VII describes how the Project was managed. Section VIII discusses the barriers to public access to environmental information that were identified in Hungary and Slovenia through the needs assessments process conducted under the Project. Section IX provides a detailed description of the activities conducted by the Project to achieve its objectives and produce anticipated outputs. Section X describes the outputs produced and results achieved by the Project. Section XI details the lessons that have been learned from the Pilot Project and the conclusions drawn from these lessons by the PIT. Section XII contains the PIT's recommendations for future work in the pilot countries and in other countries in transition in the wider Danube River Basin, based on the results achieved by and lessons learned from the Pilot Project.

Section II. Environmental, Legal and Institutional Background and Overview

This section provides an overview of the environmental, legal and institutional background of the problem of transboundary pollution in the Danube and the programs that have developed to address this problem; the means by which measures to enhance public access to environmental information in Danube countries promote stronger and more effective steps to prevent such pollution; and relevant laws and institutions providing for public access to information in Hungary and Slovenia and elsewhere.

A. Danube Pollution and International Restoration Efforts

Hungary and Slovenia contribute significantly to the pollution of the Danube River and are committed to playing an active role in finding solutions to this transboundary problem. Increased human activity and resulting polluted effluents discharged into the Danube by these countries and their neighbors have produced high loads of nutrients and toxins. The sources of these high levels of nutrients and toxins include point and non-point pollution -- chemical fertilizers and manure from intensive, large-scale livestock and other agricultural operations, municipal wastes, and discharges from various industrial sources.

Only about 28% of total Hungarian wastewater currently receives adequate treatment, and less than half of total Slovenian wastewater is adequately treated. The majority of untreated domestic effluent in Hungary is released from Budapest downstream into the Danube, and from three sites located along the Tisza River. While not itself a riparian Danube country, Slovenia is drained by major Danube tributaries, the Drava and the Sava, and over half of its land area and 80% of the total Slovenian population is in the Danube catchment area. Portions of both the Drava and the Sava are seriously contaminated with pollutants, including heavy metals and agricultural wastes.

Not only do these discharges damage the Danube, they also have a profound impact on the Black Sea. A survey of total nitrogen and total phosphorous in the Black Sea reveals that the Danube River delivers 58% of the total nitrogen and 68% of the total phosphorous load. Nutrients characterized by total nitrogen and total phosphorous are of special concern since they are directly responsible for significant water quality problems in the form of eutrophication. Thus, efforts to reduce nutrients and toxins loading in Hungary and Slovenia will have a substantial impact not only on the success of the joint effort to clean the Danube, but also on parallel efforts to restore the Black Sea.

The effort to restore the Danube was organized under the auspices of UNDP/GEF and the European Union's Phare and Tacis programmes, and coordinated by the Danube Program Coordination Unit ("PCU"). The Strategic Action Plan (SAP), organized under these flags, provides for a concerted region-wide attack on the deterioration of water quality in the Danube River. In view of their strong stake in the environmental health of the Danube River, Hungary and Slovenia are both active participants in the SAP and support the aims of the Danube Pollution Reduction Programme, a linked Danube restoration program.

The SAP identifies a variety of tools to achieve the goal of ecological restoration and conservation. One important element of the plan is public participation and awareness raising to stimulate SAP success through interest group participation and changes in consumer behavior. The SAP recognizes that a large number of non-governmental actors must be mobilized in order to reach the goals set out in the Plan. To this end, the GEF has supported the Danube Environmental Forum (DEF) and other regional activities to assure the participation of NGOs in planning and implementation activities.

In addition to their engagement in the SAP, Hungary and Slovenia have each demonstrated additional significant commitment to increasing public involvement in environmental decision making. Both countries have signed and Hungary has ratified the Aarhus Convention, in which they committed to institute measures to ensure public access to environmental information and public participation in environmental decision making.

In addition, both countries are currently in the process of accession to the European Union, which will require them to meet EU standards for public involvement identical to the Aarhus Convention.

The commitments made by the governments of Hungary and Slovenia intersect with the interests of the non-governmental (NGO) sector in both countries. Citizen groups and NGO organizations in both countries have participated in or are concerned about efforts to restore the Danube, and some are organized around specific issues, such as the cyanide contamination of the Tisza from upstream mining in Romania. The NGO community has also been deeply engaged in the process to adopt the Aarhus Convention.

B. Drawing the Connection Between Access to Environmental Information and Pollution Reduction in the Danube

Effective laws, institutions, and practices that to ensure and encourage public access to environmental information are an essential component of effective environmental protection. Public access to information is an essential foundation for public engagement and participation in environmental decision making and implementation and for public support for effective environmental protection measures, which, in turn, are necessary for ensuring effective progress toward the SAP's Danube pollution reduction goals.

The Danube process as articulated in the SAP has been very successful in terms of identifying common problems and coordinating regional planning for improving water quality and reducing pollution discharges. Its current challenge is to achieve implementation successes by actually reducing pollution discharges to the Danube, a task even more difficult than the planning process.

The SAP identifies a variety of tools to achieve the goal of ecological restoration and conservation of the Danube. One important tool is public participation and awareness raising to stimulate SAP success through interest group participation and changes in public and private behaviors that impact the Danube. The SAP recognizes that a large

number of non-governmental actors must be mobilized in order to reach the goals set out in the Plan, and identifies public participation in environmental decision making and in the myriad activities to reduce pollution as a means toward this end. Access to environmental information is also the first pillar of the Aarhus Convention, which recognizes such access as the essential prerequisite to effective public participation in government decisions for environmental protection.

There are a number of vital linkages between public access to environmental information and effective environmental protection measures, including measures to reduce transboundary pollution in the Danube.

First, citizens must have information about, be aware of environmental problems in order to create public demand for and support for environmental protection efforts.

Second, experience shows that meaningful public participation in environmental decision making and problem solving generally results in stronger and more effective environmental programs. Such participation can only occur on the basis of full, accurate and up-to-date information. Informed participation is effective participation. Without access to environmental information, the public is severely hampered in its ability to understand and engage in the process of environmental protection, and specifically to be part of the complex process of reducing pollution discharges to the Danube River Basin. Access to government-held environmental information provides the public with the tools to be part of the process, whether the goal is law drafting, problem identification, or the very specific task of implementing measures to reduce damaging discharges that end up in the Danube. Access to information helps the public understand the government's rationale for the decisions it makes, and provides an avenue for the public to present other data, evidence and options that the government may be unaware of.

Third, public access to information is essential to promote government accountability by facilitating public review and oversight of performance of government in implementing measures to advance environmental protection. The public must have information in order to determine what measures the government is undertaking, the degree to which those measures are being implemented (including polluter compliance with regulatory requirements), and the ultimate impact on environmental quality.

Fourth, public access to information can help support public trust and acceptance and support for government decisions that will involve burdens in meeting environmental goals. Through the process of developing trust, effective public access to information about how government makes its decisions and establishes rules can help reinforce the legitimacy of the decision making process and thereby encourage genuine implementation and compliance. Environmental decision processes inevitably end up with compromises, if not winners and losers in the public debate. It is essential that everyone, nevertheless, goes along. There is strong evidence that the public is more likely to do this with complete understanding of the bases for government decision making, resting in turn on access to information. Experience in the western democracies has shown that it is easier to recruit foot-soldiers into the war on pollution if they have trust and confidence in the rules and requirements they are asked to implement.

Information plays an important role in informed participation in the process of law creation, and in the process of building the necessary foundation of public good will, respect and confidence in the decision system.

Fifth, information can help to enlist the public as part of the solution to environmental problems by informing and encouraging them regarding change in their conduct so as to advance environmental protection goals and address the challenge of actually reducing pollution. This requires awareness of the effects of their actions on environmental quality and how they can play a part in improvement. This task also demands participation by a broad swath of society – not just governments and government officials, but also factory managers and employees, farmers and ordinary citizens who knowingly or unknowingly engage in activities that pollute the Danube. It is as important to change the behavior of the many individuals who, for example, pour waste oil into storm sewers after they change the oil in their cars and farm vehicles in the numerous villages in the Danube watershed, as it is to encourage plant managers to install and use wastewater treatment techniques. Without adequate access to information held by the government, it is almost impossible for people to become involved in the actions and decisions that impact the Danube or to understand enough to change their own behavior.

All of these mechanisms for linking public access to environmental information and strengthened environmental protection measures are fully applicable in Hungary, Slovenia, and other Danube countries. Promoting such mechanisms through more effective access to environmental information laws, institutions and practices in these countries can help reduce transboundary pollution in the Danube. Improved public access to information about water quality in the Danube and its tributaries; about the various pollution discharges that impair the quality of these waters; about the means for reducing these pollution discharges; about regulatory compliance; and about government decisions and programs to reduce discharges and their success in doing so can all contribute substantially, through these several mechanisms, to accomplishing this objective.

Over the past decade, understanding what public access to information can contribute to the success of Danube restoration programs has steadily developed in Central and Eastern Europe. The purpose of this Project was to develop institutions and practices that would increase the effectiveness of citizens and citizen groups engaged in the process of Danube cleanup.

C. Public Access to Information—Existing Laws, Institutions, and Practices

Hungary

The fundamental right to information is found in the Hungarian Constitution, Article 61, Par.(1) that provides all persons with the right to obtain and disseminate facts and information of public interest. However, the constitutional language is not operative on its own and requires implementing laws. These are found in two places. First, Act LIII. of 1995 on Environmental Protection (hereinafter: Kvtv.), Article 12., Paragraph (1) declares that "everyone shall have the right to acquire knowledge about facts and

information on the environment, thus, in particular, about the state of the environment, the level of environmental pollution, the environmental protection activities as well as the impacts of the environment on human health."

Second, and perhaps more important, Hungary has a so-called "horizontal" freedom of information act that makes all kinds of public interest information available to the public, not limited to environmental information, Act LXIII. on the Protection of Personal Data and on the Publicity of Public Interest Data (hereinafter: Atv.). This general act eliminates any need for debate about what is "environmental" data or information. Atv. Article 19, Paragraph (3) unconditionally establishes the right of anyone (including foreigners, stateless persons and natural and legal persons) to obtain access to public interest data. The Hungarian law distinguishes between data and information; the latter is data put into context or subject to some level of analysis. The Hungarian government is required by fairly detailed laws and regulations to collect a great deal of water-specific environmental data and information. The Hungarian requirements are considerably less specific about the processing and dissemination of that data.

Hungary's access to information practices are somewhat more developed than those found in Slovenia. The Budapest headquarters of the Environment Ministry has a Public Information Office⁸, which is open to the public on workdays. Moreover, the Hungarian government has, in the recent past, funded an NGO network to assist persons in their requests for information. The main ambient environmental data is on computers, and has been published in brochures and in a periodical called "data about the state of our country.". If the Public Information Office does not have the information to respond to a request, it has been known to contact other offices of the Ministry of Environment or independent institutes to obtain the information.

Nevertheless, as set forth more fully in Section VIII, the analysis performed for this project found many deficiencies in Hungary's implementation of its laws for public access to environmental information. Availability is by no means not automatic. The system seems to work best for people making requests who know the sources well, and have the skills to cope with bureaucratic obstacles. Those who have the best chance to obtain information are people who have some direct personal connections to the authorities possessing the given information. Moreover, applicants are often asked, contrary to law, to demonstrate a need for the information or prove a right to it. The Public Information Office is not widely known by the public. While on the level of Ministry of Environment there are specialized persons to serve the public environmental information requests, on local and regional levels (at the inspectorates) there is no one official who is charged with this work; responding to information requests is an extra responsibility for otherwise extremely overwhelmed environmental protection personnel. These offices also lack adequate hardware and software.

Slovenia

⁸ The primary responsibility of the Office is to provide environmental information on request; it also produces a limited number of leaflets for active dissemination. The Office can be accessed by e-mail, but the home page of the Ministry is not interactive yet.

The right of the public to have access to information is found in the Slovenian Constitution, Art. 39 (2).⁹ As in Hungary, the constitutional right is not self-implementing, but needs further elaboration in law. The constitutional provision also limits information to a person who has a legal interest, a standard that is contrary to the Aarhus Convention and evolving EU standards. The right of access to information is also subject to other limitations such as restrictions on the availability of state, official, and military secrets.

Unlike Hungary, Slovenia does not have a general access to information law. Instead, information rights are provided sector by sector. The environment is a pioneer sector in this regard. The legal rights to access to environmental including water information is found in the Environmental Protection Act (hereinafter termed the EPA)¹⁰, a framework environmental law from 1993. EPA, Article 14, contains general language that environmental information is to be open to the public (the law does not explicitly speak about the right to access to information), and contains a broad but vague definition of environmental information. It also sets out several basic rules concerning access to environmental information upon request. Its provisions concerning public accessibility of information concerning pollution caused by private persons are particularly unclear.

The EPA defines environmental information as data concerning (1) the state and changes of the environment, and (2) the procedures and activities of public authorities, namely bodies of the State and local authorities, the parties involved in the delivery of public services and holders of public authorizations relating to the environment (hereinafter termed public authorities).¹¹ But there is confusion in Slovenian law between the use of term “data” in the EPA and “information” as used in the Constitution, and no regulation existed at the time of the Needs Assessment to clarify these terms or their relationships. One common interpretation is that information is processed, aggregated data and that data refers to raw, unprocessed data.

According to the EPA, Art. 14 (1) and (2) obligates public authorities to (1) “inform the public” i.e. disseminate environmental information, and to (2) provide environmental data/information upon the request.

The law sets out a general obligation on the part of public authorities to inform the public and disseminate environmental information, including annual environmental reports prepared by the Ministry of the Environment (MoE) concerning the state and changes of the environment in the country, ecological influences on the health of the population, environmental damage, rehabilitation programs, environmental research and the introduction of new technologies, financial transactions and activities of public authorities in the field of environmental protection, etc.

The EPA has one provision requiring public authorities to provide environmental data on request, within one month of the request and at price which may not exceed the material

⁹ The 1991 *Constitution of the Republic of Slovenia*, Art. 39(2); published in the *Official Gazette of the RS*, No. 33/91-I.

¹⁰ The EPA is published in the *Official Gazette of the RS*, No. 32/93, 44/95, 1/96, 9/99, 56/99, and 22/00.

¹¹ The EPA, Art. 14 (1).

costs of provided information. It does not require any interest to be stated or proved by a person seeking environmental information.

Slovenia does not have well developed institutional arrangements to respond to information requests. Practice falls short of even the unsatisfactory requirements currently contained in Slovenian law. For example, despite clear law, in practice, officials tend to ask the public to justify requests for information. Thus, not only do the laws need to be clarified, and a number of necessary enabling regulations must be written, but institutions be developed and training must be provided. The current discretion left to public officials and employees who must respond to requests is too broad and leads to unjustified rejections. Slovenia also has not made practical arrangements for dissemination on request; unlike Hungary, there is no Public Information Office, and Slovenia lacks personnel trained to provide environmental information upon request. It is difficult to obtain water-related data because of poor information- low and co-operation between responsible public authorities, particularly between the state and local authorities. Finally, Slovenia needs to consider procedures for waiver of costs for NGOs, and the need to establish record keeping concerning information requests.

Danube Programs for Public Participation

The Strategic Action Plan (SAP) for the Danube River Basin identifies a variety of tools to achieve the goal of ecological restoration and conservation. One is public participation and awareness raising to stimulate SAP success through interest group participation and changes in consumer behavior (see e.g., Part II, Chapter 4, Paragraph 61), as well as other provisions that illustrate a strong awareness of the connection between the participation of a wide variety of actors and Action Plan success). The SAP does not set out details or standards by which this goal is to be reached. The SAP recognizes that a large number of non-governmental actors must be mobilized in order to reach the goals set out in the Plan. To this end, the GEF has supported the Danube Environmental Forum (DEF) and other regional activities to assure the participation of NGOs in planning and implementation activities. Similarly, as noted earlier in this Report, the other agreements to restore the Danube also recognize the need for public engagement.

To our knowledge, this project is the first that works to set into place the specific requirements and institutions to make public participation operational within the Danube Basin countries, such that the public participation goals of the SAP and other Danube agreements can be reached.

Aarhus Convention

The Aarhus Convention sets international standards for ensuring public access to environmental information and public participation in environmental decision making. The Convention contains a number of provisions that promote and facilitate the public's right to access information. It obligates each country to take necessary minimum legislative, regulatory and other measures in support of this goal. Although the Convention contains three sets of obligations, the one of specific concern to this project is

the obligation to facilitate public access to environmental information. The Convention explicitly recognizes the close connection between access to information and the possibility for the public to participate in decision-making.

The elements of the access to information obligation are set out in Article 4 of the Convention. These include who may ask for information, the form in which information may be requested, the timing of responses, legitimate reasons for denying requests, rules concerning redaction of information, and other important details.

Since the Aarhus language is general in nature, and contains general directives to countries to undertake activities in fulfillment of its obligations, each country must undertake to elaborate the Convention through domestic law and through the kinds of practical and institutional provisions that were addressed in this project, in order to make the Convention's requirements effective. The burden of implementation – i.e. of establishing adequate laws, regulations and procedures to achieve the Aarhus goals -- is placed on each ratifying country. Thus, the Aarhus Convention creates an obligation in each member country to take necessary legislative, regulatory and other measures to establish a framework for implementation of the Convention.

Hungary has ratified the Aarhus Convention, and Slovenia is considered likely to do so in the near future. Through the process of ratification, the requirements contained in the Aarhus Convention will become obligations within these countries, according to each country's rules governing the adoption of international conventions.

EU Accession

The European Union is a party to the Aarhus Convention, and is currently translating the requirements contained in that Convention into a Directive that will be applicable to all its member states. Hungary and Slovenia are currently in the process of accession to the European Union, which will require them to meet the standards for public access to information involvement adopted by the EU.

USA/European Experience

The United States and particular countries of Europe have long-standing experience with laws requiring governments to provide information (including environmental information) upon request. Chief among the European countries with high-functioning provisions is the Netherlands, which was visited in the project's study tour.

The need for the government to set rules on transparency on the way it fulfils its tasks is established in the Dutch Constitution, Article 110. Like Hungary and Slovenia, the Constitution does not contain a right to information in itself and the government is obliged to adopt further legislation.

Netherlands has a general (“horizontal”) Freedom of Access to Government Information Act, *Web openbaarheid van bestuur*¹², which was adopted in 1991. That law consolidated

¹² http://www.minbzk.nl/pdf/eo/goed/public_access_government_info_10-91.pdf

earlier legislation, and set out basic provisions for access to all types of information held by government authorities. There are also a number of specific provisions on access to government information in sectoral legislation. In the field of the environment the most important are the Wet milieubeheer (Environmental Management Act - EMA) and the Wet milieugevaarlijke stoffen (Dangerous Substances Act). The access to information provisions laid down in Chapter 19 of the Environmental Management Act mainly apply to information held by the government in the process of environmental permitting, whereas the provisions in the Dangerous Substances Act apply mainly in the context of dangerous substances.¹³

All Dutch ministries, including the Ministry of Housing, Land-use Planning and the Environment, have adopted regulations for the internal application of the WOB, mostly based on a 1992 model regulation.¹⁴ The regulation sets out the procedures and responsibilities for providing information held by the ministry. It also contains a registry of all institutions, services and companies operating under the responsibility of the ministry, including their name, addresses and their information points. The regulation designates each ministry's Public Information and External Relations Directorate as its central point with responsibilities to collect and provide information. The Secretary-General of each Ministry (3rd in the ministry's hierarchy) acts when substantial questions arise.

By all accounts, the Dutch system works well, and provides useful models for its European neighbors.

The United States also has a comprehensive, "horizontal" Freedom of Information Act (FOIA) that dates from 1966, granting the public a right to information that had previously been "shielded unnecessarily from public view." There is no specific act for environmental law.

¹³ The Dutch Act applies to all 'documents' held by 'government authorities,' including 'written pieces or other materials that contain information'. "Government authorities" is also broadly defined to include ministries, provinces, municipalities, water boards as well as other government authorities working under their authority. No person need state an interest as a requirement for submitting a request for information and information must be provided unless one of the exemptions applies. If the request for information is filed with the wrong authority, this authority will refer the applicant to the authority who has the information or, in case of a written request, automatically forward the request, while notifying the applicant. Replies to written requests for information are given in writing. Oral requests for information are replied to orally, unless a written answer is requested.

The government authority has to decide as soon as possible on the request for information, but no more than two weeks, with a possible two weeks extension under limited circumstances. Dutch administrative courts have interpreted the obligation to decide "as soon as possible" to mean that the information needs to be provided as soon as it is available. Authorities can thus not 'sit' on the information to await the end of the two-week deadline. In general the authority will try to provide the information in the form requested by the participant, unless this request is unreasonable, too laborious or too costly.

¹⁴ Modelregeling ter uitvoering van de Wet openbaarheid van bestuur, behorende bij het besluit van de Minister-president van 8 April 1992, nr. 92M001858, houdende vaststelling van de Aanwijzingen inzake openbaarheid van bestuur (Stcrt. 1992, 84).

The presumption of the law is in favor of disclosure. The law also contains nine specific exemptions from disclosure, to recognize that certain information involving national security, business confidentiality and privacy interests simply may prove too harmful for public disclosure. The nine exemptions set up concrete, workable standards for determining whether particular material may be withheld or must be disclosed. These exemptions have been elaborated by practice and the courts. There are strict review procedures within government agencies, when a denial is made and government officials who deny information are required to justify their decisions. Congress also included in the Act the right of individuals whose information requests are denied to appeal the decision to a United States District Court.

The details of U.S. implementation of FOIA are too complex to be summarized here, and can be found in the project's Practices Manual, Annex _____. The effort to implement FOIA was the subject of 10 days of the project's study tour.

Section III. Project Objectives

Building Environmental Citizenship to Support Transboundary Pollution Reduction in the Danube: A Pilot Project in Hungary and Slovenia had two interrelated objectives:

- The *Objective in the Pilot Countries* was to assist Hungary and Slovenia in developing the legal, institutional and practical infrastructure necessary to operationalize public access to environmental information and related public participation in support of efforts to reduce transboundary pollution stemming from discharges to the Danube River.
- The *Global Environmental Objective* was to demonstrate how the measures developed in Hungary and Slovenia can help other CEE countries in the Danube River Basin achieve the important global environmental goals of the Danube SAP, the Aarhus Convention, and the Danube River Protection Convention to which the pilot countries, and many others, have committed.

A. Objectives in Pilot Countries

The Project's main objective has been to enable Hungary and Slovenia, two key participants in the Danube Strategic Action Plan (SAP), to operationalize and institutionalize public access to environmental information and public participation measures in support of reducing transboundary pollution from the discharge of nutrients and toxics into the Danube River. The Project aimed to assist Hungary and Slovenia in developing effective and practical legal, institutional and practical measures to overcome existing barriers to, and seize opportunities to improve, public involvement, through a variety of capacity-building activities.

Within the scope of this objective, the Project sought to build capacity in the governmental and non-governmental sectors of Hungary and Slovenia to establish the legal, institutional, social and practical infrastructure that is a prerequisite to informed and meaningful public participation in support of efforts to protect the Danube from nutrient and toxic discharges with transboundary implications.

Specifically, the project has sought to:

Identify the legal, institutional and practical barriers to and opportunities for implementation of public access to environmental information.

No previous assessment in Slovenia or Hungary had looked specifically at public access to environmental information in the context of discharges to the Danube with transboundary effects. Hence an important early goal was to provide an up-to-date and comprehensive water-body focused assessment of the legal, institutional and practical barriers to obtaining environmental information. This was envisioned as an important starting point for all subsequent activities because it would identify the set of conditions that need to be addressed in order to improve public access to environmental information and thereby enable the participating countries to identify potential solutions.

Build capacity in the governments of the two pilot countries to establish the legal, institutional, and practical infrastructure that is a prerequisite to increasing informed and meaningful public participation to support efforts to protect the Danube from these discharges, and thereby also reinforce the role of non-governmental actors and enable them to actively and constructively be involved in reducing these discharges.

Building Environmental Citizenship was designed to build capacity in government officials, in partnership with NGOs, to implement access to environmental information and related public participation commitments embodied in the Aarhus Convention and related Danube-based commitments. The Project identified and tested necessary elements to achieve this goal. The Project sought to establish significant legal, institutional and practical reforms, and to foster changes in attitudes and the information culture in Hungary and Slovenia. The Project goal was to ensure that commitments assumed under the Aarhus Convention and the regional agreements would result in changes on the ground in the pilot countries that would enable citizens and NGOs to successfully obtain the water-related information they need to meaningfully participate in Danube restoration efforts.

In service of these objectives, the pilot project additionally sought to highlight the key role that access to environmental information plays in well functioning environmental protection regimes. Accordingly, the Pilot Project aimed to increase the awareness of government officials of the environmental protection benefits of providing public access to environmental information, as well as to enhance NGOs awareness of the significant role individuals and NGOs can and must play in reducing pollution.

Identify good practices legal, institutional and practical options for improving public access to water-related environmental information and develop national legislation, regulation or policies to address the barriers and seize the opportunities

The project set out to identify “good practice” legal, institutional and practical options from the European Union, the United States and countries in transition in order to provide an array of measures that might serve as models for overcoming the barriers to public access to water-related environmental information in Hungary and Slovenia. The United States has 35 years of experience implementing public access to information requirements, and has much to share in terms of successes and failures, procedures and institutions to make such systems work. Similarly, some European countries such as Netherlands have lengthy experience.

Field- test specific, replicable public involvement measures to address discharges to the Danube through a case study that demonstrates how such measures can further the goals of the Danube SAP

The pilot project envisioned using a case study example in each country to provide concrete illustrations of the challenges each country faced and how these hinder public involvement in discharge reduction, and to help identify practical solutions. Using real-life examples was also intended to provide a “reality check” to test the viability and effectiveness of the measures developed for Hungary and Slovenia.

Strengthen inter-governmental and government-to-NGO cooperation and partnerships to enable joint learning on viable approaches to public involvement in the context of control and prevention of point and non-point sources of transboundary water pollution.

Forging an NGO-government partnership to develop a viable public involvement regime was an additional goal of the pilot project. This kind of partnership is needed in order to develop public involvement measures that are realistic and practical and serve the needs of both government and citizens. The project sought to foster this cooperative relationship through team-building activities that brought together government officials from different agencies at different levels of government, and local and national-level NGOs to develop solutions together. A related goal in Hungary, identified through the Needs Assessment, was to strengthen the role of NGOs as active partners in environmental protection by providing guidance on their rights to environmental information and how and where to obtain information relevant to Danube protection.

B. Global Objective

At the “global” environment level, the project’s objective was to demonstrate how the capacity-building activities undertaken and information access measures developed through the pilot project can help the pilot countries and other countries in political and economic transition in the Danube River Basin to achieve the important global pollution reduction goals of the Danube SAP and related Danube commitments and of the Aarhus Convention.

First, the project aimed to develop effective and replicable measures to improve public access to environmental information and public participation in support of reducing discharges to the Danube that have transboundary effects. Second, it sought to develop and test capacity building and technical assistance activities, including written resource materials produced for the project, that can be adapted to the needs of the pilot countries and other Danube countries that face similar barriers to public access to environmental information and are committed to overcoming them. A third objective was to actively promote transfer of knowledge and lessons learned from pilot project to other Danube basin countries. Finally, the project aimed to identify replicable elements of the pilot project and develop recommendations for follow-on actions in the region to improve public involvement in environmental decision making in support of reduction of pollutant discharges to Danube with transboundary implications. In furtherance of the last objectives, this final report contains recommendations for further work in the region to improve public involvement in environmental decision making in support of reduction of pollutant discharges to Danube with transboundary implications.

Section IV. Project Approach and Methodology

Both Hungary and Slovenia had made formal international commitments to public access to environmental information and public participation commitments in the context of the Aarhus Convention, the various Danube agreements and the EU accession process. The Project took a country-driven approach to solidify these commitments through practical, domestic implementation efforts and expanded understanding. The approach stressed the importance of providing interested government and NGO partners in each country with opportunities and options to empower and strengthen domestic interest in and will to achieve information access. It also tapped the experience and knowledge base within each country to assure the relevance of the options provided. The Project worked to widen the circle of committed persons and organizations in each country. Throughout, the project stressed the importance of information for the effective engagement of non-governmental sector in environmental decision making and in actual remediation efforts.

The Project aimed over the 18 month effort to assure that ownership and commitment for achieving the goals of the project would shift from the PIT to Hungarians and Slovenians in government and the non-governmental world, in order that work would continue when the project itself formally ended. As detailed in the Section XII “Conclusions and Recommendations,” we believe the methodology was successful and that this goal was achieved.

Approach

The project took a “country driven” approach, recognizing that its goal of increasing public opportunities for access to environmental information on transboundary pollution in the Danube in Hungary and Slovenia would succeed if the project gradually developed a committed core group of people representing a broad range of skills and points of view. The PIT believed that change could be achieved if, by the time the project was formally completed, dedicated in-country teams were ready to continue to carry through the goals and objectives of the project – in other words, to continue the process of effecting change. The Project was developed so that the “hand off” to local partners evolved and grew out of the Project activities.

In order to implement this approach Project participants from the client countries were encouraged to assume a lead role in the development of Project outputs. These participants were clearly in the best position to understand the challenges in their respective countries to effect public access to environmental information and related public participation, and the steps that must be taken to embrace positive change. The role of the PIT, in addition to overall project planning, was to provide guidance, context, experience and information, all of which could be harnessed in support of country-specific goals. The PIT provided options and proven experience from Western Europe and the United States, but worked collaboratively with the participants to examine what would work and what adjustments were necessary for Hungarian and Slovenian domestic success.

The PIT paid careful attention to the opinions, ideas and needs of the Project participants. The PIT, rather than controlling their agenda, provided for them a framework for effecting change through capacity building and technical assistance. This approach was greatly aided and facilitated by the two countries' own strong aspirations to enter the European Union, since Aarhus and Water Framework Directive implementation were two among numerous requirements they will have to meet.

One indication of the success of this approach was communicated in the Ig, Slovenia final meetings. A key project participant explained how the project had significantly expanded her understanding of how to be successful in her job, which involved the collection and management of water-related data in Hungary. She no longer saw herself in the narrow role of government data collector and manager; rather, she expressed a broader understanding of how her efforts fit into developing a wider constituency for and understanding of the environmental decisionmaking process and Danube pollution reduction.

The project also emphasized bottom-up and highly practical solutions to animate the formal Aarhus and Danube commitments. The PIT's approach emphasized that the activities of the Project must match the real needs of the country participants, and must grapple with specific, unique issues and challenges related to the particular culture, legal and information traditions and historical challenges of the particular countries. The Project focused on practical, concrete objectives and outputs that would move the countries from the somewhat abstract goals of their international and regional environmental commitments to tangible outcomes.

The third leg of the project approach was the recognition that efforts in Hungary and Slovenia were a pilot, testing approaches that might be used in the neighboring Danube basin countries to achieve the same goals of information access and Danube clean-up. Thus, the approach identified available options for addressing problems of common interest to both pilot countries and potentially other Danube countries. At the same time, all options were tailored to meet the specific needs and circumstances of each country.

Methodology

The first step in project methodology was problem identification. Local environmental legal experts, acting in consultation with, and with guidance from, the PIT performed analyses of existing Hungarian and Slovenian laws and practice for information access, with specific emphasis on the accessibility of information about transboundary water discharges. This step both assured a country-specific approach and set the stage for appropriate "tailoring" of solutions to the particular needs and circumstances of each country. The analysis also began the development of a shared understanding of the purposes of the Project and the goals to be accomplished by the Project participants and the PIT, and thereby began to develop consensus for moving forward with the development of Project outputs.

Following the identification of the specific challenges and opportunities facing each country, the project moved to the identification of options for addressing these problems. This was achieved through use of comparative analysis and experience in different countries that have had varying degrees of success in making environmental information access a reality for their citizens. The experience included practices in the European Union, with particular emphasis on the Netherlands and Italy, the United States where the Freedom of Information Act has been in place for more than 30 years, and evolving practices in the countries of the former Soviet bloc. In all countries, the PIT identified a variety of good practices and potentially applicable measures. These examples were made available to project participants through the development of a Practices Manual, an intensive study tour in Netherlands and the United States, in the Project's many meetings and workshops, and in electronic and telephonic exchanges between the PIT and the project participants.

Case examples, identified by Hungarian and Slovenian experts and ratified by the project participants, were designed to provide a grounded local "reality check" to the efforts in each country. Before the first in-region meeting, the Hungarian and Slovenian NGO consultants selected, in consultation with the PIT, two possible case examples to propose to each country, to provide the context of real facts.¹⁵ The meeting participants considered these options, and selected a single final case study example for each country for use in the program from the options provided them to work with over the course of the Project. For Hungary, the project participants chose pollution source "hotspots" on the Tisza River, and a pulp and paper mill for Slovenia.

The case studies in the problem identification process grounded discussions in concrete examples of how incomplete and/or ambiguous laws and procedures regarding public access to environmental information created obstacles to the public's ability to learn about their immediate environment and participate effectively in environmental decision making and provided context for the practical outcomes that would be produced in the course of the Project. The PIT anticipated that if the Project outputs identified solutions in such real factual settings, there would be greater problem-solving motivation and the solutions chosen would be more realistic and capable of implementation. A specific goal was to avoid theoretical or academic instruments that sounded good on paper but were not capable of adoption. The strengths and weaknesses of using case study examples and how this technique might be modified in the proposed follow-on project are discussed in Section X, Outputs and Results.

Capacity building to address common problems and promote shared learning was designed to take place throughout the project. This was achieved through workshops

¹⁵ Two candidate case studies were identified for each country, involving sources of transboundary nutrients or toxic substances discharged to the Danube. Project participants selected which case study was most appropriate to illuminate their circumstances. For Hungary, the candidates were: illegal dumping of nutrients in a wetlands area, and various toxic and nutrient "hotspot" pollution sources identified through the Danube GEF Program on the Tisza River. For Slovenia, the candidates were a pig farm and a pulp and paper factory. The Case Study Analyses are discussed in further detail in the "Outputs and Results" section of the Final Report. Copies of the Analyses are available in the Appendix to the Final Report.

conducted in both countries, through an intensive study tour, and through extensive personal communication between the PIT and Hungarian and Slovenian participants. As noted elsewhere in this Report, the PIT adjusted its methodology early in the project. On the basis of the first workshop in Szentendre, the PIT decided that country-specific needs could be more effectively addressed, and a broader group of participants engaged, by instituting separate in-country workshops conducted in national language, rather than combined workshops. This arrangement allowed more active and deeper participation. The Study Tour, discussed in greater detail elsewhere in this Report, also served the goal of capacity building.

Technical assistance was a specific means of achieving capacity building, and a core element of the project methodology. Technical assistance was provided on an on-going basis to address both common and country-specific problems and consistent in part of continuous communication between PIT and participants throughout project. Technical assistance was an important method of communication between formal activities to assure participants of maximal support and assistance, and to keep the PIT in touch with needs of participants. In addition to conference calls that provided responses to specific questions or interactively examined options, the technical assistance produced a written work product in the form of an options paper on the significant issue of the treatment of confidential business information. Other written work products include the Practices Manual and models for providing guidance to public officials and citizens. In addition, on several occasions, specific project participants sought guidance from the PIT on specific issues of concern. Through interactive e-mail communication, the PIT provided experience, options and examples to resolve the specific issues raised. Copies of those communications are contained in the appendix.

Stakeholder and Public Involvement

The project put a great deal of emphasis on the importance of non-governmental actors as the key end users of environmental information. NGOs were viewed as essential members of country teams and government partners in improving public access to environmental information. They were directly involved in all project activities. The research that led to problem identification was conducted by NGO environmental law experts. In Hungary, as noted elsewhere, the choice of the Tisza River cyanide spill as a case example led directly to the involvement of the Tisza Klub, and the selection of Szolnok (a city directly impacted by the spill) for the location of the first Hungarian-language workshop. Both local and international NGOs played a particularly large role in the Hungarian part of the project, including both transboundary NGOs such as WWF International (Baia Mare Public Participation Project) and more local NGOs such as the Tisza Klub and the Hungarian Eco-Counseling Association. NGOs took the lead in the development of a significant Project output, the Hungarian Citizens Guide.

At the same time that emphasis was placed on NGOs, the PIT recognized that access to information concerning the Danube must involve a more diverse set of stakeholders, all of whom share concern and responsibility for water discharges and Danube clean-up. Thus, the project included water and environment ministry personnel at the national and

municipal levels, people representing the interests and concerns of industry, and others, such as the Data Protection Ombudsman of Hungary who essentially guard public rights to information. Each of these groups were involved in project activities, such as in-region meetings and capacity building workshops. The study tour included a balanced group of government officials with responsibility for both data dissemination and water data collection, as well as NGOs.

The involvement of all such stakeholders recognized that increasing public access to environmental information held by the government increases opportunities for diverse members of society to participate in environmental decision-making. Individuals and groups with an interest in environmental information include community groups, interest groups such as trade associations, people who are affected by pollution and industry.

Representatives of the Hungarian and Slovenian NGO community were included in all of *Building Environmental Citizenship's* significant planning and development of activities and outputs. Although they came to the project with strong motivations and interests, their capacity to be involved in follow-on efforts has been enormously strengthened by the very specific information they have received as part of the Project, which will enhance their efforts to participate in future environmental decision making and problem solving. As a result of the Project, tools are being put in place to increase their participation in their countries' environmental decision making process, and the NGOs have a significantly enhanced understanding of what must be done to make those tools operational and effective.

Section V. Inputs

This section consists of narrative description supplemented by descriptive charts. Information is provided on Project budget expenditures, staffing, subcontracting and co-financing.

A. Original Budget and Final Expenditures by Year

The original Project budget planned to implement a majority of the activities in year 2000 (approximately 2/3 of the Project funding) and the remainder in 2001. Due to the later start of the project in April 2000, some of the activities that incurred substantial expenditures were realized in 2001. These included the capacity building workshops and the Study Tour to the Netherlands and U.S. Therefore, expenditures in 2000 were 45.7 % (US\$254,921) of the amount initially budgeted (US\$557,499). This amount is approximately one third of the total budget, which is proportionate to the eight month duration of the Project in 2000. For 2002, US\$494,929 was allocated in the adjusted yearly budget for the remaining 10 months. Spending on the different budgetlines were proportionate to the timing and the tasks prescribed in the project.

B. Regional Coordination with Terms of Service for Project Staff and Consultants

The budget divided Project staff into two categories, National Professionals and In-Country Training and Technical Assistance. National Professionals included the Project Manager, Slovenia Program Director, Hungary Program Director, Capacity Building/Training Expert, Aarhus Implementation Expert, Environmental Public Participation Expert, Environmental Public Participation Expert, and Publication Officer.

The Project Manager (PM) had responsibility for the overall management and coordination of the Project in Hungary and Slovenia and worked closely with the REC Project staff and the subcontractors to implement the Project. As defined in the Project Document terms of reference, the PM's responsibility was to supervise and coordinate Project activities, and provide technical and expert input in collaboration with the partner implementing organizations (RFF and NYU). It was also her role to ensure that subcontracts were prepared in a timely manner, Project activities were planned and implemented according to plans, and financial and other reports were submitted on a regular and timely basis to UNDP-GEF. The PM represented the REC in the Project Steering Committee. The PM's task was also to maintain regular contacts with UNDP, the governments, NGOs and Project partners. While planning and overall supervision of Project activities were conducted by the REC, the sub-contracting partners helped with substantial advice and cooperation.

The REC staff included the Slovenian and Hungarian Program Directors who were responsible for monitoring and coordinating the day to day operational management of the Project in each country and for providing organizational support for country events. A substantial portion of the Hungarian Program Director's tasks were actually carried out by the PM; the Hungarian Director advised on contacts with communities, local administration, government authorities and NGOs, and participated in events organized in

Hungary. The Hungarian Program Director also provided technical assistance by recommending participants and facilitators for the events organized at the local level in Hungary.

The Slovenian Program Director was a crucial staff position in the Project. She provided assistance to the PM in planning, supervising and executing Project activities in Slovenia. The Slovenian Program Director worked closely with the PM and the Project partners to plan, organize and implement Project activities in Slovenia, including the capacity building workshops and the management of Project related work between meetings. She maintained continuous contact with the members of the Slovenian Project team and facilitated contacts with governmental, NGO and other partners. She also assisted the PM in preparing the financial reports.

Another key REC staff position was the Capacity Building/Training expert whose task was to provide overall technical assistance to the development and delivery of the in-region training/ capacity building program. This function was performed by the PM and the Environmental Law Expert (ELPE).

At the October kick-off meeting the Project partners determined that the Project should implement capacity building workshops rather than specialized training sessions, so the expert's work was focused accordingly. Throughout Project implementation, the REC experts frequently consulted with NYU and RFF on developing the capacity building program and REC staff worked closely with the two implementing partner institutions. Lessons drawn from the case study work were used to develop effective capacity building workshops and materials such as the Hungarian Handbook and Citizen's Guide that were designed to be used as long-term capacity building tools.

The ELPE's primary responsibilities were to provide expert assistance to the PM in Project implementation on legal and practical access to environmental information and public participation in environmental decision making. The ELPE also provided input on the development and delivery of access to environmental information and public participation related Project activities and materials including assessments, documents and training materials. The ELPE took an active approach to managing sub-contracts in this subject area. Additionally, the ELPE was responsible for organizing and implementing the program for the Netherlands part of the study tour.

The position of Environmental Public Participation Expert (EPPE) was responsible for providing expert assistance to the PM in implementing Project related activities on public participation in environmental decision making related to transboundary pollution. The EPPE's role was to provide input on the development and content of the public participation related aspects of the needs assessments, guidance documents and training materials as well as to consult with partner institutions on a regular basis. This role was largely shared between the PM and ELPE because at the kick-off meeting it was determined that the primary focus of the Project should be on public access to environmental information and water-related information. Public participation topics were integrated into Project activities as background issues. For example, in Hungary, there was a request to include public participation dimensions as a separate section of the

Handbook prepared for public authorities. Public participation was extensively used as a technique to promote broader public involvement in the discussion of the case study materials, the design of the capacity building workshops, and the preparation of Project documents such as the Hungarian Handbook and Citizen’s Guide and the Slovenian Guidelines. These materials were widely circulated for comments.

C. Percentage of Consultancy Contracts and Payments to Consultants on a Country Basis

The Project contracted several organizations and individual consultants to provide the necessary expertise and services.

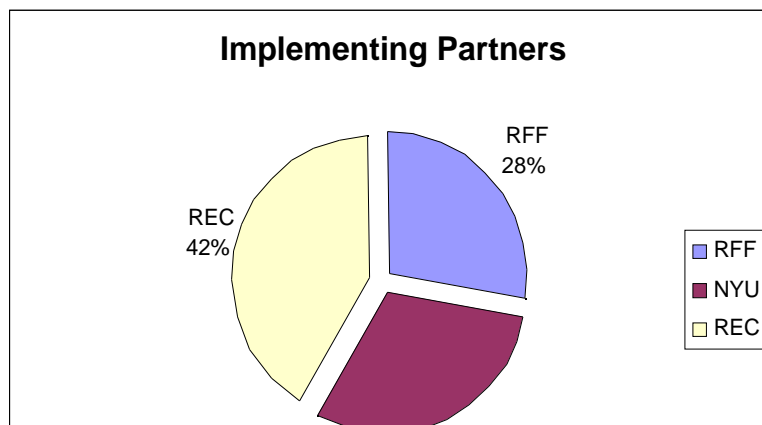
Project Implementation Partners

The two organizations that were partners with REC in Project implementation, Resources for the Future (RFF) and New York University School of Law, (NYU) were subcontracted by REC. The two organizations’ principal role was to provide expert environmental legal and policy services and advice throughout Project implementation. NYU’s main role was to provide expert environmental law services and to be responsible to REC and UNDP for the production of law related materials. NYU was also charged with organizing and conducting the New York portion of U.S. Study Tour. In addition, NYU worked closely and collaboratively with both REC and RFF to generate all of the other outputs.

The main role of RFF was to provide expert advice on environmental policy and to be responsible to REC and UNDP for the production of the policy and government-related materials in Project documents. RFF took responsibility for organizing and conducting the Washington D.C. portion of the U.S. Study Tour. RFF also focused on addressing institutional and practical barriers that impede public access to environmental information that empowers public involvement in Hungary and Slovenia for Danube pollution reduction goals.

Chart No.1: Implementing Partners

Subcontract percentages of the implementing partner organizations Resources for the Future (RFF), New York University School of Law (NYU) and the Regional Environmental Center for Central and Eastern Europe (REC) (the executing agency).



Consultants

The following consultants were contracted for specific Project implementation tasks:

Environmental Management and Law Association (EMLA)-Sándor Fülöp-Hungarian Legal Consultant, Milada Mirkovic-Slovenian Legal Consultant, Foundation for International Environmental Law Development (FIELD) (Jürgen Lefevre EU Law Expert), and AIDEnvironment –Dutch Study Tour Organizer.

Environmental Management and Law Association (EMLA), Sándor Fülöp-Hungarian Expert. The task of EMLA was to prepare the “needs assessment” on public access to environmental and water-related information and to develop recommendations for case study material to be used for illustrating existing problems and barriers in Hungary. In addition to this, the legal expert was asked to participate in all Project meetings to ensure that Project measures were consistent with Hungarian legislation and practices and the requirements of EU accession. He was also asked to contribute to the presentation of NGO perspectives. Under a separate contract, the Hungarian Law Expert prepared the Handbook on public access to information, public participation in related decision-making, and access to justice on environmental and water-related matters.

Milada Mirkovic, Slovenian Law Expert. The task of the Slovenian legal consultant was to prepare the “needs assessment” on public access to environmental and water-related information and to develop recommendations for case study material to be used for illustrating existing problems and barriers in Slovenia. In addition to this, the legal expert was asked to participate in all Project activities to ensure that the Project was consistent with Slovenian legislation and practices and the requirements of EU accession. She was also asked to contribute to the presentation of Slovenian NGO perspectives. Finally, the Slovenian law expert prepared Guidelines on access to data on the state of the environment and changes in the environment.

Foundation for International Environmental Law Development (FIELD), Jürgen Lefevre, EU Law Consultant. The main tasks of the E.U. law consultant was to provide expert advice and input on Project materials from the point of view of E.U. accession issues, including EC law and procedure regarding accession requirements in the field of public access to information and water-related information. He worked closely with NYU, RFF and REC and provided comments on the needs assessments and case study materials. He also contributed to other Project materials, including the Practices Manual, offering a perspective based on E.U. legislation and examples of practices in E.U. countries.

AIDEnvironment –Dutch Study Tour Organizer. The task of AIDEnvironment was to assist REC in organizing the Netherlands part of the Study Tour for eight CEE participants and a REC representative. AIDEnvironment was responsible for making suggestions for the Study Tour program, organizing the logistics, preparing a draft

agenda, arranging meetings with local authorities, government officials and NGOs, and providing participants the necessary background materials.

Eco -Counselling Network (KOT Halozat), Hungary. The Eco Counselling Network was contracted to prepare a Citizen’s Guide to facilitate public access to environmental and water-related information for citizens in Hungary. The experts were asked to prepare a publication-ready Guide, including writing, editing, design and layout.

A description of the percentage of consultant contracts by each county involved in the Project follows. The two charts below present the percentage of Project funds for consultants that went to each country.

Chart No. 2: All Subcontracts by Country

Hungary-EMLA
Slovenia-Milada Mirkovic
Great Britain –FIELD
Netherlands-AidEnvironment
USA-RFF, NYU

(The Eco-Counselling Network needs to be added to the chart.)

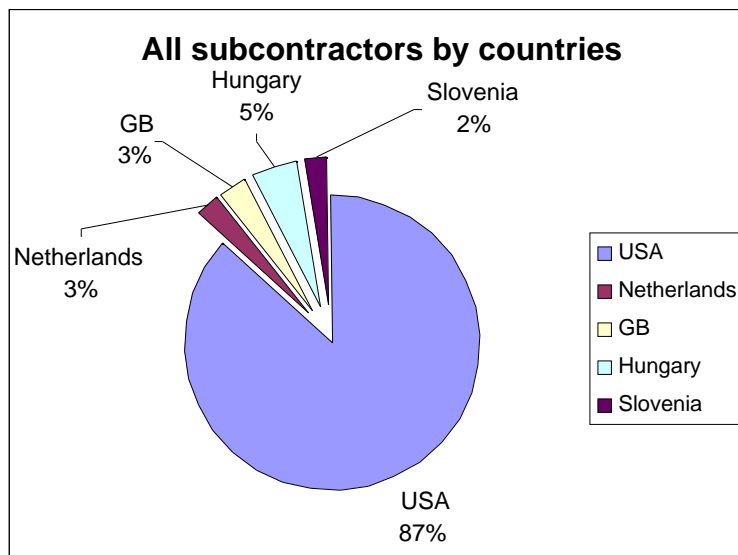
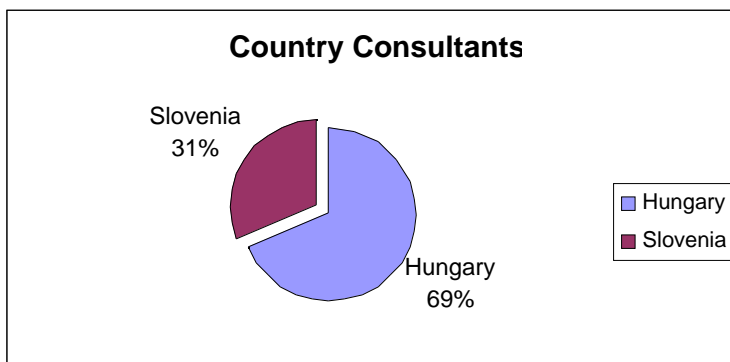


Chart No. 3

Percentage of funds distributed between country consultants EMLA-Environmental Management and Law Association (Hungary) and Milada Mirkovic (Slovenia).



D. Support from UN Agencies and Parallel Support from the Donor Community

The Project partners received a \$10,000 grant from the Trust for Mutual Understanding (TMU), a New York based foundation, to support the participation of the U.S. partners in the Project. Specifically, the TMU funds were awarded to contribute to the international travel costs incurred by the U.S. partners.

E. Government Support

The Hungarian and Slovenian partners from government institutions supplied substantial in-kind contributions to the Project. This contribution included the following:

- the time of the government experts who participated in all Project meetings, including the October 2000 kick-off meeting and the January February and June capacity building workshops in Hungary and Slovenia;
- the time of the government and NGO experts who participated in the Netherlands and US study tour;
- the time of the Hungarian and Slovenian teams to advise and comment on Project materials and activities, attendance at meetings with the REC Project team, and the visit of the Slovenian team in Hungary;
- meeting facilities and administrative support provided by Hungarian and Slovenian ministries.

In Hungary the following participating institutions contributed work time:

Ministry of Environmental Protection
 Ministry of Waters and Transportation
 Water Directorates
 Environment Protection Agencies

Ministry of Justice
 Ministry of Economics
 Ministry of Industry
 Ombudsman`s Office

Figures in the table below are based on a calculation of the value of work days contributed by Hungarian government participants to Project meetings.

Meeting	No. of Particip.	Days	Values in USD
October	14	3	8400
January	24	2	9600
June	25	2	10000
	200 USD/Day	Total USD	28000

The charts below illustrate target group participation in capacity building events in Hungary.

Chart No. 4: All Hungarian Capacity Building Events

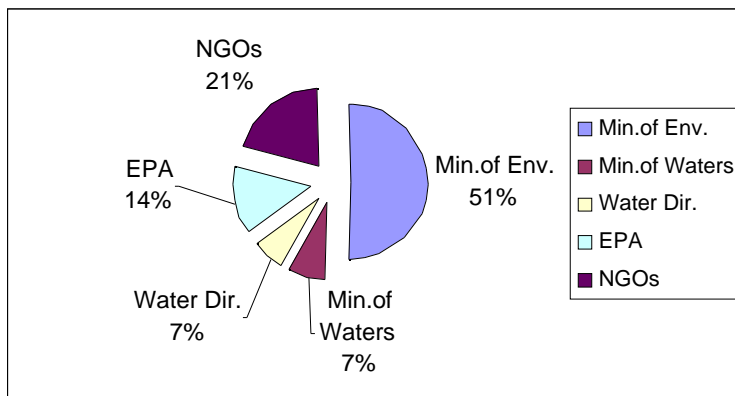
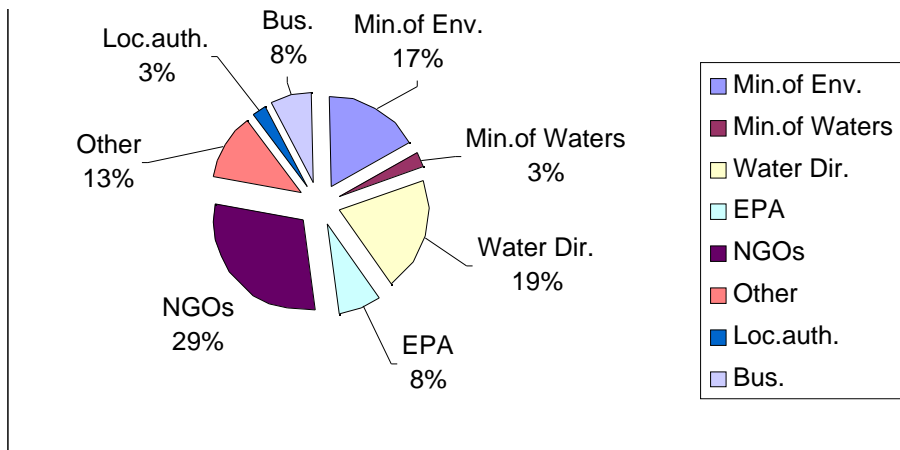


Chart No. 5: June 2001 Hungary Meeting Participants



Levels of government contributions and stakeholder participation in Slovenia were similar to that of Hungary. However, because Slovenia is a much smaller country, the actual number of participating officials and other stakeholders tended to be somewhat less.

Section VI. Financial Management
[to be supplied by REC]

Section VII. Project Management

A. The Project Implementation Team

Building Environmental Citizenship to Support Transboundary Pollution Reduction in the Danube: A Pilot Project in Hungary and Slovenia was developed jointly by the Regional Environmental Center for Central and Eastern Europe (“REC”; Szentendre, Hungary), New York University School of Law (“NYU”), and Resources for the Future (“RFF”; Washington, D.C.).

The Partnership Organizations

REC served as the executing agency for the Project, with NYU and RFF as partners. These three organizations make up the Project Implementation Team (“PIT”). The members of the PIT shared responsibility for all aspects of the implementation of the Project.

The Project was an outgrowth of on-going REC efforts since 1990 supporting implementation of access to environmental information, public participation, and access to justice requirements in Central Europe in order to promote environmental protection and sustainable development. The key project participants at NYU and RFF have collaborated closely with REC on environmental law and policy reform initiatives in countries in economic and political transition for more than 10 years, and have substantial expertise and experience in assisting governments there and in other regions in developing legal, regulatory, institutional, and practical measures for ensuring public involvement.

In-Region Participant Teams

The Project was designed and implemented in close partnership with key government officials and ministries in Hungary and Slovenia, and leading environmental NGOs, who formed country “teams”. Members of these teams included water and environment ministry officials of Hungary and Slovenia, NGOs from both countries, and representatives of municipal government and agricultural and industrial concerns.

The country teams took a strong “ownership” role within the Project and were instrumental in the Project’s success. They demonstrated great initiative and, within the framework provided by the PIT, were able to develop practical measures to address barriers to access to environmental information in Hungary and Slovenia.

National and European Consultants

The PIT hired a Hungarian and a Slovenian environmental law expert as consultants to collaborate with the Project participants in identifying barriers to access to environmental information in Hungary and Slovenia, and to assist in the development of practical measures to address these obstacles. The two consultants were Dr. Sándor Fülöp for Hungary, and Milada Mirkovic for Slovenia, both NGO lawyers. Dr. Fülöp and Ms.

Mirkovic were instrumental in the preparation of the needs assessments and case study analyses and the guidelines for public officials for Hungary and Slovenia. They furthermore attended all in-region workshops, making presentations and working with the Project participants in the identification of barriers to access to environmental information and the development of solutions.

The PIT also engaged as a consultant Jürgen Lefevere, an expert on EU law, to assist the Project participants with issues relating to harmonization with EC Directives, including the Information Directive and the Water Framework Directive. Mr. Lefevere is a lawyer for the Foundation on International Environmental Law and Development (FIELD), an environmental NGO based in London. He drafted the section of the Practices Manual on EU options and examples and attended three of the in-region meetings, answering questions from the participants on EU legal standards. The involvement of Mr. Lefevere was important to the Project, as both Hungary and Slovenia are preparing to accede to the EU.

B. Team Coordination

The PIT was in daily contact throughout the course of the Project by phone or email. Each in-region meeting and the study tour were attended by at least one representative of each member of the PIT. Formal meetings among the members of the PIT took place at the commencement of the Project in April 2000 and at the end of the Project in October 2001, in New York City.

At both of these formal meetings, the members of the PIT met with representatives of UNDP to brief them on the status of the Project. The members of the PIT were also in communication with UNDP representatives via telephone and email at regular intervals throughout the course of the Project.

The PIT maintained regular contact with the Project participants and consultants via email and teleconferencing. In this manner, the members of the PIT were able to provide on-going technical assistance, and all those involved in the development of Project measures were able to communicate and coordinate with ease.

The PIT also interacted with the Project participants and consultants at the in-region meetings that took place throughout the Project. The EU/US study tour provided perhaps the most substantial opportunity for the PIT to build a strong professional relationship with key participants from Hungary and Slovenia.

C. The Project Steering Committee

A Project Steering Committee was established to serve as an advisory and consultative body to facilitate effective Project implementation. The PSC facilitated inter-agency coordination of the Project at the national level, providing avenues for maintaining international linkages, and ensuring that the lessons learned from implementation of the Project were integrated into their countries' overall environmental programs. The PSC

meetings were held two times during the life of the Project: at the beginning, at the end of the first year, and to close the Project at the end of the 19 months. The Steering Committee meetings also served as the Tri-Partite Reviews (TPR) of the project. The PSC meetings were convened in Budapest (October 2000) and Ljubljana (October 2001), and took place in conjunction with in-region workshops. The PSC was comprised of key stakeholders from the Governments and relevant NGOs and was chaired by the REC. Members included: UNDP-GEF's Chief Technical Advisor for International Waters or his designate, former Executive REC Director, Jernej Stritih and Magdolna Toth Nagy, head of the REC's Public Participation Program, Nandor Zoltai from Government of Hungary, Nata_a Anderlic as a representative of the Government of Slovenia, Ruth Greenspan Bell from RFF, and Jane Stewart and Isaac Flattau from NYU.

Section VIII. Identification of Barriers to Effective Access to Environmental Information

A. Introduction

Barriers to public access to information in Hungary and Slovenia were identified through a Needs Assessment conducted for each country by consultant NGO environmental law experts from Hungary and Slovenia, based on a common outline prepared by the PIT to ensure compatibility of findings and a coordinated approach. The consultants researched the state of their respective countries' laws, institutions and practices regarding public access to information. In addition to the legal review, they conducted empirical research on practical barriers to access. For example, they conducted interviews with relevant government environmental officials, water authorities and NGO representatives. Their investigation included a review of legislation, implementing regulations, policies and guidance, organization and staffing, and systems and procedures for information gathering, information management and access. They also went to government environmental and water offices and asked for specific information. Each investigator tested how government offices actually respond to public requests for information. Emphasis was placed on laws, procedures and practices for access to environmental information relating to water bodies generally, and the Danube River in particular.

The Need Assessments found that, for a variety of reasons, both countries have a relatively poor track record in responding appropriately and effectively to public requests for information. The Need Assessment and the activities through which it was produced are discussed in greater detail in Section VI.

The Needs Assessments was reviewed and discussed by the participants in the Project Kick-off Meeting Szentendre, Hungary in October 2000; the participants included Hungarian and Slovenian government officials involved in the protection of the environment, water quality, transportation, and information systems, and representatives of NGOs concerned with Danube River issues. Based on the Need Assessments and plenary discussion, the project participants identified a number of specific challenges that Hungary and Slovenia face in their effort to develop regimes that would allow citizens to obtain environmental information on demand.

B. Barriers to Effective Information Access Common to Both Countries

The project identified a number of barriers to effective access to information that were found in both Hungary and Slovenia and that appear to be common to the Danube region. These stem in large part from the legacy of state socialist practices and attitudes and the transitional state of the countries' governmental systems and economies. These common barriers are discussed in this subsection. The project also identified some differences in between Hungary and Slovenia in information access barriers; these are discussed in the following subsection.

1. The Legacy of The Past

Despite different histories and politics, Hungary and Slovenia face common challenges based on the legacy of the state socialist regimes that dominated those and other countries in the region during the 45 years following World War II. These regimes were characterized by official discretion largely unchecked by law, government secrecy, and relative public passivity. Hungary and Slovenia have made great strides in breaking from the patterns of the past, establishing democratic systems of government, and building civil society. However, the culture of official discretion has not been entirely eliminated, and the principles of open government and of public entitlement to government information are still being established.

Hungary and Slovenia are countries with deep European roots that were cut off from pan-European legal developments by the Iron Curtain and the Cold War. After World War II, Hungary (as part of the Soviet bloc) and Slovenia (as part of Yugoslavia) were joined to legal systems that have been characterized as “aspirational”.¹⁶ In these countries, the Party had absolute control over every aspect of society, including the development and application of formal laws.¹⁷ The Party’s decisions were made behind closed doors, in extra-legal contexts that often elevated the Party’s goals over the requirements of existing laws. The Party placed a premium on full employment and maximizing economic production, and its principal commitment was to self-preservation.

Hungary and Slovenia, like other countries of the region, often boasted impressive laws and constitutions that formally provided for public participation in government decision-making or set exacting standards for pollution discharges. But these laws were largely a facade; they were not effectively implemented. Law played a different role in public life and in the lives of individuals than it did in North America or Western Europe. A common Soviet practice, for example, was to write broad declaratory constitutional language or laws, either without specific implementing provisions or with secret, unpublished regulations.¹⁸ What actually happened – disregard of laws or arbitrary application that fit the needs of the rulers not the governed -- undermined the legitimacy

¹⁶ The word “aspirational” has been used by various legal commentators; see e.g. Richard A. Posner, *The Problems of Jurisprudence*, 8 (1990) (speaking of a set of norms that look good on paper but are not enforced, because the courts are co-opted or “overawed” by other forces in the society). See also Maimon Schwarzschild, Variations on an Enigma: Law in Practice and Law on the Books in the USSR, *Book Review*, 99 *Harv. L. Rev.* 685 (1986); Ruth Greenspan Bell, Environmental Law Drafting in Central and Eastern Europe, 22 *ELR* 10597, 10598 (Sept. 1992); and Elzbieta M. Zechenter, The Socio-Economic Transformation of Poland: Privatization and the Future of Environmental Protection, 5 *Geo. Int’l Env’tl. L. Rev.* 99 (Winter 1993).

¹⁷ For a more thorough discussion of this in the context of Polish environmental law, see Daniel H. Cole, *Instituting Environmental Protection, From Red to Green in Poland*, St. Martin’s Press, Inc (New York 1998);

¹⁸ Schwarzschild at p. 691

of law.¹⁹ Also, the regimes followed the premise that the public had no legitimate interest in or right to information held by the government.

This history is the source of many of the challenges, including a lingering culture of official discretion and secrecy and the absence of a strong public constituency for information access, that Hungary and Slovenia have faced in their resolution to put into place effective, functioning laws, requirements and practices for public access to environmental information. But the history illustrates, as well, as the opportunity that institutions supporting government transparency provide for the development of their new democracies.

2. Deficiencies in Existing Information Access Statutes and Implementing Laws

A major barrier to effective implementation of environmental information provision laws in Hungary and Slovenia is the absence of fully operative or adequately detailed laws and regulations to carry them into effect. Both countries have basic environmental information provision laws in place, but these laws are often general, lacking the detail necessary for them to take full effect, and have not been supplemented by regulations and other measures necessary to implement the laws.

An example is the Hungarian Environmental Code, which stipulated six years ago that a National Environmental System must be developed immediately. This system was intended to serve as a clearinghouse for systematized environmental information, a key step in providing that information to the public. Six years later, the government has yet to implement this system. Slovenia faced parallel challenges with regard to inoperative laws and regulations. The country's principal Environmental Protection Act ("EPA"), that governs not only the provision of environmental information but its collection, needs enabling regulations before its provisions will take effect. These regulations are necessary to create the Integral Legal Environmental Protection Information System, to establish rules governing agency record keeping, and to establish the office of the Environmental Protection Officer. The mandated deadline for the Slovenian government to ratify enabling regulations for the EPA elapsed six years ago

Also, the laws are often formulated in general or vague terms that fail to provide adequate guidance to government officials about their obligations to provide information or to citizens about their ability to access it. Many key terms in laws which affect the provision of environmental information to the public remain unclear. These include the definition of personal and private data and the definition of confidential business information. The vagueness of these laws, and the failure to provide greater specificity through implementing regulations, effectively gives vast discretion to officials who often exercise it to deny or limit public access to information.

¹⁹ Reacting to this history, Václav Havel, President of the Czech Republic, has spoken eloquently about the need for respect for law to "take root in human minds," such that "everyone should deem it an honour to obey the law, not to break or circumvent it."

Problems of excessive official discretion also arise as a result of unresolved conflicts between laws providing access to environmental information and those establishing legitimate categories of secrets, including state secrets and legitimate business information. The information access laws seem to provide for disclosure, while other laws providing for secrecy seem to require non-disclosure. There is often no rule or other arrangement for resolving such conflicts and setting bounds on exceptions to disclosure for information that might qualify as state secrets or confidential business information. As a result, officials have wide legal discretion to deny disclosure in many instances. The Needs Assessments also identified substantial confusion about how to handle and respond to inquiries that might involve sensitive or confidential business information.

3. Lack of Guidance to Officials on Implementation of Information Access Laws

However, both assessments recognized that improving laws will not by itself solve the existing barriers to environmental information, although they will make the task somewhat easier. A closely related problem is the lack of adequate guidance to officials responsible for implementing laws for public access to information. Clarity about what must be provided and in what circumstances is essential to a smoothly functioning process that ensure prompt disclosure of information to which the public is entitled. But the laws are too general to provide such guidance, and there are often no implementing regulations or administrative guidance to ensure that officials provide information when it is requested. In the absence of guidance, officials (in accordance with the lingering culture of government secrecy) often deny information requests outright or impose arbitrary limitations or other requirements. Also, the lack of guidance leads to inconsistent treatment of information requests.

Lacking adequate legal or other guidance, Hungarian government officials often act as though they have discretion to decide who is entitled to receive information, for example inappropriately requiring a person requesting environmental information to present a reason for wishing to obtain the information, and denying access to those “not interested enough” in the subject matter to which the information relates.

In Slovenia, as well, officials are left to interpret the EPA in an ad hoc fashion. Among the issues that must be interpreted by government officials in the absence of adequate guidance are the nature of the legal interest (if any) that a requester must establish in order to obtain information; the definitions of environmental data and information (and thus what must be provided); and the applicability of rules of general administrative procedure²⁰

²⁰ The Slovenian EPA specifies that public authorities must provide environmental information requested by the public in “the prescribed manner less than one month of the request and at a price which does not exceed the material costs of providing information.” Since the EPA does not provide any other explanation concerning the procedural rules in cases where environmental information is requested, there is some debate as to what the wording “prescribed manner” means. Although the EPA does not explicitly reference the Administrative Procedure law, some argue that the law should be consulted in determining the exact meaning of this phrase. There has been no court decision providing commentary on the applicability of the Administrative Procedure law to cases where environmental information is requested under the EPA, but the question has been raised in public conversations held between NGOs and the Ministry of the

Without definitions, implementing rules and guidelines, officials in both countries have had to exercise discretion to decide to whom information should be provided, when it should be provided, and how it should be provided. In exercising their discretion, they have tended to err on the side of caution and withhold information. To some extent, these responses may reflect instincts that were widespread under the old regimes, an assumption that information should be withheld, not disclosed. Furthermore, government offices respond in inconsistent ways to similar requests, even when the requests have the same legal basis. The Needs Assessments indicate that much of the information collected by the governments is accessible only to those who have personal contacts within the government ministries or extensive experience dealing with these agencies.

In sum, the problem of excessive, unguided official discretion is a major factor in both countries' poor track record for responding effectively and consistently to information requests.

4. Resource Constraints and Institutional Gaps

The Needs Assessments identified resource constraints in the form of insufficient personnel and other capacity limitations, and associated institutional gaps as obstacles to the development of effective access to environmental regimes in Hungary and Slovenia.²¹ There are not sufficient officials with designated responsibility for responding to information requests. For example, in many situations there is no office or person designated to respond to public requests or requests referred by other line agency (e/g. water ministry), no office or person designated to resolve claims of confidentiality, and no office or person to track public requests and make sure that they are answered on time.

In Hungary there are specialized personnel to deal with public requests for environmental information at the national level (the Ministry of the Environment), but at the local and regional levels (the inspectorates) there is no one official who is charged with this responsibility. Instead, it is the additional task of environmental protection officials who are already extremely overworked. While there is hope that the environmental inspectorates will gradually nominate and train additional personnel to handle requests, this is not the case at the moment. Indeed, the inspectorates even lack sufficient

Environment. In 1999, in the process of adapting Slovenian legislation to EU legislation, the national government determined that the Administrative Procedure law can apply to requests for information under the EPA. Still, a court decision on this issue is pending.

²¹ As the Project was in no position to address resource constraints directly, the PIT and Project participants worked to develop methods for achieving and refining new access to information rules and procedures which would not be dependent upon significant further resources from the Hungarian and Slovenian governments. For example, the PIT and Project participants identified as a major obstacle to information access ambiguous laws and procedures. Two of the major Project outputs involve clarifications of these laws and procedures and recommendations for more effective information access procedures. Still, as resource constraints were identified in the course of the Project as a concern to the participants from both countries, it is important to take note of them.

computer hardware and software for their existing staff, and are required to raise some of the funding for their operations.²²

Slovenia too suffers from inadequate resources for its current environmental information provision regime. Government agencies do not have personnel designated only to reply to information requests, and the officials who wind up with this responsibility are not trained properly in the rules and procedures governing responses. Requests are typically provided by overloaded officials working in unrelated departments, and sometimes by officials working in public relations offices.²³

5. Inadequate Training and Experience of Government Officials

Another capacity constraint identified by the Needs Assessments is that the government officials responsible for responding to information requests lack adequate experience and training and do not regard open government and information provision as important objectives. Information access is a relatively new requirement in both Hungary and Slovenia. In neither country do government officials have much practical experience administering rules for public access to information. Government officials who have not been accustomed to sharing information with the public (and in some cases even with their colleagues) need training, supervision, guidance documents and other implementation aids. Historically, hoarding information and parceling it out to achieve personal rather than government goals was sometimes a source of power. There have been allegations that, in some cases, government-held information has been inappropriately sold. A more fundamental and pervasive problem is that many officials may withhold information simply out of apathy, or because they do not believe that there is any value in keeping lay members of the public informed, and believe that the only non-governmental views that should be considered are those of scientists and experts. Thus, remedial action and learning is required at both the legal and the practical level.

6. Technical System Needs

The Needs Assessment and on-going Project activities identified a number of critically important technical and system needs for effective access to environmental information in Hungary and Slovenia, and identified a set of solutions. In order to deal with existing capacity constraints on information provisions, there is an urgent need to establish comprehensive data and records management systems and systemized records information requests and response procedures and practices, so that Ministries know what information they hold and where it is located. Even where officials are favorable disposed towards providing information to the public, the practical administrative machinery for processing requests and providing information promptly and effectively is

²² According to some in the NGO community, however, the government spends “a huge amount” of money to support the institutional basis for information requests; the money simply is not spent effectively.

²³ It should be noted that administering the Freedom of Information Act information request response mechanism in the U.S. is very resource intensive, both in terms of funding and personnel. In 1995, the most recent year for which we have an estimate, a conservative estimate provided by a FOIA official put the yearly cost of the system at \$3.5 million. The real cost is probably much higher. The costs have probably increased since 1995 with the additional duties imposed by the “E-FOIA” law.

often missing or seriously deficient. Without systems of records, even motivated public officials following clear laws and rules will have difficulty responding to information requests because they simply will not know where to find responsive documents, or because they will be reluctant to commit the level of resources necessary to identify and track down documents. In order to establish a smoothly running regime of public access to information, it is also necessary to have standard-form response letters that can be readily tailored to a specific request situation and other time-saving devices to help assure speedy responses at the same time as they ease the burden on government employees.

A robust system supporting information access would also benefit from putting into place systemized procedures to identify, mark, and separately store documents that contain legitimately confidential data or information. Having such systems in place would significantly ease the burden of government employees, so that they would not, under pressure, have to make judgments about which documents might legitimately contain sensitive or confidential business information, at the time when requests are received. Similarly, pre-sorting and characterizing documents is a way to provide protections for government employees as well as for the particular sensitive documents, to avoid situations in which government employees might unintentionally disclose sensitive documents because of confusion and time pressure. There is currently only very weak experience in Hungary and Slovenia with putting into place systems to identify and separate out documents that contain sensitive information that may be withheld from public disclosure and the need for setting up such procedures.²⁴

7. Lack of Public and NGO Experience and Know-How in Obtaining Access to Environmental Information.

Both individual citizens and environmental NGOs request information from the government far less frequently than their counterparts in the U.S. or in Western European Nations such as the Netherlands that have well-developed laws and administrative regimes for public access to government information. There are probably many factors that account for this difference. The fact that it is difficult, because of the barriers summarized above, to actually obtain from government public information that has been requested undoubtedly has a discouraging impact on requests. In particular, the lack of clear rules about what information must be provided to the public, the lack of adequate trained personnel with a pro-disclosure orientation, and the inadequacies in existing machinery for processing requests and responding to them effectively and promptly imposes severe handicaps that will tend to dissuade all but the most determined or knowledgeable from making requests.²⁵

²⁴ Communications with project participants disclosed little real understanding of the impact of disclosure of legitimately confidential business information.

²⁵ The fact that few ordinary Hungarian and Slovenian citizens request information from government must be placed in the perspective of experience in countries, such as the U.S. and the Netherlands. In both countries, information access laws continue to be used more by the media, by industry seeking information about competitors or in preparation for litigation and by the advocacy community (the various NGOs and other organizations that seek stronger environmental regulation) than by individual so-called ordinary citizens.

Also, for reasons associated with the characteristics of the Central European legal systems and of legal and governmental culture, the still- developing state of civil society, and the legacy of the past, members of the public in Hungary or Slovenia who are dissatisfied with the performance of government and its failure to provide information on request are less likely than their counterparts in the United States (or increasingly in parts of Western Europe) to view the issue as a remediable failure of legal responsibility. Not only must disappointed individuals and NGOs learn how to assert rights to information and how to frame requests for information, they must also learn that they need not accept a non-disclosure decision and find ways within the law to remedy disclosure failures, in the same way that citizens suits in the United States hold officials “feet to the fire.”²⁶ However, citizens in the two countries are only beginning to consider the option of asserting rights through legal procedures, and the existing legal system fails to provide prompt and effective relief in the same way as do the courts of the common law systems. One option that was explored in this Project and is discussed elsewhere in this Report is the role that Ombudsmen play in this regard.

[Material on specific problems faced by NGOs to be supplied]

8. Lack of intra-governmental, governmental-NGO cooperation

[To be supplied]

9. Differences in Nature of Barriers in Hungary and Slovenia

[To be supplied]

Conclusions

Hungary and Slovenia face a substantial number of legal, institutional, and operational barriers to ensuring effective public access to environmental information. Yet, these countries have launched serious efforts to develop sound environmental information access programs, which are still in an early stage of development. The Project disclosed that challenges in Hungary and Slovenia cannot neatly be characterized as constrained entirely by information and the experience of the past 50 years, and should be put into an evolutionary perspective.²⁷ The Project and particularly the Study Tour disclosed substantial similarities between the current situation in Hungary and Slovenia and the early days of the Freedom of Information Act (FOIA) in the United States as well as early experience in the Netherlands. For example, in the years immediately following the passage of FOIA, U.S. government agencies similarly resisted providing information as the law required. It was only after they were subjected to lawsuits that required them to obey the law that they began to put procedures into place to assure adequate and timely

²⁶ The civil law traditions typically lack courts with the power to direct governments to take actions.

²⁷ The Hungarian and Slovenian Needs Assessments expressed concern about the small number of requests currently being made in their respective countries.

responses.²⁸ As experience developed in the United States, government agencies improved their skills, overcame technical deficiencies, and became better at implementing the law. EPA, which initially was subject to numerous law suits, now is considered among the best of the U.S. federal agencies in processing and responding to requests under FOIA.²⁹ These findings fuel our optimism that the efforts over the past 19 months will result in significantly enhanced opportunities for the public to obtain information in Hungary and Slovenia and to use that information to achieve a cleaner Danube River.

²⁸ For a brief discussion of the differences between common law and civil law courts and the respective powers of judges in each system to remedy adjudicated wrongs, see Ruth Greenspan Bell and Susan A. Bromm, "Lessons Learned in the Transfer of U.S.-Generated Environmental Compliance Tools: Compliance Schedules for Poland," XXVII Environmental Law Reporter, News & Analysis (June, 1997).

²⁹ For example, at least one of the U.S. EPA personnel selected to be visited by the study tour was chosen in part because her experience dated from to the beginning of EPA's program; she was asked specifically to think back to the earlier conditions when she spoke with the visitors.

Section IX. Project Activities

The Project activities were structured to progress in a logical fashion from the identification of barriers and opportunities to public access to information, to the research of options for responses, followed by the definition and implementation of specifically tailored measures, and finally, evaluation and recommendations. Capacity building activities were built in throughout this process to assure skill enhancement as was technical assistance.

In the end, all of these activities met an important need: to ensure understanding of the ground rules of information access and develop requisite expertise in knowing how to make requests and how respond to and manage them. The two important target groups for the Project were (1) members of the public -- individuals, “public interest” groups, industry, NGOs, community groups and others -- who are in the category of people who do or may request information; and (2) the personnel and officials in the various Environmental and Water Ministries and offices whose files hold information of interest to the public and who must learn to respond to requests for that information. The need for guidance and procedures to follow was acute in Hungary and Slovenia, where information access is still a new and relatively untested requirement and there are many unsettled and unresolved questions of law and practice. People of good will in both categories have few precedents to rely on, and have and will have many legitimate questions as the number and sophistication of information requests increases.

Through the connected activities of capacity building and technical assistance, the Project produced a number of working tools to improve the situation, which are detailed and discussed below. Tools such as the Hungarian Handbook for government employees will reduce the transaction costs of managing individual information requests by providing guidance and answers, standardized forms and letters, so that they can manage most ordinary requests without slowing the process to obtain answers or seek support from their supervisors. Tools such as the Hungarian Citizens Guide will facilitate the overall process by providing guidance and information to members of the public who are contemplating making information requests.

Section A describes the first steps taken in both Hungary and Slovenia: the identification of barriers to and opportunities for improving access to public information on water-related environmental issues. This process began with comprehensive Needs Assessments and identification of case studies as practical illustrations of the needs, challenges and opportunities to develop public information regimes that are responsive to the goal of enhancing public involvement in transboundary water pollution reduction.

Sections B and C elaborate on the specific capacity building activities implemented in the Project. These included two plenary meetings (one to initiate activities, the other to wrap up and evaluate) and two in-region workshops in each in country. Additionally, a comprehensive study tour brought participants to the Netherlands, New York City, and Washington, D.C. to learn about and observe access to public information procedures in

the E.U. and U.S. Finally, Sections E and F describe dissemination, outreach and collaborations on the experiences, ideas and results produced by the Project.

All of the activities listed below were planned and attended by the PIT in consultation with Project participants, and many of the meetings were attended by the Project's EU consultant, Jürgen Lefevere, who commented on the EU-accession implications of all the issues examined. It was the difficult and often very time consuming role of the PIT to establish conditions in which the participants could openly debate and lead discussions, leading to identification and resolution of specific matters of concern. Thus, the PIT established agendas that would move the process forward, facilitated the discussions, kept the discussions on track and offered contributions based upon their respective areas of expertise. It was the PIT's role to assure continuity between the various Project activities, and to keep the entire effort focused on achievable outcomes. The PIT managed the written products of the Project even when initial drafting responsibility was assigned to Project consultants and participants. The PIT kept track of all the issues discussed, and worked throughout the meetings, study tour and other activities to plan next steps for turning the discussions into a basis for the development of concrete Project outputs.

A. Identify Barriers to and Opportunities for Improvement of Public Access to Water-Related Environmental Information

1. Needs Assessments

In order to evaluate the existing legal, practical and institutional practices and possibilities for public access to environmental information in the two countries, independent experts in Hungary and Slovenia conducted research in the form of Needs Assessments. This research identified gaps in the legal structures of each country, and practical barriers to successful access to information and participation of the public in decision-making and pollution control activities with regard to pollution reduction in the Danube river basin.

The Needs Assessments informed a discussion on priority issues and Project focus that was carried out during the Project kick-off meeting in October 2000. The Needs Assessments have also been used as background in preparation of materials in the course of on-going technical assistance.

The PIT provided guidance to the creation of the Needs Assessments by developing outlines, in consultation with in-country experts. Both country assessments were based on the same outline to ensure comparability of findings and coordinated approach. The PIT reviewed numerous drafts of the Needs Assessments and provided feedback and ideas for strengthening the analysis. Finally, the PIT created executive summaries of both Needs Assessments.

The assessments examined the laws in each country governing access to information, including general framework legislation information and framework environmental

legislation, as well as relevant provisions of the water laws and regulations. The topics included information gathering, information management and access, specific provisions on gathering, collecting and processing information and legal, institutional and practical barriers to providing access to environmental information. Emphasis was put on laws and data specifically related to the issues surrounding the Danube River Basin, discharges into it and efforts at remediation.

In order to facilitate the identification of practical barriers to access to environmental information and information gathering and management, each of the experts writing the Needs Assessments conducted a series of interviews with relevant environmental officials, water authorities, and NGOs. The results of the interviews are included in the Needs Assessments themselves, and were instrumental in the identification of problems. All of the materials were presented to the participants of the Project Kick-off meeting as background material for discussion.

2. Case Study Analyses

The Hungarian and Slovenia expert consultants also investigated potential case studies illustrating problems and opportunities related to broadening public access to environment and water quality information. The purpose of the case studies was to illustrate with concrete facts key barriers identified in the Needs Assessments and to give emphasis and content to the priority issues. Potential case studies were evaluated for their ability to illustrate two sets of issues, the actual status of and functioning of public access to environmental information laws and institutions, and information issues associated with harmful discharges to the Danube and its tributaries.

The two cases used in the Project were selected by the Project participants at the October 2000 kick-off meeting, based on the expert consultants' reports. The Hungarian participants elected to focus on the river Tisza hotspots in light of the cyanide spill in early 2000. This displayed access to information measures that can be used to help prevent such accidents in the future, or at least diminish their consequences and impact, and the public notification and information programs following the spill and how these might be improved. One important consequence of selecting the Tisza case study was that one of the Hungarian workshops was held on in the town of Szolnok, on the Tisza River. As discussed in greater detail later, this workshop brought together a number of representatives of the region's municipalities, environmental and water authorities, NGOs and business, all of whom had suffered impacts (including, e.g. decreased tourism), as a result of the cyanide spill.

The Slovenian participants decided to use the facts surrounding a pulp and paper mill Krsko. The Mill is a major discharger to the Sava river, which in turn sends pollutants to the Danube, and has been put under a compliance plan to reduce its discharges. In the course of case study preparation, the Slovenian expert made several requests for information to various relevant authorities, including the Ministry of Environment and Water Management and local municipalities, with regard to the operation of and discharges by the Krsko Paper Mill and the progress of the compliance plan. This

investigation indicated serious problems in existing arrangements for public access to information.

B. In-Region Meetings and Capacity-Building Workshops

A principal goal of the Project was to increase understanding in both countries of what tasks and institutions are necessary in order to establish and run functioning systems of information access, and to enhance the capacity of governmental offices assigned to these tasks. One important tool to achieve these goals was the convening of four in-region capacity-building workshops and in-region plenary meetings.³⁰

A Kick-Off meeting was held early October 2000 in Szentendre, Hungary. Four separate capacity-building workshops were held in 2001. The first set of in-region capacity building workshops took place in Szolnock, Hungary (on the Tisza River) on January 29 and 30 and Ljubljana, Slovenia on February 1 and 2, 2001. The second set of capacity building workshops occurred in Ljubljana, Slovenia on June 11 and 12 and Dobogókő, Hungary on June 14 and 15, 2001. Representatives of all relevant government agencies from Hungary and Slovenia and representatives of each country's NGO sector attended the workshops and the EU/US Study Tour. Local experts hired by the Project as consultants were also present at every workshop in their respective countries.

The agendas for these meetings are found in Annex _____. The meetings were conducted in native language to facilitate fluid and frank communication.³¹ In addition, in early September, 2001, the core Slovenian participants traveled to Budapest to visit the Hungarian participants and their various Ministries and offices, again to share experience.

The first set of capacity building workshops was structured to refine the Hungarian and Slovenian Project participants' understanding of the priority issues identified in the October 2000 in-region meeting. The PIT and Project consultants used presentations and organized discussions to ensure that the workshops would bring into focus specific and concrete opportunities for public access to environmental information and resulting

³⁰ Initially, the Project envisioned holding three training and capacity-building events. However, as a result of what the PIT learned during the kick-off meeting and the early part of the project, this plan was adjusted. Both the Hungarian and Slovenian participants recommended that the goals of the workshops and meetings would be enhanced if they were conducted in national language and in each of the participating countries (initially the PIT envisioned bringing Hungarians to Slovenia and visa versa, in combined meetings). Their recommendations were consistent with what PIT representatives observed during the kick-off meeting, namely that when the groups split up and met in native language smaller sessions, a great deal was accomplished. The participants also thought that holding separate meetings in each country would expand the number of potential participants in each country. Finally, although many of the selected priority issues were similar for both Hungary and Slovenia, it was generally felt that specific focus on national legislation and practice would be more useful. The PIT agreed with this reasoning and adjusted the project schedule and plans accordingly. In addition, the PIT was pleased that the project participants had made this recommendation, which also suggested a high degree of interest and involvement in the project. Therefore, separate workshops were planned and executed for Hungary and Slovenia. This change in plans also changed the number of the workshops.

³¹ The PIT used simultaneous translation. Informal communications were aided by a high level of English facility among the project participants

public participation to reduce transboundary impacts on the Danube. These options and strategies drew on relevant experience from the CEE region, the European Union and the United States.

The second set of capacity building workshops focused on refinement of the measures developed to address the identified priority issues. In Hungary, among other tasks, workshop participants examined a draft of the Hungarian Handbook on Public Access to Environmental and Water-related Information and Public Participation and provided extensive feedback. The Slovenian workshop concentrated on necessary clarifications in the Environmental Protection Act.

The Final Plenary Meeting provided an opportunity to review and refine Project results, evaluate measures taken, and make recommendations for next steps in the two pilot countries and for expanded efforts in the Danube basin.

1. Kick-Off Meeting, October 11-13, 2000

The initial in-region meeting was conducted with representatives from both countries present, on October 11-13, 2000 in REC's Szentendre, Hungary headquarters. The Agenda and List of Participants are found in Annex _____. The goal of the meeting was to review the existing situation concerning public access to information in both countries, to decide on the most significant issues and problems to address, and to set the agenda for the balance of the Project.

Following the introduction of the Project, the Hungarian and Slovenian experts who prepared the Needs Assessments and selected candidate case studies presented their major findings, outlining the problems and gaps that they had identified in access to environmental information and information related to releases of nutrients and toxics to the Danube in their respective countries. Participants discussed and elaborated on the issues presented; some added more information and facts to the reports.

The Hungarian and Slovenian consultants also each presented the two candidate case-studies. After detailed discussion in small groups and in national languages, the Hungarian participants decided to focus on the Tisza River example, while the Slovenian group chose Krsko Paper Mill case.

The meeting participants then met in country-specific groups to determine, based upon the case studies and Needs Assessments, the issues they felt were most pertinent and which could be most successfully addressed through Project activities and outputs. When both groups met in plenary afterward, the selected priority issues were shared. The Hungarian priority issues included the clarification of vague legal terms governing the provision of environmental information; defining exemptions for information that should not be disclosed; the handling of non-disclosure decisions; and remedies for these decisions. The key Slovenian issues included vague legal provisions and exemptions, and the improvement of methods of managing and providing environmental data to the public.

2. First Hungarian Capacity Building Meeting, January 30-31, 2000

The first Hungarian capacity building meeting event was held in the town of Szolnok on river Tisza on January 30-31, 2001. The program of the workshop is found in Annex _____. As with all the meetings and workshops, the agenda was developed by the PIT in consultation with NGOs and government representatives to assure that it would cover the very specific issues of Hungarian concern and interest.

In preparation for the workshop, the PIT distributed early drafts of the Practices Manual, revisions of the Hungarian Needs assessment, the Tisza River case study example, and documents concerning the Aarhus Convention.

The workshop brought together 52 specialists, NGOs and businesses, in addition to members of the PIT from the REC, NYU, and RFF. The government officials came from regional environmental inspectorates, water directorates, municipalities, health, agricultural, plant and soil protection authorities, the Ministry of Environment and Ministry of Transport and Water Management. These meetings were conducted in the Hungarian language, with translation provided for non- Hungarian members of the PIT.

The meeting featured presentations on the implementation of the Aarhus Convention in Hungary; and how data collection and information flow are conducted within the Ministry of Environment and Ministry of Transport and Water Management. Each presentation was followed by roundtable plenary discussion. Specific break-out sessions examined how to handle exemptions, including commercial confidentiality; the public interest test for making a valid information request; lawful procedures for denying access to information, including appropriate grounds; and possible remedies in case of inappropriate denials. Various good practice examples and models from the US, EU and specific EU countries and former Soviet bloc countries were presented by the PIT throughout the plenary and break-out sessions. Based on the discussions held and the focus on information experience related to the cyanide spill on Tisza river and the following redemption process, participants identified specific Hungarian challenges for improving the system of accessing and providing information. Recommendations were made for the improvement of the system and flow of environmental and water-related information. The suggestions and comments of the participants were later reflected in the PIT's revisions of the Practices Manual and in preparation of the Hungarian Handbook for governmental officials, discussed in greater detail below.

3. First Slovenian Capacity Building Meeting, February 2, 2001

At the request of Slovenian participants at the Project Kick-off Meeting, the first capacity-building program in Slovenia focused primarily on changes and improvements in Slovenian legislation and institutional arrangements required to ensure adequate flow and provision of environmental and water-related information. A one-day capacity building workshop was held at the Ministry of Environment and Waters in Slovenia on February 2, 2001.

The 32 participants present at the meeting represented the wide range of government, NGO and private sector groups involved in the process of water and Danube-related information. These included the Ministry of Environment and Waters and its agencies, the Ministry of Justice, Ministry of Defense, Police, Legislative Drafting Service and the Information Center of the Republic of Slovenia, Office of Statistics and Office of Ombudsman as well as NGOs and independent legal experts.

As with the Hungarian capacity building meeting, the principal goal of the Slovenian workshop was to agree upon the obstacles to information access identified in the needs assessment and begin to develop solutions by clarifying and improving existing legal regulations and institutional arrangements. The meeting agenda included an introduction to the Project, a presentation of the standards established under the Aarhus Convention for information access and a discussion of the findings from the needs assessment.

Among the issues that were discussed were procedures used to ensure public access to environmental information; which categories of information should be considered as exempt from disclosure; problems of accessibility of information concerning business operations which cause a strain on the environment; and the improvement of practical and institutional arrangements for ensuring publicly accessible environmental information.

4. Second Hungarian Capacity-Building Meeting, June 14-15, 2001

The Second Hungarian national language capacity-building workshop was held on June 14-15, 2001 in Dobogókő. It brought together 52 participants from the ministry of Environment, Ministry of Transport and Water Management, Ministry of Justice, Ministry of Industry, Environmental Inspectorates, Water Directorates, National Health Office, the Office of Data protection Ombudsman, several municipal officers as well as business associations and NGOs.

The high degree of participation and productivity during the meeting reflected both the strong interest of the participants and the pre-meeting preparation. Many of the participants had attended the earlier Hungarian workshop and the kick-off meeting; some had clearly made efforts to become familiar with the Practices Manual. Among the participants were several people who had attended the study tour, and were fully versed in the ways that environmental information access is managed in Europe and in the United States. Their knowledge and interest was reflected in their numerous interventions. In addition, three of the study tour participants chaired sessions in the workshop.

The agenda for the workshop was developed by the PIT with a high level of involvement from the officials from the Ministry of Environment, Ministry of Transport and Waters and NGOs. Before the meeting, the PIT circulated a draft of the Hungarian Handbook on Public Access to Environmental and Water-related Information and Public Participation

prepared by the Hungarian Legal Consultant. The participants provided their comments and suggestions concerning the draft, which will be revised accordingly.

The introduction to the workshop included several presentations on the status of ratification and implementation of the Aarhus Convention in Hungary, public access to information aspects of the EU Directives related to water management and quality control and the current status of Danube River Basin projects. A representative from the Environment Ministry was able to report that Hungary had ratified the Aarhus Convention.

The Handbook for government officials was presented by Dr. Sándor Fülöp of the Environmental Management and Law Association (EMLA). In plenary and break-out group discussions, the participants made several suggestions with regard to making the Handbook more practical, specific and concise. It was generally felt that the Handbook should provide clearer guidance on the practical application of certain rules and procedures provided in the Hungarian legislation. These included the handling of the exemptions, forms of requests for information, costs of supplying the information, record management systems and consequences for the authorities when information provided is not correct.

The workshop provided not only a valuable input into the preparation of the Handbook for government officials, but also a venue for constructive dialogue between various authorities and associations with regard to problems of access to information and clarification of certain terms and procedures in use. The diverse range of participants ensured that the recommendations which came out of the meeting represented the views of different stakeholders in information provision and the Danube restoration process.

D. Second Slovenian Capacity-building Meeting, June 11-12, 2001

The workshop in Slovenia took place at the Ministry of Environment and Spatial Planning in Ljubljana on June 11-12, 2001. A significant responsibility for organizing the meeting was assumed by the main Slovenian Project participant, Nataša Anderlic, a key governmental official responsible for the Aarhus Convention ratification process in Slovenia, and by the country office of the REC³².

The agenda of the workshop was proposed by the Slovenian Project participants, supported by comments from the PIT. Approximately 30 experts from various ministries and NGOs participated in the workshop. As with the Hungarian workshop, the PIT was gratified to witness the level of commitment demonstrated by the Slovenians who had attended the Project study tour. They were leaders at critical junctures in the plenary discussions and contributed a number of ideas and thoughts which clearly reflected lessons-learned from their time in the Netherlands and the U.S.

³² This is particularly significant because the country office of the REC has initiated a number of activities to assure that the Project's goals are continued after it is officially ended. The country office has applied for and received funding for efforts from the British Foreign Ministry, and is also thinking of other ways in which it can work to continue the momentum achieved to date.

The main discussion at the workshop was focused on what reform is necessary to allow individuals to seek and obtain environmental information from the Slovenian government. It was agreed upon that Slovenia needed to address two significant challenges to the efficient provision of environmental information in the country. The first involves providing guidance on existing but ambiguous laws on how information should be provided, to clarify matters in ways that will strengthen government officials' ability to effectively provide environmental information on request from the public. The second is legal reform necessary to bolster the effectiveness of Paragraph 3, Article 14 of the Slovenian Environmental Protection Act, and to conform Slovenian requirements with the Aarhus Convention, and the EU Directives on Water Framework and Aarhus Convention requirements.

The meeting began and ended with plenary discussions. There were presentations on plans regarding the implementation of certain international obligations and EU directives, international trends regarding public access to environmental information and the implementation of the Aarhus Convention. The PIT made presentations on practical experiences, examples and options from western and CEE countries, keyed to the priority issues that were the focus on the meeting.

During the introductory session, the main issues discussed involved the forthcoming amendments of the EPA, presented from the government and NGO view point by _pela Macek-Gu_tin and Milada Mirkovic, respectively.

First, it was decided that the Slovenian government and NGO participants would draft guidelines for public officials explaining the implementation of existing but ambiguous laws. The participants were to develop these guidelines in time for their consideration during the final Project meeting in October 2001.

Second, since the aim of the meeting was to provide long-term advice to the management of the Ministry, the conclusions of the meeting were summed up in a short report and forwarded to the drafters of the amendments in the EPA. The amendments to the EPA will be prepared by the end of this year, and will conform Slovenian law with respect to the issues identified above and the relevant EU directives. The Project recommendations have provided input into the drafting of these amendments.

E. Final Plenary Meeting, October 1-3, 2001

A Final Plenary Meeting was held in Ig, Slovenia from October 1 – 3, 2001. This meeting afforded the opportunity for government and NGO representatives to present and discuss evaluations and lessons learned throughout the entire Project. Draft recommendations presented by the participants were based on the findings of the Project activities and contained specific issues for consideration by policy-makers for next steps regarding the improvement of legislative and institutional frameworks and practical matters in each country. The meeting was also attended by NGO and government official representatives from five other Danube Basin countries in political and economic

transition, Romania, Yugoslavia, Czech Republic, Ukraine and Bulgaria, and thus served as a platform to launch ongoing knowledge sharing between the Pilot countries and the rest of the region.³³

Next step recommendations focused on adoption of the Guidelines for clarifying the Environmental Protection Act (EPA) and on future legislative change. Representatives of the Ministry of Environment and Spatial Planning, including Radovan Tavzes, the State Secretary, responded very positively to the recommendations and stated that the Ministry would accept them as expert guidance for the EPA reform process.

The Hungarian recommendations included the adoption and dissemination of the Handbook for government officials and the Citizen's Guide for the public. In addition, the Hungarian NGO representatives presented a broad range of measures that should be considered for future development of public access to environmental information and participation in decision making. These included the creation of a help desk with computer access open to the public, the development of computing capacity through upgrading of hardware, software and training, a focus on enforcement and implementation of existing laws and the creation of a standardized central docket for receiving information. The Ministry representatives stressed the need to expand coordination among government ministries to include not only the Environment and Water Ministries, but also information from Ministries covering agriculture, domestic affairs, health, finance and justice. It was also suggested that there is a need to institutionalize training in the field of information provision, perhaps by establishing a professional career track within secondary education. In addition to data coordination among the Hungarian Ministries, government officials indicated a need to develop existing data bases and initiate technical data sharing at a regional level.

Both Slovenian and Hungarian participants discussed strategies for greater public outreach and awareness about rights to Danube related information and the procedures to access it. Suggestions on strengthening NGO networks, media contacts, and active civic consultation were made. The participants also expressed a strong sense that considerable momentum had been established through the Project that would lead to continued action from both NGOs and government officials to develop public access to environmental information on transboundary water pollution issues.

On the final day of the meeting, a core group of Hungarian and Slovenian participants worked with the representatives from five other CEE Danube countries to develop initial ideas on how the experiences and lessons of the Pilot Project could be replicated in their countries, and how intra-regional coordination could be strengthened. (See discussion in section E below).

F. Meetings and Exchanges Initiated by Hungarian and Slovenian Country Teams

³³ Participation of representatives from these countries was supported by supplemental funding from the New York foundation, Trust for Mutual Understanding.

Participants from both pilot countries, on their own initiative, conducted a number of meetings as well as a “mini study tour” to further the work initiated through the pilot project. Most of these activities were not organized by the PIT. Instead, they were largely planned by project participants to further the goals of the Project. These initiatives demonstrate the momentum generated by planned Project activities, the capacity built during the Project, and the high level of commitment to this shared enterprise displayed by participants of both pilot countries.

Meetings in Slovenia with High Level Officials to Discuss Guidelines for Public Officials

In March 2001, following the completion of the EU/US study tour, the Slovenian government participants prepared a report for high-level government officials describing the agenda and lessons learned from the tour. The report also contained observations and suggestions for utilizing the study tour experience to effect positive change in Slovenia. The principal suggestion from the report was that guidance (described earlier) be prepared to address existing but ambiguous law in Slovenia regarding the provision of environmental information to the public, and that recommendations be provided for amendments to the EPA to put the law in conformity with the Aarhus Convention and the EU Directives on information access and water framework.

This proposal was extremely important for two reasons. First, it addressed pressing obstacles to the provision of environmental information in Slovenia, namely that officials were hampered in their information provision efforts due to their inability to understand existing law, and that parts of the EPA were inoperable due to the lack of amendments. Second, included in the proposal was the suggestion that the NGO representative from the study tour, Milada Mirkovic, play a strong role in the preparation of the guidelines and in the development of recommendations. This suggestion fostered the type of NGO-government cooperation that the PIT believes is so essential to practically addressing obstacles to access to environmental information.

Following the preparation of the report, it was presented to high-level government representatives over the course of three short meetings. These meetings took place in April and May 2001 and were attended by the Slovenian State Secretary and Under-Secretary, and two key study tour participants, Nataša Anderlic of the Ministry of the Environment and Milada Mirkovic, an NGO lawyer. A government official charged with ensuring that all new Slovenian law and practice conform to EU standards was also part of the meetings. The Slovenian officials agreed with the report’s proposals.

Following these meetings, Ms. Anderlic and Ms. Mirkovic met repeatedly with the other Slovenian study tour participants to develop strategy for ensuring that the government officials would continue to support the development of the guidance and consider the recommendations for amendments to the EPA.

Meetings in Hungary

[To be supplied by REC]

“Mini Study Tour” in Hungary for Slovenian Participants

In September 2000, key Slovenian Project participants traveled to Hungary for a two day “mini study tour” to learn about Hungarian practices of providing environmental information and share ideas and experiences with their counterparts. Like the EU/US study tour, the Hungarian study tour was organized to provide both government and NGO perspective on the provision of environmental information. Members of both the governmental and NGO communities in Hungary made presentations to the Slovenian participants on Hungarian methods of information provision. Much of the tour was devoted to discussions between the Hungarians and Slovenians on strategies for providing information and overcoming obstacles to information provision in their respective countries.

One of the most successful elements of the Hungarian study tour was that it provided the Slovenian participants with a methodology for sensibly achieving certain of the recommendations that had been made to the government for amendments to the EPA. For example, one of the Slovenian recommendations involves the creation of a centralized office in the Ministry of the Environment for handling information requests. On the tour, the Slovenian participants had an opportunity to visit the Hungarian version of this office and gain insight into how a comparable version might be organized in Slovenia. Suggestions for accomplishing this were included in an internal report sent by Ms. Anderlic to the State Secretary upon her return to Ljubljana.

G. Study Tour in the U.S. and the Netherlands, February-March, 2001

Following the first set of capacity building workshops, four Hungarian and four Slovenian Project participants came together for the most intensive single activity of *Building Environmental Citizenship*, the European Union/United States study tour.³⁴

The agenda for the study tour was created to address the priority obstacles to access to environmental information that had been identified in the early stages of the Project. As this agenda was developed, the PIT began to identify Project participants who would best be suited to, and who would most benefit from the study tour experience. The selection of study tour participants happened in close consultation with the major Project partners in both Hungary and Slovenia. While criteria for selection was suggested by the PIT, the selection of the candidates was actually made by the respective country partners, the Hungarian and Slovenian ministries and NGOs. It was suggested that among the three government representatives, experts should be included who were involved in the practical aspects of Aarhus implementation and water information collection and dissemination. It was important that all participants, in addition to participation in the study tour, be prepared to make an active contribution following the tour regarding dissemination and use of the information gained and the lessons learned from the U.S. and Dutch systems in order to improve the Hungarian and Slovenian situation.

³⁴ For a more detailed discussion of the EU and U.S. study tour please see the “Outputs and Results” section of the Final Report. For detailed agendas of the EU and the U.S. study tour please see the Appendix to the Final Report.

In the course of the tour, Project participants visited the Netherlands and the United States to learn practical details of how the Dutch and American public gains access to government-held environmental information. The tour allowed the Project participants to learn about the challenges that two advanced countries with mature systems of information access have encountered in implementing access to information laws and procedures, the solutions that have been identified and the reasons why those solutions work in those countries. It was not designed as a general introduction to information access or to examine general principles. Rather, it was targeted and organized so that the Hungarian and Slovenian participants could very specifically learn what they might usefully adapt from the U.S. and Netherlands systems and experience into the respective programs they had chosen to develop.

The study tour continued the Project's methodology of providing the participants with an understanding of the practical realities of providing environmental information to the public, in every stage of the process from when a request for information is received to when a response is provided. In both the US and the Netherlands, the participants had an opportunity to visit with and learn from those involved in every aspect of environmental information collection, provision and use, from government managers of information, to the NGO advocates for greater information provision, to the consumers of information.

The Netherlands was selected as an EU-representative Member-State with a mature information access regime and considerable experience. In the Netherlands, the tour participants met with representatives of numerous government agencies which play a role in the collection and dissemination of environmental information, including the Inspectorate for Environmental Protection, the Institute for Inland Water Management and Waste Water Treatment and the Ministry of General Affairs. They had an opportunity to learn from their Dutch counterparts about existing legislation on access to information and methods for monitoring emissions and managing environmental information. The participants also had an opportunity to meet with representatives of the Ministry of Housing, Spatial Planning and the Environment, where they were briefed on internal activities with regard to ratification and implementation of the Aarhus Convention in the Netherlands. As in the US, the Dutch portion of the tour included interaction with NGOs involved in water pollution reduction and information dissemination efforts.

In the United States, the study tour participants met with officials of the federal Environmental Protection Agency, as well as corresponding state and local agencies in New York City and Washington, D.C. Meetings with counterparts in these agencies allowed the participants to engage in comprehensive and meaningful discussions about the collection, recording, monitoring and dissemination of environmental information. A portion of the tour was also devoted to a consideration of shared water bodies, including the Hudson River and the Chesapeake Bay, to offer insight into how different States share information and respond jointly to the interest of the public in receiving that information. This subject matter was particularly pertinent to the Project as there are numerous similarities between the intra-state issues faced in the US and transboundary

issues faced in Hungary and Slovenia with regard to water pollution. A major portion of the study tour was also spent meeting with representatives of US NGOs whose mandate is to reduce water pollution in the United States and who play an important role in assisting the public in obtaining and using information about water bodies and water discharges. These representatives were able to share methods and practices for assisting the public in accessing environmental information from the government; this subject was of particular interest to the Hungarian and Slovenian NGO representatives on the study tour. During these meetings, it was stressed that only through cooperation between NGOs and the government can effective pollution reduction be achieved, and that these two groups must work together to ensure that the public understands and exercises its rights to access environmental information.

The Study Tour disclosed a number of practical applications that the study tour participants thought could be adapted for use in Hungary and Slovenia. For example, the New York Regional Office of the United States Environmental Protection Agency has brochures to aid citizen understanding of the Freedom of Information Act (attached as Appendix --). Many U.S. Government offices have web-sites to assist individuals seeking information. In other instances, independent, non-governmental organizations have created citizens guides. These guides help citizens and citizen groups understand the basic ground rules for asking the government for information. They also offer standardized or form letters to speed the process of writing requests and to assure that information requests will not be rejected for procedural reasons, and offer advice on how to respond to a denial or pursue an appeal, if necessary.³⁵ The NGO country participants in the Project expressed strong interest in preparing and distributing citizens guides to achieve these same purposes and facilitate the opportunities of individuals to ask for information about water discharges to the Danube River and River Basin, and this interest led to the creation of the Hungarian Citizen's Guide.

The study tour proved to be a team building experience in which experts from Hungary and Slovenia worked together and pooled their information toward a common goal. Although each represented a different and distinct area of expertise for the development of information access systems, they came together in a common framework and developed important common understandings. The PIT was able to see the results of this in the June 2001 in-region meetings, when the study tour participants in each of the country meetings demonstrated their level of commitment and interest, sharing the ideas and concepts gained in the Netherlands and the United States.

H. Technical Assistance Activities

Another critical part of *Building Environmental Citizenship's* methodology was the ongoing provision of technical assistance by the PIT and its consultants to the Project participants as they engaged in the process of preparing the final Project outputs. These capacity-building efforts included ongoing consultations (in person and by telephone and e-mail), presentation of options for providing public access to environmental information

³⁵ The web sites of a number of government and NGOs offices are also listed in the Project's Practices Manual, making them easily accessible globally.

and the creation of the Practices Manual, and models to guide the creation of Handbooks for government officials and Citizens Guides.

Consultations

Early in the Project, the PIT created an electronic “list-serve” to facilitate communication among people in the region working on the project and on information access and Danube River Basin issues. Through this list-serve, the PIT has had a quick and inexpensive means to provide background information and to share experience. The list-serve has proved an efficient and cost effective method of communication and has aided in team building.

Throughout the course of the Project, the members of the PIT have been actively available as a resource to the Project participants. They provided guidance on the planning of Project meetings and the development of outputs, as well as written or oral responses to specific questions regarding access to environmental information and public participation regimes and options. The PIT provided a considerable amount of feedback, comments, legal review, and edits on each of the documents produced by Project participants, including the two Needs Assessments, the Hungarian Handbook and the Slovenian Guidelines.

A typical example of the PIT’s role as a resource involved a series of e-mails concerning legal issues that arose as a Slovenian NGO representative to the Project was considering how to formulate guidelines for the Slovenian government, a major Project output. Through exchanges over the course of several days, the NGO and the PIT clarified the problem. The PIT and the EU expert then provided options and discussion for resolution of the problem. In another such example, the PIT and the NGO drafter of the Hungarian Guidance exchanged extensive comments on his evolving draft, with the goal of producing a final document that would be as useful and understandable as possible. Several legal issues were identified and discussed, and there was considerable communication that assured that the product reflected a wide recognition of the government’s need for balanced advice about how to proceed with its responsibilities.

Although the internet is an excellent means for implementing a Project that brings together managers, consultants and participants from several different countries and time zones, the PIT discovered that engaging in regular conference calls by telephone was critical to maintaining effective communication among all Project players. Because of its immediacy, telephone contact can overcome problems associated with misunderstandings due to language differences and can promote more effective brainstorming and efficient problem solving than email. Additionally, because this was a very human capital intensive project, maintaining personal contacts via phone between international meetings was important for supporting the quality of those relationships, and ultimately, the smooth functioning of the Project.

Practices Manual and Options Memorandum

The Practices Manual is a unique compilation of practice examples from information access regimes in the Netherlands, other parts of the European Union, the United States and the countries of the former Soviet Bloc. The Practices Manual was a large undertaking. As Hungary and Slovenia and now other countries begin to develop appropriate laws and practical institutions for information access, the Practices Manual allows experts in each country easy access to a variety of options for carrying out their objectives, and allows them to gain an appreciation of why the policies and procedures were established as they were. In furtherance of this, the Practices Manual is a comprehensive document that includes options and examples for providing environmental information to the public from a diverse range of legal traditions, including the civil law countries of Netherlands, Italy, and the countries of the former Soviet bloc, and the common law tradition of the US. The subject matters covered include the management of confidential information; the active provision of environmental information; appeals of non-disclosure decisions; records management; charges for providing information; and separating disclosable and confidential information. The Manual includes a comprehensive index to make the 78 page document as user-friendly as possible.

The Practices Manual was created so that it could be used by the Project participants throughout the course of the Project in the development of outputs. But it was also anticipated that the Practices Manual would become a basic resource in any follow-on efforts in the Danube River basin, and would be made available electronically to anyone else who might be interested in examining implementation options.³⁶ The wider dissemination was accomplished on [date the practices manual goes on the web] by putting the document on the project website and by simultaneously informing about 600 individuals and groups worldwide interested in environmental information access issues about its availability.

In the further provision of technical assistance, the PIT prepared an options memorandum in July/August 2001 on the critical issue of the treatment of confidential business information by government agencies, for direct use in the preparation of the Hungarian and Slovenian Project measures. This memorandum responded to the specific interest of the Hungarian and Slovenian Project participants in refining their systems of protecting sensitive commercial information from public disclosure. It includes explanations of why certain commercial information may warrant protection; ways to balance the public's right to know about pollution with privacy interests of industry; and lessons on these issues from the US. The options memorandum is available on the Project's web site, as well.

Model Guide for Officials and Model Citizens Handbook

³⁶ At numerous points during the second half of the Project many Project participants, including those who had not participated in the study tour, demonstrated through their active participation that they had studied the Manual and the degree to which doing so had increased their understanding of information access laws and procedures in other countries.

The PIT also created two model documents for the Hungarian and Slovenian participants to use as they worked on their national versions of Guidance and a Citizen's Handbook. These documents provide examples of the kind of practical question-and-answer format that works best for providing pragmatic, sound advice for busy government personnel, and for lay citizens who seek responses to their inquiries. The model Guidance also contains 18 sample forms and letters to facilitate responses by busy government employees. Sections in the model Guidance and Handbook where Hungarian and Slovenian-specific information should be inserted are marked, in order to facilitate adaptation and use of the models. This reflects the recognition that practice in the United States and Netherlands can provide guidance to the Hungarian and Slovenian efforts, but that ultimately the efforts must reflect national laws and policies. These models were also placed on the Project's website.

The Model Guide for Government Employees

A "Model Guide for Government Employees, Concerning the Processing of Requests for Environmental Information" was adapted from U.S. EPA's Freedom of Information Act Manual (1992 Edition), formatted so that country-specific information can be inserted. Examples from U.S. law and practice are provided to suggest and provide ideas and guidance, and stimulate thought about various ways to handle specific challenges. However, it is understood that each country must develop its own policies and laws to fit its own needs. Each part of the Handbook that has information specific to U.S. practices is highlighted in yellow, to alert the reader.

Many of the issues that are addressed in the Handbook require government decision makers to make policy judgments specific to the needs of their own country and circumstances. These will evolve over time with experience and practice in the art and science of information access. We therefore recommend both in the document and in this Final Report that the Handbook be considered a "living" document, and that sections be amended and updated or deleted (and the U.S. information deleted) as specific country policies and practices are formulated.

The Model Citizen's Guide

A "Model Citizen's Guide" for requesting environmental information from government offices" was adapted from a document created by a United States NGO, the American Civil Liberties Union, an organization concerned about individual rights and liberties.³⁷

³⁷ Their document is called *A step-by-step Guide to Using the Freedom of Information Act* (November 1997) and was put on the web specifically to encourage the public to use the U.S. Freedom of Information Act Consistent with its interest in encouraging all people to use the U.S. Freedom of Information Act, the ACLU web site "freely grants" permission to create record or reference copies of pages of this web site for research and study, and to download, print, and make copies of these materials for research, teaching, and private study. Many of the materials on the site are designed to be printed and distributed locally for purposes of activism, and may be distributed widely through noncommercial print reproduction as long as they provide proper attribution. <http://www.aclu.org/library/foia.html>

The PIT's adaptation involved changing the orientation of the guide from an emphasis on accessing information held by the U.S. government concerning individuals (e.g. Federal Bureau of Investigation dossiers; information concerning public figures like Martin Luther King, and the assassination of John F. Kennedy). The guide was re-worded to emphasize its use to obtain environmental information, and specifically information about discharges and other issues related to the Danube River and River Basin.

The Guide is prefaced with a quote from Hungarian Mihály Horváth, *The Progress of Democracy in our Country* (1841), concerning the need in a free government for open information, and provides a space for a similar quote from Slovenian history. The Guide is formulated in a Question/Answer format in order to take individuals and citizens through the entire process of information dissemination. An attempt was made to use clear, understandable language, and to anticipate questions. Where local practice or experience is lacking, examples are provided from the United States, highlighted in yellow to be clear that these are U.S. and not Hungarian or Slovenian information. These can easily be removed, and Hungarian or Slovenian-specific information inserted.

The Guide also contains two model request letters. One is a "bad" letter indicating where substantial improvements can be made. The other is a "good" letter, showing how to write a clear, understandable and non-refutable request letter. The Guide also discusses the appeals process for incomplete responses or outright rejections, but it tries to provide practical advice about how to go about evaluating government responses and deciding on whether to pursue legal relief. A third model letter indicates the kinds of language to use when requesting an appeal of an adverse or incomplete decision. Finally, the Guide encourages citizen groups that use it to clearly identify themselves in the brochure.

I. Dissemination of Project Outputs and Results and Coordination With Other GEF/Danube Programs

Website

In order to assure that project results and practical tools reach a wide audience of users, the Pilot Project developed a website. The very substantial published results from the Pilot Project are available at:

<http://www.rec.org/REC/Programs/PublicParticipation/DanubeInformation/Outputs.html>.

To summarize, they include:

- Needs Assessments for Hungary and Slovenia with detailed analysis of the laws and practices in each country and identification of the specific challenges facing each country;
- Case study material for each country, with concrete examples of situations that draw the connection between Danube pollution, resolution, and information access;
- The Practices Manual including reference information from the United States, Europe (with special emphasis on the Netherlands), and nascent practices in the countries of the former Soviet bloc;

- Hungarian guidance for government employees, specifically containing information relevant to that country;
- Citizens' guides prepared in Hungary and Slovenia;
- Analytic materials providing options for the implementation of various aspects of information access; and
- Models to help countries prepare guidance for government employees responding to citizen requests and to assist NGOs in preparing citizens' guides on requesting environmental information;
- Other materials prepared in the technical assistance phase.

Publication and Dissemination of the Practices Manual and Final Report

The Practices Manual was created so that it could be used by the Project participants as a reference throughout the course of the Project. But, as noted, it was also anticipated that the Practices Manual would become a basic resource in any follow-on efforts in the Danube River basin, and would be made available electronically to anyone else who might be interested in examining implementation options. The Final Report will be widely disseminated to a network of government officials, governments, inter-governmental organizations, NGOs, academicians and others able to promote the Danube restoration effort. The Report will be available on the website, and an effort will be made to distribute it to stakeholders and project managers in other river basin regions with an interest in promoting public involvement in transboundary pollution reduction. In addition to placing the document on the website, wider dissemination was accomplished by the publication in order to provide printed copies to interested government officials and NGOs in Slovenia and Hungary, as well as to their counterparts throughout the Danube region.

Meetings with Other Danube Country Representatives

Dissemination of the Pilot Project activities and results has been especially targeted to the other countries in transition in the Danube Basin. A major goal of the Pilot Project was to test methodologies and develop activities and measures that could be replicated throughout the region. To that end, in addition to the general dissemination efforts described in this section, the PIT has taken several steps to ensure that there is a concrete transfer of knowledge from the pilot countries to other countries in the region.

October 2001 Meeting

Government and NGO representatives from five additional Danube countries, Romania, Bulgaria, Yugoslavia, Ukraine, and Czech Republic, attended the final meeting of the Pilot Project.³⁸ In that meeting, the new participants learned about the Pilot Project and observed discussions of results and recommendations for next steps in Hungary and Slovenia. Members of the new group of countries participated in plenary discussions and break-out groups with the Hungarian and Slovenian participants, during which they were

³⁸ As noted, the participation of representatives from these countries was supported by supplemental funding from the New York foundation, Trust for Mutual Understanding.

able to observe the two teams at work and ask questions. On the final day of the three-day meeting, the new participants discussed their particular needs and problems and received feedback and in-put from the pilot country participants.

The final day concluded with a brainstorming session with the core group of Hungarian and Slovenian participants and the new group, sharing ideas on how to proceed with a more broad-based follow-on project in the region. This session produced a number of useful suggestions, including strategies to address the following:

- specific transboundary water-related information problems between two or more countries, with Hungary and/or Slovenia taking the lead;
- sharing and adaptation of the Guidance materials developed in the Pilot Project;
- enhancing support for government agencies charged with collecting, sorting and disseminating information;
- fostering more active information dissemination initiatives;
- expanding outreach efforts within countries using media, NGO network building, and government public relations;
- deepening connections with regional water initiatives, including the EU, DEF, NATO and other international initiatives.

Spring 2002 Meeting

The PIT is planning a second meeting to continue this knowledge sharing for the Spring of 2002.³⁹ Government and NGO representatives from the nine additional Danube countries in transition (Czech Republic, Slovakia, Croatia, Bosnia-Herzegovina, Yugoslavia, Romania, Moldova, Bulgaria and Ukraine) will be invited to engage a core group of Pilot Project participants for several days of intensive information exchange and brainstorming of follow-on activities. Based on the success of the October meeting, it is anticipated that this meeting will significantly aid in dissemination of Pilot Project results to other countries in the Danube region with an impact on Danube pollution. The meeting is also expected to have considerable influence on the ongoing process of Aarhus Convention implementation in the Danube region. This second knowledge sharing meeting will be an important opportunity to continue the Pilot Project momentum of promoting public involvement in transboundary water pollution reduction.

Outreach to GEF International Waters Program and Danube Regional Organizations

A number of linkages have been established between the project and other activities related to the Danube river basin, as well as other initiatives on water or public participation related activities.

GEF IW Meeting

In October 2000, the PIT traveled to Budapest to attend the GEF International Waters Conference. At the conference, PIT members participated in several panel discussions.

³⁹ The Trust for Mutual Understanding has provided partial funding for this second meeting.

Specifically, members of the PIT discussed the importance of public access to environmental information and participation in environmental decision making as a component of the protection of international waters, and how access to information can help achieve the goals of GEF IW projects. They also shared information about the Pilot Project with other participants and distributed a written description of the Project. The members of the PIT received excellent feedback from the conference sessions, and learned a great deal about possible synergies between this project and other GEF IW projects.

IW/Learn and WRI

The PIT also actively engaged the International Waters community through participation in the IW/Learn interactive website designed to promote dialogue and information exchange. Members of the PIT acted as experts for IW/Learn's module on public participation by sharing experiences from the Pilot Project and responding to submissions from other International Waters participants. The PIT also participated actively in meetings in Washington, D.C. and another on-line discussion concerning public access to environmental information, hosted by the World Resources Institute. The PIT has used these opportunities to provide specific information about the Pilot Project and electronic citations to facilitate access to the Project's outputs.

Regional Organizations

Throughout the Pilot Project, the PIT has been in contact with the International Commission of Protection of Danube River (ICPDR). The initial Project design benefited from input and comments from the ICPDR, and we have kept the Commission informed to avoid overlap with their planned activities. The results of the Project will be shared with them and will be offered for use in the overall public access to information strategy and practice of ICPDR.

Additionally, the PIT, through the REC, has participated in several regional meetings, where it presented the experiences of the Pilot Project and exchanged information and strategies with regard to stakeholder needs and involvement, and information dissemination strategies and tools. These meetings included the River Basin Initiative Design Workshop, held in the Netherlands in May 2000, and the International Danube Conference organized by GLOBE in June 2001. At the GLOBE conference, parliamentarians (MPs) and government experts from the Danube countries, representatives of the Danube Commission, the ICPDR, the Council of Europe and several international NGOs exchanged experiences about the recent developments in the Danube River Basin, and the MPs developed a network for communication.

Finally, the PIT is disseminating Project results through relationships with WWF-Hungary and WWF International, and in particular with their project related to the EU Water Framework Directive. The WWF-Hungary representatives participated in the project kick-off meetings as well as in other meetings held in Hungary and contributed significantly with their experience in Danube matters to the project design and

implementation. The REC representative participated in the Workshop on Public Participation in Implementation of the Water Framework organized by WWF and shared the experiences learned during the project implementation.

F. Final Report

This Final Report is the culminating document of the Pilot Project. Conceived to serve as a comprehensive review of all Project outputs, activities, and measures, it also serves as an evaluation of the potential replicability of the Project approach and methodology and activities for other CEE countries that impact the environmental health of the Danube Basin/Black Sea. The Report will be distributed to key government officials, NGOs, academicians and others in the region and in other river basin regions who can impact the promotion of public involvement in the reduction of water pollution. It will also be available on the Project website along with the other Project documents listed above in Section E.

Section X. Project Outputs and Results

The Pilot Project successfully produced the outputs anticipated at its inception and thus was able to accomplish its major objectives.

Output 1: Identified legal, institutional, and practical barriers to public access to environmental information to support public involvement in Hungary and Slovenia in furtherance of Danube pollution reduction goals.

The Project successfully generated this output by identifying the significant legal, institutional and practical barriers to public access to information relevant to reducing discharges of nutrients and toxics to the Danube River, through Needs Assessments conducted for Hungary and Slovenia. Key barriers identified in the Needs Assessments were further illustrated through Case Study Analyses of actual situations in each country. The case studies examined and illuminated difficulties in accessing information relevant to reducing or preventing discharges of nutrients and toxic pollutants to the Danube in the context of specific Danube “hot spots” identified through the GEF Danube program. The barriers identified through the Needs Assessments and case study method are detailed in Section VIII of this Report.

The successful completion of this output resulted in a clear understanding of the obstacles that needed to be overcome in order to increase public access to environmental information in the pilot countries and a firm basis on which Project participants could begin to develop measures for addressing these obstacles. Completion of this output further resulted in the production of two documents that can serve as models for undertaking country-specific assessments of barriers to public access to water-related environmental information in other countries in political and economic transition in the Danube River Basin.

Output 2: Improved capability of Hungarian and Slovenian public authorities to provide public access to environmental information and related opportunities for public participation.

Throughout the course of the Project, the PIT engaged in a series of activities, described in detail in Section IX, to build the capacity of the Project participants to address barriers to access to environmental information as identified in the needs assessments. These capacity building activities resulted in an increased understanding on the part of the participants of how to develop and implement measures that will increase public access to environmental information in support of the goals of Danube restoration efforts. In-region meetings were a major component of capacity building. The meetings provided the PIT with an opportunity to engage and work directly with the Project participants, answering questions and providing options and recommendations for resolving the identified obstacles to information access. These meetings accomplished an additional goal: to encourage a team mentality among the participants from each country. This team mentality also increased the participants ability to develop practical solutions, as it made them more focused and provided them with a better framework for developing measures

to promote access to environmental information. Both the participants' understanding of the issues involving information access and their team framework were reinforced through the US/EU study tour, in which key participants had an opportunity to learn first-hand about well-established access to information regimes and devise methods for adapting them to meet the circumstances of their respective country situations.

Capacity building was also accomplished through written examples and options of good practices for providing access to environmental information, provided by the PIT, and keyed to the priority issues identified by the participants through the needs assessments and early in-region meetings. These materials included the Practices Manual, the Options Memorandum on Confidential Business Information, and the two model documents for providing practical guidance to government officials and to the public. Capacity building was also a result of the PIT's process of providing detailed and extensive comments on the various written products produced by Hungarian and Slovenian Project participants; the give and take surrounding the creation of the Needs Assessments and the various country-specific documents was highly substantive and resulted in a mutual learning experience for all involved. Finally, the extensive e-mail and telephone communications concerning specific issues also had significant elements of capacity building.

During the course of the Project, significant improvement has been observed in the knowledge and capability of the officials and NGOs who have been involved in the in-country teams or participated in the Project activities, including the in-region capacity building workshops and the Study Tour. The Project participants were quick to identify priority problems and to identify and apply appropriate solutions to strengthen the implementation of public access to environmental information regimes in their countries; they also demonstrated a growing understanding of the solutions and practice experienced in the other countries that were visited and examined, and of what would be necessary to adapt that experience into their own countries. The Project participants demonstrated their impressive motivation to initiate positive changes, whether in laws, institutions or practices in each of their countries.

Output 3: Appropriate legal, regulatory, and policy recommendations in support of public access to environmental information identified, drafted and under consideration for adoption by policy makers in Hungary and Slovenia.

The first stage toward developing recommendations through the Project was to provide the participants with examples of good practices so that they could view first hand how these practices work in real-time. This was accomplished, as described above, through the in-region capacity building meetings and the EU/US study tour and the distribution of various written materials, described above.

Legal and policy recommendations have been developed by the Project participants for both Hungary and Slovenia. As described in detail in Section IX, these include for Slovenia Guidelines for public officials clarifying current Slovenian legal requirements on provision of environmental information to members of the public. The Slovenian

Guidelines have been finalized and will be adopted very quickly by the Ministry of the Environment (a Ministry Official indicated that this would take place within three months). The Guidelines clarify procedures for responding to public requests for environmental information, institutional arrangements for providing information to the public and practical issues involved in public access to environmental information (e.g., charges for providing information and deadlines for responding to requests), and resolve definitional issues and establishing rules and procedures for handling confidential business information. The Slovenian Project participants also prepared recommendations for improving the law to meet the standards of the Aarhus Convention and EU Directives on public access to environmental information and Water Framework requirements. These recommendations will be used as the Slovenian Environmental Protection Act is amended.

The Project participants in Hungary developed a very different set of Guidelines for public officials. These Guidelines are extremely comprehensive. They describe the standards required for access to environmental information in international law and the status of law in Hungary, and attempt to clarify ambiguous law and procedures for Hungarian public officials charged with providing environmental information. The Hungarian NGO Project participants also developed a Citizen's Guide which will be printed and distributed to the public, and which will inform citizens of their rights to access environmental information and how to go about doing this most effectively.

Output 4: Key Government and Non-Governmental stakeholders trained in development of well-functioning public access to environmental information and public involvement programs.

As described above, the training of governmental and non-governmental stakeholders in the provision of environmental information has taken place throughout the process in the in-region meetings, the study tour, the creation of Project documents and through the provision of technical assistance and technical assistance materials.

Although they came from very different disciplines and equipped with a wide variety of skills, all of the Project participants were trained together in methods of effective information provision. The participant groups in all of the in-region meetings and the study tour included representatives of numerous government agencies (including those in charge of environmental protection, information and transport) and NGOs. Certain of the in-region workshops included representatives of industry, including trade unions.

The PIT did not distinguish between government and non-governmental participants when it provided technical assistance. As a result of this strategy, the governmental and NGO Project participants formed close professional bonds that, in some cases, had not existed before, and were able to work together to develop solutions to obstacles to access to environmental information.

Output 5: Lessons learned, materials developed, and recommendations made and disseminated concerning replicable elements of pilot program.

The lessons learned from the Pilot Project have been recorded in Section XI of this Report.

Recommendations concerning replicable elements of the Pilot Project can be found in Section XII of the Report.

At the final in-region plenary meeting held in Slovenia in October 2001, a good portion of the meeting was devoted to a discussion of lessons learned from the Project. Moreover, the meeting included governmental and NGO participants from other Danube countries who exchanged ideas for utilizing the lessons learned from the Pilot Project in a more broad-based follow-on effort.

Other Results

Other results of the Project include the beginning of a process to transfer of knowledge and lessons learned from the Pilot Project to other similarly situated countries in the Danube basin. As mentioned above, the final plenary meeting included participants from other Danube countries and initiated a discussion of adapting the lessons learned from the Pilot Project on a wider scale. However, throughout the course of the Project the members of the PIT have made efforts to share the Project experiences with as wide an audience as possible. Members of the PIT participated in the GEF/International Waters conference held in Budapest in October 2000. Members of the PIT also served as experts in the IW/Learn on-line dialogue on public participation, and attended meetings and participated electronically in WRI's project on Aarhus indicators. The PIT has worked hard to disseminate all of the materials produced through the Project via the Project web site. These materials are, consequently, widely and easily available. A wide distribution of the Final Report is planned.

The PIT has developed a PDF-B for a full-scale follow-on effort in 9 other Danube countries, based upon the approach and methodology of the Pilot Project. The PDF-B is pending GEF approval.

Section XI. Lessons Learned and Conclusions

A. Lessons Learned

1. The Project Approach and Methodology Were Appropriate for Achieving the Stated Objectives

The Project Objectives

The Project's approach and methodology have proven effective in the achievement of the Project's stated objectives. As further detailed in Section III of this Report, these objectives included the following:

- To identify the most pressing legal, institutional, social and practical barriers to and opportunities for implementation of public access to environmental information
- To build capacity to establish the legal, institutional, and practical infrastructure that is a prerequisite to increasing informed and meaningful public participation to support efforts to protect the Danube from discharges
- To identify good legal, institutional and practical options and practices for improving public access to water-related environmental information, and developing concrete measures to effect policies, legislation and regulations to address these barriers and seize on opportunities
- To field test specific, replicable public involvement measures to address discharges to the Danube through a case study that demonstrates how such measures can further the goals of the SAP
- To recommend follow-up actions to ensure the transfer of lessons learned in the Pilot Project and replicable elements to other Danube countries in CEE
- To strengthen inter-governmental and government-to NGO cooperation and partnerships to enable joint learning on viable approaches to public involvement

The Project approach was appropriate for achieving the stated objectives

The approach adopted in the Pilot Project included three related aspects: "country-driven"; "bottom-up" and practical; and replicable elsewhere but tailored to participating country needs. Each of these aspects contributed significantly to the achievement of the Project's objectives.

An important lesson of the Pilot Project is that initiatives in the region that seek to develop measures to increase public access to environmental information and increase capacity are most likely to be effective and sustainable if they are predicated on a country-driven approach. This approach provides the necessary framework for participants to take the lead in developing these measures and in shaping the capacity building activities that are needed to support their development.

The Project successfully initiated this country-driven approach at the very outset of the project by establishing country teams that included government officials at different levels of government and from both water and environment agencies, as well as NGOs. These teams represented a broad range of skills and points of view, and their diversity helped ensure that measures including the guidelines for public officials, citizens guides and recommendations for legislation ultimately developed through the project would be useful for-- and acceptable to-- both citizens seeking and government officials responding to requests for environmental information.

By following this approach from the start, the Project was able early on to develop a consensus among the participants on the most pressing legal, institutional, social and practical barriers to and opportunities for implementation of public access to environmental information in their countries and a common starting point for work to develop specific measures to address these. The Project's support for participant-led project initiatives development also proved to be instrumental in enabling the participants to utilize capacity built through the project to develop guidelines for public officials in both countries, to develop recommendations for new legislation in Slovenia, and, in Hungary, to produce a citizen's handbook. All of these new measures to improve public access to environmental information in support of Danube pollution reduction were conceived by the participants and formulated to directly respond to the most significant barriers to public access to environmental information identified by them during the needs assessment phase of the project. The Pilot Project experience also underscores the importance of working in a "bottom-up" and highly practical manner to develop measures that can actually be implemented in the participating countries and that will meet the real needs of the country participants. Measures developed through the project, such as the guidelines for public officials, address a variety of very practical problems encountered by government officials who receive requests for information, including how to respond to citizen requests for environmental information, what to do if the information requested may reside with another agency, whether to charge citizens for providing the requested information, and how to handle requests for potentially non-discloseable information.

Similarly, the citizens' guide in Hungary will give NGOs and members of the public practical information on such issues as: how to exercise their rights to receive environmental information, how to formulate requests for information, and where information relating to Danube pollution can be found. Both the Project participants and the PIT believe that establishing clear guidance on how to handle these and other legal and practical questions will greatly improve the provision of environmental information to citizens and facilitate their involvement in protecting the Danube. The Project's approach of identifying options gleaned from "good practices" in the U.S and other countries with experience and expertise in providing public access to environmental information enabled the pilot project to develop models for potential measures to improve public access to environmental information that could be used by both pilot countries, but also tailored to meet each country's individual needs. The usefulness of these models to participants was demonstrated through their substantial reliance on the Practices Manual and the view expressed by many participants that activities such as the Study Tour greatly improved their ability to identify options and develop measures for resolving problems with access to information in their home countries. Thus, the PIT believes that an

important lesson of the pilot project is the effectiveness of exposure to “good practices” in other countries to further the development of public involvement measures in CEE. In addition, because many of the barriers to public access to environmental information are shared in common by the two pilot countries and by many other countries in the Danube region as well, the PIT sought to identify options to address barriers to access to environmental information that would have potentially broad applicability. As a result, the PIT believes that the measures developed in Hungary and Slovenia can serve as useful models for other CEE countries in the Danube River Basin.

The Project methodology was appropriate for achieving the stated objectives

The application of a methodology that consistently supports the goals of the Project approach is important to successful project implementation. The methodology utilized throughout the Project complemented the Project approach described above. It was conceived to make certain that the Project approach would meet the stated objectives, both in Hungary and Slovenia, as well as in the greater Danube region, and in this was successful. The successful implementation of the Pilot Project indicates that the following four-tiered methodology is appropriate for this type of Project.

The first stage of the methodology involved problem identification through analysis of existing Hungarian and Slovenian laws and practice for information access, with specific emphasis on the accessibility of information about transboundary water discharges. This problem identification was performed by local environmental legal experts and consultation with Project participants to ensure the desired country-drivenness and “tailoring” to the pilot countries’ respective situations. As stated above, through this country drivenness and tailoring, the Project objective that barriers to access to environmental information specific to each country identified, and concrete measures for addressing these barriers be developed, was achieved.

The second stage of the Project methodology involved the identification of options for addressing the identified problems with access to environmental information in Hungary and Slovenia. This was achieved through the use of comparative analysis and experience in different countries (including the US, EU-Member-States and CEE nations) to assure identification of a variety of good practices and potentially applicable measures. This second phase of the methodology, which was accomplished in part through the production of the Practices Manual, the in-region workshops and the EU/US study tour, was essential for achieving the Project objective that measures be created to address the barriers to access to environmental information.

The third stage of the Project’s methodology was to use case studies to provide a grounded local “reality check” to the efforts in each country. The PIT anticipated that if the Project outputs identified solutions in such real factual settings, there would be a greater problem-solving motivation and the solutions chosen would be more realistic and capable of implementation. Consequently, the use of case studies also assisted in meeting the Project objective of field testing specific, replicable public involvement

measures to address discharges to the Danube. Please see heading 7 below for a detailed discussion of the lessons learned involving the use of case studies in this Project.

The final stage of the Project methodology was to use technical assistance as a means of achieving capacity building. This technical assistance was provided on an on-going basis, both in person at in-region meetings and during the study tour, and through written materials such as the Practices Manual, Options Paper on Confidential Business Information and Models for preparing guidelines for public officials and citizens. This methodology helped to build capacity among the project participants, provide options for improving access to environmental information and set the stage for the development of concrete measures to address obstacles to information access in Hungary and Slovenia.

2. Stakeholder and Public Involvement Were Appropriate for Achieving the Stated Objectives

An important lesson learned through the pilot project is that NGOs, as primary end-users of environmental information and key actors in Danube restoration efforts, must be integrated into all aspect of the capacity building effort and directly included in the process of developing public access measures. Indeed the PIT believes that NGOs are one of the most important stakeholders in any effort to in promote more effective access to environmental information. Similarly, it is the public, again represented by NGOs, which is most effected by water pollution and must play the greatest role in the restoration of the Danube. The Project was careful to include NGOs in all Project planning, decision making and development of measures to address obstacles to access to environmental decision making. NGOs were heavily represented at all in-region Project meetings, were included in the EU/US study tour, were in regular communication with the PIT during the planning of all Project developments and played a strong role in the development of the Project measures. Indeed, the Hungarian Citizen's Manual was prepared by a consortium of Hungarian NGOs and reviewed and commented on the draft guidelines for public officials in both pilot countries and the legislative recommendations in Slovenia.

The Pilot Project also confirmed that any effort to reduce transboundary pollution to a major waterway requires broad-based cooperation and should include in all of its activities diverse stakeholders with concern and responsibility for the protection of water, and the Danube in particular. The PIT was careful to include in Project activities representatives from diverse sections of society, including government ministers, managers of other water restoration projects, NGOs and representatives of industry. Officials from numerous government agencies from Hungary and Slovenia, including those involved in communications, the environment, water and transport were represented in every in-region Project meeting, attended the EU/US study tour and were in regular communication with the PIT during all discussion regarding the planning of Project activities and measures. The in-region meetings were attended as well by representatives of industry, including trade union representatives. The use of diverse stakeholders in the Project resulted in the identification of obstacles and the production of measures that took into account the interests and needs of different sectors of society, all of whom have a stake in the provision of environmental information and the restoration

of the Danube. This stakeholder and public involvement achieved the Project's objective of strengthening inter-governmental and government-to NGO cooperation and partnerships to enable joint learning on viable approaches to public involvement.

An important lesson from the Pilot Project that will be applicable to future efforts in the region concerned overcoming logistical and structural barriers to early and effective involvement of representatives from all levels of government ministries, industry and other important stakeholders. Project participants observed that the demands of competing work commitments and the full integration of high level government officials would be most effectively managed with the engagement of stakeholder commitment through awareness raising and work organization at the earliest possible stage, preferably before the initiation of the Project itself. This could ensure that all interested stakeholders are fully engaged from the very beginning of the Project, with core teams already in place. A preliminary pre-Project development period in which all relevant stakeholders are identified, receive initial training on the issues, and form committed teams would be a useful means to enhance the effectiveness of stakeholder participation.

3. The Project activities were effective in producing the anticipated project outputs

The Project activities have been diverse and have taken place over the entire course of the Project. They have been successful in the achievement of the Project's expected outputs.

These outputs include:

- identified legal, institutional, and practical barriers to public access to environmental information to support public involvement in Hungary and Slovenia in furtherance of Danube pollution reduction goals;
- improved capability of Hungarian and Slovenian public authorities to provide public access to environmental information and related opportunities for public participation;
- appropriate legal, regulatory, and policy recommendations in support of public access to environmental information identified, drafted and under consideration for adoption by policy makers in Hungary and Slovenia;
- key governmental and non-governmental stakeholders trained in the development of well-functioning public access to environmental information and public involvement programs;
- lessons learned materials developed and recommendations made and disseminated concerning replicable elements of the pilot program.

Needs assessments and case study analyses are useful tools to identify obstacles and opportunities

The Pilot Project found that the use of a country-driven needs assessment could produce a thorough depiction of barriers to public access to environmental information and opportunities to address those obstacles. Thus, the first Project output was accomplished through the production of needs assessments and case study analyses for Hungary and

Slovenia by the Project's local consultants and in-region participants. The needs assessments provided a comprehensive picture of the barriers to public access to environmental information in Hungary and Slovenia, and presented opportunities for besting these obstacles. The needs assessments provided a wide-ranging and firm basis for all of the following Project activities. They furthermore began the process of "distributing ownership" to the Project participants; by involving them in the preparation of the needs assessments, the participants were given an opportunity to frame the scope of the Project based upon their local expertise. They determined the most pressing obstacles relating to access to environmental information, and so were in a position to continue working with the Project to determine the most effective means of addressing these problems.

In order to place the obstacles identified in the needs assessments in a more "real-world" context, the Project consultants, in collaboration with the in-region participants, prepared an analysis of case study examples, to demonstrate how the obstacles to information access actually manifest themselves. A more detailed discussion of the usefulness and role of the case studies in the Project can be found later in this Section.

In-region meetings, a study tour and technical assistance were useful activities to improve capability to provide public access to environmental information and related opportunities for public participation:

The second Project output, involving the improved capacity of Hungarian and Slovenian public authorities to provide environmental information, was accomplished primarily through the Project's in-region meetings and the EU/US study tour.

In-region meetings

The PIT found that the in-region meetings were a useful means to improve the capability of the Project participants to encourage the more effective provision of environmental information in their respective countries.

The chief goal of the in-region capacity building workshops was to build the skills of the different stakeholders who were present in providing or accessing water-related information. At each of the meetings the PIT provided technical assistance to the participants, engaging and working directly with them, providing options and recommendations for resolving the identified obstacles to information access and answering questions. Throughout this process, the PIT encouraged the participants to move towards the goal of determining specific methods for addressing the stated obstacles to the provision of water-related information. These meetings were invaluable to the development of the concrete measures for Hungary and Slovenia.

The in-region meetings were a team-building experience for the participants, as well; this team mentality was invaluable to the successful achievement of the Project objectives. It increased the participants' ability to devise practical solutions to obstacles to access to

environmental information and provided them with a better framework for developing measures to promote access to environmental information.

The Study Tour

The Pilot Project demonstrated that study tours are a key component to the success of capacity building efforts. The study tour to the U.S. and the E.U. strongly bolstered the capability of the participants to address obstacles to access to environmental information in their own countries. The participants were provided with an opportunity to take part in a series of carefully crafted meetings with leading U.S. and E.U. environmental law experts, government officials in charge of providing water pollution information to the public, government experts in information systems creation and management and environmental NGO representatives who rely on publicly available information to impact environmental decision making and empower communities to play a role in that decision making.

A well-crafted study tour should provide a basic understanding of the "nuts-and bolts" of how access to information regimes are constructed and implemented - from laws to daily practices. The Pilot Project carefully devised an intense schedule of meetings that gave the study tour participants exposure to the managers, generators, and consumers of environmental information, with a particular focus in the United States on information about shared water bodies such as the Hudson River and the Chesapeake Bay. Perspectives were gained from numerous government officials at the federal, regional, state and local level, as well as from the non-governmental community, the press and private industry. We looked at how records management systems and request tracking systems are put into place and the significance of these very basic systems for information dissemination. We examined the internal government process for managing and responding to requests, and for assuring prompt, accurate replies, including standardized forms. A further important issue for the tour participants was the classification of confidential materials, and standardized processes to review such information to avoid accidental releases. The study tour participants returned to their countries with a large number of source documents, U.S. practice manuals and other materials that are being used in their local efforts to put effective practices into place.

All of the study tour sessions featured a great deal of interaction among the participants, the people making presentations and with the PIT. Time was also reserved throughout the study tour for the participants to consider and discuss the lessons they had learned to date, and to examine the transferability of those lessons to their respective home countries in the context of reducing transboundary pollution to the Danube.

At the conclusion of the study tour, the PIT received very positive feedback about the breadth and quality of the presentations. It was a consensus opinion of the group that many of the lessons learned concerning Dutch and U.S. laws and practices for providing water-related information to the public could be replicated in Hungary and Slovenia.

During the course of the Project a significant improvement was observed in the knowledge and capability of the officials and NGOs who have been involved in the in-country teams or participated in the in-region capacity building workshops and particularly the study tour. These participants showed an enormous interest in identifying priority problems and in identifying and applying various solutions regarding the implementation of public access to environmental information regimes in their countries; they also demonstrated a growing understanding of the solutions and experience of the Western and other CEE countries. In each country, the study tour participants demonstrated motivation and increased ability to initiate positive changes in the legislation, institutions and practices of each of their countries.

Participant-initiated meetings

The PIT viewed independent initiative by the Project participants and the development of “ownership” as a critical step towards planting the seeds of Project sustainability. Some of the Project activities which most bear out the Project’s approach and methodology, are those which were conceived and conducted by the participants themselves with very little help from the PIT. These activities included numerous meetings conducted by the participants, among themselves and with senior government representatives from their respective countries, to focus on the development of measures to address obstacles to access to environmental information. These participant-initiated activities make evident that the Project’s approach and methodology effected a framework in which the participants could build upon existing Project activities. The participants were able to further refine their understanding of the obstacles faced by their countries and deliberate on how these might be resolved on their own, but using the options and examples that had been provided them by the PIT.

This initiative demonstrated by the Project participants within the framework of the Project methodology was what the PIT had hoped to achieve from the commencement of the Project.

The PIT learned that the appropriate role for the Implementation Team in these initiatives involved the provision of technical assistance from the PIT and local consultants to the Project participants. Numerous written materials were prepared to provide options and good practice examples to the participants during these meetings, thus facilitating their development of measures to address obstacles to access to environmental information.

Recommendations and concrete measures to support public access to environmental information

The PIT determined that providing practice examples and options to the Project participants was an invaluable means to assist them in the development of concrete measures to address obstacles to access to environmental information. These recommendations were made through the Practices Manual describing options and examples for providing access to environmental information from the US, EU and CEE; the US/EU study tour; the Option Paper on Confidential Business Information; Models

for official guidelines and citizen's guides; and presentations made during the Project's in-region meetings.

The types of technical assistance that was provided to Hungary and Slovenia could serve as useful models for similar measures in countries facing the same types of problems in the rest of the Danube region. Using the technical assistance provided by the PIT, the Project participants developed a series of practical measures in support of public access to environmental information in Hungary and Slovenia. In Slovenia, these measures included guidelines for public officials and an identification of gaps in existing legislation. In Hungary, the Project prepared guidelines for public officials and a citizen's manual drafted by NGOs to help citizens gain access to water-related information in Hungary. All of these measures are under consideration for adoption by policy makers in the pilot countries.

Improved Capability of Public Authorities and Related Opportunities for Public Participation

The Pilot Project has demonstrated that the training activities and technical assistance provided to participants can significantly improve these actors' capacity to develop practical and effective measures to overcome obstacles to public access to environmental information. A further lesson learned from the pilot project experience is the value of shared learning in building capacity in both the government and NGO participants, and improving dialogue between government and civil society representatives. Structuring training sessions that combined government and NGO participants, representatives of interests that are often in conflict, lead in the pilot project to increased dialogue and understanding among these key actors, as well as a collaborative process of developing solutions. The PIT believes that the relationships built through the project as well as the participation of different stakeholders in producing project outputs are an essential part of the capacity built through the project and will help ensure the sustainability of the project's results.

The development of lessons-learned materials and the dissemination of recommendations on the Project's replicability

Throughout the course of the Project, the PIT has been able to communicate the Project's replicable achievements to date to a wide audience of stakeholders through a variety of formal and informal project activities. The PIT launched the Project's website [when??] and began posting important project materials on the site, as they were completed. At an earlier stage of the Project, members of the PIT attended and made presentation on the Project at the GEF International Waters Conference in Budapest, in October 2000. Furthermore, over the course of the Project, PIT members have served as experts in the IW/Learn module on public participation, and have maintained communication with the Danube Secretariat and Danube Environmental Forum.

As the Project wound to an end, the PIT took numerous and effective steps to publicize the lessons learned and recommendations with regard to the Project's replicability that

had been accrued over the course of 19 months. REC engaged in informal consultations with representatives of the nine other Danube CEE countries (besides Hungary and Slovenia). At the final plenary meeting in Ljubljana in October 2001, members of other Danube Basin countries attended and discussed how the Pilot Project might be replicated in their own countries. This meeting provided an opportunity for current project participants to share their experiences with the representatives from the new Danube countries and brainstorm as to how a follow-on effort might succeed.

Finally, all of the Project products (such as the needs assessments) and the Project measures (such as the guidelines for both countries and the Citizen's Manual for Hungary) have been or are in the process of being disseminated via the internet or publication.

4. The Project Measures have Addressed Identified Obstacles to Public Access to Environmental Information, and will be Applicable or Adaptable in other CEE Danube Countries

What measures were developed to address obstacles?

Through the Project's approach and methodology, a number of concrete and practical Project measures have been developed to increase public access to environmental information, with the end result of reducing transboundary water pollution in the Danube. These measures are described in detail in Section IX.

Hungarian measures:

The Hungarian participants agreed that two distinct guidance documents would be most useful, one geared to those actively involved in the provision of environmental information, and one to the public. These were intended to overcome the following barriers to public access to environmental information in Hungary: [List to be supplied]

The decision to develop the guidance document for public officials was based upon the general agreement that current Hungarian law meets the standards of the Aarhus Convention and EU Directives on access to environmental information, and that it was most important to develop measures which clarify for public officials how to implement these existing laws in daily practice.

It is clearly of the utmost importance that all government agencies in Hungary interpret existing access to environmental information laws and requirements in the same manner, and uniform practices are necessary to assure implementation. The Project participants agreed that the Handbook should contain guidance on issues such as the following: the legal requirements governing public access to environmental information and guidance on practical issues, such as forms for responding to citizen requests for information, procedures for tracking requests and responses, systems of records and methods of records management. The resulting Handbook provides information and answers practical questions for lawyers and non-lawyers alike to facilitate the provision of

environmental information to the public and public participation in decision making regarding environmental and water-related matters.

The other output developed by NGO Hungarian participants is a Citizen's Guide, which describes for the public their rights to access environmental information and how to do this effectively. The Guide describes publicly accessible environmental and water-related information and where the different types of information can be found by the public.

Slovenian measures:

The measures to address obstacles to access to environmental information developed by the pilot project participants for Slovenia are Guidelines for public officials on the passive provision of environmental information and recommendations for new legislation. The Guidelines clarify existing but ambiguous procedures for responding to public requests for environmental information, institutional arrangements for providing information to the public and practical issues involved in public access to environmental information (e.g., charges for providing information and deadlines for responding to requests), as well as resolving definitional issues and establishing rules and procedures for handling confidential business information.

The Slovenian Guidelines offer instruction in the implementation of existing but ambiguous access to environmental information laws in Slovenia found in Article 14 of the EPA and general administrative procedure. However, the participants agreed that changes in the EPA will be required to resolve gaps in existing legislation regarding the provision of environmental information. These gaps include defining the competence of the ministries to decide in the administrative procedure at the first instance about the information request; which governmental officials will be responsible for resolving appeals to denial of information requests or non-disclosure of information; the need to eliminate any showing of public interest in order to make a valid request for information; and the need for new procedural rules for dealings with information request.

Are these measures applicable to other Danube countries?

The measures developed by the Hungarian and Slovenian Project participants are applicable to other Danube countries. They are the outcome of the Project's approach and methodology, which as stated above, were designed to result in products that will be replicable beyond the borders of Hungary and Slovenia.

While the measures developed in the course of the Pilot Project clearly are geared to the unique circumstances of the countries for which they were written, the measures provide models that can be used and adapted to address specific needs and problems in other countries. Many of the barriers that were identified in Hungary and Slovenia through the Pilot Project, and which are responded to through the measures, such as inadequate legislation and guidance for government officials and lack of knowledge about rights by citizens, are shared in common with other countries in the Danube region. Consequently,

the Hungarian and Slovenian Project measures will serve as effective models throughout the Danube region, and demonstrate what can be achieved by following the approach and methodology of the Pilot Project.

The PIT's confidence in the applicability and replicability of the Pilot Project's measures in other CEE Danube countries has been reinforced by events at the October 2001 Project meeting in Slovenia. This meeting was attended not only by Pilot Project participants from Hungary and Slovenia but by representatives of 5 other CEE Danube countries, Bulgaria, Romania, Yugoslavia, Czech Republic and Ukraine. These participants were able to consider the measures created for Hungary and Slovenia and were enthusiastic about the possibility to use them as a basis for creating similar measures in their home countries as part of a follow-on effort. Furthermore, extremely positive informal consultations have taken place between the REC and representatives of the Danube CEE countries over the past few months, in which draft versions of the measures were presented and discussed.

What steps did the Project take to promote the transfer of ideas?

To achieve its "global" objective of developing products which will be applicable or adaptable to other Danube/CEE countries, the Project promoted the transfer of knowledge and lessons-learned from the Pilot Project to other Danube countries in CEE and developed recommendations for further work in the region to improve public involvement in environmental decision making in support of reduction of pollutant discharges to the Danube with transboundary implications.

Of course, the lessons learned from this Project as well as recommendations for future work are included in this Final Report. The Final Report will be widely distributed.

Furthermore, at the final in-region plenary meeting held in Slovenia in October 2001, a large amount of time was devoted to a discussion of lessons learned from the Project among Pilot Project participants and representatives of other Danube countries which are candidates for inclusion in a follow-on effort. The meeting provided the participants with an opportunity to share experiences and exchange ideas for utilizing the lessons learned from the Pilot Project in a more broad-based follow-on effort. The PIT has developed a PDF-B for a full-scale follow-on effort in 9 other Danube countries, based upon the approach and methodology of the Pilot Project. The PDF-B is pending GEF approval.

Moreover, throughout the course of the Project the members of the PIT have made efforts to share the Project experiences with as wide an audience as possible. Members of each organization of the PIT participated in the GEF/International Waters conference held in Budapest in October 2000; representatives of NYU and RFF made a presentation on the concept of the Pilot Project, which was very well received. Members of the PIT also served as experts in the IW/Learn on-line dialogue on public participation. Furthermore, the PIT has worked hard to disseminate all of the materials produced through the Project via the Project web site. These materials are, consequently, widely and easily available.

5. Lessons-Learned on the Use of Case Studies

At the commencement of the Project, it was anticipated that case study examples would be the best tool to ground Project discussions and problem solving in concrete facts, and to reinforce the Project focus on discharges to the Danube. In the course of the Project, the PIT gained important knowledge about the use of case examples. As discussed below, the PIT would expect to continue to use case examples in future projects, but would also consider modifying their use depending on the particular circumstances in each country.

In the Pilot project, the case examples appeared to be a bit more useful in Hungary than in Slovenia. The selection of the Hungarian case example proved to lead directly to the decision of the PIT and their Hungarian colleagues to focus the first Hungarian workshop on the Tisza River. As a result, the first Hungarian-language meeting was held in Szolnock, one of the communities on the river that was most affected by the cyanide spill.

Focusing on the Tisza illustrated in a vivid way the immediacy of the spill in its effect on the environmental health and economic welfare of Szolnock, particularly tourism, and provided authentic examples of the importance of providing environmental information to the public in such crisis situations. Among the concerns expressed at the meeting by Hungarian participants was the need for government officials to provide accurate and timely information in the event of such accidents and there was discussion about how this might best take place. But the Tisza case example also demonstrated the need for sustained information access following an immediate crisis, as communities and individuals begin to understand and sort out the long-term impacts on their lives and economy. It illustrated how local NGOs and citizens use the information they obtain to pursue remedial activities or to set into context the dimensions of particular injuries to the river.

Moreover, the focus on the Tisza helped the Project and the PIT establish a close connection with one of the most productive Hungarian NGO participants, Gabiella Varga from the Tisza Klub. The Tisza Klub is one of the NGOs involved in the Baja Mare Task Force that was established following the cyanide spill. The Tisza Klub has also been active in the effort to preserve biological diversity on the river, and has consistently reminded its constituency that “the Danube’s long journey through Europe ends in the Black Sea.” Ms. Varga proved to be among the most engaged of the Project participants, and took the lead in drafting the Hungarian’s Citizen’s Handbook on Access to Environmental Information.

The concerns of some of the Tisza Klub’s members also illustrated another constituency for information access – the business community. A very real concern of some Tisza Klub members was the impact of the spill and of information *and* mis-information about the effects of the spill on tourism in the Szolnock area. Thus, using the Tisza as a case example proved to be productive in broadening the focus of information access to the diverse interest groups that seek such information. It provided a vivid example of the

relationship between information and local and regional engagement. It connected directly with very real issues driving both the Hungarian non-government community and commercial interests. It reinforced the role of such actors in the Project and in the process of instituting effective information access regimes in Hungary.

The case example as a vehicle for achieving the goals of the Project proved less important in the case of the Slovenian participants. Early in the Project, indeed in the latter parts of the kick-off meeting, the Slovenian participants took ownership of the project. The Slovenian effort was soon driven by tactics and strategies of their own devising, and was more directly targeted at the government process to incorporate and achieve Aarhus and EU standards. It seemed that the Slovenians didn't need the case example to create motivation or a constituency for action. This may reflect some significant differences between Hungary and Slovenia. First, the Tisza spill case example involved a unique, and frightening incident that galvanized public attention. As noted, regional and local efforts had sprung up around the cyanide spill and continued to motivate local action. The Slovenian case example lacked the same immediacy, and involved an on-going pollution problem on which there has been incremental progress for a number of years. There did not seem to be the same urgency or a strong constituency focused on the issue. Second, Hungary is just a much bigger country than Slovenia with more diverse sources of pollution and with a larger environmental NGO community.

In future projects, the PIT anticipates continuing to select case examples in all participating countries. But we also intend to monitor the process carefully to assess the importance of the case example in motivating country participants. In some cases, case examples will facilitate the process. For example, we anticipate that case examples may prove more important in some countries where environmental information access competes for public attention with substantial domestic problems, or where environmental protection has been more academic and theoretical and implementation has been weak. Concrete case examples might turn out to be more relevant, as a means to demonstrate the broader implications of information access to other issues of concern in the countries. Moreover, the extended time period of the next project – three years contrasted with the current 18 months – might allow additional time to make better use of case studies for the purpose of examining implementation efforts.

The PIT learned that case studies don't always turn out to be consistent with a customer-driven approach, and with the need to be flexible during the learning process. Thus, in Hungary the case example provided a direct link with local NGOs and others and strengthened the project and its outcomes. In Slovenia, the process was driven by other needs. Thus, case studies can be a useful tool, but like other aspects of Pilot Project development, should be used flexibly as dictated by the particular needs and opportunities in every country.

6. A Difficult Time Frame

One of the primary obstacles faced by the PIT and Project participants was a very short time frame to accomplish a very ambitious agenda.

The comprehensive identification of obstacles to access to environmental information for two countries, the building of capacity among participants from diverse backgrounds, the decision of what measures to develop to address these obstacles, and the provision of technical assistance to assist in their development is extremely time intensive. Consequently, both the PIT and the Project participants were faced with serious time constraints. The fact that the Project was able to complete its goals within this timeframe is a testament, above all, to the dedication of the Project participants, who quickly took a strong ownership role within the Project and provided enormous momentum.

Still, at the end of 19 months, it is clear that if the PIT had more time there is certainly more that could be done to build upon our existing results, including further field testing of the measures developed and wider capacity building exercises. We strongly believe that an optimum time frame for a legal assistance Project such as this, and particularly one that involves more than two countries, is 3 years. Additionally, the implementation of a preliminary project development phase that allows the PIT to develop stakeholder commitment, raise initial public awareness, and engage in comprehensive background research would greatly add to the efficiency and efficacy of a larger project. The opportunity to carry out this critical groundwork would allow the PIT, project participants, and consultants to hit the ground running with a backbone of team development, baseline information, and coordination mechanisms firmly in place.

7. The Relationship between Time Frame and Project Scope

Given the time frame of the Pilot Project, the members of the PIT and the participants were pleased with the scope of the Project. However, had there been a longer time frame the scope of the Project would most likely have been expanded.

One example of how the Project's scope might have been expanded had there been a longer time frame involves our primary focus on the passive provision of environmental information to the public. In developing the capacity of governments to provide access to environmental information, it is clearly necessary to take a systematic approach. Consequently, although the PIT and Project participants were aware that methods of providing environmental information actively are not effective (and in some cases do not exist) in Hungary and Slovenia, it was deemed necessary to focus in this Project on rectifying obstacles to passive provision, because passive provision is the first, basic step to a fully functioning information provision regime. More effective passive information provision was viewed as the beginning of a tiered process, with the end result being a complete and effective regime for access to environmental information. The Project was able to begin building the capacity of the Project participants in the provision of active information during the study tour and in the Practices Manual. But that was only a first step, as the majority of time was spent dealing with the myriad issues relating to passive information provision.

Conclusions

The approach, methodology and activities developed in the Pilot Project were appropriate for meeting its objectives

The PIT is confident that the approach and methodology and activities developed and tested in the Pilot Project are sound and appropriate for replication in other CEE Danube countries. This framework was a definitive success in Hungary and Slovenia: obstacles to access to environmental information were comprehensively identified, capacity of diverse stakeholders was built, and measures were developed to tangibly and practically address these obstacles.

In terms of the involvement of the Project participants and the building of their capacity to address obstacles to access to environmental information, the expectations held by the PIT at the beginning of the Project were met. The participants took a strong ownership role within the Project, determined what measures would most benefit their respective countries and, with technical assistance from the PIT, developed measures that can be used as models for countries throughout the Danube region.

The Project approach and methodology and activities have been proven effective in the pilot countries, and will be appropriate and applicable for use in other CEE Danube countries

Based upon reaction from the Pilot Project participants and careful scrutiny of the measures developed in Hungary and Slovenia, we can confidently state that the Project's approach and methodology has been effective.

As many countries in the Danube region face similar obstacles to access to environmental information as Hungary and Slovenia, the PIT can furthermore state that this approach and methodology, as well as the measures developed in the course of the Project for Hungary and Slovenia, provide us with models for a similar project in other CEE Danube countries. In this follow-on effort, we will be able to rely not just upon the PIT's experience in managing this Project and the concrete measures that were developed, but on the invaluable experience of Pilot Project participants who will work with us in future efforts to impart their learning to colleagues from the wider Danube region.

The success of the Pilot Project in addressing barriers to public access to environmental information demonstrates that the Project can and should be expanded to other countries in the region facing similar barriers to public access to information on transboundary pollution to the Danube

The Pilot Project has been successful in providing concrete and practical measures to address identified obstacles to access to environmental information in Hungary and Slovenia.

The lessons that have been learned, the professional relationships that have been developed, and the measures that have been created, while in some sense specific to the Pilot Project, were all envisioned as the basis for a broader effort. Consequently, they are all replicable and applicable to the Danube region as a whole. While a great deal was accomplished for Hungary and Slovenia through this Project, much of its potential relies upon its replicability in other Danube countries.

Section XII. Recommendations for Future Work

Recommendations for future work in Hungary and Slovenia are as follows:

A. Pilot Countries

Assure through various measures that work continues on these important tasks in the pilot countries

The PIT is confident that the completion of this Project will not mean the end of work on the important steps that have been initiated to promote public access to information in Hungary and Slovenia. In Slovenia, the government has indicated that it will, within the next three months, adopt the guidelines suggested as a result of the Project. In a longer time frame, the government with recommendations from this Project will draft a series of amendments that are needed in order to address gaps and inconsistencies that represent barriers to public access to environmental information, as well as to bring them into line with the Aarhus Convention, and the two relevant EU Directives concerning information and water. The REC's country office has already requested and received funding from a British source to assure that these important activities are continued.

Efforts to develop effective public access to information programs will continue in Hungary, as well. There, as indicated before, the Citizen's Guide will be published and 1000 copies distributed; it was also be available electronically. The Guide for government actors is going through final revisions, to reflect the comments and suggestions made during the comment period. The author has promised a response to each comment and suggestion. Moreover, the author is strongly of the belief that this document is only in its first edition. Over the next few years, Hungarian experience will increase and there will be more practical experience to share. Future editions of the Handbook will be increasingly more specific.

In addition, this Project takes place within the larger context of both the Aarhus implementation process and the Danube process. The REC is an active participant in all of these efforts and has assured its PIT partners that it will continue to pursue and monitor these issues. The PIT partnership will also continue to use every means available to assure that a wide range of groups and individuals are aware of and use the various Project outputs that are on the web, and REC will also distribute printed copies of many of these, including the Practices Manual and the Hungarian Citizen's Guide.

Finally, the members of the PIT have made individual and institutional commitments to make sure that this work is continued, including in the form of the PDF-B submitted recently to GEF, that would incorporate participation of key actors in the first Project into the second.

Engage key Pilot Project participants in transfer of knowledge to others Danube Countries

The PIT recommends that key pilot project participants from government and the NGO sector be given an opportunity to share their knowledge and experience directly with the counterparts throughout the region. .

The current Hungarian and Slovenian participants are eager to share their expertise with colleagues in the neighboring countries and will be a unique and valuable resource in that effort. There is now a core group of participants from Hungary and Slovenia who have gained substantial experience, confidence and skills, and who are well positioned to take a leading role in follow-on capacity building efforts in other Danube countries. These leaders can be instrumental in advancing the goals of Danube restoration by sharing the knowledge and experience they gained through the Pilot Project as well as the specific measures they developed to overcome obstacles to public access to environmental information. The pilot countries represent two of the Danube Basin countries in transition that have made the greatest progress toward EU accession, but they share a common experience, legal traditions and background with their neighbors. The expertise and enthusiasm of the Hungarian and Slovenian participants should be harnessed and disseminated to the wider Danube community.

As described below, we recommend a follow-on project be launched in other Danube countries in political and economic transition that are similarly committed to improving public involvement in efforts to reduce discharges to the Danube of pollutants with transboundary implications. We envision key participants who have been trained through the Pilot Project to play a crucial role in transferring their knowledge and experience and the lessons learned to the surrounding, less advanced Danube countries for whom the implementation of such concepts and ideas are more novel.

This knowledge sharing effort was effectively initiated in October 2001, when governmental and NGO representatives from Czech Republic, Romania, Bulgaria, Yugoslavia, and Ukraine, countries that, among others, we recommend be considered for inclusion in a second-phase, region-wide project, attended the final meeting of the Pilot Project in Slovenia.⁴⁰ At that meeting, the participants had the opportunity to learn about the Pilot Project and observe the final discussions reviewing the project and making recommendations for future action. On the final day of the meeting, the participants from the five new countries were invited to discuss their needs and interests for developing public involvement measures in Danube clean-up efforts, and received input and feedback from Pilot Project participants.

In the Spring of 2002, all of the new Danube Basin countries slated for participation in a follow-on project will be invited to participate in a second knowledge-sharing meeting in the region that will help lay the groundwork for the follow-on work that we recommend be undertaken in a second phase project for countries in the wider region. The PIT has already created an expanded e-mail connection including the new countries, and will begin in other ways to develop a team as a bridge into the second phase project. It is expected that these meetings and the expanded email network will facilitate an ongoing

⁴⁰ The Trust for Mutual Understanding, not GEF funding provided support for the participation of the new Danube countries.

dialogue that will both enhance continued implementation of Pilot Project measures and further the dissemination of its results to other countries in the region.

B. Follow-On Work in Other Danube Countries in the Region: Second Phase Project

As detailed below, based on experience and lessons learned in the Pilot Project, the need for capacity building in implementing public involvement throughout the region, and the commitment and interest of other Danube Basin countries in improving public involvement and restoration of the Danube, REC, RFF and NYU recommend that GEF consider funding a follow-on project that would include many or all of the Danube River Basin countries. Our proposal to prepare a second-phase project to be conducted in other Danube countries in CEE is detailed in a PDF-B/Concept that is appended to this Report and summarized below.⁴¹

Building Environmental Citizenship, conducted in Hungary and Slovenia, was designed to serve as a pilot for future efforts to operationalize public involvement in support of pollution reduction in the Danube in other countries in the Danube River Basin. The strong results achieved and lessons learned in the pilot project demonstrate that the methodology and approach of the Pilot Project, and its capacity building program, are effective in generating measures for increased public access to environmental information. These results and lessons learned further show that the template developed for this capacity building project in Hungary and Slovenia is replicable and applicable to other Danube countries in CEE that are committed to improving their public involvement programs. The PIT therefore believes that conducting a follow-on program based on the pilot project model and encompassing a larger group of countries in the region would be an effective way to stimulate progress throughout the region to increase public involvement in support of the goals of the GEF Danube program.

A follow-on effort would enable the GEF to reap benefits of its investment in the pilot project, throughout the region. This effort can take direct advantage of the resources gained through the pilot in Hungary and Slovenia. These include:

- Hungarian and Slovenian information access experts who have significantly enhanced their skills and are equipped and committed to help train their counterparts in other Danube countries;
- A tested and effective template for building government and NGO capacity to increase public involvement through improved public access to environmental information;
- A set of effective measures in Hungary and Slovenia for increasing public access to information (including clear guidelines for government officials, recommendations for legal reforms and guidance to citizens) that can serve as models for other countries;

⁴¹ The PDF-B/Concept is pending approval by the GEF.

- Extensive written resource materials on access to information “good practices” throughout the West that can be used or readily adapted for use in the wider region;
- And the PIT’s experience and expertise in successfully conducting this kind of project.

Thus, the basic resources needed for a second-phase project in other countries in the region are already in place, and a cost-effective follow-on project to serve the other Danube countries can be expeditiously prepared and launched.

The Need for a Second-Phase Project in Other Countries in the Danube Basin

Like Hungary and Slovenia, the other nine GEF-eligible countries in the Danube River Basin -- Czech Republic, Slovakia, Romania, Ukraine, Yugoslavia, Bulgaria, Moldova, Croatia and Bosnia – Herzegovina-- contribute to Danube pollution and ultimately to water quality problems in the Black Sea. Although specific needs and circumstances vary among these countries, all of them are committed to reducing discharges to the Danube with transboundary implications through their involvement in the GEF Danube program;⁴² indeed, it will take concerted action by all of these nations in order to substantially reduce the transboundary impacts of these discharges. As recognized in the Danube SAP, public involvement can play a significant role in achieving this goal.

These countries share common commitments to the public involvement goals of the Danube SAP. Many have also signed the Aarhus Convention. A number of these countries aspire to membership in the European Union, which will also require demonstrated commitments to public access to environmental information and to water body protection.

Like the pilot countries, the other Danube Basin countries face significant barriers to improving public involvement because they are in transition to market economies and emerging from a similar legacy of government secrecy and non-democratic decision making. These barriers generally include: inadequate laws or implementing regulations and policies; deficient institutional arrangements; lack of clear guidance to public officials; lack of training and experience in implementing public involvement programs; inadequate capacity in the NGO sector; and insufficient resources. A number of these countries face even greater obstacles to implementing public involvement than did the pilot countries, including the recent effects of war and severe economic distress.

Significant outside assistance in building capacity for public involvement will be needed to help these countries overcome these obstacles to such involvement, and to develop well functioning public access to information and public participation regimes. As

⁴² Like the pilot countries, many of the other Danube countries have made commitments to Danube restoration and public involvement, respectively, by signing the Aarhus Convention and one or more of the following: the Danube SAP, the Danube River Protection Convention, the GEF Partnership On Nutrient Reduction for the Danube/Black Sea Basin, and (most recently) the Stockholm Convention on Persistent Organic Pollutants.

detailed further below, four of these Danube countries have already endorsed the concept of a follow-on project government officials, and NGOs from other countries have indicated their interest in participating in it. These expressions of support from a significant number of countries throughout the region for a follow-on effort modeled on the pilot project further confirm the need to launch a capacity building project that will serve a wider group of Danube countries.

A Follow-on Project in Other Danube Basin Countries Would be Country-Driven

Government officials and NGOs in many other Danube countries in CEE have expressed readiness and strong interest in participating in a follow-on effort to build capacity for public involvement in their countries. The governments of Romania, Bulgaria, Yugoslavia and Croatia have endorsed the PDF – B/Concept described above, [and several others have indicated a desire to participate – to be confirmed]. The responses of the government and NGO representatives from Romania, Bulgaria, Ukraine, Yugoslavia, and Czech Republic in the October 2001 meeting were also extremely positive. These participants expressed a very strong interest in participating in the capacity building program developed through the pilot project, as adapted to their needs. Representatives of all five countries attending this meeting all indicated that a needs assessment followed by specifically targeted activities similar to those developed in the pilot countries would have a significant impact on moving their countries toward effective public involvement in Danube pollution reduction efforts.

Recommendations for a Second-Phase Project

The PIT recommends that a second-phase project be prepared expeditiously with support from the GEF, country contributions, and other co-financing. The PIT has begun to lay the groundwork for preparing such a project through a travel grant from the Trust for Mutual Understanding to support initiation of discussions with potential participants at two in-region meetings; this Report describes the first of these meetings, which was held in early October in Ljubiana in conjunction with the final plenary meeting of the pilot project.

However, preparation of a Full Project Brief for consideration by the GEF will require far more extensive in-region consultations and further financial support. To this end, the PIT has prepared a PDF-B/Concept document, which has been submitted to UNDP/GEF for consideration.

The PDF-B/Concept document details the 8-month preparation process that the PIT recommends be conducted to prepare a Full Project that will serve the needs of a larger and more diverse group of participating countries throughout the region.

The ultimate objective of the project preparation process would be to develop a Full Project brief that is grounded in a thorough understanding of the legal, institutional, and practical realities, priorities and needs of each of the candidate countries. Additionally, feedback from Pilot Project participants in the project's final plenary meeting has

underscored the importance of fostering the awareness and involvement of stakeholders, especially high level government officials, prior to initiating project activities, so that their concerns and perspectives can be fully integrated from the beginning of a second phase project. Accordingly, the project development period would be used to develop effective working relationships among all stakeholders and a shared vision of the project's objectives and potential outcomes. The project preparation activities envisioned by the PIT are further detailed in the PDF-B, which is appended to this Report.⁴³

The PIT recommends that the Full Project prepared using PDF-B funds be modeled on the pilot project but adapted to the needs of a larger and more diverse group of potential participating countries of the region. The project we recommend would thus start from a needs assessment in each participating country, identify options and develop practical measures for addressing barriers in each country, and conduct capacity building activities found to be effective in achieving the objectives of the pilot project. These activities are anticipated to include in-region capacity building workshops, on-going technical assistance activities and study tours, flexible tools found helpful and effective in the pilot project that can be tailored to the needs of the new participants .

Because the recommended follow-on project will involve a larger group of countries with more widely varying economic and political circumstances than Hungary and Slovenia, it may be necessary and appropriate in some countries to modify the intensity of certain project activities or to scale up or down country-specific objectives and outputs. Using the country-driven, very practical approach that was one key to the success of the pilot project, the PIT anticipates that the measures developed by countries participating in the follow-on project will vary according to the needs of the participating countries and may in some cases be significantly less ambitious or extensive than those developed by the pilot countries. Successful components of the pilot project will be replicated and adapted to the particular circumstances of the participating countries, consistent with the “tailoring” approach developed for the pilot project.

⁴³Specifically, the PIT recommends that the PDF phase involve two regional plenary meetings that will bring stakeholders together to identify the needs, issues, challenges and opportunities for addressing public access to information and participation in environmental decision-making in transboundary water pollution reduction efforts. The plenary meetings should also facilitate the development of strategies, methodologies, and mechanisms for coordination, information sharing, and identification of types of country-specific activities that may have region-wide application and the timing of those activities. Additionally, the PIT strongly considers that a critical project development component should be investigatory missions to the countries participating in the follow-on phase for in-depth information gathering and consultations with government officials, NGOs, and other stakeholders. Preliminary travel to the countries should focus on obtaining comprehensive information on the specific circumstances of each country, establishment of working relationships with key contacts, and outreach to representatives of broad groups of stakeholders. Finally, the PIT recommends that two New York meetings be held to work with UNDP on development of the Full Project; the first at the kick-off stage of the PDF, and the second to finalize the content of the Full Project brief.

This process will enable the PIT, in close consultation with stakeholders and in collaboration with UNDP, to develop a Full Project that effectively adapts the lessons learned from the Pilot Project into the context of the nine additional Danube countries.

Experience in the pilot project with highly successful, as well as less effective project elements and other lessons learned will be taken into account in designing the new project. For example, based on the overwhelming success and usefulness to participants in the pilot project of the U.S./Netherlands study tour, we anticipate that the study tour for the full project might be expanded to include visits to one or both of the Pilot Project countries, and if appropriate, a visit to a regional water authority such as the Rhine Commission. In addition, written materials generated through the Pilot Project, such as the study tour materials, the Practices Manual, and other materials found on the Website, as well as the specific measures developed for Hungary and Slovenia in the Guidelines and Citizens' Guides, can contribute significantly to the capacity building objectives of the project; these should be used as resources and models in the follow-on effort, and adapted as necessary to the needs of the new participants.

Section XI, Lessons Learned, discusses in depth how case studies were used in the pilot project and what the PIT learned from that experience. The PIT expects to continue to select case examples in all participating countries in future projects. The PIT will monitor the process carefully to assess the importance of the case example in motivating country participants. Where case examples facilitate the Project's goals, they will be used, for example where they provide demonstrable assistance in making the issues of the Project concrete, understandable and real. The PIT will also experiment to see whether the role of case examples can be enhanced in a Project that is longer than 18 months, and whether in that longer period, field testing can be a realistic goal.

Based on the pilot project experience, the PIT believes that involving NGOs and a wide range of other stakeholders is an essential element of a follow-on project in the region. The PIT recommends that the Full Project engage key government officials (from water, environment, agriculture and other ministries and/or legislators), NGOs, industry representatives, journalists, and academicians. The Full Project should also expand outreach to the relevant inter-governmental organizations and intra-regional NGOs, such as the International Commission for the Protection of the Danube River (ICPDR) and the Danube Environmental Forum (DEF). These regional level entities can serve as a conduit for promoting information sharing and raising region-wide commitment to public access to information and participation in decision-making in transboundary pollution issues. It is also recommended that the experiences of the Full Project be shared with river basin initiatives in other regions through GEF International Waters coordinating mechanisms, such as international meetings and the IW Learn website, as well as through other active dissemination efforts.

Annexes

A. Project Documentation

- Needs Assessment for Hungary
- Needs Assessment for Slovenia
- Case Study Analysis for Hungary: The Szamos-Tisza Cyanide Pollution
- Case Study Analysis for Slovenia: The Pulp and Paper Mill Vipap Videm Krsko
- Practice Examples and Lessons from US, EU and CEE: Public Access to Environmental Information and Data
- Models for the Preparation of Government and Citizen Guidance
- Option Paper on Confidential Business Information
- Hungarian Guidelines for Public Officials
- Hungarian Citizen's Guide
- Slovenia Guidelines for Public Officials
- Slovenian Recommendations for Amendments to the Environmental Protection Act
- Reports of the Participants on the In-Region Meetings and the EU/US Study Tour
- Agendas for the Project's In-Region Meetings
- Agendas for the Netherlands, New York and Washington, D.C. legs of the EU/US Study Tour
- Technical Assistance Materials Prepared for the Study Tour Participants
- Other Materials Received by the Participants during the EU/US Study Tour
- PDF-B/Concept Document for Follow-On Effort in the Danube Region
- Hard Copy of the Project Internet Home Page

B. Bibliography