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**PILOT LOCAL
GOVERNMENT
PARTNERSHIP PROGRAM**

**RESOLVING THE ISSUE OF
WATER RESOURCE
MANAGEMENT IN ALBANIA**

Prepared for



East European Regional Housing Sector Assistance Project
Project 180-0034

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**TRIP REPORT BY MARTHA BEAUCHAMP
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In-country work was comprised of two basic types of activities

- developing additional analysis and materials to continue efforts to implement the Water Resources Law (WRL), and
- coordination with other donors to ensure consistency of individual donor-sponsored work in terms of the overall water resource management regime to which multiple donors are contributing on an ongoing basis

My original assignment was somewhat redirected by a decision made just prior to my arrival by the Acting Minister of Public Works that amendment of the Water Resources Law should be undertaken, and his assignment of that task to a donor lawyer supplied by the UN FAO program. Consistent with recommendations from my first trip, we spent initial days in consultation with the EU Phare lawyer who arrived during my first visit, and had continued the analysis I began on the jurisdictional overlaps among various water laws and agencies. Based on her analysis and the legal memorandum supplied by the FAO lawyer early in the current visit, we began consultation with staff of the Ministry of Public Works assigned to the WRL, Franko Saro, to fashion recommendations for action that would anticipate amendment to the Water Resources Law, but allow for some immediate progress on implementation. Coordination included consultation and analysis with Mark Belcher, USAID lawyer charged with outlining additional implementation strategies for the Water Supply and Sewage Sector Regulation. In addition, our work anticipates the arrival of a second FAO-sponsored lawyer in November to take up drafting actual amendments to the Water Resources Law.

Work with donors comprised the second major aspect of the in-country work. At various times, we met with FAO, World Bank, and UNDP representatives, in addition to the EU team, to discuss the ongoing work on water resources. The good news is that, somewhat by accident in the beginning, and now by design, we are all in agreement on the general direction implementation should take, and have been able to direct our assistance efforts to providing analysis and recommendations that are pushing the process forward, at least theoretically and legally, by producing work that is coordinated and non-duplicative.

The more troublesome circumstance is that, with the exception of Franko Saro, there does not yet appear to be much concerted effort among Albanian agencies and officials to address water resource management coordination in general or in directing the assistance of donors in particular. This was the subject of some frustration among the donor representatives and their consultants, who informally worked out a coordinated set of follow-up activities (attached) that might be usefully undertaken collectively, but only if there is more participation and interest locally.

To conclude on a happier note, the Acting Minister of Public Works appears to be a man of action with some interest in this subject, as is Franko Saro, the WRL staff. The imminent arrival of the FAO lawyer will certainly keep the issue of WRL implementation alive. More broadly, the collateral work on implementing the management and rate structures for the Water Supply and Sanitation Sector Regulation, being done by Steve Swanson and Mark Belcher, will contribute to overall forward movement in the water resource management sector. Finally, now that the local elections are concluded, federal officials may be less distracted, and more amenable to elevating the status of water issues on their list of priorities. The planned presentation and review of the draft water strategy, prepared by the EU Phare technical consultants, slated for December should provide a good forum for such a revived focus.

RATIONALE FOR COMBINING LEGISLATIVE AND ADMINISTRATIVE ACTIONS TO IMPLEMENT ALBANIA'S WATER RESOURCES LAW

I Introduction

The technical assistance undertaken here is directed specifically to developing approaches and recommendations for implementing Albania's recently enacted Water Resources Law (WRL), which establishes a comprehensive and centralized water policy and management program at the federal government level in Albania. This work is sponsored by the U.S. Agency for International Development (USAID) under the "Housing and Urban Development Project in Central and Eastern Europe," Contract No. EPE-0034-C-00-5110-00. It is an extension of work done by USAID and other international donor organizations over the last year to assist Albania in developing a more robust and coherent legislative and regulatory system for better management of its water resources.

II Problem

Since enactment of the Water Resources Law on April 18, 1996, two major obstacles have arisen to impede its timely implementation:

- 1) actual and potential conflicts in the relationship between this new law and the implementing agencies it creates and several other extant laws and agencies which historically have exercised jurisdiction over many discrete aspects of water management in Albania, and
- 2) a lack of financial resources to initiate staffing and start-up.

Most serious in impeding implementation are the apparent WRL overlaps/conflicts with the Water Supply and Sanitation Sector Regulation (WSSR), enacted the same day as the WRL and administered by the Ministry of Public Works, the Law on Environmental Protection (LEP), enacted August, 1991 and administered by the Ministry of Health and Environmental Protection, and the Law on the Construction, Administration, Maintenance and Operation of Irrigation and Drainage Works (IDL), enacted July, 1994 and administered by the Ministry of Food and Agriculture.

The potential jurisdictional conflicts raised by some provisions of the new law and its incipient bureaucracy have created resistance among competing agencies and personnel, which has contributed to a stalemate in implementation efforts by assigned staff within the Ministry of Public Works which sponsored the legislation. This stalemate condition has been exacerbated by a failure thus far at the highest levels of the Albanian Government to make water issues a priority for attention. This lack of political support has resulted in a failure to identify and provide the fiscal and personnel resources to undertake implementation activities.

III Proposed Solution to Achieve Immediate Implementation Action

We recommend a two-track approach which would utilize



- limited legislative amendments to resolve the conflicts and confusion among laws and agencies that passage of the WRL has created, while leaving intact the clear and unchallenged intent of the WRL to centralize water resource policy and allocation decisions at the federal level, and
- a combination of ministerial decrees and administrative regulations by the Council of Ministers, as authorized by the Constitution of Albania and the Water Resources Law, to establish the WRL implementing agencies and to inform the public and the regulated community of new policies for water allocation and management in Albania

The analysis supporting this conclusion relies on prior legal work done by lawyers representing several international donors specifically the analysis of responsibilities and functions under the Water Resources Law prepared by Martha Beauchamp representing USAID, the legal conflict analysis and options developed by Cynthia Whitehead under the BCEOM/EPE project for the European Union (EU) Phare program, and the work of Stefano Burchi, representing the U N Food and Agriculture Organization (FAO) program, who developed an outline of legislative amendments and administrative options to resolve jurisdictional conflicts and also address the nascent circumstances of Albanian regulatory capabilities at this point in the country's development

IV History

In 1992, shortly after the initial democratization of the Albanian Government, the Ministry of Construction (now Ministry of Public Works), undertook the development of a water law that would centralize decisions on allocation and use of water throughout Albania. Over the next three years, through a succession of ministers, the mandate and the draft of the proposed law were reviewed and changed, but the proposed legislation remained unenacted.

In 1995, a draft of the Water Resources Law was circulated by the Ministry of Construction to all relevant ministries for comment, and, a revised draft law was presented in early 1996 to the Council of Ministers and to a series of Parliamentary sectoral committees for discussion and review. Following this review, a revised draft of the Water Resources Law was submitted in March, 1996 to the Parliament for consideration and enactment, an altered version of the law, based on an earlier draft, was finally enacted by the Parliament and signed by the President on April 18, 1996.

Over the last year, legal and technical representatives of several aid donors, including the EU Phare Program, USAID, and the UN/FAO have participated in these efforts to develop a comprehensive water management system. However, since passage, initial implementation of the WRL, through establishment of the National Water Council (NWC) as a policy-making body and the Technical Secretariat as its administrative organ, has not been realized, principally for the reasons of jurisdictional conflict and lack of political and economic support, cited above.

In September and early October, 1996, the Phare and USAID lawyers provided analysis of the areas of overlap and conflict based on review of the relevant statutes and on discussion with staff in the most affected Albanian ministries (See Table I). Their collective analysis reveals the most important needs are to reconcile certain WRL functions and activities with

- water and sewer service functions assigned by the Water Supply and Sewage Sector

Regulation to the Office of Water Supply and Sewage in the Ministry of Public Works,

- discharge permitting and water quality standard setting assigned to the Ministry of Health and Environmental Protection, and
- water allocation, fee setting and user group organization and management functions currently being done by offices within the Ministry of Food and Agriculture

In early October, 1996, the Acting Minister of Public Works suggested that the Water Resources Law should be amended to alleviate these overlaps and clarify responsibilities among agencies in order to proceed with timely implementation of the National Water Council and its administrative offices. The overlap issue was subsequently reviewed by a lawyer representing the FAO, who concluded that the Water Resources Law could be simplified and clarified through a series of legislative amendments and administrative arrangements, which would reconcile the most serious conflicts with other existing authorities while retaining the WRL jurisdiction to set overall policy for water allocation and management in Albania. These findings are presented in the memorandum of October 8, 1996 (attached)

V Steps Needed to Initiate Legislative/Administrative Solution

a Identification and organization of functions Table I - "Comparison of Major Statutory Authorities for Water Resource Management in Albania" (attached) - enumerates the tasks and responsibilities which are presently specified and assigned to designated agencies by the four major statutes most important to governing water resource management in Albania

- the Water Resources Law
- the Water Supply and Sanitation Sector Commission Regulation
- the Law on Construction, Administration, Maintenance and Operation of Irrigation and Drainage Works
- the Law on Environmental Protection

Taken as a whole, these areas of responsibility represent the minimum necessary to attain a comprehensive scheme for management of all facets of water resource utilization, beginning with decisions concerning use allocation, development of programs to manage that use, and ending with inspection and enforcement to punish failure of users to observe all specified concession and other regulatory requirements

Table II - "Organization of Water Resource Management Functions in Albania" - represents the distillation of the responsibilities identified in Table I into three basic functional areas

- policy development and oversight,
- program implementation, and
- environmental monitoring and enforcement

Table II also illustrates how these functions can be organized and allocated among the four laws and the administering agencies they create, to form a comprehensive, coherent and cooperative system of water resource management in Albania



b Initial implementation by decree In accordance with the Constitution of Albania, the Council of Ministers can by Decree create the administrative bodies needed to implement the Water Resources Law. A draft decree specifying the intention of the Council of Ministers to establish the National Water Council (NWC) and its composition has been prepared by Franko Saro, the single staff presently assigned to the WRL in the Ministry of Public Works. This decree specifies that the Council be comprised of seven ministers, representing the ministries most concerned with water management issues in Albania, including

- the Prime Minister (Chairman)
- the Minister of Public Works and Tourism
- the Minister of Food and Agriculture
- the Minister of Mineral Resources and Energy
- the Minister of Industry, Trade and Transport
- the Minister of Health and Environmental Protection
- the Minister of Finance

In support of this draft decree, we have fashioned two annexes (attached) specifying the "Duties of the National Water Council," and "Establishment of the Technical Secretariat." Annex I details the policy and oversight functions of the National Water Council, consistent with the enumeration of functions found in the first column of Table II on "Organization of Water Resource Management Functions in Albania." Following are the most important assignments by the Council of Ministers to the NWC for facilitating realignment of water management functions and implementation of the WRL.

- the clear allocation of responsibility to the NWC to set overall water policy,
- the obligation to determine use allocation priorities, and to promulgate regulations governing the granting and management of use allocation concessions by other agencies, and
- the authority to set the terms of its oversight of water resource management issues, and to dictate the requirements for coordination and cooperation among agencies.

Annex II outlines the initial composition and operation for the Technical Secretariat as a small group of professionals, which for administrative convenience would reside within the Ministry of Public Works until such time as it has attained sufficient vitality to function as an independent agency, as envisioned by the WRL. Eventually, it would be transformed into an independent Executive Water Management Agency, with a staff of up to thirty professionals to carry out the functions of the National Water Council. Initial funding would be provided by an aggregation of contributions from the dominant water ministries represented on the National Water Council.

c Legislative amendment of the WRL Based on the prior donor analysis, in particular the work of Stefano Burchi, amendments should be developed to clarify responsibilities for

- use allocation decision making, including development of the water supply and sewage service sector,
- discharge permit program administration,
- fee setting,

- establishment and oversight of user associations,
- regional enforcement and basin council management, and
- water quality standard setting

At this writing, it is anticipated that the FAO will provide an attorney for up to six weeks, beginning November, 1996, to undertake the development of the amendment

Based on experience to date, four assumptions should be maintained in crafting these amendments

- 1) The overall authority for water resource management policy and general oversight, established by the WRL and placed in the National Water Council, has not been questioned and should not be disturbed or in any way undermined by the amendment process
- 2) Albania's plan for centralizing water resource management, in particular making water use allocation decisions at the national level, is consistent with international trends in water management, and does not nullify its present organizational structure which disaggregates program implementation and enforcement among multiple specialized federal and local agencies
- 3) The NWC should be a policy body made up of ministers of agencies with primary responsibility for water matters in Albania. It and its administrative arm, (the Technical Secretariat and eventually the Executive Water Management Agency), will function as an independent body with power to make and recommend policy to the Council of Ministers and the Parliament and with the ability to coordinate the relevant activities of all ministries and of other independent agencies as these concern water management
- 4) The mandates of other statutes and the implementing activities of other agencies relative to water issues, which are extant and functional, should be retained and built upon to implement the overall regulatory scheme and achieve the objectives of the Water Resources Law. Albania is a small country which cannot afford the unnecessary duplication or renovation of existing functions and agencies

d Follow-up Assuming action is taken to advance adoption of the decrees and amendments proposed above, activities which may invite additional donor support would include

- coordination with affected agencies to solicit their participation in and increased understanding of the evolving water management implementation process and their relation to it,
- development of implementing regulations, particularly for the operation of the use allocation application and concession granting process,
- development of coordinating agreements in the form of memoranda of understanding or joint operating procedures to govern in particular the incorporation of environmental discharge and water quality requirements into the concession application process, and the establishment of regional user groups,



- development of a process to undertake inventory of current water use and quality necessary to affirm the draft Water Strategy prepared by the EU Phare program over the last year, and

- development of regulations which specify the programmatic management responsibilities of the various ministries and agencies charged under other statutes, as demonstrated in the middle column of Table II

**FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED STATES
PRELIMINARY CONSIDERATIONS ON, AND SUGGESTIONS FOR,
THE REVISION OF ALBANIA'S WATER-SECTOR LAWS¹**

Albania's water-sector legislation consists at present of the following

- 1 the Water Resources Law, No 8093 of 1996,
- 2 the Water Supply and Sanitation Sector Regulation Law, No 8102 of 1996,
- 3 the Law on the Construction, Administration, Maintenance and Operation of
Irrigation and Drainage Works, No 7846 of 1994, and
- 4 the Law on Environmental Protection of 1993

Based on my own independent review and analysis of the first three statutes, and on the review of the LEP and of present water-sector institutional arrangements made by the European Union/PHARE project "National Water Strategy for Albania"², there is scope for a revision of the above-listed legislation in the following areas

a Harmonization of Legal Provisions

a 1 The WSSL and the WRL

Since its scope is fully *outside* the purview of the WRL, the scope for harmonization between the two statutes is limited to a few marginal respects, notably

- (i) the respective definition of "Water Resources" under the WSSL and the WRL. The lean definition found in article 2(5) of the WSSL is subsumed by the unnecessarily elaborate definition of "Water Resources" featured in article 2(1) of the WRL. To avoid any doubt, however, the two definitions should be co-terminous. I suggest the WSSL's be included in an amended WRL, and the WSSL simply make reference to it,
- (ii) the general duty of the sub-sector regulatory Commission to "enable all reasonable demands for water to be met" per Article 13(c) may be the source of confusion. Although it may seem obvious, it should be made clear that the Commission's duty is to the general public and not to the water supply undertakers. The latter's demands for (raw) water will be met by the regulatory body in charge of managing the country's water resources and in accordance with the provision of the WRL.

On the other hand, article 26 of the WRL will need to be reviewed for consistency with the WSSL, as its provisions bear on the domain of the WSSL.

¹ Prepared by S. Burchi, Senior Legal Officer, Development Law Service, FAO, as a result of a mission to Albania under project GCP/ALB/001/ITA (1-5 October 1996)

² See "Options for the Organisation of Water Management and Protection in the Republic of Albania (draft)" dated 1 October 1996



In general, the provisions of articles 14(1)(a) and 17(1)(a) of the WSSL may be cause for concern insofar as they may imply a grant of authority to the sub-sector regulatory body to “license” the water supply undertakers to also abstract raw water—and in order to carry out the business of supplying water and providing sewage disposal would include also the permission to abstract the water needed for their business—and, perhaps, a permission to discharge sewage into waters. This would be in open contrast to the permitting requirements and procedures provided for in respect of water abstractions by the WRL, and in respect of waste discharging into waters by the WRL and the LEP, and in conflict with the attendant permitting authority vested in the relevant regulatory governmental bodies under the two Laws. The scope and thrust of the WSSL, however, is clearly aimed at and restricted to regulating the water supply and sewerage industry. This involves regulating such aspects of the industry’s conduct of business as standards of service, accountability, financing and rate-setting. The abstraction of raw water at source and the discharging of sewage into water bodies do not necessarily come within the purview of regulating the conduct of the industry’s business as those are activities instrumental to the carrying out of the business of supplying water and disposing of sewage and are, as a result, the subject of separate regulatory requirements pertaining to the management of water resources and to protecting the water environment. Perhaps possible confusion could be averted by writing into the implementing regulations of article 17 of the WSSL language clarifying that the abstracting of water at source and the disposal of sewage do not come within the purview of the licensing regulated by the WSSL and by relevant regulations.

a 2 The WRL and the LEP

The scope and need for harmonization is considerable considering that both Laws regulate separately and independently the discharging of wastes into the water environment and entrust authority for relevant permitting with different regulators. This is obviously unacceptable and needs to be remedied by regulating this matter in one of the statutes only and by administering the relevant provisions through that statute’s own regulatory institutions. There are pros and cons to choosing the WRL or the LEP as the source of regulatory restrictions to the discharging of wastes into water, and of attendant administering and enforcement authority. The water authorities are best placed to manage water resources in an integrated manner, i.e., by ensuring that sufficient quantities of water are available, of suitable quality to meet present and future demand for all uses, off-stream and in-stream, including for scenic and amenity purposes. On the other hand, separate permitting by the water authorities of waste discharging into waters prevents an integrated approach to environmental pollution control, whereby one permit only granted by the environment protection authorities would minimize the impact of waste discharges on all three environmental media at once—water, land and air—and avoid penalizing one or the other at the expense of the other(s). In practice, the most powerful argument which, in Albania’s present circumstances, militates in favour of the LEP is the fact that, contrary to the WRL, the LEP is being implemented by a functioning environment protection administration, albeit amidst difficulties.

If the regulation of waste discharging into waters is left with the LEP and with the relevant administering authorities, it is recommended that a mandatory requirement for the LEP authorities to consult with the WRL authorities prior to all permitting of waste discharging into waters be written in the LEP and/or its implementing regulations. This, with a view to achieving a modicum of integration in the split management of water resources under the respective scope of the WRL and LEP and pursuant to the respective mandate of the authorities administering the two statutes. At the same time, it will be necessary to reconcile the WRL with the LEP provisions regulating waste

discharging into waters, by excising in whole or in part relevant provisions from the body of the WRL

(a 3) The WRL and the IDL

Since it falls almost entirely outside the scope of the WRL, the IDL does not need any major revision. Perhaps the (interim) provisions of article 23 need fine-tuning as these have since been superseded by the regulatory mechanisms of water abstraction inaugurated by the WRL in respect of all uses, including irrigation. Also, in view of its import reaching past the irrigation and drainage domain, the offence contemplated at article 29(h) needs to be reconciled with the WRL.

The provisions of Chapter XIII (articles 52 and 53) of the WRL have a direct bearing on the IDL's provisions on associations of irrigation water users. The two sets provisions will need to be checked for mutual consistency.

(b) Streamlining of the WRL

The WRL is a good piece of legislation setting forth a regulatory framework for the management, use and protection of Albania's water resources, both surface and underground. It is consistent with trends in water legislation and its administration world-wide. However, in Albania's present and foreseeable circumstances of limited competition for abundant water supplies of good quality, the Law's regulatory thrust and scope appear to be excessive and attendant arrangements provided for in the Law for the administration of its regulatory machinery appear over-dimensioned. Moreover, the novel and complex institutional arrangements called for by the Law for its administration are not commensurate to present and foreseeable public sector absorption capacities. In the specifics, and without prejudice to additional points of drafting surgery needed to bring about greater substantive consistency and textual clarity, the following are proposed:

- (a) the regulatory thrust of the Law in respect of water absorption/groundwater drilling (and waste discharging into waters³) will benefit from introducing some flexibility by *granting the Government stand-by authority to inaugurate the permit mechanisms provided for and regulated by the Law as and when the circumstances of any particular area of the country require*. In other words, instead of enforcing permit requirements country-wide at once—which is not only plainly impossible but also largely unnecessary—the Government will have the option of implementing and enforcing them when and where the circumstances of competition for water of good quality, or the circumstances of a groundwater aquifer risking depletion, warrant the inauguration of a permit mechanism to restrain water abstractions,
- (b) the regulatory thrust of the Law should be directed first *at surveying all existing, significant un-regulated abstractions (and waste discharges into waters) with a view to bringing them eventually into the fold of the Law*. This has to be a country-wide exercise, whereby all existing, hitherto un-regulated major abstractors of water would be required and encouraged to register their abstraction with the Government, in return for a secure title shielding them from competition from other users in future. Experience shows that the success of a

³ See however the considerations made above in regard to the relationship between the WRL and the LEP on this particular point, and on the need to reconcile the two Laws.



programme aimed at “regularizing” existing users depends very much on an effective information campaign seeking to promote the cooperation of users, and very little on the threat of penalties for non-compliance. Knowledge not only of the physical consistency and quality of the country’s water resources, but also of significant, hitherto un-regulated abstractions under way is essential to the sound management of Albania’s water resources,

- (c) the novel arrangements made for the *administration of the Law need to be simplified*. In the specifics
 - (c 1) the National Water Council (NWC)’s role should be restricted to the making of policy and to advising the Government on water resources matters in general. It need not and should not serve in an executive capacity,⁴
 - (c 2) the Technical Secretariat to the Council (TS), which was to have functioned as the executive arm of the Council,⁵ would have no reason to exist any longer and should be disbanded,
 - (c 3) the executive function of administering the WRL should be brought back within the fold of the Ministerial structure of Government, and be placed with a non-water-user Ministry⁶. The personnel of the disbanded Technical Secretariat of the NWC should be absorbed by the Ministry to carry out its new function of managing the country’s water resources. Under the present circumstances, the Ministry of Public Works, Territorial Planning and Tourism seems the best placed to inherit the functions associated with the administration of the WRL,⁷
 - (c 4) the Drainage Basin Councils should be retained and re-cast as a local-level consultation, with no executive or decisionmaking authority. Such Councils could, in time, evolve into executive-type institutions as experience with the

⁴ The NWC had actually been created by Presidential Decree in 1994 and has met so far five times. Its current membership structure is yet to be confirmed or revised under the new WRL.

⁵ Only the Director has been appointed so far to the TS. He is housed by and is on the payroll of the new Ministry of Public Works. He has no budget and has been assisted on specific tasks by staff occasionally loaned by other Ministries.

⁶ Possibly at Directorate-General level so as to ensure visibility and parity with other major functions of the Ministry.

⁷ As already mentioned, the Ministry houses the Technical Secretariat to the NWC and its Director is on the Ministry’s payroll. The presence in the structure of the Ministry of a unit at Directorate-General level in charge of regulating the public water supply and sewerage sector and overseeing its transition towards privatization may be cause for concern. Insofar and for so long as such unit presides over a major water user sector—until that is, the water supply and sewerage systems in the country have been transferred to the private sector in accordance with current Government policy—the Ministry will be perceived as a user Ministry and this perception will undermine its credibility as an impartial guardian and manager of the nation’s waters. Under the circumstances, the temporary housing of the TS in the Ministry seems a price worth paying in the interim for the sake of building a viable and credible government water administration in the long run.

new regulatory mechanisms for managing Albania's waters builds up and as the confidence and capacity of local levels of general-purpose government to manage local affairs also builds up. The devolution or delegation of water management responsibility by a largely un-tested and as yet embryonic central government water administration to un-tested new units of special-purpose local government may play havoc with the orderly and gradual emergence of a credible government water resources administration.

**Revised Options for Short- and Medium-Term Technical Assistance Projects
concerning the Management and Protection of
Water Resources in Albania**

This list of potential technical assistance projects has been prepared by BCEOM-EPE in September 1996, in collaboration with The Urban Institute, UNDP and the FAO Water Law Department. It is based on the draft conclusions of the Phare Project *National Water Strategy for Albania*, in particular on our analysis of relevant Albanian and EU legislation and institutions concerning water resource management and protection.

The goal is to create a strong water management and protection system by providing technical assistance to bring into effect and operationalise the regulatory framework under recent national laws¹

All of these technical assistance projects are based on the urgent need to build clear, well-functioning regulatory systems in Albania before the new investments lead to a situation where water uses and discharges are unregulated and bring about a deterioration of Albania's pure and abundant water resources.

The Projects in **BOLD** are already in course or have a high probability (+90%) of agreement before the end of the year.

<p>FAO Oct-Dec/96</p>	<p>Review of existing laws and proposed amendments to WRL to make it coherent, streamlined, possibly also to WSSR and Irrigation Law</p>
<p>US AID Oct/96 - Dec/97</p>	<p>Assistance in the implementation of the WRL and WSSR</p> <p>Definition of competencies, management structures, resource needs and short-term priorities for action in the implementation of the WRL, WSSR², the Industrial Discharge regulatory regime and the water protection programmes and activities under the LEP (These could/should be separate projects)</p> <p>Development of institutional procedures for Regulatory Commission and Agency under the WSSR, development of a short term action plan</p> <p>Development of institutional procedures for National Water Council and its Technical Secretariat</p> <p>Development of fee systems under the WRL, WSSR, training</p> <p>Implementation of permitting regimes under the WRL, WSSR</p> <p>Development of monitoring and enforcement mechanisms under the WRL, WSSR, training</p>

¹ The Water Resources Law (1996), Water Supply and Sanitation Regulation (1996), Law on Environmental Protection (1993), Law on the construction, administration, maintenance and operation of Irrigation and Drainage Works (1991).

² USAID has begun work on the WSSI and WRL. Phare will help environmental permitting authorities draw up new industrial discharge permits on a case by case basis. WB is rehabilitating the irrigation regime. FAO has almost completed a project of legal assistance to the Ministry of Agriculture regarding irrigation.

<p>Phare ext of BCEOM contract Nov- Feb/96-97</p>	<p>Finalisation of the National Water Strategy Promotion and Implementation of the National Water Strategy Advice in presentation of the draft Strategy to public and private interests and gaining support and co-operation for a programme of water management and protection</p> <p>Development of drinking water standards, water quality standards</p>
<p>Phare (94 Prog)</p>	<p>Advice to industrial permitting authorities of the MHE</p>
<p>Phare (1996 Programme) Mar/97 - Feb/98</p>	<p>1 <u>Strengthening Environmental Institutions</u> Development of the regulatory structure of an integrated environmental permitting regime, training, guidelines for permitting, discharge limit values and other requirements for certain industries, equipment for permitting authorities, training in monitoring and enforcement under the LEP Development of fee systems under the LEP, training</p> <p>2 <u>Water Resources Management</u> Survey of existing water quality in Albania (surface, ground and coastal waters)</p> <p>Institutional strengthening of water resources monitoring systems</p> <p>Categorisation of existing water quality in terms of current quality and current and proposed uses (e.g. drinking water resources irrigation water resources, nature protection (Drinos River) bathing waters)</p> <p>Preparation of an Action Plan for Implementation of the Strategy and assistance in future modifications of the Strategy</p> <p>Development of a National Water Resource Master Plan</p>
<p>JICA 1997</p>	<p>Development of a Drinking Water Master Plan</p>
<p>FAO-UNDP</p>	<p>Institutional strengthening of the irrigation and drainage regulatory regime</p> <p>Development of permitting regulations for water extraction and use dredging, etc</p> <p>Implementation of permitting regimes under Irrigation Law WRL</p> <p>Training and ongoing advice to lawyers working on international water regulation including compliance with international conventions (e.g. transboundary environmental impact assessment Barcelona Convention, transboundary rivers)</p>
<p>WB?</p>	<p>Development of an Irrigation Master Plan</p>
<p>Phare 1997 Programme? (1998-2000)</p>	<p>???</p>

Table 1
Comparison of Major Statutory Authorities for Water Resource Management in Albania [October 1996]

This table describes key responsibilities for the protection and management of water under four laws
 It indicates the paragraph and institution(s) assigned to each responsibility under the laws

Responsibilities	Water Resources Law [1996]	Law on Environmental Protection [1991]	Water Supply and Sanitation Regulation Law [1996]	Sanitation Inspectorate Regulation	Law on Construction, Administration Maintenance and Operation of Irrigation and Drainage Works [1991]	Comment
Establish Water Policy	NWC, Art 6					
Establish Environmental Policy		MHEP Art 38				EP Water is an integral part of the environment
Establish Management Structures for Water	CoMin Art 5 7 NWC Art 6 8	MHEP Art 39 41	CoMin Art 4 12 Comm, Art 6, 1		Art 7 13 Water Users' Associations	EP Insofar as water is part of environmental protection responsibilities
Financial Incentives	Art 57	MHEP LAs (disburse funds)	Comm, Art 14			WSSL Investment programs, and other functions
Management of Water Resources	NWC Art 5 6 TS Art 7 9, DBC's, Art 18 23				CoMin Art 6 District Directorates, Art 23	WSSL Only regarding water supply and sanitation services to the public
Protection of Waters	CoMin, NWC, TS	CoMin, MHEP, Agencies, LA				WSSL focus is human health protection of drinking water safe treatment
Water Use Regulation procedures (fees see below)	CoMin Art 20		CoMin, Art 12 Comm Art 29 26		Art 9 15	
Regulation of water supply and treatment operations (concessions)	NWC TS Art 16 Art 18 23 (Water agencies), 28		CoMin, Art 17 Comm, Art 14, 18, 29, 26			
Water Discharge regulation procedures standards fees	CoMin Art 20 31 NWC in cooperation with MHEP Art 27 TS in coop with MHEP, Art 26	MHEP Art 18 19 23 25 27	Comm, Art 14, 18 29 26			EP Art 18 determines what activities require environmental licenses WSSL are discharges same as disposal of wastewater?

Responsibilities	Water Resources Law [1996]	Law on Environmental Protection [1991]	Water Supply and Sanitation Regulation Law [1996]	Sanitation Inspectorate Regulation	Law on Construction, Administration, Maintenance and Operation of Irrigation and Drainage Works [1991]	Comment
Land Discharge Regulation	NWC in cooperation with MHEP Art 27	MHEP, Art 18, 19, 23				EP Art 18 determines what activities require environmental licenses
Sewage network construction and operation	Art 18 - 23 (Water Agencies), 28		Comm Art 14			WSSL Art 14, license water treatment services
Water discharge licenses	NWC, Art 18 - 23 (Water Agencies) 32, 24	MHEP CEP LA, Art 19, 21	Comm, Art 14			EP Art 19, general authority to issue environmental licenses WSSL "disposal" of wastewater
Regulation of well drilling regulations and permits	NWC, Art 24					
Land discharge license	NWC in coop with MHEP, Art 27	MHEP, CEP, LA Art 19, 21				MHEP controls toxic waste transport and disposal
Regulate reuse of wastewater	NWC, Art 31		Comm, Art 14			WSSL not clear, discharges not regulated as such but as disposal of wastewater
Irrigation plans draining river bank protection, reforestation emergency response, limits on floodlands	NWC Art 37 38, 39				Art 9	
Designate drinking watersheds, special protected areas wetlands drainage areas	NWC Art 40 41 44 45					
Permits for bank structures Regulation of shorelines beaches, etc	NWC Art 48 NWC Art 49					
Monitoring of environment		CEP Regulatory Agencies LA Art 27				EP environmental monitoring includes water
Monitoring of surface/ groundwater	NWC Art 51		Comm, Art 14			WSSL perform any other function
Monitoring of drinking water			Comm Art 14	Art 5		WSSL perform any other function'

Responsibilities	Water Resources Law [1996]	Law on Environmental Protection [1991]	Water Supply and Sanitation Regulation Law [1996]	Sanitation Inspectorate Regulation	Law on Construction, Administration Maintenance and Operation of Irrigation and Drainage Works [1991]	Comment
Monitoring of license compliance			Comm Art 14			
Set fees			Comm, Art 7, 22		Art 20, 26	
Collect fees	NWC Art 57, 58	CEP, Regulatory Agencies LA Art 19	Comm, Art 14		Art 20, 28	
Control compliance			Comm Art 18 23, 31	Art 10 11	Art 17	
Administrative enforcement	TS Art 7	CEP, Regulatory Agencies LA Art 29 31	Comm Art 23 26 27	Art 19, 26	Art 17	Can prohibit use of drinking water when standards are breached or there is a risk of pollution, CEP-emergency response control of problems at the request of a person
Civil enforcement	TS	CEP, Art 29 31 Regl Agencies Art 29 31 LA, Art 29 31		Art 6	Art 29 31	
Criminal enforcement	TS					
Gather information	TS/NWC		Comm Art 31	Art 5		scientific research into health and sanitation

Legend

CoMin Council of Ministers

NWC National Water Council (ministerial level)

TS Technical Secretariat (to the NWC)

DBC Drainage Basin Councils

MHEP Ministry of Health and the Environment

CEP Committee for Environmental Protection (under MHEP)

LA Local authorities (under MHEP)

Comm Water Supply and Sanitation Regulatory Commission



Table II
Organization of Water Resource Management Functions in Albania [October 1996]

Policy Development and Oversight [National Water Council]	Implementation of Program Administration and Management by Water Use Categories [Multiple Ministries]	Environmental and Health Protection Monitoring and Enforcement [Ministry of Health and Environment]
<p>1) Set Policy a) Control allocation of use to ensure adequacy for all present needs conservation and protection for sustainability and future use b) Privatization of assets and services</p> <p>2) Define institutional framework for Implementation a) Assign existing ministries and institutes b) Create new bodies c) Set terms of oversight and coordination d) Establish Technical Secretariat [National Water Agency]</p> <p>3) Develop use allocation application and concession procedure a) Define criteria for use allocation b) Approve proposed fee structures for use concession/license fees discharge permits fees fines</p> <p>4) Propose/Promulgate Implementing Decisions a) Recommend Presidential Decrees b) Propose legislation c) Promulgate regulation d) Publicize action e) Make recommendations</p> <p>5) Oversee Implementation a) National and regional plan development b) National Water Strategy development c) Establishment of Drainage Basin Councils d) Research proposals e) Water inventory and use development f) Conservation and protection plans and actions g) Reporting and documentation of progress</p>	<p>1) Water Supply and Sanitation [Water Supply and Sanitation Regulatory Commission] a) Propose regulation for water and sewer service providers standards of service business conduct financial responsibilities standards for conservation and protection (adopt from the Law on the Protection of the Environment LEP) b) Propose and collect license fees c) Establish tariff/rate structures d) Monitor compliance with license terms e) Enforce license terms through fines and revocation f) Make reports to the NWC</p> <p>2) Irrigation and Drainage [Ministry of Food and Agriculture] a) Establish and administer water user associations b) Propose and collect use fees c) Maintain irrigation and drainage system d) Oversee operations e) Revoke and shut down non-compliance</p> <p>3) Hydropower [Ministry of Mineral Resources and Energy]</p> <p>4) General Industry [Ministry of Industry Trade and Transport]</p> <p>5) Construction of piers, harbors, use of beds and banks, well drilling [Ministry of Public Works and Tourism]</p> <p>6) Navigation and Water Transport [Ministry of Industry Trade and Transport]</p> <p>7) Fishing</p> <p>8) Tourism and Entertainment [Ministry of Public Works and Tourism]</p>	<p>1) Develop pollution standards for -- water quality drinking water emission/effluent limits</p> <p>2) Develop and implement procedures and issue discharge permits</p> <p>3) Designate protected areas wetlands drainage areas to protect health</p> <p>4) Monitor and enforce compliance</p>



**ANNEX I
TO THE DECREE¹ ON IMPLEMENTATION
OF THE LAW NO 8093, DATED 21 03 1996
"ON WATER RESOURCES"**

DUTIES OF THE NATIONAL WATER COUNCIL

Pursuant to Article 6 of the Law on Water Resources and this Presidential Decree, the National Water Council is hereby established as an independent regulatory and oversight body to manage all water resources within the Republic of Albania. Accordingly, it shall be within the authority and the duty of the National Water Council to undertake the following activities:

- I Set Water Management Policy for all of Albania through
 - A Allocation of rights to water use on application and grant of concessions
 - B Determinations regarding privatization of water assets and services
- II Define the institutional framework for implementation of the Water Resources Law by
 - A Affirmation of the authorities of existing agencies regarding water program development and enforcement, and determination of primary jurisdiction in the case of conflict
 - B Creation of new implementing, research, enforcement and such other bodies as may be necessary to carry out the intent of this Law
 - C Setting the terms and conditions under which agencies will cooperate and coordinate efforts to implement the Water Resources Law, through formal memoranda of understanding or such other agreements as may be necessary to achieve efficient operation and management of water resources
 - D Establish a Technical Secretariat, pursuant to Article 7 of the Water Resources Law, as its independent Executive Water Management Agency, to
 - 1 Manage through oversight, coordination and independent action the implementation of all decisions of the National Water Council
 - 2 Develop, coordinate and manage the operation of the program authorized by this Law relative to the issuance of use concessions for all water utilization in Albania
 - 3 Ensure enforcement of terms of concessions for water use and permits for discharge to water by ministries and specialized agencies engaged in monitoring and enforcement as part of the implementation of this Law
 - 4 Utilize, coordinate and create, as required, the technical capabilities of the

¹ The decree itself is being developed by Albanian staff

19

Government of Albania to undertake research, investigation or such other activities as are necessary to ensure that water use and permitting decisions are based on sound engineering and environmental science

5 Prepare regulations, decisions, and other pronouncements at the direction of the National Water Council to provide recommendations and reports to the Council of Ministers, the Parliament and the people of Albania as directed by the Council of Ministers

III Develop and publish regulations directing use allocation application and concession procedures to be applied and followed by all agencies involved in the review and grant of licenses or concessions for use of water resources in Albania Such regulations shall include, but not be limited to

A Specification of criteria to be met by applicants for use concessions and licenses, including

- 1 Project design specifications
- 2 Service parameters
- 3 Financial capability
- 4 Feasibility study design
- 5 Environmental impact assessment, with emphasis on
 - monitoring protocols
 - plans for satisfying water quality requirements
 - nature protection and conservation program

B Requirements for setting fee structures applicable to all agencies setting fees for applications for licenses and concessions, for permits to operate water resource businesses, and for permits to discharge into the waters of Albania

C Specification of fines to be imposed on a person or entity in violation of the terms of any license, permit or concession issued pursuant to the Water Resources Law

IV Propose and promulgate decisions intended to implement the Water Resources Act as follows

A Recommend actions appropriate for implementation by Presidential Decree or Decision of the Council of Ministers

B Propose legislation, as needed, to further the objectives of the Water Resources Law and the coherent management of Albania's water resources

C Promulgate regulations related to water resource management as proposed by the Technical Secretariat or other agencies involved in water management implementation

D Undertake actions and programs to publicize the water resource management activities of the National Water Council and all agencies involved in water resource management activities, involve public participation, and, ensure an increased level of understanding of the program and appreciation of the need for use conservation and environmental protection objectives



- E Make such other recommendations to the Council of Ministers, the President and the Parliament as may be deemed necessary to fulfill the objectives of the Water Resources Act
- V **Oversee implementation of the Water Resources Act through review of program development, agency recommendations and direction, strategies and plans, including the following**
 - A National water strategy
 - B National and regional water development plans
 - C Establishment of Drainage Basin Councils
 - D Research proposals
 - E Water resource and quality inventory
 - F Conservation and protection plans and programs
 - G Reports and other documentation of progress by implementing agencies

**ANNEX II
TO THE DECREE ON IMPLEMENTATION
OF THE LAW NO 8093, DATED 21 03 1996
"ON WATER RESOURCES"**

ESTABLISHMENT OF THE TECHNICAL SECRETARIAT

Pursuant to Article 7 of the Law on Water Resources and this Presidential Decree, the National Water Council will establish a Technical Secretariat to serve as its independent Executive Water Management Agency

After three years, when it is anticipated the Water Resources Law will be fully implemented, it is expected that the Technical Secretariat will be fully operational as the National Water Council's independent Executive Water Management Agency, with a staff of between twenty-five and thirty professional staff and a supporting staff of approximately seven, headed by an Executive Director. At that time it is also expected that the Executive Water Management Agency will function independent of all other water management agencies

In the interim, the Technical Secretariat will be initially established with an Executive Director, three technical and one support staff. The four professional staff will be selected to encompass expertise in

- hydrology
- engineering
- finance
- management/administration

The staff and offices of the Technical Secretariat will be temporarily housed within the Ministry of Public Works for administrative convenience. The budget for staff and operations will be derived from the contribution of the ministries currently most involved in water management, i.e., the Ministry of Public Works and Tourism, the Ministry of Food and Agriculture, the Ministry of Mineral Resources and Energy, the Ministry of Industry, Trade and Transport, and the Office of the Prime Minister