

The Third Special Session of the Working Group
on Future Development of EANET
19 November 2008, Chiang Mai, Thailand

REPORT OF THE SESSION

I. Introduction

1. The Working Group on Future Development (WGFD) of the Acid Deposition Monitoring Network in East Asia (EANET) held its Third Special Session in Chiang Mai, Thailand on 19 November 2008.
2. Representatives of Cambodia, China, Indonesia, Japan, Lao PDR, Malaysia, Mongolia, Myanmar, Philippines, Republic of Korea, Russia, Thailand, and Viet Nam participated in the Session. The representatives of the Secretariat and the Network Center (NC) for EANET, as well as experts and resource persons from international organizations and Kanazawa University participated in the Session. Some observers also attended the Session. The List of Participants is attached as Annex 1.
3. Dr. Supat Wangwongwatana, Director General, Pollution Control Department, Thailand and Chairperson of the WGFD chaired the Session.

II. Adoption of the Agenda (Agenda Item 2)

4. The Session adopted the Agenda (EANET/WGFD S3/2/1) as proposed by the Secretariat.

III. Consideration of the Draft Report of the Working Group on Future Development (WGFD) on the Text of the Instrument to Provide a Sound Basis for Contribution to EANET (Agenda Item 3)

5. The Secretariat presented the Report of the Working Group on Future Development (WGFD) for the Tenth Session of the Intergovernmental Meeting (IG10) on the Instrument to Provide a Sound Basis for Contribution to EANET (Fourth Draft) (EANET/WGFD S3/3/2) including the Revised Draft of the Instrument to Provide a Sound basis for Contribution to EANET (EANET/WGFD S3/3/1).
6. The Session discussed the above two documents and made revisions to the documents.
7. The Session adopted the Draft Report of the Working Group on Future Development (WGFD) on the Text of the Instrument to Provide a Sound Basis for Contribution to EANET (Fifth Draft) including the Revised Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET (attached as Annex 2) and agreed to submit this document to the Tenth Session of the Intergovernmental Meeting (IG10), for its consideration.

IV. Consideration and adoption of the Report of the Session (Agenda Item 4)

8. The Report of the Session (WGFD S3/4) was adopted.

V. Closing of the Session (Agenda Item 5)

9. The Session was officially closed by the Chairperson.

Annex 1

List of Participants

Participating Countries

Cambodia

Mr. Ngoun Kong
Deputy Director General
Ministry of Environment

Mr. Ken Choviran
Deputy Director
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China

Mr. Liu Shusheng
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Department of Environmental Monitoring
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Ms. Gu Li
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International Cooperation Department
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China National Environmental Monitoring
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Mr. Zhou Jun
Engineer
Institute for International Environmental
Policies
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Ministry of Environmental Protection

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Ministry of Environment

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Ms. Darounny Vilaythong
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Ms. Noor Asima Osman
Senior Federal Counsel
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Environmental Pollution Monitoring Department
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Thailand

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Acid Deposition and Oxidant Research Center

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Annex 2

**REPORT OF THE WORKING GROUP ON FUTURE DEVELOPMENT (WGFD)
FOR THE TENTH SESSION OF THE INTERGOVERNMENTAL MEETING OF
EANET (IG10) ON THE INSTRUMENT TO PROVIDE A SOUND BASIS FOR
CONTRIBUTION TO EANET
(FIFTH DRAFT)**

I. INTRODUCTION

• **Background**

1. The Seventh Session of the Intergovernmental Meeting (IG7) adopted the Decision 1/IG7 (Niigata Decision) which decides that the participating countries of EANET should begin a process to discuss an appropriate Instrument and its legal status to provide a sound basis for financial contribution to EANET and will report the results of the discussion to the Tenth Session of the Intergovernmental Meeting (IG10) for its consideration. The “Feasibility Study Report on an Appropriate Instrument to Provide a Sound Basis for Financial Contribution to EANET Activities” will be a reference for the process of discussion, but it will not be a necessary basis for the process of discussion.
2. The Eighth Session of the Intergovernmental Meeting (IG8) of EANET, held in November 2006, in Hanoi, Viet Nam decided that the Instrument should be simple, flexible and open for future development of EANET, based on the “Joint Announcement on the Implementation of the Acid Deposition Monitoring Network in East Asia” (EANET/IG 2/5/2 rev; hereinafter referred to as “JA”) and “Tentative Design of the Acid Deposition Monitoring Network in East Asia” (EANET/IG 2/5/3 rev; hereinafter referred to as “TD”) and relevant decisions at the IG meetings and that financial provisions should be developed in close consultation with concerned countries and without placing an undue burden on participating countries. IG8 also pointed out that financial contribution could not be specified in the text of the Instrument.

• **Terms of Reference of the WGFD**

3. The Terms of Reference for the Working Group on Future Development (WGFD) of EANET for 2007-2008 adopted by the IG8 states that, under the guidance of the Intergovernmental Meeting (IG) it will, among other tasks, discuss and develop an appropriate Instrument and its legal status to provide a sound basis for financial contribution for EANET and report the results of the discussion to the Tenth Session of the Intergovernmental Meeting (IG10) for its consideration.

II. MAJOR DISCUSSIONS ON THE TEXT OF THE INSTRUMENT

4. The Fourth Session of the Working Group on Future Development (WGFD4) held in Pathumthani, Thailand in June 2007 discussed the first negotiating text on the Instrument prepared by the Secretariat. The Session requested the Secretariat to prepare two versions, a legally binding and a non-legally binding text based on the revisions proposed for discussions at its next session. The Fifth Session of the Working Group on Future Development (WGFD5) held in Pathumthani, Thailand in September 2007 discussed the revised text and decided to submit a report to the Ninth Session of the Intergovernmental Meeting (IG9), held in Vientiane, Lao PDR in November 2007, consisting of the following items:
 - Two versions of the draft text (legally binding and non-legally binding) with brackets;
 - Cost estimates of the core budget activities of the Secretariat and the Network Center (NC), based on the current texts; and
 - Compilation of the comments on the draft text from the participating countries.
5. At IG9, there was a suggestion that detailed discussions on respective articles of the Instrument should be conducted at the WGFD Sessions, and that IG should focus on providing guidance to WGFD. It was also recommended that the report should identify issues that the WGFD agreed on and issues that could not be resolved in the discussion of the WGFD sessions. The IG9 requested the Secretariat to produce a consolidated text by integrating the draft legally binding and non-legally binding texts of the Instrument in order to focus attention on the contents of the Instrument. The Session further requested the Secretariat to integrate comments received into the text. The WGFD was requested to proceed with the discussions based on the consolidated text with the aim of reporting the results of the discussions to IG10.
6. The Sixth Session of the Working Group on Future Development (WGFD6) held in Pattaya, Thailand in April 2008 prepared a preliminary revised draft text based on the discussion and decisions made at the meeting. The revised draft includes 2 different structure of options, cited as Option A and Option B, to reflect all the comments from participating countries. The Session also decided that the outline of the Report of the WGFD for IG10 on the Instrument to Provide a Sound Basis for Contribution to EANET shall contain the following structure:
 - I. Introduction
 - Background
 - Terms of Reference of the WGFD
 - II. Major discussions on the Text of the Instrument
 - Components of the Instrument
 - Legal Status of the Instrument
 - Scope of the Instrument
 - Financial arrangement

- Others

III. Proposed Text of the Instrument

IV. Issues for consideration by IG10

7. The Seventh Session of the Working Group on Future Development (WGFD7) held in Pathumthani, Thailand on 29-31 July 2008 reviewed the revised draft text of the Instrument and made further revisions based on comments submitted by the participating countries before the Session and the discussions and decisions during the Session. The Session prepared a revised draft text of Option A. At the suggestion of the Chairperson, the Session requested the Secretariat to merge Option B into Option A, to facilitate the discussion and accommodate the strong desire of the Session to make one consolidated text of the Instrument to submit to IG10. The Third Special Session of the WGFD (WGFD S3) was held in Chaing Mai, Thailand on 19 November 2008.

8. The major comments on the Instrument are summarized under the following headings.

• **Components of the Instrument**

9. The components of the Instrument were presented at the IG8, consisting of six sections as follows:

- (1) Preamble
- (2) General Provisions
- (3) Specific obligations and content of activities
- (4) Provisions on organizations
- (5) Financial arrangement
- (6) Procedures

10. Major discussions on this topic included:

- The principles for the discussion of the Instrument should be simple, flexible, open for future development, and based on the JA and TD and relevant decisions at the IG meetings.
- Preamble usually contains background of the text to be adopted.

11. The text of the Instrument includes the following components:

- (1) Preamble
- (2) General Provisions (Definitions, Objectives, Principles)
- (3) Specific activities
- (4) Provisions on organizations
- (5) Financial arrangement
- (6) Procedures

- **Legal status of the Instrument**

12. There were diversified views on the legal status among the participating countries. It was clarified by the UNEP legal expert that the word “instrument” can be used whatever the legal status of the Instrument is.
13. Major discussions included:
 - It is important to strengthen the basis of EANET by upgrading the status of the document(s).
 - The starting point of the discussion on the Instrument was to address the difficulties of some participating countries to provide financial contribution through a non-legally binding Instrument.
 - The objectives of the Instrument cannot be just to provide financial basis for EANET.
 - To make the Instrument complete and stand-alone, components of principles, activities and institutional arrangement need to be included into the main text of the Instrument.
 - A legally binding Instrument is preferable not only for EANET to enable the participating countries to secure financial contributions, but also that a legally binding Instrument would also strengthen the basis for national activities for acid deposition problems.
 - A non-legally binding Instrument is preferable since a legally binding Instrument is not appropriate at this stage and there is not any possibility for it to be accepted by some participant countries.
 - The final decision on the legal status of the Instrument could be made at later stage after due consideration was given to the contents to be included in the Instrument.
14. It was pointed out that national procedures for adoption and implementation of the Instrument as well as the significance of the Instrument under the national systems, may be different from countries to countries, in accordance with their respective national laws and regulations.
15. It was agreed to use the term “participating country” in place of “party” and “will” instead of “shall” throughout the text of the Instrument.
16. It was proposed to make a recommendation to IG that it may consider authorizing another round of negotiation to finalize the Instrument including whether the signature of government is needed or not.

- **Scope of the Instrument**

17. It was emphasized that the Instrument should be strictly in line with the JA and the TD of EANET, while there were different views that the Instrument should be flexible and open

for future development of EANET and accommodate future activities, which will facilitate more effective and efficient air quality management in East Asia.

18. Regarding the scope of the Instrument, the scope of substances for EANET and the scope of activities of EANET were discussed. There were different views both on the scope of substances and the scope of activities. Major discussions included:

Scope of substances

- It is preferable to have a broader scope (regional air pollution) to ensure flexibility and openness for future development of EANET.
- The Instrument is to provide sound basis for contribution to EANET. All the discussions should be based on the present scope of EANET (acid deposition).
- The scope could go beyond acid deposition and the Instrument could provide room for additional tasks, if and when decided by IG.
- The IG authorized the WGFD to discuss the Instrument, but not to discuss the scope of activities and monitoring substances of EANET. The issue of expanded activities of EANET and the addition of other monitoring substances would simply complicate the present situation and slow down the on-going discussion of the Instrument.
- The Strategy on EANET Development (2006-2010), which was adopted at IG8, contains an activity to establish a framework for reviewing substances to be monitored, including other air pollutants and monitoring parameters.
- It was repeatedly pointed out from the scientific viewpoints that without addressing the issues of other air pollutants such as ozone and particulate matter, acid deposition problem cannot be dealt with appropriately since many of the air pollution phenomena are directly or indirectly related to acid deposition.
- The phrase “regional air pollution” should be clearly defined with regard to other air pollution, such as haze pollution on which there exists an Agreement (ASEAN Agreement on Transboundary Haze Pollution).
- The term “regional air pollution” should be used in the provision on Objective. In the provision on Objective, the phrase “[The scope of the Instrument may be extended to cover other regional air pollution, as decided by the Intergovernmental Meeting (IG).]” should be included.
- The term “regional air pollution” should be retained both in the provision on Definition and in the provision on Objective.
- The characteristic of regional air pollution is different from that of climate change.

Scope of activities

- It is preferable for the Instrument to have a broader scope (prevention and control/management) to ensure flexibility and openness for future activities of EANET.
- The Instrument should strictly follow the present scope of EANET and the activities should be limited to monitoring of acid deposition.

- The Strategy on EANET Development (2006-2010) contains activities to promote modeling and emission inventories. The project proposal on Pilot Project on Emission Inventories for Interested Participating Countries was approved by the National Focal Points (NFPs) for submission to donor agencies after the WGFD5.
- It was pointed out that from the scientific viewpoints modeling and emission inventory should be complementary with the EANET monitoring for better assessment of regional acid deposition since it is impossible to assess the status in the vast East Asian region only by limited number of EANET monitoring data
- Inclusion of modeling and emission inventories, however, will result in a substantial increase in workload, requiring an increase of the number of network centers and expansion of SAC workload.

19. There are still following options on the scopes of substances and activities for further consideration and decisions by the IG:

Scope of substances

Option 1: Acid deposition;

Option 2: Regional air pollution with the definition of acid deposition at the first stage with possible extension to other air pollution which has regional implications, as decided by the IG;

If the following sentence is accepted to the Article/Item 2 on Objectives and Scope by the IG, acid deposition instead of regional air pollution could be used in the related provisions of the Instrument.

“The scope of the Instrument may be extended to cover other regional air pollution, as decided by the IG”.

-

Scope of activities

- It was proposed to use the words: monitor, [prevent and control] in relevant provisions of the Instrument

• **Financial arrangement**

20. It was emphasized that the starting point of this discussion is to solve the difficulty in some countries of securing financial contributions for EANET. There had been different views expressed on the provisions of financial arrangements. The major discussions included:

- It is important to ensure that the Instrument contains a mechanism for the formulation of

rules for financial contributions in a flexible manner, in accordance with the work programs, capabilities of the participating countries and other conditions. The provisions on financial arrangement should be simplified as much as possible.

- It is preferable to have a legally binding Instrument with clear financial arrangement based on current decision of EANET and discussions at the previous WGFD meetings.
- There is the need for a legal basis to strengthen national activities and to secure financial contributions for EANET.
- It is preferable to have a non-legally binding Instrument at the present stage.
- An international Instrument signed by governments (or by the authorized state body on behalf of the government) is needed. Two options of financial arrangement might be suggested: (i) to include detailed rules of financial arrangement into the text of the Instrument or (ii) to establish a high level decision-making body other than the IG for taking important political and financial decisions. The IG could not be a decision making body on financial rules and procedures, because its participants are not authorized by its government.

A consolidated text was developed with several brackets for consideration and guidance by the IG.

III. PROPOSED TEXT OF THE INSTRUMENT

21. The proposed text of the Instrument with remaining brackets is presented as an Annex of this report for consideration and decision of the IG10.

IV. ISSUES FOR CONSIDERATION BY THE IG10

22. The IG10 is invited to consider and make decisions/provide guidance on the document submitted by the WGFD on the Instrument to Provide a Sound Basis for Contribution to EANET, especially on the following issues:

Legal status of the Instrument

The IG10 may consider authorizing another round of negotiation to finalize the Instrument including whether the signature of government is needed or not.

Whether an Instrument with signature by the authorized representatives of the governments of the participating countries should be developed, following the recommendations of the WGFD?

Scope of substances

Which of the following two options should be adopted for the Instrument?

Option 1

- Acid deposition;

Option 2

- Regional air pollution with the definition of acid deposition at the first stage with possible extension to other air pollution which has regional implications, as decided by the IG;
- If the following sentence is accepted to the Article/Item 2 on Objectives and Scope by the IG, acid deposition instead of regional air pollution could be used in the related provisions of the Instrument.
“The scope of the Instrument may be extended to cover other regional air pollution, as decided by the IG”.

Scope of activities

- It was proposed to use the words: monitor, [prevent and control] in relevant phrases in the Instrument. IG may wish to provide guidance on what wording should be used in the relevant provisions of the Instrument.

Financial arrangement

- A consolidated text was developed with several brackets. The IG may wish to consider the text and provide guidance for further elaboration.

Status of Joint Announcement and Tentative Design

- If the Instrument will be adopted, will it replace the JA and the TD?

Next steps

- The IG may wish to decide to request the WGFD to further develop the Instrument.

ANNEX

**REVISED DRAFT TEXT OF THE INSTRUMENT
TO PROVIDE A SOUND BASIS FOR CONTRIBUTION TO EANET**

[Title

[option 1: [Instrument] for Strengthening the Acid Deposition Monitoring Network in East Asia (EANET)]

[option 2: [Instrument] to Promote Cooperation on Regional Air Pollution in East Asia]

The Participating Countries to this Instrument,

Recognizing that East Asia is facing increasing risks of problems related to [regional air pollution including acid deposition][acid deposition],

Recalling that Agenda 21, adopted at the United Nations Conference on Environment and Development in 1992, stated that the experience of the programs on transboundary air pollution in Europe and North America needed to be shared with other regions of the world,

Acknowledging the successful operation of the preparatory-phase activities of the Acid Deposition Monitoring Network in East Asia (EANET), which was undertaken by ten countries in East Asia from 1998 to 2000, following the common understanding expressed at the First Intergovernmental Meeting, on 19-20 March 1998 in Yokohama, Japan,

Recognizing that EANET was established in January 2001 as an important initiative for regional cooperation, aiming at creating a common understanding on the state of acid deposition problems, at providing useful inputs to policy makers at various levels, and at contributing to cooperation on the issues related to acid deposition among the participating countries,

Acknowledging that thirteen countries in East Asia are participating in EANET and have been successfully working together to conduct acid deposition monitoring [and to implement other activities for EANET], based on the Joint Announcement on Implementation of the Acid Deposition Monitoring Network in East Asia (JA) adopted by the participating countries and Tentative Design of EANET (TD) referred to in JA,

Emphasizing that activities of the cooperative network on the acid deposition [and other regional air pollution] in East Asia under EANET have been developed by taking a step-wise approach by the participating countries on a voluntary basis,

Recognizing the need to promote cooperation for the monitoring, [prevention and control] of

[regional air pollution][acid deposition] in East Asia,

Also recognizing that the Instrument should be simple, flexible, open for future development and be based on the JA, TD and other decisions of the [participating countries][Intergovernmental Meeting (IG)],

[Emphasizing the importance of appropriate financial arrangement for the sound operation of the EANET with a view to sustaining the development of the EANET, strengthening the financial mechanism of the EANET and providing a sound basis for financial contribution to the EANET and enhancing capacity building of acid deposition monitoring for all the participating countries of the EANET,],

[Noting that the participating countries of the EANET will be guided, in the implementation of this Instrument, by the principles that the use of financial contribution should produce effective outcomes, that the related executive bodies should take necessary measures to improve efficiency of contribution,]

[Noting the fact that the effective realization of the EANET activities before taking into force of this Instrument was supported by voluntary contributions of some participating countries, covering the activities of the EANET Secretariat and the core activities of the Network Center which annually consisted of about one million US dollars and expressing great thanks to the Governments of these countries],

[Determined to renew their commitment to continuing the activities of EANET as set out in the Tentative Design],

Have agreed as follows:

[Article 1/Item 1]

Definitions

["EANET" means, for the purpose of Items 2 to [25], the cooperative network of the Participating Countries which aim to promote activities under this instrument building on Acid Deposition Monitoring Network in East Asia established in January 2001.]

[EANET means, for the purpose of this Instrument, Acid Deposition Monitoring Network in East Asia.]

["Regional air pollution" means acid deposition, at the first stage with possible extension to other air pollution which has regional implications as decided by the IG.]

[Article 2/Item 2]
Objectives and Scope

The objectives and scope of this Instrument are:

- 1) to create a common understanding of the state of [regional air pollution][acid deposition problems in East Asia];
- 2) to provide useful inputs for decision-making at local, national and regional levels aimed at preventing or reducing adverse impacts on the environment caused by [regional air pollution][acid deposition]; and
- 3) to contribute to cooperation on the issues related to [regional air pollution][acid deposition among the Participating Countries].

[The scope of the Instrument may be extended to cover other regional air pollution, as decided by the IG.]

(If the last sentence is accepted by the IG, [regional air pollution] in the Article/Item on the Objectives and Scope 1, 2 and 3 can be deleted.)

[Article 3/Item 3]
Principles

1. The Participating Countries will, in the spirit of solidarity and partnership and in accordance with their respective needs, capabilities and situations, strengthen cooperation to monitor [prevent and control] [regional air pollution][acid deposition].
2. The Participating Countries will be encouraged to take appropriate measures to monitor [prevent and control] [regional air pollution][acid deposition]to minimize its adverse impacts, taking into account the precautionary principle.
3. The Participating Countries will promote active participation, and bilateral and multilateral cooperation for effective implementation of the activities under this Instrument.

[Article 4/Item 4]
Monitoring and Reporting

1. The Participating Countries will implement and strengthen their monitoring activities in line with this Instrument.
2. Each Participating Country will designate a national center, which is responsible for implementing the monitoring activities provided for in this Instrument.
3. Each Participating Country will develop and implement its national monitoring plan. Monitoring of acid deposition [and other regional air pollution] will be implemented in accordance with the monitoring guidelines, technical manuals and other technical documents adopted by the IG.
4. Each Participating Country will report the monitoring data and other relevant information to the Network Center (NC), in accordance with the guidelines adopted by the IG.
5. In order to obtain high quality monitoring data, the quality assurance/quality control (QA/QC)

programs adopted by the Scientific Advisory Committee (SAC), will be implemented by the NC in full collaboration among the Participating Countries for monitoring activities under this Instrument.

6. The monitoring data and other information submitted by the Participating Countries will be compiled, stored and analyzed by the NC.
7. The data and other information compiled through the EANET activities will be provided to individuals, organizations and non-member countries, in accordance with the procedures adopted by the IG.

]

[Article 5/Item 5]

Assessment

1. The monitoring data and other information submitted by the Participating Countries will be analyzed, evaluated and assessed.
2. Periodic assessment reports on the state of [regional air pollution][acid deposition] in East Asia will be prepared based on the data reports, disseminated and made available to the public.

[Article 6/Item 6]

Research Activities

1. The Participating Countries will promote studies on scientific issues related to [regional air pollution][acid deposition].
2. Research activities should be mutually reinforcing and supportive with existing regional, sub-regional and national initiatives in East Asia. Collaboration should be promoted with other international monitoring networks and programs.

[Article 7/Item 7]

Education and Training

The Participating Countries, in collaboration with the NC and the Secretariat, will promote and cooperate in developing and implementing education/training programs to implement this Instrument.

[Article 8/Item 8]

Public Awareness

The Participating Countries will promote and cooperate in:

- 1) development and implementation of public awareness programs on [regional air pollution][acid deposition]; and
- 2) improvement of public access to information on [regional air pollution][acid deposition] and its effects.

[

[Article 9/Item 9]

Exchange of Information

The Participating Countries will promote and cooperate in the exchange of information related to [regional air pollution][acid deposition] including scientific, technological, technical, socio-economic and legal information as well as information on administrative measures,

]

[

[Article 10/Item 10]

Intergovernmental Meeting

1. An Intergovernmental Meeting is hereby established.
2. The IG, composed of the representatives of all Participating Countries, is the decision-making body of the EANET. The tasks of the IG include, among others, the following:
 - a) review and approval of the work program and budget of the EANET, [taking into account amount of money available in the Fund];
 - b) review of implementation of the work program;
 - c) review and approval of periodic assessment reports on the state of [regional air pollution][acid deposition] in East Asia;
 - d) establishment of subsidiary bodies as necessary and appropriate;
 - e) review and approval of scientific, technical, administrative and financial matters for the management of the EANET;
 - f) adoption of the rules of procedures for the IG and subsidiary bodies, including the SAC;
 - g) provision of necessary instructions and guidance to the subsidiary bodies, the Secretariat and the NC on their activities;
 - h) decision on other matters related to the management of the EANET and implementation of the work program; and
 - [i) adoption of annexes, protocols and amendments to this Instrument.]
3. The IG will meet annually, unless otherwise decided.

[Article 11/Item 11]

Secretariat

1. [A Secretariat is hereby established.] [UNEP is designated as the Secretariat for this Instrument by the [Participating Countries][IG].]
2. The Secretariat, designated [by the IG] for the effective management of the EANET and to facilitate cooperation among the Participating Countries in a transparent manner, will carry out the following tasks under the guidance of the IG:
 - a) necessary administrative arrangements for the meetings of the IG, the SAC, and other subsidiary bodies;

- b) necessary administrative and financial arrangements for managing the EANET;
- c) communication and cooperation in administrative and policy aspects as the focal point of the EANET;
- d) promotion of capacity building and public awareness in cooperation with the NC; and
- e) other necessary tasks as requested by the IG.

[Article 12/Item 12]

Scientific Advisory Committee

1. A Scientific Advisory Committee is hereby established.
2. The SAC, composed of scientific and technical experts from the Participating Countries, will advise and assist the IG with various scientific and technical matters related to EANET activities as mandated to it by the IG. These matters will include the following:
 - a) scientific and technical aspects for EANET;
 - b) development and revision of the monitoring guidelines and technical manuals;
 - c) matters related to the selection of monitoring sites, QA/QC programs, data reporting procedures and formats;
 - d) matters related to collection, evaluation, assessment and analysis of monitoring data;
 - e) preparation of periodic assessment reports on the state of [regional air pollution][acid deposition] in East Asia, based on, but not limited to the data compiled by the NC;
 - f) matters related to studies on [regional air pollution][acid deposition]; and
 - g) other scientific matters as requested by the IG.
3. If the Committee considers necessary for fulfilling its objectives, experts from countries other than the Participating Countries may be invited to assist the Committee.

[Article 13/Item 13]

Network Center

1. The NC, to handle scientific and technical matters of the EANET activities and to facilitate cooperation among the Participating Countries in a transparent manner, will carry out the following tasks under the guidance of the IG:
 - a) central compilation, evaluation, storage and analysis of monitoring data and related information;
 - b) preparation of data reports on [regional air pollution][acid deposition] in East Asia;
 - c) dissemination of monitoring data and other relevant information;
 - d) provision of technical assistance to the Participating Countries in implementing the EANET activities;
 - e) implementation and coordination of QA/QC activities;
 - f) development and implementation of education/training programs for those engaged in the EANET activities;
 - g) implementation of research activities on [regional air pollution][acid deposition];
 - h) provision of scientific and technical support for the IG, the SAC and other subsidiary

bodies;

- i) promotion of capacity building and public awareness in cooperation with the Secretariat; and
- j) other tasks as requested by the IG.

[2. An appropriate entity is designated as the NC for this Instrument by the [IG][Participating Countries] to carry out the above functions, provided that the entity agrees. Other entities could be designated as [sub-] centers to carry out some of the tasks given by the [IG][Participating Countries] as the need arises.]

]

[Article 14/Item 14]

Financial Arrangement

1. The administrative and operational cost of the national monitoring within each country will be borne by each country.
2. The administrative and operational costs of the Secretariat and the NC core activities will be financed [wholly or in part] by voluntary contributions from the Participating Countries.
3. Participating Countries are encouraged to make voluntary contribution taking into account their economic and financial circumstances and in accordance with the respective national laws and regulations. [[All the] Participating Countries are encouraged to make voluntary financial contributions within the limit of their respective budgetary appropriations.] The Participating Countries may provide additional financial and in-kind contributions on a voluntary basis.
4. *Option 1* [The Participating Countries are invited to draw attention to necessary financial amount in order to implement activities under this Instrument, and burden sharing practices in the United Nations systems].

NOTE: in case it is non-legally binding instrument.

5. Procedures and guidelines for the transfer of financial contributions will be developed and adopted by the IG. The financial contributions and the interest from financial contributions will be administered by the Secretariat [and the NC] under the guidance of the IG. [The Participating Countries may decide to contribute the minimum necessary fund to implement the activities.]
6. EANET will be open to financial and in-kind contribution from other sources, including international and regional organizations and NGOs, subject to the approval of the IG.
7. Option 1: The annual financial reports with specific format(s) will be provided by the Secretariat and the NC to the IG. [The financial efficiency of the Secretariat and the NC will be audited by independent auditing agencies. The Secretariat and the NC will also submit

the auditors' reports to the IG.] [The Participating Countries may request the Secretariat and the NC that their incomes/expenditures be audited by independent auditing agencies concerning their respective activities under this Instrument and that they submit the auditors' reports to the IG].

Option 2: The annual financial reports and audit reports by independent audit agencies will be provided by the Secretariat and the NC to the IG.

] NOTE: This paragraph could be possibly incorporated in the tasks of the Secretariat and the NC in Article 11 and Article 13, respectively.

[Item 15

Amendments

1. Any Participating Country may propose amendments to the Instrument after five years of the date of signature by the government of the Participating Countries.
2. The text of any proposed amendments to the instrument will be signed by the government of the Participating Countries.]

[Item 16

Withdrawal

A Participating Country may withdraw from the [EANET] at any time by giving written notice of withdrawal to the Secretariat.]

[Item 17

Admission

Countries in East Asia, which includes Northeast Asia and Southeast Asia, not originally participating in the EANET, may subsequently submit to the Secretariat an application for participation, which is subject to approval by the IG.]

[The Instrument will be approved in accordance with national procedures of each of the participating countries and will become effective on the 30th day after the date of submission of diplomatic note [or other written notice] to the Secretariat indicating such approval.

In witness whereof the undersigned, being duly authorized thereto by their respective governments, have signed this Instrument.

Name of country, signature....]

Note: The following Articles 15-25 are considered as specific for legally binding text.

Article 15

Amendments

1. Any Participating Country may propose amendments to the Instrument after five years of the date of signature by the government of the Participating Countries.
2. [Five years later after the date of entry into force of the Agreement, the IG shall review the text of the Agreement and may propose amendments to the subsequent meeting, if necessary.]
3. The text of any proposed amendments to the Agreement [will be signed by the government of the Participating Countries] shall be communicated to the Parties by the Secretariat at least six months before a meeting of the IG at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories to the Agreement.
4. Amendments shall be adopted by consensus of the representatives of the Parties at the meeting of the IG.
[Amendments shall be adopted by two-thirds majority of the representatives of the Parties present and voting at the meeting of the IG.]
5. The adopted amendments shall be communicated by the Secretariat to the Depository, who shall circulate it to all Parties for their acceptance.
6. The amendments shall enter into force for the Parties which have accepted it on the sixtieth day after the date on which [two-thirds] of the Parties have deposited their Instruments of acceptance with the depository.
7. Thereafter, the amendments shall enter into force for any other Party on the sixtieth day after the date on which that Party deposits its instrument of acceptance of the amendment.

[Article 16

Annexes

1. Annexes to this Agreement shall form an integral part of the Agreement and, unless otherwise expressly provided, a reference to the Agreement constitutes at the same time a reference to the annexes thereto.
2. Annexes shall be adopted by consensus at the meeting of the IG.
3. Any Party may propose amendments to an Annex.
4. Amendments to an Annex shall be adopted by consensus at the meeting of the IG.
5. Annexes to this Agreement and amendments to Annexes shall be subject to acceptance. The Depository shall circulate the adopted Annex or the adopted amendment to an Annex to all Parties for their acceptance. The Annex or the amendment to an Annex shall enter into force on the thirtieth day after the deposit with the Depository of the instruments of acceptance of all Parties.]

[Article 17

Protocols

1. The IG may, at any session, adopt protocols to the Agreement.
2. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before such a session.
3. The requirements for the entry into force of any protocol shall be established by that instrument.]

Article 18

Signature

The Agreement shall be opened for signature at [the United Nations Office at Bangkok] [from ## to ## ##### 2009] by [States][Countries] listed in Annex I.

[Article 19

Settlement of Disputes

Any dispute between Parties as to the interpretation or application of, or compliance with, this Agreement or any protocol thereto, shall be settled amicably by consultation or negotiation]

Article 20

Ratification, Acceptance, Approval and Accession

The Agreement shall be subject to ratification, acceptance, approval or accession by [States][Countries] [listed in Annex I]. It shall be open for accession by such [Member] [Participating] Countries from the day after the date on which the Agreement is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depository.

Article 21

Entry into force

1. The Agreement shall enter into force on the sixtieth day after the deposit of the [seventh][ninth] Instrument of ratification, acceptance, approval or accession.
2. For each Party ratifying, accepting, approving or acceding to the Agreement after the deposit of the [seventh][ninth] Instrument of ratification, acceptance, approval or accession, the Agreement shall enter into force on the sixtieth day after the deposit by such Party of its Instrument of ratification, acceptance, approval or accession.

Article 22

Application for Accession

1. Any country[not listed in Annex I] may submit its application for accession to this Agreement to the Secretariat, which shall be subject to approval by the IG.
2. Once its application is approved, the State may deposit its Instrument of ratification, acceptance, approval or accession with the Depositary.

Article 23
Withdrawal

1. At any time after three years from the date on which the Agreement has entered into force for a Party, that Party may withdraw from the Agreement by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

Article 24
Depositary

[The Secretary-General of the United Nations] shall be the Depositary of the Agreement.

Article 25
Authentic Text

The present Agreement shall be drawn up in the English language, and shall be the authentic text.

]

The Third Special Session of the Working Group
on Future Development of EANET
19 November 2008, Chiang Mai, Thailand

Agenda

1. Opening of the Session
2. Adoption of the Agenda
3. Consideration of the Revised Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET and the Draft Report of the Working Group on Future Development (WGFD) on the Text of the Instrument to Provide a Sound Basis for Contribution to EANET (Fourth Draft)
4. Consideration and Adoption of the Report of the Session
5. Closing of the Session

The Third Special Session of the Working Group
on Future Development of EANET
19 November 2008, Chiang Mai, Thailand

Annotated Agenda

1. Opening of the Session

The Session will be opened by the Secretariat.

2. Adoption of the Agenda

The Session will be invited to consider and adopt the Agenda of the Session (EANET/WGFD S3/2/1) as well as the Draft Program (EANET/WGFD S3/2/3).

3. Consideration of the Revised Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET

The Secretariat will make presentations on the Revised Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET (EANET/WGFD S3/3/1) and Draft Report of the Working Group on Future Development (WGFD) on the Text of the Instrument to Provide a Sound Basis for Contribution to EANET (Fourth Draft) (EANET/WGFD S3/3/2). The Session will be invited to review the Revised Draft Text of the Instrument paragraph by paragraph, discuss, make comments and endorse the Revised Draft Text of the Instrument to the Tenth Session of the Intergovernmental Meeting (IG10). The Session will be invited to discuss, review and endorse the draft Report of the WGFD on Text of Instrument to IG10 for consideration.

4. Consideration and Adoption of the Report of the Session

The Session will be invited to consider and adopt the Report of the Session.

5. Closing of the Session

The Chairperson will close the Session.

The Third Special Session of the Working Group
on Future Development of EANET
19 November 2008, Chiang Mai, Thailand

Program

8:30-9:00	Registration
9:00-9:15	Opening of the Session Adoption of the Agenda
9:15-10:30	Consideration of the Revised Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET and Draft Report of the Working Group on Future Development (WGFD) on the Text of the Instrument to Provide a Sound Basis for Contribution to EANET (Fourth Draft)
10:30-11:00	Coffee Break
11:00-12:30	Consideration of the Revised Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET and Draft Report of the Working Group on Future Development (WGFD) on the Text of the Instrument to Provide a Sound Basis for Contribution to EANET (Fourth Draft) (continue)
12:30-14:00	Lunch Break
14:00-15:00	Consideration of the Revised Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET and Draft Report of the Working Group on Future Development (WGFD) on the Text of the Instrument to Provide a Sound Basis for Contribution to EANET (Fourth Draft) (continue)
15:00-15:30	Coffee Break
15:30-17:00	Consideration of the Draft Report of the Working Group on Future Development (WGFD) on the Text of the Instrument to Provide a Sound Basis for Contribution to EANET (Fourth Draft)

17:00-17:30 Consideration and Adoption of the Report of the Session

17:30 Closing of the Session

The Third Special Session of the Working Group
on Future Development of EANET
19 November 2008, Chiang Mai, Thailand

**REVISED DRAFT TEXT OF THE INSTRUMENT
TO PROVIDE A SOUND BASIS FOR CONTRIBUTION TO EANET**

[Title

<p>[option 1: [Framework Agreement][Instrument] to Promote Cooperation for the [Prevention and Control][Management] of [Regional Air Pollution][Acid Deposition] in East Asia] [option 2: Instrument for Strengthening the Acid Deposition Monitoring Network in East Asia]</p>

The Participating Countries to this Instrument,

Recognizing that East Asia is facing increasing risks of problems related to [regional air pollution including acid deposition][acid deposition],

Recalling that Agenda 21, adopted at the United Nations Conference on Environment and Development in 1992, stated that the experience of the programs on transboundary air pollution in Europe and North America needed to be shared with other regions of the world,

Acknowledging the successful operation of the preparatory-phase activities of the Acid Deposition Monitoring Network in East Asia (EANET), which was undertaken by ten countries in East Asia from 1998 to 2000, following the common understanding expressed at the First Intergovernmental Meeting, on 19-20 March 1998 in Yokohama, Japan,

Recognizing that EANET was established in January 2001 as an important initiative for regional cooperation, aiming at creating a common understanding on the state of acid deposition problems, at providing useful inputs to policy makers at various levels, and at contributing to cooperation on the issues related to acid deposition among the participating countries,

Acknowledging that thirteen countries in East Asia are participating in EANET and have been successfully working together to conduct acid deposition monitoring [and to implement other activities for EANET], based on the Joint Announcement on Implementation of the Acid Deposition Monitoring Network in East Asia (JA) adopted by the participating countries and Tentative Design of EANET (TD) referred to in JA,

Emphasizing that activities of the cooperative network on the acid deposition [and other regional air pollution] in East Asia under EANET has been developed by taking a step-wise approach by the participating countries on a voluntary basis,

Recognizing the need to promote cooperation for the [prevention and control][management] of [regional air pollution][acid deposition] in East Asia,

Also recognizing that the instrument should be simple, flexible, open for future development and be based on the JA, TD and other decisions of the [participating countries][IG meetings],

[**Emphasizing** the importance of appropriate financial arrangement for the sound operation of the EANET with a view to sustaining the development of the EANET, strengthening the financial mechanism of the EANET and providing a sound basis for financial contribution to the EANET and enhancing capacity building of acid deposition monitoring for all the participating countries of the EANET,],

[**Noting** that the participating countries of the EANET will be guided, in the implementation of this Instrument, by the principles that the use of financial contribution should produce effective outcomes, that the related executive bodies should take necessary measures to improve efficiency of contribution,]

[**Noting** the fact that the effective realization of the EANET activities before taking into force of this Instrument was supported by voluntary contributions of some participating countries, covering the activities of the EANET Secretariat and the core activities of the Network Center which annually consisted of about one million US dollars and expressing great thanks to the Governments of these countries],

[**Determined** to renew their commitment to continuing the activities of EANET as set out in the Tentative Design],

Have agreed as follows:

[Article 1/Item 1]

Definitions

["EANET" means, for the purpose of Items 2 to [25], the cooperative network of the Participating Countries which aim to promote activities under this instrument building on Acid Deposition Monitoring Network in East Asia established in January 2001.]

[EANET means, for the purpose of this instrument, Acid Deposition Monitoring Network in East Asia.]

[“Regional air pollution” means [air pollution including] acid deposition at the first stage with possible extension to other air pollution, which has regional implications as decided by the Participating Countries.]

[“Management” means monitoring and other air pollution management activities as decided by the [Participating Countries.]

[Article 2/Item 2]
Objectives [and Scope]

The objectives [and scope] of this instrument are:

- 1) to create a common understanding of the state of [regional air pollution][acid deposition] problems in East Asia;
- 2) to provide useful inputs for decision-making at local, national and regional levels aimed at preventing or reducing adverse impacts on the environment caused by [regional air pollution][acid deposition]; and
- 3) to contribute to cooperation on the issues related to [regional air pollution][acid deposition] among the Participating Countries.

[The scope of the instrument may be extended to cover other regional air pollution, as decided by the Intergovernmental Meeting (IG).]

[Article 3/Item 3]
Principles

1. The Participating Countries will, in the spirit of solidarity and partnership and in accordance with their respective needs, capabilities and situations, strengthen cooperation to [prevent and control][manage] [regional air pollution][acid deposition][acid deposition monitoring].
2. The Participating Countries will be encouraged to take appropriate measures to anticipate, monitor [and prevent] [regional air pollution][acid deposition]to minimize its adverse impacts, taking into account the precautionary principle.
3. The Participating Countries will promote active participation, and bilateral and multilateral cooperation for effective implementation of the activities under this Instrument.

[Article 4/Item 4]
Monitoring and Reporting

1. The Participating Countries will implement and strengthen their monitoring activities in line with this Instrument.
2. Each Participating Country will designate a national center, which is responsible for

implementing the monitoring activities provided for in this Instrument.

3. Each Participating Country will develop and implement its national monitoring plan. Monitoring of acid deposition [and other regional air pollution] will be implemented in accordance with the monitoring guidelines, technical manuals and other technical documents adopted by the IG.
4. Each Participating Country will report the monitoring data and other relevant information to the Network Center (NC), in accordance with the guidelines adopted by the IG.
5. In order to obtain high quality monitoring data, the quality assurance/quality control (QA/QC) programs adopted by the Scientific Advisory Committee (SAC), will be implemented by the NC in full collaboration among the Participating Countries for monitoring activities under this Instrument.
6. The monitoring data and other information submitted by the Participating Countries will be compiled, stored and analyzed by the NC.
7. The data and other information compiled through the EANET activities will be provided to individuals, organizations and non-member countries, in accordance with the procedures adopted by the IG.

]

[Article 5/Item 5]

Assessment

1. The monitoring data and other information submitted by the Participating Countries will be analyzed, evaluated and assessed.
2. Periodic assessment reports on the state of [regional air pollution][acid deposition] in East Asia will be prepared based on the data reports, disseminated and made available to the public.

[Article 6/Item 6]

Research Activities

1. The Participating Countries will promote studies on scientific issues related to [regional air pollution][acid deposition].
2. Research activities should be mutually reinforcing and supportive with existing regional, sub-regional and national initiatives in East Asia. Collaboration should be promoted with other international monitoring networks and programs.

[Article 7/Item 7]**Education and Training**

The Participating Countries, in collaboration with the NC and the Secretariat, will promote and cooperate in developing and implementing education/training programs to implement this Instrument.

[Article 8/Item 8]**Public Awareness**

The Participating Countries will promote and cooperate in:

- 1) development and implementation of public awareness programs on [regional air pollution][acid deposition]; and
- 2) improvement of public access to information on [regional air pollution][acid deposition] and its effects.

[

[Article 9/Item 9]**Exchange of Information**

The Participating Countries will promote and cooperate in the exchange of information related to [regional air pollution][acid deposition] including scientific, technological, technical, socio-economic and legal information as well as information on administrative measures,

]

[

[Article 10/Item 10]**Intergovernmental Meeting**

1. An Intergovernmental Meeting is hereby established.
2. The IG, composed of the representatives of all Participating Countries, is the decision-making body of the EANET. The tasks of the IG include, among others, the following:
 - a) review and approval of the work program and budget of the EANET, [taking into account amount of money available in the Fund];
 - b) review of implementation of the work program;
 - c) review and approval of periodic assessment reports on the state of [regional air pollution][acid deposition] in East Asia;
 - d) establishment of subsidiary bodies as necessary and appropriate;
 - e) review and approval of scientific, technical, administrative and financial matters for the management of the EANET;
 - f) adoption of the rules of procedures for the IG and subsidiary bodies, including the SAC;

- g) provision of necessary instructions and guidance to the subsidiary bodies, the Secretariat and the NC on their activities;
 - h) decision on other matters related to the management of the EANET and implementation of the work program; and
 - [i) adoption of annexes, protocols and amendments to this Instrument.]
3. The IG will meet annually, unless otherwise decided.

[Article 11/Item 11]

Secretariat

1. [A Secretariat is hereby established.] [UNEP is designated as the Secretariat for this instrument by the [Participating Countries][IG].]
2. The Secretariat, designated [by the IG] for the effective management of the EANET and to facilitate cooperation among the Participating Countries in a transparent manner, will carry out the following tasks under the guidance of the IG:
 - a) necessary administrative arrangements for the meetings of the IG, the SAC, and other subsidiary bodies;
 - b) necessary administrative and financial arrangements for managing the EANET;
 - c) communication and cooperation in administrative and policy aspects as the focal point of the EANET;
 - d) promotion of capacity building and public awareness in cooperation with the NC; and
 - e) other necessary tasks as requested by the IG.

[Article 12/Item 12]

Scientific Advisory Committee

1. A Scientific Advisory Committee is hereby established.
2. The SAC, composed of scientific and technical experts from the Participating Countries, will advise and assist the IG with various scientific and technical matters related to EANET activities as mandated to it by the IG. These matters will include the following:
 - a) scientific and technical aspects for EANET;
 - b) development and revision of the monitoring guidelines and technical manuals;
 - c) matters related to the selection of monitoring sites, QA/QC programs, data reporting procedures and formats;
 - d) matters related to collection, evaluation, assessment and analysis of monitoring data;
 - e) preparation of periodic assessment reports on the state of [regional air pollution][acid deposition] in East Asia, based on, but not limited to the data compiled by the NC;
 - f) matters related to studies on [regional air pollution][acid deposition]; and
 - g) other scientific matters as requested by the IG.

3. If the Committee considers necessary for fulfilling its objectives, experts from countries other than the Participating Countries may be invited to assist the Committee.

[Article 13/Item 13]

Network Center

1. [A Network Center (NC) is hereby established.] [The Acid Deposition and Oxidant Research Center, based in Japan is designated as the NC for this instrument by the Participating Countries.]
2. The NC, to handle scientific and technical matters of the EANET activities, and to facilitate cooperation among the Participating Countries in a transparent manner, will carry out the following tasks under the guidance of the IG:
 - a) central compilation, evaluation, storage and analysis of monitoring data and related information;
 - b) preparation of data reports on [regional air pollution][acid deposition] in East Asia;
 - c) dissemination of monitoring data and other relevant information;
 - d) provision of technical assistance to the Participating Countries in implementing the EANET activities;
 - e) implementation and coordination of QA/QC activities;
 - f) development and implementation of education/training programs for those engaged in the EANET activities;
 - g) implementation of research activities on [regional air pollution][acid deposition];
 - h) provision of scientific and technical support for the IG, the SAC and other subsidiary bodies;
 - i) promotion of capacity building and public awareness in cooperation with the Secretariat; and
 - j) other tasks as requested by the IG.

]

[Option1]

[Article 14/Item 14]

Financial Arrangement

1. A Fund is hereby established for the implementation of this Instrument.]
2. The administrative and operational cost of the national monitoring within each [Participating] Country will be borne by each [Participating] Country.
3. The administrative and operational costs of the Secretariat [and the NC core] activities will be financed by voluntary contributions by the Participating Countries, while efforts should be made to mobilize existing funding sources and seek new ones.
4. The voluntary financial contribution of the Participating Countries will be based on the flat

rate amount and burden sharing according to the latest UN assessment scale. Contribution will be the minimum amount needed to operate the Secretariat [and the NC core] activities. The Participating Countries may provide additional financial and in-kind contributions on a voluntary basis.

5. Financial and in-kind contribution may be made by international and regional organizations, non-governmental organizations (NGOs) and other sources, subject to approval by the IG.

]

[Option2 (simplified)]

[Article 14/Item 14]

Financial Arrangement

1. The administrative and operational cost of the national activities within each country will be borne by each country within the respective budgetary appropriations.
2. Contributions will be paid in accordance with the respective laws and regulations and within the respective budgetary appropriations of each Participating Country, based on the financial rules and other relevant decisions adopted by the IG.

]

[Option3]

[Article 14/Item 14]

Financial Arrangement

Contribution

1. The administrative and operational cost of the national monitoring within each country will be borne by each country.
2. The administrative and operational costs of the Secretariat activities will be financed by voluntary contributions of the Participating Countries. [The [decision][discussion] of possible contribution to the NC will be made after reviewing its performance report./The core activities of the NC that will be covered by the financial contribution from the Participating Countries should be agreed on by the Participating Countries] [The financial contribution may be made in cash [convertible currency or non-convertible currency,] or in kind.]
- [3. All the Participating Countries are encouraged to make voluntary contribution to the network. The financial contribution may be made in cash or in kind.]
3. The contribution in cash will be deposited in a fund or another depository decided by the IG
4. The amount of financial contribution by the Participating Countries will be made in accordance with the decisions of the [EANET][IG].
5. Contribution by all the Participating Countries is encouraged, taking into account their economic and social circumstances. Their contributions may be on the basis of the decisions

of the [EANET][IG] or above, or they may maintain their contributions at the top historical level.

6. Network will be open to financial and in-kind contribution from other sources, including international and regional organizations, NGOs etc. subject to the approval of the IG.

Expenditure of contribution

7. The financial contribution will be administered by the Secretariat under the guidance of the IG.
8. The [interest][income] from financial contribution will be used to finance activities of general interest of the Participating Countries.

Supervision

9. The annual financial reports with specific format(s) will be provided by the Secretariat and the NC to the IG. The financial efficiency of the Secretariat and the NC will be audited by independent auditing agencies. The Secretariat and the NC will also submit the auditors' reports to the IG.

]

[Option 4]

[Article 14/Item 14]

Financial Arrangement

1. The administrative and operational cost of the national monitoring within each country will be borne by each country.
2. The administrative and operational costs of the Secretariat and the NC core activities will be financed by voluntary contributions of the Participating Countries, which will aspire to cover expenses on all core activities.
3. Contribution by all the Participating Countries is encouraged taking into account their economic and financial circumstances and in accordance with the respective national laws and regulations,
4. The voluntary financial contribution of the Participating Countries will be made taking into account the EANET core budget amount and burden sharing according to the latest UN assessment scale. Contribution will be the minimum amount needed to operate the Secretariat [and the NC core] activities. The Participating Countries may provide additional financial and in-kind contributions on a voluntary basis.
5. Scheme and guidelines for the transfer of financial contribution will be developed and adopted by the IG. The financial contributions and interest from financial contributions will be administered by the Secretariat under the guidance of the IG;
6. Network will be open to financial and in-kind contribution from other sources, including international and regional organizations, NGOs etc. being as subject to the approval of the

IG.

7. The annual financial reports with specific format(s) will be provided by the Secretariat and the NC to the IG. The financial efficiency of the Secretariat and the NC will be audited by independent auditing agencies. The Secretariat and the NC will also submit the auditors' reports to the IG.

]

[Item 15

Amendments

1. Any Participating Country may propose amendments to the instrument after five years of the date of signature by the government of the Participating Countries.
2. The text of any proposed amendments to the instrument will be signed by the government of the Participating Countries.]

[Item 16

Withdrawal

A Participating Country may withdraw from the [EANET] at any time by giving written notice of withdrawal to the Secretariat.]

[Item 17

Admission

Countries in East Asia, which includes Northeast Asia and Southeast Asia, not originally participating in the EANET, may subsequently submit to the Secretariat an application for participation, which is subject to approval by the IG.]

[The Instrument will be approved in accordance with national procedures of each of the participating countries and will become effective on the 30th day after the date of submission of diplomatic note [or other written notice] to the Secretariat indicating such approval.

In witness whereof the undersigned, being duly authorized thereto by their respective governments, have signed this Instrument.

Name of country, signature....]

Note: Articles 15-24 are considered as specific for legally binding text.

Article 15

Amendments

1. Any Participating Country may propose amendments to the instrument after five years of the date of signature by the government of the Participating Countries.
2. [Five years later after the date of entry into force of the Agreement, the IG shall review the text of the Agreement and may propose amendments to the subsequent meeting, if necessary.]
3. The text of any proposed amendments to the Agreement [will be signed by the government of the Participating Countries] shall be communicated to the Parties by the Secretariat at least six months before a meeting of the IG at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories to the Agreement.
4. Amendments shall be adopted by consensus of the representatives of the Parties at the meeting of the IG.
[Amendments shall be adopted by two-thirds majority of the representatives of the parties present and voting at the meeting of the IG.]
5. The adopted amendments shall be communicated by the Secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.
6. The amendments shall enter into force for the Parties which have accepted it on the sixtieth day after the date on which [two-thirds] of the Parties have deposited their instruments of acceptance with the depositary.
7. Thereafter, the amendments shall enter into force for any other Party on the sixtieth day after the date on which that Party deposits its instrument of acceptance of the amendment.

[Article 16

Annexes

1. Annexes to this Agreement shall form an integral part of the Agreement and, unless otherwise expressly provided, a reference to the Agreement constitutes at the same time a reference to the annexes thereto.
2. Annexes shall be adopted by consensus at the meeting of the IG.
3. Any Party may propose amendments to an Annex.
4. Amendments to an Annex shall be adopted by consensus at the meeting of the IG.
5. Annexes to this Agreement and amendments to Annexes shall be subject to acceptance. The Depositary shall circulate the adopted Annex or the adopted amendment to an Annex to all Parties for their acceptance. The Annex or the amendment to an Annex shall enter into force on the thirtieth day after the deposit with the Depositary of the instruments of acceptance of

all Parties.]

[Article 17

Protocols

1. The IG may, at any session, adopt protocols to the Agreement.
2. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before such a session.
3. The requirements for the entry into force of any protocol shall be established by that instrument.]

Article 18

Signature

The Agreement shall be opened for signature at [the United Nations Office at Bangkok] [from ## to ## ##### 2009] by [States][Countries] listed in Annex I.

[Article 19

Settlement of Disputes

Any dispute between Parties as to the interpretation or application of, or compliance with, this Agreement or any protocol thereto, shall be settled amicably by consultation or negotiation]

Article 20

Ratification, Acceptance, Approval and Accession

The Agreement shall be subject to ratification, acceptance, approval or accession by [States][Countries] [listed in Annex I]. It shall be open for accession by such [Member] [Participating] Countries from the day after the date on which the Agreement is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 21

Entry into force

1. The Agreement shall enter into force on the sixtieth day after the deposit of the [seventh][ninth] instrument of ratification, acceptance, approval or accession.
2. For each Party ratifying, accepting, approving or acceding to the Agreement after the deposit of the [seventh][ninth] instrument of ratification, acceptance, approval or accession, the Agreement shall enter into force on the sixtieth day after the deposit by such Party of its

instrument of ratification, acceptance, approval or accession.

Article 22

Application for Accession

1. Any country[not listed in Annex I] may submit its application for accession to this Agreement to the Secretariat, which shall be subject to approval by the IG.
2. Once its application is approved, the State may deposit its instrument of ratification, acceptance, approval or accession with the Depository.

Article 23

Withdrawal

1. At any time after three years from the date on which the Agreement has entered into force for a Party, that Party may withdraw from the Agreement by giving written notification to the Depository.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depository of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

Article 24

Depository

[The Secretary-General of the United Nations] shall be the Depository of the Agreement.

Article 25

Authentic Text

The present Agreement shall be drawn up in the English language, and shall be the authentic text.

]

Attachment**COMMENTS OF THE PARTICIPATING COUNTRIES****1) CHINA comments sent on 28 September 2008****REVISED DRAFT TEXT OF THE INSTRUMENT
TO PROVIDE A SOUND BASIS FOR CONTRIBUTION TO EANET***Title*

Instrument for Strengthening the Acid Deposition Monitoring Network in East Asia

The Participating Countries to this Instrument,

Recognizing that East Asia is facing increasing risks of problems related to acid deposition,

Recalling that Agenda 21, adopted at the United Nations Conference on Environment and Development in 1992, stated that the experience of the programs on transboundary air pollution in Europe and North America needed to be shared with other regions of the world,

Acknowledging the successful operation of the preparatory-phase activities of the Acid Deposition Monitoring Network in East Asia (EANET), which was undertaken by ten countries in East Asia from 1998 to 2000, following the common understanding expressed at the First Intergovernmental Meeting, on 19-20 March 1998 in Yokohama, Japan,

Recognizing that EANET was established in January 2001 as an important initiative for regional cooperation, aiming at creating a common understanding on the state of acid deposition problems, at providing useful inputs to policy makers at various levels, and at contributing to cooperation on the issues related to acid deposition among the participating countries,

Acknowledging that thirteen countries in East Asia are participating in EANET and have been working together to conduct acid deposition monitoring for EANET, based on the Joint Announcement on Implementation of the Acid Deposition Monitoring Network in East Asia (JA) adopted by the participating countries and Tentative Design of EANET (TD) referred to in JA,

Emphasizing that activities of the cooperative network on the acid deposition in East Asia under EANET has been developed by taking a step-wise approach by the participating countries

on a voluntary basis,

Determined to renew their commitment to continuing the activities of EANET as set out in Tentative Design,

Recognizing the need to promote cooperation on acid deposition monitoring in East Asia,

Also recognizing that the instrument should be simple, flexible, open for future development and be based on the JA, TD and other decisions of the IG meetings,

Emphasizing the importance of appropriate financial arrangement for the sound operation of the EANET with a view to sustaining the development of the EANET, strengthening the financial mechanism of the EANET and providing a sound basis for financial contribution to the EANET and enhancing capacity building of acid deposition monitoring for all the participating countries of the EANET,

Noting that the participating countries of the EANET will be guided, in the implementation of this Instrument, by the principles that the use of financial contribution should produce effective outcomes, that the related executive bodies should take necessary measures to improve efficiency of contribution,

Have agreed as follows:

Objectives

The objectives of this instrument are:

1. to create a common understanding of the state of acid deposition problems in East Asia;
2. to provide useful inputs for decision-making at local, national and regional levels aimed at preventing or reducing adverse impacts on the environment caused by acid deposition; and
3. to contribute to cooperation on the issues related to acid deposition among the Participating Countries.

Principles

1. The Participating Countries will, in the spirit of solidarity and partnership and in accordance with their respective needs, capabilities and situations, strengthen cooperation to acid deposition monitoring.
2. The Participating Countries will be encouraged to take appropriate measures to anticipate and monitor acid deposition to minimize its adverse impacts, taking into account the precautionary principle.

3. The Participating Countries will promote active participation, and bilateral and multilateral cooperation for effective implementation of the activities under this Instrument.

Monitoring and Reporting

1. The Participating Countries will implement and strengthen their monitoring activities in line with this Instrument.
2. Each Participating Country will designate a national center, which is responsible for implementing the monitoring activities provided for in this Instrument.
3. Each Participating Country will develop and implement its national monitoring plan. Monitoring of acid deposition will be implemented in accordance with the monitoring guidelines, technical manuals and other technical documents adopted by the IG.
4. Each Participating Country will report the monitoring data and other relevant information to the Network Center (NC), in accordance with the guidelines adopted by the IG.
5. In order to obtain high quality monitoring data, the quality assurance/quality control (QA/QC) programs adopted by the Scientific Advisory Committee (SAC), will be implemented by the NC in full collaboration among the Participating Countries for monitoring activities under this Instrument.
6. The monitoring data and other information submitted by the Participating Countries will be compiled, stored and analyzed by the NC.
7. The data and other information compiled through the EANET activities will be provided to individuals, organizations and non-member countries, in accordance with the procedures adopted by the IG.

Assessment

1. The monitoring data and other information submitted by the Participating Countries will be analyzed, evaluated and assessed.
2. Periodic assessment reports on the state of [acid deposition] in East Asia will be prepared based on the data reports, disseminated and made available to the public.

Research Activities

1. The Participating Countries will promote studies on scientific issues related to acid deposition.
2. Research activities should be mutually reinforcing and supportive with existing regional, sub-regional and national initiatives in East Asia. Collaboration should be promoted with other international monitoring networks and programs.

Education and Training

The Participating Countries, in collaboration with the NC and the Secretariat, will promote and cooperate in developing and implementing education/training programs to implement this

Instrument.

Public Awareness

The Participating Countries will promote and cooperate in:

- 1) development and implementation of public awareness programs on [acid deposition]; and
- 2) improvement of public access to information on [acid deposition] and its effects.

Exchange of Information

The Participating Countries will promote and cooperate in the exchange of information related to acid deposition including scientific, technological, technical, socio-economic and legal information as well as information on administrative measures,

Financial Arrangement

Contribution

1. The administrative and operational cost of the national monitoring within each country will be borne by each country.
2. The administrative and operational costs of the Secretariat core activities will be financed by voluntary contributions of the Participating Countries.
3. All the participating countries are encouraged to make voluntary contribution to the network. The financial contribution may be made in cash or in kind.;
4. The contribution in cash will be deposited in a fund or another place decided by the IG
5. The amount of financial contribution by the Participating Countries will be made in accordance with the decisions of the IG.
6. Contribution by all the Participating Countries is encouraged, taking into account their economic and social circumstances. Their contributions may be on the basis of the decisions of the IG or above, or they may maintain their contributions at the top historical level.
7. Network will be open to financial and in-kind contribution from other sources, including international and regional organizations, NGOs etc. subject to the approval of the IG.

Expenditure of contribution

8. The financial contribution will be administered by the Secretariat under the guidance of the IG;
9. The income from financial contribution will be used to finance activities of general interest of the Participating Countries.

Supervision

10. The annual financial reports with specific format(s) will be provided by the Secretariat and the NC to the IG. The financial efficiency of the Secretariat and the NC will be audited by independent auditing agencies. The Secretariat and the NC will also submit the auditors' reports to the IG.

2) REPUBLIC OF KOREA'S comments, sent on 01 October 2008

Dear Adelaida,

Thank you so much for your continuous effort.

We really appreciate that we got the well-defined and merged single material due to your wonderful efforts.

Actually we know it would be really difficult to merge several options into the single one.

However, you had a great and exquisite job for making this one.

In the merged material, we would like to officially express some comments of Korea.

First of all, in 'Preamble', there is a new paragraph which was not considered as to be added in the previous WGFD meeting. (Please refer to the attached with our comment in this part)

Second, in 'Financial Arrangement', some wordings can cause to make a confusion for us.

For example,

- 'The decision of possible contribution to the NC....', in this paragraph we should consider more relevant word ; 'the decision' or 'the discussion'.
- Required to be more clarified; 'in accordance with the decision of EANET/in accordance of the IG decision',
- and using the word of 'may' in this part.

Would you please make an clarificaion and explanation about those things ?

Thank you.

With regards,

Oh, Heun-Jin

**REVISED DRAFT TEXT OF THE INSTRUMENT
TO PROVIDE A SOUND BASIS FOR CONTRIBUTION TO EANET**

[Title

[option 1: [Framework Agreement][Instrument] to Promote Cooperation for the [Prevention and Control][Management] of [Regional Air Pollution][Acid Deposition] in East Asia]
[option 2: Instrument for Strengthening the Acid Deposition Monitoring Network in East Asia]

The Participating Countries to this Instrument,

Recognizing that East Asia is facing increasing risks of problems related to [regional air pollution including acid deposition][acid deposition],

Recalling that Agenda 21, adopted at the United Nations Conference on Environment and Development in 1992, stated that the experience of the programs on transboundary air pollution in Europe and North America needed to be shared with other regions of the world,

Acknowledging the successful operation of the preparatory-phase activities of the Acid Deposition Monitoring Network in East Asia (EANET), which was undertaken by ten countries in East Asia from 1998 to 2000, following the common understanding expressed at the First Intergovernmental Meeting, on 19-20 March 1998 in Yokohama, Japan,

Recognizing that EANET was established in January 2001 as an important initiative for regional cooperation, aiming at creating a common understanding on the state of acid deposition problems, at providing useful inputs to policy makers at various levels, and at contributing to cooperation on the issues related to acid deposition among the participating countries,

Acknowledging that thirteen countries in East Asia are participating in EANET and have been successfully working together to conduct acid deposition monitoring and to implement other activities for EANET, based on the Joint Announcement on Implementation of the Acid Deposition Monitoring Network in East Asia (JA) adopted by the participating countries and Tentative Design of EANET (TD) referred to in JA,

Emphasizing that activities of the cooperative network on the acid deposition [and other regional air pollution] in East Asia under EANET has been developed by taking a step-wise approach by the participating countries on a voluntary basis,

Recognizing the need to promote cooperation for the [prevention and control][management] of

[regional air pollution][acid deposition] in East Asia,

Also recognizing that the instrument should be simple, flexible, open for future development and be based on the JA, TD and other decisions of the participating countries,

[**Emphasizing** the importance of appropriate financial arrangement for the sound operation of the EANET with a view to sustaining the development of the EANET, strengthening the financial mechanism of the EANET and providing a sound basis for financial contribution to the EANET and enhancing capacity building of acid deposition monitoring for all the participating countries of the EANET,],

Noting that the participating countries of the EANET will be guided, in the implementation of this Instrument, by the principles that the use of financial contribution should produce effective outcomes, that the related executive bodies should take necessary measures to improve efficiency of contribution, → This paragraph is new. What we remember is that this new paragraph was not considered officially or formally in the session of WGFD or IG. In this instrument, this paragraph should be deleted.

Have agreed as follows:

3) RUSSIA comments sent on 23 October 2008

**The Russian National Focal Point comments
to the Merged revised draft text of the Instrument to provide a sound basis for
contribution to EANET
and to the Second draft of the report of the working group on future development
(WGFD) for the tenth session of the intergovernmental meeting of EANET (IG10)
on the Instrument to provide a sound basis for contribution to EANET**

**Merged revised draft text of the Instrument to provide a sound basis for
contribution to EANET**

The Russian National Focal Point would like to express our gratitude to the EANET Secretariat for the preparation of the draft Merged text of the Instrument. With regard to the position of participating countries which prefer assumption of “soft legal Instrument”, the Russian Federation would like to emphasize once again that according to its national legislation Russia could provide financial contribution to international program only if it is acting on the basis of international agreement signed by the Governments of the participating countries. In this situation Russia could not guarantee financial contribution to the EANET budget in the case of acceptance of “non-legal binding Instrument” or “soft legal Instrument”.

Taking into consideration the strong willingness of the participating countries to prepare merged text of the Instrument to the 10-th Intergovernmental meeting with minimum brackets and various options, the Russian NFP would like to suggest merging also Item/Article 14 – Financial arrangements. The following suggested edition could create a ground to allow Russian NFP at least to apply to the national financial authority with request to consider a possibility to provide financial contribution to the EANET program:

Item/Article 14 – Merged option

8. The administrative and operational cost of the national monitoring within each country will be borne by each country.
9. The administrative and operational costs of the Secretariat and the NC core activities will be financed by voluntary contributions of the Participating Countries, which will aspire to cover expenses on all core activities.
10. Contribution by all the Participating Countries is encouraged taking into account their economic and financial circumstances and in accordance with the respective national laws and regulations,

11. The voluntary financial contribution of the Participating Countries will be made taking into account the EANET core budget amount and burden sharing according to the latest UN assessment scale. Contribution will be the minimum amount needed to operate the Secretariat [and the NC core] activities. The Participating Countries may provide additional financial and in-kind contributions on a voluntary basis.
12. Scheme and guidelines for the transfer of financial contribution will be developed and adopted by the IG. The financial contributions and interest from financial contributions will be administered by the Secretariat under the guidance of the IG;
13. Network will be open to financial and in-kind contribution from other sources, including international and regional organizations, NGOs etc. being as subject to the approval of the IG.
14. The annual financial reports with specific format(s) will be provided by the Secretariat and the NC to the IG. The financial efficiency of the Secretariat and the NC will be audited by independent auditing agencies. The Secretariat and the NC will also submit the auditors' reports to the IG.

The Russian NFP suggests to include the following statement to the Preamble in order to inform the Governments of the participating countries about estimated amount of the EANET budget:

«Noting the fact that the effective realization of the EANET activity before taking into force of this Instrument was supported by voluntary contributions of some participation countries covering core activities of the EANET Secretariat and the Network Center which annually consisted of about one million US dollars and expressing grate thanks to the Governments of these countries, “

The Russian NFP suggesting also to delete brackets in the Item/Article 10 – Intergovernmental meeting Item 2a around the words “taking into account amount of money available in the Fund”.

The Second draft of the report of the working group on future development (WGFD) for the tenth session of the intergovernmental meeting of EANET (IG10) on the Instrument to provide a sound basis for contribution to EANET

Referring to the decision of the WGFD7 the Russian National Focal Point appreciate very much the efforts of the Secretariat on revising Report taking into account the progress on the text of the instrument and the discussions during the WGFD7. The Second draft, at our opinion, reflects the situation with progress of the Instrument much better then previous versions. However, we still have some comments

and corrections:

1. Paragraph 6 – the structure of the Report (starting from the words: "The Session also decided...") should not be included in the text of the Report. This was some interim decisions which is not necessary be reported to IG.
2. Paragraph 16 – According to the discussion at the WGFD7 the word "Governments" should be included in the following sentence "The latest proposal is to use soft law instrument with signature by the representatives of **the Governments** of participating countries and without ratification processes."
3. Paragraph 24 - the same as in the paragraph 16 the word "Governments" should be added into the sentence under the built "Legal status of the Instrument" - "If a legally binding instrument or a soft law instrument with signature by the representatives of **the Governments** of participating countries without the need of ratification can be accepted among the participating countries."

PHILIPPINES Comments, sent on 24 September 2008

Hi Aida,

Please find hereunder minor comments on the above-mentioned subject:

1) Article 5 Assessment: It should mention who is tasked to do this

2) Article 9 Exchange of Information: Remove [Option 1] because there is no other Option

3) Article 11 Secretariat: Seems there is inconsistency between designation of the Secretariat in #1 (by the participating countries) and #2 (by the IG).

4) Article 14 (option 1): Please insert the word "participating" between the words "each" & "country in item #2.

5) Article 14 (option 3): Item #4, Change EANET to "IG".

I would like to take this opportunity to congratulate the Secretariat for a "job well done" in coming out with a Merged Version. I noted that almost all of the text of Option B were incorporated in the merged version.

Cheers,

Jean

The Third Special Session of the Working Group
on Future Development of EANET
19 November 2008, Chiang Mai, Thailand

**REPORT OF THE WORKING GROUP ON FUTURE DEVELOPMENT (WGFD)
FOR THE TENTH SESSION OF THE INTERGOVERNMENTAL MEETING OF
EANET (IG10) ON THE INSTRUMENT TO PROVIDE A SOUND BASIS FOR
CONTRIBUTION TO EANET
(FOURTH DRAFT)**

I. INTRODUCTION

• **Background**

1. The Seventh Session of the Intergovernmental Meeting (IG7) adopted the Decision 1/IG7 (Niigata Decision) which decides that the participating countries of EANET should begin a process to discuss an appropriate instrument and its legal status to provide a sound basis for financial contribution to EANET and will report the results of the discussion to the Tenth Session of the Intergovernmental Meeting (IG10) for its consideration. The “Feasibility Study Report on an Appropriate Instrument to Provide a Sound Basis for Financial Contribution to EANET Activities” will be a reference for the process of discussion, but it will not be a necessary basis for the process of discussion.
2. The Eighth Session of the Intergovernmental Meeting (IG8) of EANET, held in November 2006, in Hanoi, Viet Nam decided that the Instrument should be simple, flexible and open for future development of EANET, based on the Joint Announcement (EANET/IG 2/5/2 rev; hereinafter referred to as “JA”) and Tentative Design (EANET/IG 2/5/3 rev; hereinafter referred to as “TD”) and relevant decisions at the IG meetings and that financial provisions should be developed in close consultation with concerned countries and without placing an undue burden on participating countries. IG8 also pointed out that financial contribution could not be identified in the text of the objectives of the Instrument.

• **Terms of Reference of the WGFD**

3. The Terms of Reference for the Working Group on Future Development (WGFD) of EANET for 2007-2008 adopted by the IG8 states that, under the guidance of the Intergovernmental Meeting it will, among other tasks, discuss and develop an appropriate instrument and its legal status to provide a sound basis for financial contribution for EANET and report the results of the discussion to the Tenth Session of the Intergovernmental Meeting (IG10) for its consideration.

II. MAJOR DISCUSSIONS ON THE TEXT OF THE INSTRUMENT

4. The Fourth Session of the Working Group on Future Development (WGFD4) held in Pathumthani, Thailand in June 2007 discussed the first negotiating text on the Instrument prepared by the Secretariat. The Session requested the Secretariat to prepare two versions, a legally binding and a non-legally binding text based on the revisions proposed for discussions at its next session. The Fifth Session of the Working Group on Future Development (WGFD5) held in Pathumthani, Thailand in September 2007 discussed the revised text and decided to submit a report to the Ninth Session of the Intergovernmental Meeting (IG9), held in Vientiane, Lao PDR in November 2007, consisting of the following items:
 - Two versions of the draft text (legally binding and non-legally binding) with brackets;
 - Cost estimates of the core budget activities of the Secretariat and the Network Center (NC), based on the current texts; and
 - Compilation of the comments on the draft text from the participating countries.
5. At IG9, there was a suggestion that detailed discussions on respective articles of the Instrument should be conducted at the WGFD sessions, and that IG should focus on providing guidance to WGFD. It was also recommended that the report should identify issues that the WGFD agreed on and issues that could not be resolved in the discussion of the WGFD sessions. The IG9 requested the Secretariat to produce a consolidated text by integrating the draft legally binding and non-legally binding texts of the Instrument in order to focus attention on the contents of the Instrument. The Session further requested the Secretariat to integrate comments received into the text. The WGFD was requested to proceed with the discussions based on the consolidated text with the aim of reporting the results of the discussions to IG10.
6. The Sixth Session of the Working Group on Future Development (WGFD6) held in Pattaya, Thailand in April 2008 prepared a preliminary revised draft text based on the discussion and decisions made at the meeting. The revised draft includes 2 different structure of options, cited as Option A and Option B, to reflect all the comments from participating countries. The Session also decided that the outline of the Report of the WGFD for IG10 on the Instrument to Provide a Sound Basis for Contribution to EANET shall contain the following structure:
 - I. Introduction
 - Background
 - Terms of Reference of the WGFD
 - II. Major discussions on the Text of the Instrument
 - Components of the Instrument
 - Legal Status of the Instrument
 - Scope of the Instrument
 - Financial arrangement
 - Others
 - III. Proposed Text of the Instrument

IV. Issues for consideration by IG10

7. The Seventh Session of the Working Group on Future Development (WGFD7) held in Pathumthani, Thailand on 29-31 July 2008 reviewed the revised draft text of the Instrument and made further revisions based on comments submitted by the participating countries before the Session and the discussions and decisions during the Session. The Session prepared a revised draft text of Option A. At the suggestion of the Chairperson, the Session requested the Secretariat to merge Option B into Option A, to facilitate the discussion and accommodate the strong desire of the Session to make one consolidated text of the Instrument to submit to IG10.
8. The major comments on the Instrument are summarized under the following headings for consideration and decision of IG10.

• **Components of the Instrument**

9. The components of the Instrument were presented at the IG8, consisting of six sections as follows:
 - (1) Preamble
 - (2) General Provisions
 - (3) Specific obligations and content of activities
 - (4) Provisions on organizations
 - (5) Financial arrangement
 - (6) Procedures
10. Major discussions on this topic included:
 - The principles for the discussion of the Instrument should be simple, flexible, open for future development, and based on the JA and TD and relevant decisions at the IG meetings.
 - Preamble usually contains background of the text to be adopted.
11. The latest text of the Instrument includes the following components. No specific issues remains on this topic:
 - (1) Preamble
 - (2) General Provisions (Definitions, Objectives, Principles)
 - (3) Specific activities
 - (4) Provisions on organizations
 - (5) Financial arrangement
 - (6) Procedures

- **Legal status of the Instrument**

12. There were diversified views on the legal status among the participating countries. It was clarified by the UNEP legal expert that the word “instrument” can be used whatever the legal status of the Instrument is.
13. Major discussions included:
 - It is important to strengthen the basis of EANET by upgrading the status of the document(s).
 - The starting point of the discussion on the Instrument was to address the difficulties of some participating countries to provide financial contribution through a non-legally binding instrument.
 - The objectives of the Instrument cannot be just to provide financial basis for EANET.
 - To make the Instrument complete and stand-alone, components of principles, activities and institutional arrangement need to be included into the main text of the Instrument.
 - A legally binding instrument is preferable not only for their financial contributions, but also that a legally binding instrument would also strengthen the basis for national activities for acid deposition problems.
 - A non-legally binding instrument is preferable since a legally binding instrument is not appropriate at this stage and there is not any possibility for it to be accepted by some participant countries.
 - The final decision on the legal status of the Instrument could be made at later stage after due consideration was given to the contents to be included in the Instrument.
14. It was pointed out that national procedures for adoption and implementation of the Instrument as well as the significance of the Instrument under the national systems, may be different from countries to countries, in accordance with their respective national laws and regulations.
15. It was agreed to use the term “participating country” in place of “party” and “will” instead of “shall” throughout the text of the Instrument.
16. It was agreed that the final decision on the legal status of the Instrument should be made by the IG. The latest proposal for consideration at IG10 is to use soft law instrument with signature by the representatives of the Government of the participating countries and without ratification processes. The participating countries were requested to consult their respective governments regarding the provision on the signature. The Session agreed that participating countries submit their comments to the Secretariat, as soon as possible.

- **Scope of the Instrument**

17. It was emphasized that the Instrument should be strictly in line with the JA and the TD of

EANET, while there were different views that the Instrument should be flexible and open for future development of EANET and accommodate future activities, which will facilitate more effective and efficient air quality management in East Asia.

18. Regarding the scope of the Instrument, the scope of substances for EANET and the scope of activities of EANET were discussed. There were different views both on the scope of substances and the scope of activities. Major discussions included:

Scope of substances

- It is preferable to have a broader scope (regional air pollution) to ensure flexibility and openness for future development of EANET.
- The Instrument is to provide sound basis for contribution to EANET. All the discussions should be based on the present scope of EANET (acid deposition).
- The scope could go beyond acid deposition and the instrument could provide room for additional tasks, if and when decided by IG.
- The IG authorized the WGFD to discuss the Instrument, but not to discuss the scope of activities and monitoring substances of EANET. The issue of expanded activities of EANET and the addition of other monitoring substances would simply complicate the present situation and slow down the on-going discussion of the Instrument.
- The Strategy on EANET Development (2006-2010), which was adopted at IG8, contains an activity to establish a framework for reviewing substances to be monitored, including other air pollutants and monitoring parameters.
- It was repeatedly pointed out from the scientific viewpoints that without addressing the issues of other air pollutants such as O₃ and PM, acid deposition problem cannot be dealt with appropriately since all the air pollution phenomena are directly or indirectly related to acid deposition.
- The phrase “regional air pollution” should be clearly defined with regard to other air pollution, such as haze pollution on which there exists an Agreement (ASEAN Agreement on Transboundary Haze Pollution).
- The term “regional air pollution” should be used in the provision on Objective. In the provision on Objective, the phrase “[The scope of the Instrument may be extended to cover other regional air pollution, as decided by the Intergovernmental Meeting (IG).]” should be included.
- The term “regional air pollution” should be retained both in the provision on Definition and in the provision on Objective.
- The characteristic of regional air pollution is different from that of climate change.

Scope of activities

- It is preferable to have a broader scope (prevention and control/management) to ensure flexibility and openness for future activities of EANET.
- The Instrument should strictly follow the present scope of EANET and the activities

- should be limited to monitoring of acid deposition.
- The Strategy on EANET Development (2006-2010) contains activities to promote modeling and emission inventories. The project proposal on Pilot Project on Emission Inventories for Interested Participating Countries was approved by the NFPs for submission to donor agencies after the WGFD5.
 - It was pointed out that from the scientific viewpoints modeling and emission inventory should be complementary with the EANET monitoring for better assessment of regional acid deposition since it is impossible to assess the status in the vast East Asian region only by limited number of EANET monitoring data
 - Inclusion of modeling and emission inventories, however, will result in a substantial increase in workload, requiring an increase of the number of network centers and expansion of SAC.
19. There are still the following options on the scopes of substances and activities for further consideration and decisions by the IG:

Scope of substances

- Acid deposition;
- Regional air pollution with the definition of [[air pollution including] acid deposition at the first stage with possible extension to other air pollution, which has regional implications as decided by the Participating Countries]; and
- Acid deposition and other regional air pollution, as decided by the Intergovernmental Meeting (IG).

Scope of activities

- Prevention and control of [regional air pollution/acid deposition];
- Management of [regional air pollution/acid deposition]; and
- Monitoring of [regional air pollution/acid deposition].

• **Financial arrangement**

20. It was emphasized that the starting point of this discussion is to solve the difficulty in some countries of securing financial contributions for EANET. There had been different views on the provisions of financial arrangements. The major discussions included:
- It is important to ensure that the Instrument contains a mechanism for the formulation of rules for financial contributions in a flexible manner, in accordance with the work programs, capabilities of the participating countries and other conditions. The provisions on financial arrangement should be simplified as much as possible.
 - It is preferable to have a legally binding instrument with clear financial arrangement based on current decision of EANET and discussions at the previous WGFD meetings.

- There is the need for a legal basis to strengthen national activities and to secure financial contributions for EANET.
 - It is preferable to have a non-legally binding instrument at the present stage.
 - An international instrument signed by governments (or by the authorized state body on behalf of the government) is needed. Two options of financial arrangement might be suggested: (i) to include detailed rules of financial arrangement into the text of the Instrument or (ii) to establish a high level decision-making body other than the IG for taking important political and financial decisions. The IG could not be a decision making body on financial rules and procedures, because its participants are not authorized by its government.
21. There are the following three options for further consideration and decision by the IG:
- Simplified version of the financial arrangement;
 - Detailed version of the financial arrangement referring to the major relevant IG decisions; and
 - Detailed version of the financial arrangement with some additional items to the relevant IG decisions.

• **Others**

22. Items 15-17 and the provision on the signature were developed, assuming that the Instrument be a soft law one. Articles 15-25 were retained in case the Instrument be legally binding document.

III. PROPOSED TEXT OF THE INSTRUMENT

23. The proposed text of the Instrument with remaining brackets is presented as Annex of this report for consideration and decision of the IG10.

IV. ISSUES FOR CONSIDERATION BY THE IG10

24. The IG10 is invited to consider and make decisions/provide guidance on the document submitted by the WGFD on the Instrument to Provide a Sound Basis for Contribution to EANET, especially on the following issues.

Legal status of the Instrument

If a legally binding instrument is acceptable or a soft law instrument with signature by the representatives of the Government of the participating countries is acceptable, which will not need ratification by the participating countries.

Scope of substances

Which options below or another option could be considered as most suitable and acceptable

for the Instrument:

- Acid deposition;
- Regional air pollution with the definition of air pollution including acid deposition at the first stage with possible extension to other air pollution, which has regional implications as decided by the Participating Countries;
- Acid deposition at the first stage with possible extension to other air pollution, which has regional implications as decided by the Participating Countries
- Acid deposition and other regional air pollution, as decided by the Intergovernmental Meeting (IG).

Scope of activities

- Which options below or another option could be considered as most suitable and acceptable for the Instrument: Prevention and control of [regional air pollution/acid deposition];
- Management of [regional air pollution/acid deposition]; and
- Monitoring of [regional air pollution/acid deposition]

Financial arrangement

Which options below or another option could be considered as most suitable and acceptable for the Instrument:

- Simplified version of the financial arrangement;
- Detailed version of the financial arrangement referring to the major relevant IG decisions; and
- Detailed version of the financial arrangement with some additional items to the relevant IG decisions.