

The Sixth Session of the Working Group
on Future Development of EANET
9-11 April 2008, Pattaya, Thailand

Text of Instrument to Provide a Sound Basis for Contribution to EANET (Draft)

INTRODUCTION

1. The Seventh Session of the Intergovernmental Meeting (IG7) held in November 2005, IG7 adopted a Decision 1/IG7 (Niigata Decision). It 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, and that 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. Following the report: “Components of the Instrument to Provide a Sound Basis for Contribution to EANET”(EANET/IG 8/6), the Eighth Session of the Intergovernmental Meeting (IG8) of EANET, held in November 2006, in Viet Nam, pointed out that the instrument should be simple, flexible and open for future development of EANET, based on the Joint Announcement and Tentative Design 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.
3. The Ninth Session of the Intergovernmental Meeting (IG9) held in November 2007 requested the Secretariat to produce a consolidated text by integrating the drafts of a legally binding and non-legally binding instrument, in order to focus attention on the contents of the instrument. The Session further requested the Secretariat to integrate the comments received into the text and circulate it to participating countries by 21 December 2007, and requested the participating countries to provide specific comments on this text to the Secretariat by the end of February 2008.
4. The Secretariat integrated all the comments received from the participating and prepared the following draft consolidated of the instrument, for discussion at the Sixth Session of the Working Group on Future Development of EANET (WGFD6) to be held on 9-11 April 2008 in Pattaya, Thailand. The written comments of the participating countries are herewith attached as Annex of this document.

Text of Instrument to Provide a Sound Basis for Contribution to EANET
(Draft)

[Title

- | | |
|-----------|--|
| option 1: | [Framework Agreement][Joint Declaration] to Promote Cooperation for the [Prevention and Control][Management] of [Regional Air Pollution][Acid Deposition] in East Asia |
| option 2: | [Joint Declaration to Provide a Sound Basis for Contribution to EANET] |
| option 3: | [“Agreement on [acid deposition]/[regional air pollution] in East Asia”] |
| option 4: | [Instrument for Strengthening the Acid Deposition Monitoring Network in East Asia] |

Option 1

<p>The [Parties][[Member][Participating] Countries] to this [Agreement][Joint Declaration],</p> <p>Recognizing that East Asia is facing increasing risks of problems related to [regional air pollution including acid deposition][acid deposition],</p> <p>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,</p> <p>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.</p> <p>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[, and that currently, thirteen countries in East Asia are participating in EANET and have been working together to conduct acid deposition monitoring and implemented other activities for EANET],</p> <p>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,</p> <p>Recognizing the need to promote cooperation for the [prevention and control][management] of [regional air pollution][acid deposition] in East Asia,</p> <p>Have [agreed][declared] as follows:</p>

Option 2

The Participating Countries to this instrument,

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

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,

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,

Renewing their commitment to continuing the activities of EANET as set out in **Tentative Design**,

- 1) Each participating country will develop and implement a national monitoring plan for the Network. The acid deposition monitoring will be implemented in accordance with the monitoring guidelines, technical manuals and other technical documents adopted by the Network. Each participating country will report the monitoring data and other relevant information in accordance with specified procedures. Each participating country will designate a national center, which is responsible for implementing the monitoring activities for the Network in the country and reporting monitoring data.
- 2) The monitoring data and other information submitted by participating countries will be compiled, evaluated and stored by the Network. Any participating country may obtain the data and other information submitted by other participating countries.
- 3) In order to obtain high quality monitoring data, the quality assurance/quality control (QA/QC) programs adopted by the Network will be implemented in full collaboration among the participating countries.
- 4) Periodic reports on the state of acid deposition in East Asia will be produced and made available to the public.
- 5) The data and other information compiled through the network activities may be provided to individuals, organizations and non-member countries, in accordance with specified procedures.
- 6) The participating countries will promote studies of other scientific issues in order to improve understanding of the risks of acid deposition.
- 7) Other activities necessary to achieve the objectives of the Network may be implemented.

Recognizing the Intergovernmental meeting of EANET composed of the representatives of all the participating countries, is the decision-making body of the Network as described in **Tentative Design**, which exercise the following functions, among others:

- 1) review and approval of the work program and budget of the Network;
- 2) review of implementation of the work program;
- 3) review and approval of periodic reports on the state of acid deposition in East Asia;
- 4) establishment of subsidiary bodies as necessary and appropriate;
- 5) review and approval of scientific, technical, administrative and financial matters for the management of the Network;
- 6) adoption of the rules of procedures for the Intergovernmental Meeting and subsidiary bodies, including the Scientific Advisory Committee;
- 7) provision of necessary instructions and guidance to the subsidiary bodies, the Secretariat and the Network Center, on their activities; and
- 8) decision on other matters related to the management of the Network and implementation of the work program.

The Intergovernmental Meeting will meet annually, unless otherwise decided.

Expressing their support for the work of Secretariat of EANET as set out in the **Tentative Design**.

The Secretariat, designated by the Intergovernmental Meeting, for the effective management of the Network and to facilitate cooperation among participating countries in a transparent manner, will carry out the following tasks under the guidance of the Intergovernmental Meeting:

- 1) necessary administrative arrangements for the meetings of the Intergovernmental Meeting, the Scientific Advisory Committee, and other subsidiary bodies;
- 2) necessary administrative and financial arrangements for managing the Network;
- 3) communication and cooperation in administrative aspects as the focal point of the Network; and
- 4) other necessary tasks as requested by the Intergovernmental Meeting.

Noting also the establishment of Scientific Advisory Committee of EANET as set out in **Tentative Design**.

The Scientific Advisory Committee, composed of scientific and technical experts from participating countries, will advise and assist the Intergovernmental Meeting with various scientific and technical matters related to the network activities and mandated to it by the Intergovernmental Meeting; these matters will include the following:

- 1) scientific and technical aspects of the monitoring strategies for the Network;
- 2) development and revision of the monitoring guidelines and technical manuals;
- 3) matters related to the selection of monitoring sites, QA/QC programs, data reporting procedures and formats;
- 4) matters related to collection, evaluation, assessment and analysis of monitoring data;
- 5) preparation of periodic reports on the state of acid deposition in East Asia, based on the data reports by the Network Center;
- 6) matters related to studies of other scientific issues; and

7) other scientific matters as requested by the Intergovernmental Meeting.

If considered necessary for fulfilling the objectives of the committee, experts from countries other than participating countries may be invited to join the committee.

Noting also the establishment of Network Center of EANET as set out in **Tentative Design** as following:

The Network Center, to handle scientific and technical matters of the network activities, and to facilitate cooperation among participating countries in a transparent manner, will carry out the following tasks under the guidance of the Intergovernmental Meeting:

- 1) central compilation, evaluation and storage of monitoring data and related information;
- 2) preparation of data reports on acid deposition in East Asia;
- 3) dissemination of monitoring data and other relevant information;
- 4) provision of technical assistance to the participating countries in implementing the network activities;
- 5) implementation and coordination of QA/QC activities;
- 6) development and implementation of education/training programs for those engaged in the network activities;
- 7) implementation of research activities on acid deposition;
- 8) provision of scientific and technical support for the Intergovernmental Meeting, Scientific Advisory Committee and other subsidiary bodies; and
- 9) other tasks as requested by the Intergovernmental Meeting.

Some of the above functions might be dealt with by other bodies, which could be established by the Intergovernmental Meeting as the need arises.

Recognizing the importance of appropriate financial arrangement for the sound operation of the EANET with a view of sustaining the development of EANET and enhancing capacity building of acid deposition monitoring for all the participating countries of EANET,

Have thus decided to make financial contribution to the EANET.

[Article 1][Item 1]

Definitions

[“Party” means a Party to this Agreement, unless the Agreement otherwise provides.]

[“[Member][Participating] Country”] means.....]

[“East Asia” means]

[“Acid Deposition” means....]

[“EANET” means....]

option 1: [“Regional Air Pollution” means acid deposition including other air pollution which has regional implication as agreed by the Parties]

option 2: [“Regional Air Pollution” means air pollution including acid deposition which may

cause adverse effects in local and regional area as a result of its long-range transport, and can be more effectively addressed through regional cooperation]

[“Management” means monitoring and other air pollution management activities as agreed by the Parties”]

[Article 2][Item 2]

Objectives

The objectives of this [Agreement][Joint Declaration] 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 [cooperate on][contribute to cooperation on][contribute to cooperation for the resolution of] the issues related to [regional air pollution][acid deposition] among the [Parties][[Member][Participating] Countries].

[Option 1]

[Article 3][Item 3]

Principles

The [Parties][[Member][Participating] Countries] [shall][will] be guided by the following principles in the implementation of this [Agreement][Joint Declaration]:

- 1) The [Parties][[Member][Participating] Countries] [shall][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].
- 2) The [Parties][[Member][Participating] Countries] [should][shall][will] take precautionary measures to anticipate, monitor and [prevent][manage] [regional air pollution][acid deposition] to minimize its adverse impacts. Where there are threats of serious or irreversible damage from [regional air pollution][acid deposition], even without scientific certainty, precautionary measures [shall][should][will] be taken by the [Parties][[Member][Participating] Countries] concerned.

[Article 4][Item 4]

General Obligations

1. The [Parties][[Member][Participating] Countries] [shall][will] take necessary measures to contribute to the cooperation on the issues related to [regional air pollution][acid deposition] among the [Parties][[Member][Participating] Countries].

2. The [Parties][[Member][Participating] Countries] [shall][will] take legislative, administrative and/or other measures to implement their obligations under this [Agreement][Joint Declaration].
3. The [Parties][[Member][Participating] Countries] [shall][will] promote and cooperate in the exchange of information related to [regional air pollution][acid deposition].
4. The [Parties][[Member][Participating] Countries] [shall][will] promote active participation, and bilateral and multilateral cooperation for effective implementation of [research][EANET][network] activities.

]

[Option 2 (Replace General Obligations)]**[Article 3][Item 3]****Principles**

The [Parties][[Member][Participating] Countries] [shall][will] be guided by the following principles in the implementation of this [Agreement][Joint Declaration]:

- 1) The [Parties][[Member][Participating] Countries] [shall][will] take necessary measures to contribute to the cooperation on the issues related to [regional air pollution][acid deposition] among the [Parties][[Member][Participating] countries].
- 2) The [Parties][[Member][Participating] Countries] [shall][will] promote and cooperate in the exchange of information related to [regional air pollution][acid deposition].
- 3) The [Parties][[Member][Participating] Countries] [shall][will] promote active participation, and bilateral and multilateral cooperation for effective implementation of [research][network] activities.

]

[Option 3 (Unify)]**[Article 3/Item 3]****General Obligations**

1. The [Parties][[Member][Participating] Countries] [shall][should][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].
2. The [Parties][[Member][Participating] Countries] [shall][should][will] take appropriate measures to anticipate, monitor and [prevent][regional air pollution] to minimize its adverse impacts. Where there are threats of serious or irreversible damage from [regional air pollution], even without enough scientific certainty, precautionary measures shall be taken by the [Parties][[Member][Participating] Countries] concerned.
3. The [Parties][[Member][Participating] Countries] [shall][should][will] promote active participation, and bilateral and multilateral cooperation for effective implementation of the activities under the [Agreement][Joint Declaration].

]

[Article 5][Item 5]**Monitoring and Reporting**

1. The [Parties][[Member][Participating] Countries] [shall][will] implement and strengthen their

- monitoring activities in line with this [Agreement][Joint Declaration].
2. Each [Party][[Member][Participating] Country] [shall][will] designate a national center, which is responsible for implementing the monitoring activities provided for in the [Agreement][Joint Declaration].
 3. Each [Party][[Member][Participating] Country] [shall][will] develop and implement its national monitoring plan. Monitoring of acid deposition [and other regional air pollution] [shall][will] be implemented in accordance with the monitoring guidelines, technical manuals and other technical documents adopted by the Intergovernmental Meeting (IG), referred to in [Article 11][Item 11].
 4. Each [Party][[Member][Participating] Country] [shall][will] report the monitoring data and other relevant information to the Network Center (NC), referred to in [Article 14][Item 14], 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), referred to in [Article 13][Item 13], [shall][will] be implemented in full collaboration among the [Parties][[Member][Participating] Countries] for monitoring activities under the [Agreement][Joint Declaration].
 6. The monitoring data and other information submitted by the [Parties][[Member][Participating] Countries] [shall][will] be compiled and stored by the NC.
 7. The data and other information compiled through [EANET activities][activities under the [Agreement][Joint Declaration]] [shall][may][should] be provided to individuals, organizations and non-member countries, in accordance with the procedures adopted by the IG.

[[Article 5 bis.][Item 5 bis.]

Emission Inventories and Modeling

1. Each [Party][[Member][Participating] Country], in accordance with its capabilities, [shall][should] [make efforts][cooperate] to build up the capacity to prepare its emission inventory of decided air pollutants by using comparable methodologies to be promoted and decided upon by the IG and to develop simulation models for assessment on the state of regional air pollution in East Asia.
2. The NC [shall][should] promote studies and exchange of information on inventories and modeling to assist each [Party][[Member][Participating] Country] in preparing and improving its emission inventory and developing simulation models].

[Article 6][Item 6]

Assessment

1. The monitoring data and other information submitted by the [Parties][[Member][Participating] Countries] [shall][will] be analyzed and evaluated by the SAC.
2. The SAC [shall][will] prepare periodic assessment reports on the state of [regional air pollution][acid deposition] in East Asia, based on the data reports by the NC.

3. Periodic assessment reports prepared pursuant to paragraph 2 of this [Article][Item] [shall][should][will] be disseminated [and made available to the public].

[Article 7][Item 7]

Research Activities

1. The [Parties][[Member][Participating] Countries] [shall][should][will] promote studies of 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 8][Item 8]

Education and Training

The [Parties][[Member][Participating] Countries] [shall][should][will] promote and cooperate in developing and implementing education / training programs to implement this [Agreement][Joint Declaration] in collaboration with the NC and the Secretariat, referred to in [Article 12][Item 12].

[Article 9][Item 9]

Public Awareness

The [Parties][[Member][Participating] Countries], [shall][should][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.

[Option1]

[Article 10][Item 10]

Exchange of Information

The [Parties][[Member][Participating] Countries] [shall][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.

]

[Option2: The provision of “Exchange of Information” is integrated in [Article 11][Item 11], inserted before para 2.a.)]

[Article 11][Item 11]

Intergovernmental Meeting

1. An Intergovernmental Meeting is hereby established.
2. The IG, composed of the representatives of all [Parties][[Member][Participating] Countries], is the decision-making body of the [EANET][Agreement][Joint Declaration]. The tasks of the IG

include, among others, the following:

- (a) 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;
 - a) review and approval of the work program and budget [of the EANET] [for implementation of the [Agreement][Joint Declaration]][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][Agreement][Joint Declaration];
 - f) adoption of the rules of procedures [and financial rules] 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][Agreement][Joint Declaration] and implementation of the work program; and
 - i) adoption of amendments to this [Agreement][Joint Declaration].
3. The IG [shall][will] meet annually, unless otherwise decided.

[Article 12][Item 12]

Secretariat

- [1. A Secretariat is hereby established.]
2. The Secretariat, designated by the IG for the effective management of the [EANET][Agreement][Joint Declaration] and to facilitate cooperation among the [Parties][[Member][Participating] Countries] in a transparent manner, [shall][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] [Agreement][Joint Declaration];
 - c) communication and cooperation in administrative [and policy] aspects as the focal point of the [EANET][Agreement][Joint Declaration];
 - d) promotion of capacity building and public awareness in cooperation with the NC; and
 - e) other necessary tasks as requested by the IG.

[Article 13][Item 13]

Scientific Advisory Committee

1. A Scientific Advisory Committee is hereby established.
2. The SAC, composed of scientific and technical experts from the [Parties][[Member][Participating] Countries], [shall][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 [shall][will] include the following:
 - a) scientific and technical aspects of the monitoring strategies [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 the data report 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 [Parties][[Member][Participating] Countries] may be invited to join the Committee.

[Article 14][Item 14]

Network Center

1. A Network Center is hereby established.
2. The NC, to handle scientific and technical matters of [EANET activities][activities under the [Agreement][Joint Declaration]], and to facilitate cooperation among the [Parties][[Member][Participating] Countries] in a transparent manner, [shall][will] carry out the following tasks under the guidance of the IG:
 - a) central compilation, evaluation and storage 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 [Parties][[Member][Participating] Countries] in implementing [EANET activities][activities under the [Agreement][Joint Declaration]];
 - e) implementation and coordination of QA/QC activities;
 - f) development and implementation of education/training programs for those engaged in [EANET activities][activities under the [Agreement][Joint Declaration]];
 - 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) promote capacity building and public awareness in cooperation with the Secretariat; and
 - j) other tasks as requested by the IG.

[Option 1]

[Article 15][Item 15]

Financial Arrangement

1. A Fund is hereby established for the implementation of this [Agreement][Joint Declaration].
2. The administrative and operational cost of the national monitoring within each country [shall][will] be borne by each country.
3. In order to provide a sound financial basis for the implementation of this [Agreement][Joint Declaration], the [Parties][[Member][Participating] Countries] [shall][will] make [voluntary] contribution to the fund [in accordance with the decision of the IG].
4. Taking into account the IG decisions, the contribution of the [Parties][[Member][Participating] Countries] [shall][will] be based on the flat rate amount and burden sharing according to the UN assessment scale.
5. [The voluntary financial contribution amounts shall/will be calculated using the latest UN assessment scale as agreed by the participating countries and the total sum shall/will be the minimum amount needed to operate the Secretariat and NC core activities. Participating countries can provide additional financial and in-kind contributions on a voluntary basis.]
6. The fund [shall][will] be open to financial and in-kind contribution from [other sources][international and regional organizations, non-governmental organizations (NGOs) and from any other international entities], subject to the [agreement of][approval by] the IG.

]

[Option2 (simplify)

[Article 15][Item 15]

Financial Arrangement

1. The administrative and operational cost of the national monitoring within each country [shall][will] be borne by each country.
2. Each [Party][[Member][Participating] Country] [shall][will] contribute to the budget. Contribution [shall][will] be paid in accordance with the respective laws and regulations of each [Party][[Member][Participating] Country], based on the financial rules and other relevant decisions adopted by the IG.

[Option 3:

Objectives of the financial arrangement

The objectives of this financial arrangement are:

1. to provide a sound basis for financial contribution to EANET;
2. to help sustain the development of EANET;
3. to strengthen the financial arrangement mechanism of EANET;
4. to ensure sufficient financial resources to enhance capacity building on acid deposition monitoring for participating countries of EANET.

Principles for financial contribution

The participating countries will be guided by the following principles in the implementation of

this instrument:

1. The use of financial contribution will produce effective outcome;
2. The related executive body will take necessary measures to improve efficiency of contribution;
3. All the participating countries are encouraged to make voluntary contribution to network;
4. Network will be open to financial and in-kind contribution from other source, including international and regional organization, NGO and etc subject to the approval of IG or National Focal Points.]

Contribution

1. The contributions of the Participating Countries shall be in the form of voluntary contributions.
2. Contribution may be made in convertible currency, non-convertible currency, or in kind;
3. The voluntary contribution in cash will be deposited in a fund or other place by approval of participating countries;
4. The amount of financial contribution by the participating countries will be made in accordance of the IG decision.
5. All payments by the Participating Countries are encouraged, taking into account their economic and social circumstances, to contribute either on the basis of IG decision or above it or maintain their contributions at the top historical level.
- 6 The contribution refers to the contribution to the Secretariat at present stage, and the discussion of possible contribution to the Network Center would be made after reviewing its performance;

Expenditure of contribution

1. The contribution will be administered by the EANET Secretariat under the guidance of IG;
2. The core activities that will be covered by contribution should be agreed on by participating countries.
3. The use of the income from contribution should finance the activities of general interest.

Supervision

1. The annual financial report with specific format will be reported by the Secretariat to IG.
2. The financial efficiency of the Secretariat will be audited by the independent auditing agency and the Secretariat shall submit, as soon as practicable, the audited accounts for the financial period

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Note: Article 16-25 are considered as specific for legally binding text.

Article 16
Amendments

1. Any Party may propose amendments to the Agreement.
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 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 17
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 18
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 19

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 20

[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 21

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 22

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 23

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 24

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 25
Depositary

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

Article 26
Authentic Text

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

Note: Item 16-17 are specific for non-legally binding text.

[Item 16]
Withdrawal

A [Member][Participating] Country may withdraw from the [EANET][Joint Declaration] 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][Joint Declaration], may subsequently submit the Secretariat an application for participation, which is subject to approval by the IG.]

[[Annex I] [[Member][Participating] Countries]

Cambodia
China
Indonesia
Japan
Lao People's Democratic Republic
Malaysia
Mongolia
Myanmar
Philippines
Republic of Korea
Russian Federation
Thailand
Viet Nam]

Annex

**COMMENTS OF THE PARTICIPATING COUNTRIES ON THE
CONSOLIDATED TEXT OF THE INSTRUMENT**

China's comments

Date Submitted: 29 February 2008

Dear Mr. Surendra Shrestha,

I am writing in reference to your letter dated 19 December, 2007 regarding the draft text of instrument to provide a sound basis for contribution to EANET.

We would like to express our appreciation for the efforts by the Secretariat in integrating the document and we are pleased to provide our comments herewith attached on this document as requested.

By the way, we wish to share with the other participating countries through the Secretariat the rationale for the attached comments.

1. It has to be borne in mind that both the starting point and the purpose for developing such an instrument are for addressing the issue of financial contribution;
2. The principles as decided by the IG8 reiterated in your letter should be reflected and observed in developing such instrument, which are: simple, flexible, and open for future development, based on the Joint Announcement and Tentative Design, and relevant decisions at the IG meetings, and that financial provisions should not place an undue burden on participating countries ;
3. Following these principles, we wish to help find a way out by simply focusing on the problem *per se*, the financial contribution by all participating countries. While referring to the integrated document by the Secretariat, the issue of expanded activities and the inclusion of the formulation on emission inventories and modeling would simply complicate the present situation and hamper the ongoing discussion on the envisioned instrument. As a stepwise and realistic approach, it would be advisable to take up and tackle the problem one by one.
4. Taking into consideration of that, and based on the document from the Secretariat, we propose to have a relatively focused elaboration of the financial arrangement

As for the legal status of the instrument, the problems we are facing is that it seems there is no legal basis for developing an instrument in legally binding nature for this topic and with regard to the financial contribution, we prefer to follow the widely applied mode in the environmental field, i.e. the voluntary contribution.

Thank you for your kind attention and sustained cooperation.

Best regards

Fang Li
National Focal Point
Director
Division of Regional Environmental Cooperation
Department of International Cooperation
SEPA

Text of Instrument to Provide a Sound Basis for Contribution to EANET

(Draft)

[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],

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,

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,

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

1) Each participating country will develop and implement a national monitoring plan for the Network. The acid deposition monitoring will be implemented in accordance with the monitoring guidelines, technical manuals and other technical documents adopted by the Network. Each participating country will report the monitoring data and other relevant information in accordance with specified procedures. Each participating country will designate a national center, which is responsible for implementing the monitoring activities for the Network in the country and reporting monitoring data.

- 2) The monitoring data and other information submitted by participating countries will be compiled, evaluated and stored by the Network. Any participating country may obtain the data and other information submitted by other participating countries.
- 3) In order to obtain high quality monitoring data, the quality assurance/quality control (QA/QC) programs adopted by the Network will be implemented in full collaboration among the participating countries.
- 4) Periodic reports on the state of acid deposition in East Asia will be produced and made available to the public.
- 5) The data and other information compiled through the network activities may be provided to individuals, organizations and non-member countries, in accordance with specified procedures.
- 6) The participating countries will promote studies of other scientific issues in order to improve understanding of the risks of acid deposition.
- 7) Other activities necessary to achieve the objectives of the Network may be implemented.

Recognizing the Intergovernmental meeting of EANET composed of the representatives of all the participating countries, is the decision-making body of the Network as described in **Tentative Design**, which exercise the following functions, among others:

- 1) review and approval of the work program and budget of the Network;
- 2) review of implementation of the work program;
- 3) review and approval of periodic reports on the state of acid deposition in East Asia;
- 4) establishment of subsidiary bodies as necessary and appropriate;
- 5) review and approval of scientific, technical, administrative and financial matters for the management of the Network;
- 6) adoption of the rules of procedures for the Intergovernmental Meeting and subsidiary bodies, including the Scientific Advisory Committee;
- 7) provision of necessary instructions and guidance to the subsidiary bodies, the Secretariat and the Network Center, on their activities; and
- 8) decision on other matters related to the management of the Network and implementation of the work program.

The Intergovernmental Meeting will meet annually, unless otherwise decided.

Expressing their support for the work of Secretariat of EANET as set out in the **Tentative Design**.

The Secretariat, designated by the Intergovernmental Meeting, for the effective management of the Network and to facilitate cooperation among participating countries in a transparent manner, will carry out the following tasks under the guidance of the Intergovernmental Meeting:

- 1) necessary administrative arrangements for the meetings of the Intergovernmental Meeting, the Scientific Advisory Committee, and other subsidiary bodies;
- 2) necessary administrative and financial arrangements for managing the Network;
- 3) communication and cooperation in administrative aspects as the focal point of the Network; and
- 4) other necessary tasks as requested by the Intergovernmental Meeting.

Noting also the establishment of Scientific Advisory Committee of EANET as set out in **Tentative**

Design.

The Scientific Advisory Committee, composed of scientific and technical experts from participating countries, will advise and assist the Intergovernmental Meeting with various scientific and technical matters related to the network activities and mandated to it by the Intergovernmental Meeting; these matters will include the following:

- 1) scientific and technical aspects of the monitoring strategies for the Network;
- 2) development and revision of the monitoring guidelines and technical manuals;
- 3) matters related to the selection of monitoring sites, QA/QC programs, data reporting procedures and formats;
- 4) matters related to collection, evaluation, assessment and analysis of monitoring data;
- 5) preparation of periodic reports on the state of acid deposition in East Asia, based on the data reports by the Network Center;
- 6) matters related to studies of other scientific issues; and
- 7) other scientific matters as requested by the Intergovernmental Meeting.

If considered necessary for fulfilling the objectives of the committee, experts from countries other than participating countries may be invited to join the committee.

Noting also the establishment of Network Center of EANET as set out in **Tentative Design** as following:

The Network Center, to handle scientific and technical matters of the network activities, and to facilitate cooperation among participating countries in a transparent manner, will carry out the following tasks under the guidance of the Intergovernmental Meeting:

- 1) central compilation, evaluation and storage of monitoring data and related information;
- 2) preparation of data reports on acid deposition in East Asia;
- 3) dissemination of monitoring data and other relevant information;
- 4) provision of technical assistance to the participating countries in implementing the network activities;
- 5) implementation and coordination of QA/QC activities;
- 6) development and implementation of education/training programs for those engaged in the network activities;
- 7) implementation of research activities on acid deposition;
- 8) provision of scientific and technical support for the Intergovernmental Meeting, Scientific Advisory Committee and other subsidiary bodies; and
- 9) other tasks as requested by the Intergovernmental Meeting.

Some of the above functions might be dealt with by other bodies, which could be established by the Intergovernmental Meeting as the need arises.

Recognizing the importance of appropriate financial arrangement for the sound operation of the EANET with a view of sustaining the development of EANET and enhancing capacity building of acid deposition monitoring for all the participating countries of EANET,

Have thus decided to make financial contribution to the EANET.

Objectives of the financial arrangement

The objectives of this financial arrangement are

1. to provide a sound basis for financial contribution to EANET;
2. to help sustain the development of EANET;
3. to strengthen the financial arrangement mechanism of EANET;
4. to ensure sufficient financial resources to enhance capacity building on acid deposition monitoring for participating countries of EANET.

Principles for financial contribution

The participating countries will be guided by the following principles in the implementation of this instrument:

5. The use of financial contribution will produce effective outcome;
6. The related executive body will take necessary measures to improve efficiency of contribution;
7. All the participating countries are encouraged to make voluntary contribution to network;
8. Network will be open to financial and in-kind contribution from other source, including international and regional organization, NGO and etc subject to the approval of IG or National Focal Points.

Contribution

1. The contributions of the Participating Countries shall be in the form of voluntary contributions.
2. Contribution may be made in convertible currency, non-convertible currency, or in kind;
3. The voluntary contribution in cash will be deposited in a fund or other place by approval of participating countries;
4. The amount of financial contribution by the participating countries will be made in accordance of the IG decision.
5. All payments by the Participating Countries are encouraged, taking into account their economic and social circumstances, to contribute either on the basis of IG decision or above it or maintain their contributions at the top historical level.
6. The contribution refers to the contribution to the Secretariat at present stage, and the discussion of possible contribution to the Network Center would be made after reviewing its performance;

Expenditure of contribution

1. The contribution will be administered by the EANET Secretariat under the guidance of IG;
2. The core activities that will be covered by contribution should be agreed on by participating

countries.

3. The use of the income from contribution should finance the activities of general interest.

Supervision

1. The annual financial report with specific format will be reported by the Secretariat to IG.
2. The financial efficiency of the Secretariat will be audited by the independent auditing agency and the Secretariat shall submit, as soon as practicable, the audited accounts for the financial period

Russia's comments

Submitted/Email dated: 19 March 2008

Dear Mr. Surendra Shrestha,

Following the decision of the Ninth Session of the Intergovernmental Meeting (IG9) on Acid Deposition Monitoring Network in East Asia (EANET) requiring participation countries to present their comments on the consolidated "Text of the Instrument to Provide a Sound Basis for Contribution to EANET", the Russian Federation National focal point for EANET would like to express Russian view.

The suggested consolidated "Text of the Instrument to Provide a Sound Basis for Contribution to EANET" (in the version including articles 16-25) generally contains all components which are necessary for the regional instrument to provide sound basis for legal EANET activity.

However, the Russian NFP would like to stress some important points focusing on the contents of the instrument:

- the text of the instrument should not contain any reference to the "decision of IG". All relevant decisions which are already accepted by IG should be included in the text of the Instrument. Any further IG decisions made after the instrument entering into the force, can be added to the instrument only in the form of annexes, protocols, amendments etc., and should be accepted by the countries according the same procedure as the Instrument itself,
- financial arrangements (article/item 15) should state a minimal amount of financial contribution sharing according to the UN assessment scale among countries which is necessary to cover a fixed operational costs for Secretariat and the Network center core activities. Any additional financial and in-kind contributions can be provided by the participating countries on the voluntary basis.
- tasks of the IG (stated in the article/item 11) should be modified as the following "review and approval of the work program and budget ..." taking into account amount of money available in the Fund,
- title of the instrument should describe a problem but not a way of decision of the problem. We suggest to simplify the title of the Instrument as the follow: "Agreement on [acid deposition]/[regional air pollution] in East Asia".

The Russian NFP would like also to underline once again that in the case if article/item 15 is accepted in the form of Option 2 (simplify), the Russian Federation will not be able to provide financial contribution to EANET.

Sincerely,

on behalf of the Russian NFP

Ms. Marina Kotlyakova,
Ms. Veronika Ginzburg,
Russian WGFD members

Thailand's comments

No. 0306 / 0228



Air Quality and Noise Management Bureau
Pollution Control Department
92 Soi Phahon Yothin 7,
Phahon Yothin Rd., Phayathai
Bangkok 10400 Thailand
Tel. 662 298 2393-5
Fax 662 298 2392

7 March B.E. 2551 (2008)

Mr. Surendra Shrestha
Director
EANET Secretariat, UNEP, RRC.AP
Outreach Building, Asian Institute of Technology
P.O. Box 4, Klongluang, Pathumthani 12120, Thailand

Dear Mr. Surendra Shrestha,

Subject : Thailand's Comments on the Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET

Please kindly refer to your letter dated 19 December 2007 requesting us to provide specific comment on the "Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET" to Secretariat for EANET by the end of February 2008. Pollution Control Department (PCD) as national focal point of Thailand for EANET would like to express views and comments as follows,

1. For the scope of substances, our preference is given to "regional air pollution" that the instrument will have a room to accommodate future activities which will facilitate the air quality management in East Asia. However, the substances to be monitored should be reviewed.

2. Regarding the scope of activities, our preference is given to "control and prevention" since we can not assess the status of regional acid deposition in the vast East Asian region using only limited monitoring data of EANET so it is necessary to apply other useful methodologies such as emission inventory and modeling activities.

3. Regarding the legal status of instrument, our preference is given to "legally binding" since it is considered as the best way for getting financial support from the Royal Thai Government and financial can also be secured for the implementation of EANET activities. In addition, a legally binding instrument with financial arrangement based on UN assessment scale burden sharing would also shown the spirit and partnership of EANET participating countries. We would like to propose some revision of the text of the instrument as follows;

- 2 -

- Para. 4 of Article 16 should be changed to "Amendments shall be adopted by two-thirds majority of the representatives of the parties present and voting at the meeting of the IG".

- Concerning Article 21, we propose that the agreement shall enter into force on the sixtieth day after the deposit of the ninth instrument of ratification, acceptance, approval or accession.

- We propose to add one more article "Settlement of disputes" into agreement.

Thank you very much for your cooperation.

Sincerely yours,

(Dr. Wijarn Simachaya)
Director,

Air Quality and Noise Management Bureau
National Focal Point of Thailand for EANET

NOTE: PREVIOUS SUBMISSION OF COMMENTS BEFORE IG9:

Japan

**Japan's Comments on the Draft text of Instrument
to Provide a Sound Basis for Contribution to EANET**

As of October 2007

1. Introduction

Taking into account the results of discussion held at the Fifth Session of the Working Group on Future Development of EANET (WGFD5), Japan would like to submit its views and comments on the Draft text of Instrument to Provide a Sound Basis for Contribution to EANET prepared by the Secretariat.

The following comments are provided with an intention to make the Instrument flexible and acceptable not only for Japan but also for other participating countries of EANET. They are also elaborated based on the principle that the instrument should be simple, flexible and open for future development of EANET.

As the Draft text of the Legally Binding Instrument covers all the elements (items) of the Draft text of Non-Legally Binding Instrument, we limit ourselves to comment on the text of the former Draft for the sake of convenience. It is based on the assumption that the following comments would be treated equally to the common elements in the latter's text.

Also attached is the Draft text of the Instrument which reflects all of the comments below.

2. General comments

(1) Scope of the Instrument

As for the scope of the Instrument, Japan supports the idea that there should be a room to accommodate future activities which will facilitate effective and efficient air quality management based on the latest scientific information available in East Asia, and should not be limited to the activities related to only "acid deposition" and "monitoring" for the following reasons:

- "Acid deposition" problem cannot be addressed appropriately without considering of air pollution since acid deposition is closely linked to air pollutants;
- With respect to future activities of EANET, "monitoring" and "emission inventories and modeling" are necessary scientific tools for comprehensive air quality management. These tools are parts of an integrated approach which aims at addressing the issue;

- An Instrument with broader scope may give the possibility to acquire the external funds from various sources and to accomplish more achievements in research activities; and
- The term “monitoring of acid deposition” is not appropriate as it does not even reflect the current activities of EANET.

(2) *Legal status of the Instrument*

The legal status of the Instrument should be determined at later stage, after we had more discussions on the Instrument. It is because that the legal status will be based on the contents of the Instrument and the needs and feasibility of ensuring effectiveness of implementation of the Instrument.

3. *Comments on elements of the Draft text*

(1) *Title of the Instrument*

Japan considers that the title of the Instrument should be decided at the last stage of the discussion because it depends on the contents and legal status of the Instrument.

(2) *Definitions [Article1]*

It is not necessary to include definitions of all terms used in the text of the Instrument. Rather, it is preferable to define only those terms which are indispensable.

[Definition of “East Asia”]

In particular, we should not include the term “East Asia” as it is difficult to define the region. Also, it is not necessary to list the name of the countries so as to leave flexibility for the membership taking into the accession of new members in the future.

[Definition of “EANET”]

We do not consider it necessary to define the term “EANET” as it inevitably duplicates the reference to the “EANET” in the preamble of the text. We would prefer to continue using the denomination “EANET” in practice, for example, as “a network in East Asia to promote cooperation under the new framework” on the basis of decisions of the Intergovernmental Meeting (IG), which is to be established under the Instrument. Another option will be to use the name “EANET” for the work program which is related to certain network activities.

[Definition of “Regional Air Pollution”]

As for the term “Regional Air Pollution” we suggest defining it as, for example, “air pollution including acid deposition which may cause adverse effects in local and regional area as a

result of its long-range transport, and can be more effectively addressed through regional cooperation”.

(3) *Principles and General obligations [Articles 3 and 4 – new Article 3]*

We would like to propose to unify Articles 3 and 4 and to stipulate a new article on the “General Obligations” to avoid duplication and redundancy of provisions. We suggest the elements of the new article should be as follows:

1. Obligation to strengthen cooperation to prevent and control regional air pollution.
2. Obligation to take appropriate measures to anticipate, monitor and prevent regional air pollution, and obligation to take precautionary measures even without enough scientific certainty.
3. Obligation to promote active participation and regional cooperation for effective implementation of the activities under the Instrument.

(4) *Activities under the Instrument [Articles 5 to 10(11)]*

We would like to propose to insert a new article on capacity building to prepare each Party’s national inventory on emissions and develop simulation models taking into consideration of its importance for further development of EANET. *[New Article 5 is to be inserted between Articles 5 and 6]*

We recommend substituting auxiliary verbs “should” for “shall” in some paragraphs and Articles so as not to assume binding obligations. *[Paragraph 7 of Article 5, paragraph 3 of Article 6, paragraph 1 of Article 7, Articles 8 and 9]*

We consider that the activities on “Exchange of Information” referred to in Article 10 should be assigned to the IG. Accordingly, the provision on “Exchange of Information” should be transferred to paragraph 2 of Article 11. *[Articles 10 and paragraph 2 of Article 11]*

(5) *Bodies responsible for implementation of activities [Articles 11 to 14]*

In order to ensure efficiency and stability of the activities to be implemented under the Instrument, Japan considers that, in principle, it is more realistic to delegate the tasks enumerated in these Articles to the existing bodies, than newly establishing the Secretariat and the Network Center under the Instrument. If we decide to leave a decision on this matter to the newly established IG, the paragraph 1 of Article 11 and paragraph 1 of Article 14 could be deleted.

(6) *Financial arrangement [Articles 15]*

We need simple and flexible provisions on financial arrangement within the Instrument. We would like to propose to simplify them as much as possible by stipulating only the principle which outlines that each country shall make contribution to the implementation of activities under the Instrument in accordance with the decisions of the IG.

(7) *Procedures [Articles 16 to 25]*

We support to simplify the provisions on procedures for amendments, entry into force, accession and withdrawal. We consider that the details of Articles on procedures should be discussed after the contents and legal status of the Instrument have been decided. *[Articles 16 and 19 to 24]*

In order to ensure the stability of the newly established framework, we would like to propose to delete the paragraph 2 of Article 16, which stipulates the obligatory review of the text of the Instrument after 5 years of its entry into force. *[Paragraph 2 of Article 16]*

It is not necessary to attach a list of participating countries of current EANET to the Instrument as an annex, since we don't know which of those countries would conclude the Instrument at the moment of the adoption of the Instrument. As we find the annexes to the Instrument unnecessary, the Article 17 and Annex I should be deleted. *[Articles 17]*

Article 18 on protocols also could be deleted as we find no need at this stage to prepare protocols to the Instrument. *[Articles 18]*

Japan's comments

Legally Binding Instrument To provide a Sound Basis for Contribution to EANET

(Draft text)

[Title

[Framework Agreement to Promote Cooperation for the [Prevention and Control][Management] of [Regional Air Pollution] in East Asia]

The Parties to this Agreement,

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[, and that currently, thirteen countries in East Asia are participating in EANET and have been working together to conduct acid deposition monitoring and implement other activities for EANET],

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,

Have agreed as follows:

Article 1
Definitions

["Party" means a Party to this Agreement, unless the Agreement otherwise provides.]

["Regional Air Pollution" means....]

["Acid Deposition" means....]

Article 2
Objective

The objective of this Agreement is:

- a) to create a common understanding of the state of [regional air pollution] in East Asia;
- b) 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];
and
- c) to [cooperate on] the issues related to [regional air pollution] among the Parties.

Article 3
General Obligations

1. The Parties shall, in the spirit of solidarity and partnership and in accordance with their respective needs, capabilities and situations, strengthen cooperation to [prevent and control] [regional air pollution].
2. The Parties shall take appropriate measures to anticipate, monitor and [prevent][regional air pollution] to minimize its adverse impacts. Where there are threats of serious or irreversible damage from [regional air pollution], even without enough scientific certainty, precautionary measures shall be taken by the Parties concerned.]
3. The Parties shall promote active participation, and bilateral and multilateral cooperation for effective implementation of the activities under the Agreement.

Article 4
Monitoring and Reporting

8. The Parties shall implement and strengthen their monitoring activities in line with this Agreement.
9. Each Party shall designate a national center, which is responsible for implementing the monitoring activities provided for in the Agreement.
10. Each Party shall develop and implement its national monitoring plan. Monitoring of acid deposition [and other regional air pollution] shall be implemented in accordance with the monitoring guidelines, technical manuals and other technical documents adopted by the Intergovernmental Meeting (IG), referred to in Article 11.
11. Each Party shall report the monitoring data and other relevant information to the Network Center (NC), referred to in Article 14, in accordance with guidelines adopted by the IG.
12. In order to obtain high quality monitoring data, the quality assurance / quality control (QA/QC) programs adopted by the Scientific Advisory Committee (SAC), referred to in Article 13, shall be implemented in full collaboration among the Parties for monitoring activities under the

Agreement.

13. The monitoring data and other information submitted by Parties shall be compiled and stored by the NC.
14. The data and other information compiled through [activities under the Agreement] [should] be provided to individuals, organizations and non-member countries, in accordance with the procedures adopted by the IG.

Article 5

Emission Inventories and Modeling

1. Each party, in accordance with its capabilities, [shall/should] [make efforts/cooperate] to build up the capacity to prepare its emission inventory of decided air pollutants by using comparable methodologies to be promoted and decided upon by the IG and to develop simulation models for assessment on the state of regional air pollution in East Asia.
2. The NC [shall/should] promote studies and exchange of information on inventories and modeling to assist each Party in preparing and improving its emission inventory and developing simulation models.

Article 6

Assessment

3. The monitoring data and other information submitted by Parties shall be analyzed and evaluated by the SAC.
4. The SAC shall prepare periodic assessment reports on the state of [regional air pollution] in East Asia, based on the data reports by the NC.
5. Periodic assessment reports prepared pursuant to paragraph 2 of this Article should be disseminated [and made available to the public].

Article 7

Research Activities

3. The Parties should promote studies of scientific issues related to [regional air pollution].
4. 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 8

Education and Training

The Parties should promote and cooperate in developing and implementing education/ training programs to implement this Agreement in collaboration with the NC and the Secretariat, referred to in Article 12.

Article 9

Public Awareness

The Parties should promote and cooperate in:

- a) development and implementation of public awareness programs on [regional air pollution]; and
- b) improvement of public access to information on [regional air pollution] and its effects.

Article 10

Intergovernmental Meeting

1. An Intergovernmental Meeting is hereby established.
4. The IG, composed of the representatives of all Parties, is the decision-making body of the [Agreement]. The tasks of the IG include, among others, the following:
 - a) exchange of information related to [regional air pollution] including scientific, technological, technical, socio-economic and legal information as well as information on administrative measures;
 - b) review and approval of the work program and budget [for implementation of the Agreement];
 - c) review of implementation of the work program;
 - d) review and approval of periodic assessment reports on the state of [regional air pollution] in East Asia;
 - e) establishment of subsidiary bodies as necessary and appropriate;
 - f) review and approval of scientific, technical, administrative and financial matters for the management of the [Agreement];
 - g) adoption of the rules of procedures and financial rules for the IG and subsidiary bodies, including the SAC;
 - h) provision of necessary instructions and guidance to the subsidiary bodies, the Secretariat and the NC on their activities;
 - i) decision on other matters related to the management of the [Agreement] and implementation of the work program; and
 - j) adoption of amendments to this Agreement.
5. The IG shall meet annually, unless otherwise decided.

Article 11

Secretariat

The Secretariat, designated by the IG for the effective management of the [Agreement] and to facilitate cooperation among Parties in a transparent manner, shall 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 [Agreement];
- c) communication and cooperation in administrative [and policy] aspects as the focal point of the [Agreement];

- 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

Scientific Advisory Committee

- [1. A Scientific Advisory Committee is hereby established.]
4. The SAC, composed of scientific and technical experts from Parties, shall advise and assist the IG with various scientific and technical matters related to activities as mandated to it by the IG. These matters shall include the following:
 - a) scientific and technical aspects of the monitoring strategies;
 - 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] in East Asia[, based on the data report by the NC];
 - f) matters related to studies on [regional air pollution]; and
 - g) other scientific matters as requested by the IG.
5. If the Committee considers necessary for fulfilling its objectives, experts from countries other than Parties may be invited to join the Committee.

Article 13

Network Center

The NC, to handle scientific and technical matters of [activities under the Agreement], and to facilitate cooperation among Parties in a transparent manner, shall carry out the following tasks under the guidance of the IG:

- a) central compilation, evaluation and storage of monitoring data and related information;
- b) preparation of data reports on [regional air pollution] in East Asia;
- c) dissemination of monitoring data and other relevant information;
- d) provision of technical assistance to the Parties in implementing [activities under the Agreement];
- e) implementation and coordination of QA/QC activities;
- f) development and implementation of education/training programs for those engaged in [activities under the Agreement];
- g) implementation of research activities on [regional air pollution];
- h) provision of scientific and technical support for the IG, the SAC and other subsidiary bodies;
- i) promote capacity building and public awareness in cooperation with the Secretariat; and
- j) other tasks as requested by the IG.

Article 14

Financial Arrangement

1. The administrative and operational cost of the national monitoring within each Party shall be borne by each Party.
2. Each Party shall contribute to the budget. Contributions shall be paid in accordance with the respective laws and regulations of each Party, based on the financial rules and other relevant decisions adopted by the IG.

Article 15

Amendments

8. Any Party may propose amendments to the Agreement.
9. The text of any proposed amendments to the Agreement 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.
10. Amendments shall be adopted by consensus of the representatives of the Parties at the meeting of the IG.
11. The adopted amendments shall be communicated by the Secretariat to the Depository, who shall circulate it to all Parties for their acceptance.
12. 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.
13. 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

Signature

The Agreement shall be opened for signature at [the United Nations Office at Bangkok] [from ## to ## ##### 2009] by countries.

Article 17

Ratification, Acceptance, Approval and Accession

The Agreement shall be subject to ratification, acceptance, approval or accession by countries. It shall be open for accession by such 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 18

Entry into force

The Agreement shall enter into force on the [sixtieth day] after the deposit of the [seventh][ninth] instrument of ratification, acceptance, approval or accession.

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 19

Application for Accession

3. Any country may submit its application for accession to this Agreement to the Secretariat, which shall be subject to approval by the IG.
4. Once its application is approved, the country may deposit its instrument of ratification, acceptance, approval or accession with the Depositary.

Article 20

Withdrawal

3. 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.
4. 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 21

Depositary

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

Article 22

Authentic Text

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

]

Russia's comments

Dear EANET participating countries, the Secretariat and the Network center,

Following the agreement during the Fifth Session of the Working Group on Future Development (WGFD5) to collect comments from the participating countries and attach them to the "Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET" for the consideration of IG9, the Russian Federation would like to express our view.

The Russian Federation the present stage of ENAET development it is not realistic to get an agreement on preparation of any regional Convention or agreement with strict requirements and obligations of parties. However, developing of the instrument providing a legal status for the activity of EANET in the region and for financial contribution of the participating countries to the EANET budget is highly needed.

Thus, we believe that the best way is to establish a Framework agreement. Such Framework agreement should not have any strike obligations but just general awareness of the countries on the Acid Deposition problem in the Region and willing to mitigate this problem. The scheme of financial contribution of the participating countries, operation of EANET monitoring network, etc. should be indicated in such agreement as instruments aimed to solve Acid Deposition problem in the region. Later on, when and if EANET extends the scope of its activity, some additional protocols can in the future be developed.

Such instrument should be approved at the national level in each country and signed in accordance with national legislation. In the case of the Russian Federation, only the Russian Government has an authority to sign an international agreement or to authorize any other agency to do it.

At the national level in the Russian Federation the text of the instrument should be negotiated with all interesting ministries and authorities before signing. This process can be started as soon as a draft text of the instrument is agreed among EANET countries. In this situation, Russia considers the developing of the draft text of the instrument as a very important process.

Among the options suggested in the "Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET" the Russian Federation prefers legal binding instrument and consider it as the only possibility which can be a basis for legal activity of the EANET in the region and financial contribution of the participation countries to the EANET budget.

The suggested version of the legally-binding instrument generally contains all necessary components which should be included in such kind of international agreement. However, taking into account some comments and suggestion from the participating countries, we would like to stress some points:

1. Financial arrangements should be clearly stated in the text of the Instrument including current agreements and conditions and rules for its revision.
2. Definition of the East Asia (or EANET) region should be remained in the text of the Instrument. This issue is very important for Russia because its territory cover not only Asian but also European region.
3. The article “Protocols” should be remained in the Instrument to follow the principle that the Instrument should be open for future development.
4. The article concerning “Emissions inventory” should not be included in the basic text of the Instrument, but this activity can be later developed in the form of Protocol

We believe that one of the main tasks of the Intergovernmental meeting 9 this year is to agree a legal status of the Instrument.

We wish you successful work at the IG9,
The Russian Federation EANET National Focal Point

Thailand's comments

**Thailand Proposed Texts
For
The Draft Consolidated Text for the Instrument to Provide a Sound Basis
for Contribution to EANET**

Title

[Framework Agreement] [Joint Declaration] to Promote Cooperation for the [Management of]
[Regional Air Pollution] in East Asia

Definitions

["Regional Air Pollution" means acid deposition including other air pollution which has regional
implication as agreed by the Parties]

["Management" means monitoring and other air pollution management activities as agreed by the
Parties"]