

The Eighth Session of the Working Group
on Future Development of EANET
29-31 July 2009, Pattaya, Thailand

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

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 Working Group on Future Development (WGFD) of EANET was tasked to discuss and develop the said Instrument and report the results of the discussion to IG10. Between 2007 to 2008, the WGFD discussed the text of the instrument at the following Sessions:
 - Fourth Session of WGFD, Pathumthani, Thailand, June 2007
 - Fifth Session of WGFD, Pathumthani, Thailand, September 2007
 - Sixth Session of WGFD, Pattaya, Thailand, April 2008
 - Seventh Session of WGFD, Pathumthani, Thailand, July 2008
 - Third Special Session of WGFD, Chiang Mai, Thailand, November 2008
2. The IG10 held in November 2008 considered the *Report of the Working Group on Future Development (WGFD) on the Text of the Instrument to Provide a Sound Basis for Contribution to EANET* and provided views and comments on the latest draft Text of the Instrument. As most of the countries indicated their preference for an Instrument for signature by representatives of the governments of the participating countries, the IG10 requested WGFD to further develop the Instrument in accordance to the conclusions of the Session and to consider and suggest any procedures necessary to obtain the said signatures.
3. The Secretariat transmitted the decisions of IG10 to all National Focal Points and participants after the Session. To date, the Secretariat had not received any further comments from the participating countries.
4. The attached Revised Draft Text of the Instrument to Provide a Sound Basis for Contribution to EANET and the document EANET/WGFD 8/4/2 Explanatory Note for Obtaining the Signatures for the Instrument was prepared for discussion at the Eighth Session of the Working Group on Future Development of EANET (WGFD8) on 29-31 July 2009. The results of the discussion will be reported to the Eleventh Session of the Intergovernmental Meeting (IG11) in November 2009.

Attachment

Revised Draft Text of the Instrument
To Provide a Sound Basis for Contribution to EANET

[Title

<p>[option 1: [Instrument] for Strengthening the Acid Deposition Monitoring Network in East Asia (EANET)]</p> <p>[option 2: [Instrument] to Promote Cooperation on Regional Air Pollution 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 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 such designation is accepted by such entity. 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 by voluntary contributions from the Participating Countries.
3. Participating Countries are encouraged to make voluntary financial contributions, taking into account their economic and financial circumstances, in accordance with the respective national laws and regulations and within the limit of their respective budgetary appropriations. The Participating Countries may provide additional financial and in-kind contributions on a voluntary basis.
4. 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.
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 under the guidance of the IG.
6. EANET will be open to financial and in-kind contributions from other sources including international and regional organizations and NGOs, subject to the approval of the IG.
7. Any Participating Country may request the Secretariat and the NC to provide to the IG the annual financial reports and audit reports by independent audit agencies.

[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 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 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 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.

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