

The Working Group Meeting in 2021 Session 1
Acid Deposition Monitoring Network in East Asia
20-22 April 2021, Virtual Meeting

**ELEMENTS FOR THE SUPPLEMENTARY DOCUMENT TO EANET
INSTRUMENT: ADDRESSING AIR POLLUTION WITHIN EANET FRAMEWORK**

I. INTRODUCTION

1. This report provides proposed elements for the supplementary document to EANET Instrument in addressing air pollution within EANET framework. It is prepared in line with the approved “Proposed Next Steps after the Twenty-second Session of the Intergovernmental Meeting (IG22) on Acid Deposition Monitoring Network in East Asia (EANET)” (EANET/IG 22/10) and “Decisions of IG22”.
2. The report “Elements for the Supplementary Document to EANET Instrument: Addressing Air Pollution Within EANET Framework” (EANET/WG2021-1/5/3) is presented as Attachment.

II. ACTIONS REQUIRED

3. The Working Group Meeting in 2021 Session 1 (WG2021-1) is invited to review “Elements for the Supplementary Document to EANET Instrument: Addressing Air Pollution within EANET Framework” and may wish to consider, discuss, provide guidance, and make recommendations to the Twenty-third Session of the Intergovernmental Meeting (IG23) on EANET in November 2021 for its review, guidance, and approval, as appropriate.

Attachment

**ELEMENTS FOR THE SUPPLEMENTARY DOCUMENT TO EANET
INSTRUMENT: ADDRESSING AIR POLLUTION WITHIN EANET FRAMEWORK**

I. INTRODUCTION

1. The Acid Deposition Monitoring Network in East Asia (EANET) was established in 2001 as a regional intergovernmental initiative on acid deposition. EANET aims at creating a common understanding on the state of acid deposition problems in East Asia, providing inputs for decision making at various levels, and promoting cooperation among countries. As of 26 February 2021, there are 13 Participating Countries to the Instrument for Strengthening the Acid Deposition Monitoring Network in East Asia (the Instrument).¹ EANET's activities are governed by an Intergovernmental Meeting ("IG") that is composed of all Participating Countries and the IG is the decision-making body of EANET.
2. In November 2019 at the 21st Session of the Intergovernmental Meeting (IG21) of EANET in Beijing, China, the Session agreed to establish two working groups: "The Working Group on Drafting the MTP (2021-2025)" and "The Working Group on Reviewing the Scope of Instrument" that has a mandate "to discuss the objectives and scope expansion of the Instrument, and the possibility, options, and consequences of how to address air pollution with a view to it being addressed in the Instrument."² The discussion on the establishment of the Second Working Group was based upon a paper developed by the UNEP Law Division that addressed how the Instrument can be revised, modified, amended or supplemented in order to cover other areas of environmental concern, should the 13 Participating Countries be agreeable to do so.
3. The Working Group Meeting on Reviewing the Scope of Instrument was held virtually on 1-2 July 2020. At that Session, no objection was made by the Participating Countries regarding the expansion of the scope of the Instrument. Therefore, the Session requested the Secretariat to support further work on this matter.³
4. The Working Group Meeting Session 2 (WGS2) on Drafting Medium Term Plan for the EANET (2021-2025) and Reviewing the Scope of Instrument for the Acid Deposition Monitoring Network in East Asia (EANET) was held virtually on 20-22 October 2020. The Session had before it an additional Note prepared by the UNEP Law Division that provided information on air pollution as it is addressed in various universal, sectoral, regional and

¹ The Kingdom of Cambodia, the People's Republic of China, the Republic of Indonesia, Japan, Lao People's Democratic Republic, Malaysia, Mongolia, Union of Myanmar, the Republic of the Philippines, the Republic of Korea, the Russian Federation, the Kingdom of Thailand, and the Republic of Viet Nam.

² <https://www.eanet.asia/21st-session-of-the-intergovernmental-meeting-of-eanet/>

³ <https://www.eanet.asia/tag/working-group-meeting/>

bilateral instruments and addressed the overall legislative framework on air pollution at the international level.

5. The Session concluded that the Participating Countries made no objection regarding the expansion of the Instrument's scope and made certain recommendations to IG22.⁴
6. The Intergovernmental Meeting (IG) on the Acid Deposition Monitoring Network in East Asia (EANET) held its twenty-second Session (IG22) virtually, on 25-26 November 2020. IG 22, recalling the recommendations made by the Working Group on Reviewing the Scope of Instrument for the EANET, decided to:
 - a. Recognize that some activities relating to air pollution are a major interest to Participating Countries but may be beyond the current scope of the EANET. This includes types of activities and/or substances or targets areas that are related to air pollution beyond acid deposition.
 - b. Therefore, agree to start to expand the scope of the Instrument.
 - c. Request the Secretariat and the NC to engage in the necessary actions, that include the preparation of working documents that will define clearly the expanded scope in order to address activities mentioned in sub-paragraph (a) above in addition to the Instrument's current scope, which may include the necessary adjustment to Instrument, noting the supplementary type option is preferred by some countries.

II. SUPPLEMENTARY OPTION

7. Item 2(2) of the EANET Instrument allows for the scope of the Instrument to be extended as decided by the IG. This can be achieved through Item 15 that makes reference to "any revision or modification to any part of this Instrument" provided that it is (a) in writing, (b) proposed by a Participating Country, (c) is subject to the consideration and adoption of the IG by consensus; and (d) subject to the official written consent by all Participating Countries. Pursuant to 7.2 of the Rules of the EANET Meetings and Dissemination of Data, "decisions of the IG will be made by consensus among the participating countries present at the Session".
8. In this connection, the UNEP Law Division paper for WG2 (referred to above) addressed options on how the Instrument could cover other areas of environmental concern, should the 13 Participating Countries be agreeable to do so.⁵ One of those options included developing a Supplementary Document to the Instrument ("Supplement").

⁴ https://www.eanet.asia/wp-content/uploads/2020/11/WGS2_EANET_Report-of-the-Session_FINAL_9NOV.pdf

⁵ WG2/4/1: Legal Note on Reviewing Scope of Instrument for Strengthening the Acid Deposition Monitoring Network in East Asia (1-2 July 2020)

9. A Supplement to the existing Instrument will not involve any specific or general alteration to the Instrument's existing provisions. Rather, it will involve the addition of specific provisions in the form of a separate document that, while linked to the parent Instrument, will focus on a specific/related aspect of the Instrument, i.e., combatting air pollution. It will only be open for the signature of those countries that have signed the Instrument.
10. Parties would also have to agree on the Supplement's structure and what new Items or Articles would be added, and what existing Articles of the Instrument could be made applicable *mutatis mutandis* to the new Supplement. For example, the provisions of the Instrument on (i) Intergovernmental meetings; (ii) Secretariat; (iii) the scientific advisory committee (iv) network center; (v) financial arrangements; (vi) revisions and modifications; (vii) end of participation; and (viii) and the participation of other countries could apply *mutatis mutandis* to the new Supplement.
11. New Items or Articles could be added following the existing structure of the Instrument and drawing upon text from the instruments on air pollution, for example for a (i) Preamble, (ii) Definition, (iii) Objectives and Scope, (iv) Principle of Cooperation, (v) Monitoring and Reporting, (vi) Assessment, (vii) Research Activities, (viii) Education and Training, (ix) Public Awareness, and (x) Exchange of Information.

III. REFERENCE POINT

12. In developing provisions for a Supplement Multilateral Environment Agreements (MEAs), regional agreements and political declarations that address the environment and air pollution have been reviewed for the purpose of this paper. For that purpose, the paper includes information from the UNEP Law Division Study on the international law that is applicable to air pollution.⁶
13. At the multilateral level, these include Agenda 21⁷ ; General Assembly resolution 70/1 entitled, "Transforming our world: 2030 Agenda for Sustainable Development (2015)⁸; UN Environment resolution 1/7 of 24 June 2014 on strengthening the role of UNEP in promoting air quality; UN Environment Assembly resolution 3/8 of 6 December 2017 on preventing and reducing air pollution; the 2001 Stockholm Convention on Persistent Organic Pollutants⁹; the 2013 Minamata Convention on Mercury¹⁰; the 1985 Vienna Convention for

⁶ EANET WG2/4/2: Addressing Air Pollution within EANET Framework (1-2 July 2021)

⁷ United Nations Conference on the Environment and Development (1992) Agenda 21: Programme for Action for Sustainable Development (14 June 1992)

⁸ United Nations General Assembly (2015), Transforming our world: 2030 Agenda for Sustainable Development, Adopted by the General Assembly at its Seventieth session, on 25 September 2015, UN Doc. A/RES/70/1

⁹ Stockholm Convention on Persistent Organic Pollutants (signed 22 May 2001, entered in force 17 May 2004)

¹⁰ Minamata Convention on Mercury, (adopted 10 October 2013, entered into force 16 August 2017)

the Protection of the Ozone Layer¹¹; the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer¹²; and the 1992 UN Framework Convention on Climate Change.¹³

14. In addition, the following regional agreements were reviewed: The 1979 United Nations Economic Commission for Europe Convention on Long-range Transboundary Air Pollution¹⁴; the 2006 Framework Convention for the Protection of the Environment for Sustainable Development in Central Asia¹⁵; the 2002 Association of Southeast Asian Nations Agreement on Transboundary Haze Pollution (“ASEAN Agreement”)¹⁶, the 2008 Eastern Africa Regional Framework Agreement on Air Pollution (“Nairobi Agreement”)¹⁷; the 2008 Southern African Development Community Regional Policy Framework on Air Pollution (“Lusaka Agreement”)¹⁸ and the 1998 Malé Declaration on Control and Prevention of Air Pollution and Its Likely Transboundary Effects for South Asia.¹⁹

IV. PROPOSALS FOR ELEMENTS OF THE SUPPLEMENT

(A) PREAMBLE

15. There could be a short Preamble that draws upon existing language in the Sustainable Development Goals as well as treaties and declarations that (i) recognizes the negative effects of air pollution and regional air pollution and the consequential phenomena due to the concentration of pollutant gases, acid rain or acid deposition; (ii) recalls the environmental, economic and social costs of air pollution and the retarding effect of such costs on sustainable development; (iii) recognizes that the potential for air pollution increase and its regional effects will accumulate in the absence of national and regional measures to abate and prevent such potential; (iv) recalls Sustainable Development Goal 3 that refers to the need by 2030 to substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination; (v) underlines the importance of studying and

¹¹ Vienna Convention for the Protection of the Ozone Layer (adopted 22 March 1985, entered into force 22 September 1988)

¹² Montreal Protocol on Substances that Deplete the Ozone Layer (adopted 16 September 1987, entered into force 1 January 1989)

¹³ United Nations Framework Convention on Climate Change (opened for signature 4 June 1992, entered into force 21 March 1994)

¹⁴ Convention on Long-range Transboundary Air Pollution (adopted 13 November 1979, entered into force 16 March 1983)

¹⁵ Framework Convention for the Protection of the Environment for Sustainable Development in Central Asia (opened for signature 22 November 2006, entered into force 11 January 2017). Source: <https://www.informea.org/en/treaties/framework-convention-environmental-protection-sustainable-development-central-asia>

¹⁶ Association of Southeast Asian Nations Agreement on Transboundary Haze Pollution, (adopted 10 June 2002, entered into force 10 November 2003)

¹⁷ Eastern Africa Regional Framework Agreement on Air Pollution, (adopted 23 October 2008)

¹⁸ Southern African Development Community (SADC) Regional Policy Framework on Air Pollution, (adopted 7 March 2008)

¹⁹ Asian Institute of Technology (AIT) <http://www.rrcap.ait.asia/male>

monitoring air pollution and regional air pollution; and (vi) emphasizes the need to seek solutions for the problems identified with respect to air pollution and regional air pollution.

16. Participating Countries may for the purpose of the Preamble also wish to take into account two fairly recent decisions of the UN Environment Assembly (“UNEA”). UNEA resolution 1/7 of 24 June 2014 entitled, “Strengthening the role of the United Nations Environment Programme in promoting air quality”²⁰ that encouraged Governments to take action across sectors to improve air quality that included implementing nationally determined air quality standards, establishing emissions standards for air pollution; and to make air quality data more easily accessible and understandable to the public.
17. In addition, there is UNEA resolution 3/8 of 6 December 2017 that urged States to take action in the areas of (a) monitoring; (b) setting ambitious air quality standards; (c) to put in place policies and measures to prevent and reduce air pollution from their significant sources; (d) to create awareness at the local, subnational and national levels and within the private sector of the negative environmental, health and socioeconomic impacts of pollution; and (e) to develop national and subnational emissions inventories. By that resolution, UNEA also stressed the need for further sharing of existing knowledge by engaging in regional cooperation.²¹

(B) DEFINITION OF AIR POLLUTION AND REGIONAL AIR POLLUTION

18. Participating Countries may wish to include a definition or description of what they understand to be the meaning of air pollution within the context of the Supplement, bearing in mind that there is currently no universal definition of the term that has been agreed through a Multilateral Environment Agreement.
19. However, in the first report on the protection of the atmosphere, the Special Rapporteur of the International Law Commission defined air pollution as “the introduction by human activities of chemicals, particulate matter, biological material or energy that degrade or alter, or form part of a process of degradation or alteration of, the atmosphere, and that have or are likely to have significant adverse effects on human life or health or the earth’s natural environment.”²²
20. The Convention on Long-range Transboundary Air Pollution (1979)²³ provides the following definition: Air Pollution means “the introduction by man, directly or indirectly, of substances

²⁰ United Nations Environment Assembly of the United Nations Environment Programme (2014), Strengthening the role of the United Nations Environment Programme in promoting air quality, UN Doc. UNEP/EA.1/Res.7

²¹ United Nations Environment Assembly resolution 3/8.

²² A/CN.4/667, footnote 165

²³ The Convention on Long-range Transboundary Air Pollution entered into force in 1983. It has been extended by eight specific protocols.

or energy into the air resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment.”

21. Consequently, Participating Countries may wish to consider the following definition or description for the purpose of the Supplement: “For the purposes of the Supplement air pollution should be understood as the introduction by human activities of chemicals, particulate matter, biological material or energy that degrade or alter, or form part of a process of degradation or alteration of the atmosphere, and that have or are likely to have significant adverse effects on human life or health or the earth’s natural environment. In addition, Participating Countries may wish to describe regional air pollution as “air pollution whose physical origin is situated wholly or in part within the area under the national jurisdiction of one Participating Country which has adverse effects in the area under the jurisdiction of another Participating Country.”

(C) OBJECTIVES AND SCOPE

22. Participating Countries may wish to set out a limited number of objectives that will broadly delineate the scope of the Supplement. This could include, inter alia the following:
- a. To create a common understanding of the state of air pollution in East Asia;
 - b. To further develop and apply pollution control and measurement technology;
 - c. To observe and assess the sources and extent of air pollution including regional air pollution in East Asia;
 - d. To strengthen the capabilities of East Asian Countries to measure, model and assess the impact of air pollution including regional air pollution, through inter alia, the exchange of information and the training of experts;
 - e. To encourage the implementation of existing regional agreements for limiting regional air pollution; and
 - f. To develop strategies aiming at the reduction of emissions causing air pollution and regional air pollution and their effects.

(D) PRINCIPLES OF COLLABORATION/ COOPERATION

23. Participating Countries may wish to set out a limited number of principles of collaboration and cooperation. This could include, inter alia the following:
- a. Strengthen cooperation in order to monitor ~~air pollution and~~ regional air pollution;
 - b. Cooperate, in the areas of observation and assessment, modelling and the development and exchange of emission control technologies for sources of air pollution and regional air pollution;

- c. Cooperate in identifying specific actions to reduce atmospheric emissions and to address their environmental, economic, social and other effects;
- d. Promote active participation and bilateral and multilateral cooperation for the effective implementation of the activities under this Supplement; and to
- e. ~~Adopt appropriate measures and co-operate in harmonizing appropriate policies to control, limit, reduce or prevent those activities under their jurisdiction or control that cause air pollution and regional air pollution.~~

(E) MONITORING AND REPORTING

- 24. Participating Countries may wish to make a commitment to study and monitor air pollution and regional air pollution and to take measures to strengthen and build capacity for such activities. Participating Countries may also wish to make a general commitment to endeavor to improve national reporting systems and strengthen scientific and academic effort in the understanding and tackling of air pollution issues. To that end, Participating Countries may wish to make the procedures in the Instrument on monitoring and reporting applicable to the Supplement.
- 25. **How**ever, should Participating Countries wish to include in the Supplement additional provisions on monitoring and reporting then both the Nairobi and Lusaka Agreements are instructive in this regard.
- 26. **The** Nairobi Agreement requires Parties to “develop and maintain national emission inventories for main air pollutants and greenhouse gases, including trans-boundary air pollution and assess the impact of different policies and measures on these emissions”²⁴ and “establish air quality monitoring stations using harmonized regional instrumentation and protocols and link this to modelling and forecasting efforts globally”²⁵. The Lusaka Agreement requires Parties to, “develop and maintain surveillance and data systems for recording air pollution impacts on public health, crops, materials and ecosystems, using harmonized regional approaches” and to “enact regulations for industry to monitor their emissions and provide the data and calibration certificates to regulatory agencies as required”.

(F) ASSESSMENT

- 27. Participating Countries may wish to make a commitment to assess and analyze the origin and causes, nature, extent and effects of national and regional air pollution. Specifically, Participating Countries may wish to emphasize that the Network Centre (NC) created by the

²⁴ Article 7.3. The Abidjan Convention has the same article.

²⁵ Article 7.4. The Abidjan Convention has a similar article: “Install air quality monitoring stations for key pollutants of concern using harmonized regional instrumentation and protocols and link this to modelling and forecasting efforts globally”

EANET Instrument shall receive, consolidate and analyze the data communicated by the respective National Monitoring Centers. On the basis of analysis of the data received, assessments shall be provided to each Participating Country and as appropriate made public. To that end, Participating Countries may wish to make the provisions in Item 5 of the Instrument on assessment applicable to the Supplement.

(G) RESEARCH ACTIVITIES

28. Participating Countries may wish to make a commitment to research activities and to promote studies on scientific issues related to air pollution. As such, Participating Countries may wish to apply the provisions of Item 6 *mutatis mutandis* to the Supplemental on air pollution. However, Participating Countries may wish to include additional provisions on research activities based upon the provisions from other Conventions. These can include the following:
- a. Initiate and co-operate in the conduct of research into and/or development of existing and proposed technologies for reducing air pollution and regional air pollution;
 - b. Improved models for a better understanding of the transmission of air pollution and regional air pollution;
 - c. Assessment of alternative measures for attaining environmental objectives including the reduction of air pollution and regional air pollution;
 - d. Assessments of the impact of air pollution on human health and the environment;
 - e. The development of best technologies for improving the containment of air pollution and regional air pollution;
 - f. Promote individually as well as collectively and whenever possible, support scientific and technical research programmes related to the root causes and consequences of air pollution and regional air pollution; and
 - g. Support the application of harmonized air pollution emission inventories, monitoring and modelling, impact assessment, mitigation options and policy framework approaches.

(H) EDUCATION AND TRAINING

29. Participating Countries may wish to make a commitment to research activities and to promote studies on scientific issues related to air pollution. As such, Participating Countries may wish to apply the provisions of Item 7 *mutatis mutandis* to the Supplemental on air pollution. However, Participating Countries may wish to include additional provisions on research activities based upon the provisions from other Conventions. These can include the following:

- a. Promote and facilitate at the national and, as appropriate at regional levels, and in accordance with national laws and regulations, and within their respective capacities the development and implementation of educational programmes on air pollution and regional air pollution and its effects;
- b. Commit through the training of experts to strengthen their capabilities to measure, model and assess the ~~fate and~~ impacts of regional air pollution; and
- c. Train workers, scientists, educators and technical and managerial personnel.

(I) PUBLIC AWARENESS

30. Participating Countries may wish to make a general commitment to public awareness and to promote the development and implementation of public awareness programmes on air pollution. As such, Participating Countries may wish to apply the provisions of Item 8 *mutatis mutandis* to the Supplemental on air pollution. However, Participating Countries may wish to include additional provisions on public awareness. These can include the following:

- a. Promote public access to information on air pollution and regional air pollution;
- b. Promote public participation in addressing air pollution and its effects and developing adequate responses;
- c. Develop educational and public awareness materials and to disseminate those materials
- d. Cooperate in the development and exchange of educational and public awareness material on air pollution and regional air pollution as well as its effects;
- e. Promote and facilitate awareness among its policy and decision makers with regard to air pollution; and
- f. Share, as appropriate the results of research, development and monitoring activities.

(J) EXCHANGE OF INFORMATION

31. Participating Countries may wish to make a general commitment to promote and cooperate in the exchange of information related to air pollution, including scientific, technological, technical, socio-economic and legal information as well as information on administrative measures. As such, Participating Countries may wish to apply the provisions of Item 9 *mutatis mutandis* to the Supplemental on air pollution. However, Participating Countries may wish to include additional provisions on the exchange of information: These can include the following:

- a. ~~A commitment~~ to encouraging the sharing and application of research results in developing and implementing strategies, plans and programs in the field of air pollution and regional air pollution;
- b. The exchange of data on current and projected emissions of major air pollutants;

- c. The exchange of information on research to develop improved technologies for reducing emissions of major air pollutants of concern.
- ~~d. The exchange of information on national air quality management legislation, standards, monitoring procedures, and data management procedures;~~
- e. Promote the exchange of educational and research information on air quality management; and
- ~~f. Seek the assistance of the EANET Secretariat in facilitating cooperation in the exchange of information as well as with relevant organizations, including the secretariats of multilateral environmental agreements and other international initiatives.~~

(K) GOVERNANCE

- 32. The Governance of EANET is set out in Item 10 and provides that the “IG composed of the representatives of all Participating Countries, is the decision-making body of EANET.” Item 10 then sets out the tasks of EANET. As the Supplement is supplementary to the Instrument, the IG can be its Governing Body unless the Participating Countries decide to set up a different governing body consisting of the same Participating Countries. Consequently, Item 10 can be made applicable *mutatis mutandis*.

(L) SECRETARIAT

- 33. The current EANET Secretariat can be the Secretariat for the activities under the Supplement as provided for in Item 11 unless Participating Countries wish to set up a separate Secretariat.

(M) SCIENTIFIC ADVISORY COMMITTEE

- 34. Participating Countries may wish to make the Scientific Advisory Committee under Item 12 applicable to the activities under the Supplement. Alternatively, Participating Countries may wish to establish a different Committee under the Supplement.

(N) NETWORK CENTER

- 35. Participating Countries may wish to make the Network Center under Item 13 applicable to the activities under the Supplement. Alternatively, Participating Countries may wish to establish a different Center for the monitoring of air pollution.

(O) FINANCIAL ARRANGEMENTS

- 36. Under Item 14 the administrative and financial cost of national monitoring activities is borne by each of the Participating Countries with other costs being financed by voluntary

contributions. It would be up to Participating Countries to decide whether to adopt the same financial arrangement.

(P) FINAL PROVISIONS

37. It is recommended that the final provisions of the Instrument that address revisions and modifications (Item 15); end of participation (Item16); and participation of other countries (Item 17) be applied mutatis mutandis to the Supplement.
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