AGREEMENT ON THE ESTABLISHMENT OF THE ASIAN FOREST COOPERATION ORGANIZATION (AFoCO)

Preamble

The Parties to this Agreement,

RECALLING the forest-related decisions adopted at the United Nations Conference on Environment and Development in 1992, the World Summit on Sustainable Development in 2002, and the United Nations Conference on Sustainable Development in 2012 (Rio+20), as well as the provisions of the United Nations Convention to Combat Desertification in States Experiencing Serious Drought and/or Desertification/Land Degradation, opened for signature on 14 October 1994, the Ramsar Convention on Wetlands of International Importance Especially. as Waterfowl Habitat which was opened for signature on 2 February 1971, the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change which was opened for signature on 4 June 1992;

ALSO RECALLING the proposals for action of the Intergovernmental Panel on Forests and the Intergovernmental Forum on Forests and the Resolutions and Decisions of the United Nations Forum on Forests as well as the Non-legally Binding Instrument on All Types of Forests;

WELCOMING the Sustainable Development Goals, as guided by the United Nations Conference on Sustainable Development in 2012 (Rio+20), to be integrated into the United Nations post-2015 development agenda;

CONSIDERING the urgent need for closer cooperation on forests among the Parties in Asia to contribute to the expansion of forestlands, the advanced study of forests, forestry and forest rehabilitation as well as to strengthen the capacities of the Parties in coping with global climate change issues;

RECOGNIZING that all Parties play significant roles in restoring and rehabilitating degraded lands, promoting sustainable forest management and combating desertification/land degradation, and the progress in that respect depends on the effective implementation of national forestry action programs;

ACKNOWLEDGING the great potential of the Green Growth initiatives, the past achievements and future potential of reforestation and forest rehabilitation, the progress made in the development of sustainable forest management practices and the potential for the improvement of forest governance in Asia;

FURTHER RECALLING the proposal by the Republic of Korea to establish the Asian Forest Cooperation Organization at the ASEAN-ROK Commemorative Summit on 1-2 June 2009, held on Jeju Island, Republic of Korea;

ALSO ACKNOWLEDGING the achievements and outcomes of the dialogue for the establishment of the Asian Forest Cooperation Organization carried out under the Agreement between the Governments of the Member States of the Association of the Southeast Asian Nations and the Republic of Korea on Forest Cooperation (hereinafter referred to as the "AFoCo Agreement"), which entered into force on 5 August 2012; and

ALSO WELCOMING the decision of the Third Session of the Governing Council of the AFoCo Agreement to invite the ASEAN Member States, Bhutan, Kazakhstan, Mongolia, Timor-Leste, and the Republic of Korea to the dialogue for the establishment of the Asian Forest Cooperation Organization,

HAVE AGREED on the following:

Article 1
Definition of Terms

For the purposes of this Agreement:

a) "Agreement" means the Agreement on the Establishment of the Asian Forest Cooperation Organization (AFoCO);
b) "Organization" means the Asian Forest Cooperation Organization (hereinafter referred to as the "AFoCO") established under this Agreement;
c) "Assembly" means the highest decision-making organ of the Organization comprising representatives appointed by the Parties to this Agreement;
d) "Executive Director" means the chief administrative officer of the Organization who is appointed by the Assembly;
e) "Secretariat" means the body which shall provide administrative support to the Organization as well as carry out the activities guided by the Assembly;
f) "Signatory Country" means a country which has signed this Agreement, and yet to deposit the instrument of ratification, acceptance, or approval of it;
g) "Party" means a Signatory Country, which has deposited an instrument of ratification, acceptance, or approval and for which this Agreement has entered into force, or a country acceded to this Agreement;

h) “Observer” means a country or an organization which has been granted the Observer status by the Assembly;
i) “Representative” means a senior forestry official nominated by a Party to the Agreement to represent the Party in the Assembly;
j) “Host Country” means the country where the headquarters of the Organization is located; and
k) “Operational Expenditure” means the costs for the functioning of the Assembly, Secretariat and subsidiary bodies of the Organization.

Article 2
Establishment

1. The Organization is hereby established as an intergovernmental organization in accordance with the provisions of this Agreement.

2. The Headquarters of the Organization, including the Secretariat, shall be located in the Republic of Korea. A separate “Headquarters Agreement” shall be concluded between the Government of the Republic of Korea and the Organization.

Article 3
Objectives

1. The Organization shall be established to strengthen regional forest cooperation by transforming proven technology and policies into concrete actions in the context of sustainable forest management to address the impact of climate change.

2. The Organization shall promote and undertake action-oriented forest cooperation programs in Asia on:
   a) sustainable forest management, biodiversity conservation, maintenance and enhancement of ecosystem services, as well as reforestation and forest rehabilitation;
   b) climate change mitigation and adaptation activities and supporting the initiatives under REDD+(Reducing Emissions from Deforestation and Forest Degradation, and the role of forest conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries);
   c) reduction of deforestation, forest degradation, desertification and land degradation, and mitigation of the impacts of forest-related disasters;

d) capacity building of stakeholders through research and development, sharing of experiences and the transfer of technology, as well as education and exchange programs; and
e) partnerships between the Parties and with other entities to carry out cooperative activities by building upon the current initiatives of other forest-related international agreements and organizations.

Article 4
Legal Capacity

The Organization shall have legal personality and shall have the capacity, as may be necessary for the exercise of its functions and the fulfillment of its purposes, in particular:

a) to enter into agreements and contracts;
b) to acquire and dispose of movable and immovable property; and
c) to institute, and defend in, legal proceedings.

Article 5
Membership

1. The Signatory Countries shall become Parties to this Agreement after they have deposited an instrument of ratification, acceptance, or approval. The Parties to this Agreement shall be the members of the Organization.

2. A non-Signatory Country intending to become a new member of the Organization shall, prior to its accession to this Agreement, seek an approval of its membership by the Assembly.

3. The membership in the Organization is open to a country which is geographically located in Asia.

Article 6
Observers

1. Observer status may be granted by the Assembly to:

a) Signatory Countries which have not deposited instruments of ratification, acceptance or approval;
b) Other Asian countries which have submitted an application to be an Observer; and
c) International organizations and non-governmental organizations acting in the field of forestry.

2. Matters related to the participation of Observers to the activities of the Organization may be decided by the Assembly in accordance with the internal regulations of the Organization.

Article 7
Organs and Subsidiary Bodies

1. The principal organs of the Organization shall be the Assembly and a Secretariat.

2. Subsidiary bodies may be established upon approval by the Assembly in accordance with Article 8 of this Agreement.

Article 8
The Assembly

1. The Assembly shall be comprised of the Representatives of all Parties.

2. Each Party shall appoint one (1) Representative to the Assembly. The Assembly shall elect its President and Vice-President on the rotating basis for a period of one year term.

3. The Assembly shall have an annual meeting and, if necessary, special sessions. A special session shall be convened by the President at the request of a simple majority of the Parties.

4. The Assembly shall, at its first meeting, adopt the internal regulations of the Organization.

5. The Assembly shall, at its first meeting, elect and appoint the Executive Director of the Secretariat.

6. The Assembly shall:

a) adopt and, if necessary, amend the internal regulations of the Organization;
b) appoint the Executive Director of the Secretariat;
c) approve the establishment of subsidiary bodies that are necessary for the achievement of the objectives of the Organization;
d) approve the program and budget for the activities of the Organization;
e) review reports submitted by the Executive Director and the subsidiary bodies of the Organization and provide guidance to them;
f) promote and strengthen relationships with other relevant organizations while avoiding duplication of efforts;
g) deliberate and adopt amendments to the Agreement proposed by any Party/Parties in accordance with Article 20 of this Agreement;
h) approve applications for observer status;
i) approve the membership of a non-Signatory Country; and
j) exercise such other functions as necessary for the achievement of the objectives of the Organization.

7. The Assembly shall decide on the proposed amendments to the Agreement and approve the membership of new Parties by consensus.

8. The Assembly shall make every effort to reach decisions by consensus. If a decision cannot be reached by consensus for matters other than those mentioned in Paragraph 7, a flexible formula shall be determined by the Assembly to reach a decision.

Article 9
The Secretariat

1. Upon entry into force of the Agreement, the Secretariat shall be formed. The Secretariat shall be headed by an Executive Director. The Executive Director shall hold the office for a term of two (2) years, and renewable for not more than one (1) term.

2. Subject to internal regulations of the Organization, the Executive Director shall appoint the staff members of the Secretariat. Non-staff personnel shall also be

appointed by the Executive Director, on specific terms and assigned duties that are necessary towards achieving the objectives of the Organization.

3. Subject to guidance by the Assembly, the Executive Director shall enter into administrative and contractual arrangements on behalf of the Organization for the implementation of the activities of the Organization.

4. The Secretariat shall:

a) prepare and propose, the internal regulations of the Secretariat for consideration by the Assembly;
b) make arrangements for sessions of the Assembly and other subsidiary bodies of the Organization and provide the necessary services;
c) manage the budget and implement the programs approved by the Assembly;
d) report to the Assembly on the budget and progress of the implementation of the programs on a regular basis;
e) coordinate its activities with other relevant bodies and entities;
f) make appropriate arrangements for forest-related cooperation and enter into agreements or contracts with relevant national, regional or international organizations, non-governmental organizations, foundations and associations, both public and private which are in line with the programs, projects, and work plans approved by the Assembly;
g) facilitate preparation, evaluation and recommendation of proposals which are to be considered by the Assembly; and
h) perform other secretariat functions as may be decided by the Assembly.

5. The Republic of Korea, as the Host Country, shall provide secretariat support and the necessary assistance for the period between the dates of the entry into force of this Agreement and the establishment of the Secretariat to ensure the smooth and effective operationalization of the Organization, in accordance with its domestic laws and regulations and within its budgetary capacities.

Article 10
Official Language

The official language of the Organization shall be English.

Article 11
Organization Symbol

The Organization shall have a flag and an emblem to be decided upon by the Assembly.

Article 12
Budget and Finance

1. The funds necessary to achieve the objectives of the Organization shall consist of mandatory and voluntary contributions.

2. Mandatory contributions shall be provided in the form of in-kind contributions and/or cash. The Republic of Korea shall contribute eighty percent (80%) of the annual Operational Expenditures, whereas the other Parties shall each contribute one percent (1%) of the annual Operational Expenditures or a fixed amount of not less than thirty thousand US dollars (USD 30,000). The remaining contributions shall be provided by other sources. The amount of mandatory contributions by each Party may be subject to periodic review by the Assembly.

3. In-kind contributions refer to non-monetary contributions, the value of which can be attributed to the costs of attending official meetings or events, hosting official meetings or events and other activities as may be determined and approved by the Assembly.

4. Parties may make additional voluntary contributions to the Organization.

5. The Assembly shall adopt the financial rules and regulations, including rules governing the mandatory contributions of the Parties, which shall specify the conditions for the management of the funds.

6. The funds shall be subject to an independent external audit on an annual basis. The audited financial statements shall be made available to Parties as soon as possible after the end of each financial year, but not later than six (6) months after that date.

Article 13

Privileges and Immunities of the Organization

1. The Organization shall enjoy such privileges and immunities for the proper functioning of the Organization, as agreed in the Headquarters Agreement between the Organization and the Host Country.

2. The Organization may conclude agreements with concerned Parties other than the Host Country in order to secure appropriate privileges and immunities in the territories of those Parties.

Article 14
Protection of Intellectual Property Rights

1. The intellectual property rights in respect of any research and technological development, or products or services development:

a) carried out jointly by the Parties, or research results obtained through the joint activity effort of the Parties, shall be jointly owned by such Parties in accordance with terms mutually agreed upon on a case to case basis; and

b) implemented solely and separately by a Party, or the research results obtained through the sole and separate effort of an individual Party, shall be owned by the Party concerned.

2. The use of the name, logo and/or official emblem of the Organization on any publication, document and/or paper not related to the Organization is prohibited without the prior approval of the Assembly.

Article 15
Settlement of Disputes

Any difference or dispute concerning the interpretation, implementation and/or application of this Agreement shall be settled amicably through mutual consultation and/or negotiation between the Parties concerned through diplomatic channels.

Article 16
Ratification, Acceptance and Approval

This Agreement shall be subject to ratification, acceptance or approval by the Signatory Countries.

Article 17
Accession

Subject to Paragraph 2 and 3 of Article 5, this Agreement shall be open for accession by any non-Signatory Country.

Article 18
Depositary

Instruments of ratification, acceptance or approval of, or accession to this Agreement shall be deposited with Government of the Republic of Korea, which shall promptly furnish a certified copy thereof, to each Party to this Agreement. The function of Depositary shall be delegated to the Executive Director of the Secretariat after he/she has been elected and appointed.

Article 19
Entry into Force

1. This Agreement shall enter into force on the thirtieth (30th) day after the date of deposit of the fifth (5th) instrument of ratification, acceptance or approval including that of the Republic of Korea.

2. For any country that ratifies, accepts, approves or accedes to this Agreement after the date of its entry into force, the Agreement shall take effect on the thirtieth (30th) day after the date of deposit of its respective instrument.

Article 20
Amendments

1. Any Party may propose amendments to this Agreement by notifying the Secretariat in writing. Proposed amendments shall be communicated by the Secretariat to all Parties at least sixty (60) days prior to their deliberation by the

Assembly. Amendments to the Agreement shall be adopted in accordance with Paragraph 7 of Article 8 of this Agreement.

2. Amendments shall enter into force on the thirtieth (30th) day after the date of deposit of the fifth (5th) instrument of ratification, acceptance or approval of the amendments. For other Parties which ratify, accept, or approve the amendments after they have entered into force, the amendments shall come into effect on the thirtieth (30th) day after the date of deposit of their respective instrument.

Article 21
Withdrawal

1. Any Party may withdraw from this Agreement by giving a written notification to the Secretariat which shall immediately communicate the notification to all Parties. Such withdrawal shall take effect sixty (60) days after the date of the receipt of such notification by the Secretariat.

2. Notwithstanding the effective date of withdrawal, the withdrawing Party shall complete the payment of any previously assessed financial dues it owes to the Organization before the effective date of withdrawal.

Article 22
Termination

1. This Agreement may be terminated through a unanimous decision by the Assembly.

2. The termination of this Agreement under Paragraph 1 shall take effect after twelve (12) months following the decision for termination, unless otherwise decided unanimously by the Assembly.

3. The termination of this Agreement shall not affect the implementation of any ongoing projects or programs and activities, which have been agreed upon before the date of termination of the Agreement, and not fully executed at the time of termination of this Agreement, unless otherwise agreed unanimously by the Assembly.

ANNEX : List of Participating Countries to the Dialogue for the Establishment of Asian Forest Cooperation Organization

Kingdom of Bhutan

Brunei Darussalam

Kingdom of Cambodia

Republic of Indonesia

Republic of Kazakhstan

Republic of Korea

People's Democratic Republic of Lao

Malaysia

Mongolia

Republic of the Union of Myanmar

Republic of the Philippines

Republic of Singapore

Kingdom of Thailand

Democratic Republic of Timor-Leste

Socialist Republic of Viet Nam

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

Done in the English language.

For the Government of the Kingdom of Bhutan

_____ Date of Signature: _____

For the Government of Brunei Darussalam

_____ Date of Signature: _____

For the Government of the Kingdom of Cambodia

_____ Date of Signature: _____

For the Government of the Republic of Indonesia

_____ Date of Signature: _____

For the Government of the Republic of Kazakhstan

_____ Date of Signature: _____

For the Government of the Republic of Korea

_____ Date of Signature: _____

For the Government of the Lao People’s Democratic Republic

_____ Date of Signature: _____

For the Government of Mongolia

_____ Date of Signature: _____

For the Government of the Republic of the Union of Myanmar

_____ Date of Signature: _____

For the Government of the Republic of the Philippines

_____ Date of Signature: _____

For the Government of the Republic of Singapore

_____ Date of Signature: _____

For the Government of the Kingdom of Thailand

_____ Date of Signature: _____

For the Government of the Democratic Republic of Timor-Leste

_____ Date of Signature: _____

For the Government of the Socialist Republic of Viet Nam

_____ Date of Signature: _____