ANNEX 5
Development, Implementation and Enforcement of Environmental Law

Article 1
Authority

This annex to the Memorandum of Understanding (MOU) between the Environmental Protection Agency of the United States of America (EPA) and the State Environmental Protection Administration of the People's Republic of China (SEPA) on Scientific and Technical Cooperation in the Field of Environment sets forth a framework for cooperation to strengthen the development, implementation and enforcement of environmental laws.

Article 2
Scope

This annex addresses issues in the development, implementation and enforcement of environmental law that often cuts across different environmental media. These issues include, for example, development of environmental laws and administrative procedures; mechanisms for public involvement and access to environmental information; enhancing rulemaking and permit writing; monitoring and promoting compliance; enforcement and imposing penalties to deter noncompliance; development and review of environmental impact assessments and strategic environmental assessments; clarifying intergovernmental authorities and relationships; strengthening of institutional accountability and performance measurement; information management; and tools for resolving environmental disputes.

Article 3
Forms of Cooperation

Cooperation under this Annex may include, but not limited to, the following forms:

1. Transfer or exchange of information relevant to environmental law development, implementation and enforcement;

2. Joint organization of symposia, seminars and workshops for a range of audiences both within and outside government;

3. Training on environmental law development and enforcement, environmental management and information management technologies;

4. Study tours, exchanges, and temporary assignments of personnel of the Parties;

5. Joint publications;

6. Joint projects to demonstrate, test, or evaluate environmental management, environmental law enforcement, emergency response and information management approaches;

7. Cooperative research on subjects of mutual interest; and

8. Other forms of cooperation as may be determined by the Parties.

Article 4
Project Plans and Activities

The Parties intend to jointly develop any necessary financial arrangements, project agreements, strategies, and work plans setting out any specific cooperative activities jointly decided upon.

Project activities under this annex are designed to complement, not duplicate, cooperation under Annexes 1-4 that focus on specific programs or media (i.e., air, water, toxic chemicals and hazardous waste). Any program or media specific work will be carried out either under the auspices of the program-specific Annex or in close collaboration with those involved in work under the program-specific Annex, whichever is most appropriate. For example, project planning for activities related to emergency response shall be addressed in conjunction with project planning for Annex 4.

Project activities under this annex may include work in the following areas:

1. Improving the scope and substance of environmental laws and systems for managing and implementing environmental programs created by those laws;

2. Ensuring the enforceability of environmental laws, regulations, permits and other environmental management instruments;

3. Improving environmental compliance assurance and enforcement procedures, policies, and practices, including roles for the public and enterprises;

4. Strengthening the environmental impact assessment and review processes for plans, policies and projects, including decision-making processes, public participation, and post-project monitoring and enforcement;

5. Establishing and strengthening capacity building programs and institutions designed to reach practitioners at all levels of government in the development, implementation and enforcement of environmental laws;

6. Exploring approaches for effective environmental institutions, management approaches and intergovernmental relationships (among and between national and sub-national levels of government) for the development, implementation

and enforcement of environmental laws and policies, including organizational structures, institutional design, management oversight and accountability systems with performance measures to ensure programs are implemented for environmental results;

7. Assessing the effectiveness of the environmental department in law enforcement and launching programs to enhance the department's capacity;

8. Establishing and improving regulations and policies concerning emergency response for environmental pollution accidents;

9. Building capacity for Regional Supervision Centers including but not limited to oversight of implementation and enforcement of environmental requirements in cooperation with other levels of government, emergency response for pollution accidents, inter-provincial and inter-regional environmental planning, coordination, and dispute resolution;

10. Evaluating penalty provisions in the environmental laws and regulations, and the effectiveness of their enforcement;

11. Improving the functions between environmental agencies and the judicial authorities, exchanging experiences on judicial proceedings, including prosecution for environmental interests, and fosters the judicial authorities' involvement in the implementation of environmental laws;

12. Fostering access by the public to environmental information, public participation in the environmental decision-making process, and improving procedural arrangements for public participation in implementation and enforcement of environmental laws;

13. Collaborating on the environmental law and enforcement dimensions of trade and investment liberalization; and

14. Other areas as may be determined by the Parties

Article 5
Designation of Management Officials

1. Management Officials administering activities under this Annex will work with participating institutions to facilitate implementation of project agreements, strategies, and work plans.

2. The Management Official for the United States shall be the Deputy Assistant Administrator for the EPA Office of Enforcement and Compliance Assurance.

3. The Management Official for China will be the Director General for the SEPA Bureau of Environmental Supervision.

4. Each Party may designate a replacement Management Official at any time upon written notice to the other Party.

Done in duplicate in Beijing on December 14, 2007 in the English and Chinese languages, both texts being equally authentic.

FOR THE ENVIRONMENTAL PROTECTION AGENCY OF THE UNITED STATES OF AMERICA

FOR THE STATE ENVIRONMENTAL PROTECTION ADMINISTRATION OF THE PEOPLE'S REPUBLIC OF CHINA

附件五
环保法律的制定、实施与执行

第一条
权　限

美利坚合众国环境保护局（以下简称“美国环保局”）与中华人民共和国国家环境保护总局（以下简称“中国环保总局”）环境领域科学技术合作谅解备忘录的附件旨在建立加强环保法律制定、实施与执行领域合作框架。

第二条
范　围

本附件旨在解决环境法律的制定、实施与执行过程中的相关问题。这些问题常跨越多个环境领域，如环境法律起草及行政程序制定；公众参与及环境信息公开机制；规则制定及许可审批；环境监察与促进环境守法；加强环境执法及惩戒违法行为；环境影响评价和战略环评的开展与审核；确定跨部门职能及部门间关系；加强机构问责制和考核制建设；信息管理；环境纠纷解决办法等。

第三条

合作形式

本附件下的合作包括但不限于以下形式：

1. 交流与交换有关制定、实施和执行环保法律的信息；

2. 联合组织面向政府内外各界人士的座谈会、专题讨论会、研讨会；

3. 环境立法和执法、环境管理、信息管理技术等领域的培训；

4. 学习考察、交流和双方人员的短期交换；

5. 联合出版读物；

6. 示范、试验或评估环境管理、环境执法、环境应急及信息管理等方面的合作项目；

7. 就双方感兴趣的课题开展合作研究；

8. 双方决定的其它合作形式。

第四条

项目计划及活动

针对双方决定的具体合作活动，双方共同制定必要的经费安排、项目协议、战略及工作计划。

本附件下的项目活动应是附件一至附件四（即空气污染附件、

水污染附件、持久性有机污染物和其他有毒物质污染附件和危险和固体废弃物附件）下活动的补充而非重复。任何项目或特定领域的工作应该在相应附件的指导监督下进行，或在合适的情况下与其他相关附件下的活动相协调。如与环境应急相关的项目计划应与附件四的项目计划相协调。

本附件下的项目活动可包括以下领域：

1. 改进环境法律及系统的范围和内容，更好管理和执行根据该法律开展的环境项目；

2. 确保环保法律法规、许可证及其他环境管理工具的可执行性；

3. 增强环境守法，保证执法程序、政策及实践，保证公众和企业环境守法的程序与途径；

4. 加强对规划、政策和项目的环境影响评价和审核程序，包括决策过程、公共参与和项目的后续监督与执行；

5. 建立并加强面向各级政府从事制定、实施与执行环保法律的机构及人员的能力建设项目；

6. 为制定、实施与执行环保法律政策而探索制定高效环保制度、管理方法和政府间关系（国家政府之间、地方政府之间及相互间的关系），包括组织机构、体制设计、管理监督和为确保项目取得环保成效而采取考核制度；

7. 评估政府环保部门环境执法现状并建立提高环境执法效力

的项目；

8. 建立和完善环境污染事故应急处理的法规和政策；

9. 加强环保督察中心的能力建设，相关活动包括但不局限于以下领域：与各级政府合作监督环境要求的实施与执行情况；环境污染突发事故应急处理；跨省、跨地区环境规划；协调工作及争端解决等；

10. 评估环境法规中关于环境违法的处罚规定及其执行效果；

11. 完善环保部门与司法机关相互配合的机制，交流环境公益诉讼等环境诉讼程序方面的经验，促进司法机关更多地介入环境法律的实施；

12. 确保公众获取环保信息并参与环境决策过程，完善公众参与实施与执行环境法律的程序；

13. 就贸易与投资自由化中的环保法律及其执行开展合作；

14. 双方决定的其它领域。

第五条

管理官员选派

1. 管理本附件下各种活动的管理官员将与各参与机构共同工作，为项目协议、战略和工作计划的执行提供方便。

2. 美方的管理官员为美国环境保护局执法守法保障办公室副

助理局长。

3. 中方管理官员为中国环保总局环境监察局局长。

4. 各方可以随时任命一名替代管理官员，并以书面形式通知另一方。

本附件于2007年12月14日在北京签订，一式两份，每份均用英文和中文写成，两种文本同等作准。

美利坚合众国环境保护局　　中华人民共和国国家环境保护总局

代　表　　代　表