

Section II

Consideration of alternatives

Coordinated by Mr. Nelson Manda (Zambia)  
and Mr. Jack Weinberg (International POPs Elimination Network)

Note to reviewers:

A teleconference of the intersessional group on Alternatives of the BAT/BEP Expert Group was held on Tuesday, 16 March 2004 at 13:00 Universal Time. Participants on the call agreed to present to the full BAT/BEP Expert Group a draft text (and possibly other information) to be used in preparing general guidelines on the "Consideration of Alternatives" to be located near the beginning of the Draft Guidelines that the BAT/BEP Expert Group is mandated to prepare.

An initial draft entitled "*Draft Guidance on Consideration of Alternatives Text*" was discussed during the call, and it was agreed this could serve as a starting point for further discussion.

It was agreed that introductory language to this text is still needed and should be produced. This introduction should include a definition of the term "alternative" as used in Article 5 and Annex C of the Stockholm Convention.

One expert suggested that introductory text should also be used to help set the context for what follows. The expert proposed this introduction would refer to the fact that the consideration of alternatives was recognized as very important in addressing unintentional POPs. The expert also proposed the introduction acknowledge that precaution underlies the concerns of all the Parties, and that it is embedded in the Convention.

Some experts submitted inputs and proposed changes to the draft text. In some cases, these were consistent with the originally proposed text; and in some cases these appeared to reflected possible differences of view.

We made an effort to capture the large areas of common agreement, which is reflected in the black text that is not enclosed in square brackets. On the other hand, where there appeared to be a substantive difference of view between the original draft and the proposed changes – reflected in either proposed additions or proposed deletions – alternate versions of the text are included within square brackets. The sense of the original draft is in red; the sense of the proposed changes is in blue.

(The written inputs and the proposed changes arrived very late. This allowed for only one day to incorporate them into our final report and submit it to the Secretariat by the deadline. Though we needed to work very rapidly, we still hope we have properly captured the intent of all the proposed changes, and have presented this in a useable way.)

Jack Weinberg

## Draft Guidance on Consideration of Alternatives in the Application of BAT

[Each Party to the Stockholm Convention shall promote the development, and where it deems appropriate, require the use of substitute or modified materials, products and process to prevent the formation and release of chemicals listed in Annex C (henceforth referred to as Unintentional POPs), taking into consideration the general guidance on prevention and release measures in Annex C and the present guidelines as adopted by decision of the Conference of the Parties. (Art 5 (c))]

[Each Party shall also promote and, in accordance with the implementation schedule of its action plan, require the use of best available techniques for new sources within source categories which a Party has identified as warranting such action in its action plan. When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release measures in Annex C and in the present guidelines on best available techniques and best environmental practices as adopted by decision of the Conference of the Parties. (Art 5 (d))]

[In deciding on prevention measures that relate to both best available techniques and best environmental practices, priority should be given to the consideration of approaches to prevent the formation and release of Unintentional POPs. (Annex C, Part V, Section A)]

[The concept of best available techniques is not aimed at the prescription of any specific technique or technology, but at taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions. (Annex C, Part V, Section B).]

[Under circumstances in which authorities determine Best Available Techniques is to be applied, and when considering proposals to construct new facilities or significantly modify existing facilities using processes that release Unintentional POPs, priority consideration should be given to alternative processes, techniques or practices that have similar usefulness but which avoid the formation and release of such chemicals. (Annex C, Part V, Section B, Subsection (b))]

The importance of best available techniques (BAT) and best environmental practices (BEP) practices to reduce [and] [,] minimize [and avoid] by-products releases is recognized, but it is also understood that complete elimination [is not] [may not] always [be] feasible.

### **Consideration of Alternatives in Applying BAT to New Sources: a Checklist Approach**

Authorities are encouraged to use a checklist approach when they [apply best available techniques (BAT) to a proposal] [consider to make a choice between alternatives for best available techniques (BAT) and best environmental practices (BEP) or

combinations of both to be applied] to construct a new facility or significantly modify an existing facility that uses process that releases Unintentional POPs.

In doing this, they should keep in mind the overall sustainable development context, and they should take fully into account environmental, health, safety and socio-economic factors. The following are elements of a checklist approach

- 1) **Review the proposed new facility in the context of sustainable development.** Authorities should carry out a review of the proposal to construct a new facility or significantly modify an existing facility using processes that release Unintentional POPs in the context of the country's plans for sustainable development. The purpose of such a review is to enable the authorities to better understand the proposed facility and its intended usefulness in relation to social, economic and environmental considerations, and as a basis for sustainable development.
- 2) **Identify Possible and Available Alternatives.** If authorities decide that the proposed new facility (or the significant modification of an existing facility) using processes that release Unintentional POPs, has an intended useful purpose that should be pursued, an effort will be made to identify [other] available alternative processes, techniques or practices that may have similar usefulness [including those to minimize or, where feasible] [but] that avoid the formation and release of Unintentional POPs.
  - a. Available guidances comprising options for those processes, techniques and practices should be taken into account (e.g. guidances from Basel Convention, WHO, FAO etc.)
  - b. In order to assist Parties to identify possible, available and appropriate alternatives, one or more intergovernmental organization and/or the Convention Secretariat may produce, manage and facilitate a compendium of available processes, techniques or practices that avoid the generation and release to the environment of Unintentional POPs – ones that may be utilized as appropriate [other] alternatives to facilities and processes that do generate and release Unintentional POPs. This might take the form of an information clearinghouse or some other mechanism for information exchange. If such a compendium, information clearinghouse and/or other mechanism for information exchange is to be developed, it must:
    - i. Be done in a transparent manner;
    - ii. Be kept up to date;
    - iii. Provide information that Parties can use in ways that take fully into account the particular circumstances of developing countries and some countries with economies in transition; and

- iv. Provide information that Parties can use to give consideration to regional differences, to help them to focus on sustainable development, taking into account environmental, health, safety and socio-economic factors;
- 3) **Undertake a Comparative Evaluation of [All] [Both the Proposal and Identified Possible and Available] Alternatives.** [After possible and available alternatives have been identified, the] [The] appropriate authority should undertake comparative evaluations of [the originally proposed facility and identified] [all] possible and available alternatives [for BAT and BEP or combinations of both.] [In some cases and for some kinds of facilities, it may be most appropriate for this comparative evaluation to be done by local or district authorities. However, in many cases, it may be more appropriate, from a sustainable development perspective, for the comparative evaluation to be made at some other strategic or policy level.] In carrying out the comparative evaluation, consideration should be given to appropriate items of the indicative list contained in Annex F, Information on Socio-Economic Considerations; and also relevant criteria from Annex C, Part V, Section A and B. (See below)
  - 4) **[Final] [Priority] Consideration.** [One of the available] [A proposed] alternative [s for BAT and BEP or combinations of both] should be given [priority] [final] consideration [over the originally proposed facility if, and only if,] based on the comparative evaluation described in checklist item 3) above, and using relevant considerations and criteria from Convention Annex F and Annex C [an identified, available alternative is determined to]:
    - a. [Continue minimize and, where feasible, eliminate] [Avoid] the formation and release of Unintentional POPs;
    - b. Have similar usefulness;
    - c. Fit comparatively well within a country's sustainable development plans, taking into account effective integration of social, economic, environmental, health and safety factors.

### **Social and Economic Considerations**

Stockholm Convention Annex F is about Information on Socio-Economic Considerations. It addresses relevant information relating to socio-economic considerations associated with possible control measures to enable decisions by the Conference of Parties. However, it is also a starting point for a useful list of social and economic considerations and criteria that can be used by authorities in carrying out comparative evaluations of originally proposed facilities and identified possible and available alternatives, as called for in checklist item 3) above. In the evaluation of the proposal and the available alternatives the following criteria should be taken into account:

- 1) Technical feasibility,
- 2) Costs, including environmental and health cost,
- 3) Cost efficiency,
- 4) Efficacy (infrastructural capacity e.g. availability of well-trained staff etc.),

- 5) Risk,
- 6) Availability,
- 7) Accessibility,
- 8) Operator friendliness,
- 9) Positive or negative impacts on society including
  - a) Health, including public, environmental and occupational health,
  - b) Agricultural, including aquaculture and forestry,
  - c) Biota (biodiversity),
  - d) Economic aspects,
  - e) Movement towards sustainable development; and
  - f) Social costs.

A proponent considering to invest in a new facility or to significantly modify an existing facility will need to evaluate all the above in arriving at a final decision.

#### **Annex C Considerations**

All relevant sections of Annex C, Part V, Sections A and B should be fully taken into consideration in carrying out both checklist items 2) and 3) above.