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INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR AN
INTERNATIONAL LEGALLY BINDING INSTRUMENT
FOR IMPLEMENTING INTERNATIONAL ACTION ON
CERTAIN PERSISTENT ORGANIC POLLUTANTS

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Item 5 of the provisional agenda*

PREPARATION FOR THE CONFERENCE OF THE PARTIES

Guidance on best available techniques and best environmental practices pursuant to Article 5
of the Stockholm Convention on Persistent Organic Pollutants **

Note by the secretariat

1. Subparagraph (d) of Article 5 of the Stockholm Convention on Persistent Organic Pollutants requires each Party to:

“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, with a particular initial focus on source categories identified in Part II of Annex C. In any case, the requirement to use best available techniques for new sources in the categories listed in Part II of that Annex shall be phased in as soon as practicable but no later than four years after the entry into force of the Convention for that Party. For the identified categories, Parties shall promote the use of best environmental practices. When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in that Annex and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties.”

2. Further, subparagraph (e) of Article 5 of the Convention requires each Party to:

“Promote, in accordance with its action plan, the use of best available techniques and best environmental practices:

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** Stockholm Convention, Article 5; Conference of Plenipotentiaries of the Stockholm Convention, resolution 1, paragraph 4 and 7.

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- (i) For existing sources, within the source categories listed in Part II of Annex C and within source categories such as those in Part III of that Annex; and
- (ii) For new sources, within source categories such as those listed in Part III of Annex C which a Party has not addressed under subparagraph (d).

When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties.”

3. The Conference of Plenipotentiaries on the Stockholm Convention, held in Stockholm on 22 and 23 May 2001, invited the Intergovernmental Negotiating Committee “to focus its efforts during the interim period on those activities required or encouraged by the Convention that will facilitate the rapid entry into force and effective implementation of the Convention upon its entry into force, including, for consideration by the Conference of the Parties the development of,” inter alia, guidelines on best available techniques (UNEP/POPS/CONF/4, Appendix 1, resolution 1, paragraph 4). The Conference also decided “that the Committee shall develop provisional guidance on best environmental practices relevant to the provisions of Article 5, for consideration by the Conference of the Parties, upon entry into force of the Convention (UNEP/POPS/CONF/4, Appendix 1, resolution 1, paragraph 7).

4. Definitions for “best available techniques” (often referred to as “BAT”) and “best environmental practices” (often referred to as “BEP”) are provided in subparagraph (f) of Article 5. Section B of Part V of Annex C provides general guidance on best available techniques, but the Annex does not provide similar guidance for best environmental practices. Section C of Part V of Annex C indicates that “the Conference of the Parties may develop guidance with regard to best environmental practices.”

5. Provisional guidance on best available techniques and best environmental practices may include specific guidance that provides, inter alia:

- (a) Elaboration of the definitions of best available techniques and best environmental practices contained in subparagraph (f) of Article 5;
- (b) Options for the application of limit values to determine best available techniques;
- (c) Options for the application of performance standards to determine best environmental practices; and
- (d) Options for the development of “practicable” timetables for the application of best available techniques.

Possible action by the Committee

6. In order to develop provisional guidance on best available techniques and best environmental practices pursuant to Article 5 of the Convention for consideration by the first meeting of the Conference of the Parties, the Committee may wish to consider establishing a subsidiary body to assist it in this effort.
