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EXPERT GROUP ON BEST AVAILABLE  
TECHNIQUES AND BEST ENVIRONMENTAL  
PRACTICES

First session

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Item 3 on the provisional agenda<sup>1</sup>

DEVELOPMENT OF GUIDELINES ON BEST AVAILABLE TECHNIQUES  
AND PROVISIONAL GUIDANCE ON BEST ENVIRONMENTAL PRACTICES  
RELEVANT TO THE PROVISIONS OF ARTICLE 5 AND ANNEX C OF  
THE STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS

Mandate and terms of reference of the Expert Group on Best Available Techniques  
and Best Environmental Practices<sup>2</sup>

Note by the secretariat

1. Appendix 1 of the present note contains paragraphs 4 and 7 of the resolution on interim arrangements adopted by the Conference of Plenipotentiaries of the Stockholm Convention on Persistent Organic Pollutants (ref. Resolution 1 of Annex 1 of UNEP/POPS/CONF/4).
2. Appendix 2 and appendix 3 of the present note contain paragraphs 70 to 83 and annex VII, respectively, of the report of the sixth meeting of the Intergovernmental Negotiating Committee for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants, held from 17 to 21 June 2002 in Geneva, Switzerland (ref. UNEP/POPS/INC.6/22).
3. The above, along with Article 5 and Annex C of the Stockholm Convention, provide the current mandate and terms of reference of the Expert Group.

<sup>1</sup> UNEP/POPS/EGB.1/1.

<sup>2</sup> This document has not been formally edited.

Appendix 1

PARAGRAPHS 4 AND 7 OF THE RESOLUTION ON INTERIM ARRANGEMENTS ADOPTED BY  
THE CONFERENCE OF PLENIPOTENTIARIES OF  
THE STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS

4. Invites the 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: steps to enable a prompt start of the capacity-building and assistance networks; guidance on the preparation of implementation plans and action plans; guidance for the financial mechanism and technical assistance; periodicity and format of reports by Parties; arrangements to provide comparable monitoring data; rules of procedure and financial rules; financial provisions governing the functioning of the secretariat; modalities and procedures relating to non-compliance; guidelines on BAT; and work on DDT in accordance with paragraph 6 of part II of Annex B;

7. Decides also 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 the entry into force of the Convention;

Appendix 2

## PARAGRAPHS 70-79 OF UNEP/POPS/INC.6/22

70. In its deliberations, the Committee had before it the documentation on the subject prepared by the secretariat (see annex IX). Introducing the item, the representative of the secretariat drew attention to the note on guidance on best available techniques (BAT) and best environmental practices (BEP) (UNEP/POPS/INC.6/7) and enumerated the points raised therein. He also drew attention to a conference room paper containing the report of a regional workshop on national action on measures to reduce or eliminate the releases of by-products from unintentional production, held in Bangkok from 13 to 15 March 2002 and organized by the Governments of Germany and Thailand, in cooperation with UNEP Chemicals. Stressing the highly technical nature of the issues involved in providing guidance on BAT and BEP for the first meeting of the Conference of the Parties, which called for specialized expertise, he said that the Committee might wish to consider establishing a subsidiary body to assist it in that effort. Because of the budgetary implications, the costs of the different options within the process chosen would also need to be carefully assessed.

71. One representative, speaking on behalf of a regional economic integration organization and its member States, welcomed the outcome of the regional workshop held in Thailand and pointed to a conference room paper on BAT and BEP for reducing and/or eliminating emissions of by-product POPs, submitted by his organization and its member States. He considered that there was a need to initiate the establishment of a process for the development of BAT and BEP that might include the creation of a technical working group and the organization of a workshop. Measures to reduce or eliminate release from unintentional production of chemicals listed in annex C of the Stockholm Convention, including measures to promote BAT and BEP, must be included in national implementation plans. He expressed the hope that the secretariat would emphasize the promotion of effective information exchange, which could be facilitated by the experience gained through his organization's directive on integrated pollution and prevention control.

72. Several representatives, referring to the possibility of establishing a contact group to consider how to proceed on the issue, stressed the need for all participants to have the opportunity to play an active part in its deliberations, particularly the developing countries, since BAT and BEP were directly linked to the subject of emissions and thus affected their industries. Some representatives noted that it was essential to have BAT and BEP guidelines that would be useful to countries at all levels of development, so it was necessary to ensure that a balance of countries at all levels of development participate in the guidance development process.

73. One representative, pointing to a conference room paper submitted by his Government on the development of guidelines on BAT and BEP, considered that work on the issue was very timely and needed to be initiated soon. It was very important to have a contact group convene to discuss the terms of reference of any subsidiary body to be established on BAT and BEP.

74. The Committee decided to establish an open-ended contact group, co-chaired by Mr. Sergio Vives (Chile) and Mr. Robert Kellam (United States), with a mandate to address issues of guidelines on BAT and guidance on BEP pursuant to article 5 of the Stockholm Convention, as set out in the note by the secretariat (UNEP/POPS/INC.6/7). The contact group was to propose a way forward with regard to acquiring the expertise needed and formulating the guidelines and guidance for adoption by the Conference of the Parties.

75. The co-chairs of the contact group reported to plenary on the results of the deliberations of the group, which were before the Committee in a conference room paper. They drew particular attention to the need for a decision at the first meeting of the Conference of the Parties on whether to continue work on the subject using the current methodology or whether to establish another group. Following discussion on the item, the Committee adopted the terms of reference for the Expert Group on BAT/BEP contained in annex VII to the present report.

76. The Committee selected Mr. Sergio Vives (Chile) and Mr. Robert Kellam (United States) to serve as interim co-Chairs of the Expert Group for the purpose of facilitating the first meeting of the Group.

77. The Committee noted that Algeria, Chile, Gabon, Iran (Islamic Republic of), Kenya, Mongolia, Nigeria, Saudi Arabia and Zambia would serve as nine of the 15 members of the Group from developing countries. For the remaining six positions, Iran would inform the secretariat of the identities of two countries from the Asia and Pacific region and the Dominican Republic would inform the secretariat of the identities of four countries from the Latin American and Caribbean region.

78. The Committee noted that Kazakhstan, Poland and Yugoslavia would serve as the three members from countries with economies in transition.

79. The Committee noted that Australia and the country occupying the presidency of the European Union would inform the secretariat of the identities of the 18 countries that would serve as members from developed countries.

Appendix 3

## ANNEX VII OF UNEP/POPS/INC.6/22

## TERMS OF REFERENCE FOR THE EXPERT GROUP ON BEST AVAILABLE TECHNIQUES/BEST AVAILABLE PRACTICES (BAT/BEP)

## I. MANDATE

An Expert Group on best available techniques/best available practices (BAT/BEP) is hereby established by the Intergovernmental Negotiating Committee of the Stockholm Convention on Persistent Organic Pollutants to develop guidelines on best available techniques and to develop provisional guidance on best environmental practices relevant to the provisions of article 5 of the Convention, for consideration by the Conference of the Parties upon entry into force of the Convention.<sup>3</sup>

## II. CONSIDERATIONS TO GUIDE WORK

The guidelines and guidance to be developed should be practical and general in nature but with reference to more detailed and specialized technical information to achieve a realistic and meaningful level of release reduction or source elimination.

These should also help assist decision-making at the country level.

To enhance the practicality of the guidelines and the guidance, the Expert Group should provide commentary on issues and approaches relevant to their implementation.

For example, the guidelines and guidance to be developed should take into consideration:

- (a) The problems and opportunities that might be encountered in implementing BAT and BEP;
- (b) The particular circumstances of developing countries and some countries with economies in transition;
- (c) Available mechanisms for information exchange of BAT and BEP measures.

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<sup>3</sup> This mandate is referred to in paragraphs 4 and 7 of resolution 1 on interim arrangements adopted at the Conference of Plenipotentiaries on the Stockholm Convention and under article 5 and annex C of the Convention.

### III. PARTICIPATION

The work of the Expert Group is technical in nature. Therefore, to enhance the efficiency of the Group and taking into account budgetary constraints, the number of participants in the meetings of the Expert Group should be kept to a manageable number (a maximum<sup>4</sup> of 50-55) in the following proportions:

(a) The Expert Group's meetings shall be open to government-designated experts. Representation from developing countries (15<sup>5</sup>), from countries with economies in transition (three<sup>5</sup>) and from developed countries (18<sup>5</sup>) shall be ensured. Representation of all regions should be encouraged;

(b) Intergovernmental (two<sup>5</sup>) and non-governmental organizations (four<sup>5</sup> from environmental non-governmental organizations and four<sup>5</sup> from industrial non-governmental organizations) may participate as observers. A balanced representation of developing and developed countries is encouraged;

(c) Additional experts shall be invited as needed for each meeting with the status of observer.

In order to promote an open and transparent process, regional networking should be encouraged to ensure the input of a broad representation of views and to offset differences in expertise available to countries at varying stages of development.

Further, all documents under consideration by the Expert Group shall be made available to all interested parties (to the extent feasible) who shall be encouraged to provide written comments.

### IV. RECOMMENDED QUALIFICATIONS

Participants should have expertise in one or more of the following areas:

- (a) Specialized technical issues or technological overview;
- (b) Relevant environmental policy; or
- (c) The functioning and provisions of the Stockholm Convention.

### V. FUNDING OF PARTICIPANTS

(a) Funding will be provided for 15 participants from developing countries and three participants from countries with economies in transition;

(b) Funding will be provided for one participant from an environmental non-governmental organization in consultation with the non-governmental organizations.

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<sup>4</sup> The word "target" was used instead of the word "maximum" in the terms of reference adopted by Intergovernmental Negotiating Committee contained in UNEP/POPS/INC.6/CRP.17. This error will be corrected in a corrigendum to UNEP/POPS/INC.6/22.

<sup>5</sup> The phrase "target of" preceded this number in the terms of reference adopted by Intergovernmental Negotiating Committee contained in UNEP/POPS/INC.6/CRP.17. The phrase had been edited out of the final English version of the text in error. This error will be corrected in a corrigendum to UNEP/POPS/INC.6/22.

## VI. MEETINGS

The following meetings are envisaged:

(a) First meeting of the Expert Group (prior to the seventh session of the Intergovernmental Negotiating Committee):

Possible reference materials:

- (i) UNEP/POPS/INC.6/CRP.1 – Regional workshop held in Bangkok, Thailand, from 13 to 15 March 2002, on national action on measures to reduce or eliminate the releases of by-products from unintentional production as requested by the Stockholm Convention on Persistent Organic Pollutants;
- (ii) UNEP/POPS/INC.6/CRP.6 – Best available techniques (BAT) and best environmental practices (BEP) for reducing and/or eliminating emission of POPs by-products;
- (iii) Proceedings of the “Regional Workshop on National Action on measures to reduce or eliminate the releases of by-products from unintentional production as requested by the Stockholm Convention on Persistent Organic Pollutants”, Bangkok, Thailand, 13-15 March 2002;
- (iv) Proceedings of the “Workshop for South American Countries on BAT/BEP to Support the Stockholm Convention on Persistent Organic Pollutants”, Buenos Aires, Argentina, October/November 2002 (tentatively);
- (v) Other reference material submitted no later than two months before the meeting;

(b) Seventh session of the Intergovernmental Negotiating Committee:

Discussion and adoption of report of the Expert Group of its first meeting;

- (c) Second meeting of the Expert Group;
- (d) Third meeting of the Expert Group, if necessary;
- (e) First meeting of the Conference of the Parties.

## VII. OFFICERS

The Intergovernmental Negotiating Committee shall identify two interim co-Chairs of the Expert Group for the purpose of facilitating the first meeting of the Expert Group.

The Expert Group shall at its first meeting elect, from among government representatives, officers to serve as the two co-Chairs.

## VIII. SECRETARIAT

The secretariat of the Stockholm Convention will provide the secretariat for the Expert Group.

## IX. ADMINISTRATIVE AND PROCEDURAL MATTERS

The Expert Group shall apply, mutatis mutandis, the rules of procedure of the Intergovernmental Negotiating Committee except as otherwise provided in these terms of reference.

## X. AGENDA

The secretariat, in consultation with the officers of the Expert Group, shall prepare a provisional agenda for each meeting of the Group. The provisional agenda shall be communicated to all participants of the Expert Group and all interested parties at least six weeks before the start of the meeting.

## XI. LANGUAGES

English shall be the working language of the Expert Group.

All documents adopted by the Expert Group shall be translated into Arabic, Chinese, French, Russian, and Spanish.

## XII. OUTPUTS

(a) The Expert Group shall consider and adopt a report at each meeting to inform the Intergovernmental Negotiating Committee of the results of its discussion;

(b) The reports shall be circulated to all participants of the Expert Group meetings and the Intergovernmental Negotiating Committee at least six weeks in advance of the Intergovernmental Negotiating Committee;

(c) The Expert Group shall present its report on guidelines and provisional guidance for consideration by the Conference of the Parties upon entry into force of the Convention.

## XIII. DECISION-MAKING ON GUIDELINES AND PROVISIONAL GUIDANCE

The Expert Group shall make every effort to reach agreement by consensus among participating Governments on the guidelines on BAT and provisional guidance on BEP that it presents to the Conference of the Parties for its consideration. Should consensus not be reached, all proposals by participating Governments shall be reflected in the report to be submitted to the Conference of the Parties.

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