



Action funded by
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EU4Environment

Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, Ukraine

Workshop with Eastern Partnership (EaP) countries on implementing a Best Available Techniques approach: Taking stock of progress and discussing the way forward

Seoul, Republic of Korea, 25/10/2019

Summary report

Information Note:

This workshop was held back-to-back with two other events – the OECD Expert Group on Best Available Techniques (23-24 October) and the International Workshop on BAT, organised by the Korean Ministry of the Environment (24-25 October)

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Context

Adopting a Best Available Techniques (BAT) approach provides governments with the means to set realistic emission limits while giving industry support on adopting the best available techniques and technologies for environmental performance. Countries in the EaP region have expressed commitment to implementing BAT, and with progress already made to varying degrees. The EU-funded EU4Environment Action supports that work directly, and connecting EaP countries with other national representatives and experts through the OECD Expert Group on BAT.

The Workshop with EaP countries on implementing a Best Available Techniques Approach: Taking stock of progress and discussing the way forward aimed to facilitate experience sharing on adopting a BAT approach to industrial emission regulation in EaP Countries. It also aimed to serve as a regional meeting for EaP countries to kick-off BAT-related activities which will be implemented in the region in 2019-2022 as part of EU4Environment.

Participants included representatives from EU Eastern Partnership countries, BAT experts from EU and non-EU countries, and international organisations. The workshop was funded by the European Union. It was held in English only.

The Workshop was the final event held during three days of discussion in Seoul around implementing a Best Available Techniques approach, with a wide range of experts from environmental regulatory agencies, non-governmental organizations, academia and policy making bodies from OECD and non-OECD member countries, including substantial EU representation.

The first event (23-24 October) was the OECD BAT Expert Group meeting, which spanned one and a half days and involved discussion of ongoing work on developing guiding principles for BAT systems, as well as presentations on implementation progress from different participating country experts. It featured 28 experts from environmental regulatory agencies, non-governmental organizations, academia and policy making bodies from OECD and non-OECD member countries, including substantial EU representation.

During the OECD BAT Expert Group meeting, Ketik Chokuri from the Georgian Ministry of Environmental Protection and Agriculture presented on Georgia's draft law on industrial emissions and relevant draft by-laws have been prepared in line with the provisions of the EU Industrial Emissions Directive (IED) and the obligations related to the EU-Georgia Association Agreement.

In addition to the presentations by countries, there were also sessions focussed on developing a draft guidance document on how to determine BAT, BAT-associated environmental performance levels and BAT-based permit conditions, developing a value-chain approach to determining BAT, and comparing BAT Reference Documents (BREFs) from different countries. Please see attachment for full summary report and agenda).

Following that, the Government of Korea organised the International Workshop on BAT (24-25 October) gathered over 100 participants, including participation by the same group of experts (including representatives EaP countries), as well as high-level participation from the government of the Republic of Korea. Countries presented about their ongoing work on implementing BAT, including Anna Yodchuk, representing Belarus.

EaP Workshop Summary

After two and a half days of discussion at the OECD BAT Expert Group meeting and the International Workshop on BAT, the participants from EaP countries had a strong informational basis for discussing the challenges that they were facing in implementing an IED-derived approach to environmental regulation. The meeting was essential to share experience on adopting a BAT approach to industrial emission regulation in EaP Countries, with the right mix of participants from EaP countries, as well as from the European Commission, Israel, the Russian Federation and Kazakhstan, each at different stages of adoption of BAT-based permitting and inspecting cycles.

To support candid discussions among participants, it was agreed that the Chatham House rule would be abided by (information can be reported, but without specific attribution). The participants from the EaP countries briefly discussed the current state of industrial environmental regulations and BAT implementation in their respective country. Following each short presentation, there was an opportunity for questions and discussion on the specific challenges and barriers that they are facing under current environmental regulation and in the transition to a BAT approach, and the advantages and disadvantages of such a transition.

The discussions were lively, dynamic, and candid, and highlighted the very different stages of BAT and integrated permitting implementation in each country, with some having fully developed draft legislation in place and others at a more preliminary level. However, some common challenges emerged:

- *Change management of cultural behaviours and political economy for the enforcement of BAT-based permits.* This included challenges both from the administrative side (senior officials who came of age under the Soviet or Soviet-derived system and are resistant to change/listening to younger subordinates) as well as from the enforcement side (large firms and facilities that were resistant to change and had significant political sway, do to socioeconomic importance).
- *Sequencing of implementation of integrated permitting and BAT.* Most of the countries intend to transition both to a BAT-based system as well as integrated permitting. There were significant differences in the length of times planned for the transition, and whether or not it would be simultaneous.
- *Adequate budgetary resources and expertise.* All EaP countries noted the challenges they face in resources. Most have ambitious implementation schedules with a small number of staff. Expertise is a major issue in terms of both policy development and compliance enforcement, as adequately trained individuals tend to leave as soon as they have sufficient experience, going to either the private sector or abroad to better paying opportunities in other countries.

The presentations and participation by OECD Members and Partners provided valuable context and a good opportunity for peer-to-peer learning between representatives. This included the experiences of the EU, where the system is most advanced, and had valuable lessons learned to share around implementation and BREF development. Israel provided important context, as an OECD country which has implemented a BAT-system based entirely on the EU BREFs (rather than developing their own domestically), and has (for the moment) foregone implementation of integrated permitting.

The experiences of Russia and Kazakhstan are also instructive, because they share the same regulatory heritage as the EaP countries but have approached the problem slightly different. In Russia, their BAT Bureau has developed domestic BREFs, but with a key weakness compared to EU BREFs – technology included as BAT must already be in use by at least two Russian facilities, and must be manufactured in Russia. This makes the resulting Emission Limit Values derived from the BREFs much less ambitious.

Kazakhstan will likely use the EU BREFs as their basis of development, but also develop their own technical working groups. There was a consensus among the EaP participants that they had to more closely approximate the EU IED, in order to fulfil their association agreements.

Outcomes and future work

Kick-off for work at the country level

The Workshop provided an excellent regional-level start to country specific projects under the EU4Environment program. Because each country is at a different level of development in terms of BAT implementation, the particular support will be different in each country. Preliminary discussions suggest that this will take various forms, including support with domesticating existing EU BREFs to country contexts, input on draft laws to ensure they are in line with the IED, and support on capacity building/strategic approaches for environmental inspectorates adapting to new BAT regimes. The participants agreed to continue discussion after the workshop on the detailed in-country activities.

Developing a regional dimension to BAT implementation

Different EaP countries are at very different levels of updating their environmental regulation for large enterprises. However, they face some common challenges both in terms of the inheritance of command and control regulatory structures from the Soviet era, as well as challenges around governance structures, industry composition, and access to expertise. The EU4Environment project is extremely valuable in terms of supporting this kind of regional approach, forming a virtuous feedback loop with direct in-country support.

Expanded network of technical contacts for EaP participants

By participating in the EaP Workshop on BAT implementation, as well as the broader OECD Expert Group on BAT and the International Workshop on BAT, participants from EaP countries were exposed to a range of technical expertise from different countries and expanded their network of relevant technical experts they could compare notes with as development and implementation of IED-aligned environmental regulation goes forward. Most of the EaP experts who participated have also expressed interest in joining the OECD BAT Expert Group, which provides a broad platform of expertise. The next meeting of the Working Group will take place in the second half of 2020 in Brussels.

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