

BAT – case by case assessment

Kari Kuusiniemi
Finland

Starting points and difficulties

- BAT is a minimum standard: a higher standard of performance may be required in order to make sure that the preconditions to grant an environmental permit makes it necessary
- BAT is not a given technology or an end of pipe filter: it is a metaphor describing the most effective set of different technical solutions, their use etc., which can be applied in a certain type and size of an installation

Starting points and difficulties 2

- BAT is reflected to
 - emission standards or
 - a range of emission levels achievable by using the most efficient technology etc. to reduce emissions
- the IPPC Directive
 - a comprehensive BAT: the totality of environmental impacts of the installation → technology that enables effective reduction of emissions into the atmosphere may cause discharges into waters or great quantities of solid waste

Starting points and difficulties 3

- numerous parameters into consideration → coordination not always easy
 - e.g. phosphor may have to be added into the biological purification process of wastewater so that bacteria are able to do the cleaning → difficult to obey the emission limit value set for discharges of phosphor
- in principle, BAT deals only with reduction emissions, regardless of the site of the installation, but in practice, when counting the marginal cost of achieving a certain emission standard, also the effects of the emissions may be taken into account

The role of a Court

- The Court shall, on the basis of appeals by either the operator or the victims of pollution, environmental authorities or NGO's, confirm whether the set of technical solutions or emission standards set by the Environmental Permit Authority meet the requirement of BAT
- The decision is made case by case, taking into account of

The role of a Court 2

- if the installation is already existing, the previous permit decision and the registered emissions of the installation
 - has the operator been able to meet the previously set standards and how easily
 - in practice, the technology driving force of the Finnish permit system has been based on the idea that permits are reviewed frequently and stricter emission limits will be set for the next permit review period
- BREF's
 - the ranges of emission levels that should be achievable by using BAT → if an emission limit value set is far below or above the level indicated in a BREF, it may indicate that it is not based on BAT

The role of a Court 3

- existing practice concerning similar types of installations ← impartiality (cf the preconditions for the permit → the location may affect how strict limit values shall be applied)
- existing emission standards in Decrees transposing EU Directives, where applicable
- the role of expert members in Vaasa Administrative Court and the Supreme Administrative Court (who have a degree in technology or natural sciences) is remarkable