



Implementing ecological governance through Best Available Techniques

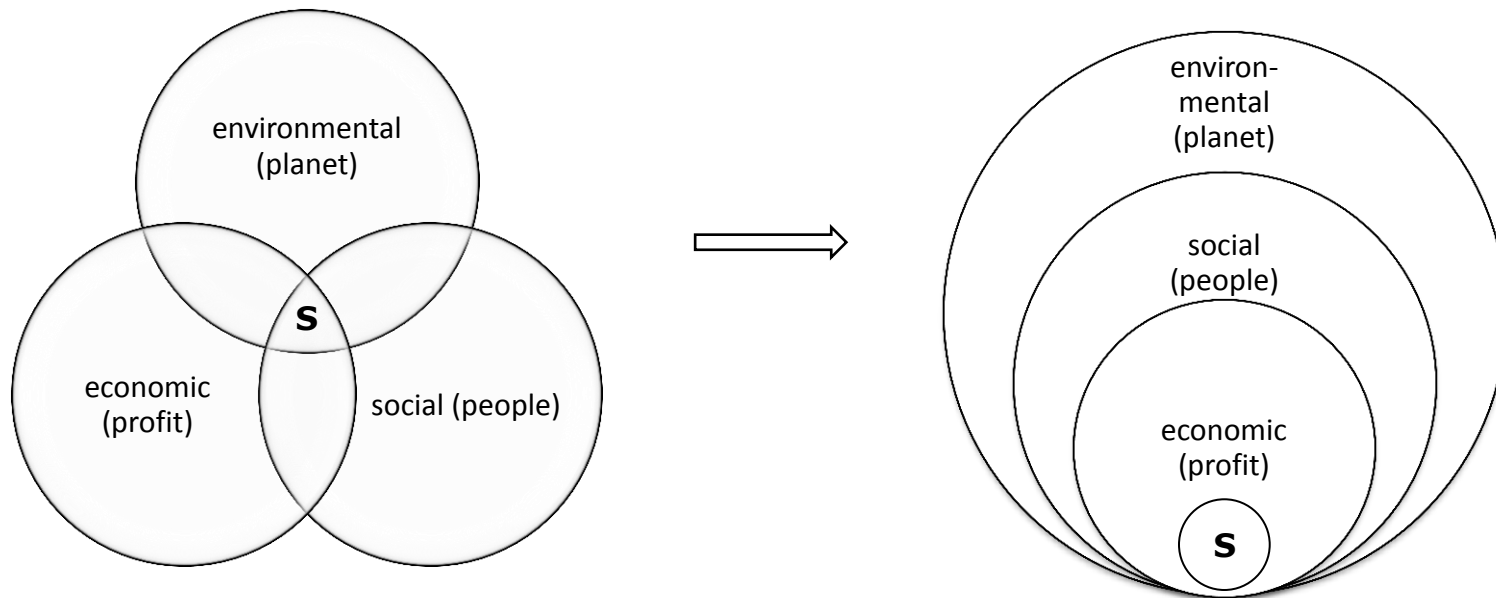
EELF conference, Copenhagen 2017

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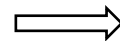




Sustainable development



'development that meets the needs of the present without compromising the ability of future generations to meet their own needs' (Brundtland report)



'development that meets the needs of the present while safeguarding the Earth's life-support system, on which the welfare of current and future generations depends' (D. Griggs)



Ecological governance

- Resilience-based approach
 - Continuously reduce cumulative stresses on ecosystems
 - Normative precaution & adaptive governance
- Guiding principles (Woolley)
 - Reduce consumption and/or obviate development
 - Substitution
 - Sunsetting
 - Rolling review & knowledge expansion (+ backcasting)
 - Public participation
 - So... from 'balancing the P's' to hierarchy.

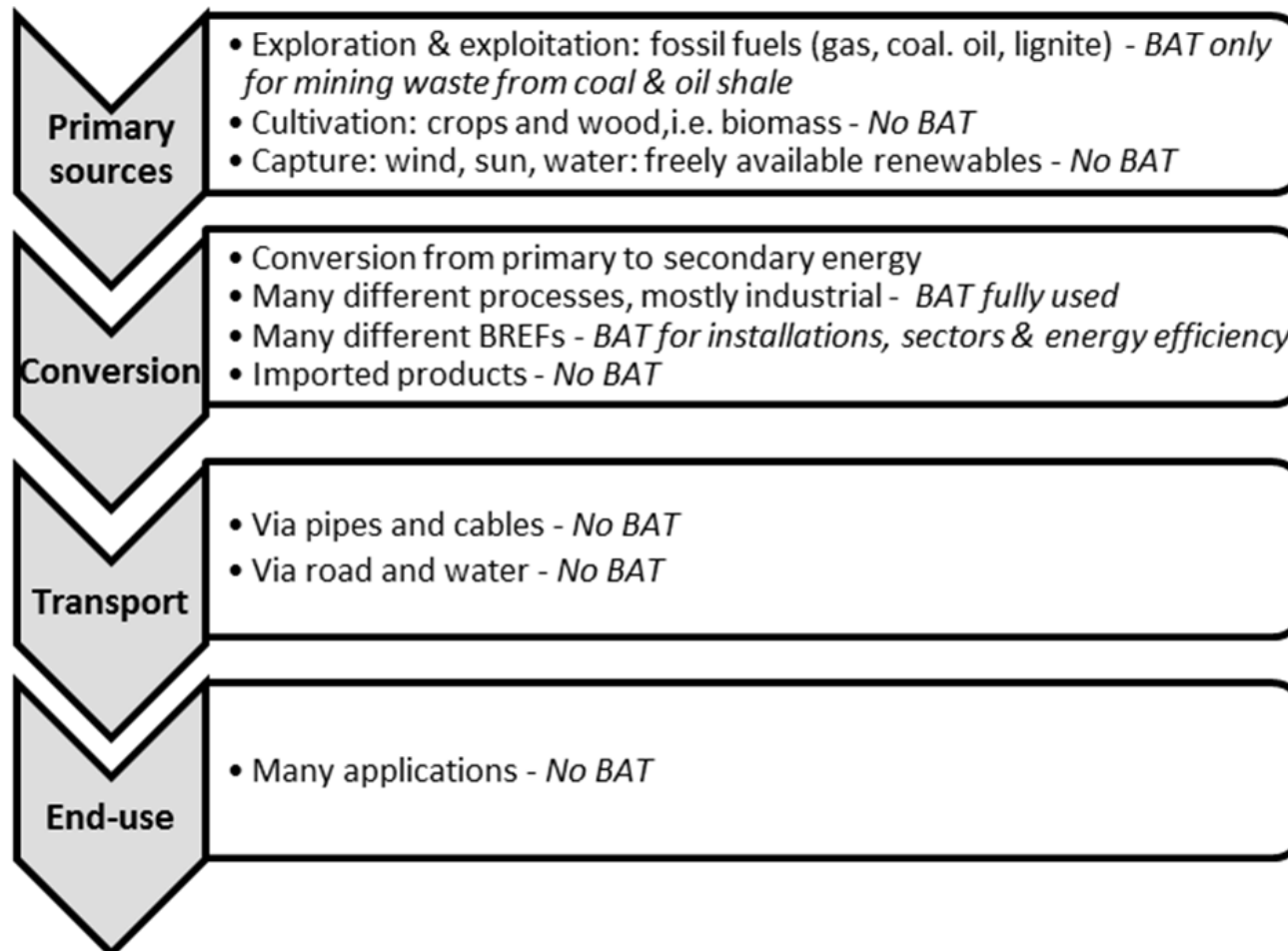


Best Available Techniques

- 'Best available techniques' (BAT)
...are the most effective and advanced techniques for reducing emissions and impacts on the environment from industrial activities, provided these can be implemented under economically and technically viable conditions and are reasonably accessible to the operator (art 3(10) IED)
- Used as reference for setting emission limit values in mandatory permits (arts 14(1) & 15(2) IED)
- Criteria in Annex III IED & described in BREFs



Mandatory use of BAT





Reinterpretation of BAT

- Expanding the BAT concept
 - External dimension: apply BAT to new areas
 - Internal dimension: account for more elements
 - BAT not BATNEEC
 - Necessity, relativity & polluter explains
 - BREFs: add POT/WAT
- Avoid path dependence and ensure ecological focus



Conflict with trade law?

- WTO: extraterritorial application of BAT?
 - Most favoured nation (art I)
 - National treatment (art III)
 - Likeness
 - Quantitative restrictions (art XI)
 - Internal measure vs external measure
 - Exceptions (art XX)
- What is a product?
 - Product-process & goods-services



Thank you for your attention

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