

**UNICE "ENVIRONMENTAL AUDITING" AD-HOC GROUP  
COMMENTS  
ON THE REVISION OF THE EMAS REGULATION  
(REVISED STOCKHOLM TEXT, DECEMBER 1997).**

**1. Use of ISO 14001.**

UNICE has consistently supported the Commission's proposal to use ISO 14001 as the basis for the management system in EMAS and welcomes the adoption of the ISO/CEN text in Annexes I and VII of the latest working draft of EMAS 2. There are further opportunities to converge with ISO 14001 which UNICE trusts will be taken. For example, the new items "environmental performance indicators", "environmental targets" and "stakeholders" introduced in Article 2 (Definitions) should consider using the corresponding definitions in ISO.

**2. Re-introduction of EVABAT.**

UNICE is of the opinion that the inclusion of EVABAT (Economically Viable Application of Best Available Technologies) in the current regulation has been an obstacle for enterprises wishing to seek registration to EMAS.

Both the current EMAS Regulation, and the ISO 14001 Standard (Annex 1 of the proposed document) require compliance to relevant environmental legislation. Since BAT will be legislation, references to EVABAT are redundant, since relevant organisations will need to comply with BAT as a matter of course. The situation is further complicated since EVABAT is a very complex principle, which remains undefined, and therefore unverifiable. Retaining the concept of EVABAT will therefore confuse organisations, and diminish the attractiveness of the scheme.

UNICE believes that the commitment to environmental performance improvement is already sufficiently embodied in the requirements of ISO 14001 (and therefore also in Annex 1 of the proposed EMAS revision).

In view of these considerations, UNICE proposes the deletion of Article 1(e).

### **3. Expansion of Environmental Statement Requirements.**

- Frequency of validation/verification (Art 3d); Annex V).

UNICE opposes the requirement to produce an annual environmental statement. This proposal will lead to an increase in costs due to the preparation of the document and the additional activities of the verifier. If the requirement to prepare an annual statement is adopted, then there must be a clear differentiation between the verifier's validation of the statement (12 months) and the environmental management system verification process (maximum 36 months) in order to minimise the additional burden on organisations.

- Selective use of extracts / validation of increased pool of information ( Art. 8; Annex III).

The option to use selected extracts from the statement or a larger source of information makes use of market forces in a flawed way. It does not reflect demand from industry as a potential user of such an option, therefore it will not increase the scheme's attractiveness. The need to make reference to a larger pool of information poses a wide range of problems with regard to the disclosure of proprietary information and to an increase in costs caused by the need for increased verification time.

UNICE therefore believes that the purpose of the statement should be restricted to the provision of information to the public.

- Comparison against Industry Norms (Annex III).

UNICE is of the opinion that the concept of EMAS is based on the improvement of an organisation's environmental performance in accordance with that organisation's individual situation. The idea to compare an organisation with external "benchmarks" indicates a shift away from this principle. UNICE also believes that this extra requirement will lead to an expansion of the needs for registration and thereby deter companies, esp. SMEs, from participating. Therefore, the references to "comparison of its performance against industry norms" (3.1 (e)) should be deleted.

### **4. Registration of Organisations (art. 6).**

UNICE is concerned that a few elements proposed in the revised text will diminish the attractiveness of EMAS:

- a. the amount of information needed by the competent body to perform its registration task (art 5-5, art 6-1a, Annex 5-5.5, Annex 10);
  - b. possible negative effects of direct contacts between the competent body and the enforcement authority (art 6-1f);
  - c. criteria for deregistration (art 6-1f);
  - d. appeal to the Commission (art 6-3).
- a. Which information does the competent body need ?

The Competent Body is responsible for registration. Presently registration can take place when there is a validated statement and the registration fee is paid. New elements are the mandatory reports of the verifier to both the organisation and the competent body. UNICE thinks that this requirement in practice can lead to "double verification", first by the verifier, second by the competent body. These reporting requirements lead to confusion with regard to the task and role of both the verifier and the competent body and an increase in the cost of participation without benefits. UNICE's feeling is that in the current EMAS the competent body has enough information to decide on registration : the statement itself, the verification process under strict rules (with supervision of the verifier) and information from the regulators (enforcement agencies).

**b. Position of enforcement authority.**

In the current and revised EMAS Scheme, the competent enforcement agency can inform the competent body of a breach of regulations. In this case the registration shall be refused or suspended. In UNICE's view it is not conducive to participation in EMAS if such information can be provided to the competent body without the organisation involved being informed. UNICE proposes that the enforcement authority, informed of the wish to register in EMAS by the organisation, hands over its findings in writing to the organisation. Consequently that information will be subject to the verification process.

**c. Deregistration.**

The proposed text (art 6-1f) is ambiguous on conditions for refusal, suspension or deletion from the register. After each breach registration shall be refused; contrary to this suspension or deletion may occur. UNICE proposes that the same criteria be used for either registration, suspension or deletion. These criteria could be included in the revised EMAS or be added as additional guidance.

Important criteria for refusal or deregistration in UNICE's views are:

- if procedures for corrective and preventive action are not effective;
- a breach leading to significant environmental effects.

**d. Appeal to the Commission (art. 6-3).**

UNICE believes that the Commission is not the right body to hear an appeal, since the Commission has neither sufficient knowledge to judge nor the time to decide on the appeal. UNICE believes that the appeal procedures should occur at Member-State level.

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