

REVISION OF THE EMAS REGULATION
UNICE "ENVIRONMENTAL AUDITING" AD-HOC GROUP
COMMENTS

In June 1998, DG XI of the European Commission put forward its proposal for the revision of Council Regulation (1836/93/EEC) allowing voluntary participation by organisations in a Community Eco-Management and Audit Scheme (EMAS).

The revised text has been structured more clearly and is thus easier to apply. UNICE welcomes the Commission's commitment to retain the voluntary nature of EMAS. This is a decisive precondition for acceptance by industry in general. However, UNICE considers that, on a number of points, the current draft should be reviewed to ensure that EMAS is more attractive for companies and especially small and medium enterprises (SMEs) which form over 96% of all European enterprises.

1. Relationship with ISO 14001

UNICE welcomes the policy to align the revised EMAS Regulation on the international standard on environmental management systems, ISO 14001. UNICE feels that the attractiveness of EMAS will be greatly enhanced, especially for European companies operating on the world market. It would also be an incentive for SMEs many of which, aware of the value and existence of ISO 14001, would have an incentive to become EMAS-certified. To participate in EMAS these companies can build on their ISO 14001 certification by preparing an environmental statement and having this statement validated according to the Regulation. However, this simple, two-stage approach is brought into confusion by the existence of Annex IB, which essentially rephrases requirements of elements already present within the ISO 14001 standard. These requirements are confusing, and diminish the attractiveness of EMAS. UNICE objects especially to the text on Purchasing (IB 4). We believe that the text requires an organisation to place unnecessary emphasis on the procurement process. This emphasis would prove to be a significant barrier to trade, especially to those companies with a poorly developed environmental management system, and to those companies in less-developed countries. We believe that the correct emphasis on customer/supplier relations is already specified within Annex IA of the Regulation (IA 4.6 (c)). Since these and the other requirements specified in Annex IB are already covered in the requirements of Annex IA (the text of the ISO 14001 standard), UNICE recommends that Annex IB be deleted.

Moreover, Annex VI is significantly more prescriptive than the corresponding guidance in ISO 14001 with respect to direct environmental aspects and evaluation of the significance of these aspects. The proposed revision of EMAS is for the use of organisations from a broad range of industrial and

commercial sectors, and the requirements of Annex VI do not reflect this situation. We believe that the prescriptive nature of this Annex will lead to the development of a significantly more bureaucratic scheme, without clear environmental gain. UNICE believes that Annex VI is unnecessary, since Annex IA.3.1 clearly requires an organisation to determine all its significant environmental impacts.

2. Synergy with other environmental legislation

From UNICE's point of view, EMAS offers a chance to make environmental protection more efficient. Within the framework of environmental legislation (e.g. IPPC), authorities carry out controls on a number of environmental aspects. On the other hand, EMAS-registered sites have implemented an environmental management system which integrates all environmental aspects and which is thoroughly checked, both internally and externally. **Therefore participation allows for a degree of public trust in environmental performance at least equivalent to controls by authorities.** This by no means implies lowering the level of environmental protection. On the contrary, it includes significant efforts to improve beyond the level defined by legislation. With this background EMAS offers the chance to reduce the amount of bureaucratic procedures, which is especially crucial if SMEs, already struggling to implement environmental legislation, are to be encouraged to become certified.

Member States should therefore review present control, supervision and licensing procedures in order to identify those activities for which EMAS offers a comparable or higher degree of trust. The regulation itself should encourage this activity by making clear that EMAS offers potential for more efficient environmental protection and for environmental performance beyond "command and control" measures. The respective wording should also provide for a "*backing*" of Member States' activities with a view to the implementation of Community law. **Therefore Member States should be required in Article 1 to take account of participation in EMAS in order to reduce duplication of work when enacting and applying national administrative law.** They should encourage participation in EMAS by using the synergy between relevant environmental legislation and the provisions of EMAS. This is especially important in attracting SMEs to become EMAS certified, and it is important that information on this is clear and easily accessible.

3. Extent of environmental statement

The content of the "environmental statement" is very clearly defined by Article 5 of EMAS Regulation 1836/93. There is no need to revise the wording as is now proposed in Annex III of the draft proposal. If the content of the environmental statement which has been published until now does not always cover all the items specified in Article 5 we must consider that the verifier was wrong in issuing the certificate.

4. Verification frequency

UNICE shares the idea that an environmental statement is an essential part of the transparency of the environmental activity of a registered company. However, 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. Once again this will disproportionately affect SMEs. 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.

5. Benchmarking

The proposed revision of the EMAS Regulation 1836/93 focuses, like the original Regulation, on the continual improvement of environmental performance. UNICE agrees that improving environmental performance should be a driving force of an organisation's management system and that the environmental statement should be able to reflect the improvements made. Article 3.1.d) of the proposed revision requires that "the statement should pay particular attention to the performance of an organisation against its environmental objectives and targets". Further requirements of the statement are defined in Annex III. In general, UNICE agrees with the requirements of Annex III, with the exception of point 3.6 d) where performance indicators require comparison with sector, national or regional benchmarks as appropriate. We believe that this requirement will give rise to confusion, because of its vague wording. Moreover, benchmarking is unnecessary to achieve an insight into an organisation's performance. Organisations should be required to give a clear and understandable picture of their performance. It should be left to the company to decide how it will depict this information.

6. Deregistration

Article 6 of the proposed EMAS revision deals with registration (and deregistration) of organisations. Although we approve of a procedure to refuse or suspend registration we have two strong objections regarding points 1.d) and 1.e) of that article. Paragraph 1.d) makes suspension or deletion from the register dependent merely on the receipt, by the competent body, of information that the organisation is no longer complying with the Regulation. This leaves no room for weighing the pros and cons of suspension or deletion against each other. Therefore we believe an amendment is necessary which will allow the organisation to be given a chance to give its view on the matter before any decision is taken. Article 6.1 e) requires refusal of registration or suspension from the register in case of a breach, based on information from the competent enforcement authority. In UNICE's view, deregistration is not justified if the organisation has demonstrated that its management system had rapidly detected the breach, ensured that the breach was quickly and satisfactorily rectified, and put in place measures to reduce significantly the possibility of a recurrence. We propose replacing the word "shall" in the text of 6.1. e), by the word "may". This will allow the competent body some freedom in judging its response to the nature of the breach.

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