

**Revision of the EMAS Regulation
Commission Proposal**

UNICE Position Paper

In general, UNICE welcomes many of the elements contained in the current proposal, such as the continued voluntary nature of the scheme, the improved structure and layout of the text, and the use of “organisation” as a basis for defining the scope of EMAS. For reasons explained elsewhere, UNICE particularly welcomes the following items:

- Removal of explicit reference to BAT
- Peer Review of Accreditation and Competent Bodies

Nearly four years ago, EMAS became available for industrial organisations, providing a European template for an environmental management system, and setting significant challenges to companies which wished to demonstrate their environmental capability to a wider public. EMAS is now at a crossroads. The initial flush of enthusiasm has faded. So far only a minority of those companies which are able to demonstrate that they have valid environmental management systems and are interested in improving their environmental performance have been registered under the regulation. We are now seeing a slowing in the rate of registrations to the scheme, and it is important to understand why:

EMAS and ISO 14001

UNICE believes that EMAS has been in danger since the advent of ISO 14001 in September 1996 due to the perceived difficulty of differentiating it from the standard. On a European scale EMAS is already outnumbered by ISO 14001. UNICE believes that this reflects the growing importance of ISO 14001 as the worldwide accepted environmental management tool. The question for the medium term is not whether firms will in future adopt EMAS or ISO. The question is rather:

- will they adopt ISO 14001 alone or
- will they adopt ISO 14001 and take part in EMAS as well?

UNICE recognises the difficulty faced by the Commission in achieving the differentiation that is necessary to motivate organisations to adopt the latter approach. Acknowledging the standard as a tool to be used in implementing EMAS was a first important step taken by the

Commission in 1997. UNICE is pleased that the Commission has now integrated parts of ISO 14001 to spare enterprises from duplicating work when both systems are applied. In the meantime, it has clarified the additional requirements of EMAS. This action makes it simpler to use ISO 14001 as a stepping stone for EMAS. That is important in helping EMAS to be a success.

The Commission should take all necessary steps to overcome the present technical problems associated with integration of the relevant section of ISO 14001 in the proposal, since the need to use two different documents might cause unnecessary confusion especially among SMEs.

EMAS as a scheme for “Star performers”?

Creation of an EMAS logo and the increased possibilities for using EMAS in public relations are welcomed by UNICE - especially since there has been a marked lack of public interest experienced by registered companies in the last three years. Nevertheless UNICE doubts that these steps will be sufficient to give EMAS the “push” it needs in order not to become a “niche product”.

As demonstrated in the proposal, the chosen approach of the Commission for the differentiation of EMAS from ISO 14001 is to make it a “badge for star performers”. UNICE doubts the effectiveness of this approach, since star performers are, by their nature, performing to a high environmental standard, and probably have a sufficient number of badges already! Unless EMAS is given a political role that clearly differentiates it from other instruments (award schemes, labels etc.) the attribution of “star performance” alone will not make it a success.

Thus, if the Commission wants companies to use EMAS in order to demonstrate their environmental performance to the public, EMAS should offer substantial advantages that at least equal the additional cost due to its specific requirements. In order to make it worthwhile to take on the extra work that EMAS requires, especially compilation of the environment statement and registration of the company, a clear additional benefit must accrue to those participating in the scheme.

The key issue: Regulatory relief

Many Member States seem to have accepted that EMAS Registration should be looked upon as recognition of good environmental performance and UNICE notes that, as part of that performance, a comprehensive internal environmental auditing procedure is required.

This internal auditing, together with the third party verification process, ensures that organisations meet their legal and other environmental obligations, and have procedures in place to react to and rectify any breaches.

Therefore UNICE considers that a valid differentiation of EMAS Registration from ISO 14001 certification should also be through the provision of some form of direct regulatory relief for EMAS-registered organisations: for example reduced supervision by enforcement authorities and/or simplified planning approval processes, since the agencies are assured (through the third-party verification process) of an organisation’s continued provision for compliance with environmental legislation.

The welcome remarks of the present draft (Article 10) in this respect must be made clearer. It is a matter of providing legal cover for the member states and at the same time inducing them to make an active search for new ways of relieving burdens on enterprises.

Therefore, UNICE proposes that the following wording is used in Article 10.2:

“Member States shall ensure that registration to EMAS according to this Regulation is used in the enactment and application of environmental legislation in particular in order to avoid unnecessary duplication of efforts by both organisations and competent enforcement authorities”

In Addition Article 1 should state that para 3 does not apply in case of measures based on Article 10.2.

Bureaucratic aspects of the proposed Regulation

The regulation is now applicable to any organisation with significant environmental effects. The large majority of companies within the EU are SMEs. UNICE continues to have grave concerns about the scope and breadth of the requirements of the regulation, particularly with regard to:

- (i) The proposed increase in verification and reporting requirements (Article 3. Annex III). The need to produce a validated environmental statement on an annual basis might have a negative impact on the readiness of SMEs to participate in the scheme. Therefore Article 3, Para. 2 should be ***amended in such a way that the validation of an environmental statement shall be carried out within a suitable period of time of up to three years***. The frequency of validation would depend on the a number of factors, in particular experience with environmental management systems, environmental impacts of the organisation, nature, scale and complexity of its activities and of the changes to be expected in the management system. Thus an option for case-specific reductions in work and cost would be created, depending on the verifiers assessment.
- (ii) The extent and detail of the requirements for an environmental aspects analysis, (annex VI) especially with regard to the analysis of indirect effects. UNICE is particularly concerned with section 6.3, dealing with “indirect effects”. Determination of these indirect aspects, not in the direct control of the company, is unlikely to lead to significant environmental improvement even in the long term, since programmes for improvement do not lie within the organisation’s authority.

