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*accompanying the*

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the voluntary participation by organisations in a Community eco-management and  
audit scheme (EMAS)**

**IMPACT ASSESSMENT**

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## 1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

### 1.1. Organisation and timing

#### 1.1.1. Reference to the associated item in Agenda Planning or the Work Programme.

Management plan – G2 – Sub-action 437.1

#### 1.1.2. Purpose of this Impact Assessment

This Impact Assessment has been prepared by DG Environment of the Commission Services to inform the development of the revision of Regulation (EC) No 761/2001 of the European parliament and of the council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)<sup>1</sup>. It follows the guidelines for an Impact Assessment produced by the Secretariat General of the Commission. It has been submitted to the Impact Assessment Board on 27 June 2007 and it has taken the opinion of the Impact Assessment Board of 4 July 2007 into account by elaborating on and adding information on issues identified by the Impact Assessment Board as not yet fully developed.

The Impact Assessment presents an analysis of the situation under Regulation (EC) No 761/2001, identifies the main policy options that have been considered in the context of the revision of the EMAS Regulation, and assesses these options in terms of their environmental, social and economic impacts.

The impact assessment also identifies the main players in the implementation of the scheme and some results expected from the revision, against which to measure the implementation and the effectiveness of the proposed Regulation.

#### 1.1.3. Chronology

Task	Deadline	Status
External evaluation	Dec 04 - Dec 05	Completed
Selected stakeholder consultation	Jan 06 – Dec 06	Completed
Draft main direction revision	May 06 – June 06	Completed
Internal agreement main direction	June 06 – Dec 06	Completed
Draft text Regulation	Dec 06 – May 07	Completed
Impact assessment (incl. stakeholders consultation)	Dec 07 – June 07	Completed
Revise draft text I	July 07 – Feb 08	Completed
Inter-service consultation	March 08 – April 08	In process
Revise draft text II	April 08	To be completed

<sup>1</sup> OJEC L 114 of 24/04/2001, p.1.

Commission adoption new Regulation	May 08	To be completed
EP – Council co-decision	June 08 - End 09	To be completed
Adoption new Legislation	End 09 – Beg 10	To be completed

An inter-service steering group has been formally created, following on from informal contacts and consultations with Units from DG ENV, DG TREN and DG ENTR, which started at the time of the evaluation study of the EMAS and Eco-label schemes.

## 1.2. Consultation and expertise

### 1.2.1. External expertise and stakeholder consultation

The EMAS scheme involves many stakeholders and attracts attention from many interested parties. The Commission services already maintain a dialogue with representatives of the Member States and with the different stakeholders of the EMAS process, in order to follow the practical implementation of the scheme. This has made it possible to monitor the scheme's strengths and weaknesses.

The use of external expertise and a formal round of consultation with EMAS stakeholders (representatives from the business community, including SMEs, and public organisations, EMAS verifiers, EMAS consultants, accreditation bodies, competent bodies, NGOs, national EMAS experts) was nevertheless felt to be necessary to provide the Commission with good grounds to conduct an effective revision process.

- (i) A large-scale evaluation study on EMAS and Eco-label was carried out by a consortium of consultants led by Bocconi University, known as the 'EVER' study<sup>2</sup>

The EVER study was carried out on behalf of DG Environment. It examined how European companies perceive the motives, success factors and benefits in relation to EMAS and it aimed at providing recommendations for the revision of both the EMAS scheme. The EVER study consisted of a desk research, consisting of a thorough review of existing literature and previous studies and surveys on the scheme and the 'in-field' research, carried out by way of direct interviews and case studies. The findings of that research phase were presented, discussed and enriched through a stakeholder engagement exercise, carried out within two workshops held in September 2005, that involved experts, institutions, companies, practitioners and NGO's.

The EVER study showed that EMAS is considered as a mean to integrate environmental concerns in the organisation's collective value system and improve the corporate image. EMAS is not only perceived as a system to reduce costs from waste disposal, energy consumption etc.; it is also seen as a scheme that signals environmental friendliness to the internal and external stakeholders.

Environmental improvements, enhanced image and costs reductions are perceived as far the most important benefits from adopting EMAS. Even

<sup>2</sup> For more information: [http://ec.europa.eu/environment/emas/pdf/everfinalreport1\\_en.pdf](http://ec.europa.eu/environment/emas/pdf/everfinalreport1_en.pdf)

though almost half of the respondents in the EVER study believed that the monetary costs of EMAS outweighed the benefits, more than two third of the respondents considered EMAS as a success when comparing the financial as well as non-financial benefits and costs.<sup>3</sup>

- (ii) In parallel, the REMAS project<sup>4</sup> a three-year project funded by the EU LIFE Environment Fund, and carried out by the UK Environment Agency, the Scottish Environment Protection Agency, the UK Institute of Environmental Management and Assessment and the Environmental Protection Agency in Ireland, was concluded in May 2006.

The objective of the REMAS project was to determine the influence of different types of environmental management systems on site environmental management activities, and their subsequent impact on compliance with legislation and performance against best available techniques.

The REMAS report presents the results of a detailed statistical analysis of the relationship between environmental management systems classification, site environmental management activities and environmental performance, using data that has been collected from a sample of over 300 sites, operating across 8 industrial sectors in 14 European countries.

The REMAS project compares a number of aspects of environmental management between organisations (a) with no environment management system, (b) with a non-certified environment management system, (c) with a standard certified environment management system (ISO 14001) and (d) with an enhanced certified environment management system (ISO 14001 "plus"<sup>5</sup> and EMAS).

The report concludes that:

- there is strong evidence that the adoption of an accredited certified environment management system improves site environmental management activities.
- there is evidence that overall environmental management is better under EMAS than under ISO14001; driven largely by better performance for *Performance Monitoring, Documentation Control and Reporting Environmental Performance*.<sup>6</sup>

The main elements of which an environment management system consists are:

<sup>3</sup> EVER study. "Perceptions of EMAS Registration – A summary report". p.3.

<sup>4</sup> For more information: <http://remas.ewindows.eu.org/>

<sup>5</sup> In practice there is no such standard as 'ISO14001 plus'. This is a nomenclature used only in the REMAS project to test the effect of the registration elements of EMAS.

<sup>6</sup> Nevertheless, it should be kept in mind that even though environmental reports provide quantitative data on performance of EMAS organisations, there are a number of problems with the availability of these data, such as the lack of harmonisation (indicators), different reporting levels and insufficient information on output, etc. Combined with the fact that organisations not participating in EMAS usually have limited reporting obligations as regards environmental performance, comparison between EMAS, ISO 14001:2004 and non-EMAS organisations is difficult to make.

- the environmental policy
- procedures and controls ensuring:
  - operational and risk management,
  - monitoring of environmental performance,
  - compliance with legal requirements,
- documentation control
- management review procedures
- reporting on environmental performance
- commitment to training and awareness raising of employees and
- open communication culture.

The table below gives the estimates for the individual aspects of environmental management.

The values represent the differences in the expected scores for the respective environment management system relative to the “base class” of ISO 14001 (all other factors being equal). A higher coefficient corresponds to better performance.

**Estimated impact of environment management system classification on average environmental management activities, and on individual dimensions of environmental management activities**

	Estimated regression coefficients				
	EMAS	ISO Plus	ISO 14001	Informal	None
Overall	0.09	0.03	0.00	-0.20	-0.38
Environmental policy	0.05	-0.03	0.00	-0.28	-0.53
Operational and risk management	0.08	0.24	0.00	-0.19	-0.27
Commitment to training and awareness	0.04	-0.10	0.00	-0.24	-0.46
Compliance and conformance control	0.00	-0.02	0.00	-0.32	-0.46
Performance monitoring	0.11	0.11	0.00	-0.07	-0.26
Open communication culture	0.02	-0.29	0.00	-0.21	-0.58
Documentation control	0.14	0.16	0.00	-0.09	-0.58
Management review	0.10	0.08	0.00	-0.26	-0.57
Reporting environmental performance	0.21	-0.01	0.00	-0.43	-0.45
<b>Key</b>	<b>+ ve</b>	<b>- ve</b>	<b>Significance level</b>		
			< 5%		
			5% - 10%		
			10% - 20%		



				Not significant			
<p>The REMAS report confirms that:<sup>7</sup></p> <ul style="list-style-type: none"> <li>the results provide strong evidence that the adoption of a certified environment management system (i.e. ISO 14001 or above) improves the quality of site environmental management activities; increasing the overall score of a site with no environment management system by 0.38-0.47 (depending on the type of system adopted), and the score of a site with an informal environment management system by 0.20-0.29. The same is generally true for the individual dimensions of environmental management activities, although there is some variation in the magnitudes of the impacts between the dimensions. However, there is no evidence that the quality of environmental management under ISO14001 is any better than under an informal system for performance monitoring or for documentation control.</li> </ul>							
<ul style="list-style-type: none"> <li>the evidence is mixed regarding the benefits of adopting an enhanced certified EMS, compared to the standard ISO 14001. The sample provides no evidence that the additional features of ISO14001 Plus lead to better site environmental management. While there is some evidence that there may be improvements in relation to operational and risk management, it is not clear why this should be the case. In contrast the sample does provide evidence that site environmental management is better under EMAS than under ISO14001; with the 0.09 increase on the overall EMA being significant at the 10% level. This is driven largely by better performance for performance monitoring, documentation control and reporting environmental performance.</li> </ul>							

- (iii) The Member States bodies running the EMAS scheme (Competent Bodies, Accreditation Bodies) organised a number of stakeholder meetings and seminars on the future of the scheme, producing recommendations for its revision in the future.<sup>8</sup>
- (iv) Member States representatives to the Article 14 committee of the EMAS Regulation (Comitology meeting) have also been consulted at each stage of the revision process and have provided input into the revision work of the Commission on 20 June 2005 (Brussels), 22 November 2005 (Turin), 29-30 June 2006 (Luxembourg) and 13-14 November 2006 (Athens).<sup>9</sup>
- (v) As part of the consultation process, the Commission organised 4 working group meetings with selected EMAS experts comprised of EMAS verifiers, consultants, accreditation bodies and competent bodies on 17 May, 9 June, 20 July and 27 July 2006, in order to analyse in details the pros and cons and

<sup>7</sup> REMAS final report p. 23.

<sup>8</sup> For more information: <http://ec.europa.eu/environment/emas>.

<sup>9</sup> See Annex I: minutes of the Emas Article 14 meetings.

practical feasibility of specific options proposed to revise the EMAS Regulation.<sup>10</sup>

- (vi) The Commission visited selected Member States to gather their opinion on the revision of the Regulation, at which occasion Member States and other interested parties put forward their ideas for the future of the scheme.
- (vii) The Commission services organised a revision workshop on 11-12 December 2006 with a selected group of around 100 EMAS experts representing the different actors involved in the different Member States, in order to gather feedback on the draft Commission proposals for the revision of the scheme.<sup>11</sup>
- (viii) Finally, as part of the Impact Assessment, a public stakeholder consultation using the integrated policy making (IPM) internet consultation tool was launched in December 06 and ended on 26 February 2007. This on-line questionnaire enabled all types of stakeholders and interested parties to input their opinion on the different options for the EMAS revision. The results have been analysed and broadly confirm the main directions and revision options envisaged.<sup>12</sup>

The inputs received were particularly useful in helping the Commission services to clearly identify the needs and expectations of European organisations that are or may be interested in participating in the scheme. They also helped identify the potential practical implementation problems of the options investigated by the Commission and helped investigate alternative options and actions.

Because of the varied nature and interest of the different stakeholders, sometimes contradictory, it was not possible for the Commission to take on-board all of the suggestions. When this was the case, a rationale is included in the Commission's decision / options put forward as to why such ideas were considered, but not taken on board.

#### *1.2.2. Commission's minimum standards on consultation*

The Commission's minimum standards on consultation<sup>13</sup> have been met. The time allowed for stakeholders to reply to the internet stakeholders consultation was more than 8 weeks, the minimum standard for the Commission. Additionally, as outlined above, extensive stakeholder consultation has been on-going with all types of stakeholders and interested parties during the course of the entire year 2006

#### *1.2.3. Main results*

Both the EVER study and the REMAS showed that there is evidence that EMAS leads to better site environmental management activities than other existing environmental management systems. Indeed, EMAS not only defines an environmental management system for a given organisation, like ISO 14001, it also requires full legal compliance and continuous improvement of an organisations environmental performance by setting objectives and, through the definition of

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<sup>10</sup> See Annex II: minutes of the working group meetings.

<sup>11</sup> See Annex III: minutes of the revision workshop on 11-12 December 2006 .

<sup>12</sup> For more information: [http://ec.europa.eu/environment/emas/consultation\\_en.htm](http://ec.europa.eu/environment/emas/consultation_en.htm).

<sup>13</sup> COM(2002)704: Communication from the Commission: Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission.

environmental indicators, measurement and publication of the organisation's performance.

On the other hand, EMAS has not reached its full potential in terms of diffusion, due to a wide range of reasons, amongst which the costs of EMAS, the low management commitment and the paperwork/bureaucracy were considered by the respondents in the EVER study as the three most important barriers for adoption of EMAS.

These conclusions were supported by most consulted stakeholders and were taken into account when the Commission services analysed the options identified for the revision of the scheme, and took a decision on its proposed future direction and on the changes that are needed to the current EMAS Regulation.

## **2. PROBLEM DEFINITION**

### **2.1. Description of the problem**

#### *2.1.1. Background*

On 29 June 1993, the Council adopted Regulation (EEC) N° 1836/93 allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme. This Regulation - known as the EMAS Regulation - entered into force on 13 July 1993 and was opened to industrial participation since April 1995.

On 19 March 2001, the European Parliament and the Council adopted Regulation (EEC) No 761/2001, which revised and expanded the scope of EMAS by allowing voluntary participation by any type of organisation (not just industrial companies) in the scheme.

When it entered into force the scheme represented, and still represents, a direct response to some of the key principles embodied in the 5<sup>th</sup> and 6<sup>th</sup> Environmental Action Programme, in particular the concept of broadening the range of instruments and of promoting an approach of shared responsibility with business in the area of environmental protection.

The sixth Environmental Action Programme<sup>14</sup> identifies the improvement of collaboration and partnership with enterprises as a strategic approach to meeting environmental objectives. Voluntary commitments are an essential part thereof. Encouraging a wider uptake of the Community's eco-management and audit scheme (EMAS) and the development of initiatives to encourage companies to publish rigorous and independently verified environmental or sustainable development performance reports is regarded as necessary in this context.

The mid-term review of the Sixth Community Environment Action Programme<sup>15</sup> recognises that there is a need to improve the functioning of the voluntary instruments that have been designed for industry and that these tools have a great potential but have not been fully developed. It calls upon the Commission to revise these schemes in order to promote their uptake and reduce administrative burdens in their management.

EMAS is part of the overall objective of promoting sustainable production and consumption patterns, by providing a framework for the effective management of environmental impacts and for continuous improvement in the environmental performance of all organisations (small or large, from the private or public sector) in Europe.

EMAS represents an alternative approach to environmental protection through the use of market mechanisms and the integration of environmental considerations into the core of company management. At the same time the scheme is complementary to the traditional command-and-control approach.

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<sup>14</sup> Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme; OJ L 242 of 10/09/2002, p.1

<sup>15</sup> COM(2007) 225 final: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Mid-term review of the Sixth Community Environment Action Programme, adopted by the Commission on 30/04/2007; not yet published.

The scheme is a market-based instrument which provides for voluntary participation. This means that rather than relying on traditional enforcement measures through national regulators it is intended to generate peer pressure and supply chain pressure to encourage organisations to participate. Even though participating in the EMAS Regulation is on a voluntary basis, once participating in the system, an organisation must comply with all the requirements of the Regulation. This ensures a credible and rigorous approach to environmental management.

The scheme is aimed to reconcile both economic and environmental concerns by allowing organisations to set their own environmental objectives as a result of examining their environmental performance. Participating organisations can thus address environmental issues within the framework of their economic considerations.

EMAS also embodies the qualities of credibility and transparency. The implementation of the scheme in organisations is independently verified by an accredited environmental verifier. This verifier also checks the reliability of the data and information in the environmental report which is used by participating organisations to communicate information about their environmental performance to stakeholders and the public.

Article 15 of the Regulation provides for the revision of the Regulation to take place not more than five years after its entry into force:

*The Commission shall review EMAS in the light of experience gained during its operation and international developments no later than five years after the entry into force of this Regulation, and shall, if necessary, propose to the European Parliament and Council the appropriate amendments.*

This provision reflects the dynamic nature of the scheme which, as a market-based instrument, needs to improve on the basis of findings related to its practical implementation and in conjunction with the evolving views of its stakeholders.

## **European Union Environment Management and Audit scheme – an overview**

### **THE MAIN ELEMENTS OF THE SCHEME**

#### **THE ACTORS**

**The Commission** develops and supervises the scheme at the EU level. It co-ordinates also pan-European promotion activities, and has set up an EMAS Helpdesk to support the Commission, in particular with requests from companies and the public.

**Member States** are responsible for establishing EMAS within their country and have to provide the Commission with information on the implementation of the scheme. They designate and supervise the Competent Bodies and the Accreditation Bodies and develop guidelines for suspension and deletion of the registration of organisations. The Member States promote the participation of companies and other organisations in EMAS on a national level.

**Competent Bodies** are designated by the Member States and are independent and neutral bodies responsible for organising the registration process of organisations within their own territory. They issue registration numbers to organisations which have submitted a validated environmental statement, collect any payable registration fee, refuse, suspend and delete organisations from the register and respond to enquiries concerning organisations on the national EMAS register.

**The Article 14 Committee** is the Steering Committee of EMAS. Chaired by the Commission, it represents the Member States, and interest groups such as industry, unions, environmental NGOs etc. The Committee meets several times a year to support the Commission in practical issues concerning the implementation of

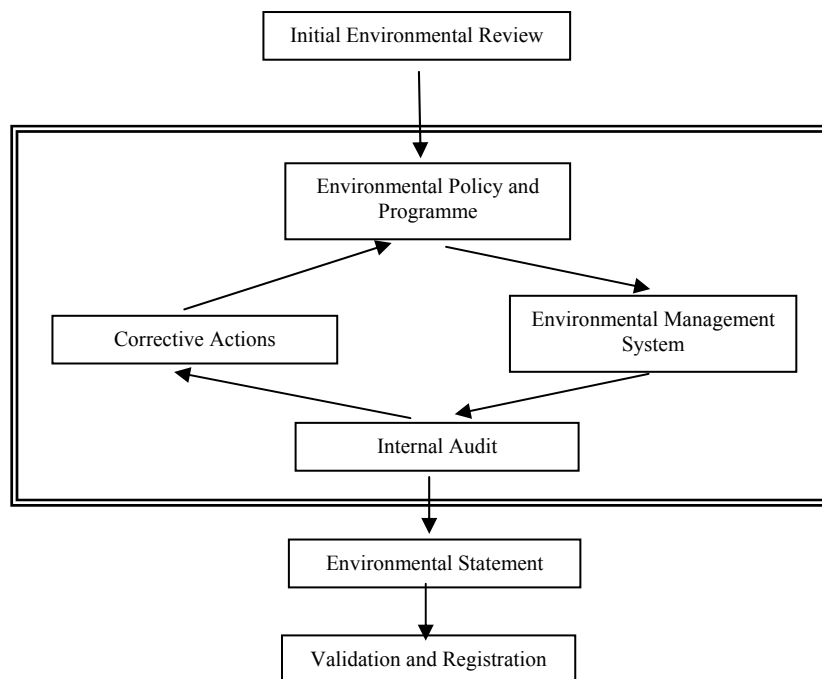
the EMAS Regulation. Areas in which the Committee has to be involved are defined by the Regulation.

An **Accreditation Body** is an independent, impartial institution or organisation responsible for the accreditation and supervision of environmental verifiers and designated by the Member State. It establishes, revises and updates a list of environmental verifiers and their scope of accreditation (according to NACE codes) in their Member State. Consistency of procedures relating to the verification process is ensured by a peer review process of all Accreditation Bodies which meet at least once a year in the "Forum of Accreditation Bodies" (FAB) to exchange information and disseminate best practice.

**EMAS verifiers** are independent organisations or individuals with expert knowledge in the field of EMAS that have been accredited by their Accreditation Bodies. They have to ensure that organisations seeking registration are in compliance with the requirements of the EMAS Regulation. Verifiers are responsible for checking that an organisation is in legal compliance, has carried out an initial environmental review if appropriate, has a fully operational environmental management system which is audited in a systematic, objective and periodic way and that it has prepared an environmental statement in accordance with the EMAS Regulation. They also verify the reliability, credibility and correctness of the data and information in the environmental statement and other environmental information provided by organisations.

### THE PROCEDURES

The core of the EMAS scheme is the so-called "continuous improvement circle". The elements of this circle are presented in the following diagramme:



#### *Development of an environmental policy*

As a first step, an organisation intending to participate in EMAS has to develop an environmental policy, describing its overall aims and principles of action with respect to the environment. The environmental policy, should address all significant environmental issues, should contain a commitment to comply with environmental legislation and should contain a commitment to achieve continuous improvements in its environmental performance.

#### *Initial environmental review*

Following the development of an environmental policy the organisation has to carry out an initial environmental review, which is an initial comprehensive analysis of the environmental problems caused by an organisation's activities. The purpose of this review is to identify the most significant environmental impacts - and therefore possible priorities to be set in the environmental programme - and to lay down a

benchmark to measure future success in reducing these impacts.

#### ***Development of an environmental programme***

The organisation next has to develop an environmental programme, which translates the general objectives established in the environmental policy into specific targets, determining concrete measures, time frames, responsibilities, and the resources necessary in order to meet them. This environmental programme has to be updated regularly.

#### ***Establishment of an environmental management system***

In order to ensure the successful implementation of the environmental programme, the organisation has to establish an environmental management system, including:

- the environmental policy
- procedures and controls ensuring:
  - operational and risk management,
  - monitoring of environmental performance,
  - compliance with legal requirements,
- documentation control
- management review procedures
- reporting on environmental performance
- commitment to training and awareness raising of employees
- open communication culture,

#### ***Carry out an internal environmental audit***

Once an environmental management system has been established, an internal audit has to be carried out in order to evaluate the organisation's the environmental performance based on the objectives spelled out in its environmental programme. The audit must be repeated regularly in order to guarantee continuous improvement. The outcome of the environmental audit is a report in which possible corrective actions are suggested to guarantee continuous improvement of the company's environmental performance.

#### ***Develop an environmental statement***

After the internal audit has been carried out, the organisation has to develop an environmental statement, that the organisation's its environmental efforts and achievements describes, as well as the requirements for continuous environmental performance.

#### ***Validation and Registration***

When all of the above has taken place, an independent verifier certifies that the organisation's environmental policy, its EMS, the environmental audit and the environmental statement comply with the rules of the EMAS Regulation. After the validated statement is sent to the Competent Body it has to be made publicly available. Then the organisation is listed in the register of EMAS organisations and has the right to use the EMAS logo.

In case an EMAS registered organisation no longer meets all requirements, the relevant competent body shall suspend or delete the registration as appropriate.

#### **THE CURRENT LEGAL FRAMEWORK**

The main instrument of the system is Regulation (EC) No 761/2001 of the European parliament and of the

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<sup>16</sup> OJEC L 114 of 24/04/2001, p.1.

council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)<sup>16</sup>. Annex I of this Regulation has been amended<sup>17</sup> and the Regulation has been complemented by a number of guidance documents<sup>18</sup>, parts of which are binding.

### 2.1.2. *Main problem identified*

It is in that context that a review of both the EMAS and the Eco-label schemes was carried out in 2005. This review identified the strengths and weaknesses of both schemes and proposed options to improve the effectiveness of both Regulations.

The strength of the EMAS system, which is the reason why the European Union and the Member States have tried to position EMAS as the best standard for environmental management, is believed to be those features that go beyond the other existing environment management systems.

As described before on pages 7-10 of this document, the EVER and REMAS studies confirmed that, compared to organisations having no or other environment management systems, organisations registered under EMAS are likely to reach the highest level on the aspects of environmental performance improvement and compliance with environmental legislation.

The review shows that at micro-level, EMAS achieved its objectives as it significantly improves the environmental performances of participating organisations.<sup>19</sup>

94% of the respondents in the EVER study stated to have experienced improvements in environmental performance over the recent years, especially in the areas of:

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<sup>17</sup> Commission Regulation (EC) No 196/2006 of 3 February 2006 amending Annex I to Regulation (EC) No 761/2001 of the European Parliament and of the Council taking account of the European Standard EN ISO 14001:2004. (OJEC L 32 of 4/02/2006, p.4).

<sup>18</sup> Decision 97/264/EC of 16 April 1997 on the recognition of certification procedures in accordance with Art. 12 of the Council Regulation (EEC) No 1836/93 of 29 June 1993, allowing voluntary participation by companies in the industrial sector in a Community eco- management and audit scheme. (OJEC L 104 of 22/04/1997, p.35).

Recommendation (EC) 680/2001 of 7 September on guidance for the implementation of Regulation (EC) No 761/2001 (7/9/2001) of the European Parliament and of the Council allowing voluntary participation by organisations in a Community eco-management and audit scheme. (OJEC L 247 of 17/09/2001, p.1) and

Decision (EC) No 681/2001 of 7 September 2001 on guidance for the implementation of Regulation (EC) No 761/2001 of the European Parliament and of the Council allowing voluntary participation by organisations in a Community eco-management and audit scheme. (OJEC L 247 of 17/09/2001, p.24);

Commission Recommendation (EC) No 2003/532/EC of 10 July 2003 gives guidance in the selection and use of environmental performance indicators in EMAS. Standard indicators enable benchmarking among organisations attributed to the same sector. (OJEC L 184 of 25/07/2003, p.19.);

Commission Decision of 1 March 2006 laying down rules, under Regulation (EC) No 761/2001 of the European Parliament and of the Council, on the use of the EMAS logo in the exceptional cases of transport packaging and tertiary packaging (notified under document number C(2006) 306) (1) (OJEC L 70 of 9 March 2006, p.63)

<sup>19</sup> General figures to what extent EMAS improves the general environmental performance of organisations are difficult to give because (1) performance improvement can be operationalised in different ways (often improvements on some indicators and worsening on others); (2) it is difficult to assess whether a change in performance is caused by EMAS or by other factors and (3) the quantitative data of the environmental statements of EMAS organisations are difficult to compare due to the lack of harmonisation in reporting (different indicators, different reporting levels).

Different case studies present the benefits of EMAS to individual organisation. See [http://ec.europa.eu/environment/emas/casestudies/eltinter\\_en.htm](http://ec.europa.eu/environment/emas/casestudies/eltinter_en.htm).

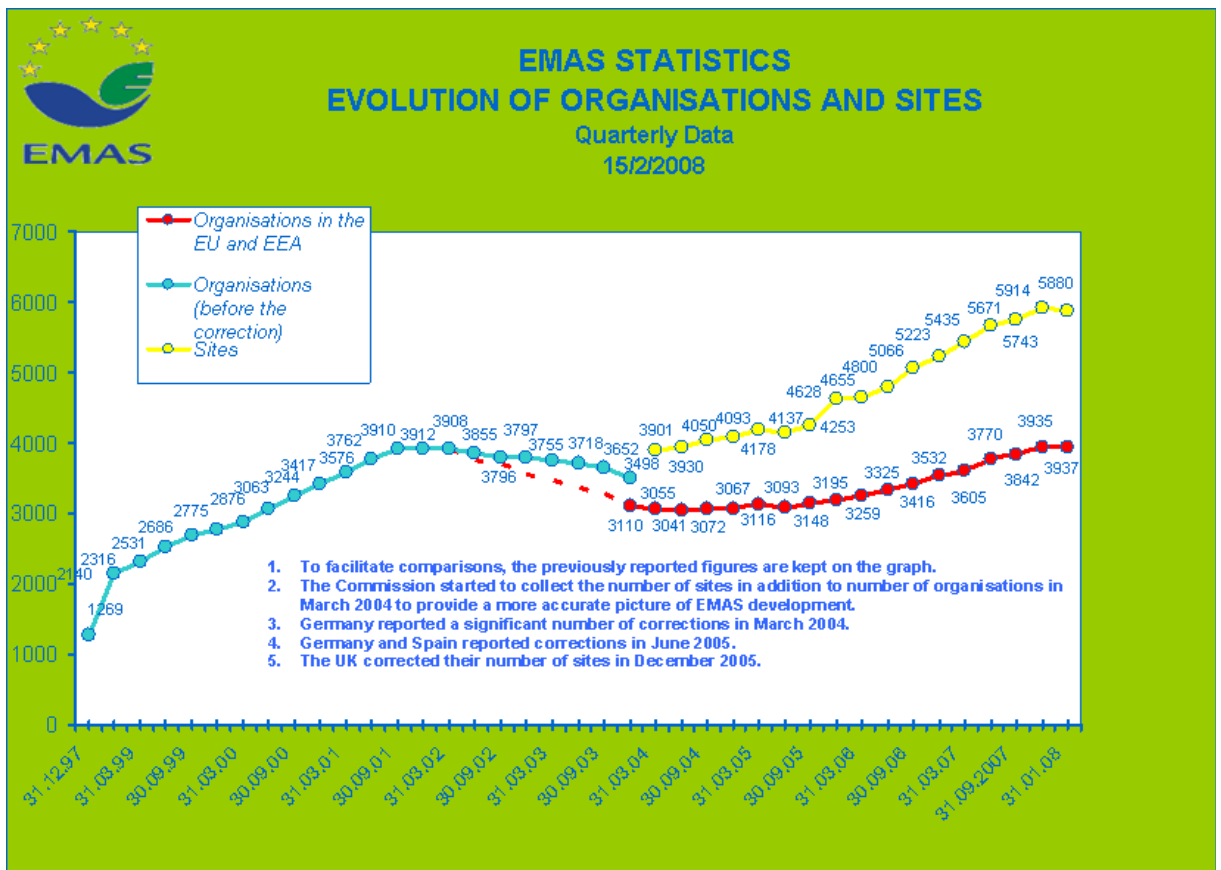


- solid and hazardous waste (86% of the respondents);
- resource and energy use (82% of the respondents);
- incidents and accidents (76% of the respondents);
- emissions to air (65% of the respondents) and
- releases to water (67% of the respondents)

EMAS is therefore, in theory, an instrument that enables the EU to take forward its environmental agenda, leading to environmentally beneficial changes in production and consumption patterns.

However, the review also shows that at macro-level, the scheme has not reached its full potential in terms of diffusion. Even though EMAS registrations continue to grow steadily, with a total of more than 5,000 registered sites in Europe in 2007, this still represents only a very small proportion of the number of organisations that could potentially use the scheme.

The figure below gives an overview of the take-up of EMAS in the participating countries. The decline in numbers of registrations after the revision of the first EMAS Regulation is due to the fact that under the first Regulation each site was registered separately whereas under the current Regulation, organisations can be registered. One registration can therefore cover different sites. Corrections have been made to the numbers later on.



Despite the intention of the European Union and the Member States to position EMAS as the best standard for environmental management, the EVER study revealed that even though EMAS is often considered in literature as a standard of

excellence, 62% of all respondents in the EVER study thinks that EMAS is regarded and used as "best practice" for environmental management among industrial sectors or other types of organisations. Of the respondents in the EVER study that are not participating in EMAS, this percentage drops to 36%.

## **2.2. The underlying drivers of the problem**

The evaluation study and stakeholder consultations have clearly identified several causes for the problem identified above:

### *2.2.1. Lack of clarity with regard to the legal requirements*

In order to become or remain registered under EMAS, organisations must demonstrate that they fully comply with all requirements of environmental legislation.

One of the most significant benefits of this requirement is that it improves an organisations capability to meet the applicable environmental legal and regulatory requirements. About 70% of the respondents in the EVER study perceived the guarantee of legal compliance as one of the most significant benefits of EMAS.

At the same time, organisations, especially SMEs, making up a large part of Europe's economy, representing about 99% of all enterprises and 57% of economic value added, are often not fully aware of the environmental impacts of their activities and are not always able to exactly define the legal environmental requirements they are obliged to meet.<sup>20</sup> As a result, even though this requirement is perceived as one of the elements that makes EMAS a strong and reliable indication of legal compliance for stakeholders and enforcement authorities, the practical difficulties for organisations in the identification of relevant legal obligations may bring organisations to decide not to go for EMAS but rather for another environment management system that does not contain this requirement.

### *2.2.2. The system of reporting is not harmonised or uniform*

EMAS organisations are obliged to publish annually a report, the environmental statement, that provides quantitative data on their environmental performance. Under the current Regulation, the reporting system is not harmonised between firms and as a result different organisations use different indicators for measurement of their environmental performance and may have different reporting levels. This reduces the benefits of EMAS as an effective way of communicating environmental performance.

Nevertheless, as indicated before on pages 8-10 of this document, the REMAS study confirmed that, compared to organisations having no or other environment management systems, organisations registered under EMAS are likely too reach the highest level on the aspects of environmental performance improvement and compliance with environmental legislation.

### *2.2.3. Procedures for accreditation and supervision of verifiers are not harmonised*

The current EMAS Regulation defines the principles which govern accreditation and supervision of environmental verifiers. The text of the Regulation is general and it

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<sup>20</sup> COM(2007) 379 final: Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Small, clean and competitive. A programme to help small and medium-sized enterprises. Not yet published.

requires Member States to set up the detailed procedures through their national accreditation systems. Some Member States have introduced detailed and strict rules, whereas others have more lax rules. In the Forum of Accreditation Bodies efforts are constantly being undertaken to reach consistency and a harmonized approach through sharing of experience and through its supervisory role.

Despite the gradual improvement and harmonisation of the implementation of the system, mainly due to efforts made in the Forum of Accreditation bodies and Competent bodies, important differences still exist in Member States with regard to accreditation and verification. This may lead to different "quality levels" of verification (especially with regard to the legal compliance of an organisation) and control of verifiers activities, which potentially undermines the credibility of EMAS.

#### *2.2.4. Uneven promotion and marketing of the scheme in Member States*

Many observers have identified the lack of knowledge on EMAS (and therefore lack of reward for the market, the stakeholders and the public institutions) as one of the most relevant barriers for the development of the scheme. Promotion activities, raising awareness of the scheme, have a potential of influencing the uptake of the scheme.

When EMAS was introduced in the 90ties, some Member States, like Germany, Spain and Italy, strongly promoted the scheme, whereas other Member States have hardly promoted EMAS at all. With the enlargement of the European Union, a new market for enlarging the potential for new registrations emerged in the new Member States.

As a consequence, even after more than 10 years of existence, the scheme, including its characteristics and advantages, is still not well known by potential users in many Member States.

#### *2.2.5. Uneven support in the Member States of EMAS by way of financial, fiscal and market-related measures*

The heterogeneous diffusion of the scheme in terms of number of registrations is linked to the efforts that each Member State (together with local and regional institutions) makes in defining and implementing different forms of external incentives. These incentives may be of financial, fiscal and market-related institutional measures.<sup>21</sup> When EMAS was introduced in the 90ties, some Member States like Germany, Italy and Spain, heavily subsidized the scheme, mainly by direct funding provided by means of promotion projects. Financial support has however been reduced over time and this is seen by many observers as one of the reasons for stagnation of the participation.

Participants in the EVER study identified the lack of external incentives as one of the main barriers for maintaining EMAS.

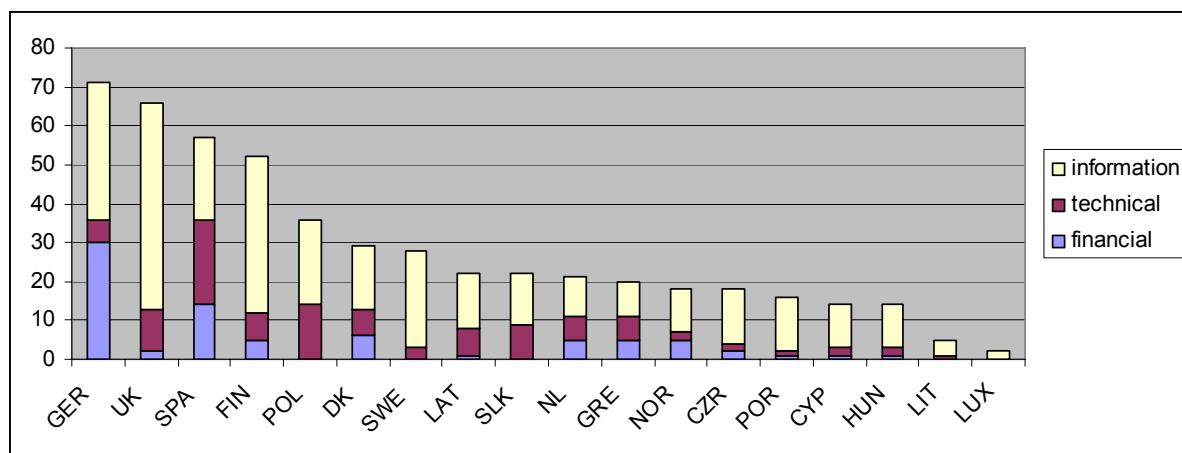
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<sup>21</sup> Document COM(2004)745: report from the Commission to the Council and the European Parliament on incentives for EMAS registered organisations and the annex to this report, documents SEC(2004)1375 confirm that practically all Member States apply measures that provide some sort of external incentives for EMAS-registered organisations. These incentives vary considerably and range from e.g. waiver of the obligation to nominate a waste or waste water representative for EMAS registered organisations; direct financial support for the training of employees of EMAS registered companies to the provision of reduced loans for EMAS registered industries.

There is a clear link between the number of support initiatives in the Member States and the uptake of the scheme in the individual Member States, with high uptake in those Member States with a higher number of initiatives.

The chart below shows the number of information, financial, and technical assistance initiatives undertaken by Member States<sup>22</sup> between 2001 and 2005.<sup>23</sup>

	DE	UK	ES	FI	PL	DK	SV	LA	SL	NL	EL	CZ	PT	CY	HU	LIT	LU
financial	30	2	14	5	0	6	0	1	0	5	5	2	1	1	1	0	0
technical	6	11	22	7	14	7	3	7	9	6	6	2	1	2	2	1	0
information	35	53	21	40	22	16	25	14	13	10	9	14	14	11	11	4	2
<b>total</b>	<b>71</b>	<b>66</b>	<b>57</b>	<b>52</b>	<b>36</b>	<b>29</b>	<b>28</b>	<b>22</b>	<b>22</b>	<b>21</b>	<b>20</b>	<b>18</b>	<b>16</b>	<b>14</b>	<b>14</b>	<b>5</b>	<b>2</b>



The result of the uneven promotion and support of the scheme in Member States is currently a very incoherent picture of EMAS uptake in the EU. Most organisations are registered in only a few Member States (those who promoted the system, like Germany, Italy and Spain). The table below gives the number of EMAS registered organisations and sites per Member State at the end of May 2007.

	organisations	sites
Germany	1464	1954
Spain	905	1090
Italy	755	1046
Austria	252	488
Denmark	96	249
Sweden	71	72
The UK	69	369
Portugal	61	66
Greece	56	59
Finland	41	48
Belgium	42	336

<sup>22</sup> No information available on Austria, Belgium, Estonia, France, Ireland, Italy, Malta and Slovenia.

<sup>23</sup> Overall analysis of EMAS promotions survey carried out by DG Environment in 2006. Not yet published.

Czech Republic	28	30
France	13	13
The Netherlands	11	15
Ireland	6	6
Hungary	13	16
Poland	7	7
Slovakia	5	5
Estonia	2	2
Slovenia	1	1
Malta	1	1
Luxembourg	0	0
Lithuania	0	0
Latvia	8	13
Cyprus	0	0
Bulgaria	0	0
Romania	1	1
<b>TOTAL</b>	<b>3908</b>	<b>5887</b>

#### 2.2.6. *Organisational and financial barriers for implementation of EMAS*

The main organisational costs of implementation of EMAS are staff costs, verification and registration costs. In the majority of cases, considerable consultancy costs are incurred in the development of the EMAS prior to verification. The studies identified that one of the main barriers to achieving the first EMAS registration are the total costs of implementation (including consultancy costs). These costs vary according to the level of ambition of the specific EMAS to be developed and of the size of the organisation involved, which is illustrated by the following examples.

Kirklees Metropolitan Council (UK) with 400.000 inhabitants, 17.000 employees and a council area of over 40.000 hectares spends about 157.000 € for operation costs including environmental auditing, environmental training, verification and salaries of two officials.<sup>24</sup>

Volkswagen spent up to 90.000 € on the internal costs for the first implementation of EMAS within Volkswagen site at Wolfsburg (50.000 employees) in 1995.<sup>25</sup>

The lack of resources other than financial ones is identified by both literature and the respondents in the EVER study as another internal barrier for the uptake of EMAS. Barriers are the insufficient availability of management time, inadequacy of human resources such as personnel with the proper skills, expertise and technical background.

Especially for SMEs this is a relevant problem. A study carried out by the Strategic SME group in 2005<sup>26</sup> shows that the SME respondents identified as the most important barriers for implementing an environment management system:

- lack of time (36% of the respondents)
- lack of staff resources (31% of the respondents)

<sup>24</sup> ECO management and audit scheme toolkit for local authorities –Global to local ltd. 2004 available at [http://ec.europa.eu/environment/emas/local/pdf/la\\_toolkit\\_commission\\_020204\\_en.pdf](http://ec.europa.eu/environment/emas/local/pdf/la_toolkit_commission_020204_en.pdf)

<sup>25</sup> [http://ec.europa.eu/environment/emas/casestudies/vw\\_en.htm](http://ec.europa.eu/environment/emas/casestudies/vw_en.htm)

<sup>26</sup> EVER: Evaluation of EMAS and Eco-label for their revision; report 2: research findings; p. 37.

- lack of know-how in the enterprise (21% of the respondents)

The cost of registration was also identified as a significant issue for smaller organisations, especially micro-organisations. Where a number of Member States do not require any fee for registration<sup>27</sup>, some of the fees required for the first registration in Member states<sup>28</sup> may even have a prohibitive effect.

The costs for external consulting and verification are identified as being a higher barrier for implementation of EMAS than the registration fees. The amount to be spent on consulting and verification vary considerably from organisation to organisation and depend on the number of days (which depends again on the tasks conferred upon the consultant or verifier) and the fees charged by the consultant or verifier.<sup>29</sup>

#### 2.2.7. *Lack of clarity about the benefits of EMAS*

Organisations can benefit in many ways from implementing EMAS. For example, more sustainable use of resources gives financial advantages; a better public image; reduced risk of non-compliance with environmental legislation; improved relations with environmental regulators and other stakeholders, and proper risk management, which in turn may prompt lenders and insurers to offer better financial terms. However, the benefits of participating in EMAS are difficult to measure and are therefore often based on subjective estimates.

47% of the respondents in the EVER study believed that the monetary costs outweighed the monetary benefits, whereas 24% believed it was the other way around. Still the majority of respondents in the EVER study (73%) considered EMAS a success; 64% of the respondents who believed that the monetary costs from adopting EMAS outweighed the benefits, considered that the financial and non-financial benefits outweighed the costs.<sup>30</sup>

The over all benefits depend often on a wide variety of both internal and external factors that can be different for each organisations, which is illustrated by the following examples.

Volkswagen spent up to 90.000 € on the internal costs for the first implementation of EMAS within Volkswagen site at Wolfsburg (50.000 employees). According to Volkswagen, the costs of audits and man days used

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<sup>27</sup> Belgium, Cyprus, Czech Republic, Estonia, France, Greece, Hungary, Italy (for public authorities), Latvia, Lithuania, the Netherlands and Spain.

<sup>28</sup> Different fees for first registration are required. These range from 18€ to 2234 € [Austria: 508,70 €; Denmark: 140 – 280 €; Finland: 125 – 250 €; Germany: 230 – 880 €; Ireland: 1350 €; Italy: 50 – 1500 €; Poland: maximum of 250 €; Portugal: 750 – 2234 €; Slovakia: 54 – 1345 €; Slovenia 18 €; United Kingdom 1220 – 2160 €. No information available for Malta]

<sup>29</sup> For a medium-size organisation with about 50 employees, average consulting costs are average about 12.000 €, whereas the cost for verification range from about 500 to 8000 €. It is however difficult to give exact figures for consulting and verification costs. Prices charged by consultants and verifiers are market-based and differ considerably: the fees in some Member States are five times higher as in other Member states and vary between 250 and 1250 € per day. The number of days used for consulting and verification are also different from Member State to Member state as this depends to a large extent on "cultural" differences.

<sup>30</sup> Even though there is no systematic statistical information available on the reasons for leaving the EMAS system, companies mention as the most important reason the insufficient cost-benefit ratio. A considerable number of organisations leaving the EMAS system, maintain partly their environmental management system depending upon the needs of the organisation.

in EMAS implementation are covered on the one hand through savings due to improved waste separation and recovery, intensified measures for energy savings and reduced material input through innovative production processes and on the other hand through savings as a result of reduced fees (-30%) in permit procedures with regard to the Federal Ambient Pollution Control Act in Lower Saxony and Hessen as well as savings as a result of application of an especially developed software "SEBU" to evaluate environmental impacts and better logistics<sup>31</sup>.

Kirklees Metropolitan Council (UK) spent about 157.000 € on implementation of EMAS. It recognises that these costs have more than paid back not only through resource savings arising from environmental management activities, but also through the availability of additional external funding opportunities.

Resource savings resulted from:

- building energy savings (145.000 €),
- fuel cost savings from 45 projects supported by the Council's Energy and Water Conservation fund (137.000€),
- fuel cost savings from switching a number of vehicles over to dual fuel (79.000 €),
- waste disposal savings (15.800 €) in spite of increased waste disposal taxes and savings in vehicle insurance and fuel consumption costs after employee training in improved driver awareness and ECO driving techniques (31.700 €).

Examples of the external funding obtained relate to the:

- establishment of a regional Energy Agency and Energy Efficiency Advice centre (332.400 €),
- fitting a number of water conservation devices in Council owned houses (292.900 €) and
- funding for a "Food Futures" project aimed at encouraging the use of locally produced food in order to reduce the amount of travel that food had to be transported.<sup>32</sup>

A recent OECD study<sup>33</sup> shows that environmental-commercial "win-win" situations exist, mainly at the level of the individual organisation. These "win-wins" are not induced through public policy, but emerge as a consequence of incentives internal to the organisation. Organisations are undertaking initiatives to improve environmental performance which are in their private commercial interest (cost savings, reduced liabilities, etc.) and public authorities are focusing only on the measures that would otherwise not be undertaken.

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<sup>31</sup> [http://ec.europa.eu/environment/emas/casestudies/vw\\_en.htm](http://ec.europa.eu/environment/emas/casestudies/vw_en.htm)

<sup>32</sup> ECO management and audit scheme toolkit for local authorities –Global to local ltd. 2004 available at [http://ec.europa.eu/environment/emas/local/pdf/la\\_toolkit\\_commission\\_020204\\_en.pdf](http://ec.europa.eu/environment/emas/local/pdf/la_toolkit_commission_020204_en.pdf)

<sup>33</sup> Environmental Policy and Corporate Behaviour, Edited by N Johnstone; Empirical Policy Analysis Unit, OECD Environment Directorate, France; published by Edward Elgar Publishing Limited; © OECD, 2007.

The study also shows that most of the "win-win" opportunities relate to supply-side factors (such as cost savings) rather than demand-side opportunities.

However the EVER study highlights that competitive advantages directly related to the market response, such as higher customer satisfaction, increase in turnover or market share and better relations with stakeholders, particularly with reference to the relation with institutional actors and with the local communities, are currently among the motivations that would drive potential new applicants to participate in EMAS. The fact that these competitive advantages are currently limited, this might deter would-be participants, as well as not motivating existing participants to remain in the scheme.

#### 2.2.8. *Coexistence of other environment management systems*

Different national environment management systems currently exist.

The last years, alternative and simplified environment management systems have been developed in a number of countries. Most of them are limited territorially to the country or a specific region. A number of these management systems are set up as a "staged approach" and aim at offering a stepwise approach to ISO 14001 or EMAS. Other environment management systems present themselves as alternatives to EMAS or as systems for markets that are currently not covered by EMAS. These environment management systems are therefore competing with EMAS and ISO 14001.

The standard ISO 14001 is currently the only international standard for environmental management systems. The requirements of ISO 14001 are integrated into the EMAS Regulation. The EMAS Regulation contains a number of important additional requirements that go beyond the ISO 14001 standard.<sup>34</sup>

The existence of this variety of environment management systems leads to a lack of clarity about the added value of EMAS.

Under most of the national systems, registration is easier to obtain than registration under EMAS. Also under ISO 14001 certification is easier to obtain than registration under EMAS. As a result, some of these environment management systems have achieved greater success and wider take-up than EMAS in the EU. Especially ISO 14001, with some 35,000 certifications in Europe, has achieved greater success with organisations that have international presence or trade abroad, which is due both to the fact that certification under ISO 14001 is easier to obtain and to the fact that ISO 14001 is the only standard for environmental management systems that is globally applicable.

The existence of alternatives emphasises the effects of the other drivers of low uptake of EMAS, as organisations are both unclear about the differences between schemes and are more likely to choose an alternative management scheme where they perceive disadvantages with EMAS. It suggests that the added value and uptake of EMAS would increase if it more clearly differentiated itself from other management schemes, particularly on geographic scope and quality as an indicator of performance.

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<sup>34</sup> See section 4 (4) at p. 34-35.



### 2.2.9. *Insufficient integration with other community policies / instruments*

The evaluation studies have highlighted that there is a request from virtually all stakeholders to better integrate EMAS with other legislation at EU and national level, in order to allow candidate and participating organisations an easier and more effective implementation of these other pieces of legislation. This would be an incentive for organisations to join the scheme which is presently not existing, or at least not clear.

### 2.2.10. *Limited geographical scope of EMAS*

Under the first EMAS Regulation, only industry could participate in the scheme.

The possibility for all "organisations" to participate in EMAS was introduced at the first revision of the EMAS Regulation. An important number of public sector organisations, notably local authorities, have since joined the scheme. However, the scope of EMAS remained limited to the European Union, which is one of the reasons that ISO14001 achieved greater success is because it is also recognised outside of the EU, which appeals to organisations outside of the EU, or EU organisations that have international presence or trade abroad.

### 2.2.11. *Lack of clarity on how the system works*

The current Regulation is complemented by a number of different guidance documents. These documents are of quite a different nature and the requirements for participating organisations and other actors are not always clearly grouped together so that the entire process of registration for each actor is not described in a logical step-by-step approach.

This makes it difficult for a considerable number of organisations, especially SMEs and small public authorities, to clearly identify the applicable procedures and requirements for implementing EMAS.

## 2.3. **Affected parties**

Participating organisations are affected by the current lack of rewards (institutional or market-related) when participating in EMAS and non-participating organisations are deterred by this negative aspect of the scheme. In addition many companies simply do not know about the scheme. This impacts negatively on the overall environmental impact of EMAS, as the scheme does not attract enough participants.

The Commission and Member States have developed structures, bodies (competent bodies, accreditation bodies) and continue to invest in a scheme whose take-up in the market, albeit continuously increasing, is not enough to make a significant overall positive impact on the environment yet. Even the Member States that decided not to invest any means to support EMAS have had to create and maintain structures so that the scheme can function properly. It can be argued that these fixed costs would be better used if the uptake of the scheme were higher.

## 2.4. **Evolvement of the problem in case no action will be taken**

All things being equal, the scheme would continue to run as it is, with its current problems. Even though there is an encouraging rise in annual registrations after the first revision of the Regulation, notably due to the registration of local authorities, leaving the scheme as it is, would not provide a chance for its much wider diffusion, especially by SMEs and small public authorities. Without some big 'push', the continued low take-up of the scheme in many Member States would likely

undermine its credibility and its overall environmental impact would remain low. The visibility of the scheme would not increase and continued uneven distribution between the Member States is likely to prevail. Member States would criticise the Commission for not taking positive action to support the scheme in the future.

## **2.5. Community action**

The adoption of the current EMAS Regulation has been seen as necessary in order to ensure an equal implementation of EMAS throughout the Community. The rationale for EMAS as a community wide management system is its ability to serve the single market, offering one accredited management system which a European firm can use in different Member States and allowing communication of improved environmental performance across Member State boundaries through use of the EU-wide EMAS brand. The effectiveness of EMAS in contributing to improved environmental performance of European organisations could be better achieved at Community level. In accordance with the principle of subsidiarity and proportionally enshrined in the Treaty, the Regulation provides common rules, procedures and essential requirements regarding EMAS whilst the measures that can be adequately performed at national level are left to the Member States.

In the current situation however, EMAS has not reached its full potential in terms of number of registrations and thus has not reached its full potential in terms of environmental performance improvement. The identification of the underlying drivers for the low uptake of the scheme make clear that there is a need for further harmonisation on Community level.

Most of the underlying drivers of the low uptake of the scheme, as described above, are fundamental problems that lie within the EMAS Regulation itself. To tackle these problems requires changes to the Regulation that cannot be dealt by Member States. Indeed, the right to act is already mentioned in Article 15 of the current Regulation, where it states: "*the Commission shall review EMAS in light of the experience gained during its operation...and shall, if necessary, propose to the European Parliament and Council the appropriate amendments*".

Even though the revision proposal contains more detailed rules, procedures and obligations, it continues to respect the principles of subsidiarity and proportionality by leaving the technical implementation of the Regulation to the Member States through the functioning of the competent bodies and accreditation bodies.

### **3. OBJECTIVES**

#### **3.1. Policy objectives**

EMAS represents a direct response to some of the key principles embodied in the 6<sup>th</sup> Environmental Action Programme, in particular the concept of broadening the range of instruments and of promoting an approach of shared responsibility with business in the area of environmental protection.

##### **Overall objectives**

The overall objective of EMAS is the promotion of sustainable production and consumption patterns, by providing a framework for the effective management of environmental impacts and for continuous improvement in the environmental performance of all organisations (small or large, from the private or public sector) in Europe, above and beyond compliance with environmental legislation as a minimum.

##### **Operational objectives**

The general operational objective is to revise the EMAS scheme, as required by Article 15 of the EMAS Regulation, in order to achieve a wider uptake of the scheme and to better encourage continuous improvement in the environmental performance of all organisations.

In addition, the Regulation should be in line with the strategy on better Regulation, developed in the context of the renewed Lisbon strategy aiming at simplifying and improving existing Regulation, to better design new Regulation and to reinforce the respect and the effectiveness of the rules while reducing administrative burdens.

To achieve these objectives, the revision of the EMAS Regulation aims at essentially:

- (a) ensuring that it will be the best indication for external stakeholders and national enforcement authorities that EMAS organisations comply with all relevant environmental legislation and continuously improve their environmental performances.
- (b) raising its attractiveness for participating organisations and
- (c) increasing its user-friendliness, particularly for SMEs and small public authorities.

#### **3.2. Consistency of these objectives with other EU policies**

EMAS has been primarily created as a tool to improve the environmental performance of all types of European organisation. It therefore contributes mainly to the environmental pillar of the renewed EU Sustainable Development Strategy. Indirectly, by improving the overall performance of participating organisations and by raising awareness of environmental and health issues among their employees and workers, the scheme also contributes to the economic and social pillar of the renewed Sustainable Development Strategy.

In particular, the evaluation study confirms that EMAS organisations are better prepared to comply with environmental legislation, they professionalise and systematise their processes (especially the smaller organisations) and hence save costs and resources, and improve their image. This provides for a better competitive situation of participating organisations.

As outlined later, one of the objectives of the EMAS revision will be to improve the synergies between the EMAS Regulation and other pieces of legislation at EU, international or Member State level, such as public procurement, integrated pollution prevention and control, environmental impact assessment, SEVESO, ETS, environmental liability, waste, water framework directives. This falls within the 'better Regulation' exercise that the Commission has engaged itself into and equally contributes further to the realisation of the Lisbon strategy for growth and jobs.

#### 4. POLICY OPTIONS

Based on the results of existing studies and feedback from stakeholders, three broad options have been analysed for the EMAS revision:

- 1) continuing with the present approach,
- 2) phasing out the scheme, and
- 3) substantially modifying the scheme.

##### 4.1. Policy option 1: continuing with the present approach - (base scenario)

This option aims at continuing with the current approach, as set out in section 2 of this document. No substantive changes to the scheme's content and level of ambition will be introduced. Changes considered could only be of administrative / institutional nature, in order to just make the current scheme run better.

Some Member States and interested parties have expressed their preferences for continuing with the present approach. The rationale is that after the last revision of the scheme -EMAS was introduced in 1995 and revised in 2001- it may be better to leave potential and current participants some time to accustom to EMAS as it currently is, especially as the number of registrations, especially from institutions and public authorities, is rising again and EMAS has high political support in several Member States.

In this option, the only measure to be envisaged is the re-writing of the text of the Regulation and the guidelines in a more logical and easier-to-understand way.

##### 4.2. Policy option 2: phasing out the scheme

This option aims at abolishing EMAS in the medium term.

The rationale for this option is, as a limited number of stakeholders argued, that since the scheme has missed some of its targets (i.e.: broad diffusion), it should be phased out and other initiatives should be encouraged instead.

Phasing out of EMAS requires the reduction of all resources allocated to the scheme, so that the individual existing EMAS registrations will remain valid for at least one life cycle of registration. With no further public support or visibility, the number of EMAS registrations will decline and eventually stop, after which the Regulation can be repealed.

In practical terms, the Commission could start by reducing its own staff and abandoning any actions on EMAS (no further promotion, pilot projects, helpdesk, etc). Member States could in their turn gradually reduce staff involvement in the implementation of the EMAS Regulation.

##### 4.3. Policy option 3: substantially modifying the scheme

This option aims at achieving an optimal use of the EMAS scheme in terms of its diffusion through a fundamental revision of the scheme aimed at:

- (d) ensuring that EMAS will be a stronger guarantee towards external stakeholders and national enforcement authorities that participating organisations comply with all relevant environmental legislation and continuously improve their environmental performances,
- (e) raising its attractiveness for participating organisations and

- (f) increasing its user-friendliness.

Now the underlying drivers of the low uptake of the scheme are known, this action would aim to introduce measures in order to remedy these underlying drivers and to improve the scheme.

The table below shows the causes that have been identified as contributing to the low uptake of the scheme as well as the options for improvement that are considered in this option.

underlying drivers of the problem	sub-options for improvement
	<i>Measures aimed at ensuring that the scheme is the best indication for external stakeholders and national enforcement authorities as regards performance improvement and legal compliance.</i>
Lack of clarity with regard to the applicable legal environmental requirements	strengthening and ameliorating the rules on legal compliance
The system of reporting is not harmonised or uniform	harmonising and strengthening reporting by the introduction of: core performance indicators and sectoral reference documents
Procedures for accreditation and supervision of verifiers are not harmonised	harmonising procedures for accreditation and supervision of verifiers
	<i>Measures aimed at raising the attractiveness of the scheme for participating organisations, particularly for small organisations, including SME and small public authorities, by reducing the administrative burden for participating organisations and by increasing the visibility of participation in EMAS.</i>
Uneven promotion and marketing of the scheme in Member States	increasing promotion and support for the scheme
Uneven support in the Member States of EMAS by way of financial, fiscal and market-related measures	
Organisational and financial barriers for implementation of EMAS	reducing burdens and creating incentives
Lack of clarity about the benefits of EMAS	
Coexistence of other environment management systems	clarifying links and complementarities with other schemes
Insufficient integration with other community policies / instruments	creating possibilities for operational links and synergies with other EU legislation/instruments
Limited geographical scope of EMAS	making EMAS global
	<i>Measures aimed at making the scheme more user-friendly</i>
Lack of clarity on how the system works	re-writing text Regulation
	integration of Guidelines in the Regulation

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4.3.1. *Measures aimed at ensuring that the scheme is the best indication for external stakeholders and national enforcement authorities that EMAS organisations comply with all relevant environmental legislation and continuously improve their environmental performances.*

4.3.1.1. Sub-option 1: legal compliance

The requirement of legal compliance is perceived as one of the most significant benefits of EMAS as this requirement improves an organisations capability to meet the applicable environmental legal and regulatory requirements. However it appears not always to be clear for organisations to exactly define the legal environmental requirements they are obliged to meet.

This option should therefore aim at strengthening and clarifying the existing requirements for EMAS organisations to comply with all relevant environmental legislation and at the same time ensuring that organisations are able to identify all relevant legal environmental requirements at an early stage. One of the possibilities to do so is to introduce in the new regulation a mechanism ensuring that organisations can seek advice from the bodies charged by the Member States with the task of providing such assistance and that Member States Regulators can be involved in the process of identifying the applicable environmental legislation and defining the state of compliance of this legislation at an early stage before the first EMAS registration. This will result in a dialogue between the organisation and the regulator and offers EMAS as a tool for Member States regulators to reduce the administrative burden of registered organisations.

4.3.1.2. Sub-option 2: reporting – core performance indicators

The lack of harmonisation with regard to reporting on environmental performance of EMAS organisations makes it difficult to compare either performance of different organisations or performance of one organisation over different reporting periods. As a result the (potential) benefits of EMAS participation are often unclear.

The option aims therefore to strengthen and clarify existing environmental reporting requirements for EMAS organisations with the use of core performance indicators for measurement of the progress in the organisations environmental performance. This will help the scheme to better focus on the current EU political priorities. "Generic" indicators, focusing on key environmental areas such as energy efficiency; material efficiency; waste; biodiversity and emissions, in particular CO<sub>2</sub> emissions, would be introduced in the revised Regulation. It should be mandatory for organisations to report on this core set of generic indicators.

4.3.1.3. Sub-option 3: development of sectoral reference documents

In addition to the introduction of core performance indicators on which reporting will be obligatory, the new regulation should also aim at introducing performance indicators for individual sectors on which reporting will be voluntary. A mechanism should be established that can lead to the development of reference documents for specific sectors that include best practices, benchmarks and performance indicators for individual sectors that will be used by participating organisations as a guide in

setting up their environment management system and evaluation of their environmental performance. This process should address the direct and indirect environmental aspects of the different operation / activities of the organisations.

#### 4.3.1.4. Sub-option 4: harmonising procedures for accreditation and verification

The fact that under the current system the procedures for accreditation and verification are not harmonised, results in the existence in uneven requirements for accreditation, verification and the control of verifiers activities. This creates an unclear situation for organisations and may potentially undermine the credibility of EMAS.

Regulation (EC) N° xxxx/2008 of the European parliament and of the Council of [..... date] setting out the requirements for accreditation and market surveillance relating to the marketing of products organises accreditation at the antioanl and European levels. This regulation sets the over all framework for accreditation. Taking into account the specificities of the voluntary EMAS scheme, the option aims to complement these rules, in so far as necessary and where appropriate, with more specific rules.

In order to guarantee a high quality verification and validation process for all EMAS registered organisations, clear and specific rules for verification and validation are to be defined in order to come to a harmonized and reliable system, which will improve the consistency in the implementation of the scheme.

#### 4.3.2. *Measures aimed at raising the attractiveness of the scheme for participating organisations, particularly for SMEs and small public authorities, by reducing the administrative burden for participating organisations and by increasing the visibility of participation in EMAS.*

##### 4.3.2.1. Sub-option 5: promotion and support

The lack of knowledge of EMAS and therefore the lack of reward for the market, stakeholders and public institutions, is identified by the respondents in the EVER study as one of the main barriers for the growth of the scheme. Because EMAS and its logo has not become a "trade mark" to the public and the stakeholders, participants in the scheme do not see many competitive rewards of taking up EMAS. In order to increase awareness of the actors in the scheme, including the public at large, promotion and marketing of the scheme should be increased by different initiatives:

- information and promotion campaigns by the European Commission and the Member States. If carried out on a regular basis, experience can be used and resources can be moderate. Examples are the participation in conferences and workshops, advertising on TV and radio, the creation of a yearly European EMAS award event in order to promote the EMAS Regulation by rewarding those organisations that have achieved an outstanding performance of specific, yearly to be defined aspects of the environment management and audit system, etc. Studies confirm that the measures to encourage improved environmental management



should in most cases be restricted to programmes involving the provision of technical assistance and information.<sup>35</sup>

- introduction in the revised regulation of requirements for Member States to promote and carry out marketing campaigns for EMAS on a regular basis
- increased promotion activities by the European Commission in order to better explain the benefits of the scheme. Allocation of a permanent budget for marketing activities for EMAS; making examples of "best practices" publicly accessible on the Europa website

#### 4.3.2.2. Sub-option 6: reducing burdens and creating incentives

The EVER study made it clear the promotion and support measures have an impact on the uptake of the scheme.

Practice in a number of Member States shows that the putting in place of different incentives of different types, result in a considerable raise in EMAS registrations.

Over the last years legislation has been put in place in Italy, on both national and regional level:

- on legal requirements for air emission, water, waste and soil<sup>36</sup>, including the following features
  - a higher score for EMAS registered organisations concerning release of permits for the use of water (rivers, lakes);
  - an EMAS registration replaces application for renewal of permits for waste management activities;
  - lower (up to 50%) financial guarantees related to company's liability in the waste treatment field for EMAS (and ISO 14001) registered organisations;
- on IPPC<sup>37</sup> (Directive 96/61/CE)
  - allowing EMAS registered organisations to use the EMAS registration for application for renewal of permits;
  - a renewal of permits at 8 years interval for EMAS registered organisations (instead of at the normal interval of 5 years);
- Landfills<sup>38</sup> (Directive 99/31/CE):
  - a renewal of permits at 8 years interval for EMAS registered organisations (instead of at the normal interval of 5 years);
- Reduced time (max 120 days) for releasing permits for EMAS registered organisations. (Regione Emilia-Romagna);
- Reduction of regional taxes for EMAS registered organisations in Toscana, Veneto, Marche;

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<sup>35</sup> "The firm, Environmental Management and Environmental Measures: lessons from a Survey of European Manufacturing Firms". – N. Johnstone, P. Scapecchi, B. Ytterhus and R. Wolf in *Journal of Environmental Planning and Management*; vol. 47, N° 5. 685-707, September 2004.

<sup>36</sup> Law n. 152/2006.

<sup>37</sup> Decree 59/2005.

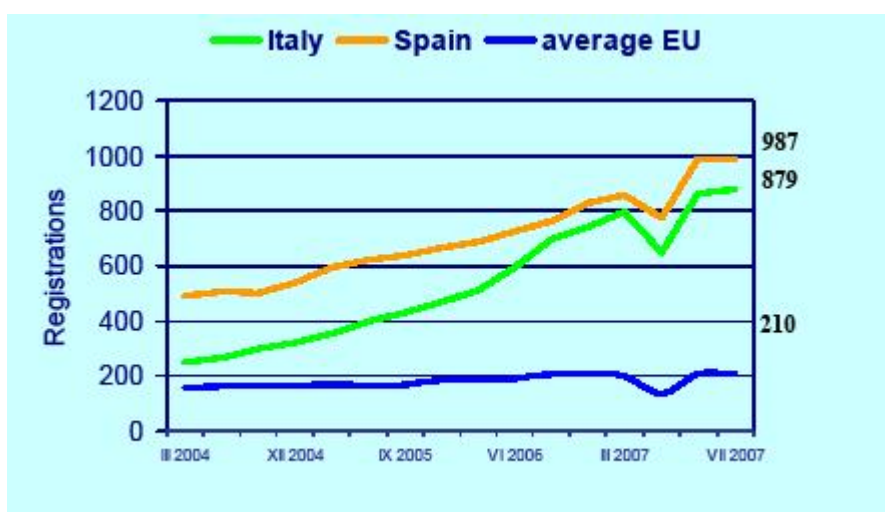
<sup>38</sup> Decree 36/2003

- reduction of applicable fees for inspection activities in Regione Marche for EMAS registered organisations.

Thus, over the last years legislation has been put in place in Spain, on both national and regional level:

- on IPPC<sup>39</sup> (Directive 96/61/CE) containing exemptions of inspections for EMAS registered organisations
- on environmental liability<sup>40</sup> (Directive Directive 2004/35/CE<sup>41</sup>): providing for reductions and exemptions for EMAS registered organisations
- on financial support: most of Regional Governments give financial support to new EMAS registrations every year in form of lumps sums or a percentage of total costs incurred
- providing that registration under EMAS is free of charge in Spain

As the graphic shows, Italy and Spain show a considerable higher raise in uptake of the scheme than the average uptake throughout the European Union.



Therefore the implementation of financial, fiscal and market-related institutional measures will be effective possibilities to increase the number of participants. Because the Competent Bodies and environmental Ministries and authorities currently backing the scheme, usually do not offer significant direct support funding and are not able to establish long running support mechanisms, the economic benefits connected with the scheme itself should be raised.

In order to stimulate and endorse this option, different measures would be introduced into the new Regulation:

- Introduction of obligations for Member States to:
  - consider EMAS as a favourable and preferential condition for access to public funds. Member states will have a wide range of general

<sup>39</sup> Royal Decree 509/ of 20 April

<sup>40</sup> Law of 9/3/2007

<sup>41</sup> Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage as modified by Directive 2006/21/EC.

economic support funds in which EMAS can be used as an assessment or selection criterion for the approval of the applicants projects and in which, at the same time, organisations have to commit to continue their EMAS participation / registration.

- consider granting tax breaks for EMAS registered organisations and application of such measures where appropriate. It is up to the MS to identify the appropriate fiscal measures. These types of tax brakes are to be applied at direct taxation, such as income taxes or similar taxes imposed on business revenue or environmental taxes. Introduction of the obligation in the revised EMAS regulation will guarantee a level playing field for the national economic systems.
  - implement national provisions for supporting the use of EMAS so that the "power" in the market of EMAS organisations increases. Green purchasing procedures might be a way to do so as these incentives increase the market demand for EMAS registration and can be very effective.
- Simplifying the procedures for registration by introducing the registration of clusters of organisations and the possibility for corporate registration in addition to the existing registration for individual organisation. These measures would aim to have a direct cost-saving effect and make participation more attractive.
  - Widen the use of the logo. Under the current regulation, the use of the logo is restricted to a number of specific cases: on validated information, on validated environmental statements, on registered organisation's letterheads, on information advertising an organisation's participation in EMAS and, under even more restricted conditions, in or on adverts for products, activities and services. Its use is explicitly forbidden on products or their packaging and in conjunction with comparative claims concerning other products, activities and services. In addition, there exist two versions of the logo and the guidance document on the use of the logo is perceived by the participating organisations as very complicated. The logo is therefore not very attractive for many (potential) EMAS organisations. The option aims to simplify the use of the EMAS logo by using one version of the logo only and by allowing it to be used on information advertising an organization's participation in EMAS including easier use on or in adverts for products, activities and services and also on products or their packaging, provided that there is no confusion with environmental product labels. These measures would enable organisations to use the logo as a more attractive communication and marketing tool, they would raise awareness by customers and therefore the attractiveness of the scheme for participating organisations;
  - Improve, facilitate and widen the use of the environmental report. Under the current Regulation, the contents of environmental reports are not harmonised due to the fact that the environmental performance measurement is not harmonised. The format of most environmental reports is often ineffective for external communication purposes. As a result, the environmental reports are nor used for communication purposes very much.

The option aims at ensuring that the contents of the environmental report will be better harmonized through the use of core performance indicators and that the format will be improved so that it will be a better communication tool towards stakeholders

This, the environmental report can become a more attractive communication and marketing tool for participating organisations, which will raise awareness by customers.

#### 4.3.2.3. Sub-option 7: clarifying links and complementarities with other schemes

The link between EMAS and the ISO14001 environmental management system should be clarified in the Regulation for organisations that wish to opt for the latter as well as for EMAS. The text of the revised Regulation should in particular enable organisations to identify the common requirements and the differences between EMAS and ISO 14001.

The new regulation therefore invites Member States to clarify the links and complementarities with other environment management schemes so that registration or participation in national environment management schemes can be taken into account when an organisation applies for registration under EMAS and *vice versa*.

#### 4.3.2.4. Sub-option 8: links with other EU legislation/instruments

The current EMAS regulation obliges Member States in its article 10(2) to consider how EMAS registration can be taken into account in the implementation and enforcement of environmental legislation, in order to avoid unnecessary duplication of effort by both organisations and enforcement authorities. In its report to the Council and the European Parliament on incentives for EMAS registered organisations<sup>42</sup>, the Commission emphasizes how EMAS can support Member States both in policy making and implementation in order to alleviate the burden of regulatory pressure and streamlining their own resources.

The aim of this option is to stimulate further reduction of the regulatory and administrative burden by introducing elements that create synergies with, and allow for, closer operational links between EMAS and other EU legislation and instruments.

At the same time, as part of the better Regulation initiatives in the Community, references to the revised EMAS Regulation should, where appropriate, be incorporated into other EU legislation.

The introduction of core performance indicators and the reinforcement of legal compliance will allow the environmental statements of EMAS registered organisations (performance reports) to be used as a reference point in the context of other EU legislation (e.g. in Green Public Procurement, Integrated Pollution Prevention Control). This would then reduce the administrative burden for EMAS registered organisations by way of regulatory flexibility. Regulatory flexibility may include both regulatory relief (substitution of legal requirements without changes in environmental legislation as such) or deregulation (changes in the legislation itself).<sup>43</sup>

Examples of ways to apply regulatory flexibility are to use EMAS:

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<sup>42</sup> COM(2004)745 report to the Council and the European Parliament on incentives for EMAS registered organisations

<sup>43</sup> Till now, it has not been possible to identify and collect evidence on the effects of these measures because most of the measures introduced by member states are very recent and in many cases not yet fully effective.

- as a factor in risk assessment, with effects on site inspections frequencies, insurance, governmental fees and penalties;<sup>44</sup>
- as a substitute for certain legal requirements, such as periodical reporting, authorisation and permit procedures etc.<sup>45</sup>
- a condition enabling for a longer duration of environmental permits.<sup>46</sup>

#### 4.3.2.5. Sub-option 9: EMAS global

One of the important reasons that organisations chose for ISO 14001 rather than for EMAS is the fact that ISO 14001 is globally recognised and EMAS is limited to organisations in the EU. The option aims to make EMAS global. The same requirements will apply to outside EU organisations. Organisations outside the EU wishing to participate in EMAS have to apply for registration at a Competent Body in one of the EU Member States and be verified by an EU verifier.

Making EMAS global will, by enhancing the visibility and raising awareness, raise the attractiveness of the scheme not only to organisations outside of the EU that have presence or trade with the EU, but also to organisations in the EU that have international presence or trade abroad. Organisations can then use EMAS as a communication tool to their international customers.

#### 4.3.3. *Measures aimed at making the scheme more user-friendly*

##### 4.3.3.1. Sub-option 10: re-writing text Regulation

Literature, the EVER study and the public consultation have confirmed that currently organisations experience difficulties to exactly understand the requirements and the different steps in the EMAS system. This option consists therefore of the re-writing of the text of the Regulation in a more logical and easier-to-understand way to make it easier for candidate organisations, notably SMEs and small public authorities, to apply, as they should more clearly understand what their exact requirements are under the scheme and what the different steps in the EMAS registration procedure are.

##### 4.3.3.2. Sub-option 11: integration of Guidelines in the Regulation

The EMAS-Regulation is complemented by a number of different guidelines that are of a different character.<sup>47</sup> Due to this situation, organisations have expressed that they perceived it difficult to understand because the exact obligations and mechanism under the current legal situation. This option consists of integrating into the new Regulation those elements of the different existing non-binding EMAS Guidelines that have proved to be useful for implementation and interpretation of the Regulation. These elements will, in the form of annexes, form an integral part of the new Regulation and thus improve legal certainty and clarity of requirements.

#### 4.4. **Options discarded at an early stage**

The option of making EMAS mandatory to all, or even to only certain types, of specific organisations (e.g. very polluting companies, very large local authorities),

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<sup>44</sup> Some of these measures are already now applied in UK, DE, PT, NL, CZ and IT

<sup>45</sup> Already now applied in DE, AT, IT, SE, NL and LU.

<sup>46</sup> Already now applied in LU, SL, DE and IT.

<sup>47</sup> see before description of system and legal instruments in Section 2(1)(a).

was discarded at an early-stage, as this would change the voluntary character of the instrument, which is specifically defined by the 6<sup>th</sup> EAP as one of the elements of the strategic approaches to meeting environmental objectives, especially within the context of improving collaboration and partnership with enterprises and organisations with a view to improving the environmental performance of these enterprises and organisations.<sup>48</sup>

The option of lowering the standard of EMAS to make it easier so that more organisations would join was considered, but discarded at an early stage, as there are already many competing similar schemes with lower ambitions than EMAS and lowering the EU scheme to their level would mean that EMAS would become just another one of them, hence adding no value to having EMAS.

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<sup>48</sup> Decision No 1600/2002/EC of the European parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme. Official Journal of the European Communities of 10/09/2002; L 242 p.1

## 5. ANALYSIS OF IMPACTS

### 5.1. Expected economic, social and environmental impacts of each of the short-listed options

#### 5.1.1. Environmental impact

The evaluation study and the REMAS project confirm that organisations participating in EMAS, already now, do improve their environmental performances. As indicated before on pages 8-10 of this document, EMAS is even identified by the REMAS project as the best of all currently existing similar systems when it comes to overall environmental performance on the site.

- (i) The option of continuing with the present approach will not increase the level of environmental performance improvement that individual EMAS organisations would achieve. This as such is not a problem, as the level environmental performance is already satisfactory and is continuously improving. However, perhaps more importantly, this option will not generate a significant increase in the number of organisations using the scheme. Currently there are about 5000 EMAS registered sites, with an annual growth of 500 per year over recent years.

The overall environmental impact of the scheme, which results from the combined effect of the environmental performance of single EMAS organisations multiplied by the number of organisations participating in the scheme, will therefore remain at the current level, which does not use the full potential of the scheme.

- (ii) The option of **phasing out the scheme** will have a direct negative impact on the environmental performance of individual organisations, as some, maybe a majority, of the organisations which are currently participating in the scheme will downgrade the higher level of environmental performance that they needed to maintain in order to remain registered with the EMAS scheme. As the individual environmental performance of registered organisations under EMAS has been identified in the EVER study as being the best of all currently existing similar schemes, a negative impact on the environment will also occur, though to a lesser extent, when organisations move from EMAS to other systems, like the ISO 14001 standard.

The discontinuation of EMAS will also have an indirect negative environmental impact on global level. The evaluation study confirms that, like other EU policies, EMAS tends to be perceived as a benchmark for best practice. Thus, many organisations follow the principles of EMAS, even though they do not register with the scheme for cost or other reasons. Many environmental programs or systems, including ISO14001, openly take EMAS as the highest reference, which they emulate to some extent. Without EMAS it might be expected that those organisations will downgrade their environmental performance and that existing similar systems to EMAS will relax, rather than strengthen their environmental requirements.

The phasing-out of EMAS will also have a negative impact on the environment as some 5000 organisations will discontinue being EMAS registered, and about 500 annually expected additional registrations will not

be realised.

Some stakeholders argued that because EMAS missed its objective in terms of diffusion in the market, it should be phased out and other initiatives, namely ISO 14001, should be instead encouraged and supported because the number of ISO14001 registrations largely exceeds the number of EMAS registrations.

After careful analysis, this option has been discarded. As indicated before at pages 8-10, EMAS has been identified in the REMAS study as being the best of all currently existing similar schemes with regard to the individual environmental performance improvement of registered organisations.

The strength of the EMAS system, which is the reason why the European Union and the Member States have tried to position EMAS as the best standard for environmental management, is believed to be those features that go beyond the other existing environment management systems, being the following:

- EMAS requires annual continual improvement of the environmental performance of the organisation, checked and verified by an independent environmental verifier, where ISO 14001 only requires continual improvement of the EMS;
- EMAS requires legal compliance, checked and verified by an independent environmental verifier in the initial environmental review and in the environmental auditing (non-compliance leads to non-validation and non-registration), where ISO 14001 requires only that an organisation makes a commitment to be legal compliant;
- EMAS requires an initial environmental review as part of the EMS as a basis for the definition of an appropriate environmental policy and for the implementation of the EMS. This requires the collection of all significant environmental aspects of the organisation in question and its relevant legal requirements, where ISO 14001 does not include such requirement;
- EMAS requires that all environmental aspects of the organisation have to be considered for the determination of significant environmental aspects, where ISO 14001 requires only that a procedure is defined to identify all environmental aspects;
- In EMAS the internal environmental auditing includes an environmental management system audit, an environmental performance audit and an environmental compliance audit, where the internal audit under ISO 14001 is an environmental management system audit;
- EMAS requires an environmental statement, which is an additional element of the scheme that goes beyond the establishment, implementation and maintenance of an EMS. This requirement ensures that organisations enter into an open dialogue with the public and other interested parties including local communities and customers with regard to the environmental impact of their activities, products and services in order to identify the public's and other interested parties' concerns. ISO 14001 does not include such requirement;
- EMAS requires employee involvement in the development and



implementation of the system. It is generally recognised that increased awareness and involvement of employees has the potential to drastically improve the environmental performance of an organisation. ISO 14001 does not include such requirement.

- (iii) The option of **substantially modifying the scheme** will need the introduction of a number of different measures.

A number of these measures have a direct positive environmental impact on the performance of individual organisations. These are the following measures:

- The strengthening of the requirement of legal compliance will improve an organisations capability to meet the applicable environmental legal and regulatory requirements. There is evidence that organisations that are effectively legal compliant, have also a high standard of environmental performance.
- The reporting on generic and sectoral performance indicators corresponding to environmental priorities such as energy efficiency; material efficiency; waste; biodiversity and emissions, in particular CO<sub>2</sub> emissions, should position EMAS not only as a process leading to environmental improvement, but as a performance-based scheme showing the concrete results obtained by the registered organisation in terms of key environmental performances. This should strengthen the added-value of EMAS compared to other Environmental Management Schemes, in particular for those organisations which are willing to demonstrate their environmental performance on the basis of clear specifications based on agreed priorities. This will also allow the measurement of environmental improvements made individually, sectorally and globally by EMAS registered organisations.

Once this positive direct environmental impact is recognised by the market, this will also lead to an increase in the uptake of the scheme and this have an indirect positive environmental impact.

Most of the measures have an indirect environmental impact as they lead to an increased attractiveness of the scheme. These are the following measures:

- laying down, more specific rules on accreditation for EMAS in addition to the system set up by Regulation (EC) N° xxxx/2008 of the European parliament and of the Council of [..... date] setting out the requirements for accreditation and market surveillance relating to the marketing of products and harmonising procedures for verification and validation for EMAS improves the consistency in the implementation of the scheme. This will increase the strength of the scheme and will have a positive impact on the number of participating organisations.
- Increasing awareness of the actors in the scheme, including the public at large, will increase market-demand and the competitive advantages of the scheme, thus raising the attractiveness for organisations to participate. Promotion and support actions undertaken by national authorities and on Community level, will have an indirect positive impact on the number of participating organisations, as the lack of "reward" resulting from the lack

of knowledge and demand for EMAS is identified by the respondents in the EVER study as one of the main barriers for the growth of the scheme.

- Making the system more attractive by reducing burdens and creating incentives through the implementation of financial, fiscal and market-related institutional measures, will be a strong impulse for the number of EMAS participants, which could initiate a snowball effect, leading to many more registrations, as these measures, described earlier in this document on pages 33-34, have been identified as the most desirable according to the organisations that are or consider implementation of the scheme.
- Clarifying links and complementarities with other schemes so that registration or participation in national environment management schemes can be taken into account and may serve as a first step towards EMAS, will have a positive impact on the number of organisations participating in EMAS. The uptake of EMAS will then not be a separate and isolated process, but is more a next step to the system leading to the highest environmental performance.
- linking EMAS with other EU legislation/instruments so that EMAS registration can be taken into account in the implementation and enforcement of environmental legislation, will equally make the system more attractive. The impact in terms of retaining registered organisations and attracting new applicants is likely to be high.
- Making EMAS global will have as result a considerable raise in uptake of the scheme, as the fact that EMAS is limited to the EU is one of the important reasons that organisations chose for ISO 14001 rather than for EMAS
- Making EMAS global will lead to an additional increase in uptake of the scheme by many multinational export-based EU companies and also many companies based in third countries, exporting to the EU. At the same time globalisation of EMAS will have an indirect environmental effect on the environmental performance through easier co-operation for environmental improvement within those supply chains that include companies located or operating in third countries.
- Measures aimed at making the scheme more user-friendly, such as the rewriting of the text of and the integration of Guidelines in the regulation will have a positive impact on the number of participating organisations, especially SMEs and small public authorities, as the difficulties in exactly understanding the requirements and the different steps in the EMAS system is identified as an obstacle by mainly SMEs and small public authorities.

These factors will have a multiplier effect on the already increased environmental performance of individual organisations and will thus result in an overall direct and strong positive environmental impact.

The substantial modification of EMAS will also have other indirect positive environmental impacts on global level. Like numerous other EU policies, EMAS has been used as the model according to which a number of

environment management systems have been developed, often with lower impact or requirements than the EU system. It can therefore be expected that national or international environment management systems will be influenced by the strengthened EMAS Regulation. In addition, it can also be expected that organisations will follow the principles of EMAS even in case they do not register with the scheme.

This option of substantially modify will therefore enable the EU to deliver better and more focused environmental benefits, both directly and indirectly. The result of these positive impacts should drastically increase the overall environmental impact of the scheme.

It is at this stage not possible to predict the exact increase in uptake of the scheme. Quantitative data on costs and the impact of the different measures are not available. Moreover, a number of options are interrelated or are market-based.

This being said, the objective is in the long run (10 years after the entry into force of the revised EMAS Regulation) to have a number of registered organisations or sites that equals the number of organisations or sites currently certified under the ISO 14001:2004 standard on environmental management systems (35.000). As an intermediate objective (5 years) the aim is to reach a number of EMAS registered sites that equals the average of the three Member States with currently the highest number of registered sites per million of inhabitants. This results in an envisaged total of 23.000 EMAS registered sites 5 years after the entry into force of the revised EMAS Regulation.<sup>49</sup>

### 5.1.2. *Economic impact*

Confirmed by a number of respondents in the EVER study and a recent OECD study,<sup>50</sup> environmental-commercial "win-win" situations exist for organisations participating in EMAS. This is also illustrated before on pages 21-23 of this document. Organisations, especially private sector organisations, but also public sector organisations, undertake initiatives to improve environmental performance which are in their private commercial interest. Indeed, by implementing a series of best available techniques and good environmental practices, savings are generated as a result of increased efficiency and productivity of the organisation. In addition, indirect economic impacts can result from EMAS, such as the availability or development of new markets, improved image of the organisation and better over-all performance as a result of increased wellbeing and motivation of an organisation's personnel through involvement in the scheme.

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<sup>49</sup> 2007 gives an average of 48,27 EMAS registered sites per million inhabitants in the three Member States with the highest number of EMAS registered sites per million inhabitants. These Member States are Austria (61,85 sites / million inhabitants), Denmark 50,60 sites / million inhabitants) and Belgium (32,37 sites / million inhabitants). On a total of 478,5 million inhabitants in the European Union, the total envisaged number of EMAS registered sites after 5 years after the entry into force of the revised EMAS Regulation will thus be 23.000.

<sup>50</sup> Environmental Policy and Corporate Behaviour, Edited by N Johnstone; Empirical Policy Analysis Unit, OECD Environment Directorate, France; published by Edward Elgar Publishing Limited; © OECD, 2007.

Therefore, it can be said that EMAS contributes to the development of a profitable economic strategy both for the individual organisations and on macro-level.

- (i) The option of **continuing with the present approach** will not drastically change the current level of EMAS-related spending by the Commission or the Member States.

The total amount of spending by the Commission on EMAS<sup>51</sup> is relatively small when compared to the overall budget of DG Environment. Although it was not possible to collect precise information on the amount of financial resources spent on EMAS by Member States, it is expected that this amount is also relatively small when compared to their overall environmental budget.

Because of the voluntary nature of EMAS, the scheme has no mandatory negative economic impact on organisations: only those that join the scheme are faced with the economic consequences (positive – cost reduction, better image, etc; and negative – cost of implementation, 3<sup>rd</sup> party verification and registration) of implementing and running it. As the system is voluntary, it can be assumed that most organisations will only join EMAS when the positive economic consequences outweigh the costs involved with the first registration and the implementation (registration fees, investment in cleaner technology etc.). Even where this might not immediately be so, the evaluation study confirms that all in all, EMAS pays itself back in the long run, as participating organisations, especially the smaller ones, professionalise and systematise their processes and as a result, reduce their costs and improve their use of resources, as well as improve their image and relationship with stakeholders.

However, the study also highlights that the bureaucracy of the scheme and the fact that some of its requirement-related administrative set-up sometimes bear unnecessary costs to organisations, especially smaller ones. In that sense, the option of keeping EMAS as it is, does not provide the chance to improve the economic impact of the scheme on participating organisations.

- (ii) The option of **phasing out the scheme**, although there will obviously be immediate savings of current running costs, will have direct negative economic consequences for Member States which are running the EMAS scheme, especially for new ones that have recently invested in setting up the structures for running and promoting it (accreditation body, competent body, promotion and technical assistance activities, etc). There will obviously be also direct negative economic consequences for the EMAS verifiers in the different Member States.<sup>52</sup>

It will also have direct negative economic consequences on the 5,000 plus sites in the EU that have invested in implementing and running a scheme which will no longer exist and whose benefits will disappear.

For the Commission, the financial and human resources saved by discontinuing EMAS will be very small, and arguably, not worth the downgrading of the environmental level that closing the scheme would cause.

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<sup>51</sup> 507.000 € for 2007, which includes limited promotion activities at EU level.

<sup>52</sup> Currently there are around 300 EMAS-verifiers accredited, of which 200 are accredited in Germany.

(iii) The option of **substantially modifying the scheme** requires the introduction of a number of different measures of which some have a direct positive economic impact for participating organisations. These are the following measures:

- The introduction of core performance indicators will enable organisations to reach a higher level of continuous environmental and therefore economic improvement.
- At the same time, a positive economic impact for participating organisations will be the result of cost reduction through simplifying the procedure for registration of clusters of organisations and the introduction of the possibility of corporate registrations.
- The introduction of closer operational links between EMAS and other EU legislation and instruments will result in direct cost-savings for participating organisations as this will avoid duplicate reporting and verification.
- The introduction of tax incentives as a means to support the uptake of EMAS would have a negative impact on MS tax revenues, but it can be expected that when Member States are considering introduction of supporting tax measures, they would assess the impact of those tax measures and only introduce measures where they had a net benefit.

Other measures, that create incentives and raise benefits of the scheme, have an indirect economic impact as they lead to an increased attractiveness and a higher uptake of the scheme. These measures, also listed before as generating a higher environmental impact as result of the higher uptake of the scheme, are the following:

- further harmonising procedures for accreditation in addition to the system set up by Regulation (EC) N° xxxx/2008 of the European parliament and of the Council of [..... date] setting out the requirements for accreditation and market surveillance relating to the marketing of products and harmonising verification and validation requirements and procedures will increase the strength of the scheme and will have a positive impact on the number of participating organisations.
- Increasing awareness of the actors in the scheme, including the public at large, by promotion and support actions both on Community and on Member state level, will raise the attractiveness for organisations to participate. Promotion and support actions undertaken by national authorities and on Community level, will have an indirect positive impact on the number of participating organisations, as the lack of "reward" resulting from the lack of knowledge and demand for EMAS is identified by the respondents in the EVER study as one of the main barriers for the growth of the scheme.

The introduction such measures will be a strong impulse for the number of EMAS participants, but they cannot be implemented without considerable resource deployment by the European Commission and the Member States.

- Making the system more attractive by reducing burdens and creating

incentives through the implementation of financial, fiscal and market-related institutional measures, will also result in a higher uptake of the scheme, as these measures, have been identified as the most desirable according to the organisations that are or consider implementation of the scheme.

- Clarifying links and complementarities with other schemes so that registration or participation in national environment management schemes can be taken into account and may serve as a first step towards EMAS, will have a positive impact on the number of organisations participating in EMAS. The uptake of EMAS will then not be a separate and isolated process, but is more a next step to the system leading to the highest environmental performance.
- linking EMAS with other EU legislation/instruments so that EMAS registration can be taken into account in the implementation and enforcement of environmental legislation, will equally make the system more attractive. The impact in terms of retaining registered organisations and attracting new applicants is likely to be high.
- Making EMAS global will have as result a considerable raise in uptake of the scheme, as the fact that EMAS is limited to the EU is one of the important reasons that organisations chose for ISO 14001 rather than for EMAS. Making EMAS global will lead to an additional increase in uptake of the scheme by many multinational export-based EU companies and also many companies based in third countries, exporting to the EU. At the same time globalisation of EMAS will have an indirect environmental effect on the environmental performance through easier co-operation for environmental improvement within those supply chains that include companies located or operating in third countries.

Making EMAS global will imply an increase in the economic resources to run the scheme, such as promotion activities in third countries. This option also implies a raise in the costs for Member States in case the registration has to be done in one of the EU Member States. As the systems in the Member states are already in place, the economic impact may be rather moderate.

- Measures aimed at making the scheme more user-friendly, such as the rewriting of the text of and the integration of Guidelines in the regulation will have a positive impact on the number of participating organisations, especially SME and small public authorities, as the difficulties in exactly understanding the requirements and the different steps in the EMAS system is identified as an obstacle by mainly SMEs.

It should be born in mind that EMAS is a voluntary scheme and that two different types of organisations can participate: private sector and public sector organisations.

It can be expected that the motivation of private sector organisations to join the scheme will primarily be of an economic nature and that these organisations will therefore join the scheme only if the total economic benefits outweigh the costs – as a way of improving the situation of their business. In the private sector, this decision will include indirect monetary

benefits of the system – for example the reputational benefits – and these are a driver for uptake of EMAS. It depends therefore also on the perception of these indirect benefits how many private sector organisations will decide to join the scheme. As the measures for the substantial modification of the scheme will increase these indirect benefits, the rise in uptake should be considerable. (84% of the respondents in the EVER study considered the competitive advantage of the "improved image" an important factor in the decision to join the scheme.

The decision for public sector organisations is not primarily based on economic considerations, but can bring economic gains. Main reason for public sector organisations for implementing EMAS is contributing to environmental protection and improvement and the intention to set the good example. Introduction of the measures aimed at making EMAS the best system, will therefore have a high impact on the uptake by public authorities. Constraint by budgetary limits, the introduction of measures reducing costs or enabling cost savings on other fields, will equally have a positive impact on the uptake of EMAS by local authorities.

Re-launching the EMAS scheme, as well as putting in place the structures to implement the changes proposed to the new Regulation will require some up-front investment both by the Commission and the Member States.

Particular attention has been put to minimise as much as possible the additional cost of new measures to be introduced into the revised scheme. However, some of these investments are inevitable during the communication campaign associated with the launch of a new scheme, and some other investments will be the price to pay for a higher positive environmental contribution of the scheme, at single organisation level, or overall.

### 5.1.3. *Social and employment impacts*

The EMAS has not been aimed at, or designed to provide a significant positive social impact in Europe. However, the evaluation study confirms that EMAS has a positive social impact on participating organisations, as the specific EMAS requirement to involve employees and workers in the implementation process of the scheme increase their work satisfaction and morale, as well as knowledge of environmental issues, which they can replicate in, and outside of their work environment.

- (i) The option of **continuing with the present approach** will not change the requirement to involve employees and workers in the EMAS implementation, and running process. It will therefore not have any positive or negative impact on the current positive social impact of the scheme.
- (ii) The option of **phasing out the scheme** will have a small negative social impact, as some, maybe even a majority of the organisations which are currently participating in the scheme will downgrade the higher level of employee information and participation that they needed to maintain to remain registered with the scheme.
- (iii) The option of **substantially modifying the scheme** will not change the requirement to involve employees and workers in the EMAS implementation, and running process. It can however be expected that the satisfaction and morale of the employees and workers will rise with the improvement of the

environmental and economic performance of the organisation. In addition, the expected significant increased uptake of EMAS in the market will in turn increase the overall positive social impact of the scheme.

## 5.2. Positive and negative impacts of the different options

### 5.2.1. Option 1: continuing with the present approach

**Pros** This option will provide stability for New Member States which just started implementing the scheme and current users. No significant extra effort will be required by the Commission or by the Member States at the different organisational and co-ordination levels. By maintaining EMAS as a voluntary tool, the Community still has at its disposal an instrument based on an approach of shared responsibility with business in the area of environmental protection, as one of the essential elements laid down in the sixth Environmental Action Programme<sup>53</sup> as a means to improve collaboration and partnership with enterprises as a strategic approach to meeting environmental objectives. Voluntary commitments are an essential part thereof.

**Cons** This option will not provide the opportunity of improving and strengthening the system and thereby its much wider diffusion, especially outside the EU and towards SMEs and small public authorities. Slightly expanding EMAS expenditures will still require a management effort by the Commission and the Member States. Without some bigger 'push', the continued low take-up of the scheme in many Member States will undermine its credibility and its overall positive impact, both environmental, economic and social, will remain modest and below the full potential of the scheme.

The visibility of the scheme will not increase and uneven distribution between the Member States is likely to prevail. Member States would criticise the Commission for not taking positive action to support the scheme in the future. As a result, the obstacles for a higher uptake of EMAS will continue to exist.

When the present approach will simply be maintained, it will be difficult to encouraging a wider uptake of the Community's eco-management and audit scheme (EMAS), as pointed out by the sixth Environment Action Programme as one of the actions to be undertaken. In addition, recognising that there is a need to improve the functioning of the voluntary instruments that have been designed for industry, that these tools have a great potential but have not been fully developed, the mid-term review of the sixth Community Environment Action Programme<sup>54</sup> called upon the Commission to revise these schemes in order to promote their uptake and reduce administrative burdens in their management. When continuing the present approach, these actions will not be undertaken and it will be impossible to meet these objectives.

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<sup>53</sup> Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme; OJ L 242 of 10/09/2002, p.1.

<sup>54</sup> COM(2007) 225 final: COMMUNICATION FROM THE COMMISSION TO the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Mid-term review of the Sixth Community Environment Action Programme, adopted by the Commission on 30/04/2007; not yet published.



### 5.2.2. *Option 2: phasing out the scheme*

**Pros** Gradual phase-out means a less evident loss of credibility for the Commission and lower level of conflict with some Member States than if it terminated abruptly the scheme. Financial and human resources would be set free for new initiatives in the field of the environment.

**Cons** This option will have negative environmental and economic impacts. This will be the case for those organisations that will abandon the scheme, but it will have equally an upstream and a downstream effect of the organisations applying EMAS as these generally take into account environmental considerations when selecting their suppliers and service providers.

Phasing out of the scheme that is currently regarded as the scheme with the potential entails the risk of having significant negative influence on the overall perception of EU environmental policy, as phasing out the scheme would send the signal that the Commission is downgrading its environmental policy. The Community would lose an environmental instrument in its policy mix. It would also lose an opportunity to influence and raise the level-playing field for private similar voluntary initiatives to deliver meaningful environmental improvements to participating organisations.

Terminating EMAS, one of the two EU voluntary instruments (EMAS and Eco-label) might also be interpreted as a move towards more command-and-control policies. Several Member States and other EU institutions would likely criticise the Commission heavily and relevant communities which have been involved with the implementation of the scheme and want it to continue would also likely attack the Commission for letting them down.

As set out above the objectives defined by the sixth Environmental Action Programme and confirmed by the mid-term review of the sixth Community Environment Action Programme, can not be met when the scheme will be abandoned.

Finally, there would also be a loss of opportunity to turn EMAS into a successful instrument.

### 5.2.3. *Option 3: substantially modifying the scheme*

As the obstacles for a higher uptake of EMAS are now well understood, this option of substantially modify the scheme offers an opportunity to correct the weak points identified by the studies that have been carried out and confirmed by stakeholders. Through introduction of a number of substantive changes, EMAS can become what it was originally designed to be: a sizeable voluntary alternative to traditional command and control legislation, which addresses all types of organisations, which is business friendly and which helps the EU achieve its overall environmental objectives and priorities.

It might be difficult to reach agreement on some of the suggested changes, particularly related to providing incentives to EMAS organisations. A number of radical changes will also require some up-front investment by the Commission and/or the Member States. It is however felt that, even where the measures have budgetary implications for Commission or Member States, the benefits of the measures proposed outweigh these negative cost-aspects. Thus, negative impacts on

member state tax revenues might be compensated for example by an increase of taxes on the most polluting companies.

To mitigate the budgetary implications, a smooth transition is needed towards the revised Regulation.

The substantial modification of the scheme implies the introduction of a number of changes and measures, that are set out in Section 4 of this document. The pro's and con's of each of these measures is considered below.

***Sub-option 1: clarifying, improving and strengthening the legal compliance mechanism.***

<b>pros</b>	<ul style="list-style-type: none"> <li>• improves an organisations capability to meet the applicable environmental legal and regulatory requirements</li> <li>• ensuring that organisations seek advice and opinion from the Member State Regulators in the process of identifying the applicable environmental legislation and on the state of compliance of this legislation at an early stage before the first EMAS registration</li> <li>• result in a dialogue between the organisation and the regulator and offers EMAS as a tool for Member States regulators to reduce the administrative burden of registered organisations.</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• implication of Member state regulators creating budgetary implications</li> </ul>

***Sub-option 2 and 3: reporting – core performance indicators and sectoral reference documents***

<b>pros</b>	<ul style="list-style-type: none"> <li>• harmonisation with regard to reporting on environmental performance</li> <li>• compare either performance of different organisations or performance of one organisation over different reporting periods</li> <li>• more clarity on the (potential) benefits of EMAS</li> <li>• can lead to the development of best practices, benchmarks and performance indicators for individual sectors</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• none</li> </ul>

***Sub-option 4: further harmonising procedures for accreditation, verification and validation***

<b>pros</b>	<ul style="list-style-type: none"> <li>• improve the consistency in the implementation of the scheme throughout Europe</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• none</li> </ul>

***Sub-option 5: increase of promotion and support***

<b>pros</b>	<ul style="list-style-type: none"> <li>• raises awareness of all stakeholders, including not only the actors in the scheme and the public at large</li> </ul>
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	<ul style="list-style-type: none"> <li>• experience can be used and resources can be moderate</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• allocation of a permanent budget for marketing activities for EMAS is necessary</li> </ul>

***Sub-option 6: reducing burdens and creating incentives***

<b>pros</b>	<ul style="list-style-type: none"> <li>• raises attractiveness of the scheme for participating organisations</li> <li>• positive impact on the uptake of the scheme</li> </ul>
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**a Introduction of obligations for Member States to:**

- consider EMAS as a favourable and preferential condition for access to public funds.

<b>pros</b>	<ul style="list-style-type: none"> <li>• creates market-related advantage</li> </ul>
• cons	<ul style="list-style-type: none"> <li>• adds complexity to award of public funds</li> </ul>

- consider granting tax breaks for EMAS registered organisations and application of such measures where appropriate.

<b>pros</b>	<ul style="list-style-type: none"> <li>• creates market-related advantage</li> <li>• increases attractiveness of the scheme</li> <li>• guarantees a level playing field for the national economic systems</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• budgetary implications for Member states tax revenues</li> </ul>

- implement national provisions for supporting the use of EMAS

<b>pros</b>	<ul style="list-style-type: none"> <li>• increases market power of EMAS organisations</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• budgetary implications for Member states</li> </ul>

**b Simplifying the procedures for registration by introducing the registration of clusters of organisations and the possibility for corporate registration**

<b>pros</b>	<ul style="list-style-type: none"> <li>• direct cost-saving effect for organisations</li> <li>• makes participation in EMAS more attractive</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• decrease in income for Member States as result of combined (cluster/corporate) registration, but at the same time this will be compensated by increase in uptake from EMAS and more registrations</li> </ul>

**c Widen the use of the logo.**

<b>pros</b>	<ul style="list-style-type: none"> <li>• allowing use of logo on information advertising an organization's participation in EMAS</li> <li>• easier use on or in adverts for products, activities and services</li> <li>• use of logo also on products or their packaging</li> <li>• EMAS more attractive for organisations</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• maybe difficult to ensure that no confusion with environmental product labels will be created with use of EMAS logo on products and their packaging</li> </ul>

**d Improve, facilitate and widen the use of the environmental report.**

<b>pros</b>	<ul style="list-style-type: none"> <li>• better harmonized through the use of core performance indicators</li> <li>• format will be improved so that it will be a better communication tool towards stakeholders</li> <li>• become a more attractive communication and marketing tool for participating organisations</li> <li>• raise awareness by customers</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• none</li> </ul>

***Sub-option 7: clarifying links and complementarities with other schemes***

<b>pros</b>	<ul style="list-style-type: none"> <li>• registration or participation in national environment management schemes can be taken into account and may serve as a first step towards EMAS</li> <li>• uptake of EMAS will then not be a separate and isolated process, but is more a next step to the system leading to the highest environmental performance</li> <li>• positive impact on the number of organisations participating in EMAS</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• none</li> </ul>

***Sub-option 8: links with other EU legislation/instruments***

<b>pros</b>	<ul style="list-style-type: none"> <li>• reduction of regulatory and administrative burden</li> <li>• clear incentive for higher uptake of EMAS</li> <li>• Regulatory flexibility possible by way of regulatory relief or deregulation (EMAS as a factor in risk assessment; as a substitute for certain legal requirement or as a condition enabling longer duration of environmental permits)</li> </ul>
<b>cons</b>	<ul style="list-style-type: none"> <li>• none</li> </ul>

***Sub-option9: EMAS global***

<b>pros</b>	<ul style="list-style-type: none"><li>• enhance the visibility and raise awareness</li><li>• raise the attractiveness of the scheme to organisations outside of the EU that have presence or trade with the EU</li><li>• raise the attractiveness of the scheme to organisations in the EU that have international presence or trade abroad</li></ul>
<b>cons</b>	<ul style="list-style-type: none"><li>• none</li></ul>

***Sub-options 10 and 11: re-writing text Regulation and integration of Guidelines in the Regulation***

<b>pros</b>	<ul style="list-style-type: none"><li>• system easier to understand for organisations, notably SMEs</li><li>• improve legal certainty and clarity of requirements</li></ul>
<b>cons</b>	<ul style="list-style-type: none"><li>• moderate budgetary implications for Commission</li></ul>

**5.3. Impacts in the EU and outside the EU**

The current scope of application of the EMAS Regulation is limited to the EU and its impact on organisations outside the EU is therefore minimal. Opening EMAS to organisations outside the EU will enable those that have expressed an interest in the scheme, to participate. This presents an opportunity to increase the overall environmental impact of the scheme, through a higher overall number of organisations participating in the scheme.

**5.4. Impacts likely to change over time**

As experience showed, most strikingly in Germany, Italy and Spain with the current Regulation, initial investment (financially, politically, or technically) from the Member State created a positive atmosphere for the development of the scheme, whose gradual higher up-take in the market created higher interest by other candidate organisations, and in turn higher number of organisations joining the scheme. It is expected that with the new measures introduced in the revised EMAS Regulation, which will make it more attractive for candidate organisations, the same 'snow ball' effect will be replicated to a larger scale, this time also in other Member States.

**5.5. Social groups, economic sectors or particular regions affected**

The very concept of the current scheme is that any type of organisation, big or small, from the private or public sector from any region in the EU, can participate voluntarily in the scheme as long as they meet its strict environmental performance improvement requirements over and above compliance with environmental legislation as a minimum requirement.

With the proposed measure to open EMAS registration to organisations outside of the EU, the geographical impact would be extended.

**5.6. Potential obstacles to compliance**

Member States are currently the main actors in the proper functioning and development of the EMAS scheme in the EU. They run EMAS accreditation bodies, Competent Bodies, promote the scheme, particularly to SMEs and small public

authorities, and provide incentives to EMAS organisations. As the evaluation study has shown, the scheme currently receives very uneven support from Member States governments, even though this is an obligation under the current Regulation.

Even more than in the current Regulation, Member States will be asked to support and promote the scheme, and in particular, provide significant incentives to EMAS organisations, which, if they implement the new EMAS, will be implementing the best available environmental performance improvement scheme.

If Member States do not play their part in the running of the revised EMAS Regulation, the revised strategy to increase the number of EMAS organisations to significantly increase the robustness of the scheme and at the same time provide more incentives to organisations so that they join the scheme, will not work.<sup>55</sup>

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<sup>55</sup> Even though COM(2004)745: report from the Commission to the Council and the European parliament on incentives for EMAS registered organisations confirms that Member States apply measures providing some sort of external incentives for EMAS registered organisations, there is demand and potential for improvement. The decision on what (combination of) incentives will be applied, needs to be designed in such a way that they meet the aspirations of the organisations concerned and the needs of national regulators.

## 6. COMPARING THE OPTIONS

The positive and negative impacts of each of the short listed options have been analysed, mainly from the point of view of their economic and environmental impact.

In terms of economic impacts, the criteria taken into account were:

- (1) the financial and administrative effort needed by the Commission and the Member States to implement and run the proposed changes, and
- (2) the efforts needed by the participating and candidate organisations to implement and run the proposed changes.

In terms of environmental impact, the criteria taken into account were:

- (1) the impact on the environmental performance of single organisations participating in the scheme, and
- (2) the impact on the number of organisations participating to the scheme.

All options have been studied and discussed in details within the Commission and with stakeholders and interested parties. After consideration of the pros and cons of each three options raised by all parties consulted (see before for analysis of the environmental, economic and social impact of each option) that option of substantially modify the EMAS scheme was selected.

This substantial modification of the EMAS scheme appears to be the best means to remedy the difficulties that currently exist and to provide the market with an environment management scheme that is the most robust and strict. In order for such initiative to become effective, it needs to be accompanied by the necessary incentives to encourage organisations to join the scheme.

This option of substantial modification would therefore enable the EU to deliver better and more focused environmental benefits, both directly and indirectly. The result of these positive impacts should drastically increase the overall environmental impact of the scheme.

## **7. MONITORING AND EVALUATION**

### **7.1. Core indicators of progress towards meeting the objectives**

The overall objective of the EMAS scheme is to provide a sizeable positive overall contribution to the state of the environment in Europe - and if EMAS is extended globally - to the rest of the world. This contribution can be broken down in two separate components: the increase in the environmental performance of participating organisations, multiplied by the increase in the number of organisations using the scheme. These two components need to be followed, in order to monitor the progress of the scheme towards meeting its objectives.

The introduction in the revised Regulation of mandatory reporting of environmental performance, using pre-defined Core performance indicators will also allow for a better monitoring and evaluation of environmental performances improvements by EMAS organisations. These core performance indicators would apply to all types of organisation and should focus on performance in a number of key environmental areas, such as energy efficiency, material efficiency, waste, biodiversity and emissions. It should be mandatory for organisations to report on the core set of generic indicators. These indicators should also address the best available operation and maintenance, and also establish benchmarking for each specific type of activities.

### **7.2. Broad outline for possible monitoring and evaluation**

Monitoring and evaluation of the successful implementation of the revised EMAS scheme is expected to continue to take place, as it currently does under the existing EMAS Regulation, under the form of regular meetings with all Member States. Twice a year minimum, Member States meet with the Commission in Comitology meetings (so called article 14 meeting of the EMAS Regulation) to discuss their EMAS achievements, problems, share experience and decide on the future direction of the scheme.

Additionally, the Commission contracts out an EMAS helpdesk. One of its tasks is to collect and publish monthly statistics on the number of EMAS registrations, per sector and per country.