



ORGALIME

POSITION PAPER
Revision of EU Eco-Management and Audit Scheme (EMAS)
Regulation EC N° 761/2001 and
Revision of EU Eco Label Regulation EC N° 1980/2000

Brussels, 27 March 2007

Orgalime, the European Engineering Industries Association, speaks for 36 trade federations representing some 130,000 companies in the mechanical, electrical, electronic and metalworking industries of 24 European countries. The industry employs some 10.6 million people in the EU and in 2006 accounted for some €1,779 billion of annual output. The industry not only represents more than one quarter of the output of manufactured products but also a third of the manufactured exports of the European Union.

Executive summary

In view of the upcoming **review of the EMAS Regulation EC N° 761/2001**, Orgalime is pleased to provide the following comments in the context of the Commission's stakeholders consultation.

Since Orgalime industries act on highly competitive global markets with complex global supply chains, the reality in our industry shows that European engineering companies mainly opt for international management systems, and ISO standards in particular, rather than management systems that apply at regional or local levels only.

The main hurdles for taking up EMAS at a broader scale within our industries are:

- The significant administrative burden and costs related to introducing EMAS in a company.
- The unsatisfactory recognition of EMAS at international level.
- The burdensome and complex mandatory third party certification that EMAS certification requires, is a time consuming as well as costly process, which is not necessarily beneficial for the improvement of companies' ecological profile.

The review should therefore in our view focus on the following aspects:

- Keep the voluntary character of the EMAS scheme.
- Reduce the administrative burden and costs of EMAS certification.
- Do not discriminate against other environmental management systems (EMS), and international EMS in particular, and keep as broad as possible a toolbox for companies. In particular, EMAS should not be developed as a standard of excellence.
- If the Commission wishes to raise the attractiveness of EMAS on a broader scale, including at international level, this in our view seems only achievable by removing the requirement of mandatory third party certification.
- As regards the IPPC directive and EMAS, Orgalime suggests coordinating the reporting system in order to reduce administrative burden and costs.

With respect to the equally upcoming **review of the EU Eco label Regulation N° 1980/2000**, Orgalime feels that developing criteria for Eco labels must in any case remain coherent with the ongoing work carried out in the context of the implementation of Directive 2005/32/EC on Eco Design of Energy Using Products (EuP), which refers to the Eco label as a possible tool for presumption of conformity. While Orgalime supports an as broad as possible participation of industry in the Eco Label Board, we believe that voting rights on Eco label criteria are an exclusive competence of regulators and cannot be delegated to the Eco Label Board. In particular, since the Eco label can provide presumption of conformity for possible implementing measures under the EUP Directive, it is important that decision powers remain with regulators while the adoption process of such criteria and their publication remains fully transparent.

In the light of these principles, Orgalime is pleased to provide its more detailed comments on a number of proposals included in the Commission's stakeholders consultations.

I. Orgalime comments on the revision of the EMAS Regulation

1. EMAS should remain a voluntary instrument

Orgalime particularly welcomes the voluntary aspect of the present EMAS scheme, leaving companies the possibility to choose the environmental management system that best meets their profile, market structure and resource availability. It is Orgalime's view that EMAS should remain one of the tools out of an as broad as possible "menu" for companies.

Orgalime fully agrees with the Commission that making EMAS mandatory for all organisations in a specific sector should not be supported. We feel that our companies, which are producing according to very high environmental standards, are best placed to decide which environmental management system they will choose to implement within their company. A command and control approach would in our view be counter productive: besides causing discrimination, it would undermine the investment companies have made in other EMS than EMAS.

In the legislation affecting our sector, for example the recently adopted Energy Using Product Directive 2005/32/EC, manufacturers have the possibility to choose environmental management systems, including EMAS, for conformity assessment. We feel that the flexibility offered by sector specific legislation in terms of environmental management systems should in any case be maintained.

2. Practical, easy-to-understand and less costly legislation

Orgalime welcomes the commitment of the Commission to simplify the scheme and affordability for participating organisations. This is in our view a step in the right direction, contributing to achieving the general Institutions' objective of Better Regulation.

Orgalime believes that measures aiming at making EMAS less complex to implement by reducing the administrative burden would bring significant improvement to the scheme. We therefore welcome the following proposals:

- To reduce the procedural requirements of external verifiers and Member State accreditation bodies if mandatory third party certification is not abandoned.
- To better harmonize accreditation, external verification and registration procedures by clarifying the role and requirements of Member States accreditation and Competent Bodies.

Orgalime also views as positive that the Commission recognises that the costs linked with EMAS registration, verification and implementation are significant, especially for SMEs, which see costs as the main obstacle for taking up the EMAS scheme. We therefore welcome the following proposals:

- To introduce a cluster approach, which in our view could be further explored in order to allow companies to save costs and time and therefore encourage them to join the EMAS scheme.
- To require Member States not to charge registration fees. This may encourage companies, which have chosen another type of certification, to also join the EMAS scheme. Costs would be reduced to those of preparing the required environmental information.

3. Developing an annual award event

Orgalime believes that the proposal for an annual European award event is interesting and could have a positive impact on the visibility of the EMAS scheme and of companies, which have chosen to implement it.

4. Integrating sustainability aspects in EMAS

Orgalime underlines that sustainability is a very broad issue, covering very different areas, such as social aspects. If those were to be integrated into EMAS, the denomination and the objectives of the scheme would change since it would no longer focus on "environmental" management aspects only. Orgalime therefore does not support such a way forward.

5. No discrimination against companies choosing another environmental management system than EMAS, in particular international ones

It is Orgalime view that there should be no discrimination against those companies, which have chosen to implement a different management system than EMAS.

It is a fact that the majority of Orgalime industries, which act on highly global and competitive markets, have chosen the ISO standard as environmental management system. For example, in Sweden, some 70 companies (of which only 7 in the engineering sector) have chosen EMAS, while some 4600 companies are ISO certified. It is our industry's experience that ISO standards are well established, widely recognised on the international scene, and functioning well. A standard for environmental communication has moreover recently been developed and added to the ISO 14000 series, which is called ISO 14063/2006. This tool for environmental communication allows our companies to reach similar objectives with ISO 14001 as with EMAS. We welcome this.

The choice of ISO by Orgalime companies is also a result of market forces: Orgalime stresses the fact that a major incentive for companies to implement any environmental management system is customer demand. Given its wide recognition at international level, ISO certification has been largely favoured by customers be they private, business to business, or institutional.

Orgalime therefore takes the view that

- EMAS should not be made a mandatory requirement in public procurement. While we agree that public procurement is an important tool to stimulate access to market of environmental friendly products, we believe that it would be discriminatory against those companies which have chosen to implement another type of environmental management system having an equally or even better performance than EMAS.
- The reduction of administrative burden under IPPC should apply to companies, choosing to implement any environmental management system. Giving EMAS precedence over other environmental management systems would be discriminatory against those, which have chosen a different route than EMAS. Experience has furthermore shown that Orgalime companies which have an IPPC permit or similar rarely got advantages out of their EMAS registration. As a remedy, Orgalime suggests that the reporting systems under EMAS and IPPC are coordinated in order to reduce administrative burden and costs, as is already the case in Germany.
- The proposal that Member States should provide advantages of any kind, financial, fiscal, or market related incentives for EMAS registered organisations in our view equally discriminates companies that have taken up EMAS and companies that have opted for other EMS than EMAS. If granting financial/fiscal incentives, same rules should apply to companies that implement EMAS and companies that opted for implementing other equally performing environmental management systems, be they national, regional or international.

6. No “Best on the market” or “Standard of excellence” approach when reviewing EMAS

We believe that promoting EMAS as a standard of excellence is not the appropriate way to go. EMAS might not be the best option for Orgalime industries, which act on global, fast evolving markets. Companies should be left the possibility to judge themselves, which environmental system is their “standard of excellence”, according to their specificities, market needs and resources.

Ranking EMAS as “best on the market” would moreover leave the impression that those companies, which have chosen a different environmental management system, have a lower performance from an environmental point of view than those which are EMAS registered. This is, however, a false assumption, since the choice of an environmental management system depends very much on criteria other than environmental, such as for example market recognition or the flexibility it offers, while it is usually just as credible from the environmental point of view.

We furthermore doubt that having to report on environmental performance by means of key performance indicators will bring benefits to the image of the EMAS scheme. We feel that a command and control approach would rather discourage SMEs from joining the EMAS scheme. Moreover,

practical experience also shows that implementing key performance indicators, and finding suitable parameters and measures, or calibration between countries and branches is a real challenge.

7. Not too complex information requirements

Sector specific legislation, which applies to Orgalime industries, already contains information requirements, at various stages of the life cycle, such as in the EuP Directive for example. We are concerned that additional information requirements under EMAS, particularly in the form of mandatory "product information sheets", will unnecessarily create additional administrative burden for companies, especially SMEs, besides overlap with the provisions of the EuP Directive. This would also go against the Commission's aim to reduce administrative burden for companies.

8. Bring EMAS on the international scene: yes, but without mandatory third party certification

Orgalime does not by nature reject bringing EMAS at the international level, such as by allowing registration for companies outside the EU or a single corporate registration. However, we believe that the scheme should remain voluntary, if it wishes to be as attractive as the ISO standards, which are widespread and function well.

Environmental management systems should in our view co-exist but not compete against each other, since this would only bring confusion and overlaps with no real benefit for the environment. Working on the complementary aspects of the different environmental management systems would provide for a more constructive approach, while bringing real benefits for the environment.

We feel that the attractiveness for the EMAS scheme could be raised, if the Commission went a step further and removed mandatory third party certification. Such an approach would grant companies more flexibility and allow them to save money on administrative costs, which they could instead invest into raising the ecological profile of their businesses.

No mandatory third party certification also implies that companies choosing to implement EMAS in the future would be left the possibility to opt for either the third party certification route or self certification. Those companies which have already implemented EMAS should have the possibility to keep third party certification if they wish to do so.

II. Orgalime comments on the revision of the Eco label Regulation

1. Link Eco Label and Directive 2005/32/EC on Eco Design of Energy Using Products (EuP)

Orgalime expresses its reservation against providing fiscal incentives for products that bear the Eco-label due to the inherent discrimination and arbitrary restrictions that such an approach would engender.

It is also essential for Orgalime that the Eco label remains a voluntary tool, in its nature of marking of excellence.

With the adoption of Directive 2005/32/EC on Eco Design of Energy Using Products (EuP), the Eco label has also been added to the toolbox of instruments for presumption of conformity.

Orgalime wishes to further express its sensitivity when it comes to developing product group criteria for the Eco label, since Article 9(3) of the EUP Directive, which addresses the core competence of Orgalime manufacturing industries, states that

"EuPs which have been awarded the Community eco-label pursuant to Regulation (EC) No 1980/2000 shall be presumed to comply with the ecodesign requirements of the applicable implementing measure insofar as those requirements are met by the eco-label".

Firstly, contrary to the eco design requirements in a EuP implementing measure which would set the minimum mandatory performances for a complete product category, the Eco label criteria set the voluntary specifications for *one* product to provide the best environmental performances *within its category*. This environmental excellence often has consequences on the purchasing price of such a product which may only be offset by savings during its use phase or at its end of life.

Secondly, we believe that it is of utmost importance that the criteria possibly developed under the Eco label, if any, must be coherent with the work currently carried out at the European level in the context of the implementation of the EUP framework, and more particularly the ongoing preparatory studies. Furthermore, those criteria should in our view be relevant, consistent and ensure that comparable measurements are provided.

The proposed approach to build up criteria upon national studies, however, would contradict such a coherent and consistent way forward. Orgalime therefore does not support it.

Making Eco label criteria mandatory in tendering at national level is in our opinion of discriminatory nature and should not be supported either.

2. A new Eco Label Board with extended powers

The Commission proposes to modify the present procedure of developing new Eco label criteria by strengthening the role of stakeholders including new voting powers. While Orgalime fully supports to strengthen the participation of as many as possible participants from those stakeholders that are supposed to implement the Eco label in practice, namely industry, we are reluctant about the Commission's proposal to delegate voting powers from the regulatory committee to the Eco Label Board, given the legal constraints and potential conflicts of interest.

We take the view that the Eco Label Board, as a Consultation Forum, should serve the ultimate purpose of providing a real platform for discussion that would reflect in any report all opinions, comments, facts, arguments raised by any participant to the Forum, in order to allow regulators to base their decision on complete and unfiltered information.

Voting rights however, should, in our view, be reserved to regulators in order to be representative for the EU and realistically applied across the EU. This is all the more important since the Eco label can be used as one tool for presumption of conformity under the above mentioned EuP directive. It is therefore also necessary to be transparent whenever criteria should be changed and to particularly publish any Eco label criteria in the Official Journal of the EU.