

**COMMISSION DECISION****of 7 December 2011****concerning a guide on EU corporate registration, third country and global registration under Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)***(notified under document C(2011) 8896)***(Text with EEA relevance)**

(2011/832/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) <sup>(1)</sup>, and in particular Articles 3 and 46(4) thereof,

Whereas:

- (1) Regulation (EC) No 1221/2009 establishes the possibility for organisations with multiple sites located in one or more Member States or third countries to register under EMAS.
- (2) Companies and other organisations with sites located in different Member States or third countries should receive additional information and guidance about the possibilities to register themselves under EMAS.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Committee established pursuant to Article 49 of Regulation (EC) No 1221/2009,

HAS ADOPTED THIS DECISION:

*Article 1*

For the purpose of Article 46(4) and for the purpose of providing additional clarifying information on Article 3 of Regulation (EC) No 1221/2009, the Commission adopts this guide on EU corporate, third country and corporate registration under EMAS.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 7 December 2011.

*For the Commission*  
Janez POTOČNIK  
*Member of the Commission*

---

<sup>(1)</sup> OJ L 342, 22.12.2009, p. 1.

## ANNEX

**Guide on EU corporate, third country and global registration under EMAS (Regulation (EC) No 1221/2009)**

## 1. INTRODUCTION

The purpose of this document is to give guidance on how the European Eco-management and Audit Scheme (EMAS) works for organisations operating with subsidiaries and sites located in several EU Member States and/or in third Countries, and to provide specific guidance to Member States, verifiers and organisations who can use it for registration purposes. This guide is the consequence of Article 46(4) of the EMAS Regulation <sup>(1)</sup> which states that 'The Commission shall, in cooperation with the Forum of Competent Bodies, develop a guide on registration of organisations outside the Community' and of Article 16(3), which states that 'The Forum of Competent Bodies shall develop guidance to ensure the consistency of procedures relating to the registration of organisations in accordance with this Regulation, including renewal of registration and suspension and deletion of organisations from the register both inside and outside the Community'.

When EMAS was introduced in 1993 it was designed to cover individual sites of organisations from the industrial and manufacturing sectors. Following the first revision in 2001, EMAS II was opened to all organisations with multiple sites (located in a Member State of the EU and the EEA as before). EMAS III has opened up further, and it is now applicable to organisations inside and outside the EU.

Opening up EMAS to third countries provides organisations from all sectors with a tool for achieving a high environmental performance levels that can be publicly recognised by stakeholders of the European Community.

Member States are free to make a decision as to whether their national competent body/bodies will provide for the registration of organisations in third countries in accordance with Article 11(1) of the EMAS Regulation.

**Registration**

Due to the interrelationship between the registration of organisations with multiple sites within the EU and the registration of organisations outside the EU, there are several different situations that can take place in reality. This document provides general guidance for cases that competent bodies, environmental verifiers and organisations applying for EMAS have to cope with. The following three specific types of situations are analysed:

- Situation 1: Registration of organisations with sites located in more than one EU Member State (EU corporate registration),
- Situation 2: Registrations of single or corporate organisations with sites located in third countries (third country registration), and
- Situation 3: Registrations of organisations with sites located in both EU Member States and third countries (global registration),

In all three procedures, the organisation may apply for one single corporate registration of all or some of those sites. The choice of the sites to be included in the registration is up to the organisation applying.

*Note:*

The simple case of an EU national corporate registration is not dealt with in this guidance.

This guidance deals with issues such as:

- identification of the competent body,
- accreditation or licensing of environmental verifiers operating outside the EU,
- coordination among Member States for these procedures,
- legal compliance in third countries,
- renewal, deletion and suspension of corporate registrations.

<sup>(1)</sup> Regulation (EC) No 1221/2009.

Requirements within the three situations are often quite similar; however, the use of cross references between the chapters is restricted to an absolute minimum in order to improve the readability of the text. Therefore, repetitions may occur.

For the credibility of EMAS it is important that the regulation is applied in a similar fashion inside and outside the EU. For this purpose, differences and difficulties in implementing some specific elements of EMAS, such as legal compliance, must be taken into account. Competent bodies in Member States allowing third country registrations shall adopt specific procedures to ensure that EMAS inside and outside the EU results in equivalent systems. The historical, economic and cultural relationships among EU Member States and third countries may drive the implementation of third country and global EMAS and can be used as a way to facilitate EMAS extension all over the world.

## 2. TERMINOLOGY

For the purpose of this guidance document, the following terminology will be used:

**Headquarters** means a management entity at the top of an organisation with multiple sites that controls and coordinates main functions of the organisation such as strategic planning, communications, tax, legal, marketing, finance, and others.

**Management centre** means a site, other than the headquarters of the organisation with multiple sites, specifically designated for the purpose of registration under the EMAS Regulation, where control and coordination of the environmental management system is ensured.

**Leading competent body** means the competent body in charge of the EU corporate registration, third country and global registration procedure.

*Note:*

Article 3(3) from the EMAS Regulation deals with the determination of the (leading) competent body.

The determination of the leading competent body may vary according to the 'Situations' described above, as follows:

- In case of situation 1 (EU corporate registration) the leading competent body is the competent body from the Member State in which the headquarters or the management centre of the applying organisation is located.
- In case of third country and global registration, it is the competent body from the Member State that provides for registration of organisations from outside the Community and where the verifier has been accredited. In other words, firstly the Member State has to provide for third country registration and, secondly verifiers that are accredited or licensed for verifications in those third countries where the sites included in the registration process are located need to be available.

## 3. EU CORPORATE REGISTRATION — REGISTRATION OF ORGANISATIONS WITH MULTIPLE SITES IN SEVERAL MEMBER STATES

### 3.1. Applicable legislation and legal compliance in EU Member States

- 3.1.1. Organisations must always be in compliance with EU and national legal requirements applicable to the sites included in the EMAS registration.
- 3.1.2. According to Annex IV(B)(g) to the EMAS Regulation, the environmental statement of organisations shall include a reference to the applicable legal requirements relating to the environment.
- 3.1.3. In order to provide the 'material or documentary evidence of legal compliance' as referred to in Article 4(4) of the EMAS Regulation, the organisation may provide statements from the competent enforcement authorities ensuring that there is no evidence of non-compliance and/or that the company is not involved in relevant enforcement procedures, lawsuits or complaint procedures. Verifiers shall — as a part of the verification procedure — check all environmental licences or permits applicable to the organisation or any other kind of evidence in accordance with the legal system operating in the Member State where the site is located.

### 3.2. Tasks of the competent bodies

- 3.2.1. In case of EU corporate registration, the location of the headquarters or management centre (in that order) of the organisation is decisive in determining who the leading competent body is.

- 3.2.2. In case of **EU corporate registration** the leading competent body cooperates solely with all the competent bodies located in the Member States where sites, included in the corporate registration process, are located.
- 3.2.3. The leading competent body is responsible for the registration and will coordinate the procedure with other relevant competent bodies.

The leading competent body shall not register, suspend, delete or renew registration of an organisation if the competent body from another Member State, where the sites of the organisation included in the registration are located, does not agree with the registration, suspension, deletion or renewal (see 3.4. and 3.6 of this guidance). As stated in section 3.4.6 the leading competent body can also decide to proceed with a corporate registration procedure with a smaller scope (e.g. without the disputed site).

- 3.2.4. Competent bodies should coordinate their activities with the accreditation and licensing bodies in their Member States, in order to ensure that both the competent body and the accreditation or licensing body are able to fulfil their respective tasks in a coordinated way.
- 3.2.5. General principles and specific coordination procedures between competent bodies shall, within six months of the adoption of this guidance document, be set up and approved by the Forum of Competent Bodies. They will then be submitted for adoption in accordance with the regulatory procedure with scrutiny as referred to in Articles 48(2) and 49(3) of the EMAS Regulation.
- 3.2.6. The Forum of Competent Bodies will develop standardised forms in all official languages of the European Union for implementing the 'coordination procedures' referred to above. In order to enable an efficient communication while minimising misunderstandings resulting from language difficulties, the standardised forms will mainly consist of tick-boxes and only a very limited number of 'commenting' fields that can contain free text. Written evidence of this communication, by means of regular mails, e-mails or faxes, should be kept in the event of disputes among competent bodies.

The abovementioned forms should include, as an updatable attachment, a list of applicable fees related to all Member States.

### 3.3. **Tasks of the accredited or licensed verifiers**

- 3.3.1. General rules applicable to EMAS environmental verifiers, their accreditation or licence, and to the verification process are established in Chapters V and VI of the EMAS Regulation.
- 3.3.2. The verification of the environmental management system and the validation of the EMAS environmental statement must be done by an EMAS environmental verifier who is accredited or licensed for the relevant scope in accordance with the NACE codes <sup>(1)</sup>.
- 3.3.3. In case of registration of an organisation with multiple sites and activities, the accreditation of the verifier(s) has/have to cover all the NACE codes of the organisation's sites and activities. If a verifier is not accredited or licensed for all relevant NACE codes, other accredited environmental verifiers shall be involved as appropriate through case-cooperation. It is up to an organisation seeking for registration to decide if it wants to involve several accredited verifiers taking into account Article 4 of the EMAS Regulation. Apart from reasons such as the lack of verifiers accredited for the relevant NACE codes, organisations might also have other reasons (e.g. local experience, language knowledge or the desire to combine the EMAS verification with certification against other standards) to use several verifiers. All cooperating verifiers have to sign the declaration referred to in Article 25(9) of the EMAS Regulation and the EMAS environmental statement. Each verifier involved is responsible for the outcome of that part(s) of the verification that results from his/her own area of expertise (mostly related to specific NACE codes). The practice that all verifiers must sign the same declaration enables the leading competent body to identify all involved verifiers. Consequently the leading competent body can verify, via the cooperating competent bodies (who should in turn coordinate their activities with the accreditation and licensing bodies), if all the involved verifiers have respected the prior notification obligation as stated in Article 23(2) of the EMAS Regulation. It also enables the leading competent body to verify if the NACE codes of the involved verifiers cover those of the organisation in question.
- 3.3.4. Verifiers accredited or licensed in one Member State are allowed to operate in other Member States. Verifiers shall send a notification to the accreditation or licensing body located in the Member State/s where they intend to operate at least four weeks in advance of starting their activities.

<sup>(1)</sup> As established in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

- 3.3.5. The accreditation or licensing body supervising the verifier(s) performing in its Member State shall send a supervision report in case of problems/negative results to the competent body in that Member State. This competent body shall then transfer the supervision report to the leading competent body in charge of the EU corporate registration.
- 3.3.6. If a verifier detects a non-compliance situation at the time of verification for the first registration, he/she shall not sign the declaration referred to in Article 25(9) of the EMAS Regulation and the EMAS environmental statement.
- 3.3.7. If a verifier detects a case of non-compliance in the period of validity of the registration or at the time of renewal, he/she can report to the (leading) competent body that the organisation in question does not comply with the EMAS requirements any longer. At the time of renewal of the EMAS registration he/she may only sign the declaration referred to in Article 25(9) and the updated EMAS environmental statement if the organisation demonstrates that it took measures (i.e. in cooperation with the enforcement authorities) to ensure that legal compliance is restored. If the organisation does not provide sufficient measures to solve the compliance problem, the verifier shall not validate the updated statement and not sign the declaration and the EMAS environmental statement. In other words the EMAS environmental verifier shall sign the declaration and validate the EMAS environmental statement only in case of full compliance.

#### 3.4. Registration process

- 3.4.1. General rules applicable to the Registration are established in Chapters II, III and IV of the EMAS Regulation.
- 3.4.2. The organisation should communicate at an early stage with the verifier(s) and leading competent body to clarify language issues with regard to the documents necessary for registration, keeping in mind the requirements of Article 5(3) and Annex IV (D) to the EMAS Regulation.
- 3.4.3. The leading competent body shall check the information contained in the application and it shall communicate on this with the other involved competent bodies. This means that the leading competent body is informed by the involved competent bodies about the validity of the information of the involved national sites.
- 3.4.4. The competent bodies involved shall check, via their accreditation and licensing bodies, for their own Member States whether the verifier(s) involved in the registration procedure is (are) accredited or licensed for all the NACE codes concerned in the registration process. This implies that the competent body checks whether the verifier(s) has/have made proper and timely (at least four weeks in advance of each verification in a Member State) notification, in accordance with Article 24(1) of the EMAS Regulation. Therefore the competent body must communicate to the accreditation or licensing body of its Member State, in any case a simple message that there are sites to be registered on the basis of verification/validation activities of verifiers from other Member States. If the verifier's competence is not approved by the accreditation and licensing body, the accreditation or licensing body can compel the verifier to comply with the relevant requirements or inform the competent body about the problem. Without this minimum communication between the competent bodies and the accreditation and licensing bodies as well as between the competent bodies and the leading competent body, the supervision activities could be undermined.
- 3.4.5. All competent bodies involved in the registration process will apply their national procedures to check, for the sites located in their Member State, compliance with the EMAS Regulation. They will inform the leading competent body about their decision (can be registered/cannot be registered). In case of a negative decision the competent body shall inform the leading competent body of the motivation thereof in form of a statement. Since this statement is binding, the leading competent body can either decide to stop the corporate registration procedure until the requirements of the regulation are fulfilled (in which case none of the sites will be EMAS registered), or inform the organisation that they can proceed with a corporate registration procedure without the disputed site.
- 3.4.6. Following the registration decision, the leading competent body shall inform all national competent bodies involved, who will inform their respective enforcement authorities.

#### Note:

The European Commission encourages the competent bodies involved to exchange contact details of their respective enforcement authorities to facilitate the exchange of information between competent bodies and enforcement authorities about the latter not being aware of any situations of non-compliance.

- 3.4.7. Monitoring of legal compliance at national level is ensured by the national enforcement authorities and by verifiers during the verification process. If these authorities detect a non-compliance situation they must inform the national competent body, who in its turn shall inform the leading competent body.

- 3.4.8. If a competent body in the Member State where a site of the organisation applying for the corporate registration in question is located finds evidence of breach of applicable legal requirements, complaints or any other relevant information, to meet the requirements concerning registration, renewal, suspension and deletion, they shall without any delay transmit to the leading competent body a supervision report outlining the problem.
- 3.4.9. Some Member States are obliged to charge fees according to their national legislation. Consequently, the leading competent body is not in a position to decide on fees which are set according to the legislation of other Member States. The role of the leading competent body regarding fees will merely consist of informing the organisation of the total amount and the individual fees to be paid to the national competent bodies involved in the registration procedure. The leading competent body will also inform the organisation that all competent bodies involved charge the fees resulting from registering the national sites involved in a corporate registration procedure directly to the respective national sites of the applicant organisation.

All involved competent bodies shall inform the leading competent body that fees have been effectively paid before registration, as required by Article 5(2)(d) of the EMAS Regulation.

*Note:*

The European Commission strongly encourages all Member States to investigate possibilities to lower applicable fees to organisations that apply for corporate registration. In corporate registration cases, only the leading competent body will have administrative costs comparable to those of a regular registration, while competent bodies involved will be less engaged and thus have lower costs. Lower fees will increase the attractiveness of the EMAS scheme and corporate registration.

- 3.4.10. All competent bodies involved should charge the fees resulting from registering the national sites involved in a corporate registration procedure directly to the respective national sites of the applicant organisation.

**3.5. Already registered organisations**

- 3.5.1. If an organisation already registered decides to go for EU corporate registration, the leading competent body may, upon request of the organisation, extend the scope of the existing registration, thus maintaining the existing number in the national register. The entry should also be recorded with the new registration number in the national register. In those cases, all the other involved competent bodies from Member States where the organisation has already registered sites shall ensure that the existing registrations will be registered under the new registration number in their respective registers.

**3.6. Deletion and suspension of registrations**

- 3.6.1. General rules for suspension and deletion established in Article 15 of the EMAS Regulation shall be applicable to this specific procedure.
- 3.6.2. Any complaint concerning the registered organisation shall be notified to the leading competent body.
- 3.6.3. Every competent body is in charge of the procedures related to the sites of the organisation in the respective Member State. If a case occurs in which an organisation must be suspended or deleted from the EMAS Register, the cooperating competent body informs the leading competent body via a statement of its point of view. This means that the national competent bodies only issue statements about their respective national sites. If one of these statements confirms that a national site cannot be registered, the leading competent body starts the procedure for deletion or suspension, while observing the requirements of Article 15 of the EMAS Regulation. Before making any final decision on deletion or suspension of the organisation, the leading competent body should inform the other cooperating competent bodies involved, so that they know about the reasons for suspension/deletion by one or more competent bodies. The leading competent body also should inform the headquarters or the management centre of the organisation about the decision made and the reasons for the proposed deletion or suspension. Subsequently, the leading competent body gives the organisation the opportunity to decide if the whole organisation shall be deleted from the EMAS Register or if the disputed sites will be removed from the scope of the corporate registration.
- 3.6.4. Disputes between individual national competent bodies involved in the corporate registration procedure shall be settled within the Forum of competent bodies. Disputes between the leading competent body and the organisation will be settled according to national law of the country in which the leading competent body is situated. Disputes between the organisation and individual competent bodies, e.g. about the legal compliance situation of individual national sites included in the corporate registration procedure, will be settled according to the applicable national law of the Member State in question. Disputes will be settled in line with the requirements of Article 15 of the EMAS Regulation.

- 3.6.5. If no settlement can be achieved between the competent bodies involved within the Forum of competent bodies, the registration procedure can eventually be continued without the disputed sites.

3.7. **Language issues**

- 3.7.1. The EMAS environmental statement and other relevant documents shall be submitted in (one of) the official language(s) of the Member State in which the leading competent body is situated (Article 5(3)). If an organisation presents a corporate environmental statement with information on individual sites, this information shall, in addition, be in (one of) the official language(s) of those Member States where the sites are located.

4. **THIRD COUNTRY REGISTRATION — REGISTRATION OF ORGANISATIONS WITH ONE OR MULTIPLE SITES IN THIRD COUNTRIES (SITUATION 2)**

EMAS third country registration means EMAS registration of an organisation operating in one or more third countries. Under the EMAS Regulation, Member States are free to make a decision whether their national competent body(s) will provide for the registration of organisations in third countries in accordance with Article 11(1) of the EMAS Regulation.

4.1. **Applicable legislation and legal compliance in third countries**

- 4.1.1. Organisations must always be in compliance with the respective national legal requirements of the third countries where the sites included in the EMAS registration are located.

- 4.1.2. In order to ensure that the EMAS scheme maintains its high level of ambition and credibility, it is enviable that the environmental performance of a third country organisation achieves a level as close as possible to the level that EU organisations are required to meet by the relevant European and national legislation. Therefore it is desirable for organisations outside the Community, on top of the references made to the applicable national environmental requirements, to make reference in the environmental statement also to the legal requirements relating to the environment applicable to similar organisations in the Member State where the organisation intends to apply for registration (Article 4(4) of the EMAS Regulation). The environmental requirements on that list should be used as a reference when setting eventual higher additional performance targets, but they are not binding for the assessment of the organisation's legal compliance.

- 4.1.3. According to Annex IV(B)(g) to the EMAS Regulation, the environmental statement of organisations shall include a reference to the applicable national environmental legal requirements.

- 4.1.4. For sites located in third countries, the documentary evidence as mentioned in Article 4(4) of the EMAS Regulation should preferably consist of:

— statements from enforcement authorities of the third country including information on the environmental permits applicable to the organisation and stating that there is no evidence of non-compliance and/or that the company is not involved in enforcement procedures, lawsuits or complaint procedures,

— additionally, the environmental statement should preferably also contain cross reference tables between the national legislation of the third country and the legislation in the country where the organisation applies for registration as mentioned in section 4.1.2.

4.2. **EMAS third country accreditation and licensing**

- 4.2.1. Member States shall make a decision on whether to provide for third country registration or not, in accordance with their means and operational procedures. In this case, Member States shall ensure that their national accreditation bodies or licensing bodies will provide for accreditation or licensing of environmental verifiers for third country EMAS. Only Member States that accept the principle of 'third country registration' are entitled to register organisations operating in third countries.

- 4.2.2. If a Member State decides to provide for third country registration, according to Article 3(3) from the EMAS Regulation, the possibility to get a registration from that specific Member State will in practice depend on the availability of accredited verifiers. The potential verifier should be accredited in that specific Member State that provides for third country registration, for that specific third country and for the specific economic sector(s) involved (determined based on NACE codes) in the given registration procedure.

*Clarifying comment:*

This means that the verifier who shall perform the verification in a given third country must be accredited for that specific third country by the accreditation and licensing body of the Member State that provides for registrations from third countries and where the organisation intends to register.

- 4.2.3. The accreditation or license that verifiers can obtain for third countries must state for which third countries it is valid, so that the registration allowance is consistent with the provisions of Article 22(2) of the EMAS Regulation. It is up to the Member States to decide if they want to issue separate certificates for each third country or issue an overall accreditation certificate with a geographical appendix, listing the countries in which the verification bodies are accredited to operate in, attached.

*Clarifying comment:*

Taking into account Article 22, 'additional requirements for environmental verifiers active in third countries' it is clear that accreditation/licensing for third countries can only be an additional accreditation/licensing to a basic accreditation/licensing for Europe. This implies that third country accreditation/licensing is granted as an additional requirement to general accreditation/licensing in a certain scope and its requirements. Consequently accreditation/licensing for third countries will have to include accreditation/licensing for one of the Member States and within a certain scope.

Once a verifier is accredited or licensed in one Member State he/she is free to perform verifying activities in other Member States in accordance with Article 24 of the Regulation.

**4.3. Tasks of the competent body**

- 4.3.1. A Member State that has more than one competent body should determine to which competent body applications for third country registrations can be made, which should be the same one as the one designated according to section 5.3.1.

- 4.3.2. The application for third country registration from organisations with sites located exclusively in third countries is made to any competent body designated for this purpose in those Member States where the following conditions are met:

(a) the Member State provides for registration of organisations from third countries;

(b) accredited or licensed verifiers are available for verifications in the third countries where the sites included in the registration are located, and that these verifiers cover the relevant NACE codes (in other words, the decision for choosing a verifier determines the Member State of registration and vice versa).

- 4.3.3. The competent bodies should coordinate their activities with the accreditation and licensing bodies in their Member States in order to ensure that whenever the Member States provide for registration of organisations from third countries both the competent body and the accreditation or licensing body are able to fulfil their respective tasks in a coordinated way.

**4.4. Tasks of the accredited or licensed verifiers**

- 4.4.1. General rules applicable to EMAS environmental verifiers, their accreditation or licence and to verification process are established in Chapters V and VI of the EMAS Regulation.

- 4.4.2. Those Member States that allow third country registration must put in place a specific system to accredit or license verifiers for third countries. Verifier accreditation or licensing will be granted country by country as an add-on to a general accreditation or licence, in accordance with the specifications described in this section.

- 4.4.3. The verifier(s) must be accredited or licensed for all the NACE codes of the organisation's activities related to the sites of this organisation which are to be included in the registration procedure. Due to the potentially wide scope of activities, organisations have the possibility to use several accredited verifiers as they see fit. In fact it might be difficult if not impossible to appoint a single verifier for all the activities of large organisations. If the verifier is not accredited or licensed for the relevant NACE codes himself/herself, other environmental verifiers shall be involved as appropriate through case-cooperation. It is up to an organisation seeking for registration to decide if it wants to involve several accredited/licensed verifiers taking into account Article 4 of the EMAS Regulation. Apart from reasons such as the lack of verifiers accredited for the relevant NACE codes organisations might also have other reasons (e.g. local experience, language knowledge or the desire to combine the EMAS verification with certification against other standards) to use several verifiers.

- 4.4.4. All cooperating verifiers have to sign the declaration referred to in Article 25(9) and the EMAS environmental statement. Each verifier involved is responsible for the outcome of that part(s) of the verification that results from his/her own area of expertise (mostly related to specific NACE codes). The practice that all verifiers must sign the same declaration enables the competent body to identify all involved verifiers. Consequently the competent body can verify, via the accreditation and licensing bodies, if all the involved verifiers have respected the prior notification obligation as stated in Article 23(2) of the EMAS Regulation. It also enables the competent body to verify if the NACE codes of the involved verifiers cover those of the organisation in question.

- 4.4.5. Verifiers who want to operate in third countries must obtain a specific accreditation or licence for the specific country in question as an add-on to a general accreditation or licence, in accordance with the specifications laid out in the EMAS Regulation. This means they must have:
- (a) a specific accreditation or licence for the NACE codes applicable to the organisation;
  - (b) knowledge and understanding of the legislative, regulatory and administrative requirements relating to the environment in the third country for which accreditation or licence is sought;
  - (c) knowledge and understanding of the official language of the third country for which accreditation or licence is sought.
- 4.4.6. Verifiers shall — as a part of the verification procedure — check all environmental licences or permits applicable to the organisation or any other kind of evidence in accordance with the legal system operating in the countries covered by the application.
- 4.4.7. In third countries, the verifier shall, on top of his regular duties, perform in particular an in depth check of the legal compliance of an organisation and of its sites included in the registration process. Thereby, specifically considering the content of Article 13(2)(c) of the EMAS Regulation, verifiers shall check that there is no evidence of non-compliance relating to the environment. Verifiers should use the findings of enforcement authorities and should thus contact those authorities in order to obtain detailed information about the legal compliance. The verifier must check if he/she is satisfied on the basis of material evidence received, for example through a written report from the competent enforcement authority. If no evidence for non-compliance is found, this shall be declared in the environmental verifier's declaration on verification and validation activities (Annex VII to the EMAS Regulation). This declaration is to be signed by the verifier. The verifier has the duty to check if the requirements of the EMAS Regulation are satisfied through usual audit techniques which are to be conducted in accordance with the EMAS Regulation. In order to ensure an equal level of quality of registration of the third country sites compared to similar sites in the EU, the verifier might consider performing a risk assessment evaluation.
- 4.4.8. In accordance with Article 13(2)(d) of the EMAS Regulation, the verifier should check if there are no relevant complaints from interested parties or that complaints have been positively solved.
- 4.4.9. Those Member States that provide for third country registration shall consider putting in place measures to strengthen the accreditation process in order to ensure that verifiers accredited for specific third countries are knowledgeable to check compliance of the organisation with the applicable national legislation in the third country.
- 4.4.10. Member States that provide for third country registration may consider putting in place optional specific provisions to reinforce the checking of legal compliance and ensure a registration process, similar to that in the EU. Member States may in particular consider the possibility of concluding agreements (bilateral agreement, memorandum of understanding, etc.). Such agreements could include a procedure to communicate legal compliance between the respective enforcement authority in the third country and the Member State, as well as how to communicate breaches of applicable legal requirements to the Member State's competent body in the time between the initial registration or renewal and the next renewal.
- 4.4.11. At least six weeks before verification or validation in a third country, the environmental verifier shall notify its accreditation or licence details and the time and place of the verification or validation to the accreditation or licensing body of the Member State in which the organisation concerned intends to apply for registration or is registered. The competent body of the Member State in which the sites are intended to be registered can also be notified.
- 4.4.12. If a verifier detects a non-compliance situation at the time of registration, he/she shall not sign the EMAS environmental statement and the declaration referred to in Article 25(9) of the Regulation.
- 4.4.13. If a verifier detects a case of non-compliance in the period of validity of the registrations or at the time of renewal, he/she can report to the competent body that the organisation in question does not comply with the EMAS requirements any longer. At the time of renewal he/she may only sign the declaration referred to in Article 25(9) and the updated EMAS environmental statement, if the organisation demonstrates that it took adequate measures (i.e. in cooperation with the enforcement authorities) to ensure that legal compliance is restored. If the organisation can not demonstrate to the verifier to have taken sufficient measures to restore legal compliance, the verifier shall not validate the updated statement and not sign the declaration and the EMAS environmental statement.

#### 4.5. **Registration process**

- 4.5.1. The organisation should communicate at an early stage with the verifier(s) and the competent body to clarify language issues with regard to the documents necessary for registration, keeping in mind the requirements of Article 5(3) and Annex IV(D) to the EMAS Regulation.
- 4.5.2. Before application for registration is sent to the competent body, the organisation shall provide material or documentary evidence to the verifier that there is no proof of non-compliance with the applicable legal requirements relating to the environment as described in section 4.1.4 of this guidance.
- 4.5.3. After fulfilling the EMAS requirements, specifically those applicable to the registration process listed in Annex II of the Regulation, and having the EMAS environmental statement validated by an accredited or licensed verifier, the organisation shall send the application form, and the related documents including Annexes VI and VII, for registration to the competent body.
- 4.5.4. The competent body shall check the information contained in the application, and, for that purpose, the competent body shall communicate with the national accreditation or licensing body.
- 4.5.5. The accreditation and licensing body shall assess, the environmental verifier's competence in the light of the elements set out in Articles 20, 21 and 22 of the EMAS Regulation. If the verifier's competence is not approved, the accreditation and licensing body can compel the verifier to comply with the relevant requirements and inform the competent body about the problem. Vice versa the competent body must communicate to the accreditation or licensing body in any case a simple message that a registration application has been received and that there are sites of third countries to be registered. After receiving such a message the accreditation and licensing body should communicate their findings regarding the verifier(s) involved to the competent body. This facilitates the final check by the competent body whether the verifier(s) involved in the registration procedure is (are) accredited or licensed for all the NACE codes concerned in the registration process. Without this minimum communication between the competent body and the accreditation and licensing body the supervision activities could be undermined.
- 4.5.6. The competent body in charge of the registration will coordinate checking the legal compliance based on the information the organisation has supplied to the verifier. Only in the case where a Member State has put in place special agreements with third countries, that include provisions that allow the Member State to contact enforcement authorities in the third countries, can they check legal compliance with the enforcement authorities in third countries directly. If not the competent body has to rely on the verifier and/or the organisation to obtain material or documentary evidence demonstrating compliance with the applicable legal requirements.

#### 4.6. **Deletion and suspension of registrations**

- 4.6.1. The competent body shall follow the general rules established in the EMAS Regulation regarding deletion and suspension.
- 4.6.2. Any complaint concerning the registered organisation shall be notified to the competent body.
- 4.6.3. Organisations from third countries aspiring to an EMAS Registration and willing to start a registration procedure must accept that the verifier may be asked by the competent body to verify potential causes of deletion or suspension which might happen in the third country where the sites are located before making any decision. The organisation shall cooperate and answer all questions concerning possible reasons for suspension and deletion to the verifier or to the competent body. The organisation must also be willing to bear the costs of the verifier's work to clarify the situation.
- 4.6.4. Agreements, whenever they have been signed between the Member State responsible for the registration and the third country, could include specific provisions to ensure legal monitoring and active communication of breaches from the enforcement authorities in the third country to the competent body.
- 4.6.5. In all situations, even when such agreements exist, the verifier shall be responsible for checking legal compliance. Potential complaints and non-conformities that might result in the deletion or suspension of the registration must be included in the compliance checks.
- 4.6.6. NGOs operating in the third country could be consulted and used as a source of information. In any case, the verifier shall report to the competent body any relevant information that is retrieved during the verification process.

#### 4.7. Language issues

- 4.7.1. The EMAS environmental statement and other relevant documents shall be submitted for the purpose of registration in (one of) the official language(s) of the Member State in which the competent body is located (Article 5(3)). If an organisation presents a corporate environmental statement with information on individual sites located in different third countries, this information should, in addition, be in (one of) the official language(s) of those third countries where the sites are located.

#### 5. GLOBAL REGISTRATION — ORGANISATION WITH MULTIPLE SITES IN MEMBER STATES AND IN THIRD COUNTRIES (SITUATION 3)

EMAS global registration means the registration of an organisation with multiple sites inside and outside the EU applying for a single registration of all the sites or part of them in a Member State that provides for third country registration.

Registration with multiple sites in Member States and in third countries is a complex procedure that represents a combination of the two procedures already described: EU corporate registration and third country registration. This section elucidates aspects that differ from what is described in sections 3 and 4 of this guidance.

#### 5.1. Applicable legislation and legal compliance in Member States and third countries

- 5.1.1. Organisations must always be in compliance with EU and national legal requirements applicable to the sites included in the EMAS registration.

- 5.1.2. In order to ensure that the EMAS scheme maintains its high level of ambition and credibility, it is enviable that the environmental performance of a third country organisation achieves a level as close as possible to the level that EU organisations are required to meet by the relevant European and national legislation. Therefore it is desirable for organisations with sites outside the Community, on top of the references made to the applicable national environmental requirements, to make reference in the environmental statement also to the legal requirements relating to the environment applicable to similar organisations in the Member State where the organisation intends to apply for registration (Article 4(4) of the EMAS Regulation). The environmental requirements on that list should be used as a reference when setting additional higher performance targets, but they are not relevant for the assessment of the organisation's legal compliance.

- 5.1.3. For sites located in third countries, the documentary evidence as mentioned in Article 4(4) of the Regulation should consist of:

— statements from enforcement authorities of the third country including information on the environmental permits applicable to the organisation and stating that there is no evidence of non-compliance and/or that the company is not involved in enforcement procedures, lawsuits or complaint procedures;

— additionally, the environmental statement should preferably also contain cross reference tables between the national legislation of the third country and the legislation in the country where the organisation applies for registration as mentioned in section 5.1.2.

#### 5.2. Accreditation and licensing

- 5.2.1. The provisions described in section 4.2 concerning EMAS third country accreditation and licensing, apply.

#### 5.3. Tasks of the competent bodies

- 5.3.1. A Member State that has more than one competent body should determine to which competent body applications for global registration can be made, which should be the same competent body as the one designated under section 4.3.1.

- 5.3.2. The application for global registration, i.e. from organisations with sites located in EU Member States and in third countries, is made to any competent body designated for this purpose in one of the Member States where the following conditions are met:

(a) the Member State provides for registration of organisations from outside the EU;

(b) accredited or licensed verifiers for verifications in third countries where the sites included in the registration are located are available, and that the accreditation or licensing of these verifiers cover the relevant NACE codes.

- 5.3.3. The determination of the Member State where the competent body in charge of this procedure will be located is established on the basis of conditions in the following order of preference:
- (1) when the organisation has headquarters in one Member State that provides for third country registration, the application should be submitted to the competent body in that Member State;
  - (2) if the headquarters of the organisation is not located in a Member State that provides for third country registration, but it has a Management Centre there, the application should be submitted to the competent body in that Member State;
  - (3) if the organisation that applies for Global registration has neither headquarters nor a Management Centre in any Member State that provides for third country registrations, then the organisation has to set up an 'ad hoc' management centre in a Member State that provides for third country registration, and the application should be submitted to the competent body in that Member State.
- 5.3.4. If more than one Member State is covered by the application, the coordination procedure between the involved competent bodies, as established in section 3.2. must be followed. Then that competent body will act as leading competent body under the EU Corporate aspects of the procedure.
- 5.4. **Tasks of the accredited or licensed verifiers**
- 5.4.1. General rules applicable to EMAS environmental verifiers, their accreditation or licence, and to the verification process are established in Chapters V and VI of the EMAS Regulation.
- 5.4.2. Those Member States that allow third country registration must put in place a specific system to accredit or license verifiers for third countries. Verifier accreditation or licensing will be granted country by country as an add-on to a general accreditation or licence, in accordance with the specifications described in this section.
- 5.4.3. In case of global registration of an organisation with multiple sites and activities, the accreditation of the verifier(s) has to cover all the NACE codes of the organisation's sites and activities. For third country sites, the verifier(s) must be accredited or licensed for all third countries and all the NACE codes of all the sites involved in the global registration in the Member State where the organisation intends to apply for registration. Due to the potentially wide scope of activities, organisations have the possibility to use several accredited verifiers as they see fit. In fact it might be difficult if not impossible to appoint a single verifier for all the activities of large organisations. If the verifier is not accredited or licensed for the relevant NACE codes or countries himself/herself, other accredited environmental verifiers shall be involved as appropriate through case-cooperation. It is up to an organisation seeking for registration to decide if it wants to involve several accredited/licensed verifiers taking into account Article 4 of the EMAS Regulation. Apart from reasons such as the lack of verifiers accredited for the relevant NACE codes organisations might also have other reasons (e.g. local experience, language knowledge or the desire to combine the EMAS verification with certification against other standards) to use several verifiers.
- 5.4.4. All cooperating verifiers have to sign the declaration referred to in Article 25(9) of the EMAS Regulation and the EMAS environmental statement. Each verifier involved is responsible for the outcome of that part(s) of the verification that results from his/her own area of expertise (mostly related to specific NACE codes). The practice that all verifiers must sign the same declaration enables the leading competent body to identify all involved verifiers. Consequently the leading competent body can verify, via the cooperating competent bodies (who should in turn coordinate their activities with the accreditation and licensing bodies), if all the involved verifiers have respected the prior notification obligation as stated in Article 23(2) of the EMAS Regulation. It also enables the leading competent body to verify if the NACE codes of the involved verifiers cover those of the organisation in question.
- 5.4.5. Verifiers who want to operate in third countries must obtain a specific accreditation or licence for the specific country in question as an add-on to a general accreditation or licence, in accordance with the specifications laid out in the EMAS Regulation. This means they must have:
- (a) a specific accreditation or licence for the NACE codes applicable to the organisation in question;
  - (b) knowledge and understanding of the legislative, regulatory and administrative requirements relating to the environment in the third country for which the accreditation or licence is sought;
  - (c) knowledge and understanding of the official language of the third country for which accreditation or licence is sought.

- 5.4.6. Verifiers shall — as a part of the verification procedure — check all environmental licences or permits applicable to the organisation or any other kind of evidence in accordance with the legal system operating in the countries covered by the application.
- 5.4.7. In third countries, the verifier shall, on top of his regular duties, perform in particular an in depth check of the legal compliance of the organisation and of its sites included in the registration process. Thereby, specifically considering the content of Article 13(2)(c) of the EMAS Regulation, verifiers shall check that there is no evidence of non-compliance relating to the environment. Verifiers should use the findings of enforcement authorities and should thus contact those authorities in order to obtain detailed information about the legal compliance. The verifier must check if he/she is satisfied on the basis of material evidence received, for example through a written report from the competent enforcement authority. If no evidence for non-compliance is found, this shall be declared in the environmental verifier's declaration on verification and validation activities (Annex VII to the EMAS Regulation). This declaration is to be signed by the verifier. The verifier has the duty to check if the requirements of the EMAS Regulation are satisfied through usual audit techniques. In order to ensure an equal level of quality of the third country sites and the EU sites involved in the registration, the verifier might consider performing a risk assessment evaluation.
- 5.4.8. In accordance with Article 13(2)(d) of the EMAS Regulation, the verifier should check if there are no relevant complaints from interested parties or that complaints have been positively solved.
- 5.4.9. Those Member States that provide for third country registration (and thus also for global registration) shall consider putting in place measures to strengthen the accreditation process in order to ensure that verifiers accredited for specific third countries are knowledgeable to check compliance of the organisation with the applicable national legislation in the third country.
- 5.4.10. Member States that provide for global registration may consider putting in place optional specific provisions to reinforce the checking of legal compliance and ensure a registration process, similar to that in the EU. Member States may in particular consider the possibility of concluding agreements (bilateral agreement, memorandum of understanding, etc.). Such agreements could include a procedure to communicate legal compliance between the respective enforcement authority in the third country and the Member State, as well as how to communicate breaches of applicable legal requirements to the Member State's competent body in the time between the initial registration or renewal and the next renewal.
- 5.4.11. At least six weeks before verification or validation in a third country, the environmental verifier shall notify its accreditation or licence details and the time and place of the verification or validation to the accreditation or licensing body of the Member State in which the organisation concerned intends to apply for registration or is registered. In addition the verifier(s) has/have to notify its accreditation or licence details to all accreditation or licensing bodies of those Member States where involved sites are located.
- 5.4.12. If a verifier detects a non-compliance situation at the time of registration, it shall not sign the EMAS environmental statement and the declaration referred to in Article 25(9) of the Regulation.
- 5.4.13. If a verifier detects a case of non-compliance in the period of validity of the registrations or at the time of renewal, he/she can report to the competent body that the organisation in question does not comply with the EMAS requirements any longer. At the time of renewal he/she may only sign the declaration referred to in Article 25(9) and the updated EMAS environmental statement, if the organisation demonstrates that it took adequate measures (i.e. in cooperation with the enforcement authorities) to ensure that legal compliance is restored. If the organisation can not demonstrate to the verifier to have taken sufficient measures to restore legal compliance, he/she shall not validate the updated statement and not sign the declaration and the EMAS environmental statement.

## 5.5. Registration process

- 5.5.1. The organisation should communicate at an early stage with the verifier(s) and the competent body to clarify language issues with regard to the documents necessary for registration, keeping in mind the requirements of Article 5(3) and Annex IV (D) to the EMAS Regulation.
- 5.5.2. The organisation shall provide material evidence of its legal compliance as described in section 5.1.3.
- 5.5.3. After fulfilling the EMAS requirements, specifically those applicable to the registration process listed in Annex II of the Regulation, and having the EMAS environmental statement validated by an accredited or licensed verifier, the organisation shall send the application form, and the related documents including Annexes VI and VII, for registration to the (leading) competent body.

- 5.5.4. The competent body in charge of the registration shall check the information contained in the application, and for that purpose, shall communicate with the national accreditation or licensing body and, if applicable, with the other competent bodies involved. If necessary the verifier responsible for the verification can be involved in this communication as well. Regular mail, e-mail or faxes are possible options, but written evidence of this communication should be kept.
- 5.5.5. The accreditation and licensing bodies in all the concerned Member States shall assess, the environmental verifier's competence in the light of the elements set out in Articles 20, 21 and 22 of the EMAS Regulation. If the verifier's competence is not approved, the accreditation and licensing body can compel the verifier to comply with the relevant requirements and inform the national competent body about the problem. Vice versa the competent body must communicate to the accreditation or licensing body in any case a simple message that a registration application has been received and that there are sites of to be registered. After receiving such a message the accreditation and licensing body should communicate their findings regarding the verifier(s) involved to the national competent body. All involved national competent bodies in turn communicate this to the leading competent body. This facilitates the final check by the involved competent bodies and the leading competent body whether the verifier(s) involved in the registration procedure is (are) accredited or licensed for all the NACE codes concerned in the registration process. Without this minimum communication between the competent bodies and the accreditation and licensing bodies the supervision activities could be undermined.
- 5.5.6. The competent body in charge of the registration will coordinate checking the legal compliance based on the information the organisation has supplied to the verifier. Only in the case where a Member State has put in place special agreements with third countries, that include provisions that allow the Member State to contact enforcement authorities in the third countries, can they check legal compliance with the enforcement authorities in third countries directly. If not the competent body has to rely on the verifier and/or the organisation to obtain material or documentary evidence demonstrating compliance with the applicable legal requirements.
- 5.5.7. If applicable, following the registration decision, the leading competent body shall inform all national involved competent bodies, who will inform their respective enforcement authorities.
- 5.5.8. In case several competent bodies are involved in a registration procedure, the conditions regarding fees as described in section 3.4 will apply.
- 5.6. **Deletion and suspension of registrations**
- 5.6.1. The competent body shall follow the general rules established in the EMAS Regulation regarding deletion and suspension.
- 5.6.2. Any complaint concerning the registered organisation shall be notified to the competent body.
- 5.6.3. Organisations from third countries aspiring an EMAS Registration and willing to start a registration procedure must accept that the verifier may be asked by the competent bodies to verify potential causes of deletion or suspension which might happen in the third country where the sites are located before making any decision. The organisation shall cooperate and answer all questions concerning possible reasons for suspension and deletion to the verifier or to the competent body. The organisation must also be willing to bear the costs of the verifiers work to clarify the situation.
- 5.6.4. In all situations, even when such agreements exist, the verifier shall be responsible for checking legal compliance. Potential complaints and non-conformities that might result in the deletion or suspension of the registration must be included in the compliance checks.
- 5.6.5. NGOs operating in that third country could be consulted and used as a source of information. In any case, the verifier shall report to the competent body any relevant information that is retrieved during the verification process.
- 5.7. **Language issues**
- 5.7.1. The EMAS environmental statement and other relevant documents shall be submitted in (one of) the official language(s) of the Member State in which the leading competent body is situated (Article 5.3). Additionally, if an organisation presents a corporate environmental statement with information on individual sites, the information concerning EU sites shall be in (one of) the official language(s) of those Member States where the sites are located, and the information concerning sites located in third countries should preferably be in (one of) the official language(s) of the respective third countries.
-