



## ECO-MANAGEMENT AND THE PARADIGM OF SELF-REGULATION

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### Abstract

Self-regulation can be defined as a public scheme in which private parties volunteer to meet standards established by public authorities; this is the case of the European Commission’s eco-management and audit scheme (EMAS). The EMAS aims at promoting improvement in industry’s environmental performance by the implementation of company-level environmental management systems, and the systematic evaluation of performance by accredited auditors. Self-regulatory initiatives have in common a conceptual framework, which draws a distinction between the two dimensions of these legal instruments: 1) the organizational impact on sustainability, and 2) stakeholder-oriented reporting. The concepts that form the core of self-regulation have been extracted from literature and integrated into an original model presented in this paper. The EMAS programme from the perspective of this conceptual model was analyzed, by projecting a parallel between the characteristics of self-regulation and the actual provisions of EMAS.

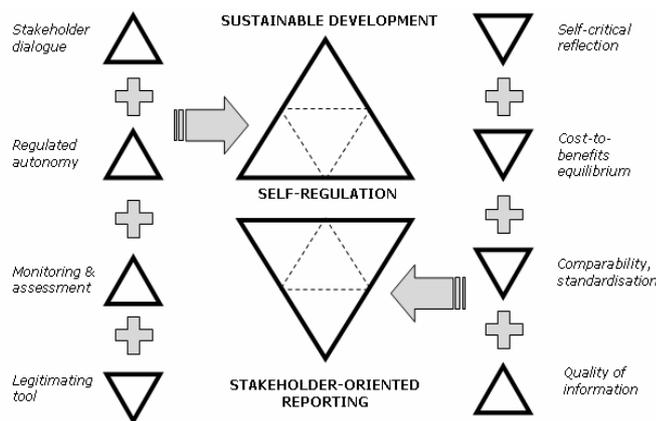
*Key words:* audit scheme, conceptual framework, environmental policy, self-regulation, stakeholder theory, sustainability

### 1. Introduction

Self-regulation has come to be defined in several ways. Most of the times (Grajzl and Murrell, 2007) the light is shed on the attribute of deliberate delegation of power from the regulator to the regulated entity. Public schemes (Gaines and Kimber, 2001) in which private parties volunteer to meet standards established by public authorities are the prototype of the European Commission’s *eco-management and audit scheme* (EMAS), the case study of this paper.

The Community eco-management and audit scheme aims at promoting improvement in industry’s environmental performance by the implementation of company-level environmental management systems, and the systematic evaluation of performance by accredited auditors. The EMAS is a definitive example of self-regulation at Community level. Self-regulatory initiatives have in common a conceptual framework, which draws a distinction between the two dimensions of these legal instruments: 1) the organizational impact on sustainability, and 2) stakeholder-oriented reporting. The concepts that form the core of self-regulation have been extracted from literature and integrated into two

complementary pyramids at the heart of this paper’s original model (Fig. 1).



**Fig. 1.** The conceptual framework of self-regulation

The paper analyses the EMAS programme from the perspective of this conceptual model, by projecting a parallel between the characteristics of self-regulation and the actual provisions of EMAS. Other models are also developed in the course of the paper, namely a conceptual framework for reporting

under EMAS and the process of verification and registration to EMAS.

## 2. Self-regulation as a step towards sustainability

This section of the paper deals with the left-hand side of Fig. 1. The four elements considered pivotal for acknowledging self-regulation as a step towards sustainability are analyzed in succession in the following subchapters. But before that, a short introduction on the European context of EMAS will shed light on its disclosure implications.

The EMAS draws on the programme 'Towards Sustainability' (Council Resolution of 1 February 1993), which called for broadening the range of instruments in the field of environmental protection and for using market mechanisms to commit organisations to adopt a pro-active approach in this field, *beyond* compliance with all relevant regulatory requirements regarding the environment. The initial form of the EMAS (EC Regulation, 1993) originates from the afore mentioned programme, which was the major constituent of a Community long-term strategy, covering the 1992-2000 time span, called the Fifth Programme of Action in relation to the environment. The scheme in its revised form (EC Regulation, 2001) is part of the Sixth Environment Action Programme of the European Community entitled "Environment 2010: Our Future, Our Choice" which covers the period from 2002 to 2012.

Corporate sustainability is one of the axes of the European Community action programmes. It can be defined as the effort of integrating economic, environmental and social criteria into strategy and management to create long-term stakeholder satisfaction. Organization trustworthiness represents how much any of the entity's stakeholder groups believes in the moral integrity of the organization and of its actions. If stakeholders do not perceive entities to have a strong organizational culture, untarnished reputation and a sense of social and environmental responsibility, the trustworthiness of that entity will decrease. Trustworthiness can also be interpreted as a competitive advantage and it would be in a firm's best interest to gain the trust of consumers and stakeholders in general. More contemporary thinkers (Smith, 2007) are using the terminology of 'corporate sustainability' and 'the triple-bottom-line'.

### 2.1. Stakeholder dialogue

Stakeholders are "any group or individuals that can affect or be affected by the realisation of a company's objectives" (Freeman, 1984). Ethical considerations, including environmental respect, are what have driven stakeholder theory's rise, having been deployed as a way of constructing its normative aspects, so that anyone can consider being themselves stakeholders at some point in time. Pesqueux and Damak-Ayadi (2005) conclude that stakeholder theory is neither economic, nor psychological, nor

sociological; it is ultimately ethical, with all the ambiguity and richness that it entails.

The EMAS programme can be criticized, in that it does not put any emphasis on stakeholder dialogue. Sustainability research hypothesized that dialogue with stakeholders is of major importance with respect to the implementation and realization of social standards through corporate activities (Beschoner and Muller 2007). Following this line of argument, stakeholder-dialogue-based standards should propose consultation procedures during which the solutions for social and environmental problems can be developed. These procedures would rely on an interactive process, since it is only through dialogue that the interests of different stakeholder groups within and outside the company might be expressed and implemented.

### 2.2. Regulated autonomy and voluntary compliance

Voluntariness is observed in non-financial reports that an increasing number of companies produce without a legal obligation to do so. Voluntary reporting becomes an important part of the basis for stakeholder judgements on whether a particular corporation lives up to the ethical – in a wide sense – standards of each individual stakeholder. Any report of this type should enable stakeholders to reward or to sanction the way the corporation acts; rewards come in as improved public perception – the company's reputation, or increased investment or market share (Buhmann, 2006).

EMAS is open to the participation of any organization dedicated to improving its overall environmental performance. The process of registration to EMAS (Fig. 2) can be considered as a mixture of several elements, which impose constraints on one another in order to blend into a coherent system referring to: a) the environmental management system and its implementation, b) the auditing procedures, and c) the environmental statement. The aforementioned instance of organizational reporting aims to provide environmental information to the public and other interested parties regarding the environmental impact and performance, and the continual improvement of environmental performance of the organization.

### 2.3. Monitoring and assessment

Public participation is vital for ensuring that industry is held accountable for the outcomes of its self-regulating efforts. The tendency of reflexive law to exclude the state and civil society from monitoring has serious implications for the maintenance of reporting quality and the protection of public interest. If self-regulation is to be used as a tool of environmental policy, there must also be specific and legally enforceable instances of accountability to the public.

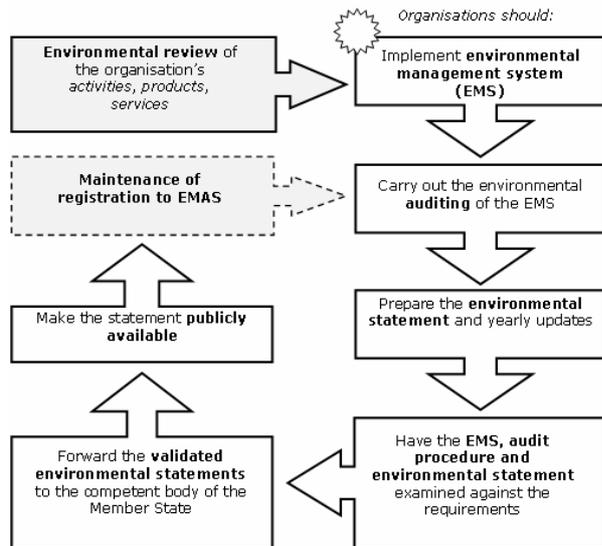


Fig. 2. Registration to EMAS

The success of any audit scheme relies on a series of interlocked regulatory initiatives. Formal auditing standards for non-financial data should be designed to remove discretion from the auditor and “reinforce its claim to be acting independently of the firm being audited”. Furthermore, auditing standards make it easier for all stakeholders “to determine whether the audit has been done competently” (OECD, 2001). At the same time, the accreditation of environmental auditors by a competent body under State or supra-state (EC) guidance, guarantees independence and competence. Finally, supervision of environmental verifiers should be carried out by the accreditation body which granted their role. These institutions echo the highly formalized processes used in financial auditing.

#### 2.4. Legitimizing tool

As a conclusion to this section dealing with self-regulation as a means towards sustainable development, it might be argued that self-regulation operates a transfer of legitimacy. Law in itself, even if it consists of powerless rules like international law on human rights, can transfer a share of its quality to the entities that choose to embrace it voluntarily and to go beyond mere compliance. The lack of direct coercive intervention of States and other external actors might be an incentive for organizations to adhere to self-regulation, as this situation could result in a more efficient allocation of resources and the creation of reputation as a significant private asset.

### 3. Stakeholder-oriented reporting

This section of the paper deals with the right-hand side of Figure 1. It investigates the role of reporting, through an analysis of those choices affecting stakeholder-oriented reporting, choices that are more exposed to subjectivity and therefore have

the largest constructive potential. Here constructiveness is intimately connected to stakeholder theory and stakeholder responsible approaches (Zambon and Del Bello, 2005).

Voluntary reporting is not a substitute for self-regulation. In fact, we could argue that voluntary reporting is only a part of the self-regulatory effort of an organisation (Buhmann, 2006). This holds true for EMAS and other venerable programmes as well (e.g. ISO 14001); the conceptual framework of EMAS implies (see Figure 3) that reporting is much more than “window dressing” or “public communication”. The fact that the generation of an environmental statement is a result of implementing the environmental management system, and that the report is regularly updated and subject to continuous verification, proves that a self-regulatory system has to be designed in order to accommodate stakeholder demands and to satisfy the parties’ needs for validated information.

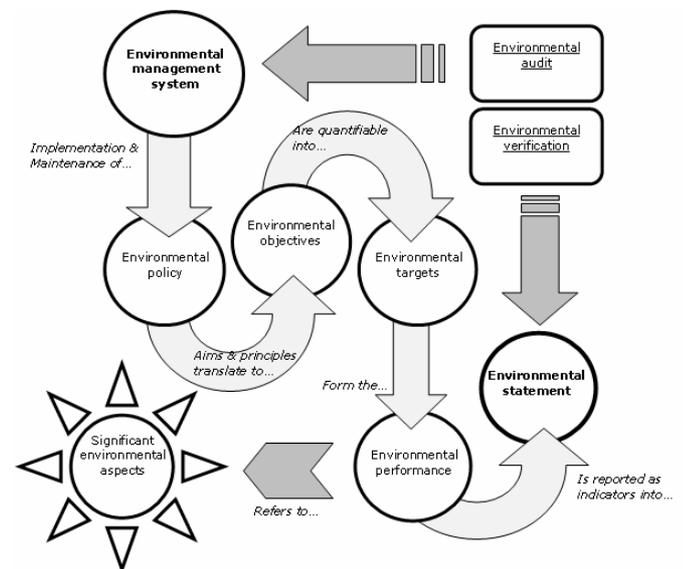


Fig. 3. A conceptual framework for reporting under EMAS

#### 3.1. Self-Critical Reflection

A two-step process illustrates the capacity of reflexivity: firstly, the identification of the problem by the organisational actor, in the widest sense possible; secondly, the auto-regulatory process continues through reflections on the possible measures to solve the problem. Thus, the capacity of reflexivity avoids putting undue pressure on the corporate actor through a system of fixed rules. Rather it emphasises ethical learning that should lead to sustainable change in the business environment. In this sense, reflexivity is the key feature of a more proactive role to be played by the organisations towards promoting social justice (Beschorner and Muller, 2007).

While private and public laws merely create procedures through which the entities decide on their environmental performance, the firms themselves

have cognitive limits. Companies have a limited capacity to learn good environmental behaviour solely by engaging in an examination of their conscience and internalizing environmental values. The theoretical belief that self-regulatory systems can effectively manage pollution control overlooks the fact that the firm itself is subject to the same problems of information complexity, analytical deficiency, and irreducible uncertainty that impede environmental self-criticism (Gaines and Kimber, 2001).

### 3.2. Disclosure Benefits-to-Costs Equilibrium

The costs of disclosure come from producing the required information and from any negative consequences that may arise from the disclosure of unfavourable events (e.g. lost goodwill, consumer boycotts, and harsher regulation). At the same time, benefits from reporting include eco-labelling and certification of good practice (Fung et al., 2002).

A high ratio for organizations is necessary so that the transparency program is improved, not only through the push of users or the regulator, but also from the pull of disclosers. Increasing the benefits-to-costs ratio is a direct consequence of the use of standardized and comparable data. Standardized data is necessary to avoid problems of strategic or selective disclosure by corporations; comparable data allows users and auditors to punish or reward the targeted companies, situation which increases benefits to users.

### 3.3. Comparability and standardization

One of the pivotal decisions to take related to "constructive reporting" is the adoption of criteria/methodologies to measure company performance on environmental issues. The greatest danger at this point is the high degree of subjectivity that may allow a company to effectively hide some crucial information, in order to "pump" its positive image. The problem of information asymmetry between the managerial team and the public is to be diminished through the involvement of the third-party independent verifier, whose first task is to evaluate the effectiveness of performance measuring methodologies (Zambon and Del Bello, 2005).

Environmental performance indicators summarize extensive environmental data to a limited number of significant key information sets. Most of the times, eco-management programmes such as EMAS rely on three categories of environmental indicators, for evaluating and reporting the environmental performance of an organization:

- *Operational performance indicators (OPIs)* which can cover such topics as emissions, product and raw material recycling, fuel consumption of vehicle fleet, or energy usage.
- *Management Performance Indicators (MPIs)* which can cover environmental programmes, objectives and targets, training, incentive schemes,

audit frequency, site inspections, administration and community relations.

- *Environmental Condition Indicators (ECIs)* which give information on the quality of the environment surrounding the organisation or the local, regional or global state of the environment.

Drawing environmental indicators is not an aim in itself. The goal is always to close the loop of the action cycle and ensure that there is a connection between disclosure of environmental data, and change in corporate behaviour.

### 3.4. Transparency and the quality of information

Information is an artifact (Lillrank, 2003). The producer of information has an intention to produce a symbolic representation of certain entities or events, put it into a context, assign it a predetermined meaning and transmit it to a receiver. The expectation is that the receiver (the user) will capture the meaning as intended. Thus, the technical quality of information is the relation between a symbolic representation as defined by a producer and the corresponding representation of a receiver. Treating information as an artefact assumes that truth conditions such as *reliability, accuracy, coverage and density*, are known and agreed upon in advance, symbols have *standardized meanings*, and contents are fixed.

In the context of EMAS, information and its qualitative characteristics can be understood as follows:

- in a wide sense, as environmental information to be validated by the auditor, upon the first registration of an organisation. The organisation should consider the information needs of the public and other interested parties when writing and designing the environmental statement.
- in a narrow sense, as relevant environmental performance indicators, making sure that the indicators chosen respect the following criteria for environmental performance reporting: (a) give an accurate appraisal of the organisations performance; (b) are understandable and unambiguous; (c) allow for year by year comparisons; (d) allow for comparisons with sector, national or regional benchmarks as appropriate; (e) allow for comparisons with regulatory requirements as appropriate.

Balanced or full disclosure of relevant performance information is difficult and costly to ensure. Any one firm attempting balanced disclosure alone faces the risk that bad news will be seized upon whilst more secretive competitors are let off the hook (Graham and Woods, 2006). The importance of accurate comparison of disclosures between firms has led to recent attempts to develop standardized voluntary reporting indicators which permit investors to form reliable comparative judgments of different firms' exposure to risks.

#### 4. Conclusions

Accountability and transparency have become synonymous in the modern world. The existence of one forces the coming into being of the other. As the EMAS proves, accountability can only survive in a regulated environment, which offers, aside from punishment, the incentives for corporations to turn transparent. The conceptual framework of self-regulation, as developed in this paper, is of interest to the assessment of any other regulatory initiative that aims at bringing improvement to delicate issues such as environmental aspects, corporate ethics, and human rights.

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