



BETTER
REGULATION
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VALORISING EMAS

Annex 1.2 Denmark case study: Submission of the EMAS Environmental Statement as being equivalent to the obligatory annual environmental report known as the “Green Account”
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1 Introduction to the case study

This case study has been carried out within the EU Life Project BRAVE with the general aim of investigating the Danish experiences with regulatory relieves and better regulation measures as incentives to the diffusion of the *Environmental Management Systems* (EMSs) certified according to the EMAS European Scheme (Reg. 1221/2009/CE) and/or to the ISO 14001 Standard.

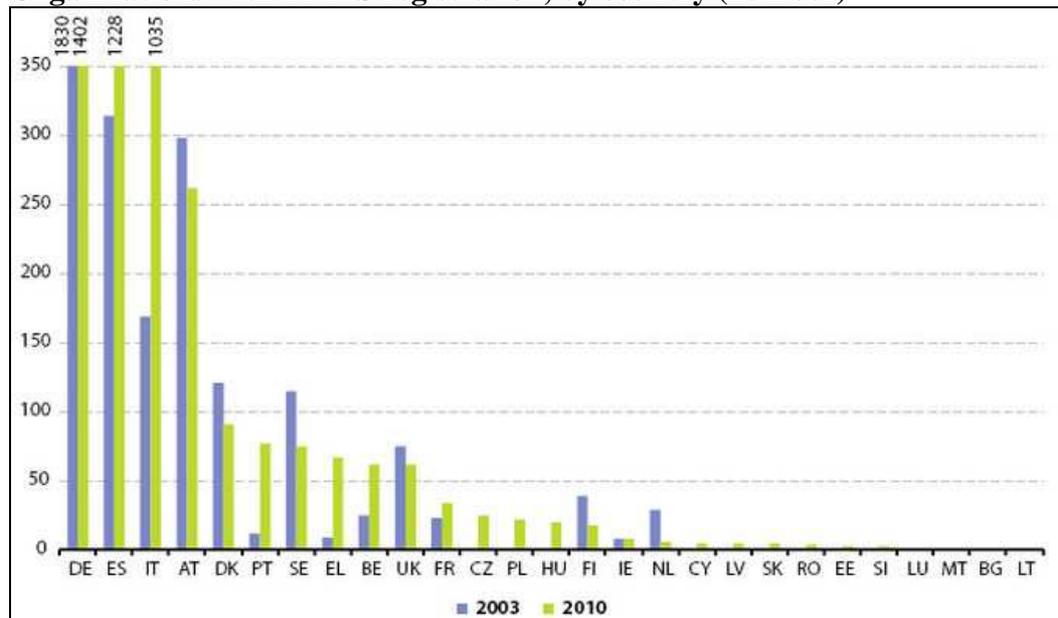
In particular, the case study investigates the administrative relieves granted to EMAS registered firms that have to comply with the obligation stated in the law - first issued in 1995 and revised in 2002 (currently *Statutory Order N° 594 of 5 July 2002*) - and called GREEN ACCOUNT. The above mentioned law instructs Danish companies, the biggest and more polluting, to prepare a green account/report containing general information about the company, a statement from the management concerning the environment and a quantitative account presenting the environmental performance of the company. EMAS registered companies don't need to produce the account, as they are allowed to deliver the EMAS Environmental Statement, this latter considered as being equivalent to a Green Account.

1.1 Motivation of case-study

The selection of Denmark (together with Germany, Spain and Austria) as a case study is based on the success that EMAS registrations have had in the Nordic country. In fact, in Denmark ranks among the first 5 EU countries in terms of number of registered organizations (2010), even if between 2003 and 2010 the number of registrations has declined. This can be partly explained by the fact, typical for Member States (such as Germany, Sweden, Austria and Denmark) which have a long-standing EMAS tradition, that demonstrating continuously improving environmental performance (as is required by the EMAS scheme) is difficult to achieve for organizations that have already been implementing EMAS for some time as compared to companies just entering the scheme.

Furthermore, the literature analysis and contacts with some Danish social and economic actors have indicated that in the last decade the *Danish Ministry of Environment* has strengthened the focus on the reduction of administrative burden for firms as part of the *Danish Growth Strategy*.

Organizations with EMAS registration, by country (number)



Source: European Commission, Directorate-General for Environment, Eurostat online data.

1.2 Background

In 2001, the newly formed government identified the object of reducing administrative burdens for businesses as a priority. The declared goal was to reduce administrative burdens for businesses by 25% by 2010. Companies and local authorities were asked to propose ideas on which legislation should be changed and, if possible indicate a way to do it. Besides, a vast number of stakeholders were consulted when the legislation was passed. The main administrative problems indicated as particularly burdensome was the amount of time and money spent by businesses in order to comply with obligations due to environmental legislation. For some specific areas, for instance waste, problems due to overlapping or superfluous reporting has been brought up by trade and industry organizations.

As a result, since 2002 Denmark has adopted a well-defined strategic approach to simplification for environmental legislation.

This has involved a number of actions, such as:

- undertaking a comprehensive analysis of administrative burdens from legislation under the Ministry of Environment, including quantitative analysis;
- use of test-panels for assessment of administrative consequences and burdens due to laws and statutory orders etc.;
- use of sunset clauses¹ in legislation;
- reorganize the handling of waste;

¹ In public policy, a sunset provision or clause is a measure within a statute, regulation or other law that provides that the law shall cease to have effect after a specific date, unless further legislative action is taken to extend the law.

- develop digital reporting systems for reporting by businesses to the authorities. In 2004, an internet portal has been launched for businesses and industry. The intention was that all reporting requirements for businesses are available at the web-site. It even contains some standard application forms

The Danish simplification initiatives can fall in the following two categories:

- amendments to the legal framework (consolidation, repeal, amendments, simplification or integration of permits);
- new measures to streamline procedures (the use of information technology, one stop shops, communication between authorities/companies);

Nevertheless, if we consider the very specific case of environmentally certified organizations, desk research seemed to show that Danish public authorities adopted few simplification measures specifically conceived for these latter.

On site interviews with some Danish stakeholders confirmed this lack of initiatives targeted on firms with EMSs, the main reason behind that being Danish public authorities' unwillingness to consider EMSs as tools to reduce environmental risk deriving from businesses.

1.3 Methodology

The methodology adopted for the case study relied on three main tools:

- a **desktop research** of existing literature on Danish simplification and better regulation experiences, with particular focus on the *Green Account* reporting initiatives.

The final report (2006) of the *BEST Project on the Streamlining and Simplification of Environment-Related Requirements on Companies* – carried out by the European Commission's DG Enterprise and Industry – gives some insight of actions undertaken by the different EU Member States to reduce administrative burdens on both the public and private sectors. The BEST project, in particular, analyses the Danish case and gives some insight of the national initiative to streamline and simplify environment-related regulatory requirements. Furthermore, a 2011 paper by *Dirckinck-Holmfeld and K. Smink* confirms the Danish public authorities' commitment to supplement command and control environmental regulation with other regulatory instruments such as economic incentives, information and facilitation.

Some literature by Danish authors is available in English that analyses the *Green Account* as a tool to improve firms accountability toward the environment and their environmental performance (*Hoolgard&Joergensen, 2005*), and that deals with the topic of simplification/better regulation (*Dirckinck-Holmfeld&Smink, 2011*), presenting in certain cases Denmark as a best practice (*Final Report of the BEST Project – European Commission, 2006*);

- **phone and mail inquiry** with Danish actors asking for related literature and documents both on better regulation experiences and specifically on the Green Account measure;
- a **questionnaire inquiry** with some EMAS registered Danish companies.

The questionnaire sent companies is composed by 6 sections and 29 questions included the personal data of responders. The first section concerns the organization details on the company participating in the survey and its main market (clients, competitors, economic performance and others). The second section focuses on the environmental management system implemented by the companies; the questions aim at evaluating the level of implementation of EMS requirements. The third section, composed by two questions, aims at assessing the environmental performances of companies. The fourth section deals with investments in the last three years. The main sections of the questionnaire, sections 5 and 6, concern the simplification measures, the incentives and hindrances for EMAS adoption. Questions of these sections aim at assessing the level of knowledge and the usefulness of the measures adopted. The last questions investigate the main incentives and hindrances encountered by companies in the EMAS implementation. All EMAS companies have received the questionnaire by e-mail; the responders filled in the questionnaire on line.

- **on site interviews** with relevant Danish socio-economic actors, such as the *Confederation of Danish Industries* and the *Danish Standard Foundations*.

2 The simplification measure

2.1 Description of the measure

The *Danish Environmental Protection Act*, amended in July 1995, introduced the obligation for around 1000 Danish companies (the biggest and more polluting) to produce environmental reports – the so-called *Green Accounts*.

The Green Accounts was introduced in an amendment to the *Environmental Protection Act* in June 14 1995, titled Act No. 403. The Environmental Protection Act was amended in section 35 as follow:

"35a.-(1) The Minister for Environment and Energy can lay down rules on the duty of listed activities periodically to prepare green accounts. The statement of accounts shall indicate the significant consumption of energy, water and raw material and the type and quantity of pollutants [...] forming part of the production process, which are discharged from the enterprise to air, water and soil or form part of products and waste."

Act No.403 of June 14 1995

As a consequence to the amendments, the Ministry for Environment and Energy issued Statutory Order No. 975, of December 15, 1995, laying down detailed provisions for Green Accounts. The provisions specify the categories of companies subject to the regulations, specifications for the statement of green accounts and detailed rules on submission, exemptions and penalties for failing to comply with the requirements.

The duty to submit green accounts cover a range of particularly polluting companies under the group of "*Chapter Five companies*" as listed in the Environmental Protection Act. The statement of accounts can be drawn for enterprises, plants or activities as specified in section 35 of the Environmental Protection Act6.

Being the Green Account management designed so that the reports could be published under the existing system of public access to financial accounts, they are commissioned from the *Danish Commerce and Company Agency*, which approves the reports before they become publicly available. The basic demands in this law were an account containing general

information about the company, a statement from the management concerning the environment and a quantitative account presenting the environmental performance of the company. Companies can be liable to fines in the case of failure to comply with orders for provision of information according to the specifics of the regulation.

The Green Accounts were conceived by Danish authorities as tools to spur companies to take responsibility for the environment: first, by enhancing private and public stakeholders' access to information about the companies' environmental performance, and second to motivate reporting companies to increase environmental prevention activities. Furthermore, it was expected that green accounts would create benchmarking effects, where companies from the same sector could compare their environmental performance and enter into constructive competition.

In August 2002, the 1995 *Statutory Order* of environmental accounting was revised. The new edition introduced new demands and new forms of administration, and can be seen as an extension of the act from 1995. In particular, the main goals of the revision were:

- motivating the use of Environmental Reports in Internal Management;
- increasing attentions on stakeholders' demands instead of focusing mainly on the shareholders;
- moving from a selected to a holistic environmental accounting;
- increasing the communication value of the reporting.

However, the Order (Part I, Item 4) allows EMAS registered and ISO 14001 certified firms to provide EMAS Environmental Statement as a substitute for the Green Account, relieving them from producing a second report.

“ A company registered under the Community scheme in pursuance of Council Regulation no. 1836 of June 29, 1993 allowing voluntary participation by companies in the industrial sector in a Community eco-management an audit scheme, may discharge the duty to submit green accounts by submitting the annual environmental statement validated by the accredited verifier to the Danish Commerce and Companies Agency”.

Statutory Order No 975-Part I, Item 4 (1)

I level case	II level case	Type of measure selected for Case study
Regulatory relief	self declaration in the procedure of extension of a permission	
	self declaration in the procedure of achieving a permission	
	extension of permit period	
	fast track permits	
	modification in the aim of application	
	Information required for permits,	
	reduced reporting and monitoring requirements,	X
	reduced inspections	
	Other derugulation proposals	
	<i>Financial guarantee required for specific activities</i>	
Reduction of administrative fees (environmental law)		
Better regulation	fiscal benefits	
	public procurement	
	credit access,	
	funding support	
	technical and information support	

	Other promotional incentives aimed to overcome participation burdens	
Enforcement Tool	Please specify, using short sentences (highlights approach), how EMAS and EMS approach could be included in the legislative text	

2.2 Description of the characteristics of the sector within the region

Since its introduction, the Green Account was conceived as a regulatory requirement for big and, as they were considered, particularly polluting firms in the industrial sector, mainly businesses falling within the scope of application of important European environmental Directive such as the *IPPC* and the *Seveso Directives*.

Dating back to the 80s and 90s Denmark's industrial sector was a pioneer in dealing the environmental issues, opening the way to a new paradigm of industrial development. In fact, Denmark was the first country in the world to establish so-called "industrial eco-systems", with the best known example being located in *Kalundborg*. There, an industrial ecosystem has been established which involves an oil refinery, a gyproc factory, a pharmaceutical firm, a fish farm, a coal-fired electrical power station and the municipality of Kalundborg, among others. At Kalundborg, steam and various raw materials such as sulfur, fly ash and sludge are exchanged in what is the world's most elaborate industrial ecosystem. Participating firms each benefit economically from reduce costs for waste disposal, improved efficiencies of resource use and improved environmental performance. For example, gas captured from the oil refinery which had previously been flared off is now sent to the electrical power station which expects to save the equivalent of 30,000 tons of coal a year. Thanks to experiences like this and the success of voluntary tools such as EMAS and other EMSs, the country's industrial sector, as emerged by the interviews carried out within the BRAVE Project with relevant socio-economic Danish actors, is no longer on top of public authorities' action plans as far as environmental issues are concerned. The energy supply sector, together with agriculture and transport (containers above all) are now on top of public authorities' agenda for environmental policies.

3 Analysis

3.1 Analysis of the "level of application" of a measure

As anticipated, the measure was investigated by means of direct interviews with some relevant Danish actors, such as the *Danish Standard Foundation* and the *Danish Industry*.

The picture resulting from the interviews was one of a sufficient even if not satisfactory diffusion of EMAS registrations in Denmark, while ISO 14001 diffusion was considered to be higher. The historic trend, furthermore, shows a decrease in the number of EMAS registered companies in the last decade in Denmark, while the number of ISO14001 certifications is stable. Therefore, even if the measure was adopted at the national scale, the level of application of the simplification measure suffered from the insufficient diffusion, as it is judge by Danish socio-economic actors. Furthermore, the Green Account is a tool conceived mainly for the industrial sector. Non-manufacturing small firms have no green reporting obligation and, as a consequence, are not granted any relief.

3.2 Analysis of Adopters' benefits

As for benefits associated with the simplifications measure in question, interviews with actors confirmed that the measure has relieved companies from overproduction of information and duplication of documents, allowing them to save resources, both in terms of money and time. However, in Denmark firms, especially medium sized and big, have the obligation to produce a Corporate Social Responsibility (CSR) report other than the Green Account. With the aim of motivating and inspiring Danish businesses to take an active position on CSR and communicate it to the surrounding world, the Danish Parliament passed a bill in 2008 that makes it mandatory for approx. 1,100 large businesses, listed businesses and state-owned public limited businesses to report on CSR in their annual reports.

Companies falling under both Green Account and CSR obligations are asking for an integration of the two tools in order to avoid duplication of work.

3.3 Environmental benefit analysis

As results from face to face interviews, the Green Account contributed to increase firms responsibility toward the environment, and the simplification granted to EMAS and ISO 14001 firms contributed to stakeholders' acknowledgement of their engagement and provided incentive for continuous improvement.

3.4 Analysis of the achieved results at the macro level

The interviewed stakeholder agreed with the fact that, at the macro level, the simplification measure in question helped companies in their day-by-day business and that a sense of "attachment" to the EMS was developed thanks to public attentiveness and acknowledgement of their efforts toward the environment and compliance with environmental regulation.

3.5 Awareness analysis

As resulting from the interviews with Danish Industries and Danish Standard Foundation, the level of awareness by public authorities about the measure and firms' stand on it is very high. Public authorities are engaged in a constant debate with firms on the way to improve the simplification measure, as well as on how to widen it and to link it with other possible relief like for example on controls reduction and authorizations renewal.

3.6 Satisfaction analysis

Face to face interviews with the above mentioned relevant social-economic actors showed, that, at the macro level, the level of satisfaction with the measure is sufficient, above all among businesses, as it provided some benefits as stated above. However, the companies are demanding a much wider action on better regulation. In particular, business are pushing for a rationalization of controls and for a simpler renewal procedure for authorization for firms with EMS.