STRUCTURING INCENTIVES FOR PRIVATE SECTOR COMPLIANCE: PILOT PROJECTS ON AUDITS AND LINKS BETWEEN ISO 14000 SERIES AND EMAS

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SUMMARY

September 15, 1997, saw the start of two pilot projects of the Bavarian State Ministry of State Development and Environmental Affairs involving transnational corporations that are members of the "Environmental Pact of Bavaria". We are conducting a pilot project with the BMW corporation at its Spartanburg plant in South Carolina and one with the Siemens corporation in Bavaria. The subject of these pilot projects is the combined validation and certification of the participant industrial locations in accordance with the EMAS Regulation, ISO 14001 and ISO 9000. The aim is to examine and evaluate the widened scope of a substitution (not deregulation) of environmental regulatory law and other sector-specific regulatory laws resulting from this procedure, for example, the law governing shop and factory inspection, occupational safety law, including the law governing the statutory industrial insurance institutions concerning accident prevention, the law governing hazardous materials, the law governing preventive maintenance, the law of the insurance industry, etc. This paper describes the pilots, how they developed and their status.

1 INTRODUCTION

The coalition government of the Federal Republic of Germany has agreed that a cardinal contribution of contemporary politics is to make government "leaner" and to prune the bureaucracy. In consequence, government activity in the normative, administrative, and judicial domain is to be reduced to the bare essentials. On July 18, 1995, the Federal German Cabinet decided to set up a "non-administrative, independent lean State committee of experts". The committee was constituted on September 21, 1995. The resolutions adopted by this body of experts - the Lean State Advisory Council - were submitted to Chancellor Helmut Kohl. The Federal Chancellery has put the Federal Ministry of the Interior in charge of coordinating the implementation of these resolutions. The President of the Federal Republic, Dr. Roman Herzog, has indicated just how important it is for the departments to implement these resolutions.

On November 29, 1996, the advisory council adopted a resolution on "Reinforcing private initiative: eco-audits and the means of transferring them to areas other than that of the environment." Sections 2 and 5 state the following:

Section 2. "On the basis of adhering to the law of the environment with the methodical approach of the functional equivalency, with a voluntary effort on the part of companies and sovereign activity, it is possible to reduce the burden placed on the companies and authorities in the areas of supervision, information and duties to report in a way which is legally unproblematic.

Restricting certain state supervisory or approval procedures in such a way is justified from the point of view of the prohibition of excess which is contained in the rule of law, which places state competencies or instruments of intervention under the reservation that such measures themselves must themselves be necessary and proportionate. If a private individual has demonstrated by possessing his or her own qualification (under professional law) or by carrying out certain more general preventive measures, for instance in his or her own company, that one may expect certain ecological standards to be maintained in general terms, it is not justified, particularly in the light of the prohibition of excess, to subject such entrepreneurs or traders, or the projects which they operate, to additional (project) controls. In this sense, the eco-audit is a significant step in a direction which is as correct as it is promising for the future - a course which one should also set outside of the area of the law of environmental protection."

Section 5. "In accordance with Articles 12 and 19 of the EMAS Regulation, it is possible to include international standards in the EMAS system of the EU after their recognition. With regard to the fundamental differences between the draft ISO standards 14001 on the one hand and the EC's EMAS Regulation on the other, and from the point of view of the requirements of the international competitiveness of the German economy, there is an urgent need to prepare a model to link the two systems. It would make sense once the model has been prepared to test it in practice in a pilot project at Länder level, and to involve the competent authorities, as well as to use it for inclusion of the system in accordance with ISO 9000 et seq."

The advisory council identifies itself with the guidelines of the Environmental Pact of Bavaria of October 23, 1995, a joint approach to protecting the environment, through a voluntary agreement between Bavarian industry and the Bavarian state government aimed at greater protection of the environment. On the other hand, it issues a high-priority recommendation for action, which is observed by the Bavarian State Ministry for State Development and Environmental Affairs in continuing the initiatives of the "Environmental Pact of Bavaria." In the further development of the legal maxims for action established there: Industry has long acknowledged the existence of the synergetic effects resulting from the association between quality and environment management systems and the EMAS Regulation - also known as "generic management systems" or "integrated quality assurance and environment management" or "occupational health and risk management." These synergies are now to be combined on the government side as well into a new, constitutionally correct concept that conforms with stipulated EC legislation, relieves industry and administration as a whole, and provides precise instructions for the enforcement agencies

on how this is to be carried out. Given all the political statements in the spirit of UNCED Agenda 21 and the "Shared Responsibility" doctrine of the EC's fifth Environmental Action Program, it is high time to put an end to the hyperbolic and haphazard development of corporate technical standardization at national (DIN), European (CEN) and international (ISO) levels, the self-reliant regime of the EMAS Regulation and state regulatory law, and to bundle all these functions.

2 THE MODEL OF SUBSTITUTION OF REGULATORY LAW IN THE "ENVIRONMENTAL PACT OF BAVARIA"

The legal framework for a system that combines the above functions is a difficult one:

Article 1 Section 3 of the EMAS Regulation stipulates that "*Existing EC and national laws or technical standards for environmental controls and the corporate obligations resulting from these laws and standards remain unaffected by this system*."

In this way, the EMAS system of the European Community, the national regulatory law of the member states, and the regime of technical standards exist side by side as unrelated entities. The EMAS Regulation received ultimate approval, albeit "with some resignation" from the Federal Republic of Germany, by all accounts in full awareness of the systematic inconsistencies in the history of that Regulation, but this cannot begin to explain the fact that it articulated a broadly based option and an equally broadly based optimism concerning the use of the EMAS Regulation for "deregulating" regulatory law.

2.1 Reconciling: Substantive Environmental Requirements with EMAS Approach

On July 19, 1995, the Bavarian Minister President Dr. Edmund Stoiber entitled his government policy statement "Bavaria's Environmental Initiative: Cooperative Protection of the Environment, Sustained Development, Ecological Prosperity." Addressing the Bavarian State Parliament he referred to the negotiations, already under way, on the "Environmental Pact of Bavaria" by citing, among other things, the guiding principle underlying the EMAS Regulation:

> "*The more industrial companies are prepared to assume their own responsibility, the more we want to free them from state control.*"

Article 83 of the German Basic Law states that it is the business of the Länder to enact federal law in the way they choose - including directly effective stipulations of EC secondary law like the EMAS Regulation.

The administration therefore interpreted the guiding principle cited in the government policy statement of July 19, 1995, as a constitutionally correct approach to the solution, belonging to the class of choice-of-law rules with respect to Article 1, Section 3, of the EMAS Regulation. This was necessary in order to avoid the cumulation of the EMAS Regulation and regulatory law, and to link these two systems. Expressed in the categories of German Basic Law, the approach to the solution is based on the prohibition of excess, which places state competencies or instruments of intervention under the reservation that such measures themselves be necessary and proportionate. To that extent, there is full agreement with the formulation of the Lean State Advisory Council. Of course this approach is also the result of the principle of subsidiarity.

As its next vital step in conjunction with the EMAS Regulation, the administration introduced the term “substitution” of regulatory law in place of the term “deregulation” of regulatory law. This was to avoid misleading associations that might suggest a lowering of those material standards of protection defined by the German Basic Law and Article 130r of the EC Treaty - after all it is precisely this point that the “Environmental Pact of Bavaria” explicitly excludes. It makes it clear that the logic of this combined model resides in the definition of the union of sets between the EMAS Regulation and regulatory law.

2.2 Role of Compliance and Government Enforcement Responsibilities

2.2.1 Requirements for a Compliance Audit

The EMAS Regulation states that the “observation of all relevant environmental provisions” is a necessary condition for entry in the registry of industrial locations, Article 8, Section 4. The principles underlying this regulation, as well as Articles 2a and 3a of the regulation, are aimed at the observation of all relevant environmental provisions. The official English text reads: “... in addition to providing for compliance with all relevant regulatory requirements regarding the environment” - hence the usual expression “compliance audit” for an audit procedure of this type. The EC Commission has declared only this interpretation as conforming with the obligations and not a so-called “system audit” which essentially confines the audit to the corporate management system.

This compliance approach is the key to a “substitution” of regulatory law as such through the voluntary fulfillment of the regulations of environment law in accordance with this section of the article and the annexes to the Eco-Audit Regulation. It is an act for which the legal entity in question is directly responsible, instead of one that is subjected to nationally enforced environmental law. The only change is in the definition of the fulfillment of the obligation, not, however, the obligation itself. This makes it clear that, in fact, it is not the substantive “deregulation” of environmental law that is at issue here, but a partial privatization of the enforcement of environmental law. This “magic” formula can resolve the dichotomy involved in taking care of the industrial site and protecting the environment. Not last, this approach makes an effective contribution to reducing the much lamented deficit in the national enforcement system in the sphere of environmental law accompanied by the continued downsizing of human resources.

2.2.2 The Principle of Functional Equivalency: Retaining Independent Government Enforcement Role

This actual compliance with the regulatory requirements as the performer’s own responsibility does not automatically lead, however, to a corresponding withdrawal and relinquishment on the part of the enforcement agencies. According to Article 4, Section 5, of the EMAS Regulation, state environmental control remains unaffected. Contrary to the certification of product safety, for example, the environmental assessment attested by an independent environmental auditor does not a priori imply that the respective company will permanently comply with all relevant provisions.

In order to keep a check on the problematic nature of parallel controls arising from this, we defined the principle of “functional equivalency” in cooperation with the Federal Ministry of the Environment. In November 1994, during the German Presidency of the EC Council, we discussed it at a plenary meeting in Munich of the IMPEL network of enforcement

officials of the member states (EU Network for the Implementation and Enforcement of Environmental Law). Its title was "The Relationship between Eco-Audit and Regulatory Controls." The basic outcome of the Munich IMPEL Plenary Meeting is as follows:

The substitution of the tasks of the enforcement agencies through voluntary corporate controls is only possible if the respective instrument of the EMAS Regulation and regulatory law is equivalent as regards its aims and the effectiveness of its controls, that is, if it is functionally and substantially equivalent. "Functional equivalency" works on this assumption - to distinguish the identity of two systems. These aims of regulatory law and of the EMAS Regulation are ascertained by interpreting the wording and the purpose of the provisions, i.e. by a comparison of the systems.

The term "functional equivalency," which originally comes from the structural-functionalist system theory of the American sociologist Parsons in the fifties, is especially apposite, because, although widely ignored in European literature so far, its central idea can be applied to European law and is immanent to the principle of mutual recognition derived from Article 30 of the EC Treaty. On the one hand, this is also based on the principle of Article 3b, Section 3, of the EC Treaty that the measures have to be proportionate and not excessive. On the other hand, an equivalency clause does not mean amending the legal situation to fit in with Community law, and is therefore neutral to competition. An equivalency clause is also different from an outline provision, because it requires the determination of factual equivalency by the competent enforcement official from case to case.

It has been assumed that for the entire monitoring sphere, there exists a reciprocal functional equivalency between regulatory law and the catalog of obligations of the EMAS Regulation, i.e. for the subsequent official controls (ex post) of the industrial plants at their respective locations and the companies' obligations to provide information (reporting and documentation) in support of these control mechanisms.

Given this assumption, however, preventive (ex ante) authorization provisions for new plants or modifications to plants are not functionally equivalent to the Eco-Audit Regulation. This fact, however, does not exclude the possibility of granting an exemption from certain types of audits, for example, the maintenance of the best available technologies (BAT), with the aim of "dove-tailing" Eco-Audit and authorization procedures.

The result is that the authorities can dispense with the respective requirements of regulatory law in cases of companies that have successfully participated in the system and have been entered in the registry of industrial locations.

3 PRACTICAL TESTING OF THE MODEL AND ITS INCORPORATION INTO THE SYSTEM OF ENFORCEMENT

From May to August 1995, the Association of the Chemical Industry - Bavarian Section - and the Bavarian State Ministry for State Development and Environmental Affairs worked together as members of a joint steering committee on the theoretical foundations of the project. In a so-called substitution catalog the pertinent provisions of federal and state law (emissions control, water, waste) were compared to the corresponding regulations from the body and annexes of the EMAS Regulation. The 84-page-long list refers to reporting and documentation, control and surveillance, as well as the authorization procedure. This catalog has legal status in the Free State of Bavaria. In order to ensure a standardized enforcement system we worked out appropriate administrative rules for the so-called lower-ranking enforcement bodies, thus opening up the Federal emissions control act, the law concerning water, and the federal act on recycling and waste to the EMAS System.

4 MONITORING VOLUNTARILY IMPOSED CONTROLS IN THE PRIVATE SECTOR: THE KEY ROLE OF THE ENVIRONMENTAL AUDITOR AND THE ULTIMATE CONSTITUTIONAL RESPONSIBILITY OF THE STATE.

The substitutions described above presuppose logically that only those persons can be licensed as auditors whose special skills (i.e. impartiality and reliability) guarantee a uniform interpretation and application of substantive environmental law. On account of these high demands, the human resources in this sphere must also be equivalent to those of the government's surveillance system. Another issue, of course, is the depth to which the audit is to be carried out by the environmental auditor as well as the sampling, checklist, and plausibility parameters.

5 SUBSTANTIVE FURTHER DEVELOPMENT OF THE MODEL OF SUBSTITUTION OF REGULATORY LAW IN ACCORDANCE WITH THE RESOLUTION OF THE LEAN STATE ADVISORY COUNCIL OF NOVEMBER 29, 1996

Currently the Bavarian State Ministry for State Development and Environmental Affairs is preparing a legislative initiative that aims at including opening clauses in federal environmental law within a new "Umweltgesetzbuch" (Federal Legislation Book in the field of Environment) to accommodate the EMAS. This is founded on the practical trials already described and the constitutional conformity of the substitution model in the "Environmental Pact of Bavaria" and complies with further pledges to industry made there. A further major step in the overall process has meanwhile been reached with the acceptance on principle of the "Environmental Pact of Bavaria" by the Directorate General XI of the European Commission and the basic prospect of an opening clause held out to us by the European Commission as part of its revision of the EMAS regulation this year. We intend to come to a good end on this behalf during the German presidency in 1999.

The above mentioned advance in the process of legitimization at the Länder, federal and EC Commission levels was reason and warrant for the decision described above to also tackle the pilot project at an international level with BMW in Spartanburg in the interest of globalizing the ecological conditions for industrial locations.

This is the reason and the basis for the joint pilot project of the Siemens AG and the Bavarian State Ministry for State Development and Environmental Affairs which is aimed at "testing management systems and plant audits for environmental protection, plant safety, and occupational safety with a view to strengthening companies' own responsibility in complying with regulatory requirements, and to replacing regulatory audits at plant level with compliance and systems audits."

In particular, the common objectives are:

- the further improvement of environmental protection, plant safety, and occupational safety;
- the testing and implementing of a management system interlinked as far as possible, and of a holistic auditing system for environmental protection, plant safety, and occupational safety, with particular regard to measures influencing behavior, and to conditions at the plant;

- the testing of a documentation system enabling the auditing, by the company itself and regulatory authorities, of the respective status of environmental protection, plant safety, and occupational safety;
- substituting the direct regulatory audit performed by government agencies for a company self-audit that has been agreed with regulatory authorities, is carried out on the company's own responsibility, and is perpetuated; and for an official systems and documentation audit;
- providing an estimate of the potential and actual benefits of the introduction of management and auditing systems for environmental protection, plant safety, and occupational safety (using, for instance, data indicating a decline in the number of work-related accidents and illnesses, improvement in production quality and production quantity, and improvement in the efficiency of regulatory bodies);
- developing suggestions for creating the regulatory framework for collaboration between companies, government agencies, and casualty insurers in accordance with the constitutional supervisory function of the state.

The experience gained within the framework of the pilot project will be documented in a joint final report which is to contain recommendations for companies of other industries and sizes as well. In this context, the final report is to mention possibilities of substituting monitoring functions on the part of the authorities while maintaining the constitutional supervisory function of the state, as well as suggestions with regard to deregulating the body of rules and regulations.

Within the meaning of the Agenda 21, chapter 8, “The Integration of Environmental and Development Objectives into Decision-Making,” the results of this pilot project, together with the results of the pilot project conducted with the BMW AG in Spartanburg, are to be incorporated into the proposal for a national program made to the Federal Government, including the subjects of occupational safety and plant safety.

6 CONCLUSION

Our ultimate goal is to establish this methodological approach - i.e., of substituting regulatory law in the sectors of the environment, safety, and health for integrated management - with the Committee of Sustainable Development, CSD, as well as within the framework of the United Nations Environmental Program, UNEP.

I ask for your active support. To quote a Chinese circus motto: “May we succeed with our exercise.”

ADDENDUM: THE LEGAL TERMS OF REFERENCE FOR THE PILOT PROJECT

However prolific the literature on the subjects of the EMAS Regulation and ISO standards already is, the academic argument relating to this concept of environmental-political control is only just beginning.

To do justice to the tasks set and to the way it sees itself - incidentally based on the broad and bitter experience of having to make conflicting concepts suitable ex post for purposes of enforcement - the Bavarian administration intends to take part in this discussion ex ante and at a practical level, backed by the mandate provided by the specifications of the political guidelines. The "Environmental Pact of Bavaria" has been shown to be the right method for subjecting control concepts to practical testing using attendant pilot projects and the enlistment of locally and technically competent authorities.

1 ARTICLE 12 SECTION 1A OF THE EMAS REGULATION

In its official German version in the Official Journal of the European Communities, the language of Article 12 Section 1a of the EMAS Regulation (which also contains a German printing error: "diese Verordnung" instead of "dieser Verordnung") is, on the whole, poorly formulated. The meaning of the German text becomes unequivocal only when compared with the official English version. But, after all, the legal classification is not exactly simple.

The regulation stipulates that national, European or international "standards for environmental management systems" may replace the provisions of the EMAS Regulation. A condition for this is that the locations that use them "have received, after suitable certification procedures, confirmation to the effect that they fulfill these standards." These "standards for environmental management" are different standards specifically related to organization, i.e. related to EMAS. By "technical standards" within the meaning of Article 1, Section 3, of the EMAS Regulation, on the other hand, we are to understand the standards of a subordinate set of rules in the monitoring domain already mentioned.

2 LEGAL EVALUATION OF THE REPLACEMENT OF THE EMAS SYSTEM BY STANDARDS FOR ENVIRONMENTAL MANAGEMENT

The standards in the context of Article, 12 Section 1a, of the EMAS Regulation are not supplemental but substitutive. To put it another way: Article 12, Section 1a, creates a compliance fiction in terms of EC law - also in favor of so-called low or sub-standards, i.e. those standards which are not qualitatively consistent with the contents of the EMAS Regulation.

3 THE DECISION OF THE EUROPEAN COMMISSION TO RECOGNIZE ISO 14001: EVALUATION

Just like the EMAS Regulation, even if the management structure is different, the international standard ISO 14001 imposes requirements on corporate environmental management systems and environmental audits. It is not the job of the authorized

environmental auditor to check certificates within the meaning of Article 12, Section 1a, of the EMAS Regulation if ISO 14001 is applied; he must rather use them as the basis for the company audit.

On April 16, 1997, the European Commission decided to recognize ISO 14001, as well as the certification procedures as part of the environmental audit. The text of this resolution defines the extent to which ISO standard 14001 corresponds with the demands of the EMAS Regulation.

Both systems have in common that participation is optional. Both systems establish an environmental management and an environmental plant-audit system. To that extent, both systems compete with each other. There are, however, several differences between ISO 14001 and the EMAS Regulation. In total, the contents of the ISO 14000 standard were considered to be less sophisticated. Aside from the much wider scope of applications of ISO 14001, a further difference lies particularly in the lack of elements having an effect on the outside. Under ISO 14001, neither the preparation nor the publication of an environmental statement is required. There is neither an audit by an environmental expert nor any official registration of a site by registration authorities. While under the EMAS Regulation the state has an indirect influence on validation through the admission of environmental experts, and the EMAS hence becomes an instrument of the state-supervised self-regulation of companies, this element of at least indirect state control is missing completely in ISO 14001. Furthermore, ISO 14001 does not contain any obligation to achieve an actual, continuous improvement in corporate environmental protection. Neither is there any obligation to conduct compliance audits. ISO 14001 hence lacks essential elements which in the EMAS Regulation bring about dynamic, pro-active corporate environmental protection. The effect of this is even intensified by the fact that ISO 14001, in contrast to the EMAS Regulation, does not provide for regular inspections. Therefore, it is fair to say that the requirements of ISO 14001 fall considerably behind those of the EMAS Regulation. Hence, the standard and the EMAS Regulation are not equivalent to each other. This statement is not intended to call into question the internal benefits of establishing an environmental management system under ISO 14001. In the opinion of the Environmental Council, however, the fact that essential elements are missing compared to the EMAS Regulation means that ISO 14001 cannot be used to justify measures of deregulation and substitution. The Environmental Council is in favor of the EMAS Regulation because it makes greater demands in terms of contents, and may hence serve as the basis for a strategy of deregulation.

The resolution - albeit open to many interpretations - identifies the approach of the EMAS Regulation, which relates directly to an improvement of corporate environmental protection as distinct from the system-related approach of ISO 14001. So, all in all, it is only possible to speak of a partial recognition.

4 THE DECISION OF THE EUROPEAN COMMISSION TO RECOGNIZE ISO 14001: CONCLUSIONS

Even so, companies may now link the two systems. This has the following legal basis:

There is no disputing that, after prior ISO 14001 certification, a subsequent EMAS procedure has only to check some further „trivialities“ - which are defined by the resolution mentioned above - in order to be eligible for registration. The existence of an ISO 14 001 certificate therefore covers a certain portion — and especially the environmental management

portion - of the EMAS procedure, thus obviating the need for a further audit by the authorized environmental auditor and therefore simplifying, accelerating and standardizing the EMAS procedure. Recognition by the Commission can make ISO 14001 a component part of EMAS in the sense of the replacement mechanism described, or, in other words, the ISO certificate replaces part of the EMAS procedure.

The remaining parts of the EMAS procedure have to ensure the implementation of the compliance audit, which, according to the prevailing view, does not take place under ISO 14001.

The consequence of these considerations is that if the sequence of these procedures is reversed, then a prior EMAS procedure will include the ISO 14001 procedure. This means that the authorized environmental auditor may, if requested (and paid for), also issue an ISO 14001 certificate as part of a successful EMAS validation process.

Along with EMAS - whether on its own, whether applied beforehand, or whether facilitated by the prior ISO 14001 certificate , according to Article 1, Section 3, of the EMAS Regulation, regulatory law and its subordinate set of norms remain principally unaffected. So the application of the acknowledged ISO 14001 standard has a direct effect only on the EMAS procedure, but not the application of both regulatory law and its technical standards as specified by Article 1, Section 3, of the EMAS regulation.

With regard to the model of a combination of ISO 14000 and EMAS as described above, and the possibilities to grant enforcement relief (“relaxations,” “added value effects,” “incentives”), the intention is of course to decide the competition between the two systems in favor of both of them. It is true that otherwise ISO 14000 could succeed worldwide. A legally unobjectionable approach to the “cooperative enforcement of regulatory law in the field of the environment” would, however, not be opened up. I refer to Council Resolution No. 97-05, dated June 12, 1997, of the governments of the United States of America, the United Mexican States, and Canada, “Future Cooperation regarding Environmental Management System and Compliance:”

Private voluntary efforts, such as the adoption of Environmental Management Systems (EMSs) such as those based on the International Organization on Standardization’s Specification Standard 14 001 (ISO 14 001), may also foster improved environmental compliance and sound environmental management and performance. ISO 14 001 is not, however, a performance standard. Adoption of an EMS pursuant to ISO 14 001 does not constitute or guarantee compliance with legal requirements and will not in any way prevent the governments from taking enforcement action where appropriate.

In my view, one of the primary functions of this suggestion is an exact operationalization of the guideline in Agenda 21 of the Conference on the Environment and Development of the United Nations in Rio de Janeiro of June 1992. Marginal note 28 in chapter 30, “Strengthening the Role of the Private Sector,” the wording of which was based on proposals made by the International Chamber of Commerce, reads as follows:

“In conjunction with the private sector including transnational companies, governments are to develop and implement a suitable combination of instruments of economic policy and regulatory measures such as laws and regulations as well as norms....”

Now the obvious thing to do is to continue that combination model in a consistent manner. To that extent too, chapter 30 of Agenda 21 contains a guideline - marginal note 26 reads:

"The private sector, including transnational companies, is to guarantee a product and procedural management which, in terms of health, safety, and environmental protection, is a responsible management. For this purpose, the private sector is to intensify self-auditing, using suitable codes, statues, and initiatives integrated into all elements of business planning and decision-making...."

This UN Agenda 21 guideline, too, has only recently been adopted for a high-level recommendation within the Federal Republic of Germany which is addressed to politicians and administrative personnel: the "Expert Council on Environmental Affairs," in its "Environmental Survey 1998," has worded it as follows:

"In the discussion concerning the EMAS Regulation, demands are made time and again that quality assurance, occupational safety, and environmental management, as well as other management systems too should, if possible, be consolidated into one integrated management system. Such a holistic model would avoid the inefficient coexistence of various management systems without relativizing the objectives of the previous systems. The Environmental Council recommends that this idea should be taken into account in amending existing systems, or in creating new ones in future. Otherwise, the present state of affairs will pose the risk of a new management system being introduced only as an ‚appendage' to an established one. There is reason to believe that in many cases, the EMAS system was only grafted on an existing quality-management system (approximately 80% of the audited companies already have a quality-management system); this would reduce the independent status of corporate environmental protection."

5 ABBREVIATIONS/EXPLANATIONS

EMAS = Council Regulation (EEC) No. 1836 / 93 of June 29, 1993, allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme; Official Journal of the European Communities No. L 168 of July 10, 1993, p. 1 ff. — known as "Eco-Audit Regulation," herein also referred to as "EMAS Regulation."

ISO = International Standardization Institute

Resolution of the Commission of April 16, 1997, to recognize certification methods in accordance with Article 12 of the (EEC) Regulation No. 1836 / 93 ... (97/264/EC) and resolution of the Commission of April 16, 1997, to recognize the international ISO 14001 standard : 1996 and the European EN/ISO 14001 standard: 1996 for environment management systems in accordance with Article 12 of the (EEC) regulation No. 1836 / 93 ... (97/265/EC), Official Journal of the European Communities No. L 104, p. 35 ff.

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(on-line in the Internet): http:/www.bundesregierung.de/inland/ministerien/innen/sachverOO.html

AGENDA 21 of the Conference on the Environment and Development of the United Nations in Rio de Janeiro of June 1992 is the action program adopted by 178 nations for the 21st century on cooperation in the fields of environment and sustainable development.

"For a sustainable and environmentally compatible development. A program of the European Community for an environmental policy and measures aimed at a sustainable and environmentally compatible development," resolution of the Council and the representatives of the governments of the member states in the Council of February 1, 1993, Official Journal of the European Communities, No. C 138, p. 1 ff., Chapter 8: "Subsidiarity and joint responsibility".