

## Conference “Responsibility towards society and the environment: businesses and their due diligence obligations”

### Minutes of the Workshops

#### Workshop 2: How can due diligence and environmental management systems be linked?

19 September 2019, 13:00 – 14:30

**Moderation:** Christoph Töpfer, German Federal Environment Agency

The workshop began with a keynote lecture by Mr. Peter Fischer (environmental expert): “How can due diligence obligations and environmental management systems be combined?” In the presentation, the basics of an environmental management system according to the European EMAS Regulation (EC) No. 1221/2009 were presented and essential interfaces to the concept of due diligence were highlighted.

In the following, three central questions were first discussed in small groups and then jointly by all workshop participants.

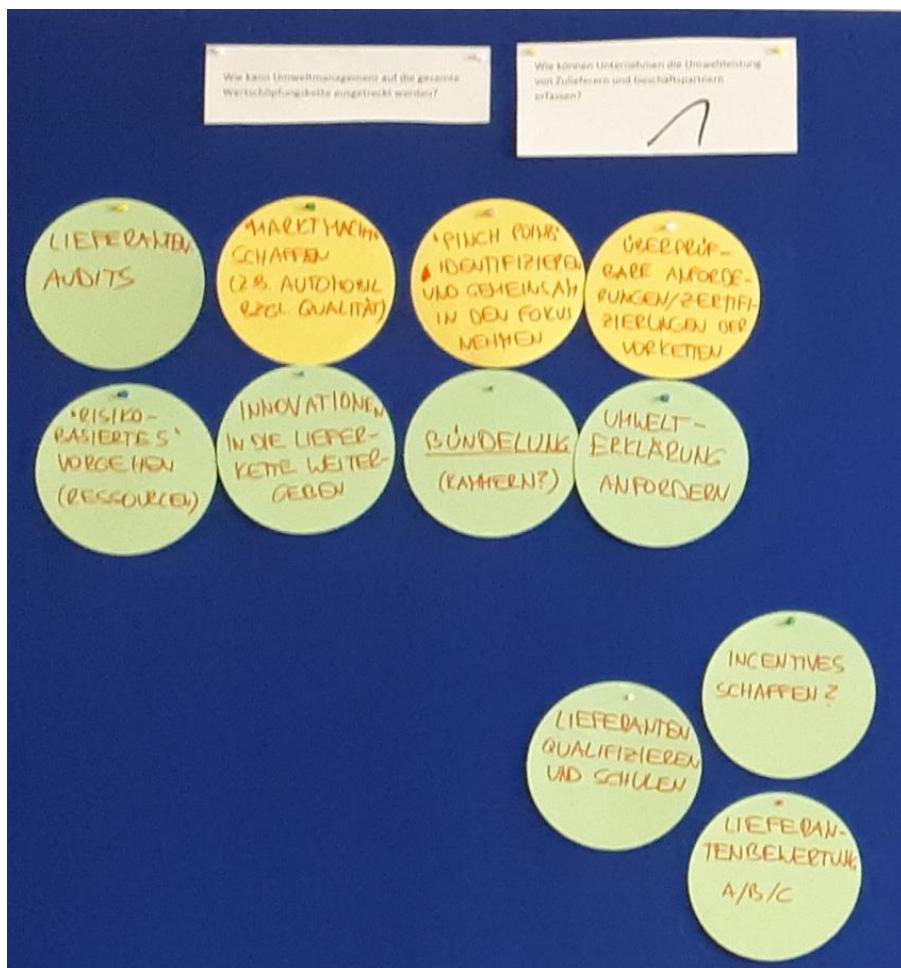
**Question 1:** *How can environmental management be extended to the entire value chain? How can companies measure the environmental performance of suppliers and business partners?*

#### Results from the small group and general discussion:

The participants discussed both possible approaches for managing environmental impacts in the supply chain and concrete measures and instruments available to companies. Due to limited human and financial resources, a risk-based approach would be needed to identify and prioritise the stages and actors in the supply chain that are most likely to cause severe environmental damage. These should be the focus of environmental management measures in the supply chain. At the same time, however, there is the challenge that possibilities for control and influence beyond direct suppliers are very limited. It was therefore emphasised that companies – for example in industry initiatives – could join forces to pool market power and thus enforce environmental management obligations along the entire supply chain. The automotive industry and its quality management obligations were cited as an example. At the same time, however, not only obligations should be passed along the supply chain, but also innovations, assistance and cooperation offers. Alternatively, in certain sectors it would also be useful to identify pinch points or bottlenecks, i.e. actors in the supply chain who bundle flows of goods or information and thus have a high influence on the extension of environmental obligations to their suppliers and customers. The smelters in the raw materials sector were mentioned here as an example. The information provided to companies committed to sustainable supply chain management should also be better bundled, e.g. via the Chambers of Industry and Commerce, the Chambers of Crafts or the Chambers of Foreign Trade.

With regard to the concrete measures that companies can use to record the environmental performance of suppliers and business partners and to improve their environmental performance, the participants discussed the certification of upstream chains and supplier audits. In particular, there is a need for verifiable requirements so that certification of the upstream chain can be credible. One participant suggested that companies should take advantage of the (environmental) reporting of their suppliers and business partners. For example, the EMAS environmental statement could be requested. A supplier assessment that also takes environmental criteria into account can help to select the most environmentally conscious suppliers and to spur the development of existing suppliers in the long term. According to the participants, suppliers should be qualified and trained in order to independently improve environmental performance at their sites and of their suppliers. It is also important to create incentives for suppliers to voluntarily commit themselves to environmental management and not regard it as a mere compliance exercise.

**Figure 1: Brainstorming on Question 1**



**Question 2: How can companies use EMAS or 14001 to fulfil their due diligence obligations?**

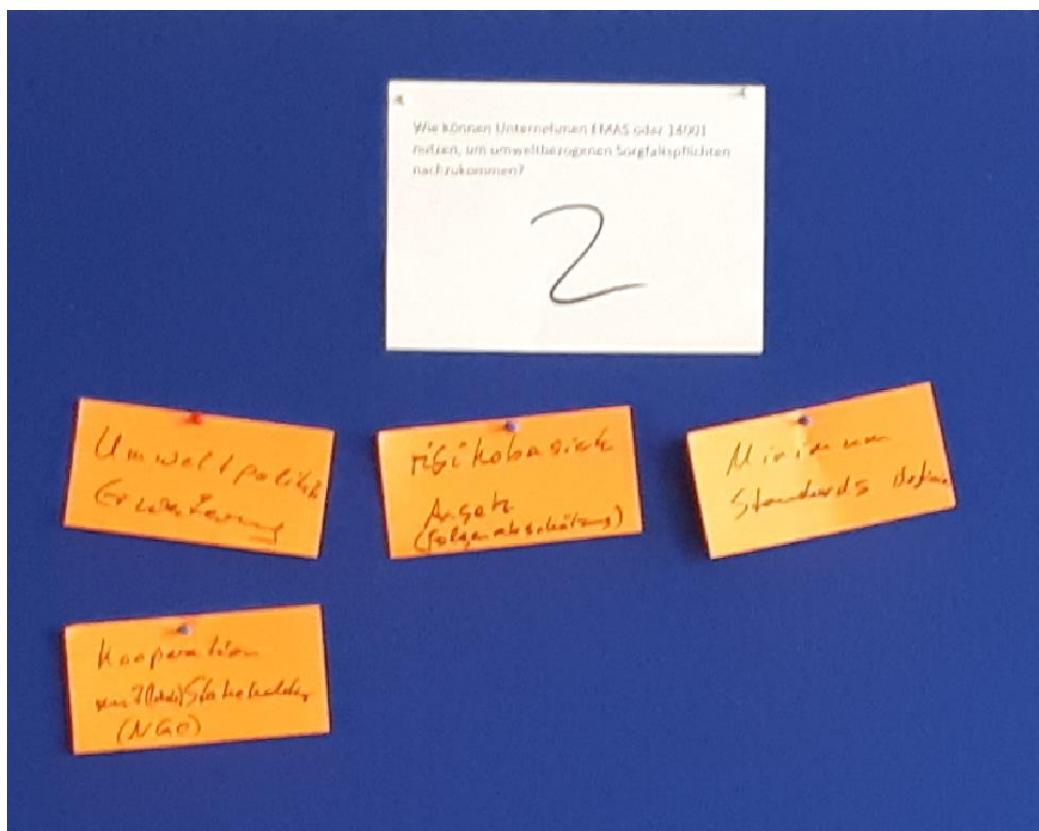
**Results from the small group and general discussion:**

Based on the elements of environmental management according to EMAS presented by Mr. Fischer, the small group discussed how due diligence obligations could be integrated into the environmental management system in practice. The participants were of the opinion that a company's due diligence with regard to negative human rights and environmental impacts must first be recognised and confirmed by company management. It would therefore make sense to expand the corporate environmental policy under EMAS and ISO 14001 accordingly. Since their

last amendment, EMAS and ISO 14001 have called for a stronger involvement of interested parties (stakeholders) as well as their needs and expectations. The environmental management system must determine which of these requirements and expectations are relevant for the company and which it must or would like to meet. Cooperation with stakeholders, in particular local actors and civil society, is also a central building block for the exercise of corporate due diligence, so that structures and preliminary work from the environmental management system may be used for the due diligence process where fitting. At the same time, it was recognised that the focus of the environmental management system in practice often lies on the site-related environmental effects whereas the due diligence process is applied more strongly to the organisation's overall impacts. This is also reflected in the fact that environmental management departments and CSR departments or the departments that deal with human rights due diligence are organisationally separated in the companies. Cooperation and exchange of information would therefore often take place only sporadically.

This small group also stressed the importance of a risk-based approach when due diligence is to be managed through the environmental management system. In order to be able to control environment-related due diligence obligations via the environmental management system, it would also be useful and helpful from the participants' point of view to define minimum material standards.

**Figure 2: Brainstorming on Question 2**



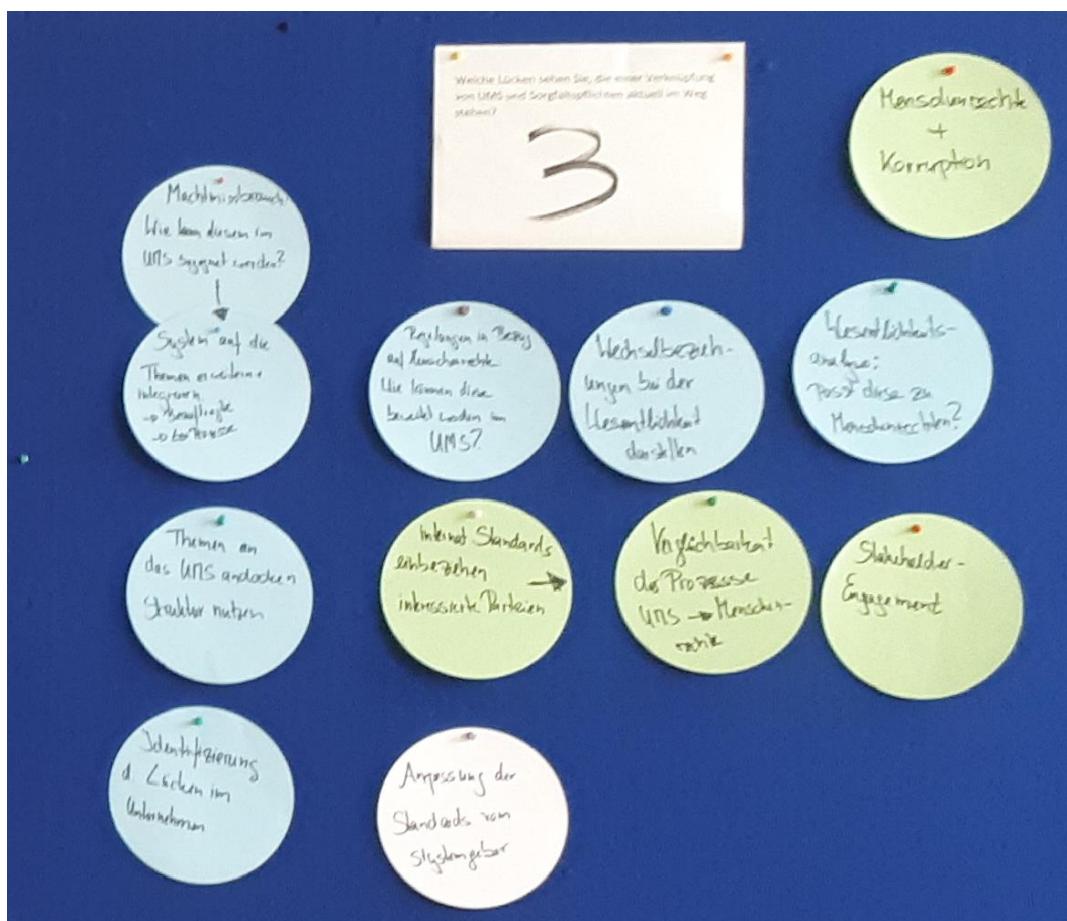
**Frage 3:** *What gaps do you see that currently stand in the way of linking environmental management systems with due diligence obligations?*

#### **Results and discussion:**

The small group held that structures of an environmental management system can fundamentally be used for the due diligence process, since the processes and tasks are comparable. However, the content of the environmental management system must be extended to include human rights and possibly corruption, or existing systems could be integrated. Each

company must first identify where the gaps between the approaches it uses lie and where there is potential but also conflict of objectives for integration. However, companies should not only ask themselves how the structures and requirements of the environmental management system can also be used for tackling human rights issues. Provisions could also potentially be transferred from the area of human rights to environmental management. The small group argued that company representatives for environmental protection and human rights should work together to integrate the two processes. The materiality analysis should already take into account mutual interrelations between the issues. One participant also questioned critically whether the materiality analysis used in sustainability management or the evaluation of significant environmental aspects can be applied to human rights considerations. In addition, the small group also discussed the importance of stakeholder involvement and alignment with relevant international standards, whereby standard or system providers should also be regarded as stakeholders. On one hand, compliance with due diligence standards can be considered in the environmental management system (comparability of processes). On the other hand, an adaptation of the respective standards by the system providers could lead to a better integration of environmental management systems and due diligence obligations also at corporate level.

**Figure 3: Brainstorming on Question 3**



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