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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Accompanying the document Proposal for a regulation of the European Parliament and of the Council on the marketing and use of explosives precursors, amending Annex XVII to Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013 on the marketing and use of explosives precursors

Delegations will find attached document SWD(2018) 105 final.

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COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal for a regulation of the European Parliament and of the Council

on the marketing and use of explosives precursors, amending Annex XVII to Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013 on the marketing and use of explosives precursors

{COM(2018) 209 final} - {SWD(2018) 104 final}

Executive Summary Sheet

Impact assessment accompanying the proposal for a Regulation on the marketing and use of explosives precursors, amending Annex XVII to Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013 of the European Parliament and of the Council on the marketing and use of explosives precursors

A. Need for action

Why? What is the problem being addressed? Maximum 11 lines

Regulation 98/2013 regulates the marketing and use of explosives precursors (i.e. chemical substances that can be misused to manufacture homemade explosives (HMEs)). Whilst the Regulation has reduced the availability of explosives precursors to members of the general public and improved the reporting of suspicious transactions, the evaluation showed that the main objectives have only been partially reached. Two important problems remain. First, explosives precursors continue to be misused for the manufacturing of HMEs, which threatens EU citizens' security. Secondly, economic operators still face unnecessary obstacles to the free movement of these substances in the internal market. These problems are the result of: (i) an inadequate restriction level, (ii) new and evolving threats, (iii) insufficient awareness along the supply chain, (iv) lack of effective application and enforcement of existing controls, (v) fragmentation of the restriction and control system, and (vi) lack of clarity in the Regulation. Without EU intervention, the problems are expected to persist.

What is this initiative expected to achieve? Maximum 8 lines

By further restricting access to certain explosives precursors and strengthening controls, aligning restrictions with the evolving threat, increasing enforcement by competent authorities, and improving the transmission of information along the supply chain, the initiative aims to prevent the misuse of explosives precursors and ensure a high level of security. The functioning of the internal market will be strengthened by facilitating intra-EU trade and preventing the distortion of competition, as well as through clarification of the Regulation and uniform application of the rules.

What is the value added of action at the EU level? Maximum 7 lines

Because of the transnational nature of the problems, EU action is needed. Attacks with HMEs have taken place in various Member States and the threat remains high. If terrorists obtain precursors in Member States with fewer restrictions/lower controls, they can use them to commit attacks anywhere. This practice can only be prevented if Member States harmonise their control systems and enforce the rules uniformly. The barriers and uncertainties faced by economic operators are the result of fragmented restriction and control systems and a lack of clarity in the Regulation. These issues can only be solved by harmonising Member States' laws and clarifying the Regulations' provisions, which can only be done at EU level.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why? Maximum 14 lines

The following policy options have been considered:
• **Policy option 0** (Baseline) – The Commission, in consultation with the Standing Committee on Precursors (SCP), will continue to monitor and facilitate the application of the Regulation;
• **Policy Option 1** (Non legislative) – Reinforce the application of the Regulation with non-legislative measures;
• **Policy Option 2** (Legislative – revision of the existing framework) – Increase the effectiveness and efficiency of the restrictions, enforcement by public authorities, and compliance by the supply chain;
• **Policy Option 3** (Legislative – overhaul of the current framework) – Introduce further controls along the supply chain.

Having analysed and compared the different options, policy option 2 was identified as the preferred policy option. This option would address both the identified problems and contribute to the identified general and specific objectives. Moreover, the proposed measures would strengthen and clarify the existing legal framework, without touching upon the essential characteristics. As the existing Regulation has at least partially reached its main objectives, a complete overhaul seems unnecessary.

Who supports which option? Maximum 7 lines

Policy option 2 is the preferred policy option of all consulted stakeholder groups (i.e. manufacturers, retailers,

members of the general public, public authorities). Some measures receive more support from some stakeholder groups than others, but overall stakeholders agree. Policy option 2 could be combined with certain non-legislative measures from policy option 1. Policy option 1 alone is viewed as insufficient, whereas policy option 3 is generally considered disproportionate and too costly to implement.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise main ones)? Maximum 12 lines

Policy option 2 meets the general objectives of the initiative to a large extent and would contribute equally to all the security-oriented and internal market-related specific objectives. The social impacts of the proposed policy measures would be positive, particularly with regard to public health and new employment opportunities in the research and development sector due to a need for alternative products and products with lower concentrations of restricted substances. Whereas the overall economic impact would be negative, policy option 2 would have a positive impact on competition and would create a more level playing field for manufacturers. No positive environmental impacts are expected.

What are the costs of the preferred option (if any, otherwise main ones)? Maximum 12 lines

Policy option 2 would have would have slightly negative economic impact. The main groups affected are consumers (reduced product choice) and producers (decreased consumption and demand of restricted products). Given the size of the market for members of the general public, there would not be a significant impact on the turnover of the chemical sector as a whole. The precise environmental impacts are difficult to estimate, but a potential shift to less environmental-friendly substances and use of greater quantities of the same product in lower concentrations would have a negative impact on the environment. If consumers use larger quantities, this would also entail increased packaging and transport. In terms of social impacts, the proposed measures would negatively affect certain non-professional consumers of explosives precursors, who use these substances for hobbies or household activities. The exact impact will depend on the substance concerned and the alternatives available.

How will businesses, SMEs and micro-enterprises be affected? Maximum 8 lines

The proposed measures will have a stronger impact on companies specialising in the supply of (highly concentrated) restricted explosives precursors in comparison to enterprises selling a boarder range of products, including alternative substances. The measures are expected to have a stronger impact on SMEs and micro-enterprises, which often have smaller sales volumes and might not have the capacity to diversity their product offer. Nevertheless, the measures will have to be applied fully to ensure a high level of security.

Will there be significant impacts on national budgets and administrations? Maximum 4 lines

Whilst the preferred policy option would increase the costs and administrative burden of national authorities, the proposed measures would not have significant impacts on national budgets and administrations.

Will there be other significant impacts? Max 6 lines

Policy option 2 would have a marginal impact on fundamental rights. The proposed measures would have slightly negative impacts on the freedom to conduct a business and the right to the protection of personal data.

D. Follow up

When will the policy be reviewed? Maximum 4 lines

Two years after the deadline for implementation, the Commission will submit a report to the European Parliament and the Council to assess the initiative's state of play. A formal evaluation of the effectiveness, efficiency, relevance, coherence and EU added value of the framework will be carried out six years after the deadline for implementation.