



Council of the European Union  
General Secretariat

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**Brussels, 28 September 2018**

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### **WORKING PAPER**

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### **WORKING DOCUMENT**

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| From:    | IE delegation                                                                                                                                                                                                                                                                                                       |
| To:      | Working Party on Technical Harmonisation (Explosives Precursors)                                                                                                                                                                                                                                                    |
| Subject: | Comments from the Irish delegation on the 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 |

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| <b>Proposal for a Regulation on the Marketing and Use of Explosives Precursors to replace Regulation (EU) No 98/2013 – Presidency Compromise Suggestions – Doc 11040/2018</b><br><b>Updated Comments from DJE Ireland</b> |      |                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                     |                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| Article                                                                                                                                                                                                                   | Page | Current Text                                                                                                                                                                                                                                                                       | Suggested Text                                                                                                                                                                                                                                                                      | Comment and Justification |
| Recital (3)                                                                                                                                                                                                               | 1    | Furthermore, the existing restrictions and controls were not ensuring sufficiently level of public security as they were not adequately preventing criminals from acquiring explosives precursors. The threat posed by homemade explosives remained high and continuous to evolve. | Furthermore, the existing restrictions and controls were not ensuring sufficiently levels of public security as they were not adequately preventing criminals from acquiring explosives precursors. The threat posed by homemade explosives remained high and continuous to evolve. | Editorial                 |
| Recital (7)                                                                                                                                                                                                               | 2    | in other Member States that apply licensing regime.                                                                                                                                                                                                                                | in other Member States that apply licensing regimes                                                                                                                                                                                                                                 | Editorial                 |
| Recital (9)                                                                                                                                                                                                               | 3    | Economic operators selling to professional users or members of the general public with a licence should ensure that their personnel involved in the sale of the explosives precursors is aware of the products that the economic operator offers                                   | Economic operators selling to other economic operators, professional users or members of the general public with a licence should ensure that their personnel involved in the sale of the explosives precursors are is aware of the products that the economic operator offers      | Editorial                 |
| 7                                                                                                                                                                                                                         | 10   | that their personnel involved in the sale of regulated explosives precursors is:                                                                                                                                                                                                   | that their personnel involved in the sale of regulated explosives precursors are is                                                                                                                                                                                                 | Editorial                 |

|     |    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                           |
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| 8.2 | 10 | <p>For the purpose of verifying that a prospective customer is a professional user or <b>another economic operator</b>, <del>an</del> <b>the</b> economic operator who makes available a restricted explosives precursor to a professional user or <del>a farmer</del> <b>another economic operator</b> shall for each transaction request the following, <b>unless such a check for that recipient prospective customer has already occurred within a period of one year and the transaction does not significantly deviate from previous transactions:</b></p> <p><b>(aa) the name and address of the prospective customer, together with a proof of identity</b></p> <p>(a) the trade, business, <del>craft</del> or profession of the prospective customer;</p> <p>(b) the intended use of the restricted explosives precursors by the prospective customer.</p> | <p>For the purpose of verifying that a prospective customer is a professional user or <b>another economic operator</b>, <del>an</del> <b>the</b> economic operator who makes available a restricted explosives precursor to a professional user or <del>a farmer</del> <b>another economic operator</b> shall for each transaction <b>verify the proof of identity and address of the prospective customer, unless such a check for that recipient prospective customer has already occurred within a period of one year and the transaction does not significantly deviate from previous transactions and request the following:</b></p> <p><b>(aa) <del>the name and address of the prospective customer, together with a proof of</del> identity</b></p> <p>(a) the trade, business, <del>craft</del> or profession of the prospective customer;</p> <p>(b) the intended use of the restricted explosives precursors by the prospective customer.</p> | <p>The intention of the Article is that the proof of the identity of the prospective customer is verified not just requested and this proposed text makes that clear.</p> |
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| 12.1(a), | 13 | <p>The Commission shall regularly update, after consulting the Standing Committee on Explosives Precursors, guidelines to assist the chemical supply chain and, where relevant, the competent authorities to facilitate cooperation between the competent authorities and economic operators. The guidelines shall, in particular, provide:</p> <p>(a) information on how to conduct inspections;</p> <p>(b) information on how to apply the restrictions and controls of the Regulation to regulated explosives precursors ordered at a distance by members of the general public or professional users;</p> <p>(c) information on possible measures to be adopted by online marketplaces that act as an intermediary to ensure compliance with this Regulation;</p> <p>(d) information on how to exchange relevant information between competent authorities and national contact points and between Member States;</p> | <p>The Commission shall regularly update, after consulting the Standing Committee on Explosives Precursors, guidelines to assist the chemical supply chain and, where relevant, the competent authorities to facilitate cooperation between the competent authorities and economic operators. The guidelines shall, in particular, provide:</p> <p>(a) information on how to conduct inspections <b>and training and how to organise awareness-raising actions</b></p> <p>(b) information on how to apply the restrictions and controls of the Regulation to regulated explosives precursors ordered at a distance by members of the general public or professional users;</p> <p>(c) information on possible measures to be adopted by online marketplaces that act as an intermediary to ensure compliance with this Regulation;</p> <p>(d) information on how to exchange relevant information between competent authorities and national contact points and between Member States;</p> <p>(e) other information which may be deemed useful.</p> | <p>The requirement to conduct both training and awareness-raising actions for authorities will be very onerous and these would be greatly assisted if Guidelines were to be issued by the Commission.</p> |
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|      |    | (e) other information which may be deemed useful.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                              |
| 15.1 | 14 | <p>The Commission shall adopt delegated acts in accordance with Article 16 concerning the addition of substances to Annex I and changes of the limit values in Annex I <b>where it appears, in the light of the opinion given by the Standing Committee on Explosives Precursors, a) to the extent necessary in order to accommodate developments in the misuse of substances as explosives precursors, or on the basis of research and testing, and b) as well as concerning the addition of adding substances to Annex II, where necessary to accommodate developments in the misuse of substances as explosives precursors. The Commission shall, as part of the preparation of the delegated acts, consult relevant stakeholders, in particular the chemical industry and the retail sector,</b></p> | <p>The Commission shall adopt delegated acts in accordance with Article 16 <b>when requested by the Standing Committee on Explosives Precursors in accordance with paragraph 0 concerning</b></p> <ol style="list-style-type: none"> <li>(1) <b>the addition of substances to Annex I and changes of the limit values in Annex I to the extent necessary in order to accommodate developments in the misuse of substances as explosives precursors, or on the basis of research and testing, or</b></li> <li>(2) <b>the addition of substances to Annex II, where necessary to accommodate developments in the misuse of substances as explosives precursors.</b></li> </ol> <p><b>The Commission shall, as part of the preparation of the delegated acts, consult relevant stakeholders, in particular the chemical industry and the retail sector,</b></p> | <p>This is to make it clear the circumstances under which the Commission when requested by the SCP can make delegated acts for both Annex I and Annex II and that industry should be consulted for both.</p> |

