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WORKING PAPER

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From:	UK delegation
To:	Working Party on Technical Harmonisation (Explosives Precursors)
Subject:	Comments from the United Kingdom 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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2018-10-15 - UK Amendments to EU Regulation 98-2013

Article	Current Text	Suggested Text	Comment/Justification
Recital 7	For example, licensing for potassium chlorate, potassium perchlorate, sodium chlorate and sodium perchlorate is for this reason discontinued.	For example, licensing for potassium chlorate, potassium perchlorate, sodium chlorate and sodium perchlorate is for this reason discontinued.	Given our comment to include 100%w/w licensing capability for chlorates and perchlorates at Annex A, this line should be removed from the recitals.
Recital 7	Licences may only be provided for a limited number of restricted explosives precursors in concentrations not exceeding the upper limit...	Licences may only be provided for a limited number of restricted explosives precursors in concentrations not exceeding the upper limit...	Same as above.
Recital 7	Above that upper limit and in case licensing is not permitted, the risk in relation to...	Above that upper limit and in case licensing is not permitted , the risk in relation to...	Same as above.
Between Recital 12 and 13		Obligations relating to regulated explosives precursors apply to all substances at all concentrations in Annex 1 and Annex 2, including below the listed limit value (column	To eliminate the possibility of confusion, it would be helpful to include a recital stating that reporting obligations apply to restricted explosives precursors at all concentrations, not just above the concentration threshold in Annex 1.

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		2 of Annex 1), unless excluded due to the presence of a complex mixture or low or trace concentration of the substance (Article 3 [12]).	
3 (6)	“use” means any processing formulation, consumption, storage, keeping, treatment, filling into containers, transfer from one container to another, mixing, production of an article or any other utilisation;”		The UK supports the point raised by Italy in the 03/10/2018 Working Group meeting, requesting the assurance that transport users are not excluded from this definition.
3 (7)	Member of the public means any natural or legal person who has a need for a restricted explosives precursor for purposes that are not connected with their trade, business or profession;	Member of the public means any natural or legal person who is acting for purposes that are not connected with their trade, business or profession;	This means members of the public who do not have a need for restricted explosives precursors are not subject to restrictions. It creates a separate group of people who are: 1) Not subject to licensing etc 2) Not subject to professional user verification.
8 (2)	Another economic operator shall for each transaction request the following, unless such a check for that	Another economic operator shall for each transaction request the following, unless such a check for that prospective customer has	A potential one year gap between checks creates a security loophole for prospective customers. Checks

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	prospective customer has already occurred within a period of one year and the transaction does not significantly deviate from previous transactions:	already occurred within a period of one year and the transaction does not significantly deviate from previous transactions:	should remain on-going irrespective of the timing and nature of the previous check.
23 (2)	It shall apply from 24 months [after the date of entry into force].	It shall apply from 18 months [after the date of entry into force]	It is important that this regulation comes into force as quickly as possible, to reduce the time available for terrorists to exploit the existing regulation.
Annex I	Sodium Chlorate upper limit “no licensing permitted” Potassium Chlorate upper limit “no licensing permitted” Sodium Perchlorate upper limit “no licensing permitted” Potassium Perchlorate upper limit “no licensing permitted”	Sodium Chlorate upper limit 100% w/w Potassium Chlorate upper limit 100% w/w Sodium Perchlorate upper limit 100% w/w Potassium Perchlorate upper limit 100% w/w	Since September 2014 the UK has issued 69 licences to members of the public for the acquisition, possession and use of these substances for the legitimate purpose of pyrotechnic experimentation. These individuals also require an explosives licence for their activity (issued by the police) and are subject to robust background checks. According to the evidence available to us, there have been no instances of misuse of these substances in the UK after a customer has been licensed. Losing our licensing ability may also drive the market for these chemicals underground, weakening our current security measures.

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Article 3 (8): We support the revision of the definition of “professional user” to include “agricultural activity”. A removal of this definition would adversely impact upon small holders and horse paddock owners in the UK. These groups require the use of ammonium nitrate for legitimate purposes but would not be captured, or may be unable to demonstrate this requirement, under a “Professional User” definition not containing “agricultural activity”. **We would therefore support either option a) or b) in the Presidency proposed options.**

Article 9 (1) (2): We support the inclusion of “online marketplaces” in the required reporting of suspicious transactions, disappearances and thefts.

Annex 1: We support the change to allow licensing of nitromethane up to 100% w/w and hope to see the same reflected for all chlorates and perchlorates.