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WORKING PAPER

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From:	CY delegation
To:	Working Party on Technical Harmonisation (Explosives Precursors)
Subject:	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 - Comments from the CY delegation on WK 11040/2018 (Presidency compromise proposal)

Article	Current Text	Suggested Text	Comments
14(6)	Without prejudice to paragraph 5, the Commission may, after consulting the Member State and, if appropriate, third parties, take a decision within 60 days of receipt of the information from the Member State , that the measure taken by the Member State is not justified, and require the Member State to revoke or amend the provisional measure .	Without prejudice to paragraph 5, the Commission may, after consulting the Member State and, if appropriate, third parties, take a decision within 60 days of receipt of the information from the Member State, that the measure taken by the Member State is not justified, and require the Member State to revoke or amend the provisional measure .	The decision-making power of the COM provided for in Art. 14 (6) of the Draft Regulation would infringe the division of competences between the institutions of the Union, and thus the institutional balance set out in the European Treaties (Article 13 (2) TEU). In the case of an alleged infringement of EU law by Member States, the Commission is, as a matter of principle, limited to the infringement procedure under Article 258 TFEU, with a final judgment rendered by the ECJ. Within this framework, only the ECJ can make a binding decision on the compatibility of domestic legislation with EU law
15 (0)	Independently of its functions pursuant to Article 17a, the Standing Committee on Explosives Precursors shall keep under regular review developments in the misuse of substances on the basis of information made available to it by the authorities of the Member States, including where	Independently of its functions pursuant to Article 17a, the Standing Committee on Explosives Precursors shall keep under regular review developments in the misuse of substances on the basis of information made available to it by the authorities of the Member States, including where that information becomes available following research and testing. Where the Standing Committee on Explosives Precursors considers, by a majority of its members, that it would be	It is proposed not to support this provision and to restore the procedural rule of Article 12 of EU Regulation 98/2013 (delegated acts only possible for the modification of the limit values of Annex I and the addition of substances to Annex II)

	that information becomes available following research and testing. Where the Standing Committee on Explosives Precursors considers, by a majority of its members, that it would be appropriate for the annexes to be amended in accordance with paragraph 1 of this Article, it shall request the Commission to adopt a delegated act to that effect.	appropriate for the annexes to be amended in accordance with paragraph 1 of this Article, it shall request the Commission to adopt a delegated act to that effect.	
23(2)	It shall apply from 24 months (after the date of entry into force)	It shall apply from 24 months (after the date of entry into force)	The period for the entry into force of the Regulation should <u>be at least 2 years</u> in order to provide to the Member States enough time to complete their internal procedures.