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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 UK 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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2018-11-01 - UK Amendments to EU Regulation 98-2013

Article	Current Text	Suggested Text	Comment/Justification
Recital 7	Therefore, licensing should be discontinued for potassium chlorate, potassium perchlorate, sodium chlorate and sodium perchlorate.	Therefore, licensing should be discontinued for potassium chlorate, potassium perchlorate, sodium chlorate and sodium perchlorate.	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. The UK believes there are legitimate uses for these chemicals above the limit value (such as pyrotechnics).
Before Recital 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 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]).	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.
3 (6)	“use” means any processing formulation, consumption, storage, keeping, treatment, filling into containers, transfer		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.

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	from one container to another, mixing, production of an article or any other utilisation;”		
5 (1a)	Entire paragraph	Remove entire paragraph	Same justification as Recital 7 - given our comment to include 100%w/w licensing capability for chlorates and perchlorates at Annex A, this paragraph should be removed.
8 (2)	Another economic operator shall for each transaction request the following, unless such a check for that prospective customer has already occurred within a period of one year and the transaction does not significantly deviate from previous transactions:	Another economic operator shall for each transaction request the following, unless such a check for that prospective customer has already occurred within a period of one year and the transaction does not significantly deviate from previous transactions:	A potential one year gap between checks creates a security loophole for prospective customers. Checks 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”	Sodium Chlorate upper limit 100% w/w	Since September 2014 the UK has issued 69 licences to members of the public for the acquisition,

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Potassium Chlorate upper limit “no licensing permitted” Sodium Perchlorate upper limit “no licensing permitted” Potassium Perchlorate upper limit “no licensing permitted”	Potassium Chlorate upper limit 100% w/w Sodium Perchlorate upper limit 100% w/w Potassium Perchlorate upper limit 100% w/w	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”.

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.