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From:	General Secretariat of the Council
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 - Powerpoint presentation by the Commission



Marketing and use of explosives Precursors

Proposal for a Regulation
COM (2018)209 – Presentation
25 May 2018

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Outline – explanation of the proposal

- *Focus on new elements in relation to the existing Regulation*
- *Thematic blocks, pause for questions*
 - 1. What & Who**
 - 2. Additional restricted substances**
 - 3. Strengthening restrictions**
 - 4. Suspicious transaction reporting**
 - 5. Improving the application of the Regulation**
 - 6. Future work**

I. What and who?



Goal – prevent manufacture of illicit explosives (article 1)

1. To limit the availability of explosives precursors to the general public

- Restrictions - ban or license (article 5)
- “Restricted explosives precursors” (annex I)

2. To detect potential misuse

- Suspicious transaction reporting (article 9)
- “Regulated explosives precursors” (annex I and II)

Classification on the basis of existing criteria (recital 5) threat level / volume trade / concentration level

Scope (Article 2)



- *Included are precursors mentioned in Annexes*
- *Excluded are (as before):*

- **Pyrotechnic articles and equipment, percussion caps for toys and medicinal products**
- **“Articles” (point 3 article 3 proposal and Regulation 1907/2006)**

“An object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition”

Who is affected by the Regulation (article 3)?

- *Members of the general public*
- *Professional user*
- *Farmers*
- *Economic operator*
- *Online operators, including marketplaces*
- *National authorities*

II. Additional restricted substances



Extending scope of restricted explosives precursors (Annex I)

- *Extending restrictions from 7 to 9 substances*

- **Sulphuric acid (>15% w/w)**

Already regulated as skin corrosive chemical - below threshold much more difficult to manufacture explosives – volume trade significant but limited in regard to general public

- **Ammonium nitrate ($\geq 16\%$)**

Transfer from Reach Regulation 1907/2006

- *Lowering concentration nitromethane (16%)*

Ammonium Nitrate (AN)

- *Existing restrictions under Annex XVII Regulation 1907/2006 for $\geq 16\%$*
- *Not to be placed on the market except to*
 - **Downstream users and distributors (corresponds to “professional users” point 8 article 3)**
 - **Natural or legal persons engaged in professional activities such as horticulture (idem)**
 - **Farmers for use in agricultural activities (corresponds to Article 5(2)) and points 13 and 14 of Article 3)**

AN is restricted to members of the general public

III. Strengthening restrictions

Ban or licensing regime (article 5) – no more registration

- *Par. 1: Restricted explosives precursors shall not be made available to, or introduced, possessed or used by members of the general public (**BAN**)*
- *Par. 3: MS may decide to have in place or set up a **licensing** regime*
- *It will no longer be possible for the general public to acquire precursors through **registration** of the transaction*

More robust licensing (article 6)

- *Only for certain restricted explosives precursors*
- *Up until a certain limit (column 3 Annex 1)*
- *Criteria for assessment (not cumulative conditions)*
 - **Availability of lower concentrations / alternatives**
 - **Background of the applicant including criminal records (to be shared by ECRIS, par. 8)**
 - **Storage arrangements**
 - **(existing) legitimacy of intended use (par. 2)**
- *Option to recognise foreign licences (Annex 3)*
- *Renewal of old licences (par. 9)*

IV. Suspicious transaction reporting

Suspicious transactions (article 9)

- *Operators are required to report suspicious transactions, including professional users, as identified in par. 1*
- *New: duty to have in place procedures to detect*
- *Report within 24 hours (new) to National Contact Point, who should be available 24/7 (new)*
- *Reporting of significant disappearances and thefts, now also by professional users and general public*

V. Improving the application of the Regulation – companies

Informing the supply chain (article 7, par. 1)

- *Replaces the old labelling provision (lack of clarity and undesired effects)*
- *Instead, a more generic duty to inform the next step in the supply chain,*
 - **This can take place through a label, safety data sheet or other means (recital**

Training staff involved in sale (article 7, par. 2)

- *Obligation as to result : those selling to general public or professional users should be aware what product is restricted*
- *This awareness can be achieved by training, and/or facilitated by electronic means such as barcodes (recital 9)*
- *In any event, personnel should be aware of the obligations of the Regulation, including suspicious transactions*

Verification upon sale (Article 8)

- *Sale is only allowed to general public with a licence or to professional user*
- *Economic operators have to verify*
 - **For members of the general public – licence (existing) and identity**
 - **Professional users /farmer – request information on the profession of user and intended use (doubts will lead to application article 9).**
- *Data on professional users retained for inspection for one year*

Online operators & marketplaces

- *Bound by the same requirements (recital 11)*
- *Different obligations for marketplace **acting as mere intermediaries** (recital 11a)*
 - **Obligated to inform its users of the obligations of the Regulation (art. 7.3)**
 - **Obligated to help ensure its users comply with the verification obligations (art. 8.4)**
- *More detailed instructions to be set in guidelines (article 12)*

VI. Improving the application of the Regulation – national authorities

Training and awareness-raising (Article 10)

- *Training to law enforcement, first responder and custom authorities to recognise regulated explosives precursors and to act accordingly*
- *Awareness-raising actions for each sector, at least twice a year.*

National inspection authorities (Article 11)

- *Inspections in each MS*
- *With sufficient powers (par. 2)*
- *And resources (par. 3) Cf. Reach Regulation*



VII. Future work

- *Guidelines - Article 12*
- *Safeguard clause - Article 14*
- *Amending the Annexes - Articles 15 to 17*
 - **(new) delegated acts to add substances to annex I**
- *Reporting – Article 20 (new)*
- *Monitoring & Evaluation – Article 21-22 (new)*



Conclusion

New elements of the proposal:

- 1. Additional restricted substances (SA, AN, NM)**
- 2. Faster procedure to add substances to Annex I**
- 3. Strengthening licensing as the only exception to the ban**
- 4. Improving the application of the Regulation**
- 5. Improved suspicious transaction reporting**

Thank you for your attention

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