



**COUNCIL OF
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LIMITE

**ENFOPOL 168
CRIMORG 150**

NOTE

from : Presidency
to : Article 36 Committee

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9962/07 CRIMORG 94 ENFOPOL 103

Subject : EU Action Plan for enhancing the security of explosives, precursors and
detonators
- Further proceedings

Introduction

The importance of enhancing the security of explosives has been underlined many times before, most recently in the Council conclusions of 12-13 June 2007 (doc. 9962/07). The Council welcomed the fact that this matter is one of the priorities of the Presidency in the JHA area.

In implementing this priority, the Presidency bases itself on the very useful work done by the Commission and in particular the Explosives Security Experts Task Force in the first half of 2007. To this end, the Presidency and the Commission jointly organised the second EU Conference on Enhancing the Security of Explosives in Braga, Portugal, on 16 and 17 July 2007. At this conference, the report of the Task Force was presented and discussed as well as the elaboration of an EU Action Plan on the Security Enhancement of Explosives, Precursors and Detonators, which will be based on the report of the Task Force.

Procedure

It was originally foreseen that the Commission would adopt the proposal for such an Action Plan earlier than the current date of 7 November. The Presidency therefore started detailed discussions in the Police Cooperation WG and the Terrorism WG, on the basis of a draft Action Plan drawn up after the above-mentioned conference.

While welcoming the delegations' support for the measures set out in this draft document and their efforts to provide final national contributions, the Presidency also understands that the very horizontal nature of the Action Plan requires that more time is taken to consider each one of the measures.

In addition, it is very important for the Presidency to examine the Commission's proposal on this subject before adopting the final overall Action Plan. The result of the extensive horizontal consultations done by the Commission in view of its proposal will be an essential element of the debate.

The Presidency would therefore propose the following way of proceedings:

- the Presidency will revise the current draft action plan, on the basis of the debates at the PCWP and TWG as regards the third pillar measures;
- the PCWP and the Article 36 Committee, in their November meetings, will be invited to examine this revised document with a view to submitting it to the Council in December
- the December Council would be invited to approve the priority measures and request its preparatory bodies to continue the work on other, more horizontal, measures with a view to the adoption of a full Action Plan in 2008.

This would give political support for a number of priority measures that can and should be taken in the short term, such as the EOD (explosives ordnance disposal) Units network, the Early Warning System (EWS), the network for contact points for the supply chain and the Europol Bomb Database.

A draft of the Action Plan, in the annex of the current document, includes already the comments made at the PCWP meetings and the contribution of the TWG.

Delegations are invited to agree on the proposed procedure and comment the annex.

Explosives Action Plan - table

Horizontal measures

No.	Measure/Action	Competent body	Deadline	Status/Observations
Objective 1: Improve the exchange of timely information and best practices				
1.1.1 ¹	<p>Establish an Early Warning System concerning explosives</p> <p>Such a system would be used in order to exchange information concerning:</p> <ul style="list-style-type: none"> • Immediate threats; • Theft of explosives (any kind); • Theft of detonators; • Theft of precursors; (to be discussed) • Suspicious transactions; • Discovery of new modi operandi <p>The system should be available in particular to Member States public security authorities (national contact points), Europol and all operational EOD units.</p>	MS/Europol/Commission	End 2008	Task Force Recommendation No. 41 LU estimates this is a priority measure.
1.1.2	<p>Create a European Bomb Data System</p> <p>The system should provide a common EU instrument enabling authorised governmental bodies at EU and Member States level to have 24/7 access to relevant information on incidents involving explosive devices.</p> <p>At least all operational EOD units in the Member States should have access to the database. Other competent authorities in the Member States should also be given access in line with national law.</p> <p>Competent units or bodies of the Member States should be strongly obliged² to provide all necessary information for inclusion in the database.</p>	Europol/MS/Commission	End 2008	Task Force Recommendation No. 35, 36, 37 LU estimates this is a priority measure.
1.1.3	<p>Regularly (every two years) organise an event on the security of explosives covering all relevant issues.</p> <p>Such an event/conference should involving officials from both the public and private sectors.</p>	Commission	Ongoing every two years	Task Force Recommendation No. 50

¹ UK suggests replacing this action by “An Early Warning System (EWS) for explosives related incidents should be established, taking account of existing systems and experiences, including the G6”. UK feels that the current text is too prescriptive. The proposed new form of wording follows more directly the ESETF Recommendation 39.

² UK suggests replacing “strongly obliged” by “strongly encouraged”. UK does not believe that Member States should be obliged to enter all information in the database. This might prove problematic, particularly concerning aspects of on-going investigations and in the early stages of an event. UK does not wish to see an Action proposed that feels to be unlikely filled. **DK, IT (+/-), MT** agree, **LU** disagrees.

Objective 2: Develop threat assessments				
1.2.1	Consider developing specialised threat assessments on explosives	MS/Europol/Council	ongoing	Task Force Report section 4.10
Objective 3: Strengthen explosives-related research				
1.3.1	Improve the aggregation and spread of research results both at EU level as well as at national level across the EU Member States	MS/Commission	ongoing	Task Force Recommendation No. 49
1.3.2	Perform further research on improvised explosive devices and their properties	MS/Commission	ongoing	Task Force Recommendation No. 47
1.3.3	Perform further research on the detection of explosives and precursors including through the use of additives. Enhancing both detectability and traceability should be considered.	MS/Commission	ongoing	Task Force Recommendation No. 47
1.3.4	Perform further research on mobile explosives testing kits	MS/Commission	ongoing	Task Force Recommendation No. 47
1.3.5	Perform further research to find inhibitors which could be added to precursors to explosives to prevent them being used to manufacture explosive devices	MS/Commission	ongoing	Task Force Recommendation No. 48
1.3.6	Perform further research concerning the detection of Improvised Explosive Devices at airports	MS/Commission	Ongoing Progress to be assessed annually	Task Force Recommendation No. 31
1.3.7	Support further research in order to find technical solutions for Member State authorities to jam mobile phone signals in critical areas	MS/Commission	ongoing	Task Force Recommendation No. 45
1.3.8	Perform further research on the equivalence between lists of precursor substances and lists of articles containing them in quantities and forms compatible with the manufacture of improvised explosives devices	MS/Commission		
1.3.9	Perform further research on how to derive chemicals from synthesized substances such as commercially available gels (e.g.) so as to improve understanding of related technical complexity, equipment and knowledge requirements	MS/Commission		
1.3.10	Perform further research on possibilities to link explosives precursor policy and drugs precursor policy	MS/Commission		
Objective 4: (New) International Cooperation				
1.4.1	Engaging explosives and precursor producing third countries, notably neighbouring ones, with a view to the promotion of rigorous security regimes relating to explosives and precursors			
1.4.2	Launching or reinforcing cooperation with third countries, notably neighbouring ones, on relevant areas of the Action Plan, e.g. on sharing of information with EU on stolen explosives.			
1.4.3	Promoting common standards of transport security with third countries, e.g. those with rail connections with the EU.			

Prevention measures³

No.	Measure/Action	Competent body	Deadline	Status/Observations
Objective 1: Improve staff awareness and alerting concerning precursors				
2.1.1	Public authorities to provide security information to the entire precursor supply chain, from manufacturers to the retailers, first responders (police, fire-departments, bomb-squads) and educational establishments to focus attention on products of concern.	MS	Ongoing	Task Force Recommendation No. 1
2.1.	Simple means should exist for anyone within the supply chain to alert the relevant national authority if they see a transaction or theft which they suspect to have been made with the intention of illegally fabricating explosives.	MS	Ongoing	Task Force Recommendation No. 2
2.1.3	Campaigns should be conducted to raise staff-awareness of the threat all along the supply chain amongst manufacturers, formulators, distributors and retailers of precursors.	MS	Ongoing	Task Force Recommendation No. 3
Objective 2: Improve the regulation of explosives precursors available on the market				
2.2.1	<p>The establishment of a system to consider and prepare concerning the regulation of explosives precursors available on the market.</p> <p>Such a system should include the establishment of a Standing Committee of Experts tasked with identifying the risks associated with various precursors and recommending appropriate actions to the Commission. The Committee should consider and/or monitor the following issues:</p> <ul style="list-style-type: none"> • Development of suitable additives and promotion of the use of these additives to precursors in order to prevent their use in explosives, when it is technically possible. • Restrictions on concentration concerning the sale of certain precursors to end-users. • A complete ban on concentrated strong acids to EU consumer markets (non-professional markets) when a substitute giving an equal use is technically possible: sulphuric, hydrochloric and nitric acids in particular. • Introduction of a voluntary market surveillance scheme for ammonium nitrate fertilizers and restricting the sale of high nitrogen fertilizers to the general public. 	Commission/MS	Start by end of 2007 Ongoing	Task Force Recommendation No. 4

³ NL suggests adding an action about Internet as a source (for bomb making instructions, for procuring material ??), and drew attention to the fact that also teaching institutions have precursors, which are not sufficiently registered.

	<ul style="list-style-type: none"> Limiting the availability of pure nitromethane to the general public. It should be available to industrial customers via a suitable customer qualification scheme. Restrictions on access of the general public to unphlegmatized sodium chlorate (weed killer). 			
2.2.2	<p>Introduce a system for the recording of the identity of the buyer of precursors above certain quantities and/or concentrations. The records should be available to the law enforcement authorities on request or provided to the national contact point in case of suspicious transactions. All relevant data protection rules should apply.</p> <p>The relevant quantities and/or concentrations would be set based on the work of the Standing Committee of Experts.</p>	Commission/MS	Start in 2008 Assess the need to setup a concrete system by end 2008	Task Force Recommendation No. 7
2.2.3	<p>A European minimum standard and industrial guidance by way of an appropriate code should be defined concerning the security of storage of explosives precursors</p> <p>It should not be in conflict with other Regulations.</p>	Commission/MS	End 2008	Task Force Recommendation No. 8
Objective 3: Improve the control over transactions involving precursors				
2.3.1	<p>Establish a system of reporting suspicious transactions.</p>	MS/Commission	Start in 2008 Assess the need to setup a concrete system by end 2008	Task Force Recommendation No. 5
2.3.2	<p>A binding system should be created concerning the notification to the relevant national authority of any transactions involving the products on the list which can be considered suspicious</p> <p>A “code of conduct”, similar to the EC code for drug precursors, should be developed, for industry and retailers, identifying the behaviours which may give rise to suspicion.</p>	MS/Commission	Start in 2008 Assess the need to setup a concrete system by end 2008	Task Force Recommendation No. 6
2.3.3	<p>Assessing the benefits of creating a scheme for each precursor handled by the retail sector, under which all packaging would be labelled with a code specifying that the purchase of the substance may be subject to registration</p> <p>The possibility of designing a European symbol to indicate that the product for retail sale is subject to registration could be considered.</p>	MS/Commission	2008	Task Force Recommendation No. 9
2.3.4	<p>Assess the feasibility and added value of introducing a complete ban on selling certain precursors to minors.</p>	MS/Commission	2009	Task Force Recommendation No. 10

Objective 4: Improve the control over explosives available on the market and pyrotechnic articles				
2.4.1	Ensure that each Member States has formal systems for authorising, regulating and licensing the manufacture, storage, sale, use and possession of explosives including by private persons. This shall apply to companies as well as to non-commercial activities.	MS	2009	Task Force Recommendation No. 21
2.4.2	Ensure the identification and tracing of explosives based on the system proposed in the draft Commission Directive on the identification and traceability of explosives for civil use (Traceability Directive).	Commission/MS	End 2007	Task Force Recommendation No. 22
2.4.3	Launch a debate on the need to review the classification of “desensitized explosives”⁴ This should be done with a view to making sure that future transport regulations (GHS-system) continue to cover such substances.	Commission/MS	Immediately End 2007	Task Force Recommendation No. 19
2.4.4	Harmonise EU requirements for the licensing and handling of large amounts of pyrotechnic articles The lack of any harmonised approach towards licensing schemes to handle large quantities of pyrotechnic articles means that it is possible to handle such materials without regulatory oversight as long storage and transport requirements are met. Such a security gap should be closed.	Commission/MS	End 2009	Task Force Recommendation No. 43
Objective 5: Improve the security of explosives facilities				
2.5.1	Introduce effective Security Plans/Security Management Systems at all explosives facilities (manufacturing, storing, distributing and using) Ensure that the levels of necessary access prevention and detection provisions in fixed storage facilities should be proportional to the risk and should be subject to a standard classification.	MS	Launch debate in 2008 Ongoing	Task Force Recommendation No. 12 and 14
2.5.2	Introduce an obligation for the relevant national authorities to keep explosives manufacturers and distributors informed as to the regional threat at all times Response plans should be developed tuned to the level of alert present.	MS	Ongoing	Task Force Recommendation No. 13

⁴ UK suggests replacing “Launch a debate... “desensitized explosives”” by “Launch a debate on the need to review the *security requirements* of “desensitized” explosives”. For UK, desensitized explosives receive a classification pertaining to their behaviour under certain situations to inform, in part, the emergency service’s response to an incident. The security of certain substances should be reviewed, but the safety “classification” should not be the instrument used to do this.

2.5.3	<p>Raw materials used in the manufacture of bulk explosives and finished product should be periodically accounted for and reconciled as approved by the National Authorities.</p> <p>This applies to all factories manufacturing bulk explosives. The relevant periods should not be long so that any losses, thefts and inconsistencies are recognized as quickly as possible.</p>	MS	2009	Task Force Recommendation No. 20
2.5.4	<p>Improve the security of Mobile Explosive Manufacturing Units (MEMUs). Amend the European Agreement on the International carriage of dangerous goods by road (ADR) by end of 2009.</p> <p>The following specific actions should be undertaken:</p> <ul style="list-style-type: none"> • The operators of MEMUs should have two independent systems for recording the amount of explosives produced • Each MEMU should be fitted with process locks to prevent unauthorised use • Loaded MEMUs should be parked on a site which is guarded or monitored when they are not in use. 	Commission/MS	End 2009	Task Force Recommendation No. 15, 16, 17
Objective 6: Improve the security vetting of personnel				
2.6.1	<p>All personnel employed in the manufacturing, storage, distribution and use of explosives, and who have access to explosives, should be vetted (external checks by relevant national authorities under applicable national regulations) and hold a formal authorisation to have access to explosives.</p>	MS	Ongoing	Task Force Recommendation No. 11
Objective 7: Improve the security of transport of explosives				
2.7.1	<p>All EX/II and EX/III vehicles carrying explosives should be equipped with certain security enhancement solutions. Amend the European Agreement on the International carriage of dangerous goods by road (ADR) by end of 2009.</p> <p>These security solutions include:</p> <ol style="list-style-type: none"> 1) be fitted with 24 hour, remote monitoring systems (e.g. GPS based systems), that are monitored by an appropriately resourced monitoring station. The Monitoring systems (including the Monitoring Station) must reliably enable where technically possible: <ul style="list-style-type: none"> • Vehicle location to be identified • Alarm activation if vehicle is moved from specified location at certain times 	Commission/MS	2009	Task Force Recommendation No. 18

	<ul style="list-style-type: none"> Alarm activation if specified compartments are opened at certain times and/or at unauthorised locations. A duress and/or a panic alarm facility. <ol style="list-style-type: none"> be capable of immobilising the engine remotely if safe and applicable subject to the Vienna Convention be fitted with an anti theft system. have sufficiently secure compartments for explosives be fitted with a means of communication <p>have a recognised marking affixed to the roof of the vehicle, to a specified size and description.</p>			
Objective 8: Reduce the supply and quality of information on how to illicitly manufacture explosives⁵				
2.8.1	Limit the spread of bomb-making experience over the Internet	MS/Commission	ongoing	Task Force Recommendation No. 41
2.8.2 ⁶	Harmonize criminal sanctions for distributing bomb-making experience over the Internet	MS/Commission	End 2008	Task Force Recommendation No. 41
Objective 9: Engaging the retail sector on explosive security				
2.9.1	Organising specific consultative process with the retail sector at European and national level on the Action Plan as a whole and in particular on ways and means to implement objectives 2.1 to 2.6			

Detection measures

No.	Measure/Action	Competent body	Deadline	Status/Observations
Objective 1: Establish a scenario based approach to identifying work priorities in the detection field				
3.1.1	Setup a working group tasked with developing and discussing detection related scenarios, and then identifying detection technology requirements for the scenarios. The working group would be composed of Member State and Commission representatives.	Commission/MS	As soon as possible	Task Force Recommendation No. 23

⁵ SE stresses that it is important that the liberty of the press, freedom of speech and freedom of information will not be harmed if the measures (2.8.1 and 2.8.2) will be taken to restrict information about production of explosives. As these rights are protected by the Swedish Constitution, SE cannot accept rules, which impose upon a Member State an obligation to close servers or homepages containing unlawful information. Criminalizing information about bomb production is unconstitutional in Sweden. However, SE considers that it would be very useful to exchange information about the rules in different Member States. ES, LU agree. DK is also of the same opinion and considers that this measure may have wide reaching consequences for the public and private sector alike and raise a number of questions of a both concrete and more general nature.

⁶ DK, FI, UK reservation on harmonisation of criminal sanctions.

3.1.2	Create a matrix of what is desired and of what is currently possible in terms of the detection of explosives for each of the scenarios created by the working group.	Commission/MS	Ongoing	Task Force Recommendation No. 24
Objective 2: Developing minimum detection standards				
3.2.1	Develop minimum detection standards based on relevant scenarios and threat assessment These standards should be updated as technology evolves	MS/Commission	Ongoing	Task Force Recommendation No. 25
Objective 3: Improving the exchange of information				
3.3.1	Ensure that the security staff (in particular at airports) are provided on a continuous basis with up-to-date information on relevant parts of new terrorist modi operandi or other appropriate threat information. For airport security, this should complement the obligations for training security staff set out in §12.2 of the Annex to the EU Regulation 2320/2002 establishing common rules in the field of civil aviation security.	MS	Ongoing	Task Force Recommendation No. 42
3.3.2	Assess and improve where necessary the situation as regards the availability of training data and other information/feedback for manufacturers of detection solutions	Commission/MS	End 2009	Task Force Recommendation No. 30
3.3.3	Create a database containing the specifications of explosives produced within the EU -- notified bodies should participate in the form of a network ??? The database(s) would target specifications of explosives needed by the forensic community and by the experts on detection.	Commission/MS	End 2010	Task Force Recommendation No. 32
3.3.4 ⁷	Create a (classified) end-user focused handbook concerning detection	Commission/MS	End 2008	Task Force Recommendation No. 33
3.3.5	Create a network of experts on the detection of explosives	Commission/MS	End 2008	Task Force Recommendation No. 34
Objective 4: Establish EU-wide certification, testing and trialling schemes for the detection of explosives				
3.4.1	Create a European wide certification scheme for explosives detection solutions	Commission/MS	End 2009	Task Force Recommendation No. 26
3.4.2	Create a European wide testing scheme for explosives detection solutions Under the scheme relevant authorities and institutes would be able to exchange test results.	Commission/MS	End 2009	Task Force Recommendation No. 27

⁷ UK reservation.

3.4.3	Create a European wide trialling scheme for explosives detection solutions Such a system should be supported by an EU programme and should allow for conducting performance trials under realistic conditions in same or similar scenarios.	Commission/MS	End 2009	Task Force Recommendation No. 28
3.4.4	Assess the need for the development of standardized procedures and processes concerning certification, testing and trialling processes	Commission/MS	End 2008	Task Force Recommendation No. 29
Objective 5: Improve the usage of detection technologies in specific locations				
3.5.1	Improve the use of detection technologies at airports, other modes of transportation and other public facilities. Further developments in this field should be supported. The situation should be evaluated and assessed on a continuous basis, and updated as the need arises.	Commission/MS	Ongoing	Task Force Recommendation No. 31

Preparedness and response measures

No.	Measure/Action	Competent body	Deadline	Status/Observations
Objective 1: Improve the exchange of information and best-practices among relevant Member State authorities				
4.1.1	Establish a European EOD Network The system should facilitate information sharing and trust building. It should contribute to the identification of best practice, the organisation of joint training exercises, and keeping EOD units up to date concerning the latest developments of relevance to the sector. The network should be made available to all EOD-Units (police, governmental and military) dealing with explosives with the MS. The use of EU funding to establish the network should be assessed.	MS/Europol/Commission	End 2008	Task Force Recommendation No. 38 LU estimates this is a priority measure.
4.1.2	Exchange information and assistance on dealing with big amounts of chemicals found at a scene under investigation Such exchange would assist EOD experts and could take place through the EOD network.	MS	Ongoing	Task Force Recommendation No. 47

Objective 2: Develop specific preparedness and response measures for terrorist threats using explosives				
4.2.1 ⁸	<p>Create the possibility for relevant law enforcement authorities to request providers to shut down mobile phone antennas in the case of a threat of a terrorist attack</p> <p>In a situation where there are reasons to believe that mobile phones will be used as firing switches, the responsible law enforcement authorities should be able to request providers to shut down relevant antennas. Relevant experiences, skills and best practices should be exchanged among the Member States via the EOD-Units network in this area.</p>	MS/(Commission)	Ongoing	Task Force Recommendation No. 44 and 46

⁸ See comments to actions under objective 2.8. **DE** and **IT** reservation. Action should be reworded to emphasize this is meant as a very practical measure, not the introduction of legislation.