



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 November 2007

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**CATS 135
ENFOPOL 199**

NOTE

from : Presidency
to : Coreper

No. prev. doc. : 14959/07 CATS 121 ENFOPOL 184 TRANS 357 MI 287 EEE 69
15081/07 CATS 125 ENFOPOL 186
15271/07 CATS 127 ENFOPOL 190

No. Cion prop. : COM(2007)^o 651 final

Subject : Draft Council Conclusions adopting Strategic Orientations and Priorities on the security enhancement of explosives

1. On 6 November 2007, the European Commission adopted a Communication on Enhancing the Security of explosives containing a proposal for a comprehensive Action Plan on the subject¹. This proposal draws notably on the work undertaken in late 2006 and early 2007 by a dedicated Public Private Task Force, as well as on the workings of an ensuing European Conference which took place in Braga, Portugal on 16 and 17 July 2007.

2. At its meetings of 5 September and 3-4 October, the Police Cooperation Working Party (PCWP) already analysed in detail the recommendations provided by the Task Force and discussed in the referred Conference. It drew for the effect on detailed contributions from the Commission on the work underway. Likewise, the Terrorism Working Party discussed proposed recommendations specifically related to the use of explosives by terrorists at its meetings of 4 July, 10 September and 15 October.

¹ COM(2007) 651 final, of 6 November 2007

3. Given its comprehensive nature, the Commission proposal for the Action Plan will require detailed analysis and extensive horizontal coordination. The Presidency considers, however, also bearing in mind work undertaken by the Article 36 Committee in May 2007 and the procedure proposed in October 2007, that sufficient consensus can be registered in regard of key strategic objectives and orientations in the area of security of explosives to warrant the adoption of “Strategic Orientations on Explosive Security” as well as of a set of “Priority Measures on Explosive Security”.

4. The PCWP examined and endorsed, subject to some amendments and study reservations, the draft Council conclusions adopting Strategic Orientations and Priorities on the security enhancement of explosives, as proposed by the Presidency in document 15081/07 CATS 125 ENFOPOL 186.

5. The Article 36 Committee in its meeting of 22 November 2007 further examined the draft Council conclusions and endorsed these, subject to some minor amendments.

6. The draft Council Conclusions in annex have been amended and are submitted to Coreper for examination and approval, with a view to their transmission to the Council of 6-7 December 2007.

Proposal for
COUNCIL CONCLUSIONS
Adopting Strategic Orientations and Priority Measures on
Enhancing the Security of Explosives in the European Union

THE COUNCIL OF THE EUROPEAN UNION,

bearing in mind that the illegal acquisition and use of explosives poses a serious threat to the citizens of the European Union, and that terrorists and other criminals take advantage of the devastating effects of explosives to carry out attacks intended to kill and injure persons, destroy property and disrupt societal functions;

believing that it is important “*to ensure terrorist organizations and groups are starved of the components of their trade*” and “*to ensure greater security of firearms, explosives, bomb-making equipment, and the technologies that contribute to the perpetration of terrorist outrages*”, as the European Council pointed out in its Declaration of 25 March 2004;

noting that numerous relevant activities are already under way at EU and at national levels, e.g. to further limit the availability of explosives to terrorists and other criminals including through the adaptation of conventional legal instruments; by building on safety measures to address security concerns, by developing control, security, information and monitoring mechanisms dealing also with substances and products which can be used to make explosives;

1. WELCOMES the Communication addressed by the European Commission to the European Parliament and Council on Enhancing the Security of Explosives and the preparatory work conducted by the Explosives Security Experts Task Force and in the two European conferences on the Security of explosives held respectively in Brussels, in November 2006, and in Braga, Portugal, in July 2007;
2. WELCOMES the high level of commitment shown by economic actors and civil society, during the preparatory work, and in particular the high level of corporate responsibility shown by the explosive manufacture, transport and end user industries as well as related commerce.
3. APPROVES the enclosed **Strategic Orientations** and **Priority Measures** on Enhancing the Security of Explosives in the European Union.
4. CALLS UPON its preparatory bodies/the relevant Council Working Groups to rapidly complete work on the establishment of the EU Action Plan on Enhancing the Security of Explosives in accordance with the referred **Strategic Orientations** and to promptly implement these **Priority Measures**;
5. EXPRESSES ITS INTENTION to approve the EU Action Plan on Enhancing the Security of Explosives under the Slovenian Presidency;
6. INSTRUCES Coreper, supported by the competent Council Working Party/ies, to monitor the implementation of these conclusions.

Strategic Orientations on

Enhancing the Security of Explosives in the European Union

1. Explosive devices remain the weapons most frequently used by terrorists both in the Union and in the world at large. Explosives have also often been used by other forms of criminality, including organised crime.
2. In the wake of the Madrid terrorist attacks of 11 March 2004 attacks, the European Council, in its Declaration on Combating Terrorism adopted on 25 March designated as a priority the need *"to ensure terrorist organisations and groups are starved of the components of their trade"*, noting that *"there is a need to ensure greater security of firearms, explosives, bomb-making equipment and the technologies that contribute to the perpetration of terrorist outrages"*.
3. On 6 November 2007, the Commission adopted a Communication on Enhancing the Security of Explosives setting out the Commission's views concerning the strategic approach to explosives security in the European Union, putting forward an Action Plan developed through a multi-stakeholder dialogue, and identifying key priorities for immediate action.
4. The Council reaffirms therefore that enhancing the security of explosives, detonators, precursors and related technologies is a key priority for the European Union.

The Challenge

4. The types, origin and manufacture methods of explosives used by terrorists and other criminals are very diverse:
 - They include both legally manufactured explosives, either stolen or otherwise illegally obtained, as well as illicitly produced ones - the so-called "home made or improvised explosives devices";
 - They may include explosives originating both within and from outside the EU, including demilitarised ones.
 - They include both high yield explosives, used *per se* or as primary charges in improvised devices as well as lower yield explosives which can nevertheless be very dangerous when used in large quantities, often as secondary charges.

- The methods used in the assembly of explosive devices differ too and they may also include improperly acquired industrial systems and improvised explosive devices (IEDs) including Vehicle borne Improvised Explosive Devices.
- The *modi operandi* used by terrorists and other criminals may include various types of remote or time delayed detonation as well as direct detonation by suicide bombers. As protective and detection measures improve, criminals tend to look for new approaches such as the attempted use of liquid or gel explosives.

The Union needs to consider responses addressing all the above while prioritising them in accordance with the related risks.

5. The potential exists for conventional explosives to be used in conjunction notably with Chemical, Biological and Radiological materials to commit non-conventional attacks which could have an even more devastating effect both in terms of human lives as, especially of disruption of economic and social activities.
6. Given the generally high level of awareness and protection of industrial explosives there is a marked trend towards the use by terrorists of illicitly manufactured explosive substances, including high yield ones. Therefore, without neglecting the deepening and strengthening of preventive and protective measures applying to industrial explosives, the Union and its Member States must tackle with great determination the very significant challenges posed by availability in commerce of a broad range of substances, some of which of diverse and indispensable use in daily activities and industrial ones which can be used as precursors for the manufacture of explosives. It must equally address the large and growing availability, notably through the internet, of instructions regarding the illicit manufacture of explosives.
7. Measures to address the above challenges need do so without unnecessarily hindering social and economic activities or burdening citizens and enterprises. They must respect the principles of subsidiarity and proportionality, avoid duplication and as much as possible the creation of new legislative instruments and structures.

The Strategic Objective

8. The Union's strategic objective as regards enhancing the security of explosives is to combat the acquisition, production and use of explosive devices by terrorists and other criminals within the EU, thereby protecting society from the threat of attacks using explosive devices while taking full account of the multiple areas of economic activity in which explosives and their precursors are used for the benefit of all.

The Strategic Orientations

9. The European Action Plan on Enhancing the Security of Explosives will be the corner stone for the Union in addressing the above challenges and meeting the Strategic Objective.
10. The Action Plan will address the "Prevention" of access to explosives and its components, its "Detection" as well as the "Preparedness and Response" to attacks using explosives, including as regards the pursuit, apprehension and prosecution of the terrorists or other criminals responsible. It will also comprehend cross-cutting and horizontal measures relevant for several of these dimensions.
11. With a view to ensuring the proportionality and cost effectiveness of required measures, the Union will seek to develop and adapt its policy on explosive security on the basis of high quality threat and risk assessments regarding the types, origins, forms of production and weaponisation and *modi operandi* and will endeavour to improve related exchange of information and to develop analytical capacity;
12. This Plan will enable further efforts to intensify cross-border police cooperation in combating crime related to explosives and to facilitate the exchange of relevant information between police authorities. It will, as appropriate, aim at integrating capacity and developing common tools.
13. It will aim at joint and coordinated action by Member States and EU institutions, with a view to developing a uniform level of explosive security across the EU, facilitating cooperation between authorities and other actors, while acknowledging existing differences and, in some cases, multiple best practices;

14. It will seek to develop intelligent and flexible control, information and monitoring mechanisms for substances and products which may be misused by terrorists and criminals to produce explosives, drawing on appropriate and proportionate technological solutions. These systems can be effective only if they are implemented in and uniformly applied by all Member States, notably through the development and use of common standards, and need to avoid the distortion of competition caused by different costs to businesses and citizens;
15. In meeting the above challenges the Union will seek to make optimal use of science and technology, seeking thus both to enhance security and diminishing associated costs. To this effect the EU and Member States will seek to ensure the complementarity and, where appropriate coordination of their research and development strategies and activities, exchange their findings;
16. Throughout the completion and implementation of the Action Plan, Member States and Commission will continue to ensure the involvement of public and private stakeholders, as appropriate.
17. The Union will aim to ensure dialogue and cooperation with external partners, aiming at fostering an increase of respective levels of security of explosives and their components, facilitating the development of relevant exchange of information – in particular on explosives stolen in neighbouring countries - and developing international standards which avoid barriers to trade while ensuring appropriate levels of security and protecting EU industry from unfair competition.

Priority Measures with a view to
Enhancing the Security of Explosives in the European Union

The Council designates within each of the areas of “Prevention”, “Detection”, “Preparedness and Response” and “Horizontal Measures” of the proposed Action Plan, the following measures as constituting priorities for the enhancement of the security of explosives in the EU:

1) The establishment of an Early Warning System concerning explosives, based on existing systems²

Such a system will be used in order to exchange information concerning, in particular, immediate threats, theft of explosives, detonators and precursors, suspicious transactions and the identification of new *modi operandi*. The system should be available in particular to Member States public security authorities, responsible for the inspection of manufacturing, production, transportation and usage of explosives and Europol and all operational Explosive Ordnance disposal units. In developing such system due account should be taken of existing information exchange networks and, if necessary, it should be examined whether a similar system should be extended to other issues, such as CBRN.

2) The creation of a Network of Explosives Ordnance Disposal Units active in the civilian context³

This system will facilitate information sharing and trust building and contribute to the identification of best practice and the organisation of joint training exercises, while keeping EOD units up to date concerning the latest developments of relevance to the sector. The network will be made available to all competent EOD-Units dealing with explosives within a civilian context in the Member States.

² Horizontal measure 1.1.1 in Commission Proposal, Task Force Recommendations nr 39 and 40

³ Preparedness and response measure 4.1.1 in Commission Proposal, Task Force Recommendations nr 38

3) Security within the entire Supply Chain (storage, transport, traceability)

The manufacturing, storage, transport and traceability of explosives is crucial to decrease the likelihood or reduce the effects of diversion, misappropriation and theft of explosive material and devices. A number of measures already exist in this field.

Governments, public security and administrative authorities responsible for the inspection of this activity and private sector should exchange information and take preventive measures in several key areas: staff awareness concerning precursors, regulation of explosives precursors available on the market, transactions involving precursors, control over explosives and pyrotechnic articles on the market, security of explosives facilities, security vetting of personnel, security of the transport of explosives.

4) Standing Committee of Experts concerning precursors⁴

With a view to developing a system to consider measures and prepare recommendations concerning the regulation of explosives precursors available on the market, a Standing Committee of Experts will be created at the Commission, tasked with identifying the risks associated with various precursors and recommending appropriate actions.

5) Establishing an Ad Hoc Group on Detection of Explosives⁵

This ad hoc group, to be composed of Member State, Commission and as appropriate Europol and other relevant EU agency representatives, will be tasked with developing and discussing in a secure environment detection related scenarios, and then identifying detection technology requirements for the scenarios.

⁴ Preventive measure 2.2.1. in Commission Proposal, Task Force Recommendation nr. 4

⁵ Detection Measure 3.1.1. in Commission Proposal, Task Force Recommendations nr 23

6) Cooperation with a view to assessing and fighting the spread of bomb-making information over the Internet⁶

Member State authorities will cooperate to assess and combat the spread of bomb-making information over the Internet, thereby fully respecting the liberty of press, freedom of speech and freedom of information. The relevant authorities will exchange information about national rules and good practices concerning (the possibility of) the monitoring of specific websites, the cooperation with Internet providers and international partners, the education of children and awareness-raising of parents, the notification of contact points etc.

7) Creating a European Bomb Data System⁷

This 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. At least all operational EOD units in the Member States should have a secure access to the database, while access by other competent authorities in the Member States need be considered in accordance with national law. Competent units or bodies of the Member States will provide the required information for inclusion in the database.

The Council *welcomes* the decision by Europol to rapidly set up a central database for storing data on EU-wide offences involving explosives and arson. It *notes* that in a first phase, to be completed in December 2007, Europol is developing new categories within its Information System allowing the storage of information regarding offences involving explosives and arson, the technical development of which will already enable competent authorities to exchange data on offences without delay via the Europol National Units. It *notes* also that in a second phase, which will start in early 2008, Europol will assess the extent to which the alterations made to its information System meet the needs of the practitioners and consider options for the completion of the European Bomb Data System.

To facilitate progress, Europol and the Commission will look into the possibilities of using the funding available under the Financial Programme "Prevention of and Fight against Crime" for this measure.

⁶ Preventive measures 2.8.1. and 2.8.2. in Commission Proposal, Task Force Recommendation nr. 41

⁷ Horizontal measure 1.1.2 in Commission Proposal, Task Force Recommendations nr 35, 36 and 37