



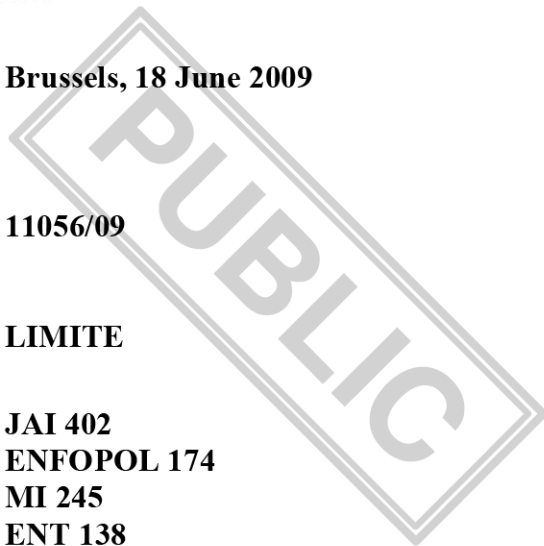
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From: Council General Secretariat

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Subject : Implementation of the Action Plan on Enhancing the Security of Explosives

Delegations will find in annex an interim report prepared by the Commission services on the implementation of the Action Plan on Enhancing the Security of Explosives.

1. Background of the Action Plan

The Justice and Home Affairs Council adopted the **EU Action Plan on Enhancing the Security of Explosives** on 18 April 2008¹, following a Communication of the Commission on enhancing the security of explosives in June 2007². The Communication and the Action Plan resulted from a broad consultation process in the form of the **Explosives Security Experts Task Force (ESETF)** and its recommendations in its Final Report³. Enhancing the security of explosives has been identified as a priority issue for the European Commission in its efforts in the field of the fight against terrorism.

The EU policy aims at enhancing the security of explosives in Europe in a comprehensive manner so as to address all critical aspects including precursors, storage, transport, traceability, detection, response and the horizontal issue of coordination. The Action Plan contains 50 recommendations grouped into four broad categories: horizontal measures, prevention, detection and response. It is implemented through a joint effort of the European Commission, Member States, Europol, as well as private sector stakeholders. This non-paper presents the current state of implementation and measures adopted or planned within the four main sections of the Action Plan, one year after its adoption by the Council.

2. Progress in implementation

2.1 Measures to enhance exchange of information and research (actions 1.1.1 – 1.2.7)

The horizontal measures contain actions on establishing an **Early Warning System** (for exchange of information on immediate threats, thefts of explosives and detonators, suspicious transactions etc.), creating a **European Bomb Data System** (to provide technical information on incidents involving explosive devices to authorised governmental bodies, incl. EOD units), exchanging information and best practices and stepping-up explosives-related research.

¹ 8109/08

² COM/2007/0651 final

³ Enhancing the Security of Explosives. Report of the Explosives Security Experts Task Force. Brussels, 28.6.2007.

The "Early Warning System for arms, explosives and chemical, biological, radiological and nuclear materials" to extend the currently existing Early Warning System (G6) to all EU Member States is carried out by the Ministry of Interior of Spain supported by Europol with the funding from the EU financial programme Prevention of and Fight Against Crime (ISEC). The project is expected to be fully implemented in 2010.

The European Bomb Data System is also in the process of establishment. Europol leads the process of development and implementation with the support of EU funding (grant under ISEC 2008). Deployment and operability of the system is expected in 2010.

In order to exchange information and best practices among the EU Member States authorities and between the EU and external partners (priorities 1.1.3 and 1.1.4 of the AP), the Commission organised the first **EU-US explosives security seminar** in Brussels on 4-5 December 2008 that brought together ca. 120 experts from EU Member States and the USA. The main themes of the seminar were home-made explosives and response-related issues (EOD). A joint statement from the seminar confirmed the need and willingness to continue mutual cooperation. A further conference on explosives is scheduled for October 2009 with a view to gather all stakeholders from the Member States (experts from the Member States, Commission, EU agencies, private sector and research) and discuss the latest developments and future needs in enhancing the security of explosives based on this implementation report.

Explosives-related research priorities were included into the **FP7 Security Research Call 2**, administered by European Commission Directorate General Enterprise and Industry, with a deadline for proposal submission in December 2008. The call covered research on Improvised Explosive Devices and their properties, detection of explosives and precursors including through the use of additives, research on mobile explosives testing kits, research to find inhibitors which could be added to precursors to explosives to prevent them being used to manufacture explosive devices, and detection of Improvised Explosive Devices at transit hubs. Projects submitted are now in the evaluation process. A list of approved projects will be available in June 2009. Research on explosives will also be included in the next research call round to be opened in July 2009.

2.2 Measures enhancing prevention of illegal usage of explosives (actions 2.1.1 – 2.8.2)

The priorities proposed in this section of the Action Plan span from enhancing the security of explosives precursors over security of explosives facilities and personnel employed along the whole supply chain of explosives and security of transport to reducing the supply of information on how to manufacture explosives illicitly.

Tightening access to precursors to explosives

In order to find ways to **reduce the risk of producing Home Made Explosives from precursors widely available to the general public on the market**, the **Standing Committee on Precursors (SCP)** was established in January 2008. It held 5 meetings in 2008 and the 6th meeting in February 2009 in which its Annual Report for 2008 was discussed. The Annual Report contains concrete recommendations on precursor substances of highest concern. The SCP recommends to ban the sales of certain substances above a given concentration limit to the general public and to place professional use of certain precursors under better control, including recording the identity of the buyer of precursors above certain quantities and/or concentrations. It also proposes to establish a system of reporting suspicious transactions (action 2.3.1), and is looking into possibilities for the labelling and coding of precursor packages (action 2.4.1) and better control of sales of precursors over the internet. An impact assessment study related to these recommended measures will be conducted in the second half of 2009. The Standing Committee on Precursors will convene also in 2009.

A first concrete step was taken in December 2008 with the adoption of Decision No 1348/2008/EC of the European Parliament and of the Council amending Council Directive 76/769/EEC on restrictions on the marketing and use of certain dangerous substances and preparations. In order to **prevent easy access of terrorists to ammonium nitrate**, which is a common fertilizer but also a common explosive precursor, this Decision, among other things, limits sales of highly concentrated ammonium nitrate to the general public.

Regulating explosives on internal market

Ensuring 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 (action 2.4.1) is regulated by Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses. The Commission will raise the issue with regard to private persons at the next meeting of the Explosives Working Group in September/October 2009 and will circulate a questionnaire to clarify the situation beforehand.

Identification and tracing of explosives (action 2.4.2) is regulated by Commission Directive 2008/43/EC¹ that was adopted in April 2008, with transposition by April 2009 and application from April 2012. A practical tool for enhancing traceability in cross-border, intra-EU transport, carried out as a project led by Spanish company INDRA with the backing of Guardia Civil and supported by Commission funding ("Explosives Control and Protection System to Prevent and Fight against Terrorism" /SCEPYLT/), is now in a final stage of development and is envisaged to be deployed in all interested EU Member States.

The safety aspects of the handling and placing on the market of **pyrotechnic articles** (action 2.4.3) are regulated at the European level by Directive 2007/23/EC of 23 May 2007². The first deadline for the transposition and application of the Directive is 2010. The Commission will launch a stock-taking study in 2009 to assess the security risks related to the handling of large amounts of pyrotechnic articles, and on the approach and legislation in the Member States.

Improving the security of facilities, personnel and transport

Improving the security of **facilities where explosives are produced, stored or used** (actions 2.5.1 to 2.5.4), including provision of **information on the threat level** by the relevant national authorities to explosives manufacturers, is in the competence of the Member States whose efforts can be supported by EU funding from the programme Prevention of and Fight against Crime (included in the Call for Proposals 2009).

¹ Commission Directive 2008/43/EC setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses

² OJ L 154, 14 June 2007, p.1

The security of Mobile Explosive Manufacturing Units (action 2.5.4) was reflected in the amendment of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), effective from 1.1.2009, and brought into EU legislation by Directive 2008/68/EC¹.

In order to assess measures to improve the **security vetting of personnel** (action 2.5.4), the Commission will launch a stock-taking study that would evaluate the insider security risk related to access to explosives along the whole supply chain, and give an overview of the approach and legislation in the Member States concerning this issue. This study shall be launched in the course of 2009.

Progress in the area of **transport security** (actions 2.7.1 and 2.7.2) can be described as follows. The use of locks on process equipment and supervision of Mobile Explosives Manufacturing Units were incorporated into the **UNECE European Agreement on the Carriage of Dangerous Goods (ADR)** that entered into force in January 2009. The ADR 2009 is brought into EU legislation by Directive 2008/68 which was adopted on 30 September 2008. Security enhancement solutions on vehicles carrying explosives are also being brought forward by the Commission (DG TREN), which is raising points 2.7.1, 2.7.2 and 2.7.3 of the AP in the relevant forums² and bringing their implementation forward. A debate on the need to review the classification on desensitised explosives has been launched (2.7.2 of the AP). Last but not least, a study on the rules for high consequence dangerous goods was completed and widely circulated by the Commission at the end of 2008³.

¹ Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods. *OJ L 260, 30.9.2008, p. 13–59*

² UNECE / OTIF Joint meeting on the transport of dangerous goods for remote monitoring systems, theft and communication system and UNECE working party 15 for secure compartments for explosives

³ "Final Report HCDG Study", Prepared for European Commission by Pira International, TREN/07/ST/S07.76239

Reducing the supply of bomb-making information

Progress in the sphere of **reducing the supply and quality of information on how to illicitly manufacture explosives** has been achieved in the form of Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA.¹ The Framework Decision ensures EU-wide criminalisation of providing instructions (incl. through the internet) to make or use explosives, firearms or noxious or hazardous substances for the purpose of committing a terrorist act. It also entails the approximation of penalties for distributing bomb making experience over the Internet.

2.3 Measures to improve the detection of explosives (actions 3.1.1 – 3.5.1)

The main tasks in the section on detection are to establish a scenario-based approach to identifying work priorities in the detection field, to improve the exchange of information, to establish EU-wide certification, testing and trialling schemes for the detection of explosives and to make better use of detection technologies in specific locations.

The work on **developing a scenario based approach** is progressing in the form of an expert working group that was established in October 2008 and that meets on a regular basis in the Secure Zone of Directorate General Justice, Freedom and Security in a classified setting. The tasks of the expert group are to discuss and develop detection related scenarios, and identify detection technology requirements for these scenarios. A matrix shall be created concerning what is desired and what is currently possible in terms of the detection of explosives for each of the scenarios. Consequently, the group shall also consider the development of common minimum detection standards based on relevant scenarios and threat assessments. The first results of the expert group are expected by the end of 2009.

¹ OJ L 330/21

With regard to **enhancing the exchange of information** (incl. providing the security staff with information on the level of threat by public authorities), progress has also been made. In the area of **aviation security**, airport inspections show that provision of information on the applicable threat level to airport security staff (action 3.3.1) is well implemented. Regulation 300/2008 on common rules in the field of civil aviation security and its implementing acts, introduces more detailed requirements for staff qualifications and security training requirements including updates on terrorist and threat information. In order to provide practical information for detection personnel, a tender for a practitioner (end-user) focused handbook (classified at appropriate level) is foreseen under the Prevention of and Fight against Crime financial programme. The Commission also published a call for tender for a **network of experts on the detection of explosives** in 2008. This network will be established in 2009 and will support the Commission in the implementation of the actions outlined in the Action Plan.

In order to further the work on **EU-wide certification, testing and trialling schemes for the detection of explosives** (measures 3.4.1 to 3.4.4), the European Commission's Joint Research Centre is organising relevant studies and is also preparing a European Reference Network on Critical Infrastructure Protection. This network, inter alia, aims at developing common testing protocols and procedures for new technologies, including detection devices. The JRC work is funded under the financial programme Prevention, Preparedness and Consequence Management of Terrorism and other Security Related Risks 2009.

With regard to **improving the use of detection technologies** at airports, other modes of transportation and other public facilities, numerous technical detection standards have been developed in the field of aviation security in the framework of Regulation 2320/2002. In the near future, Regulation 300/2008 and its implementing legislation will introduce both existing and new detection methods where work is ongoing, such as on liquid explosives, trace detection and the use of explosives detection dogs. The Commission also plans to propose in 2009 to start a debate and exchange of best practices on the detection of explosives in the Expert Group on Urban Transport Security.

2.4. Enhancing response (actions 4.1.1-4.3.1)

The main priority of the European Commission in this sphere has been the establishment and operation of the **European Explosive Ordnance Disposal Network** (action 4.1.1). The tasks of the network are to facilitate information sharing and trust building among the Explosive Ordnance Disposal (EOD) specialists from the EU Member States, contribute to the identification of best practices, organise joint training exercises, and keep EOD units up to date concerning the latest developments of relevance to the sector. The European Explosive Ordnance Disposal Network (EEODN) was established at a kick-off meeting in Europol in May 2008 and on 13.10.2008, the EEODN Protocol for internal governance of the network was approved. Europol serves as the permanent secretary of the network. The Commission allocated funds in its budget (under the financial programme Prevention of and Fight against Crime 2008 and 2009) to support the network and its activities.

Further priorities in the response section of the Action Plan are the **development of specialised threat assessments on explosives** and of specific preparedness and response measures for terrorist threats using explosives, especially the creation of 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. Development of specialised threat assessments is expected to follow on the establishment of the Early Warning System and the European Bomb Data System that will provide the necessary information for Europol to prepare them.

Progress in the area of **shutting down mobile phone antennas** has been achieved thanks to the Czech Presidency which initiated the work on this issue in the Terrorism Working Party. The Czech Presidency disseminated a questionnaire to all Member States in December 2008 to assess the legal and technical framework in place and analyse the procedures and experience of the Member States. The results were gathered in a booklet that was presented in the Terrorism Working Party in April 2009 and will be distributed to relevant authorities. Further discussions on this topic will be held among the Member States via the European Explosives Ordnance Disposal Network.

3. Conclusion

A year into the implementation of the Action Plan on Enhancing the Security of Explosives after its adoption by the JHA Council in April 2008, this report shows that **considerable progress in its implementation has been achieved** thanks to the joint efforts of the European Commission, EU Member States, Europol and other relevant stakeholders. These **efforts will continue in the second year of the implementation of the Action Plan.**
