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Subject:	Implementation of the EU Action Plan on Enhancing the Security of Explosives - July 2010

Delegations will find in annex the second interim report prepared by the Commission services on the implementation of the EU 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, two years 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, 28.06.2007

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 two **EU-US explosives security seminars**. **The first one took place** in Brussels on 4-5 December 2008 and 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. The **second EU-US explosives security seminar** was held in Brussels on 17 and 18 February 2010 and concentrated on the topics of reducing the misuse of chemicals as precursors to explosives, detection of explosives, and response-related issues, building on the discussions at the first seminar. The EU-US dialogue on explosives at the expert level shall be continued and should reflect issues common to the EU Action Plan on the Security of Explosives and US Homeland Security Presidential Directive 19⁴ Implementation Plan including approaches to precursors and their regulation, detection, including canine standards and emerging research and development, response and cross-training between the EU and the US. Key areas for future cooperation will also include the identification of joint projects that support the implementation of the Toledo Joint Statement⁵.

⁴ HSPD-19, "Combating Terrorist Use of Explosives in the United States"

⁵ EU-US Joint Declaration on Aviation Security, 21 January 2010

In October 2009, a conference co-organised by the European Commission and the Swedish Presidency of the Council was held in Djuronaset, Sweden, with all stakeholders from the EU Member States (experts from the Member States, Commission, Europol, private sector and research). The aim of the conference was to review the implementation of the Action Plan and to identify priorities for the second half of the implementation period. These priorities include further work to reduce the risk of misuse of chemical precursors to explosives, work to improve detection, and support to research.

Explosives-related research priorities were included into the **FP7 Security Research Call 2** and 3, administered by European Commission Directorate General Enterprise and Industry. 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 and ongoing projects is available on the website of the FP7 Security Research Programme⁶. The projects cover, among other, development of an integrated mobile security kit (CBRNE detection), establishment of a network of testing facilities for security related products and services focused to CBRNE detection, optical technologies for standoff detection and identification of explosives, or detection of bomb factories. Research on explosives will also be included in the next research call round to be opened in July 2010.

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 include enhancing the security of explosives precursors, enhancing the security of explosives facilities, aspects related to personnel employed along the whole supply chain of explosives, improving the security of transport or reducing the supply of information on how to manufacture explosives illicitly.

⁶ http://cordis.europa.eu/fetch?CALLER=FP7_SECURITY_PROJ_EN&DOC=1&QUERY=0129a27c1081:f708:00871896

In order to find ways to **reduce the risk of producing Home Made Explosives from precursors that are widely available to the general public on the market**, the **Standing Committee on Precursors** (SCP) was established in January 2008. So far, it has convened ten times and proposed concrete recommendations for actions in its Annual Report for 2008. The recommendations in the Annual Report concentrate on precursor substances of highest concern and include, among others, banning sales of certain substances above a given concentration limit to the general public, placing professional use of certain precursors under better control, including recording the identity of the buyer of precursors above certain quantities and/or concentrations, establishing a system of reporting suspicious transactions (action 2.3.1), looking into possibilities for the labelling and coding of precursor packages (action 2.4.1), improving the control of sales of precursors over the internet or developing voluntary schemes to enhance the security along the whole supply chain of certain chemicals and nitrogenous fertilisers. The recommendations were subject to an impact assessment study, which was carried out from June 2009 to January 2010 and which included wide consultation of the Standing Committee. Building on this work, the Commission intends to present a proposal for a Regulation on Precursors to the Council and the European Parliament in autumn 2010.

One of the precursors of concern – ammonium nitrate – has already been covered 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 December 2008). 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 (16 %) to the general public.

In parallel to the development of the legislative measures, the Commission is also engaged in the process of developing EU-level voluntary schemes (as recommended by the SCP) with the fertiliser supply chain stakeholders and with the chemical industry.

Regulating explosives on the 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.

Identification and tracing of explosives (action 2.4.2) is regulated by Commission Directive 2008/43/EC⁷ that was adopted in April 2008, with transposition by April 2009 and application from April 2012. A practical tool for enhancing control of the cross-border, intra-EU transport has been developed and is now in the process of deployment in the EU Member States⁸. The tool will enable an electronic exchange of documents permitting the transport of explosives among the EU Member States. In order to account for this new mechanism, Commission Decision amending Commission Decision 2004/388/EC on an Intra-Community Transfer of explosives document was adopted on 15 June 2010.

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 2007⁹. The first deadline for the transposition and application of the Directive is 2010. The Commission published a call for tender for a stock-taking study in April 2010 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.

⁷ 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

⁸ Explosives Control and Protection System to Prevent and Fight against Terrorism (SCEPYLT), carried out by Spanish company INDRA and the Ministry of Interior of Spain with the financial support of the European Commission

⁹ OJ L 154, 14 June 2007, p. 1

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 2010). Action 2.5.2¹⁰ has been identified as a priority by the Belgian Presidency of the Council, which intends to focus the work on the development of information exchange with explosives' manufacturers and distributors (private companies) to ensure awareness of the terrorist threat within the private sector and the existence of appropriate response plans.

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/EC¹¹.

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 will 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 2011 at the latest.

¹⁰ “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 and tuned to existing alert levels.”

¹¹ 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

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 MOVE), which is raising points 2.7.1, 2.7.2 and 2.7.3 of the AP in the relevant forums¹² 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 2008¹³.

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.¹⁴ 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.

¹² 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

¹³ "Final Report HCDG Study" prepared for European Commission by Pira International, TREN/07/ST/S07.76239

¹⁴ OJ L 330/21

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 2010.

In order to provide the Commission with technical support and advice, a "**Network on Detection of Explosives (NDE)**" was contracted in 2009. The Network consists of various national research institutes and law enforcement agencies. It produces analysis and policy briefs on relevant detection issues.

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 enhance detection probability, support forensic investigations, and facilitate the work of the explosive ordnance disposal units by means of providing supportive information, a project to **create a database containing the specifications of explosives produced within the EU** (action 3.3.3) is in the process of development with the input of relevant stakeholders, including the explosives manufacturers.

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. Regulation 300/2008 and its implementing legislation have introduced 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 2010 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 area has been the establishment and operation of the **European Explosive Ordnance Disposal Network** (action 4.1.1). The purpose of the network is 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 the members of the network 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 where the EEODN Protocol for internal governance of the network was approved. Europol serves as the permanent secretary of the network. The Commission supports the network financially from the financial programme Prevention of and Fight against Crime.

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 developed a booklet containing an overview of legal and technical frameworks that are in place in the EU Member States. The booklet was presented in the Terrorism Working Party in April 2009 and was 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

Two years 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 remaining part of the implementation period of the Action Plan.**