



EUROPEAN COMMISSION
IMPACT ASSESSMENT BOARD

30 AVR. 2010

Brussels, D(2010)

Opinion

Title **DG JLS - Impact Assessment on marketing and use of explosives precursors.**

(draft version as submitted 30 March 2010)

(A) Context

The Action Plan on Enhancing the Security of Explosives, approved by the Council on 18 April 2008, called on the Commission to: "establish a Standing Committee to consider measures and prepare recommendations concerning the regulation of explosives precursors available on the market taking into account their cost-benefit effects."

Based on the recommendations of the Standing Committee and an impact assessment study, the Commission intends to adopt measures to deal with the marketing and use of explosives precursors in the 3rd quarter of 2010. These measures are intended to constitute a tangible deliverable within the "prevent" strand of the EU Counter-terrorism Strategy adopted by the Justice and Home Affairs Council on 1 December 2005.

(B) Overall assessment

The IA Board is of the view that this report is generally of acceptable quality. Given the significant costs and the size of the market involved, however, it should improve significantly the demonstration of the effectiveness of the proposed restrictions on the sale of precursors to explosives in preventing terrorist attacks. It should also improve the analysis of a number of issues. Firstly, it should provide a more precise and transparent assessment of costs particularly as regards administrative costs. Secondly, the case for EU action should be strengthened to demonstrate that there are tangible risks that differences in the level of restrictions among Member States could lead to internal market distortions. Thirdly, the selection of the preferred option (as opposed to other options) should be better justified. Finally, the report should reflect more fully the views of the stakeholders and justify why certain groups have not been consulted.

(C) Main recommendations for improvements

(1) Strengthen the evidence on the likely effectiveness of the proposed restrictions in preventing terrorist attacks. The report should state more precisely the anticipated benefits of each option both in terms of security and internal market/consumer access. Existing arguments should be developed to explain how the preferred option would make a tangible contribution to the prevention of terrorist attacks. This should take into account

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the possibility of control systems being circumvented, for example through supplies from third countries or by setting up a fake business, or substitution with precursors which are not regulated (such as propane gas). In this context, the report should also explain whether any valuable lessons can be drawn from the experience of Member States who have already introduced restrictions on precursors and explain whether/how other initiatives are tackling related issues around prevention of terrorist attacks and explosive security.

(2) Provide a more precise and transparent assessment of costs particularly as regards administrative costs. The report should provide greater clarity on the methodology used for assessing administrative costs for consumers and for public authorities, and explain why it was not considered appropriate to use the EU Standard Cost Model. The estimate of costs to public authorities should be reviewed given that it relies on assumptions which are not entirely credible, such as that market size and wage level are irrelevant. Where the costs are indicated by means of ranges (see in particular table 5), the report should if possible be more precise about the most realistic cost estimates. The report should also make clear to what extent an expected fall in sales of specified products and associated consumer surplus would be mitigated by an increase in sales of substitutes. All assumptions underpinning the cost estimates should be justified and presented transparently in the report's annexes.

(3) Better justify the case for EU action. This should include an analysis of differing Member State regulatory practices, for example with a table listing the 27 approaches (but without necessarily naming the countries) and the available evidence showing that cross-border purchases for the purpose of attacks were made in least restrictive Member States (the current overview of terrorist attacks with explosives in Annex I does not address this aspect sufficiently). The need for a single regulatory approach for operators and consumers in the internal market should also be better explained, with information on the market structure of the industry and examples of additional costs being borne due to current differences.

(4) Strengthen the justification for the selection of the preferred option. The report should in particular explain in a transparent way the reasons for the regulatory response proposed, including the concentration limits for each precursor, the preference for consumer over business licensing and the restriction of suspicious transaction reporting to certain precursors only. It should also explain why it would not be appropriate to consider more flexible approaches for SMEs or a phasing-in of the proposed measures. It should highlight how the proposed system of licensing would be implemented for the purpose of internet trade. The aggregation methods used in the multi-criteria scoring table should be reviewed or the underlying assumptions better explained as currently there are doubts if the various assessments criteria used should have equal weightings.

(5) Be more explicit about stakeholder views. The report should explicitly state the views of various stakeholders on the options and justify why certain groups (such as consumers or employees) were not consulted.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

Efforts should be made to make the IA report more self-standing notably by supplying more details on what the options entail. All the figures should be systematically referenced to the annexes. A table of contents should be added, along with a glossary, stakeholder annex, and an annex on the recommendations of the Standing Committee on Precursors.

(E) IAB scrutiny process

Reference number	2010/JLS/25 (catalogue)
External expertise used	No
Date of Board Meeting	28 April 2010