



## Consultation Strategy

### Revision of the EU Regulation on explosives precursors

#### 1. Context

Explosives precursors are chemical substances which can be misused to illicitly manufacture home-made explosives (HMEs). In 2013, recognising the threat posed by these substances to public security, Regulation EU 98/2013 on the marketing and use of explosives precursors<sup>1</sup> (hereafter the 'Regulation') introduced restrictions and controls on a limited number of explosives precursor chemicals of concern. The Regulation imposed constraints, rights and obligations on members of the general public, Member State authorities and economic operators (the supply chain).

Recent attacks and incidents involving explosives precursors in Europe provide evidence of persisting security gaps. The Commission, in its Communication on delivering on the European Agenda on Security,<sup>2</sup> announced that it would assess the need to revise the Regulation. In February 2017, the Commission adopted a Report<sup>3</sup> which provides more details on the application to date of the Regulation and the challenges that have arisen as a result of it.

In this context, the Commission is launching an evaluation and impact assessment exercise to assess the relevance, effectiveness, efficiency, coherence, and EU added-value of the current framework and analyse various policy options which could improve the control framework of explosives precursors in Europe. During the process, the

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<sup>1</sup> OJ L 39, 9.2.2013, p.1.

<sup>2</sup> COM(2016) 230 final.

Commission will consult relevant stakeholders. The Commission will also commission an external study to a consultant which will inform the evaluation and impact assessment analysis. This process will be steered by an impact assessment steering group consisting of various relevant Directorates-General of the Commission.

## **2. Stakeholder Consultation – Objectives and Scope**

The Commission wishes to consult as widely as possible in order to take into consideration the input from key stakeholders in its evaluation and in the design of future measures, and to ensure that any new measures proposed will be effective, efficient and proportionate to the objectives sought. The consultations are also aiming at ensuring transparency and accountability in policy decision-making.

Therefore, the consultations aim to:

- 1) Collect objective data, information, and evidence which is necessary in assessing the five key evaluation criteria under the Commission's Better Regulation guidelines;<sup>4</sup>
- 2) Collect views on the issues at stake and suggested EU involvement, as well as opinions, ideas and concerns about possible solutions and impacts; and
- 3) Collect evidence, data and views on the possible policy options and their potential impacts.

The contributions and feedback received from stakeholders during the consultation process will therefore have an influence on the Commission's impact assessment report and the preparation of the policy proposal.

This consultation strategy lays down the approach to the consultation methods and tools that will be used during the consultation process. In order to allow for a dynamic process, however, the approach might be altered, if deemed necessary, in the course of the preparation of the evaluation and the impact assessment analysis.

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<sup>3</sup> COM(2017) 103 final

<sup>4</sup> Effectiveness, efficiency, coherence, relevance and EU added value. More at [http://ec.europa.eu/smart-regulation/guidelines/tool\\_42\\_en.htm](http://ec.europa.eu/smart-regulation/guidelines/tool_42_en.htm).

### 3. Stakeholder Mapping

The following stakeholder groups are concerned by the initiative:

Members of the general public: the Regulation imposes restrictions on access by natural persons who are not acting for purposes connected with their trade, business or profession, to substances listed in Annex I. There are, however, legitimate non-professional activities which make use of restricted substances. These include, for example, model car racing, bleaching of hunting trophies, taxidermy, and cleaning of swimming pools.

Public authorities: In the Regulation, reference is made to:

- *Competent authorities*, who are responsible for implementing, applying and enforcing any measure they adopt to implement the Regulation. Their role is especially important when it comes to 1) disseminating information about the restrictions and controls to the economic operators, 2) evaluating requests for licenses in Member States where there is a licensing regime, and 3) ensuring that rules on penalties are enforced. Typically, the designated competent authorities<sup>5</sup> are from the ministries of interior or economics.
- *National contact points*, who are responsible for receiving reports of suspicious transactions, disappearances and thefts. Typically the designated national contact points<sup>6</sup> are within the police.

Economic operators: this group is defined in the Regulation in a very broad way ('any natural or legal person or public entity or group of such persons and/or bodies which delivers products or services on the market'). The number of economic operators dealing with explosives precursors is very large, which poses an additional challenge. They include a wide range of types of operators, such as manufacturers, distributors, retailers; SMEs, online marketplaces, and professional end-users, with at times diverging interests and views. National- and European-level associations representing economic operators will primarily be consulted.

The mapping will also cover:

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<sup>5</sup> A list is available at [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/crisis-and-terrorism/explosives/explosives-precursors/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/crisis-and-terrorism/explosives/explosives-precursors/index_en.htm)

<sup>6</sup> Same as above.

- relevant EU agencies;
- relevant public authorities who are not competent authorities or national contact points;
- legal persons who are not acting for purposes connected with trade, business or profession;
- natural and/or legal persons who are acting for purposes connected with trade, business or profession; and
- any other stakeholders which may not fit in the above-mentioned groups.

Members and Observers of the Commission's Standing Committee on Precursors<sup>7</sup> shall be among the key stakeholders to be consulted. This expert group brings together Member States, stakeholders from industry, including retail, other Commission groups discussing explosives, pyrotechnics, fertilisers, and the REACH Regulation,<sup>8</sup> and relevant EU agencies, such as Europol.

Particular attention will be paid to stakeholder groups and individual stakeholders such as Small and Medium Enterprises (SMEs) and those at risk of being excluded from the consultation process, owing to them being located in remote areas with lower access rates to the internet or specialised press, or to not being part of any national- or European-level associations.

In addition, the consultation process shall aim to keep a geographical and sectorial balance within the European Economic Area (EEA),<sup>9</sup> and to ensure that the pool of consulted stakeholders is representative of the larger societal and economic interests in Europe.

#### **4. Consultation Methods & Tools**

##### **Open public consultation**

All stakeholders and the general public at large will have the possibility to provide their views and inputs as part of an open public consultation to be carried out by the Commission at the end of 2017/beginning of 2018. This open public consultation will

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<sup>7</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3245>

<sup>8</sup> OJ L 396, 30.12.2006, p. 1.

<sup>9</sup> Regulation EU 98/2013 is EEA-relevant.

take the form of an online questionnaire and will be published for a period of 12 weeks on a dedicated webpage of the Commission's Europa website (linked through both the "Contribute to law-making"<sup>10</sup> and DG HOME<sup>11</sup> webpages). The webpage of the open public consultation will be available in all official EU languages.

The public questionnaire(s) and any accompanying documents will be made available in the Commission's procedural languages: English, French and German. However, respondents will be able to reply using any of the official EU languages.<sup>12</sup> Many stakeholders with an interest in this public consultation are professionals and economic operators who are members of national and/or European-level associations representing their sector. These associations, which disseminate information to them and are often tasked with transmitting their members' views to the Commission, are, regardless of their language of origin, usually able to communicate in one of the procedural languages.

### **Targeted consultations**

Targeted consultations will be carried out at the end of 2017/beginning of 2018 with Member States authorities, the chemical industry, the retail sector, professional and non-professional users of explosives precursor substances, and any other stakeholders identified through a more detailed mapping exercise. Consultations will be mostly based on questionnaires and interviews and will be supported by the contractor selected by the Commission.

The Standing Committee on Precursors will also be consulted through the targeted consultations and a dedicated hearing.

### **5. Website**

The DG HOME webpage on explosives precursors<sup>13</sup> will contain information of relevance on the revision, a link to the webpage of the open public consultation, and clear contact information for the Commission's services in charge of the policy initiative.

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<sup>10</sup> [https://ec.europa.eu/info/law/contribute-law-making\\_en](https://ec.europa.eu/info/law/contribute-law-making_en)

<sup>11</sup> [https://ec.europa.eu/home-affairs/what-is-new/public-consultation\\_en](https://ec.europa.eu/home-affairs/what-is-new/public-consultation_en)

<sup>12</sup> [https://ec.europa.eu/info/official-eu-languages\\_en](https://ec.europa.eu/info/official-eu-languages_en)

<sup>13</sup> [https://ec.europa.eu/home-affairs/what-we-do/policies/crisis-and-terrorism/explosives/explosives-precursors\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/crisis-and-terrorism/explosives/explosives-precursors_en).