



Comments on the Communication from the Commission to the European Parliament and the Council on enhancing the security of explosives

Introduction

1. Cefic and FECC, representing the European chemical manufacturing and distribution sectors herewith would like to comment on the Commission proposed Action Plan in regards of the security of explosives.
2. The Action Plan provides for a comprehensive approach to the issue and covers explosives, fertilisers and explosive precursors. Most members of Cefic and FECC (referred collectively hereafter as Industry) manufacture, store or distribute explosive precursors¹ and are therefore key stakeholders. These preliminary comments pertain only to explosive precursors. Cefic and FECC may provide additional comments on the other aspects of the Action Plan at a later stage.
3. Cefic and FECC would like to provide a constructive contribution to the issue of security of explosives and suggest possible approaches regarding explosive precursors to avoid misuse of these chemicals for terrorist purposes. We wish to continue our dialogues with all relevant stakeholders and authorities to reduce the risk of misuse. Experience in other trade and production control areas has amply demonstrated the value of such cooperation.
4. The industry has a broad experience with various forms of trade and production control and with security measures (new Community Customs Code, Authorized Economic Operator (AEO). Besides those in place for dual-use goods and chemical weapons precursors (Chemical Weapons Convention), our sector has to comply with control measures in areas such as drug precursors and Prior Informed Consent (Rotterdam Convention). In view of these various control regimes, we are especially concerned that bureaucracy is avoided and that the control measures do not impose excessive administrative burden. To achieve maximum effectiveness and manageable burden for both authorities and companies, we consider that trade and production controls should remain focused and proportional to the risks.

General comments

5. In theory a large number of chemical substances can be used for Improvised Explosive Devices (IED's). Experience shows, however, that in practice only a limited number of such chemicals has been used or are sought for this purpose. These licit commercial chemicals are produced in very high volumes and are distributed via thousands of outlets at retail level. Industry, almost completely, does not directly supply such chemicals to end-users in consumer markets but wishes to contribute further to the security of the entire supply chain.

¹ Cefic and FECC represent the interests of manufacturers and distributors in the €476 billion (2006 figure) European chemicals supply chain.

6. The explosive precursor supply chain is diverse and dissipates into many different sectors. Mechanisms for tracing the whereabouts of products in such a vertically integrated supply chain are distinctly different from horizontally applied measures. The Commission communication rightly makes this distinction.

7. Industry agrees with the overall objectives of the Action Plan but believes that the approach with regard to explosive precursors places too much emphasis on some specific chemicals. Only small amounts may be required (less than one tenth of a litre or a kilogramme) to make a detonator but the production and trade volumes of these chemicals are tremendous; millions of tons are produced/used and sold all over the world. It is a global business. Industry and genuine end-users could not possibly introduce stock control for the loss/theft/usage of such small amounts. We must stress that level playing field is of utmost importance to keep the European industry competitive on a global scale. Additional measures, for example on top of what is already implemented via the AEO certification procedure, cannot be justified from an economic point of view.

8. It is time to address the means by which precursors can be obtained and introduce awareness programmes that keep anybody legally holding potential bomb-making materials up to date with any developments in the materials being used. These should be the key objectives, not unenforceable controls on industry.

Key concerns

9. Industry believes that raising awareness of the issues throughout the entire value chain and improved vigilance through voluntary measures rather than further legislation is the best way forward. The industrial chemicals supply chain not only has many Sector Group networks, its Responsible Care^{® 2} and Product Stewardship programmes are already in place to deliver best practice initiatives. The Responsible Care[®] initiative puts a commitment on industry to be in control of the whole demand-supply chain and to take every possible measure to guarantee safety and security. Industry has already taken precautions to prevent misuse via the normal business chain.

10. In a Single European Market where goods and people may freely move around, diverging national measures cannot be the answer. However, localised security problems are unlikely to be adequately addressed by supranational measures. Some Member States have already embarked on national initiatives or are considering legislation but the Action Plan does not address this issue. Industry considers that all national counter-terrorist measures with commercial consequences should be consistent with EU better regulation principles. Industry has informed the authorities that legislation already in place covers the subject sufficiently. What is needed is a harmonised approach throughout the EU and cooperation between the national authorities of the Member States to ensure consistency and effectiveness.

11. Voluntary approaches and cooperation within the value chain and with competent authorities allow for swifter and more effective controls than an approach based on command and control legislation. Industry therefore does not endorse

² *Responsible Care[®] is the chemical industry's own, unique initiative - a voluntary programme that helps it to raise its standards and win greater trust from the public. Under Responsible Care, the worldwide chemical industry is committed to continual improvement in all aspects of health, safety and environmental performance and to open communication about its activities and achievements.*

wording in the Action Plan such as “improving the regulation of explosive precursors”. Categories of voluntary measures with which we have extensive experience and which have demonstrated their value are for example raising of awareness of company staff in all departments, the reporting of suspicious transactions and customers to authorities, application of plausibility checks regarding orders from customers (“know your customer”), etc.

12. Industry considers that the agreement concluded in Germany between the Government and industry and trade could serve as the model example for similar initiatives in other Member States. We insist however that there needs to be uniformity as regards the list of controlled substances, which in our view should remain short and focused. Such voluntary agreements are much more flexible than legislation and can be quickly adapted in case of need. Voluntary agreements should also be applicable for several years and must be allowed to run their course without being overruled by legislation during their validity period.

13. Voluntary initiatives should not be limited to industry and commerce. The Action Plan should be more explicit in identifying areas where member state co-operation can be improved e.g. research being carried out on potential explosive precursor materials should be shared among all member states.

14. At the heart of the Action Plan is a proposal to set up a Standing Committee of Experts on Explosive Precursors. In our view, the Standing Committee should comprise all relevant stakeholders and we would like to offer our expertise and nominate experts for this committee.

15. Industry highly recommends measures that strive for full comparability on a global level of methods to diminish the risk of misuse of explosive precursors. Reference is made to the regulatory convergence of the US C-TPAT trade security system and the EU's AEO certification procedure.

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