

European Commission study on the feasibility of restricting access to dangerous chemicals which can be used for terrorist attacks

WORKSHOP ON POLICY OPTIONS

2 MARCH 2021 | 10:00am-1:00pm CEST

Zoom meeting

Background of the study

A consortium formed by EY and RAND Europe has been tasked by the European Commission (DG HOME) to perform a **study on the feasibility of restricting access to chemical which can be that might be subject of misuse for terrorist purposes**. The aim of the study is to support the Commission in identifying possible ways to strengthen the protection in Europe against the threat of the misuse use of chemicals to stage terrorist attacks.

To this end, the study analysed the current regulatory frameworks and market situation of around 30 chemicals indicated by the Commission. Based on a risk assessment exercise, a shortlist of chemicals of concern was identified. After having defined the problems at stake and identified the objectives of a possible EU initiative, the Study Team has developed a list of possible policy options and measures addressing identified problems, and will assess their likely impacts in the next phase of the study.

Objectives of the workshop

The workshop is aimed at:

- **Presenting identified policy options and measures** to stakeholders concerned
- **Collecting stakeholders' inputs on the likely impacts** of policy options and measures, which will feed into the impact assessment developed by the Study Team

After presenting each policy option, instant polls will be launched to allow participants to express their feedback on the type and extent of various expected impacts. Poll results will then be shown and discussed.

Workshop agenda

Approx. timing	Agenda items
10 minutes	Welcome and presentation of: <ul style="list-style-type: none"> - Agenda for the workshop and housekeeping rules - Study background and status - Objectives of the workshop
15 minutes	Presentation of: <ul style="list-style-type: none"> - Substances of concern - Problem definition - Rationale behind the design of the policy options
10 minutes	Q&A session
40 minutes	Presentation of policy options and measures addressing Driver 1 and instant pools on: <ul style="list-style-type: none"> - Expected impacts on costs/burden - Economic impacts - Social impacts - Overall preference Open discussion of poll results
10 minutes	Coffee Break
40 minutes	Presentation of policy options and measures addressing Driver 2 and instant pools followed by open discussion of results (as above)
40 minutes	Presentation of policy options and measures addressing Driver 3 and instant pools followed by open discussion of results (as above)
15 minutes	Wrap up and concluding remarks

Registered participants

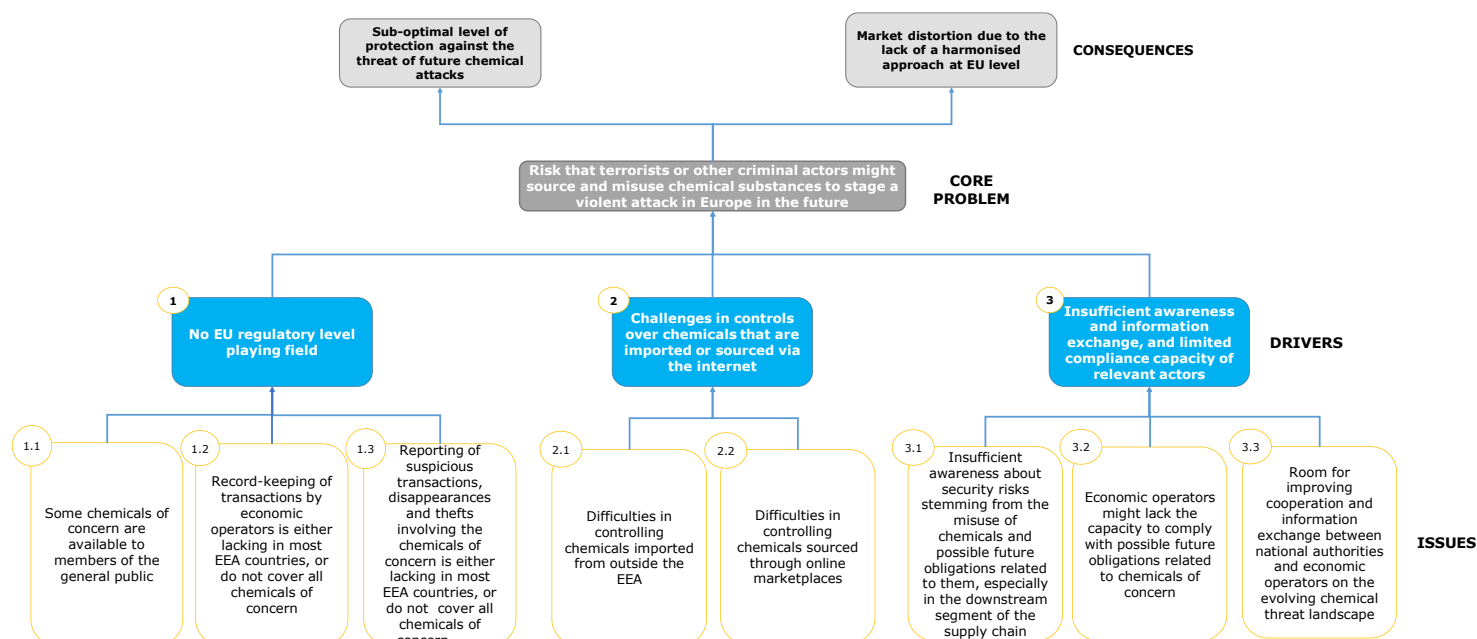
- Gianni Sabia (EY Study Team) – Moderator
- Alessandro Sica (EY Study Team) – Moderator
- Gerhard Ahlbrecht (FECC)
- Paola Paiano (Cosmetics Europe)
- Richard Mariner (CEFIC Euro Chlor sector group)
- Rafael Jesùs Orduna Pardo (Ercros SA)
- Andreas Scholz (Vynova Group)
- Chris Howick (Inovyn ChlorVinyls Ltd)
- Kai Mann (Brenntag Holding GmbH)
- Fernando Muñoz (Sojitz Europe plc)
- Martin Bartlett (Industrial Chemicals Limited)
- Burkhard Funk (SCC GmbH)
- Roger van Maris (Tosoh Europe B.V.)

Problem tree

The issues underlying the risk for misuse of the chemicals of concern might be grouped around three key drivers:

- No EU regulatory level playing field (**Driver 1**);
- Challenges in controls over chemicals that are imported or sourced via the internet (**Driver 2**);
- Insufficient awareness and information exchange, and limited compliance capacity of relevant actors (**Driver 3**);

Each driver and the related issues are illustrated in the problem tree below.



Overview of the policy options and measures to be discussed

Overview of policy options addressing Driver 1

ISSUES	PO1A	PO1B
Issue 1.1: Some chemicals of concern are available to members of the general public	Measure 1: Require Member States to establish a licensing regime for members of the general public who have a legitimate interest in acquiring, introducing, possessing or using certain chemicals of concern at concentrations higher than a given value limit (to be defined) - APPLIES ONLY TO SODIUM	Measure 2: Ban access to certain chemicals of concern for the general public above specific concentration limits (to be defined)

ISSUES	PO1A	PO1B
	<p>HYPOCHLORITE AND CALCIUM HYPOCHLORITE</p> <p>Measure 3: Require economic operators who make available a chemical of concern to a professional user or another economic operator to verify the proof of identity and the trade, business or profession of the prospective customer, and the intended use of the chemical for each transaction - APPLIES ONLY TO SODIUM HYPOCHLORITE AND CALCIUM HYPOCHLORITE</p> <p>Measure 4: Require economic operators who make available a substance to a member of the general public to verify the proof of identity and the license for each transaction - APPLIES ONLY TO SODIUM HYPOCHLORITE AND CALCIUM HYPOCHLORITE</p> <p>Measure 5: Commission recommendation providing detailed guidance to the Member States for setting up a licensing regime for members of the general public</p>	<p>Same as Measure 3</p>
<p><u>Issue 1.2:</u> Record-keeping of transactions by economic operators is either lacking in most EEA countries, or do not cover all chemicals of concern</p>	<p>Measure 6: Require economic operators to record each transaction involving a chemical of concern and retain that information for 18 months from the date of transaction</p> <p>Measure 7: Require economic operators to record the amount of the chemical of concern purchased on the license of the customer</p>	<p>Same as Measure 6</p>
<p><u>Issue 1.3:</u> Reporting of suspicious transactions, disappearances and thefts involving the chemicals of concern is either lacking in most EEA countries, or do not cover all chemicals of concern</p>	<p>Measure 8: Require economic operators and online marketplaces to report (attempted or concluded) suspicious transactions involving a chemical of concern</p>	<p>Same as Measure 8</p>

Overview of policy options addressing Driver 2

ISSUES	PO2A	PO2B
<p><u>Issue 2.1:</u> Difficulties in controlling chemicals imported from outside the EEA</p>	<p>Measure 10: Commission recommendation encouraging Member States to ensure adequate resources for and the provision of training for law enforcement and customs authorities to recognise the substances of concern in the course of their duties and to react in a timely and appropriate manner to a suspicious activity</p> <p>Measure 11: Pilot project, designed and implemented by the Commission in cooperation with the Member States, to improve the effectiveness of controls on imports through the identification and testing of different operational models</p>	<p>Same as Measure 10</p> <p>Same as Measure 11</p> <p>Same as Measure 12</p>

ISSUES	PO2A	PO2B
	Measure 12: Guidelines and checklists , developed by the Commission in cooperation with the Member States, to support customs in improving the efficiency and effectiveness of controls on imports at entrance points to the EEA	Measure 13: Require economic operators who supply a chemical of concern to systematically use barcoding and end-to-end tracking of shipments of the chemicals of concern
<u>Issue 2.2:</u> Difficulties in enforcing controls on chemicals sourced through online marketplaces	Measure 14: Commission recommendation for online marketplaces to establish a single contact point in the EEA to allow relevant national authorities to swiftly require the delisting of a regulated chemical and exchange other relevant communications (e.g. send information requests during investigations)	Measure 15: Require online marketplaces to establish a single contact point in the EEA to allow relevant national authorities to swiftly require the delisting of a regulated chemical of concern and exchange other relevant communications (e.g. send information requests during investigations)

Overview of policy options addressing Driver 3

ISSUES	PO3A	PO3B
<u>Issue 3.1:</u> Insufficient awareness about security risks stemming from the misuse of chemicals and possible future obligations related to them, especially in the downstream segment of the supply chain	Measure 16: Commission recommendation encouraging Member States to organise and deploy, at least once a year, awareness-raising actions (such as dedicated information campaigns, forums, meetings, etc.) adapted to the specificities of the supply chains of the chemicals of concern	Measure 17: Require economic operators who make available a chemical of concern to another economic operator to inform that economic operator that the introduction, possession or use of that substance (or product) by members of the general public is subject to a restriction and to reporting obligations Measure 18: Require online marketplaces to take measures to ensure that their users (i.e. resellers) , when making available a chemical of concern through their services, are informed of their obligations in terms of control and reporting Measure 19: Require economic operators who make available a substance to a professional user or to a member of the general public to ensure and be able to demonstrate to law enforcement authorities that the salespersons are aware of which products contain the regulated substances and instructed of the relevant obligation – APPLIES ONLY TO SODIUM HYPOCHLORITE AND CALCIUM HYPOCHLORITE
<u>Issue 3.2:</u> Economic operators might lack the capacity to comply with possible future obligations related to chemicals of concern	Measure 20: Organisation and deployment by the Commission, in cooperation with national competent authorities and business organisations, of capacity-building actions (such as refresher and update sessions, guidelines for the implementation of duties, training workshops, etc.) targeting different supply chain actors to improve their capacity to comply with chemical regulations Measure 21: Creation by the Commission of an online European database on chemicals that are subject to controls and restrictions , with a consolidated list of all the substances concerned by relevant EU laws (and possibly also international and	Same as Measure 20 Same as Measure 21

ISSUES	PO3A	PO3B
<p><u>Issue 3.3</u>: Room for improving cooperation and information exchange between national authorities and economic operators on the evolving chemical threat landscape</p>	<p>national measures), accessible by economic operators and other interested stakeholders</p>	
	<p>Measure 22: Commission recommendation for the Member States to implement actions to promote regular exchanges between relevant public and private stakeholders, in view of facilitating information sharing (e.g. on low confidentiality incidents/threats) and cooperation initiatives (e.g. the creation of information sharing networks, public-private partnerships, etc.)</p>	<p>Measure 23: Require Member States to implement actions to promote regular exchanges between relevant public and private stakeholders, in view of facilitating information sharing (e.g. on low confidentiality incidents/threats) and cooperation initiatives (e.g. the creation of information sharing networks, public-private partnerships, etc.)</p>
	<p>Measure 25: Establishment by the Commission of a sub-group on dangerous chemicals within a relevant Commission Expert Group (or creation of an ad hoc one) to regularly discuss evolving chemical threats in classified meetings, in view of monitoring new threats and reacting to them promptly and in a coordinated way</p>	<p>Measure 24: Require Member States to designate a national contact point in charge of monitoring EU-level developments related to dangerous chemicals and liaise with stakeholders at national level</p>
	<p>Measure 26: Invite Europol to regularly report to the Expert (sub)Group to inform on relevant criminal trends and evolving threats</p>	<p>Same as Measure 25</p> <p>Same as Measure 26</p> <p>Measure 27: Enable manufacturers to request background checks on persons falling within specific categories of its personnel, and ensure that those requests are assessed expeditiously by the relevant national authorities, in compliance with the General Data Protection Regulation</p>