

S T A T E M E N T of
Polish Association of Cosmetics and Home Care Products Producers
on
Draft Guidance on explosives precursors

Unfortunately most of the comments I made in my enclosed e-mail dated 02.08. are still valid, as the paper still does not contain any pragmatic solution for cosmetics and household products which are "sold to the public". According to the enclosed report of the STANPA DG who had a meeting with the Commission, the "assessment of the client" which is foreseen in the Guidelines in order to identify suspicious transactions is allegedly intended to be applicable only in a B2B framework. However this is not at all confirmed by the latest draft which – in Section D 1.1. - still explicitly refers to "sales to the public" in the context of a "indicators of suspicious behavior". As explained before these indicators do not at all fit to the situation in a supermarket or a chemist's shop.

The new draft contains a lot of details concerning the need to establish company contact points (Section E), organizational arrangements (Section F), administrative systems (Section G) and Storage (Section H). Unfortunately there is no clarification that these provisions, which would mean a huge bureaucratic burden for retailers, do not refer to sales to the general public. Provisions like "A robust client screening process involves asking for end-user statements" in Section G are obviously not manageable at the level of retailers of consumer products and it is obvious that the storage of these products in "secure rooms or cages" is no option for a supermarket. There is some wording limiting the necessary measures to what is "appropriate and practical" (Section H) and organizational arrangements are only described as "proposals". However unfortunately there is no clarification that these provisions could even be fully ignored by retailers of consumer products.

Concerning the products affected by the obligation to notify suspicious transactions there are two Appendixes to the paper which mirror the tables of Annexes I and II of the Regulation. While Appendix ONE lists the same limit values for substances as Annex I of the Regulation, unfortunately it does not make reference to these limit values in the context of "suspicious transactions". In our view the wording of the two sentences in Appendix I rather suggests that the obligation to notify such transactions shall be necessary regardless of these thresholds. As explained before, this would mean that a lot of additional products were affected.

There is one positive statement in the introduction of the draft referring to the fact that "manufacturers of homemade explosives" will always prefer "simple mixtures" or "substances in simple solutions" over "complex mixtures" with many ingredients. This could be a good basis for a full exemption of many consumer products which rather tend to be complex mixtures. However, unfortunately there is no further indication for such a pragmatic interpretation of the Regulation in the draft.

Feedback from the German Government suggest that they would be happy to accept a pragmatic solution which might even lead to a full exemption of cosmetics and household products. Alternatively they could either envisage a clarification of pragmatic limit values which would not lead to an obligation to notify suspicious transactions or a limitation concerning package sizes. In case none of these solutions was acceptable for the

majority of Member States representatives, a lot will depend on a more realistic wording of the criteria for suspicious transactions concerning sales to the public.