



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 29 March 2012

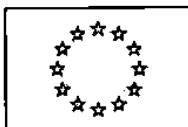
8303/12

**Interinstitutional File:
2011/0349 (COD)**

**ENT 76
MI 218
CONSOM 44
CODEC 868
COMPET 188**

NOTE

from: General Secretariat of the Council
to: Working Party on Technical Harmonisation
No. Cion prop.: 17274/11 ENT 257 MI 595 CONSOM 186 CODEC 2126 COMPET 542
Subject: New Legislative Framework Alignment Package
(Implementation of the Goods Package)
- Proposal for a Directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses - Opinion of the Consultative Working Party of Legal Services



Brussels, 27 MARS 2012

OPINION

FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION

**Proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses
COM(2011) 771 final of 21.11.2011 - 2011/0349 (COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 23 February 2012 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At that meeting¹, an examination of the proposal for a directive of the European Parliament and of the Council recasting Council Directive 93/15/EEC of 5 April 1993 on the harmonization of the provisions relating to the placing on the market and supervision of explosives for civil uses resulted in the Consultative Working Party's establishing, by common accord, as follows.

1) As far as the explanatory memorandum is concerned, in order to be drafted in full compliance with the relevant requirements laid down by the Inter-institutional Agreement such a document should have specified which provisions of the earlier act remain unchanged in the proposal, as is provided for under point 6(a)(iii) of that agreement.

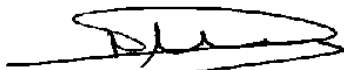
2) In the recast text, the following should have been identified by using the grey-shaded type generally used for marking substantive changes:

- in Article 50(1), first subparagraph, the words "*Articles 2 (7), 2 (9)-(24), 3-10, 14 (1), 19 (1) (a) (i), 20-26, 27 (1)-(4), 27 (6)-(7), 27 (10)-(11), 28-44, 48, 49 and Annex II*", as well as the entire text of the final sentence which reads as follows: "*They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive*";

¹ The Consultative Working Party had at its disposal the English, French and German language versions of the proposal and worked on the basis of the English version, being the master-copy language version of the text under discussion.

- in Article 50(1), second subparagraph, the words "*[day after the date mentioned in the first subparagraph]*";
- in point 3(c)(iv) of Module B of Annex II, the proposed adding of the words "*and/or other relevant technical specifications*";
- in points 4.2, 4.3 and 4.4 of Module B, in point 3.3 of Module D, in point 3.3 of Module E and in point 4.1 of Module F of Annex II, the proposed adding of the words "*and/or technical specifications*";
- in point 1 of Module C2, in point 1 of Module D, in point 1 of Module E and in point 1 of Module G of Annex II, the proposed adding of the words "*on his sole responsibility*";
- in point 2 of Module C2 and in point 2 of Module F of Annex II, the proposed adding of the words "*and its monitoring*";
- in point 4.4 of Module D of Annex II, the proposed deletion of the words "*if necessary*";
- in point 2(c) of Module G of Annex II, the proposed deletion of the words "*or protection system*".

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing text, without any change in its substance.



C. PENNERA
Jurisconsult



H. LEGAL
Jurisconsult



L. ROMERO REQUENA
Director General