Arms Trade Treaty: ratification by Member States

2013/0225(NLE) - 28/06/2013

PURPOSE: to authorise Member States to ratify, in the interests of the European Union, the Arms Trade Treaty.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: UN Resolution 61/89, adopted in 2006, initiated the process for developing a Treaty to regulate the international trade in conventional weapons, the so-called Arms Trade Treaty (ATT). The objective was to achieve a legally binding Treaty making the **legal trade in conventional arms more responsible**, by setting high common international standards on imports, exports and transfers.

Intensive preparatory work was carried out, followed by a First United Nations Conference on the ATT held in New York from 2 to 27 July 2012 which delivered a first draft Treaty adopted by qualified majority on 2 April 2013 and which is open for signature.

Due to reasons of competence, the European Union cannot sign and ratify the Treaty, **as only States can be parties thereto**. Therefore, in accordance with Article 2(1) TFEU, with respect to those matters falling under the exclusive competence of the Union, the Council should also authorise Member States to ratify the Treaty in the interests of the Union.

It is vital to fill the gap of the unregulated trade of conventional arms at an international level and to assist the development of peace-building and humanitarian efforts. The ATT's objectives are shared by the European Parliament, the Council and the Commission as this Treaty has the potential to reinforce international peace and security at global level.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASIS: Article 114 and 207(3) in conjunction with Article 218(6)(a)(v) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: under this proposed Decision, the Council authorises the Member States to ratify the current Arms Trade Treaty with respect to those matters falling under the exclusive competence of the Union.

Details and Scope of the ATT: the ATT creates standards for transfers of conventional weapons and requires State Parties to review all arms exports to ensure conventional arms and munitions will not be used inter alia in Human Rights abuses, terrorism and violations of humanitarian law.

The ATT provides for the assessment of arms transfers and measures to prevent the diversion of conventional arms from the importing and exporting States. In addition, it enhances transparency in arms trading by requiring record keeping and reporting to the Secretariat and other State Parties.

The provisions of the ATT cover conventional arms of the following categories:

- battle tanks,
- armoured combat vehicles,
- large-calibre artillery systems,
- combat aircraft,
- attack helicopters,
- warships,
- missiles and missile launchers and
- small arms and light weapons.

The Treaty also covers the related ammunition/ munitions and parts and components.

Competences: in accordance with the rules on external competence as laid down in Article 3 of the TFEU, the ATT includes matters that fall under **exclusive competence of the Union**.

The ATT provides, inter alia, for measures (such as import and export controls), which fall within the scope of the Union's Common Commercial Policy. In this domain, ATT addresses areas of Union law where the degree of regulation has already reached an advanced stage.

Moreover, the following EU-secondary legislation related to the internal market is also of relevance:

- Directive 2009/43/EC of the European Parliament and of the Council simplifying terms and conditions of transfers of defence-related products within the Community;
- Council Directive 91/477/EEC on control of the acquisition and possession of weapons;
- Regulation (EU) No 258/2012 of the European Parliament and of the Council implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol).

As the ATT includes matters of exclusive EU competence, Member States are not in a position to decide autonomously on the signature and ratification of the Treaty. They can only do it, in the interest of the Union, after authorisation by the Council upon a proposal by the Commission.

BUDGETARY IMPLICATION: the proposal has no implication for the EU budget.