UN Convention against Transnational Organized Crime (UNTOC): protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition

2013/0083(NLE) - 15/10/2013 - Legislative proposal

PURPOSE: to conclude a Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

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: in 1998, the United Nations' General Assembly (UNGA) decided to establish an open-ended intergovernmental ad-hoc committee charged with drawing up a Convention against transnational organised crime (UNTOC), supplemented by three Protocols. One of these Protocols concerns the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition (Firearms Protocol).

In 2000, the Council authorised the Commission to negotiate the Convention and the Protocol on behalf of the European Community.

Negotiations on the United Nations Firearms Protocol (UNFP) lasted until May 2001 and this instrument was adopted by the UNGA on 31 May 2001.

Authorisation to sign the UNFP was given by the Council in October 2001 and this instrument was formally signed by the European Community at the United Nations Headquarters in New York on 16 January 2002 with Council Decision 2001/748/EC.

The conclusion of the UNFP on behalf of the Community was left for a later stage because it was considered that the Protocol comprised provisions requiring the adoption of **new legislation** and amendments to existing one.

Union competence: the European Union has exclusive competence over commercial policy. It also has shared competence over rules for the achievement of the internal market, and exclusive competence as regards provisions of the Protocol which may affect or alter the scope of common rules adopted by the Union. The Union has adopted rules as regards in particular the fight against illicit manufacturing of and trafficking in firearms, regulating standards and procedures on commercial policy of the Member States concerning in particular record keeping, marking of firearms, deactivation of firearms, requirements for exports, import and transit licensing authorisation systems, strengthening of controls at export points and brokering activities.

Directive 2008/51/EC amending Council Directive 91/477 ECC on control of the acquisition and possession of weapons and Regulation (EU) No. 258/2012 implementing Article 10 of the UN Firearms Protocol and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition represent the concrete follow-up to these legislative amendments.

The rules and procedures applicable to the intra-union transfer of defence-related products are regulated by Directive 2009/43/EC of the European Parliament and the Council.

The UNFP entered into force on 3 July 2005. To date, 18 EU Member States have signed it and 16 Member States are contracting parties.

It is now necessary to approve the Protocol on behalf of the European Union.

LEGAL BASIS: Article 114 and the first subparagraph of Article 207(4), in conjunction with Article 218 (6) (a) of the Treaty on the Functioning of the European Union.

IMPACT ASSESSMENT: extensive consultations of different stakeholders have been carried out in parallel to the adoption of the European Union laws aiming at adapting Union law to the relevant provisions of the Protocol. An **additional Impact Assessment is not required** because this proposal represents the final step in fulfilling an international obligation, and Union law already complies with the standards set out in the Protocol.

CONTENT: with the proposed Decision, it is sought to invite the Council to approve the abovementioned Protocol on behalf of the European Union.

Scope: the UNFP is the **first global instrument in the fight against transnational organised crime and trafficking in firearms**. It sets out a very useful multilateral framework and a variety of important minimum standards for all participating States.

The Protocol promotes cooperation among States Parties in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

Main provisions: the text contains provisions to:

- maintain detailed records on the import, export and in-transit movements of firearms;
- adopt an international system for marking firearms at the time of manufacture and each time they are imported;
- establish a harmonised licensing system governing the import, export, in-transit movement and re-export of firearms;
- prevent the theft, loss or diversion of firearms through the strengthening of export controls, export points and border controls;
- exchange information regarding authorised producers, dealers, importers and exporters, the routes used by illicit traffickers, best practice in combating trafficking in order to enhance states' ability to prevent, detect and investigate illicit trafficking in firearms.

Annex I comprises the declaration of the extent of the European Union's competence with respect to matters governed by the Protocol, which has to be deposited together with the instrument of approval (Art. 17 (3) Firearms Protocol).

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