Arms Trade Treaty: ratification by Member States

2013/0225(NLE) - 03/03/2014 - Final act

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

NON-LEGISLATIVE ACT: Council Decision 2014/165/EU authorising Member States to ratify, in the interests of the European Union, the Arms Trade Treaty.

BACKGROUND: on 11 March 2013 the Council authorised the Commission to negotiate the Arms Trade Treaty ('ATT') in the framework of the United Nations on those matters coming under the exclusive competence of the Union.

On 2 April 2013 the General Assembly of the United Nations adopted the text of the ATT. The General Assembly also requested the Secretary-General, as depositary of the ATT, to open it for signature on 3 June 2013 and called upon all States to consider signing and, thereafter, according to their respective constitutional processes, **becoming parties to the ATT at the earliest possible date**.

The object of the ATT is to establish **the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms** and to prevent and eradicate illicit trade in conventional arms and prevent their diversion. Member States expressed their satisfaction for the outcome of the negotiations and their willingness to urgently proceed to the signature and ratification of the ATT. However, some of the provisions of the ATT concern matters that fall under the **exclusive competence of the Union** because they are within the scope of the common commercial policy or affect the internal market rules for the transfer of conventional arms and explosives.

The European Union cannot sign and ratify the ATT, as only States can be parties thereto.

On the 27 May 2013, the Council adopted Decision 2013/269/CFSP authorising Member States to sign, in the interests of the European Union, the Arms Trade Treaty.

Therefore, in accordance with Article 2(1) of the Treaty on the Functioning of the European Union, with respect to those matters falling under the exclusive competence of the Union, the Council should authorise Member States to ratify the ATT in the interests of the Union.

CONTENT: with this Decision, the Council authorises Member States to ratify the 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.

It 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 and 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**. It 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).

Ratification: 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.