EU/Australia Framework Agreement

2016/0367(NLE) - 28/11/2016 - Preparatory document

PURPOSE: to conclude the Framework Agreement between the European Union and its Member States, of the one part, and Australia, of the other part.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has approved the latter.

BACKGROUND: on 10 October 2011, the Council adopted a decision authorising the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to negotiate a Framework Agreement between the European Union and its Member States, of the one part, and Australia, of the other part. Negotiations began in December 2011 and were successfully concluded with the initialling of the Agreement on 5 March 2015. Pending its entry into force, certain parts of the Agreement, as mutually determined by the EU and Australia, are provisionally applied.

The Agreement will contribute significantly to the improvement of the partnership between the EU and Australia, a partnership which is based on common values and principles, including respect for democratic principles, human rights and fundamental freedoms, the rule of law, international peace and security. The Agreement is premised on respect for human rights and democratic principles, and for international law and the principles set out in the

Charter of the United Nations, which constitute the basis for cooperation between the Parties.

Note on legal basis: the Agreement pursues objectives and has components in the areas of common foreign and security policy, common commercial policy and development cooperation. These aspects of the agreement are **inseparably linked** without one being incidental to the other.

Article 218(6)(a)(iii) of the Treaty on the Functioning of the European Union (TFEU) provides that, where an agreement establishes a specific institutional framework by organising cooperation procedures, the Council must adopt a decision concluding the agreement after obtaining **consent of the European Parliament.** Moreover, the second subparagraph of Article

218(8) of the TFEU provides that the Council must act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act.

The common foreign and security policy is a field for which unanimity is required for the adoption of a Union act. Equally, the Agreement establishes an institutional framework by organising cooperation procedures between the EU and its Member States, of the one part, and Australia, of the other part.

In light of the above, the legal basis of the proposed decision should therefore be Article 37 of the Treaty of the European Union (TEU), Article 207 TFEU and Article 212(1) TFEU read in conjunction with Article 218(6)(a) TFEU and the second subparagraph of Article 218(8) TFEU.

CONTENT : the Commission and of the High Representative of the Union for Foreign Affairs and Security Policy jointly propose that the Council adopt a decision approving the Framework Agreement between the European Union and its Member States, of the one part, and Australia, of the other part, on behalf of the Union.

The text of the Agreement is attached to the Decision.

The purpose of the Agreement is 'to establish a strengthened Partnership between the Parties; to provide a framework to facilitate and promote cooperation across a broad range of areas of mutual interest; and to enhance cooperation to develop solutions to regional and global challenges'.

The content of the Agreement covers three pillars:

-political cooperation on foreign policy and security issues of common interest, including weapons of mass destruction (WMD), small arms and light weapons (SALW), counter-terrorism, promoting international peace and security and cooperation in multilateral fora. The Agreement includes binding political clauses based on the shared values. These clauses are in line with the standard clauses found in similar agreements signed by the EU;

-cooperation on economic and trade matters, including economic policy dialogue, promoting trade and investment matters, and sectoral economic and trade issues, such as :

- agriculture,
- technical barriers to trade,
- sanitary and phytosanitary issues,
- government procurement and intellectual property.

-sectoral cooperation, including in the areas of:

- environment,
- climate change,
- migration and asylum,
- tourism,
- research and innovation,
- education and culture,
- consular protection,
- protection of personal data,
- the fight against organised crime and cybercrime and judicial cooperation.

-Institutional framework: the Agreement establishes a Joint Committee, the objective of which is to monitor the development of the bilateral relationship between the Parties.

Suspension mechanism: the Agreement includes a suspension mechanism. In cases of particularly serious and substantial violation of the essential elements of the Agreement, the Agreement may be suspended or terminated, and other appropriate measures affecting other agreements may be taken in accordance with the rights and obligations of the Parties under such agreements. Once in force, the Agreement will create a coherent, legally binding overall framework for the EU's relations with Australia.