



**COUNCIL OF  
THE EUROPEAN UNION**

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**LIMITE**

**CATS 21  
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**NOTE**

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From : General Secretariat  
To : Delegations

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Subject : Status of ratification of EU-US Agreements of 25 June 2003 on extradition and of bilateral instruments

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1. On 6 June 2003 the Council decided to authorise the Presidency to sign the EU-US Agreements on extradition and mutual legal assistance. Twelve Member States made use of the possibility of Article 24(5) TEU and indicated they would need to follow constitutional procedures before the Agreements could be binding upon them. After their accession to the European Union, all ten new Member States made a similar statement.  
A few of those Member States have in the meantime notified the General Secretariat that they have gone through their constitutional procedures and are therefore in a position to proceed to the conclusion of the Agreements.
2. Once all Member States concerned will have completed their constitutional procedures, the Presidency will recommend the Council to conclude the agreements. A second decision by the Council will thus be required in order to conclude the agreements on behalf of the EU and to authorise the Presidency to exchange instruments of ratification with the United States of America.

It is only on the first day of the third month following the exchange of instruments of ratification with the United States of America that the EU-US agreements will enter into force (see Articles 22 and 18 of the Agreements).

3. Articles 3 of both Agreements require that all Member States enter into "bilateral instruments" with the United States in order to acknowledge the way in which the provisions of the EU-US Agreements are implemented at the bilateral level. The negotiations of these bilateral instruments have been finalised by all Member States and 18 Member States have also signed them. The remaining 7 Member States are expected to sign these bilateral instruments in the near future.
4. Article 22 of the EU-US Agreement on extradition and Article 17 of the EU-US Agreement on mutual assistance require that the instruments of ratification of the EU-US Agreements indicate that the "steps referred to in Article 3", that is the "acknowledgment" in bilateral instruments of the way in which the EU-US Agreements will be applied, have been completed.  
It appears that all bilateral instruments which have been negotiated between the Member States and the United States contain a provision which stipulate that the bilateral instruments will, after completion of the necessary internal procedures, only enter into force at the same time as the EU-US Agreements .
5. Member States are invited to provide the General Secretariat with the following information, by 21 February to the attention of Mr Guy Stessens (guy.stessens@consilium.eu.int; +32 2 285 67 11).
  - a. For those Member States having made a declaration under Article 24(5), what is the nature of the constitutional procedures you have to go through (approval by parliament, ratification by parliament, ratification by the executive, consultation of national parliament, ....) regarding the EU-US Agreements?
  - b. For those Member States having made a declaration under Article 24(5), when do you expect to have gone through your constitutional procedures for the EU-US Agreements?

- c. Is there any kind of constitutional procedure you have to go through regarding the bilateral instruments with the United States (approval by parliament, ratification by parliament, ratification by the executive, consultation of national parliament, ....)?
- d. When do you expect the procedures referred to under c., if any, to be completed ?
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