



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from :	General Secretariat
to :	Coreper/Council
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Subject :	Status of ratification of EU-US Agreements of 25 June 2003 on extradition and mutual legal assistance and of bilateral instruments

1. On 6 June 2003 the Council authorised the Presidency to sign the EU-US Agreements on extradition and mutual legal assistance. Twenty-three 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. Apart from the four Member States (AT, FR, GR and RO) which did not make a declaration under Article 24(5) TEU, according to the information available (see table set out in the annex), twenty Member States (BG, CZ, CY, DK, DE, EE, ES, FI, HU, IT, LT, LV, LU, MT, PL, PT, SE, SI, SK and UK) no longer need to go through a constitutional procedure with regard to the EU-US Agreements.

2. Under Article 3 of both Agreements, all Member States need to exchange "written 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 (one on mutual legal assistance and one on extradition). All Member States have in the meantime signed such bilateral instruments with the United States, but according to the information available, eight Member States (BE, BG, CY, GR, IE, IT, NL, RO) still need to finalise the constitutional procedures with regard to these bilateral instruments.
3. The United States needs to go through a ratification procedure as well. On 29 September 2006, the US President transmitted the two EU-US Agreements + the bilateral instruments per Member State for ratification to the US Senate. The bilateral instruments for BG and RO have been transmitted to the US Senate on 22 January 2008. 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.
4. The attached table gives an overview of the state of play with regard both to the EU-US agreements and the bilateral instruments. Those Member States that have not yet finalised their proceedings are invited to update this information, by sending the relevant information, including the expected date of finalisation, to the General Secretariat, to the attention of Mr Guy Stessens (guy.stessens@consilium.europa.eu, + 32 (0) 2 281.67.11).

COUNTRY	Title of instrument	Type of annex	Nature of the constitutional procedures regarding the EU-US Agreements	When do you expect to have gone through your constitutional procedures for the EU-US Agreements	Constitutional procedure required for bilaterals	When do you expect to have gone through your constitutional procedures for the bilaterals
Belgium	Instrument	consolidated	ratification by parliament	end first half 2008	ratification by parliament	end first half 2008
Bulgaria	Extradition Treaty MLA Instrument	consolidated	ratification by parliament	done (Ratification Act of 20 September 2007)	ratification by parliament	delayed because of technical errors, which need to be corrected
Czech Republic	Supplementary Treaty	non-consolidated	Parliamentary approval + Ratification by President of bilateral	finalised (February 2007)	Parliamentary approval + Ratification by President of bilateral	finalised (February 2007)
Denmark	Instrument	consolidated	none	finalised	none	NA
Germany	Supplementary Treaty	non-consolidated	Article 59(2) Constitution requires approval of Bundestag by an Act of Parliament	finalised	Article 59(2) Constitution requires approval of Bundestag by an Act of Parliament	finalised
Estonia	Instrument on MLA New Extradition Treaty	consolidated	Ratification by Parliament	finalised	Ratification by Parliament	finalised (18 October 2006)
Greece	Protocols to existing treaties	non-consolidated	NA	NA	Ratification by Parliament	Special Law Elaborative Committee has been assigned with the elaboration of the relevant draft law
Spain	Instrument	consolidated	ratified	finalised	ratified	finalised
France	Instrument	non-consolidated	NA	NA	simplified approval procedure, which has been notified to the US in April 2006	finalised

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Ireland	Instrument	consolidated	approval by Dáil Éireann (the Lower House of Parliament)	Bill voted by one chamber of Parliament - first semester 2008	approval by Dáil Éireann (the Lower House of Parliament)	Bill voted by one chamber of Parliament - first semester 2008
Italy	Instrument	consolidated	/	/	Ratification by Parliament	currently before Parliament -no prediction
Cyprus	Instrument	consolidated	NA	NA	Approval by Parliament	currently before Parliament - June 2008
Latvia	MLA Protocol New Extradition Treaty	non-consolidated	Approval by Parliament	finalised (26/10/2005)	Ratification by Parliament	finalised
Lithuania	Protocols	non-consolidated	Ratification by parliament	finalised	Ratification by parliament	finalised
Luxembourg	Instrument	non-consolidated	Approval by Parliament	finalised	Approval by Parliament	finalised

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Hungary	Protocol	non-consolidated	Protocols needed to be approved (ratified) by the Parliament.	finalised	Protocols needed to be approved (ratified) by the Parliament.	finalised
Malta	Treaties	consolidated	none	NA	Only an executive decision	done
Netherlands	Agreement comprising Instrument	consolidated	Approval by Parliament	Approval bill has been laid before parliament - second semester 2008	approval by Parliament	Approval bill has been laid before parliament - second semester 2008
Austria	Protocols	non-consolidated	none	NA	second Chamber vote + ratification instruments signed by President	finalised
Poland	Agreement on the application of ...	consolidated	NA	NA	ratification by parliament	Ratification acts (Official Journal 19.12.2006 + 20.12.2007).
Portugal	Instrument	non-consolidated	Consultation of the Parliament	finalised	Approval for ratification by the Parliament and ratification by the President of the Republic	finalised: ratification Decrees of the President Nos 96-97/2007 of 10/9/2007, approved by Parliament Resolution No 44/2007

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Romania	Extradition Treaty MLA Instrument	Consolidated (for extradition)	NA	NA	Ratification	First quarter of 2008.
Slovenia	Agreement comprising Instrument	consolidated	ratified	finalised	ratified	finalised
Slovakia	Instruments	consolidated (for extradition)	none	NA	ratification by parliament	finalised
Finland	Treaty on MLA and Protocol to Extradition Treaty	non-consolidated	Approval by the Parliament	done	Approval by the Parliament	done
Sweden	Instrument	consolidated	ratified	finalised	ratified	finalised
United Kingdom	Instrument	consolidated	none	NA	finalised	the 2003 US-UK Extradition Treaty has been ratified (exchange of the instruments of ratification took place on 26 April 2007)