



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 19 November 2007**

**5916/3/07  
REV 3**

**LIMITE**

**CATS 8  
COPEN 15  
USA 8**

**NOTE**

---

from : General Secretariat  
to : Delegations

---

No. prev. doc. : 9516/1/06 REV 1 CATS 8 COPEN 15 USA 8

---

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 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 on 1 May 2004, ten new Member States made a similar statement. 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), fifteen Member States (BG, CZ, DK, EE, ES, HU, LT, LV, 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, a twelve Member States (BE, BG, CY, DE, FI, GR, IE, IT, LU, MT, 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 will be transmitted to the US Senate shortly.) The senate hearing is expected to take place before the end of 2007. 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. This implies that all ratification procedures with regard to the bilateral instruments will need to have taken place before the exchange of ratification instruments for the EU-US Agreements can take place.
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](mailto:guy.stessens@consilium.europa.eu), + 32 (0) 2 281.67.11).

<b>COUNTRY</b>	<b>Title of instrument</b>	<b>Type of annex</b>	<b>Nature of the constitutional procedures regarding the EU-US Agreements</b>	<b>When do you expect to have gone through your constitutional procedures for the EU-US Agreements</b>	<b>Constitutional procedure required for bilaterals</b>	<b>When do you expect to have gone through your constitutional procedures for the bilaterals</b>
<b>Belgium</b>	Instrument	consolidated	ratification by parliament	beginning 2008	ratification by parliament	beginning 2008
<b>Bulgaria</b>	Extradition Treaty MLA Instrument	consolidated	ratification by parliament	done (Ratification Act of 20 September 2007)	??	??
<b>Czech Republic</b>	Supplementary Treaty	non-consolidated	Parliamentary approval + Ratification by President of bilateral	finalised (February 2007)	Parliamentary approval + Ratification by President of bilateral	finalised (February 2007)
<b>Denmark</b>	Instrument	consolidated	none	finalised	none	NA
<b>Germany</b>	Supplementary Treaty	non-consolidated	Article 59(2) Constitution requires approval of Bundestag by an Act of Parliament	Parliamentary procedures finalised. Act awaiting signing by the executive.	Article 59(2) Constitution requires approval of Bundestag by an Act of Parliament	Parliamentary procedures finalised. Act awaiting signing by the executive
<b>Estonia</b>	Instrument on MLA New Extradition Treaty	consolidated	Ratification by Parliament	finalised	Ratification by Parliament	18 October 2006: ratification by Parliament
<b>Greece</b>	Protocols to existing treaties	non-consolidated	NA	NA	Ratification by Parliament	Bill under preparation - will be laid before Parliament at the end of 2007
<b>Spain</b>	Instrument	consolidated	ratified	finalised	ratified	finalised
<b>France</b>	Instrument	non-consolidated	NA	NA	simplified approval procedure, which has been notified to the US in April 2006	finalised

<b>COUNTRY</b>	<b>Title of instrument</b>	<b>Type of annex</b>	<b>Nature of the constitutional procedures regarding the EU-US Agreements</b>	<b>When do you expect to have gone through your constitutional procedures for the EU-US Agreements</b>	<b>Constitutional procedure required for bilaterals</b>	<b>When do you expect to have gone through your constitutional procedures for the bilaterals</b>
<b>Ireland</b>	Instrument	consolidated	approval by Dáil Éireann (the Lower House of Parliament)	Criminal Justice (Mutual Assistance) Bill, 2005 currently before Lower House - afterwards approval/ratification: spring 2008	approval by Dáil Éireann (the Lower House of Parliament)	Criminal Justice (Mutual Assistance) Bill, 2005 currently before Lower House - afterwards approval/ratification: spring 2008
<b>Italy</b>	Instrument	consolidated	Ratification by Parliament	currently before Parliament -no prediction	Ratification by Parliament	currently before Parliament -no prediction
<b>Cyprus</b>	Instrument	consolidated	Approval by Parliament	currently before Parliament - approval expected by end 2007	Approval by Parliament	currently before Parliament - approval expected by end 2007
<b>Latvia</b>	MLA Protocol New Extradition Treaty	non-consolidated	Approval by Parliament	finalised (26/10/2005)	Ratification by Parliament	finalised
<b>Lithuania</b>	Protocols	non-consolidated	Ratification by parliament	finalised (beginning 2006)	Ratification by parliament	finalised (beginning 2006)
<b>Luxembourg</b>	Instrument	non-consolidated	Approval by Parliament	Approval Bill currently at the <i>Parliament</i> - autumn 2007	Approval by Parliament	Approval Bill currently at the <i>Parliament</i> - autumn 2007

<b>COUNTRY</b>	<b>Title of instrument</b>	<b>Type of annex</b>	<b>Nature of the constitutional procedures regarding the EU-US Agreements</b>	<b>When do you expect to have gone through your constitutional procedures for the EU-US Agreements</b>	<b>Constitutional procedure required for bilaterals</b>	<b>When do you expect to have gone through your constitutional procedures for the bilaterals</b>
<b>Hungary</b>	Protocol	non-consolidated	Protocols needed to be approved (ratified) by the Parliament.	finalised (6 February 2006)	Protocols needed to be approved (ratified) by the Parliament.	finalised (6 February 2006)
<b>Malta</b>	Treaties	consolidated	none	NA	Only an executive decision	End of November
<b>Netherlands</b>	Agreement comprising Instrument	consolidated	Approval by Parliament	Approval bill soon before parliament	approval by Parliament	by the end of 2007
<b>Austria</b>	Protocols	non-consolidated	none	NA	second Chamber vote + ratification instruments signed by President	finalised
<b>Poland</b>	Agreement on the application of ...	consolidated	NA	NA	ratification by parliament	Ratification acts (Official Journal 19.12.2006 + 20.12.2007).
<b>Portugal</b>	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

<b>COUNTRY</b>	<b>Title of instrument</b>	<b>Type of annex</b>	<b>Nature of the constitutional procedures regarding the EU-US Agreements</b>	<b>When do you expect to have gone through your constitutional procedures for the EU-US Agreements</b>	<b>Constitutional procedure required for bilaterals</b>	<b>When do you expect to have gone through your constitutional procedures for the bilaterals</b>
<b>Romania</b>	Extradition Treaty MLA Instrument	Consolidated (for extradition)	NA	NA	??	??
<b>Slovenia</b>	Agreement comprising Instrument	consolidated	ratified	finalised	ratified	finalised
<b>Slovakia</b>	Instruments	consolidated (for extradition)	none	NA	ratification by parliament	finalised
<b>Finland</b>	Treaty on MLA and Protocol to Extradition Treaty	non- consolidated	Approval by the Parliament	autumn 2007	Approval by the Parliament	autumn 2007
<b>Sweden</b>	Instrument	consolidated	ratified	finalised	ratified	finalised
<b>United Kingdom</b>	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)