

# ISSUE BRIEF

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## U.N. Arms Trade Treaty: U.S. Decision to Sign Treaty Shows Review Process Was Rushed

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On May 15, Assistant Secretary of State Thomas Countryman stated that the U.S. would sign the U.N. Arms Trade Treaty (ATT) “in the very near future.” The treaty opens for signature at the United Nations on June 3.

The fact that this decision was announced only six weeks after the treaty was negotiated shows that the U.S. rushed its internal review process. Before it actually signs the ATT, the U.S. should retract this statement and conduct a full and careful legal and policy review of the treaty.

**The U.S. Review Process Has Been Cut Short.** Before it decides to sign a treaty, the U.S. State Department leads what is known as a “Circular 175 procedure.” This is an interdepartmental process that is supposed to assess all aspects of a proposed agreement, including its benefits and risks and its potential domestic impact. The process is also supposed to consider whether congressional consultations have been or will be undertaken, and it may also include consultations with industry, civil society, and other interested parties. In a public statement on April 5, Secretary Countryman noted that this review process would take “months, at a minimum.”

The U.N. General Assembly adopted the ATT on April 2 after its negotiating conference on the treaty failed to reach consensus agreement on March 27. The text was not available before March 27, as the final days of the March conference brought a rapid succession of substantially revised treaty drafts. Moreover, the full text of the treaty in all official U.N. languages was not available until May 10, when the Arabic and Chinese versions received numerous and significant corrections.<sup>1</sup>

Thus, at best, the U.S. review process lasted not the “months, at a minimum” that Secretary Countryman stated was necessary: It had at most six weeks to operate—and less than a week to consider the final foreign-language versions.

Countryman himself also acknowledged in his announcement that the U.S. has not finished its review process. By taking and announcing a decision to sign the treaty, the Administration has cut short its own review process. Unless the U.S. retracts its decision and begins the review afresh, the process cannot serve the purpose that it is supposed to under applicable U.S. law.

This review process serves an important purpose for all treaties, but it is particularly significant in the case of the ATT, which Secretary Countryman himself has publicly described as “ambiguous.”<sup>2</sup> The review does not appear to have received full input from industry or to have benefitted from consultations with Congress. While the U.S. might not sign the ATT on June 3, it is already clear that the entire U.S. review process has been badly rushed.

**Arguments for the ATT Are Self-Defeating.** The ATT is not simply an “ambiguous” treaty. It is supported with arguments that provide no reason

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for the U.S. to sign the ATT. The ATT nominally requires signatories to take a series of actions to regulate their import and export of conventional weapons and other related activities. But all nations already have the unquestioned right to control these activities: The ATT was not necessary to empower them to act. The fact that they have not done so already suggests that many of them are not actually interested in or capable of enacting or enforcing the necessary regulations.

The U.S., on the other hand, does have a system of import and export controls. The U.S. system is frequently described as the world's "gold standard," and, though U.S. export controls will benefit from ongoing reforms, the U.S. has a more responsible approach to arms exports than most if not all other nations. The Administration has frequently stated that it views the ATT not as a mechanism for changing the U.S. system but as one that will require other nations to approach U.S. standards. The U.S. also spends millions of dollars every year to assist other nations to manage stockpiles of conventional weapons and to develop responsible export control systems.

Yet in spite of the fact that other nations are free to have high standards, have repeatedly voted in favor of such standards, are on the verge of signing a binding treaty that supposedly mandates these standards—and have often demanded even higher standards—and in spite of the U.S.'s record of

responsible behavior and its provision of millions of dollars of foreign aid, the ATT's supporters argue that the U.S. needs to sign the treaty for it to work and in order to set an example for other nations.<sup>3</sup>

If the world's nations all want the treaty so badly, they should happily sign and implement it regardless of what the U.S. does. The fact that the treaty supporters themselves do not believe this will occur testifies to the fact that the treaty, while it will bind the U.S., is unlikely to lead the world's bad and incompetent governments to behave any better. The U.S. thus has nothing to gain from signing the treaty.

**What the U.S. Should Do.** The ATT is a badly flawed treaty on both substantive and procedural grounds.<sup>4</sup> Moreover, while the U.S. takes treaty commitments very seriously, other nations are unlikely, on the arguments of the treaty advocates themselves, to implement the commitments contained in the ATT.

The U.S. decision to sign the ATT is a serious error, and it is the result of a review process that has been rushed and in no way fulfills the conditions that the Administration itself set out. The U.S. should retract this decision and start over with a full and careful legal and policy review of the entire treaty.

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1. United Nations, "Proposal of Corrections to the Original Texts of the Treaty (Arabic and Chinese Authentic Texts)," May 10, 2013, <http://treaties.un.org/doc/Publication/CN/2013/CN.266.2013-Eng.pdf> (accessed May 20, 2013).
  2. Thomas Countryman, Assistant Secretary of State for International Security and Nonproliferation, remarks at the Stimson Center, Washington, DC, April 5, 2013, <http://www.stimson.org/events/discussion-of-next-steps-for-the-arms-trade-treaty/> (accessed May 20, 2013).
  3. Coco McCabe, "All Eyes Are on the U.S. as Arms Trade Treaty Opens for Signature," Oxfam, May 15, 2013, <http://www.oxfamamerica.org/articles/all-eyes-are-on-the-us-as-arms-trade-treaty-opens-for-signature> (accessed May 20, 2013).
  4. See Ted R. Bromund, "U.N. General Assembly Adopts the Arms Trade Treaty," The Heritage Foundation, The Foundry, April 2, 2013, <http://blog.heritage.org/2013/04/02/u-n-general-assembly-adopts-the-arms-trade-treaty/>.
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