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After U.S. Signature, Dangers of U.N. Arms Trade Treaty Begin to Surface

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After U.S. Secretary of State John Kerry signed the U.N. Arms Trade Treaty (ATT) in September, a bipartisan majority of the Senate stated its opposition to ratifying the treaty. Over the past months, the dangers of the ATT have become increasingly obvious, and supporters of the treaty have been increasingly assertive in their claims and their criticism of the United States. The wisdom of the Senate's opposition to the treaty having already been amply demonstrated, it is time for both the Senate and the House to hold hearings on the ATT.

Congressional Opposition to the ATT Grows.

On October 15, Senators Jerry Moran (R-KS) and Joe Manchin (D-WV) released a letter signed by 50 Senators pledging to oppose the ATT. A parallel House letter, led by Representatives Mike Kelly (R-PA) and Collin Peterson (D-MN) and signed by 181 Representatives, was released simultaneously. On October 21, four Democratic Senators, led by Jon Tester (D-MT), released a similar letter.¹ Today, a bipartisan majority of 53 sitting Senators opposes the ATT.

In June, one treaty supporter stated that the ATT was “absolutely toxic” on Capitol Hill.² By late October, that toxicity reached lethal levels, as reflected by the acceptance of an amendment offered by Kelly to the National Defense Authoriza-

tion Act for fiscal year 2014, which was signed into law on December 26, 2013. As amended, the act bans the use of funds by the Department of Defense to implement the ATT unless the treaty receives the advice and consent of the Senate and is the subject of implementing legislation. But as the treaty supporter noted, they have a “long-term strategy” to secure U.S. ratification.

Treaty Proponents Have a Long-Term Agenda. They also have a long-term agenda for the ATT: to secure its rapid ratification in as many nations as possible, while establishing the treaty's institutions, defining its ambiguous terms in ways that suit their agenda, planning its expansion, and attacking the United States.

To date, 115 nations have signed the treaty, and nine have ratified it. That number will grow rapidly as the 28 member nations of the European Union ratify, and it is likely that the necessary 50 ratifications will have brought the treaty into force no later than 2015. On December 5, the U.N. General Assembly—with 152 nations in favor, none opposed, and 29 abstaining—adopted a resolution calling on all nations to ratify the ATT at “the earliest possible date.”³

Ambassador Peter Woolcott of Australia, the president of the March 2013 ATT conference, has stated that the ATT was “ultimately only a framework” and called on his audience to “keep working and building” on it.⁴ The treaty supporters now want to fill in this framework. This is partly a matter of establishing the treaty secretariat, and partly a matter of assiduous demands from many nations for financial assistance, without which they will supposedly be unable to fulfill the binding treaty requirements they so eagerly accepted.⁵

This paper, in its entirety, can be found at <http://report.heritage.org/ib4126>

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But more significant are a series of other developments. Collectively, these events demonstrate the dangers posed by the ATT to the conduct of U.S. foreign and domestic policy and the efforts made by prominent treaty advocates to criticize the United States:

- On October 3, Vann Van Diepen, principal deputy assistant secretary in the Bureau of International Security and Nonproliferation in the U.S. State Department, argued that it is incumbent upon treaty signatories to take measures not specifically required by the treaty in order to “help achieve [its] ideals.”⁶ While Van Diepen asserted that his argument did not apply to the U.S., his unwise doctrine—like Woolcott’s “framework” claim—could nonetheless be used by treaty supporters to assert that the U.S. is obliged to take actions to achieve newly invented ideals that are purportedly implied by the treaty.
- On October 18, *The New York Times* criticized U.S. efforts to reform its arms export control system on the grounds that they risk “undercutting” the ATT.⁷ This editorial was the latest assertion by treaty advocates that the ATT prohibits the U.S. from controlling its own export control system.⁸
- On October 23, Óscar Arias Sanchez, the former president of Costa Rica and a long-time ATT advocate, accused treaty critics and the U.S. of “waiting for someone else to make the first move” in regulating the arms trade.⁹ Sanchez did not mention the existence of the U.S.’s world-class system of export controls and, like many treaty proponents, completely ignored the complicity of many nations—including many treaty signatories—in arming terrorists and trafficking in arms.
- The most recent session of the U.N. General Assembly made it clear that the U.N. and treaty advocates are eager to expand the treaty, both by including more items in its scope and by inventing new obligations and rights that will be included in

the treaty by virtue of its requirement to consider international humanitarian and human rights law. For example, advocates are pressing to include drones explicitly in the ATT, the U.N. seeks to create a potentially wide-reaching “right to privacy,” and the U.S. has accepted the need to apply the law of armed conflict to cyberspace.¹⁰ Together, this could lead to pressure to include all computer technology, as well as drones, in the ATT.

- The single most troubling development is that the ATT is rapidly being incorporated into U.N. gun-control initiatives. Angela Kane, the U.N. High Representative for Disarmament Affairs, asserted the ATT would help establish “global norms.” She thus likened it to norm-based efforts such as the U.N. International Small Arms Control Standards initiative, which in turn seeks to “further establish a coherent and integrated approach in the implementation of all of the relevant instruments,” including the ATT.¹¹ These initiatives will over time shape and transform the interpretation of the ATT.

Continued Congressional Leadership Required.

The opposition of the Senate and the House to the treaty is clear. But in the three months since the U.S. signed the ATT, the treaty’s proponents have shown yet again that they seek to use it to constrain the U.S., that leading proponents are biased against the U.S., and that they wish to expand the scope of the ATT and incorporate it into the wider U.N. gun-control agenda. Particularly given the dangerous Administration doctrine that signature of the ATT creates the open-ended obligation to achieve vague ideals, it is essential that both the Senate and the House hold hearings to make it clear that the ATT will have no effect on U.S. policy unless and until it is properly ratified.

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Endnotes

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