

.....  
(Original Signature of Member)

112TH CONGRESS  
2D SESSION

# H. RES.

---

Expressing the sense of the House of Representatives regarding the conditions for the United States becoming a signatory to the United Nations Arms Trade Treaty, or to any similar agreement on the arms trade.

---

## IN THE HOUSE OF REPRESENTATIVES

Mr. KELLY submitted the following resolution; which was referred to the Committee on \_\_\_\_\_

---

# RESOLUTION

Expressing the sense of the House of Representatives regarding the conditions for the United States becoming a signatory to the United Nations Arms Trade Treaty, or to any similar agreement on the arms trade.

Whereas in October 2009, the United States voted in the United Nations General Assembly to participate in the negotiation of the United Nations Arms Trade Treaty;

Whereas in July 2012, the United Nations Conference on the Arms Trade Treaty convened to negotiate the final text of the Arms Trade Treaty;

Whereas the Arms Trade Treaty poses significant threats to the national security, foreign policy, and economic inter-

ests of the United States as well as to the constitutional rights of United States citizens and United States sovereignty;

Whereas the Arms Trade Treaty fails to expressly recognize the fundamental, individual right to keep and to bear arms and the individual right of personal self-defense, as well as the legitimacy of hunting, sports shooting, and other lawful activities pertaining to the private ownership of firearms and related materials, and thus infringes on freedoms protected by the Second Amendment;

Whereas the Arms Trade Treaty grants free democracies and totalitarian regimes the same right to conduct arms transfers, and is thereby dangerous to the security of the United States;

Whereas the Arms Trade Treaty's criteria for assessing the potential consequences of arms transfers are vague, easily politicized, and readily manipulated, and are incompatible with both the United States national interest and the criteria the United States currently employs;

Whereas the Arms Trade Treaty's model for using these criteria is incompatible with the criteria and decision-making model for arms transfers employed by the United States under Presidential Decision Directive 34, which dates from 1995;

Whereas the Arms Trade Treaty will create opportunities to engage in "lawfare" against the United States via the misuse of the treaty's criteria in foreign tribunals and international fora;

Whereas the Arms Trade Treaty implies that signatories must recognize the jurisdiction of the International Criminal Court, whose jurisdiction is not recognized by

the United States, which is not a party to the Rome Statute of the International Criminal Court;

Whereas the Arms Trade Treaty would hinder the United States from fulfilling its strategic, legal, and moral commitments to provide arms to allies such as the Republic of China (Taiwan) and the State of Israel;

Whereas the creation of an international agency to administer, interpret, support the implementation of, or revise the Arms Trade Treaty risks the delegation of authority to a bureaucracy that is not accountable to the people of the United States;

Whereas the Arms Trade Treaty urges the provision of capacity building assistance from signatory nations to implement the Arms Trade Treaty, which could create a source of permanent funding to the United Nations that would be susceptible to waste, fraud, and abuse;

Whereas the Arms Trade Treaty will create costly regulatory burdens on United States businesses, for example, by creating onerous reporting requirements that could damage the domestic defense manufacturing base and related firms;

Whereas an Arms Trade Treaty that has not been signed by the President and received the advice and consent of the Senate may not bind the United States in any respect as customary international law, *jus cogens*, or any other principle of international law that bypasses the treaty power in article II, section 2, clause 2 of the Constitution;

Whereas an Arms Trade Treaty that has merely been signed by the President but has not received the advice and consent of the Senate may not bind the United States in any

respect, including any obligation to refrain from defeating the object and purpose of the Arms Trade Treaty, under any provision of the Vienna Convention on the Law of Treaties, to which the United States is not a party;

Whereas an Arms Trade Treaty that has merely been signed by the President but has not received the advice and consent of the Senate may not bind the United States in any respect, as an international agreement other than a treaty, as a sole executive agreement, or in any other way; and

Whereas an Arms Trade Treaty that has been signed by the President and has received the advice and consent of the Senate, is a non-self-executing treaty that has no domestic legal effect within the United States, unless and until it has been adopted by the enactment of implementing legislation by the Congress: Now, therefore, be it

1       *Resolved*, That it is the sense of the House of Rep-  
2       resentatives that—

3               (1) the President should not sign the Arms  
4       Trade Treaty, and that, if he transmits the treaty  
5       with his signature to the Senate, the Senate should  
6       not ratify the Arms Trade Treaty; and

7               (2) until the Arms Trade Treaty has been  
8       signed by the President, received the advice and con-  
9       sent of the Senate, and has been the subject of im-  
10      plementing legislation by the Congress, no Federal  
11      funds should be appropriated or authorized to imple-  
12      ment the Arms Trade Treaty, or any similar agree-

- 1 ment, or to conduct activities relevant to the Arms
- 2 Trade Treaty, or any similar agreement.