

112TH CONGRESS
2D SESSION

H. RES. 814

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

NOVEMBER 16, 2012

Mr. KELLY (for himself, Mr. JONES, Mr. SMITH of Texas, Mr. KISSELL, Mr. CHABOT, Mr. CONAWAY, Mr. GARDNER, Mr. ALTMIRE, Mr. BISHOP of Utah, Mr. HUELSKAMP, Mr. GARRETT, Mr. THOMPSON of Pennsylvania, Mr. DUNCAN of Tennessee, Mr. WESTMORELAND, Mr. SMITH of Nebraska, Mr. OLSON, Mr. BOUSTANY, Mr. GRAVES of Missouri, Ms. BUERKLE, Mr. CANSECO, Mrs. HARTZLER, Mr. NUNNELEE, Mr. BILIRAKIS, Mr. GIBBS, Mr. JOHNSON of Ohio, Mr. UPTON, Mr. SOUTHERLAND, Mr. MARINO, Mr. GUTHRIE, Mr. MULVANEY, Mr. DENHAM, Mr. YOUNG of Alaska, Mr. GRIFFIN of Arkansas, Mr. BARLETTA, Mrs. BLACKBURN, Mr. FORBES, Mr. GOSAR, Mr. RIVERA, Mr. LAMBORN, Mr. HULTGREN, Mr. FLEISCHMANN, Mr. GINGREY of Georgia, Mr. MANZULLO, Mrs. ELLMERS, Mr. BROUN of Georgia, Mr. JORDAN, Mr. MCKINLEY, Mr. MCCAUL, Mr. HARRIS, Mr. REED, Mr. BURTON of Indiana, Mr. GRIFFITH of Virginia, Mr. LANDRY, Mr. POMPEO, Mr. POE of Texas, Mr. ROGERS of Michigan, Mr. MCHENRY, Mr. SESSIONS, Mr. MILLER of Florida, Mr. ROSS of Florida, Mr. OWENS, Mr. SCHWEIKERT, Mrs. BACHMANN, Mr. TIPTON, Mr. DUNCAN of South Carolina, Ms. JENKINS, Mr. BROOKS, Mr. LoBIONDO, Mr. FRANKS of Arizona, Mr. FLORES, Mr. BARTON of Texas, Mr. HUIZENGA of Michigan, Mr. ADERHOLT, Mr. GOHMERT, Mr. MICHAUD, Mr. HURT, Mr. GRAVES of Georgia, Ms. HAYWORTH, and Mr. BURGESS) submitted the following resolution; which was referred to the Committee on Foreign Affairs

RESOLUTION

Expressing the sense of the House of Representatives regard-

ing 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 text of the Arms Trade Treaty;

Whereas in November 2012, the First Committee of the United Nations General Assembly voted to hold a final negotiating conference on the Arms Trade Treaty in March 2013, on the basis of the text of July 2012;

Whereas the Arms Trade Treaty poses significant risks to the national security, foreign policy, and economic interests 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 risks infringing on freedoms protected by the Second Amendment;

Whereas the Arms Trade Treaty places free democracies and totalitarian regimes on a basis of equality, recognizing their equal right to transfer arms, 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;

Whereas the Arms Trade Treaty's model for using these criteria is incompatible with the decisionmaking 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 could 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 secretariat to administer and assist in the implementation of 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 a new international organization that would be susceptible to waste, fraud, and abuse;

Whereas the Arms Trade Treaty risks imposing 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 should 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 should 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 should 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—

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

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

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