A decades-long struggle to forge binding international rules on the trade of nearly all conventional arms transfers reached a milestone this month when the Arms Trade Treaty (ATT) formally entered into force on December 24.

The ATT was opened for signature in June 2013 and since then the treaty has rapidly garnered more than 125 signatures, including all NATO countries (except Canada) and U.S. allies, such as Israel and South Korea. More than 60 states have ratified the treaty as of this month.

The landmark accord, which required 50 ratifications to become international law, establishes criteria for countries to apply in decisions authorizing the cross-border transfers of arms, including risks that weapons would be used to commit acts of terrorism, violations of human rights and international humanitarian law, and other offences. It broadly calls for each country to have national control measures, as well as, steps to limit diversion and share annual records, which are all currently part of U.S. export control law and practice.

As a signatory to the treaty and the world's largest arms supplier, the United States can and should play a leading role in making sure that the treaty lives up to its purpose of reducing human suffering caused by the currently under-regulated, and at times, illicit trade in conventional arms, especially those weapons that are the means of oppression for dictators and terrorists worldwide.

To do so, the Barack Obama administration should be more active in making the case for the treaty domestically, engaging fully in international discussions, and be more transparent about how it reaches difficult decisions regarding arms transfers.

In addition, the United States can and must assist other states to establish the legislative, regulatory, and enforcement frameworks necessary to effectively implement the treaty. As Rachel Stohl of the Stimson Center and a member of the Arms Control Association Board of Directors noted in an interview in Arms Control Today, “Most states won't be ready to implement the ATT when it enters into force, and the ones that are ready can do more.”

Under President Obama, the United States was an active participant in treaty negotiations and one of a dozen countries that pushed the treaty to the finish line in an April 2013 UN General Assembly vote. In signing the treaty on September 25, 2013, Secretary of State John Kerry emphasized the important humanitarian and global security benefits of the ATT, saying "This is about keeping weapons out of the hands of terrorists and rogue actors. This is about reducing the risk of international transfers of conventional arms that will be used to carry out the world’s worst crimes."

In January, Obama issued Presidential Policy Directive 27, updating U.S. conventional arms transfer policy for the first time since 1995. That directive elaborates prohibitions and restraints on weapons transfers that could contribute to human rights abuses and international humanitarian law.
violations--provisions very similar to those of the ATT.

While those actions are positive, the administration has been far too reticent to make the case for the treaty and take on the myths and misconceptions of naysayers in Congress.

Kerry's ATT signing statement included two whole paragraphs reiterating that the treaty does not infringe upon U.S. domestic gun policies and laws—something that all parties to the negotiations were well aware of, but which domestic opponents like the National Rifle Association refuse to acknowledge by raising spurious Second Amendment claims.

More recently, the United States did not attend informal ATT meetings in Berlin, in part due to complaints from treaty naysayers that they had been excluded from it. This has not brought the administration relief from treaty opponents as Congress continues to approve largely symbolic laws that prohibit appropriation of resources to implement the treaty—a misguided response treaty foes who continue to make false and misleading claims about the effect of the ATT.

It's time to change the dynamic. The State Department should lead much more active engagement on the Hill, working much harder to counter critics and undo their intentional distortions. While it may be highly unlikely the Senate will move in the near term on any treaty, especially a controversial one such as the ATT, it is incumbent upon the President to make the best case for it. The administration should transmit its ratification package to the Senate, which could elaborate in detail how the treaty is aligned with current policy and answer any legal questions. An appropriations ban for practices that are already consistent with U.S. law—as administration officials claim the ATT is—simply creates bad and meaningless policy. The administration and responsible legislators should be fighting to see it dropped.

Similarly, as a matter of course and good diplomacy, U.S. officials should attend ATT meetings just as they do for an array of accords the United States has yet to sign and/or ratify (such as the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA) and the Mine Ban Treaty). Standing outside in isolation is very rarely an effective approach for change—as the President recently concluded about decades-old Cuba policy.

Even within potential Congressionally-imposed implementation restraints, the United States can promote arms trade transparency by submitting its overdue UN Register on Conventional Arms report, and include within it data on small arms and light weapons. The categories of this annual, voluntary international report form the basis of the ATT and the United States has a generally good record of transparency through the Register (except on small arms and light weapons) and other reports. Even better would be for the United States to voluntarily submit the reports that will eventually be part of the ATT.

Of course, for the treaty to ultimately improve global arms trade practices, countries will need to apply it in their arms trade decisions, especially the tough cases. The horrific abuses being committed by the Islamic State, compounding the already atrocious activities undertaken by the Assad regime in Syria, has led to the United States arming of opposition groups and plans to train and equip "vetted" fighters. How this can be done while maintaining the core provisions of Obama's presidential directive, as well as Articles 6 and 7 of the ATT, is difficult to understand and requires clear explanation of how the United States is making these decisions.

Amnesty International has already flagged concerns about the recently passed National Defense Authorization Act allowing President Obama to waive existing laws, including the Leahy Law, and open the "floodgates" for weapons into Iraq and Syria. Unfortunately, we've learned and forgotten too many times the lessons of unintended ghastly consequences from providing arms to those who we may not be able to trust to use them appropriately in the short- and long-term. For the ATT to meet its promise, those reminders must become rarer and rarer.

The views expressed in this blog post are those of the author. They are not necessarily those of the Arms Control Association, its staff, or members of its Board of Directors. Jeff Abramson, an independent arms trade analyst, is former director of the secretariat at Control Arms, an
international coalition that pressed for a strong and comprehensive arms trade treaty during the negotiations. From 2009 to 2011, he was deputy director of the Arms Control Association.

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