Congress of the United States
Washington, DC 20515

March 31, 2014

The Honorable Frank Wolf
Chairman
Committee on Appropriations,
Subcommittee on Commerce, Justice,
Science, and Related Programs
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Chaka Fattah
Ranking Member
Committee on Appropriations,
Subcommittee on Commerce, Justice,
Science, and Related Programs
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Wolf and Ranking Member Fattah:

As you prepare the Fiscal Year 2015 Fiscal Year 2015 Commerce, Justice, Science, and Related Agencies Appropriations bill, we respectfully request that you include language prohibiting funding for the ATT that updates and strengthens the language of H.R. 2855, the Fiscal Year 2014 State, Foreign Operations, and Related Programs Appropriations Act as well as H.R. 3547, the Fiscal Year 2014 Consolidated Appropriations Act (enacted as Public Law No. 113-76); and H.R. 3304, the Fiscal Year 2014 National Defense Authorization Act (enacted as Public Law No. 113-66), including specific language to ensure that agencies with jurisdiction over domestic law enforcement may not use funds appropriated by this bill to engage in domestic prosecutions of persons in the United States on the basis of the ATT.

Time is of the essence. The ATT will enter into force for state parties if and when fifty nation-states have ratified the treaty, and proponents of the ATT are well along their way of reaching this threshold. At this time, eleven nation-states have ratified the ATT, but since the European Union Council recently authorized EU member states to ratify the treaty (all of which voted in the UN General Assembly to adopt the ATT and have also signed the ATT), the twenty-eight members of the EU may soon ratify the ATT, bringing the total number of ATT state parties to thirty-nine out of the required fifty states.

Further, we are concerned with President Obama's apparent efforts to engage in unilateral implementation of the ATT via executive action, without the advice and consent of the Senate and the passage of implementing legislation, as required, by the Congress. You may recall that Thomas Countryman, Assistant Secretary for International Security and Nonproliferation at the Department of State and the head of the U.S. delegation to the U.N. conferences that negotiated the ATT, provided assurances last November that "becoming a party to the treaty would not require any additional export or import controls for the United States, full stop." However, on January 14, President Obama expressed his willing to "use [his] pen to sign executive orders and take executive actions and administrative actions" without Congress. The very next day the Obama administration announced the issuance of the new U.S. Conventional Arms Transfer Policy (Presidential Policy Directive/PPD-27), which incorporates the standards and requirements of the ATT.

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Moreover, we have a number of long-standing concerns with the ATT that have never been satisfactorily answered by the Obama administration. On October 15, 2013, shortly after Secretary of State John Kerry signed the ATT, Representatives Mike Kelly and Collin Peterson sent a bipartisan letter to President Obama in opposition to the ATT signed by 181 members of the House. Senators Jerry Moran and Joe Manchin sent a parallel letter on behalf of fifty senators. However, the administration has not responded to either letter.

We are concerned by the ATT's failure to expressly recognize in the body of the treaty text 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 are thus concerned that the treaty risks infringing on freedoms protected by the Second Amendment. Moreover, we are concerned by the ATT's call for all nations to keep records of arms transfers, and its suggestion that these records include information on "end users," e.g. private firearms owners, which are to be reported to a newly-created "international secretariat."

Furthermore, we are concerned that the ATT could hinder the United States from fulfilling its strategic, legal, and moral commitments to provide arms to key allies such as the Republic of China (Taiwan) and the State of Israel, noting that the ATT's criteria for assessing the potential consequences of arms transfers are vague and easily politicized, and that the ATT's model for using these criteria is incompatible with the decision-making model employed by the United States.

Moreover, we are concerned that 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.

Finally, we are concerned that 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.

In addition to the substantive concerns raised above, we also have serious process-based concerns with the adoption of the ATT. By voting in support of adopting the ATT through the General Assembly by a majority vote rather than by consensus-based agreement, the State Department abandoned its stated "key U.S. redline," that the "ATT negotiations must have consensus decision making to allow us to protect U.S. equities" and to "ensure that all countries can be held to standards that will actually improve the global situation." We are concerned that this departure from consensus undermines our efforts to protect U.S. interests in future treaty negotiations, particularly when the U.S. is in the minority or when it stands alone.

Lastly, we are highly concerned that the ATT is not merely a treaty but an ongoing process of expansion and reinterpretation that will create further problems for the U.S. As Ambassador Peter Woolcott of Australia, the president of the March 2013 ATT conference stated, the ATT "is a very good framework to build on … but it is only a framework." Moreover, supporters of

the ATT have already begun to argue that the treaty ought to constrain the U.S. even if the U.S. does not ratify the treaty by declaring the ATT a binding international norm.

For the above reasons, we respectfully request that you include the following language in opposition to funding in the Fiscal Year 2015 Commerce, Justice, Science, and Related Agencies Appropriations bill:

> *Sec. __ (a) None of the funds appropriated by this Act may be obligated or expended to implement the Arms Trade Treaty, to provide funds to the Arms Trade Treaty secretariat, or to make any change to existing programs, projects, or activities as approved by Congress in furtherance of, pursuant to, or otherwise to implement the Arms Trade Treaty, unless the Arms Trade Treaty has received the advice and consent of the Senate and has been the subject of implementing legislation, as required, by the Congress.*
>
> *(b) None of the funds appropriated by this Act may be obligated or expended to bring a criminal prosecution, civil action, or administrative proceeding against a person in the United States on the basis of the Arms Trade Treaty, unless the Arms Trade Treaty has received the advice and consent of the Senate and has been the subject of implementing legislation, as required, by the Congress, and unless such implementing legislation specifically provides for such criminal prosecution, civil action, or administrative proceeding.*

Thank you for your consideration of this request.

Sincerely,

Members of Congress

Mike Kelly

Pete Sessi

Michael McCaul

Lamar Smith

Jeb Hensarling

Dan Hunter

Mark V. Amodei

Steve Scalise

Diana Ros-Lehtinen

Frank Franks

Diane Black

Ralph M. Hall

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Jim Bridenstine

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Rodney Davis

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Randy Neugebauer

Andy Byrne

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