

Policymaking through Advice and Consent: Treaty Consideration by the United States Senate

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Conventional wisdom holds that the President of the United States has a high degree of autonomy over U.S. foreign policy. Such autonomy is said to stem in part from his ability to confront the Senate with the either-or choice of accepting or rejecting treaties. In this article, we take issue with this characterization and explore how the Senate uses treaty “reservations” to alter ratification documents and advance Senate policy views. We find conservative Senates and pivotal senators systematically exploit the right to add reservations, and thus limit the President’s autonomy in his conduct of foreign affairs.

Conventional wisdom holds that the president of the United States has a high degree of autonomy over U.S. foreign policy. This autonomy reflects a combination of congressional deference (or indifference) to the president on foreign policy issues and Constitutional provisions that afford the president substantial independence to make foreign policy decisions (Frye 1994; Lindsay 1994). For example, students of the American political system frequently argue that the President’s predominance in the foreign policy arena stems in part from the constitutional strictures that preclude congressional involvement in treaty negotiations (Frye 1994, 189). The Senate advice and consent process is usually seen as an either-or result, whereby the president can secure his policy preferences so long as two-thirds of the Senate prefers the treaty to the status quo alternative.¹ In this article, we take issue with this characterization, exploring the consequences of the Senate’s involvement in ratifying treaties.

Overlooked in most considerations of congressional power to establish U.S. foreign policy is the fact that the Senate advice and consent process is not necessarily an either-or choice. Instead of simply accepting or rejecting a treaty, the Senate can use the treaty advice and consent process to alter U.S. foreign policy

¹The fact that the Senate has defeated only 21 treaties in its history is sometimes cited in support of this argument. See *Congressional Quarterly* 2000, 203.

in fundamental ways. The Senate does so by attaching policy initiatives via reservations to treaty ratification documents. According to the Supreme Court in *U.S. v. Stuart* [109 S.Ct. 1183(1983)], these conditions have the force of law, making them resistant to short-term changes in executive or congressional preferences. In short, policymaking via advice and consent allows the Senate to bypass many of the compromises inherent in the normal policymaking process while at the same time insulating preferred policies from future uncertainty (Auerswald 2002).

Senate reservations to treaties have significantly altered presidential behavior. For example, when the Senate provided its advice and consent for the 1997 Flank Document to the Conventional Forces in Europe (CFE) Treaty, it included a reservation that undermined the Clinton administration's arms control efforts.² In mid-1996, the Clinton administration had drafted two protocols to the Anti-Ballistic Missile (ABM) Treaty, known as the Demarcation Agreement and the Memorandum of Understanding on State Succession, and wanted to implement them as executive agreements. The Senate's CFE reservation prohibited implementation of the ABM protocols absent Senate advice and consent, something that was unlikely under a republican-controlled Senate. With the Russian Duma conditioning their ratification of the START II treaty, and negotiation of a START III treaty, on U.S. ratification of the ABM protocols, the CFE reservation prevented both nations from dismantling surplus nuclear warheads.³

In this article, we explore the conditions under which the Senate attaches reservations to treaty ratification documents. We find that the Senate's tendency to alter independently U.S. foreign policy via treaty reservations reflects more than just the issues involved or the distribution of Senate preferences. Instead, the constitutional provision requiring that two-thirds of the Senate support ratification empowers institutionally privileged senators. Those senators can severely hinder the president's treaty-making capacity.

Senate Consideration of Treaties

The advice and consent process is one of the central processes enumerated in the Constitution by which Congress can influence U.S. foreign policy. As such, we would expect that Senate behavior when considering treaties would be of interest to students of U.S. foreign policy. Instead, such Senate behavior has been left almost completely unexplored. A few exceptions focus on Senate conduct during particular treaty debates (Evans and Oleszek, 2002; Isaacs, 1999; Pitsvada 1991) or the constitutional implications of treaty ratification (Baylis 1999; Glennon 1991; Henkin 1995; Koh 1990; Koplow 1992; Sklamberg 1997; Spiro 2001;

² *Congressional Record*, 105th Congress, 1st Session, May 14, 1997, S4477.

³ The Bush administration recently reached agreement with Russia on the reciprocal removal and storage of intact warheads. That said, intact Russian warheads raise long-term security and proliferation problems.

Trimble and Koff 1998; Trimble and Weiss 1991; Yoo 1999). In short, while we know *how* the ratification process works, to our knowledge no one has examined Senate treaty behavior in a comprehensive manner.

The process of treaty ratification formally begins when the president submits a treaty to the Senate for advice and consent.⁴ Once submitted, treaties are automatically referred to the Senate Foreign Relations Committee (SFRC). If a majority of the committee approves of the treaty, they draft a treaty ratification document pursuant to that treaty. Ratification documents take two general forms. All ratification documents contain a general statement of acceptance, similar to the following: “Resolved, two-thirds of the Senators present concurring therein, that the Senate advise and consent to the ratification of [Treaty X], signed on [Date Y] at [Location Z] on behalf of the United States and [the other parties to the treaty].” Some ratification documents, however, contain additional provisions following this general statement. These reservations can spell out amendments to the treaty itself, limitations on the treaty’s scope or duration, executive branch reporting requirements when implementing the treaty, or anything else that the Senate wants to include.⁵

If approved by the SFRC, the ratification document moves to the Senate floor for debate, possible amendment (and/or additional reservations), and perhaps a final vote. The Senate signifies its acceptance of a treaty by passing the ratification document by a two-thirds majority of those senators present and voting. Alternatively, the Senate can vote to withdraw the treaty from consideration and send it back to the president. Absent either action, all treaties are automatically rereferred to the SFRC at the beginning of each new Congress. Any “defeated” treaty, and *all other treaties awaiting action*, remain on the Senate calendar until the Senate actively votes to withdraw the treaty from Senate consideration. As a result, some treaties, such as the Genocide Convention, have remained on the Senate calendar for decades.

Senate acceptance does not mean that the United States is committed to the terms of the treaty. Instead, the Senate transmits the relevant ratification document to the president notifying him that the Senate has provided its advice and consent to the ratification of the treaty. The president then must decide whether to deposit that instrument of ratification with the appropriate international body before the treaty can take effect. Although the opportunity to not deposit an instrument of ratification provides the President with a veto over the reservations attached by the Senate, such a veto involves reputational costs that make presidents reluctant to withhold instruments of ratification (Martin 2000, 53–80).

⁴ Anecdotal evidence suggests that on occasion individual senators have influenced the U.S. negotiating position prior to ratification. They have done this by formally participating in U.S. delegations (e.g., to the conference establishing the United Nations); by consulting with the White House during the negotiation stage (e.g., the original NATO treaty and NATO’s 1998 enlargement), and by publicly threatening to block treaty ratification if the treaty is not crafted to their satisfaction (e.g., Senator Jesse Helms’ demands associated with the Chemical Weapons Convention).

⁵ On the lack of a germaneness requirement in ratification documents, see Henkin 1972, 136.

What Leads the Senate to Impose Reservations?

The Senate frequently, but not consistently, attaches reservations to treaty ratification documents. By understanding the conditions that lead the Senate to assume a more aggressive posture, we can better understand the nature of the constraints that restrict the President's treaty-making capabilities. We hypothesize that the Senate's interest in attaching a reservation to a ratification document depends upon the characteristics of the treaty, Senate preferences, and institutional provisions that empower members who are unlikely to be located in the middle of the ideological spectrum.

Treaty Characteristics

First, Senate behavior may depend on the characteristics of the treaty. One important characteristic may involve the number of parties to the treaty. Reservations to treaties frequently affect the understanding of a treaty's scope and the method and timing of its implementation. Reservations also frequently require the U.S. to convince treaty partners to accept (formally or informally) Senate reservations. Thus, reservations could potentially kill a treaty if the other parties to the treaty object to the way the Senate interpreted (or even altered) the treaty. All else being equal then, the likelihood of a reservation killing a treaty should depend upon the number of parties to the treaty. If there are numerous parties, reservations are more likely to be objected to than if a treaty is bilateral in nature. As a result, we expect the Senate to insert reservations to bilateral treaties more often than to multilateral treaties, as the risk of killing the treaty is lower for the former than the latter.

The subject matter of a treaty also may influence Senate behavior. Realist international relations scholars place far more importance on high politics (security and sovereignty issues that focus on national survival) than low politics (everything else) (Kissinger 1964; Mearsheimer 1990; Morgenthau 1978; Waltz 1979). If these beliefs hold true among senators, we would expect to see senators paying more attention to treaties dealing with matters of high politics than to treaties dealing with low politics. With greater scrutiny may come a corresponding desire to perfect the treaty language or clarify U.S. treaty obligations. The result should be that Senate behavior (i.e., reservations to ratification documents) should vary in predictable ways depending on the issues addressed by the treaty.

Among treaties that fall outside of the "high politics" classification are treaties that address economic issues such as trade coordination and international labor standards; treaties that establish norms of behavior such as international human rights or environmental standards; and treaties that enhance international legal processes such as requiring the mutual extradition of suspected criminals or mutual tax-reporting requirements. Among the "low politics" treaties, it is reasonable to suspect that those treaties addressing economic issues and that estab-

lish norms of behavior will receive more attention (and thus be more likely to result in Senate reservations) than technical legal agreements.

Policy Preferences

Second, the policy preferences of Congress may also influence the Senate's interest in attaching reservations via its advice and consent role. Because conservatives have traditionally had a greater distrust for international agreements than their more liberal colleagues, we expect ratification reservations will be more likely when the Senate is tilted toward the conservative side of the ideological spectrum.⁶ In particular, we expect conservatives will try to ensure that the United States has greater freedom of action in the international arena by limiting the scope or duration of a treaty itself; putting conditions or limitations on U.S. compliance with the terms of that treaty; and by requiring information from the executive that enables the Senate to monitor the effect of the treaty on U.S. national interests.

In addition to varying along with the Senate's ideological makeup, Senate preferences may change along with the breakdown of the Cold War consensus. The conventional wisdom is that Congress deferred to the president on foreign policy during the Cold War (Jentleson, 2000, 119–20, 142–47; Mann 1990, 10). With the end of the Cold War, public and elected officials were less hesitant in questioning or challenging presidential foreign policy priorities (Ruggie, 1997; Smith 1994). Thus, we should expect Congress would be more likely to attach reservations to treaties in the post-Cold War period.⁷

Political Institutions

Finally, we expect institutional provisions that structure Senate ratification deliberations to affect the likelihood of adding reservations. One factor is the constitutional provision that two-thirds of senators present and voting must agree to the text of a ratification document. The requirements for passage suggest that the most reluctant senator of those two-thirds voting has significant bargaining power over the terms of the final ratification document. In other words, this senator serves in a pivotal position (Brady and Volden 1997; Krehbiel 1998). When the President's preferences differ from the pivotal senator's, we expect the senator to be more likely to demand concessions, amendments, or constraints in a ratification document.

⁶ See Fensterwald (1958, 134); also RFD (1969) and Deibel (2000). For current debates, compare Rice (2000) and Zoelleck (2000) to Cutter, Spero, and Tyson (2000).

⁷ Jentleson (2000, 119–20, 142–47), Mann (1990, 1), Holsti and Rosenau (1979), and Mueller (1985, 7–18), argue that the Cold War consensus began eroding during the Vietnam War. Melanson (2000, 3–31) and Lindsay (1994, 32) agree, but note that this trend culminated with the end of the Cold War. See also Wittkopf and McCormick, 1998. Hinkley (1994) argues that congressional assertiveness was not in evidence in the post-Vietnam, Cold War era.

Another important provision may be the presence of divided government (Bond and Fleisher 1990; Edwards 1989; Peterson 1990; Sullivan 1984). Although members of the president's party may find it in their interest to support the president and thus protect their party's reputation (Cox and McCubbins, 1993), the opposition party does not have such an incentive. Because Senate rules afford the majority leader unique power over the scheduling process, a majority party that opposes the president may be more likely to demand changes to the underlying treaty via conditions contained in the ratification document.⁸

Finally, Senate rules mandate consideration of all treaties by the Senate Foreign Relations Committee prior to floor consideration. Senate rules also empower committee chairs both to establish their own committee agendas and to draft the ratification documents that are considered by the Senate. Thus, the Chair of the Senate Foreign Relations Committee is in a unique institutional position to determine whether and in what form a treaty will achieve Senate advice and consent. Therefore, we expect that when the chair of the Senate foreign relations panel disagrees with the president, treaties that make it through the Senate will be more likely to have reservations attached.

Data

To test our conjectures, we model whether the Senate included additional provisions in ratification documents or whether senators provided advice and consent without restrictions. The dependent variable is coded one for treaty ratification documents containing additional provisions and zero for treaties with standard ratification documents. We coded the dependent variable using information from the *Legislative Activities Report* and the *Legislative Calendar* of the Senate Foreign Relations Committee for each Congress, as well as the texts of the actual ratification documents as printed in the *Congressional Record*.

We measure the dependent variable for every treaty to which the Senate provided its advice and consent between 1947 and 2000. There are 796 such treaties in the data set.⁹ Of these 796 treaties, 162 (20.35%) had reservations that were put into affect via the ratification process.¹⁰

⁸ For similar arguments, see Epstein and O'Halloran (1996), Lohmann and O'Halloran (1994), and Milner (1997) who argue that divided government slows the president's ability to liberalize trade.

⁹ The data do not include treaties that are still pending in the Senate or were withdrawn from the Senate calendar. The data also do not include any of the many trade and tariff agreements negotiated during the 1947–2000 period. Since passage of the 1934 Reciprocal Tariff Agreements Act, all agreements related to tariff levels or nontariff barriers have been considered as executive agreements requiring a Joint Resolution for their implementation.

¹⁰ To establish the reliability of our data, we had one of the authors and a graduate student research assistant independently code each of the treaties. Their level of interagreement was 99.38%. To assess this rate of interagreement, we used STATA to calculate a kappa statistic. Because our kappa (.96) was above zero, we reject the null hypothesis that the observed level of agreement could have occurred by chance (Landis and Koch 1977). On the few treaties where only one coder identified a reservation, the second author served as an independent third coder.

Independent Variables

SUBJECT CATEGORIES. We coded every treaty as involving one of five treaty subject-categories. The first two fall into the definition of high politics. Pure *security* treaties involve alliances, peace agreements, arms control, and nonproliferation agreements, and agreements dealing with security assistance. This is high politics in its most pure form. *Sovereignty* is a second high-politics category of treaties that establish borders, diplomatic recognition, or friendly relations between states. Three subject-matter categories fit the traditional definition of low politics. *Economic* treaties address issues of trade coordination (but not tariff levels—see above), avoiding double taxation, and international labor standards. *Legal* treaties involve issues of extradition and other legal standards of behavior. Finally, some treaties help establish *norms* of behavior on such issues as international human rights or environmental standards. We create four dummy variables tapping the different subject categories, treating the legal category as a baseline.

MULTILATERAL. For each treaty, we determined whether there were two or more signatories. If more than one country besides the United States was a party, we coded the treaty one, zero otherwise.

SENATE PREFERENCES. To test the proposition that a conservative Senate is more likely to restrain the president's capacity to make international commitments, we identified where the median member of the Senate fell on a left-right dimension during the year in which each treaty was considered. We relied upon Poole and Rosenthal's (1997) NOMINATE rating system as our measure of ideology.¹¹

COLD WAR. To test the hypothesis that the Senate is more likely to attach reservations in the post-Cold War period, we created a dummy variable to demark every treaty that was considered by the Senate after the December 1989 collapse of the Berlin Wall.

TREATY PIVOT. To determine whether the inclusion of reservations is accounted for by the constitutional requirement that two-thirds of the Senate advise and consent to a treaty, we used NOMINATE to calculate the ideological distance between the president and the pivotal Senator furthest from the president. For each treaty, we did this by comparing the distance between the pivot and president during the year in which the treaty was considered. In other words, if the president was a liberal, we calculated the distance between the president and the

¹¹ The NOMINATE scores rank every member of the Senate on a liberal-conservative scale. There are several different forms of NOMINATE ratings. We utilized first dimension, common space NOMINATE because these are the scores most appropriate for making over-time comparisons and for determining the relative position of the President and the Senate.

senator who was two-thirds of the way towards the conservative side of the political spectrum.

DIVIDED GOVERNMENT. To determine whether divided government leads the Senate to attach reservations to ratification documents, we created a dummy variable to denote the presence of split party control of the presidency and the Senate (1 if divided; 0 otherwise).

SFRC CHAIR. To test the hypothesis that reservations stem from disagreements between the President and the chair of the Senate Foreign Relations Committee (SFRC), we used *NOMINATE* scores to determine the absolute ideological distance between the president and the SFRC chair during the year of Senate consideration.

Findings

Because our dependent variable is dichotomous, ordinary least-squares regression is inappropriate (Aldrich and Nelson 1994). Thus, we estimate the likelihood of the Senate including a reservation using a logit model.¹² The results for our model appear in Table 1. Overall, the model correctly classifies 84.3% of the cases and reduces error by 23%. To interpret the model's coefficients, we assess the impact of each independent variable from its minimum to maximum value, holding each of the other variables constant at their mean.

The results make clear that the characteristics of the treaty play an important role in determining the likelihood that the Senate will attach a reservation to a ratification document. As expected, treaties pertaining to high politics issues are the most likely to contain a reservation. Indeed, those treaties that involve security and sovereignty are 53% and 25% more likely to attract a reservation. Although not as dramatic, even treaties that address issues of international norms or economic issues are more likely to have reservations attached to them than the baseline category of legal treaties that are primarily composed of extradition agreements. However, the distinct method in which the Senate treats "high politics" treaties is hard to miss. Treaties establishing international norms and economic issues are only 19% and 8% more likely to have reservations attached than the baseline category. Likewise, we find that bilateral treaties are more likely than multilateral treaties to have reservations. This reflects the fact that the imposition of a reservation is a high-risk strategy when there are many other treaty signatories.

The preferences of the Senate also affect the likelihood of reservations. After the breakdown of the Cold War consensus, treaty reservations became more

¹² Because 20% of our observations have reservations, we utilize a logit model that does not treat our dependent variable as a rare event. Nevertheless, we have run our analysis utilizing King and Zeng's (2001) rare events logit model. The results are identical.

TABLE 1
Inclusion of Ratification Reservation, 1947–2000
(maximum likelihood logit model)

Variable	Coefficient	Change in X (min → max)	Impact (%)
Treaty Characteristics			
Multilateral	-.391* (.254)	(0,1)	-4
Subject—Security	2.763**** (.441)	(0,1)	53
Subject—Sovereignty	1.565**** (.503)	(0,1)	25
Subject—Economic	.831*** (.278)	(0,1)	8
Subject—Norms	1.304**** (.426)	(0,1)	18
Policy Preferences			
Senate Preferences	11.126**** (1.756)	(-.19, .135)	86
Cold War	-1.33508**** (.312)	(0,1)	-16
Political Institutions			
Treaty Pivot	5.410**** (1.946)	(.347, .824)	23
Divided Government	-.837 (.426)	—	—
SFRC Chair	.071 (.859)	—	—
Constant			
	-4.523**** (1.153)		
-2 Log Likelihood	234.90		
Pseudo R ²	.2920		
Correctly predicted %	84.3		
Reduction in error %	23		
Number of Observations	796		

Note: Entries are unstandardized coefficients (standard errors in parentheses).

* $p < .06$; ** $p < .05$; *** $p < .01$; **** $p < .001$ (one-tailed).

common. During the Cold War, the likelihood of a reservation being included in a ratification document was 16% less likely than after the Cold War ended. In addition, the Senate preference variable clearly demonstrates that when the Senate median moves to the right, the Senate is more likely to restrict the executive branch's independent treaty making authority.

Only one of our three institutional variables was statistically significant. As we hypothesized, the likelihood of the Senate imposing a reservation increases as the preferences between the president and the treaty pivot diverge. Similarly, the presence of divided government increases the likelihood of a reservation being

attached, though not at a statistically significant level.¹³ This finding is consistent with Brady and Volden's (1997), Krehbiel's (1988), and Mayhew's (1991) claim regarding the insignificance of divided government (but see Binder 1999; Bond and Fleisher 2000; Edwards, Barrett, and Peake 1997). Contrary to our expectations, the distance between the president and the chair of the Senate Foreign Relations Committee chair has no discernible impact on the likelihood of a reservation being attached.¹⁴

Conclusion

Ratification reservations can dictate how the United States will interpret and implement a treaty, how the United States will behave on unrelated foreign policy issues, and in some instances can even change the actual text of a treaty. By attaching reservations to ratification documents, the Senate can avoid the either-or choice that is implicit in the Constitution. The inclusion of reservations provides the Senate the capacity to simultaneously avoid accepting the treaty terms negotiated by the executive branch or settling for the status quo that would result from rejecting a treaty. Our analysis suggests that the Senate is particularly likely to employ reservations when a treaty involves issues associated with national security, when Senate preferences are most likely to generate hostility to international agreements, and when the pivotal Senator is most likely to oppose the president.

Our findings demonstrate that the Senate uses the advice and consent process to alter policy more often than previously recognized and seems to do so in a systematic and predictable fashion. Nevertheless, it is important to note two limitations to our analysis. First, we treat all reservations as comparable. Of course, some reservations are likely to be more objectionable to the executive than others. Indeed, on occasion, we suspect that the reservations attached to a treaty are quietly endorsed by an administration that had to make concessions at the bargaining table.¹⁵ Second, we fail to take into account the fact that an administra-

¹³ Indeed, if one was conducting a two-tailed test, it appears that during periods of unified government, the Senate is even more likely to attach a reservation. Since we predicted that divided government leads to more reservations, we employed a one-tailed test and treated this variable as insignificant.

¹⁴ Because ratification documents are traditionally drafted by the committee chair, we compare the preferences of the chair to those of the President. Alternatively, one could utilize the ideological distance between the President and the Senate Foreign Relation Committee (SFRC) median. To ascertain whether the SFRC median had influence that the chair did not, we calculated the absolute difference between the President and the committee median utilizing NOMINATE's first dimension (Deering 2001). With one minor exception, there is no meaningful difference between the models utilizing the President-SFRC median difference and the President-SFRC Chair difference. The one exception is that Treaty Pivot variable is statistically significant at the $<.08$, rather than the $<.001$ level. These results are available from the authors.

¹⁵ Likewise, our analysis does not explore the length or complexity of Senate reservations. A preliminary review of the data suggests that for treaties with reservations, recent Senates have inserted

tion occasionally preempts a reservation by demanding that a provision sought by key members of the Senate be included in the treaty that is submitted for consideration.

These shortcomings notwithstanding, our analysis reinforces the argument made by students of the foreign-policy-making process that a country's foreign policy reflects both geopolitical interests and the domestic political circumstances that decision makers confront. In particular, scholars have argued that the requirements for domestic approval can influence international negotiations (Mayer, 1992; Putnam, 1988; Trumbore, 1998). The lack of a domestic foreign policy consensus, the ability and willingness of pivot senators to confront the president, and the continued importance of high politics all point to a future with continued constraints on a president's ability to make international commitments independent of the Congress. For these reasons, we would not be surprised if Presidents were to continue negotiating executive agreements in lieu of treaties as a vehicle for precluding congressional involvement in foreign policy (Frye 1994, 189; Lindsay 1994, 30; Margolis 1986; McCormick 1998). Aggressive use of reservations in the complex, post-Cold War period by ideological foes of the president clearly challenges the president's autonomy over the conduct of foreign affairs.

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References

- Aldrich, John H., and Forrest D. Nelson. 1994. *Linear Probability, Logit and Probit Models*. Beverly Hills, CA: Sage.
- Auerswald, David. 2002. "Advice and Consent: The Forgotten Power." In *Congress and the Politics of Foreign Policy*, eds. Colton C. Campbell, Nicol C. Rae, and John F. Stack, Jr. Upper Saddle River, NJ: Prentice Hall, pp. 44–69.
- Baylis, Elena. 1999. "Confronting the Problem of Reservations to Human Rights Treaties." *Berkeley Journal of International Law* 17(2): 277–329.

reservations in greater numbers and of more complexity than did Senates during the mid-twentieth century. That said, systematically assessing the number, complexity, subject matter, and ultimate impact of all treaty reservations requires further investigation. Our analysis is the first step on that path.

- Binder, Sarah A. 1999. "Dynamics of Legislative Gridlock, 1947–1996." *American Political Science Review* 93(3): 519–34.
- Bond, Jon R., and Richard Fleisher. 1990. *The President in the Legislative Arena*. Chicago: University of Chicago Press.
- Bond, Jon R., and Richard Fleisher. 2000. *Polarized Politics: Congress and the President in a Partisan Era*. Washington: CQ Press.
- Brady, David W., and Craig Volden. 1997. *Revolving Gridlock: Politics and Policy from Carter to Clinton*. Boulder, CO: Westview Press.
- Congressional Quarterly. 2000. *Guide to Congress*. 5th ed. Washington: CQ Press.
- Cox, Gary, and Matthew McCubbins. 1993. *Legislative Leviathan*. Berkeley: University of California Press.
- Cutter, W., Joan Spero, and Laura Tyson. 2000. "New World, New Deal." *Foreign Affairs* 79(2): 80–98.
- Deering, Christopher J. 2001. "Principle or Party? Foreign and National Security Policymaking in the Senate." In *The Contentious Senate*, eds. Colton C. Campbell and Nicol C. Rae. Lanham, MD: Rowman and Littlefield, pp. 43–61.
- Deibel, Terry. 2000. *Clinton and Congress: The Politics of Foreign Policy*. Headline Series of the Foreign Policy Association 321 (Fall).
- Edwards, George C. III. 1989. *At the Margins: Presidential Leadership of Congress*. New Haven: Yale University Press.
- Edwards, George, Andrew Barrett, and Jeffrey Peake. 1997. "The Legislative Impact of Divided Government." *American Journal of Political Science* 41(2): 545–63.
- Epstein, David, and Sharyn O'Halloran. 1996. "Divided Government and the Design of Administrative Procedures." *Journal of Politics* 58(2): 373–98.
- Evans, Lawrence, and Walter Oleszek. 2002. "A Tale of Two Treaties: The Practical Politics of Treaty Ratification in the U.S. Senate." In *Congress and the Politics of Foreign Policy*, eds. Colton C. Campbell, Nicol C. Rae, and John F. Stack, Jr. Upper Saddle River, NJ: Prentice Hall, pp. 70–89.
- Fensterwald, Bernard. 1958. "The Anatomy of American Isolationism and Expansionism." *The Journal of Conflict Resolution* 2(2): 111–39.
- Frye, Alton. 1994. "Searching for Arms Control." In *The President, The Congress, and the Making of Foreign Policy*, ed. Paul E. Peterson. Norman: University of Oklahoma Press, pp. 179–203.
- Glennon, Michael. 1991. "The Constitutional Power of the United States Senate to Condition its Consent to Treaties." *Chicago-Kent Law Review* 67: 533–70.
- Henkin, Louis. 1972. *Foreign Affairs and the Constitution*. New York: Foundation Press, Inc.
- Henkin, Louis. 1995. "U.S. Ratification of Human Rights Conventions: The Ghost of Senator Bricker." *The American Journal of International Law* 89(2): 341.
- Hinkley, Barbara. 1994. *Less than Meets the Eye*. Chicago: Twentieth Century Fund.
- Holsti, Ole, and James Rosenau. 1979. "Vietnam, Consensus, and the Belief Systems of American Leaders." *World Politics* 32(1): 1–56.
- Isaacs, John. 1999. "Test Ban Fizzles." *Bulletin of the Atomic Scientists* 55(6): 21–22.
- Jentleson, Bruce. 2000. *American Foreign Policy*. New York: W.W. Norton.
- King, Gary, and Langche Zeng. 2001. "Logistic Regression in Rare Events Data." *Political Analysis* 9(2): 137–63.
- Kissinger, Henry. 1964. *A World Restored*. Boston: Houghton Mifflin.
- Koh, Harold. 1990. "The President versus the Senate in Treaty Interpretation." *Yale Journal of International Law* 15 (Summer): 331–44.
- Koplow, David. 1992. "When Is an Amendment Not an Amendment? Modification of Arms Control Agreements with the Senate." *University of Chicago Law Review* 59(3): 981–1073.
- Krehbiel, Keith. 1998. *Pivotal Politics*. Chicago: University of Chicago Press.
- Landis, J. Richard, and Gary G. Koch. 1977. "The Measurement of Observer Agreement for Categorical Data." *Biometrics* 33(1): 159–74.

- Lindsay, James. 1994. *Congress and the Politics of Foreign Policy*. Baltimore: Johns Hopkins University Press.
- Lohmann, Susanne, and Sharyn O'Halloran. 1994. "Divided Government and U.S. Trade Policy." *International Organization* 48(4): 595–632.
- Mann, Thomas. 1990. "Making Foreign Policy: The President and Congress." In *A Question of Balance: the President, the Congress, and Foreign Policy*, ed. T. Mann. Washington: The Brookings Institution, pp. 1–34.
- Margolis, L. 1986. *Executive Agreements and Presidential Power in Foreign Policy*. New York: Praeger.
- Martin, Lisa. 2000. *Democratic Commitments: Legislatures and International Cooperation*. Princeton: Princeton University Press.
- Mayer, Frederick. 1992. "Managing Domestic Differences in International Negotiations." *International Organization* 46(4): 793–818.
- Mayhew, David R. 1991. *Divided We Govern: Party Control, Lawmaking, and Investigations, 1946–1990*. New Haven: Yale University Press.
- McCormick, James. 1998. *American Foreign Policy and Process*. 3rd ed. Itasca, IL: Peacock Publishers.
- Mearsheimer, John. 1990. "Back to the Future." *International Security* 15(1): 5–56.
- Melanson, Richard. 2000. *American Foreign Policy Since the Vietnam War*. 3rd ed. New York: M.E. Sharpe.
- Milner, Helen. 1997. *Interests, Institutions, and Information: Domestic Politics and International Relations*. Princeton: Princeton University Press.
- Morgenthau, Hans. 1978. *Politics Among Nations*. 5th ed. New York: Alfred Knopf, Inc.
- Mueller, John. 1985. "The Cold War Consensus: From Fearful Hostility to Wary Contempt." In *Foreign Policy and Domestic Consensus*, eds. Richard Melanson and Kenneth Thompson. New York: University Press of America, pp. 7–18.
- Peterson, Mark A. 1990. *Legislating Together: The White House and Capitol Hill from Eisenhower to Reagan*. Cambridge: Harvard University Press.
- Pitsvada, Bernard. 1991. *The Senate, Treaties and National Security, 1945–1974*. New York: University Press of America.
- Poole, Keith, and Howard Rosenthal. 1997. *Congress: A Political-Economic History of Roll Call Voting*. New York: Oxford University Press.
- Putnam, Robert. 1988. "Diplomacy and Domestic Politics: The Logic of Two-Level Games." *International Organization* 43(2): 427–60.
- RFD (pseudonym). 1969. "Unilateral and Multilateral Options in the Execution of Foreign Policy." *International Organization* 23(3): 741–54.
- Rice, Condoleeza. 2000. "Promoting the National Interest." *Foreign Affairs* 79(1): 45–62.
- Ruggie, John. 1997. "The Past as Prologue? Interests, Identity and American Foreign Policy." *International Security* 21(4): 89–125.
- Sklamberg, Howard. 1997. "The Meaning of Advice and Consent: The Senate's Constitutional Role in Treaty Making." *Michigan Journal of International Law* 18 (Spring): 445–74.
- Smith, Steven S. 1994. "Congressional Party Leaders." In *The President, the Congress, and the Making of Foreign Policy*, ed. Paul E. Peterson Norman: University of Oklahoma Press, pp. 129–60.
- Spiro, Peter. 2001. "Treaties, Executive Agreements, and Constitutional Method." *Texas Law Review* 79(5): 961–1035.
- Sullivan, Terry O. 1984. *Procedural Structure: Success and Influence in Congress*. New York: Praeger.
- Trimble, Phillip, and Alexander Koff. 1998. "All Fall Down: The Treaty Power in the Clinton Administration." *Berkeley Journal of International Law* 16(1): 55–70.
- Trimble, Phillip, and J. Weiss. 1991. "The Role of the President, the Senate and Congress with respect to Arms Control Treaties Concluded by the United States." *Chicago-Kent Law Review* 67(2): 645–704.

- Trumbore, Peter. 1998. "Public Opinion as a Domestic Constraint in International Negotiations: Two-Level Games in the Anglo-Irish Peace Process." *International Studies Quarterly* 42(3): 545–66.
- Waltz, Kenneth. 1979. *Theory of International Politics*. New York: Random House.
- Wittkopf, Eugene, and James McCormick. 1998. "Congress, the President, and the End of the Cold War." *Journal of Conflict Resolution* 42(3): 440–66.
- Yoo, John. 1999. "Globalism and the Constitution: Treaties, Non-Self-Execution, and the Original Understanding." *Columbia Law Review* 99(8): 1955–2094.
- Zoelleck, Robert. 2000. "A Republican Foreign Policy." *Foreign Affairs* 79(1): 63–78.

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