

MEMMO

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A History of Foreign Agreements Modified by the Senate

Since America's independence, the Senate has insisted on changes to more than 200 treaties, including 80 multilateral treaties. History has shown that in many of these cases, Senate reservations opened the door for renegotiation or for U.S. concerns to be addressed as part of the ratification process. While the proposed nuclear deal with Iran is an executive agreement, not a treaty, it is still useful to understand the vital role of Congress in influencing U.S. foreign policy via international agreements. Here are four examples of major agreements in which the Senate successfully conditioned adoption on satisfactory resolution of outstanding issues.

Chemical Weapons Convention (1997)

- This arms control treaty outlaws the production, stockpiling, and use of chemical weapons and their related chemicals. It was signed on Jan. 13, 1993, one of the last days of the elder Bush administration, and submitted to the Senate by President Clinton for consideration on Nov. 23, 1993.
- Intense debate ensued throughout the 103rd and 104th Congress, including extensive hearings in the Armed Services, Intelligence, and Judiciary Committees. Unable to secure enough votes to guarantee passage in September 1996, supporters of ratification postponed the vote.
- Beginning in 1997, the White House elected to engage Senate Foreign Relations Committee Chairman Jesse Helms, who was an opponent of ratification. Sen. Helms and the White House reached an agreement on 28 conditions to be added to the ratification resolution. Another five conditions could not be agreed upon, but were voted on as separate amendments. All five of those amendments were voted down. The Chemical Weapons Convention Ratification Resolution, including the 28 conditions, passed the Senate with a 74-26 vote on April 24, 1997.

Threshold Test Ban Treaty (1990)

- This treaty established a “threshold” by prohibiting nuclear tests of devices with a yield exceeding 150 kilotons. It was signed on July 3, 1974, and sent to the Senate for ratification in July 1976. Submission was held up until the accompanying Peaceful Nuclear Explosions Treaty was signed and submitted.

- The Senate refrained from immediately ratifying the treaties. Nonetheless, both the United States and the Soviet Union announced that they would abide by the 150 kiloton test limit.
- In November 1987, the United States and the Soviet Union entered renewed negotiations to strengthen the agreement's verification regime. These negotiations were completed in June 1990, and shortly thereafter the Senate ratified both the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty by a vote of 98-0.

Treaty for the Prohibition of Nuclear Weapons in Latin America (1971, 1981)

- Also known as the Treaty of Tlatelolco, this treaty prohibits Latin American states from acquiring nuclear weapons, or permitting their deployment by any other country within their territories. Protocol I of the treaty addressed non-Latin American countries with territories in that region. Protocol II of the treaty addressed those powers that possess nuclear weapons. The United States is party to both protocols.
- The United States signed Protocol II on April 1, 1968. It was submitted to the Senate for ratification by President Nixon on August 13, 1970, who recommended that the Senate give its advice and consent. The Senate ratified Protocol II on April 19, 1971, conditional on the inclusion of declarations regarding transit rights, the international status of territorial claims, the status of peaceful nuclear technology, and more. Immediately following ratification, and its acceptance by the treaty members, the United States became a party to Protocol II.
- Protocol I was signed by President Carter on May 26, 1977. The Senate completed its review and ratified it on November 13, 1981, subject to certain understandings, including transit rights and freedom of the seas. The Senate also sought assurance that all of its conditions from Protocol II would be applicable to Protocol I. Immediately following ratification, and its acceptance by the treaty members, the United States became a party to Protocol I.

Constitution of the World Health Organization (1948)

- In order to enter the multilateral World Health Organization (WHO), each country must sign and ratify its constitution. The WHO constitution was submitted to the Senate for ratification in 1946.
- The proposed WHO constitution did not explicitly address the issue of how to withdraw from WHO membership. The Senate was concerned that the mission of the organization could change, leading the United States to seek withdrawal, but the WHO constitution lacked an official mechanism to do so. Therefore, the Senate attached conditionality to its ratification that permitted the United States to withdraw from the organization so long as it gave one year notice.
- When America submitted its ratification to the United Nations, the Secretary General referred the case to the Health Assembly. The Assembly had no objections, and the United States was admitted as a full member.