

International Commitments in an Era of Unilateral Presidential Power
A Comparison of the Treaties and Executive Agreements Negotiated by the Administrations
of George W. Bush and Theodore Roosevelt*

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ABSTRACT

Treaty-making involves the constitutional struggle for policy control. Both Congress and the president are defined as official actors in the making of international commitments, and both closely guard their constitutionally defined roles. Yet extant scholarship generally concludes Congress rarely matters in establishing U.S. formal commitments abroad. Indeed, it is frequently pointed out that only 21 treaties have been voted down by the U.S. Senate in its 230 year existence. While true, such a figure presents an incomplete picture of congressional influence. Presidents may covet greater institutional capacity to direct unilaterally U.S. foreign policy, but opposition in both the House and Senate frequently reins in an uncompromising White House. In this paper we compare the international commitments made by Presidents George W. Bush (2001-2004) and Theodore Roosevelt (1901-1909). We find the Senate's role in influencing and/or altering treaties has been under-estimated in most analyses. While the Senate rarely rejects a treaty negotiated by the president with a recorded floor vote, the Senate can and does attach amendments and reservations to treaties that affect U.S. obligations and responsibilities. More importantly, though, and even less recognized are treaties killed by the Senate through inaction. At least 21 treaties during Roosevelt's administration were rejected by the Senate, none of them by a formal floor vote. By ignoring Senate influence before an official floor vote risks under-estimating the influence the Senate has on U.S. commitments abroad. This paper also explores the domestic political authority under which presidents negotiate international agreements. Most scholars conclude that international agreements signal unilateral presidential power. Yet, many are negotiated pursuant to congressional statutes or previously ratified treaties. In both cases, Congress maintains influence over the process.

Has not the famous political fable of the snake, with two heads and one body, some useful instruction contained in it? She was going to a brook to drink, and in her way was to pass through a hedge, a twig of which opposed her direct course; one head chose to go on the right side of the twig, the other on the left; so that time was spent in the contest, and before the decision was completed, the poor snake died with thirst.

-Benjamin Franklin

Introduction

The Framers developed a political compact that harnessed the human inclination for power in order to serve the public good. To this end, the U.S. Constitution put in place a general framework for governance by dividing power between institutions with overlapping jurisdictions. The design induces competition among power holders that promotes a political environment largely characterized by a methodical pace and compromise. However, the Framers' political solution was purposefully left incomplete. In effect, the Constitution set in motion a continuous struggle for institutional power (Moe and Howell 1999). The powers channeled through the Constitution would not remain static as political leaders sought to expand their own power at the expense of institutional rivals. Recently, this dynamic has been most evident with the expansion of presidential power in the areas of foreign affairs and national security.

One such example illustrates nicely this inter-institutional struggle arising from constitutional ambiguity. On the heels of the September 11th attacks, President George W. Bush ordered the National Security Agency (NSA) to conduct wireless surveillance of potential terrorists. One tactic of the NSA program allegedly utilized information from national telecommunication companies in order to seek out the international communications of U.S. citizens without a warrant to do so. Interestingly, the Bush administration has offered a two-part rationale justifying its executive authority to conduct the NSA surveillance program.¹ According to the administration, Congress provided statutory authorization for the program in the post-9/11 use of force resolution. In addition, the administration maintains that the president's power to run the NSA program derives from his role as commander-in-chief. Importantly, the latter rationale suggests that such activities are beyond the reach of congressional statute. Not surprisingly, Congress sought to push back a bit once the president's program grabbed national headlines. The congressional reaction was led by Senate Judiciary Chairman, Arlen Specter (R-PA).² Senator Specter originally sought a legislative solution to ensure some form of judicial review of the NSA program by the FISA Court which was established and ultimately overseen by Congress. However, a legislative solution of that sort seems unlikely at this point. For one, most

¹ The Bush Administration actually wanted to have it both ways. First, the administration defended the NSA program as legal based implicitly (not explicitly) on the congressional authorization to use force after 9/11. However, simultaneously, President Bush claimed the inherent right to order such activities even without congressional assent. Interestingly and perhaps more to the point, Attorney General Alberto Gonzales admits that the Bush Administration did not seek congressional authority for the program because of anticipated opposition from many Republicans on the Hill.

² Vice President Dick Cheney successfully lobbied enough Judiciary Republicans to shut down Chairman Specter's attempt to conduct a closed session investigation into the role of the telephone companies (Perine 2006a, CQ Weekly, pg. 1629).

of Senator Specter's Republican colleagues don't want to provoke an intra-party clash with the president given the approaching midterm elections.³ Moreover, the Bush administration has explicitly challenged any legislation that would undermine its power to conduct the NSA program. Indeed, Cheney wrote to Specter "*The president ultimately will have to make a decision whether any particular legislation would strengthen the ability of the government to protect Americans against terrorists*" (Perine 2006b, pg. 1968). One possible interpretation of these events is that the president's use of unilateral action directing the NSA program has the effect of establishing a new policy status quo which will now be defended by the executive branch.

Interestingly, a century before the Bush Administration, another president took office seeking greater institutional capacity. Theodore Roosevelt also believed in a strong executive branch.⁴ His administration frequently ignored Congress in foreign policy decision-making and defended such unilateral actions as necessary for an emerging great power. "The biggest matters, Roosevelt wrote, "such as the Portsmouth peace, the acquisition of Panama, and sending the fleet around the world, I managed without consultation with anyone; for when a matter is of capital importance, it is well to have it handled by one man only" (quoted in John Milton Cooper, . 75). Roosevelt went so far as to add his own corollary to the Monroe Doctrine and with it Roosevelt not only re-stated the U.S. goal of minimizing European influence in the Western Hemisphere, but more importantly he insisted that a president possessed the unilateral authority to enforce such a policy (Fisher 1995).⁵

Constitutional ambiguity extends to many aspects of foreign affairs. Treaty-making, in particular, involves the constitutional struggle for policy control. Both institutions are defined as official actors in the making of international commitments, and both closely guard their constitutionally defined roles. Yet extant scholarship generally concludes Congress rarely matters in establishing U.S. formal commitments abroad. Indeed, it is frequently pointed out that only 21 treaties have been voted down by the U.S. Senate in its 230 year existence. While true, such a figure presents an incomplete picture of congressional influence. Presidents may covet greater institutional capacity to direct unilaterally U.S. foreign policy, but opposition in both the House and Senate frequently reins in an uncompromising White House.

In this paper we compare the international commitments made by Presidents George W. Bush (2001-2004) and Theodore Roosevelt (1901-1909). First, we examine Senate opposition or support for treaties negotiated by the president. We find Senate power to be much greater when earlier phases of the treaty-making process are examined. Second, while treaty-making in general has received significant scholarly attention, much less is known about the international agreements negotiated by U.S. presidents. However, any general assessment of U.S. commitments must include these agreements in the analysis. Further, given the large number of agreements signed by presidents, few analyses have investigated the issues involved in the bilateral and multilateral agreements made by presidents. A survey of these issues enables a more refined and definite assessment of presidential decision-making. Lastly, this paper explores the domestic political authority under which presidents negotiate international agreements. Most scholars conclude that international agreements signal unilateral presidential power. Yet, many

³ Also, Intelligence Chairman Pat Roberts (R-Kan.) has warned that he will assert his committee's jurisdiction over any such bill that is reported out of the Judiciary Committee (Perine 2006b).

⁴ One sees parallels in the attitudes of Roosevelt and Bush towards Congressional power. Weak presidents in the latter half of the 19th century enabled the Senate to dominate many aspects of foreign policy. Roosevelt, and later Wilson, attempted to reassert presidential power (Holt, 1933).

⁵ President James Monroe never asserted the constitutional right to implement his doctrine without congressional authority.

are negotiated pursuant to congressional statutes or previously ratified treaties. In both cases, Congress maintains influence over the process.

The paper proceeds as follows. First, we discuss the requirements for legally binding international commitments. This involves norms and rules negotiated at the international level, but more importantly it involves the constitutional division of power between the executive and legislative branches in the U.S. Then, we discuss the constitutional, political, and electoral bases for executive foreign policy power. Not only do presidents seek to avoid congressional constraints on foreign policy decision-making, but Congress itself has its own institutional limitations that inhibit vigorous challenges of presidential authority. We next discuss the treaty and international agreement data collected for Presidents Bush and Roosevelt. We summarize the foreign commitments of both administrations and congressional influence over such commitments. We conclude by offering directions for future research.

International Commitments under a Separation of Powers System

Now the irreparable mistake of our Constitution puts it into the power of one-third+1 of the Senate to meet with a categorical veto any treaty negotiated by the President, even though it may have the approval of nine tenths of the people of the nation.

-John Hay

International and U.S. domestic law differ importantly on the types of legally binding inter-state commitments available to heads of state. International law makes no distinction between treaties and other forms of agreements between nations. In fact, according to international law a treaty is by definition any legally binding contract between the signatory nations. The form of the arrangement actually matters less than the substance and thus any non-trivial agreement designed to be binding on the parties that clearly specifies obligations represents a treaty under international law (CRS 2001). In the United States, however, only international agreements that go to the Senate for advice and consent signify treaties. Any other deals negotiated by the president with foreign nations are identified as executive agreements and do not require Senate participation. This distinction, while meaningless to international law, is clearly critical in the U.S. since it implicitly establishes a constitutional understanding about the distribution of foreign policy power among the political branches of government.

During the Nixon Administration, the United States participated in a conference in Vienna designed to codify international law with respect to treaties. While delegates from the U.S. signed the negotiated convention, the U.S. Senate failed to act on it. When President Nixon transmitted the document to the Senate in 1971, he encouraged a prompt advice and consent process since the treaty in his opinion was important to “the progressive development and codification of international law” (CRS 2001, 377). The U.S. State Department also encouraged swift ratification and noted in its transmittal letter that “the convention sets forth a generally agreed body of rules to govern all aspects of treaty making and treaty observance” (CRS 2001, 379). The convention further reaffirms the principle of *pacta sunt servanda* (promises must be kept), a principle supported by most nations including the United States. The U.S. Senate, however, views the agreed upon language in the treaty as a threat to its constitutional role in the foreign policy process.

The Vienna Convention does not distinguish treaties from other types of international agreements. As such, ratification of the document would effectively enable presidents to circumvent the Senate when negotiating foreign commitments and consequently obliterate a critical constitutional process designed to check power. Since Article VI of the U.S. Constitution considers treaties to be part of the “supreme law of the land” any conflation of treaty-making and agreement-signing provides a legal justification for presidents to eliminate Senate participation entirely in the establishing of international commitments.⁶ Despite both precedent and the Supreme Court’s recognition of executive agreements as binding contracts with foreign nations that must be respected in U.S. domestic law, concern remains that the absence of Senate participation in the formation of an international agreement will at some point invalidate these commitments.

To avoid the possibility of a constitutional challenge as well as ensure a continued role in the treaty-making process, the U.S. Senate amended the language of the Vienna Convention to consider only agreements advised and consented to by the Senate to be valid treaties (CRS 2001, 21). The State Department and the White House oppose such a change and have refused to ratify the amended document. Interestingly, the constitutional ambiguity in treaty-making authority in the U.S. and specific language in the Vienna Convention create significant difficulties for U.S. ratification. The Vienna document considers treaties to be null and void if they “violate an internal law of fundamental importance” (Henkin 1996, 499). The Senate insists that Article II, Section 2 of the U.S. Constitution must be considered of fundamental importance to internal law. If so, then ratification of the convention would presumably imperil every commitment made by the United States without advice and consent of the Senate.

The U.S. Senate further objects to the Convention’s language regarding both recognized norms of international behavior and its acceptance of treaty reservations. The principle of *jus cogens* (compelling law) establishes that agreements, which violate fundamental principles of international law, must be considered invalid and thus non-binding. What constitutes such norms remains uncertain and the U.S. Senate refuses to accept the basic principle if the Convention cannot define clearly how such values arise and the body responsible for such decisions (CRS 2001).

What’s more, the Convention accepts as legitimate international agreements that prohibit domestic legislatures from attaching reservations or amendments to the final negotiated product (CRS 2001). The U.S. Senate refuses to acknowledge such limitations on its advice and consent responsibilities. Indeed, if the Senate was to accept such language, then presumably presidents would increasingly insist treaties be subject to only up or down votes on the Senate floor. The U.S. Supreme Court then might be willing to legitimate such executive behavior if the Senate had agreed in principle to tying its own hands through a ratified treaty.

⁶ Treaties actually take the force of law after a president has proclaimed them, although in certain rare circumstances implementing legislation passed by Congress is required and thus some treaties do not enter into force until such legislation is signed into law by the president (CRS 2001).

Treaty-Making in the U.S. Constitution

The individual Senators evidently consider the prerogative of the Senate as far more important than the welfare of the country.

-Theodore Roosevelt

Constitutional ambiguity in treaty-making authority reflects early uncertainty about how foreign policy power should more generally be distributed within a republic. Records of the constitutional convention in Philadelphia of 1787 show that the treaty-making requirements finalized in the governing document received little debate. Not only were the framers unsure of how to divide foreign policy powers across institutions, but they also disagreed on the distinctions between international and purely domestic affairs. Since the Crown historically had been responsible for foreign affairs, local governing units in the colonies had little experience to draw upon for establishing clear lines of authority in the founding document. Further, the framers were conflicted over whether the relevant lesson learned was the inability of the U.S. government to conduct foreign policy under the Articles of Confederation or the excessive authority granted the Crown and Parliament to direct the affairs of the colonies. The Articles, for example, did not provide for a division of foreign policy authority since the executive, legislative, and judicial power were all housed in a single branch of government. But, the framers also acknowledged that any division of authority among separate institutions might jeopardize a government's ability to honor its commitments (Holt 1933).

While an early draft of the Constitution conferred treaty-making power entirely to the Senate, the framers eventually agreed that this power, like so many others, should be shared among institutions (Farrand 1967). Indeed, apprehension quickly emerged among the delegates about the disproportionate influence states would have over the treaty-making process under such a system. Subsequent drafts therefore enhanced the role of the executive (a more national perspective) even as the House of Representatives remained excluded from this policy arena (Holt 1933).⁷ Still, Hamilton was careful to strike a balance of power among institutions to allay fears of power concentration. In *The Federalist* No. 69 he contrasted the U.S. arrangement with that of Great Britain. "The king of Great Britain is the sole and absolute representative of the nation in all foreign transactions...there is no comparison between the intended power of the President and the actual power of the British sovereign. The one can perform alone what the other can only do with the concurrence of a branch of the legislature." The framers also eliminated the distinction between foreign and domestic policy, making both the law of the land and both subject to institutional limitations.

The distinction between treaties and executive agreements also received little if any debate in Philadelphia. Still, the power to make foreign commitments has been a source of

⁷ The framers generally agreed that the House could not satisfy the demands of secrecy and expediency involved in treaty-making (Holt 1933, 7). This in no way means that members of the House accepted their second-class status in foreign policy. Any funds appropriated for the implementation of an international commitment must be signed off by the House of Representatives. In the late 19th century, the House forced a legislative change to the procedures governing Indian nations in the United States and effectively prevented the treaty power from being used to exclude the House from such domestic considerations. Further, in 1945 the House proposed a constitutional amendment that would have included it in any treaty deliberations along with the Senate. The Senate, however, failed to act on the amendment (CRS 2001).

institutional and partisan competition for most U.S. history. Oddly, it seems that an ambiguity in constitutional language has generated this foreign policy controversy. Article II, Section 2 clearly states presidents negotiate with the advice and consent of the Senate. Yet, Article I, Section 10 appears to suggest that there is more than one form of international contract, thus opening the constitutional door to executive agreements. The third clause of the section reads, “No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any *Agreement or Compact with another State*, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.” While Section 10 of Article I deals exclusively with powers prohibited of states, the language used does arguably recognize pacts with foreign countries other than treaties (CRS 2001). Importantly, though, it is never explicitly stated whether such agreements can be made by the president or without congressional consent.

The controversy additionally arises from the framers’ failure to anticipate institutional and partisan conflict over international commitments. The delegates at the Constitutional Convention did not even consider the possibility of an impasse between a president and the Senate over control of foreign policy. The primary issue of importance was preventing the accumulation of power in any single branch of government and not a consideration of whether such institutional protections would effectively preclude treaty-making (Holt 1933, 12). Certainly divided control of the executive and Senate might result in a treaty going down to defeat for electoral reasons and not necessarily due to a fair assessment of the value of the agreement. Both the ratification of SALT II and the reinterpretation of the ABM treaty, for example, became intensely partisan and as a result both also became issues in presidential elections. While executive agreements, rather than treaties, may be negotiated by presidents for a number of reasons, arguably the anticipation of Senate opposition influences the ultimate foreign policy path chosen.

Despite the constitutional competition, or perhaps because of it, clear criteria have yet to be accepted by both the president and the Senate as to when advice and consent is legally and or politically required. The State Department has admittedly generated a set of principles for determining whether a foreign commitment should be established using an executive agreement or treaty, with congressional preferences ranked number five on the list (CRS 2001). However, the White House can ignore these criteria as well as the State Department’s recommendation. While the State Department advises frequent consultation with Congress in the establishing of foreign commitments, presidents have increasingly negotiated compacts using executive agreements and this seemingly has only exacerbated the constitutional struggle.

The Use and Abuse of Executive Agreements

“The constitutionally and historically sanctioned distinction between the treaty as the proper instrument for contracting important, substantive agreements and the executive agreement as an instrument for the conduct of routine and essentially nonpolitical business with foreign countries has now all but disappeared.”

-J. William Fulbright

The use of executive agreements has clearly changed over time. Initially employed for minor modifications to treaties already in existence, executive agreements have become the

primary instrument used by presidents to establish inter-state compacts. In the 19th century, treaties were as common, if not more common, than executive agreements. The U.S. State Department reports 60 treaties and 27 executive agreements between 1789 and 1839. More to the point, however, the agreements negotiated in the 19th and early 20th centuries were rarely employed for substantively important contracts. In 1868, for example, an executive agreement with Bavaria was signed that clarified ambiguities in a naturalization treaty. Reciprocity copyright agreements were also done frequently without the advice and consent of the Senate. In both instances, however, the executive's ability to make such arrangements was based on a previous treaty or pursuant to legislation passed by Congress.⁸ But by the 20th century, presidents such as McKinley, Taft, and Theodore Roosevelt had increasingly begun to use executive agreements on matters of significant importance (Margolis 1986, 38).

One of the most notable executive incursions occurred at the outset of World War II (Church 1969). With the fall of France in 1940, President Franklin Roosevelt sought to bolster Great Britain in the face of an imminent German onslaught. Through executive agreement, Roosevelt traded fifty outdated destroyers in exchange for key British naval bases in the Western Hemisphere.⁹ Given the great urgency, Roosevelt felt compelled to utilize the executive agreement instead of waiting for a Senate advice and consent. Although the unique wartime situation may have shaped his decision to use an executive agreement, he purposefully never placed such a limitation on his power. Rather, Roosevelt directed his Attorney General to draft a legal defense justifying his action based on constitutional prerogatives. This established an important precedent in the use of executive agreements for future presidents who would use this tool for further incursions into what previously had been claimed as Congress's constitutional authority.

As U.S. military and economic power has grown, so too has U.S. foreign commitments. Not only do the number of treaties and executive agreements in the second half of the 20th century increase rather dramatically, but ever more the Senate is removed from the process. In 1942, for example, six treaties and 52 executive agreements were signed. By 1976, the numbers soar to over 400 executive agreements and 13 treaties. The executive agreements now, however, are more substantively important and increasingly based on a president's sole constitutional authority as commander in chief. Status of forces agreements, as well as the delimitation of strategic objectives, are frequently established through a president's unique constitutional charges. The shift toward executive agreements carrying more substantive issues of international commitments did not go unnoticed in the halls of Congress. On this point, Senator J. William Fulbright (D-Ark.) Chairman of Foreign Relations noted that: "The Senate is asked to convene solemnly to approve by a two-thirds vote a treaty to preserve cultural artifacts in a friendly neighboring country. At the same time, the chief executive is moving military men and material around the globe like so many pawns in a chess game" (quoted in Johnson 1984, 6).

Given the use of executive agreements and the president's first-mover advantage in treaty-making, the Senate, and Congress more generally, appear to have little influence over U.S. diplomacy. Only 21 treaties have been defeated with a voice vote on the floor of the Senate and

⁸ Admittedly, some executive agreements in the 19th century covered significant matters. President Monroe negotiated a compact with Great Britain to reduce armaments on the Great Lakes in 1817. Monroe, however, inquired with the Senate about whether advice and consent was required. The Senate later gave it (McClure, 1941).

⁹ The executive agreement made by FDR was of great import. In fact, Winston Churchill suggests that the agreement committed the U.S. to war. Churchill argued that the agreement provided Germany the legal grounds necessary for declaring war on the U.S. (Church 1969).

only 7 in the 20th century, 3 in the post-World War II era. At the same time, President Bush signed 195 executive agreements in 2004 compared to only 4 treaties. These figures appear to present a president scarcely hampered by Senate constitutional concerns.

These figures are likely misleading, however. The Senate has alternative ways of influencing treaties other than formal floor votes. At times the Senate will attach amendments, reservations, understandings, declarations, or provisos to treaties to ensure the language in the document reflects its members' preferences. Some of these conditions may require resubmission to the other party for acceptance, while others simply express the Senate's interpretation or opinion of U.S. obligations.¹⁰ As early as 1803, the Senate killed a treaty by attaching an amendment Great Britain refused to accept. More recently, when the U.S. Senate gave its advice and consent to the Chemical Weapons Convention in 1997, it made sure to attach conditions protecting the civil liberties of American citizens (CRS 2001).¹¹ The Senate also may kill treaties by failing to act on the document submitted by the president. The agreement then languishes in the Senate Foreign Relations Committee until it is renegotiated by the president or sent back to the State Department by the Senate. President Woodrow Wilson signed a treaty for the advancement of peace with the Dominican Republic in 1917. While the Senate Foreign Relations Committee reported the treaty favorably to the Senate, no final action was taken and the treaty was sent back to the Secretary of State in 1935 (Wiktor, 1979).

Evidence also appears to indicate that Congress has more influence over executive agreements than previously acknowledged. Most agreements are based at least in part on previous treaties or statutes passed by Congress (CRS 2001). Accession of new members to multilateral treaties is typically accomplished through an executive agreement, but authorized by the original treaty. Similarly, many foreign assistance programs are established through executive agreement but pursuant to the 1961 Foreign Assistance Act legislated by Congress. Further, presidents at times seek to define foreign commitments through congressional-executive agreements, rather than treaties. With these types of international agreements, both houses of Congress get a say, but importantly only a bare majority in each chamber is required for ratification and not the two-thirds needed for a treaty. Many free-trade agreements are established with this process to avoid narrow economic interests gathering one-third of the Senate to oppose reductions in tariffs.

Only a small percentage of agreements are signed pursuant to a president's constitutional powers or obligations. A study by the Congressional Research Service (2001, 5) reports at least 5 constitutional arguments used to legitimate sole executive agreements. The justification used by the executive branch include executive authority (Article II, Section 1), commander in chief power (Article II, Section 2), the treaty clause (Article II, Section 2), the authority to receive ambassadors (Article II, Section 3), and the president's charge to "take care that the laws be faithfully executed" (Article II, Section 3). While the legality of executive agreements pursuant to independent presidential authority has been established by the U.S. Supreme Court, uncertainty remains whether such compacts can supplant an act of Congress (CRS 2001, 5).

¹⁰ The Senate has repeatedly made clear that any interpretation of a treaty must conform to the "common understanding shared by the President and the Senate at the time the Senate gave its advice and consent to ratification" (CRS 2001, p. 14). President Reagan met stiff Senate opposition when he tried to reinterpret the 1972 ABM Treaty.

¹¹ Given the potential for intrusive inspections under the convention and the possible seizure of property, the Senate expressed a concern for 4th and 5th amendment protections guaranteed to U.S. citizens.

The Politics of Unilateral Action in Foreign Policy

The contest for ages has been to rescue liberty from the grasp of executive power.

- Daniel Webster

For decades, scholars in American politics have sought to explain the surge of power in the modern presidency (Schlesinger 1973; Neustadt 1990; Light 1994; Pfiffner 1996; Kernell 1997; Genovese 2001). Neustadt's (1960) classic work offered an answer. The personal presidency became the dominant paradigm on presidential power. Rather than formal mechanisms, executive power was rooted in the president's ability to bargain and/or persuade. But absent the executive's ability to bargain or persuade members of Congress, how can presidents achieve their political and policy ends? There is a growing literature that has begun to move beyond the Neustadtian explanation of power toward the role of unilateral tools. Indeed, this literature has shown that presidents have increasingly relied upon actions like executive orders, proclamations, national security directives, and executive agreements to circumvent Congress (Mayer 2001; Howell 2005; Cooper 2002; Margolis 1986).

The power of unilateral executive action is quite different from Neustadt's framework of presidential power (Howell 2005). For one, unilateral action allows the president to act alone without the need of congressional cooperation. In terms of executive agreements, the president can initiate policy commitments with little concern for congressional preferences. In addition, acting first allows the president to control the agenda and establish a new status quo. Once a commitment is made by executive agreement, Congress is faced with a *fait accompli* from which they can either acquiesce or take on the collective burden of a statutory response. Even more, presidents know the latter are open to multiple veto points in which they need to find support in only one to successfully block a congressional challenge.

Presidents have both the opportunity and incentive to exploit constitutional ambiguity with unilateral action, especially in the realm of foreign policy. As we have mentioned, the constitution does not offer enough explicit clarification as to the circumstances in which the president's power ends and Congress's begins in the making of international commitments (and other powers for that matter). Instead, this is determined through the ongoing practice of politics (Moe and Howell 1999). And although the president has the responsibility to carry out laws assigned by the legislature, this charge does not make him Congress's agent. Congress does not have the ability to hire or fire and can't take away or restructure the powers of the executive to make him do their bidding. The president's authority is independent and coequal to that of Congress. Add to this the extraordinary advantage in resources and expertise that presidents enjoy in foreign policy through the departments of State and Defense, the NSC, and the Intelligence Community to name just a few. Moreover, the nature of executive power means that presidents maintain direct discretion over decisions and the operation of government. This discretion works to the president's advantage best in foreign policy. The relative lack of codification and regulation in foreign policy (as compared to domestic policy) offers the president far greater latitude to exert power independently of Congress (Smith 1994). If Congress aspires to control the executive, they could hardly have been dealt a more difficult hand.

Presidents also have a stronger incentive to accrue power. Inevitably, presidents must actively pursue reelection and policy. But their emphasis tends to be on establishing a positive historical legacy as strong leaders. They have relatively little time to reign over an immense

executive office and affect outcomes, so they must pursue and expand their power more aggressively than other office holders. Not surprisingly, the most important currency for presidents comes from policy movement, while for Congress the currency of position taking can often serve reelection just as well (Mayhew 1974). In addition, as the country's economic and political roles grew more complex during the 20th century, the public increasingly demanded proactive governmental responses (Moe and Howell 1999). Presidents expanded their office and powers to meet these public expectations more so than other institutions. Presidents like Theodore Roosevelt understood this dynamic very well. Roosevelt wanted a "big America" and saw the presidency as a way to unlock the country's potential (Morris 2001). Indeed, Congress (and the Court) not only acquiesced, but seemingly were complicit in enabling the president to take the lead.

The constitution provides Congress with the power to both directly shape foreign policy, and to constrain presidential actions. The congressional powers such as the ability to declare war, raise and maintain the armed forces, make the rules governing those forces, and regulate commerce with foreign nations are testament to the Framers' intention that Congress was to play a significant role. Yet, the threshold for congressional assertiveness and participation is much higher in foreign policy as compared to domestic politics. Congress's reelection imperative is more readily served through domestic policy where it can claim significant reelection benefits.

Although Congress has noticed the waning of the treaty and its commitment authority relative to the executive branch, it has been largely unable to collectively challenge this assault on its power. There were at least two noteworthy instances when Congress did attempt to push back against presidential discretion in the making of international commitments. The first instance occurred in the early 1950s and was known as the Bricker revolt (Johnson 1984). Senator John W. Bricker (R-OH) led the attack with a proposed amendment to the Constitution that sought to ensure all executive agreements would be regulated by Congress and require congressional action. The coalition of supporters (e.g. the Brickerites) included mostly conservative Republicans and southern Democrats. Ideologically, the Brickerites had a deep distaste for New Deal internationalism. They opposed U.S. involvement in the U.N. and other international organizations. It was certainly true that the Bricker amendment would outlaw unilateral executive agreements of the FDR destroyers-for-bases variety. But more than anything else, the Bricker proposal offered a formidable defense of states' rights. Their concerns seemed justified in that recent Supreme Court decisions signaled an expansion of executive discretion and a decay of state control over domestic law relative to treaties and agreements.¹² Indeed, one argument getting significant political traction at the time was the fear of desegregation imposed by an executive agreement made with an African ally. The Eisenhower administration fought this challenge head-on with the help of the Senate Republican leadership. President Eisenhower countered with the bully-pulpit turning the debate into one revolving around the necessity for federal sovereignty and unity in foreign affairs in order to protect national interests and to keep the peace. The administration was able to successfully water down and eventually beat back the Bricker legislation which failed by a single vote.

The second major attempt to contain presidential power in the area of international commitments was partially successful (Johnson 1984). The Case-Zablocki Act occurred toward the end of the Vietnam War. Reacting to the president's disastrous military foray in Southeast Asia, a coalition known as the neo-isolationists formed making "no more Vietnams" their rallying cry. The neo-isolationists were ideologically distinct from the Brickerites that challenged

¹² See for example *Missouri v. Holland* (252 U.S. 416, 1920) and *U.S. v. Pink* (315 U.S. 203, 1942).

presidential power two decades earlier in that they saw some usefulness in the UN and other multinational organizations like NATO. The real fear for neo-isolationists was the unchecked executive discretion over military operations in regions not vital to U.S. national interests. According to Senator Church, “Our gravest mistakes in the last twenty years have come from the assumption that we have the wealth and power to mold the world to our own liking” (quoted in Johnson 1984, 117). By the 1960s, Congress was not capable of countering the extensive number of executive commitments made. In fact, Congress was so inept in terms of oversight that it often didn’t even know of the commitments made by the president. By late summer of 1972, the neo-isolationists led by Senators J. William Fulbright (D-Ark.), Sam Ervin (D-NC), Frank Church (D-Idaho), and Clifford Case (R-NJ) had passed the Case-Zablocki Act. This legislation required the Department of State to report all statutory and executive agreements to Congress within sixty days. Case-Zablocki was considerably less ambitious than the Bricker amendment, but the Act did restore some power back to Congress in terms of agreement-making.

Despite the limited success of the Case-Zablocki Act, the reliance on executive agreements continues to grow. Indeed, the value of these tools in terms of making commitments far outweighs any costs in reporting by presidents. Johnson’s (1984) classic study suggests that the treaty procedure is no longer the primary instrument of international commitments. Rather, his work shows that statutory commitments have been relied upon extensively during much of the Cold War period. But in addition, Johnson does find an increasing trend in the use of executive agreements. In fact, more recent studies show a continual trend toward the use of executive agreements over time. Figure 1 provides an illustration of this trend. The figure combines our data from Roosevelt (1901-1909) and Bush (2001-2004) with that of five presidential administrations collected in Johnson’s analysis (1946-1973).

[Figure 1 about Here]

Expectations

The previous discussion leads to a number of testable conjectures, some that can be examined with the data available and some that must wait for further data collection. First, we anticipate a dramatic increase in the use of executive agreements relative to treaties moving from the administration of Roosevelt to Bush. This change in foreign policy tools flows not only from the leadership role the U.S. took up after World War II, but also results from presidents seeking fewer constraints on its commitment-making. Second, recent research shows increasing reservations added to treaties by the U.S. Senate. We anticipate a similar trend and thus expect more treaties to have reservations introduced by the Senate during the Bush rather than the Roosevelt Administration. While such add-ons to treaties signal Senate influence, we also consider most datasets examining such a relationship incomplete. That is, few if any studies include treaties that did not ultimately go into force. Without these cases, however, a skewed picture of Senate behavior is presented. With unperfected treaties included in the dataset, we expect Senate influence to be considerably greater than extant scholarship reports. Third, we expect commitments to increasingly focus on economic concerns. Lastly, although we anticipate large numbers of executive agreements by the Bush Administration, we expect most to be pursuant to congressional statutes. Unfortunately, this last expectation is one we are unable to yet fully explore do to data limitations.

Data and Methods

The data used in the following analyses comes from many sources. First, a compilation of treaties and agreements collected by William Malloy for the U.S. Senate is used for the administration of Theodore Roosevelt. This two volume manuscript published by the government printing office in 1910 covers treaties and international agreements signed by presidents and other representatives of the U.S. government from 1776 until 1909. This document provides the primary source of all treaties and agreements entered into by the U.S. during the Roosevelt Administration (1901-1909).

Treaties that failed to enter into force are recorded by Christian Wiktor. His many volume set of unperfected treaties contains basic information on compacts negotiated by the United States, but for one reason or another did not become the law of the land. Wiktor includes the actual text of the unperfected treaties and a brief summary of how and why the negotiated pact did not get proclaimed by the president. The entire compilation extends from 1776 until 1976 and includes hundreds of treaties that failed to enter into force.

The U.S. State Department provides information on current treaties and international agreements. From its website, one can obtain a list of international agreements organized by foreign power and a very brief explanation of the commitment entered into. These agreements can be found in the link to Treaty Actions under the Office of the Legal Adviser at the U.S. Department of State. While limited, treaty actions for 1997 through 2005 are available in electronic format.

The Library of Congress website (THOMAS) supplements the international agreements found at the State Department with treaties signed and submitted to the U.S. Senate by presidents. The easy to use search engine makes available all treaties transmitted to the U.S. Senate from the 90th through the 109th Congresses. Information on committee and floor action is included and whether the treaty received the advice and consent to ratification. The one drawback of this datasource is that THOMAS only records treaty actions once they have been transmitted to the Senate by the president. Therefore, any treaties negotiated but not yet in Senate hands seemingly are absent from the THOMAS database. In practice, however, this limitation should not be much of a problem since the time from signing to Senate transmittal is typically short. Still, it is possible that a few treaties do not make it into the dataset used in the analyses below because, while negotiated and signed by the president, the documents have yet to reach the U.S. Senate.

Senate Influence

U.S. Senate behavior is captured using multiple indicators. Any reservations, understandings, or amendments to treaties offered by the Senate are measured for both the administrations of Roosevelt and Bush. Advice and consent to ratification by the full Senate is recorded as are actions taken by the Senate Foreign Relations Committee on treaties during the Bush Administration. A dummy variable for Senate influence is generated from the previously described information. For the Roosevelt years, information on treaties that did not go into force is also included. The reason for these treaty failures is recorded in the dataset.

Issues

Two issue codings have been created for treaties and agreements included in the dataset. The codes provided by the Library of Congress (THOMAS) form the basis for this variable. However, additional issue areas were generated for treaties and agreements that did not fall easily into the THOMAS categories. From this set of 34 issue codes, a second variable collapses multiple issue categories into the following four broad issue areas: military/security, economic, cultural, and consular.

Constitutional Authority

For executive agreements, we also code the authority under which the agreement is negotiated. This includes previous treaties, congressional legislation, and sole executive authority. At present, however, these data remain incomplete. The State Department provides very limited information describing the legal and or constitutional justification for executive agreements. A later search through the United States Code will be necessary to determine more completely and accurately whether agreements are signed pursuant to statutory legislation approved by Congress.

Additional Measures

Two further distinctions are provided for in the dataset. The first documents the negotiating entity in the treaty or agreement; nation-states, inter-governmental organizations, or both. The second variable records simply whether the signed contract is bilateral or multilateral. Presumably presidential decisions to use a treaty or executive agreement for establishing a foreign commitment is influenced by both the fundamental nature of the negotiating entity and the number of these actors involved in the process. In the same way, Senate opposition or support should be influenced by these distinctions as well.

Results

The empirical evidence presented below concentrates on four broad relationships. First, we show the U.S. upper chamber more active and influential on U.S. treaty-making than most scholarship acknowledges. Second, we illustrate the shift from treaties to agreements as the primary mechanism in tying the U.S. to other countries formally. Third, we observe U.S. commitments becoming more geographically dispersed and increasingly focused on economic concerns. Fourth, executive agreements appear to be increasingly used for military and security commitments. The data also offer hints at the influence Congress has over executive agreements.

Tables 1 and 2 demonstrate not only that U.S. commitments abroad have increased dramatically in the early 21st century compared to the early 20th, but also that these commitments

[Tables 1 & 2 about Here]

are now predominately negotiated using executive agreement without the advice and consent of the Senate. From 1901-1909, Roosevelt's Administration negotiated 97 commitments that went to the Senate and 44 that did not. Compare these numbers to Bush's first term: 45 treaties and

612 executive agreements. Yearly averages reinforce this increase in commitment-making. Roosevelt averaged 4.87 executive agreements per year and 10.78 treaties, while Bush averaged 153 executive agreements per year and 11.25 treaties. As is evident, yearly treaties do not change all that much comparing administrations from the early 20th and 21st centuries, however, commitment-making obviously has increased dramatically and administrations utilize executive agreements as the primary mechanism to establish these foreign contracts.

Security concerns have remained relatively constant in U.S. diplomacy. Nearly 40% of the international commitments made by the Roosevelt Administration involved security concerns, such as arms control, defense cooperation, international law, and terrorism. For the first term of Bush, 42.6% of commitments involved security or military concerns. More

[Table 3 about Here]

interestingly, though, while Roosevelt was much more likely to sign security and military pacts with advice and consent of the U.S. Senate, Bush has overwhelmingly chosen to use executive agreements for the same purpose. In fact, Roosevelt negotiated 12 (only 21%) security arrangements with foreign countries using executive agreement. Bush, in contrast, used executive agreements for 98% of the security accords signed.

Senate Influence in Treaty-Making

Auerswald and Maltzman (2003, 1099) argue that “the process of treaty ratification formally begins when the president submits a treaty to the Senate for advice and consent.” However, like most research evaluating the U.S. Senate’s influence on treaty-making, Auerswald and Maltzman only consider Senate reservations to treaties that ultimately received advice and consent. Clearly such alterations to treaty documents indicate Senate influence and thus support Auerswald and Maltzman’s contention that extant research downplays the role of the Senate in foreign policy. Nonetheless, by ignoring the Senate committee stage of the treaty making process, Auerswald and Maltzman (2003) also disregard a critical place of Senatorial influence.

For treaties that eventually went into force, we observe Senate influence on about 30% in both administrations. Twenty-nine of 97 treaties during Roosevelt’s presidency show signs of

[Table 4 about Here]

Senate influence, while 12 of 35 treaties during the Bush Administration show similar signs of Senate influence. These numbers show two important things. First, one-third of treaties that ultimately received the advice and consent of the U.S. Senate were affected by the preferences of members of the upper chamber. Second, one-third is a much larger number of treaties than most analyses report, although it supports Auerswald’s (2006) findings. Further, when we simply look at Senate reservations, understandings, and or amendments to treaties, we actually see signs of increasing Senate pressure. Only 8% of treaties during the Roosevelt presidency received Senate attachments, while over 30% of the treaties negotiated by the Bush Administration witnessed such emendations.

With treaties in force, Senate influence is likely under-estimated. During the Roosevelt Administration, for example, 45 unperfected treaties were negotiated by U.S. authorities. Of these treaties, two-thirds show signs of Senate influence. Including the unperfected treaties in the

dataset increases the overall impact of the Senate to over 40% of negotiated contracts with foreign countries. This represents a 39% increase in the percentage of treaties affected by the

[Tables 5 & 6 about Here]

upper chamber and clearly leads to a different conclusion about the role the Senate plays in treaty formation. For example, the U.S. Senate killed 10 arbitration treaties with its amending pen during the Roosevelt presidency. These treaties were designed to preserve peace between the signatories by providing for arbitration of legal differences that might arise. However, each arbitration treaty contained a short, but unacceptable clause enabling the president through executive agreement the ability to establish among other things the arbitrator's powers. The Senate struck the word agreement from the treaty and replaced it with treaty, forcefully indicating its unwillingness to allow the president, without Senate influence, the power to set such rules. The amendment received a bipartisan 50-9 vote in the Senate and thus all 10 arbitration treaties were so amended. One additional arbitration treaty with Japan was never sent to the Senate by Roosevelt owing to the Senate's actions (Holt 1933, 204). The Republican Chairman of the Senate Foreign Relations Committee insisted that "nothing remained for the Senate to do by to assert and uphold its right as a party of the treaty-making power" (Cullom, 399).¹³ It was also clear to Senators that their amendment would kill the arbitration treaties, since Roosevelt had informed the chairman of the foreign relations committee of this precise fact.

The Hay-Bond Treaty between the U.S. and the UK over Newfoundland, signed by the Roosevelt Administration in November of 1902, was also killed by the U.S. Senate. It attempted to establish a level playing field for commercial interests in the U.S. and Newfoundland. After prodding from the Roosevelt Administration, the Senate took up the treaty in 1905, but New England fishing interests successfully amended the treaty to death. Unfortunately, public officials in Newfoundland used the failed treaty as a justification to punish New England fisherman. Senator Henry Cabot Lodge actually demanded that Roosevelt send a U.S. naval cruiser to the area to ensure American rights (Holt 1933, 199-200). Here we see the U.S. Senate, for domestic political purposes, killing a negotiated treaty not through an up or down vote on the Senate floor, but by amending the document in such a way to make it offensive to the other party.

Currently, similar data do not exist for the Bush Administration and so it is difficult to assess trends at this time. But, it seems clear that datasets without unperfected treaties not only under-count the total number of negotiated compacts by U.S. authorities, these datasets also ignore the treaties that illustrate the greatest Senate influence.

Issues and Senate Influence

Data from the Roosevelt and Bush Administrations also show evidence of changing issues in U.S. commitment-making. A much larger percentage of the treaties signed by Bush

[Tables 7A & 7B about Here]

¹³ Roosevelt indicated that the Senate's behavior was "owing to the idiotic jealousy of the Executive which tends to make the Senate try to reduce the Executive to impotency" (quote Holt 1933, p. 206).

involve economic issues, while fewer involve military/security issues. More importantly, however, Senate influence appears much greater on security and military issues. For Roosevelt, 50% of security treaties that went into force show signs of significant Senate involvement. Compare this to only 13% for non-security related treaties. For Bush, all security treaties that entered into force received serious Senate attention. Indeed, the Senate attached reservations and or amendments to all five security treaties signed by Bush.

This is not to say that the Senate only attends to issues of high politics. Indeed, the Senate demonstrated its power one again when confronted by a treaty negotiated by Roosevelt with the Dominican Republic settling debts and obligations. Initially, Roosevelt hoped to avoid the Senate by defining the pact an international agreement not subject to advice and consent. Roosevelt consistently referred to this deal as a protocol and not a treaty hoping to convince the Senate and the public that it need not go through the Senate. The strategy backfired and even Republicans in the Senate expressed concern over Roosevelt's strategy. The treaty never made it out of the Foreign Relations Committee since it would not have received the necessary 2/3rds vote on the Senate floor. Roosevelt, however, did not admit defeat. He subsequently signed the deal with an executive agreement and the Senate agreed to the treaty two years later, although in a significantly revised format (Holt 1933).¹⁴

Roosevelt's experiences in dealing with the Senate when it came to the Dominican Republic reflect a more general relationship mentioned above. While Roosevelt was much more likely to utilize executive agreements on economic deals, the Bush team has tended to push through military/security compacts without seeking the advice and consent of the Senate. We

[Table 8 about Here]

observe nearly 50% of the Bush Administration's executive agreements dealing with military/security issues compared to only 27% of Roosevelt's. Perhaps the more relevant comparison relates to economic contracts. Over 60% of Roosevelt's executive agreements dealt with economic issues compared to only 15% of Bush's.

Regional Dispersion of Commitments

Table 9 illustrates the geographic focus of U.S. international commitments. The early 20th century under the leadership of Roosevelt clearly concentrated U.S. foreign diplomacy on the Americas and Europe. Asia, Africa, and the Middle East receive almost no attention whatsoever. In the early 21st century, foreign commitments clearly increase dramatically compared to 100 years earlier, but the geographic spread of U.S. interests also increase. The signing of contracts with Asian countries becomes as frequent as commitments to states in Europe, and more common that interest shown countries in Central and South America. Africa and the Middle East also receive increased attention.

¹⁴ Since the treaty with the Dominican Republic was officially still pending in the Senate Foreign Relations Committee and not rejected, Roosevelt could claim he was merely establishing a temporary fix while the Senate deliberated on the merits of the signed document. Despite this demonstration of unilateral presidential power, Roosevelt made sure he had overwhelming Republican support before negotiating the agreement (Holt 1933, p. 225).

Conclusion

We have argued that extant scholarship does not sufficiently address congressional influence on U.S. commitment-making. Earlier phases of Senate participation in treaties suggest much greater control than simple evaluations of floor decision-making have denoted. Yet, we also insist that commitment-making by the U.S. government has shifted over time. The shift not only involves the use of one foreign policy tool more than another, but more importantly involves a transformation in the interpretation of constitutional authority. Presidents increasingly use executive agreements, rather than treaties to negotiate foreign compacts. Nonetheless, Congress has fought back and retains influence over most international commitments.

The evidence presented above demonstrates significant Senate influence on U.S. treaty-making. One-third of treaties that entered into force during the Roosevelt and Bush Administrations show signs of Senate power. This is much greater when military/security compacts are being negotiated. Fifty percent of Roosevelt's security treaties and 100% of Bush's bear evidence of Senate attention. These numbers, however, under-estimate the role played by the upper chamber in commitment-making. For the Roosevelt Administration, 45 treaties negotiated by U.S. authorities did not ultimately go into force and two-thirds of these commitments were sunk largely due to Senate opposition.

Our study remains incomplete. But, these initial steps suggest a couple of different paths to take for future research. One, it seems obvious and essential that existing datasets on U.S. treaties must include ones that did not enter into force. These data are available and likely will indicate much greater Senate influence over treaty-making than one can establish with only treaties that received advice and consent. Second, any research on U.S. international commitments must address executive agreements. These signed contracts with other countries are treaties according to international law. More importantly, though, more attention must be given to the legal authority under which these agreements are signed. We are unable to yet comment on whether presidents increasingly sign executive agreements under sole executive authority or whether Congress continues to authorize such pacts through statutes. But we can say that such a distinction must be made in any attempt to assess the relative power in commitment-making of Congress and the president.

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TABLE 1: Treaties and Executive Agreements Concluded by the United States during the Administrations of Theodore Roosevelt and George W. Bush

Administration	Treaties	Executive Agreements
Roosevelt (26)	97	44
Bush (43)	45	612
Total	142	656

TABLE 2: Treaties and Executive Agreements Concluded Annually by the United States during the Administrations of Theodore Roosevelt and George W. Bush

Year	Treaties	Executive Agreements
1901	3	2
1902	10	5
1903	10	7
1904	13	0
1905	9	9
1906	9	8
1907	14	7
1908	24	3
1909	5	3
2001	9	111
2002	9	132
2003	16	174
2004	4	195

TABLE 3: Military/Security Concerns in Treaties and Executive Agreements

Administration	Non-Military/Security Issues	Military Security Issues	Total
Roosevelt (26)	85	56	141
--Row %	60.3%	39.7%	
Bush (43)	377	280	657
--Row %	57.4%	42.6%	
	462	336	798

$\chi^2 = .401$ ($p < .527$)

TABLE 4: Senate Influence on Treaties during the Bush and Roosevelt Administrations

Administration	No Observable Senate Influence on Treaty	Significant Senate Influence on Treaty	Total
Roosevelt (26)	68	29	97
--Row %	70.1%	29.9%	
Bush (43)	23	12	35
--Row %	65.7%	34.3%	
	91	41	132

Note: This table excludes the 45 unperfected treaties during the Roosevelt administration, most of which show signs of Senate influence.

TABLE 5: Unperfected Treaties during the Presidency of Theodore Roosevelt, 1901-1909

Year	Unperfected Treaties
1901	1
1902	12
1903	4
1904	7
1905	7
1906	2
1907	3
1908	4
1909	5

TABLE 6: Senate Influence on Perfected and Unperfected Treaties during the Roosevelt Administration

Administration	No Observable Senate Influence on Treaty	Significant Senate Influence on Treaty	Total
Perfected Treaties	68	29	97
--Row %	70.1%	29.9%	
Unperfected Treaties	15	30	45
--Row %	33.3%	66.7%	
	83	59	142

TABLE 7A: Senate Influence on *Non-Security* Treaties during the Bush and Roosevelt Administrations

Administration	No Observable Senate Influence on Treaty	Significant Senate Influence on Treaty	Total
Roosevelt (26)	46	7	53
--Row %	86.8%	13.2%	
Bush (43)	23	7	30
--Row %	76.7%	23.3%	
	69	14	83

Note: This table excludes the 20 unperfected non-security treaties during the Roosevelt administration, most of which show signs of Senate influence.

TABLE 7B: Senate Influence on *Security* Treaties during the Bush and Roosevelt Administrations

Administration	No Observable Senate Influence on Treaty	Significant Senate Influence on Treaty	Total
Roosevelt (26)	22	22	44
--Row %	50.0%	50.0%	
Bush (43)	0	5	5
--Row %	0%	100%	
	22	27	49

Note: This table excludes 25 unperfected security treaties during the Roosevelt administration, most of which show signs of Senate influence.

TABLE 8: Treaties, Executive Agreements, and Issues

Commitment Type		Military/Security	Economic	Science/Cultural	Other
Treaty	Roosevelt	44	19	0	33
	--Row %	45.8%	19.8%	0%	34.4%
	Bush	6	21	0	18
	--Row %	13.3%	46.7%	0%	40.0%
Executive Agreement	Roosevelt	12	28	0	4
	--Row %	27.3%	63.6%	0%	9.1%
	Bush	274	88	62	175
	--Row %	45.7%	14.7%	10.4%	29.2%

TABLE 9: Bilateral Treaties and Agreements by Geographic Region and Year

Year	Americas	Europe	Asia	Africa	Middle East	Other
1901						
Treaty	0	3	0	0	0	0
EA	1	1	0	0	0	0
1902						
Treaty	3	5	0	0	0	0
EA	2	3	0	0	0	0
1903						
Treaty	5	2	1	1	0	0
EA	6	1	0	0	0	0
1904						
Treaty	5	6	0	0	0	0
EA	0	0	0	0	0	0
1905						
Treaty	3	3	1	0	0	0
EA	0	8	0	0	0	0
1906						
Treaty	2	3	1	0	0	0
EA	0	7	0	0	0	0
1907						
Treaty	2	0	0	0	0	0
EA	0	7	0	0	0	0
1908						
Treaty	5	15	4	0	0	0
EA	0	2	1	0	0	0
1909						
Treaty	2	3	0	0	0	0
EA	1	2	0	0	0	0
2001						
Treaty	2	2	2	0	0	0
EA	13	39	24	17	5	2
2002						
Treaty	2	3	1	0	0	0
EA	25	35	35	17	6	5
2003						
Treaty	1	10	2	0	0	0
EA	27	31	35	40	3	30
2004						
Treaty	1	2	1	0	0	0
EA	47	47	44	27	11	5

FIGURE 1: Ratio of Executive Agreements to Treaties by Administration

