AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

TREATIES

See also "Executive Business and Executive Sessions," pp. 832–842.

Treaties, unlike any other business considered by the Senate, stay before that body once they are submitted by the President until the Senate has acted thereon or unless the President requests, and/or the Senate adopts an order or resolution authorizing their return to the President or the Secretary of State. In 1937, 1947, and 1952, numerous treaties were returned to the Secretary of State or the President of the United States pursuant to an order or resolution adopted by the Senate, including some dating back as early as 1910.

All amendments, motions and questions on treaties require only a majority vote for adoption, except for the question of agreeing to the resolution of ratification or a motion to postpone indefinitely, both of which require a two-thirds vote for adoption.

Until 1986 the Standing Rules provided for consideration of treaties article by article in committee of the whole before consideration by the Senate. Some precedents which refer to the committee of the whole have been included for historical perspective.

For forms and procedures utilized for the consideration and disposition of treaties, *see* "Treaties," pp. 1554–1558.

Constitution, Article II, Section 2

[Treaty-Making Power]

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur: . . .

Rule XXX

[Procedure for Considering and Disposing of Treaties]

1. (a) When a treaty shall be laid before the Senate for ratification, it shall be read a first time; and no motion in respect to it shall be in order, except to refer it to a committee, to print it in confidence for the use of the Senate, or to remove the injunction of secrecy.

(b) When a treaty is reported from a committee with or without amendment, it shall, unless the Senate unanimously otherwise directs, lie over one day for consideration; after which it may be read a second time, after which amendments may be proposed. At any stage

of such proceedings the Senate may remove the injunction of secrecy from the treaty.

(c) The decisions thus made shall be reduced to the form of a resolution of ratification, with or without amendments, as the case may be, which shall be proposed on a subsequent day, unless, by unanimous consent, the Senate determine otherwise, at which stage no amendment to the treaty shall be received unless by unanimous consent; but the resolution of ratification when pending shall be open to amendment in the form of reservations, declarations, statements, or understandings.

(d) On the final question to advise and consent to the ratification in the form agreed to, the concurrence of two-thirds of the Senators present shall be necessary to determine it in the affirmative; but all other motions and questions upon a treaty shall be decided by a majority vote, except a motion to postpone indefinitely, which shall be decided by a vote of two-thirds.

2. Treaties transmitted by the President to the Senate for ratification shall be resumed at the second or any subsequent session of the same Congress at the stage in which they were left at the final adjournment of the session at which they were transmitted; but all proceedings on treaties shall terminate with the Congress, and they shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon.

Amendment to Treaty:

See also "Amendments," pp. 24-125; "Resolutions of Ratification," pp. 1306-1307.

Amendments to treaties are amendable themselves in the manner that amendments to bills are open to further amendment.

Amendments are in order to a treaty in the Senate prior to the presentation of the resolution of ratification; after the resolution of ratification is offered, amendments to the text of the treaty are not in order.[1]

An amendment to the text of an article of a treaty is an amendment to the treaty whether or not it is the sense of the Senate in nature or whether it proposes binding provisions on the parties to the treaty; the fact that a proposed amendment to an article utilizes language that says it is an understanding does not make it an amendment to the resolution of ratification so long as it is directed to an article of the treaty itself.[2]

Absent cloture, there is no germaneness requirement with respect to amendments to a treaty.[3]

---

[1] Mar. 9, 1967, 90-1, *Record*, p. 6002; *see* Apr. 6, 1945, 79-1, *Record*, pp. 3160-61, 3164.
[2] Mar. 9, 1978, 95-2, *Record*, pp. 6200, 6205.
[3] May 18, 1988, 100-2, *Record*, p. S 6072.

Amendments—Vote Required:

See "Vote on Treaties," pp. 1309–1310.

It takes an affirmative vote of a majority of the Senators present and voting to adopt an amendment to a treaty.[4]

Amendments on Resolution of Ratification:

See "Reservations to," pp. 1303–1305; and "Resolutions of Ratification," pp. 1306–1307.

Amendments or Reservations, Question of:

See also "Reservations to," pp. 1306–1307.

A point of order that a reservation was not in fact a reservation but an amendment to the treaty should be submitted to the Senate.[5]

The rules do not define the scope and nature of amendments or reservations.[6]

Authenticity of Treaty Documents:

A point of order against the consideration of a treaty on the basis that the treaty document had not been signed by an individual authorized to bind the foreign state was debated and then tabled by the Senate, after the Chair submitted the point of order to the Senate on the grounds that it raised a question of legal interpretation which the Chair had no authority to decide.[7]

Cloture Rule, Applicable to Treaty:

See also "Cloture Procedure," pp. 282–334.

Upon the expiration of time under cloture, the resolution of ratification is automatically pending and a vote would occur on or in relation thereto,[8] and any amendments pending to the treaty would have to be disposed of prior to a vote on the resolution of ratification.[9]

---

[4] Feb. 18, 1986, 99–1, *Record*, pp. 2175–76.
[5] Apr. 17, 1945, 79–1, *Record*, pp. 3408–09.
[6] *See* Apr. 6, 1945, 79–1, *Record*, pp. 3160–61, 3164.
[7] May 18, 1988, 100–2, *Record*, pp. S 6677–82.
[8] *See* May 24, 1988, 100–2, *Record*, p. S 6506.
[9] *See* May 24, 1988, 100–2, *Record*, p. S 6505.

Consideration:

See also "Executive Business and Executive Sessions," pp. 832–842; "Legislation Takes Precedence Over Treaties," p. 905; "Legislative Sessions," pp. 907–908.

The Senate proceeds by majority vote or unanimous consent to the consideration of executive business in open or closed executive sessions.[10]

A treaty when reached on a call of the executive calendar does not require a motion for its consideration, but it is already before the Senate.[11]

A motion to lay aside a treaty and take up another is not in order; the motion should be to proceed to the consideration of a particular treaty,[12] which if agreed to would have the effect of displacing the pending or unfinished treaty,[13] but the treaty rules do not provide for unfinished executive business compared to the rules providing for unfinished legislative business.[14]

A treaty under consideration is displaced by agreement to a motion to take up a nomination, or vice versa,[15] but a motion to consider a nomination is not in order when the Senate has gone into executive session for the sole purpose of considering a treaty.[16]

A general arbitration treaty with Great Britain having been amended and the Senate having advised and consented to its ratification, unanimous consent was granted that a like treaty with France be considered as amended identically and a precisely similar resolution of ratification adopted as in the case of the treaty with Great Britain.[17]

A motion to proceed to the consideration, under a unanimous consent agreement, of a treaty in open executive session is privileged and has precedence over a motion to consider a Senate resolution.[18]

A unanimous consent agreement providing that at a certain time a treaty should be laid before the Senate as

---

[10] Rules XX1X and XXX; *see also* Dec. 20, 1928, 70–2, *Record*, p. 917.

[11] *See* Mar. 13, 1945, 79–1, *Record*, pp. 2104–05; Apr. 24, 1947, 80–1, *Record*, p. 3943.

[12] July 24, 1947, 80–1, *Record*, p. 9982; *see also* Mar. 13 and 23, 1945, 79–1, *Record*, pp. 2107, 2652.

[13] *Ibid.*

[14] *See* Jan. 15, 1912, 62–2, *Record*, pp. 943–45.

[15] *See* Mar. 13, 1945, 79–1, *Record*, p. 2107; Mar. 16, 1945, 79–1, *Record*, pp. 2348–49.

[16] June 4, 1947, 80–1, *Record*, p. 6307.

[17] Mar. 7, 1912, 62–2, *Record*, p. 2955.

[18] Mar. 5, 1912, 62–2, *Record*, p. 2816. This decision was before the Senate amended its rule to provide for open executive sessions.

in executive session is executed by the Presiding Officer laying such treaty before the Senate; the procedure with respect to its future consideration will depend upon the action of the Senate.[19]

Where the Senate has ordered certain treaties to be considered in open executive session, a specific motion is required each day to so proceed to their consideration; they would not come up automatically for consideration at the expiration of the Morning Hour.[20]

Under an order providing for the consideration of a treaty at a certain hour on a following day, such treaty will be considered in executive session [21] and at the said time the Senate automatically resolves itself into executive session for that purpose.[22]

The Senate on different occasions has voted on article by article of a treaty separately.[23]

The procedure of consideration article by article has been suspended on various occasions by unanimous consent.[24]

Declarations:

See "Reservations to," pp. 1303–1305; "Resolutions of Ratification," pp. 1306–1307.

Definitions Relating to a Treaty:

See also "Injunction of Secrecy," pp. 1299–1300.

An unsigned document purporting to be a copy of the treaty of peace proposed by the Versailles Conference with Germany is not, under the rule, a treaty transmitted by the President to the Senate.[25]

Transmittal to the President of an engrossed copy of a resolution declaratory of the war and peace aims of the United States is not "advice" within the meaning of the Constitution relative to treaties.[26]

A declaration of the signatory powers as to their understanding and intent of a treaty made at the time it was

---

[19] Jan. 14, 1925, 68-2, *Journal*, p. 89. *Record*, p. 1811.
[20] *See* Jan. 15, 1912, 62-2, *Record*, pp. 943-45; *see also* footnote No. 18 above.
[21] *See* June 14, 1957, 85-1, *Record*, p. 9176.
[22] June 17, 1957, 85-1, *Record*, p. 9236.
[23] Mar. 24, 1922, 67-2, *Record*, pp. 4486-96; Mar. 28, 1922, 67-2, *Record*, p. 4686.
[24] July 23, 1945, 79-1, *Record*, p. 7941; Mar. 14, 1952, 82-2, *Record*, p. 2326.
[25] June 9, 1919, 66-1, *Journal*, p. 59, *Record*, pp. 781-89, 799-802.
[26] Nov. 5, 1943, 78-1, *Record*, pp. 9222-23.

signed was held not to be a part of such treaty, and not subject to amendment.[27]

Only the English text of a treaty is before the Senate for advice and consent.[28]

After a long discussion, Senate Resolution 196, proposing acceptance of compulsory jurisdiction of International Court of Justice by the United States (of the 79th Congress), was taken up, by unanimous consent, in open executive session.[29]

Discharge of Committees:

See also "Discharge of Committees," pp. 802-806; "Nominations, Discharge of Committees Before Consideration of," pp. 943-944.

A resolution to discharge a committee from further consideration of a treaty when appropriately submitted in executive session will nonetheless go over a day under Rule XVII, paragraph 4(a), upon objection to a request for its immediate consideration.[30]

Division of Question:

See "Division of Pending Question," pp. 807-812.

Documents Submitted With Treaty:

Preambles to treaties are not amendable, nor are documents submitted to the Senate for informational purposes. Only documents submitted to the Senate by the President for advise and consent are before the Senate for consideration and amendment.[31]

Injunction of Secrecy:

See also "Legislative Sessions," pp. 907-908: "Petition on Pending Treaty," p. 1301.

Under Rule XXX, it requires positive action of the Senate "to remove the injunction of secrecy," on a treaty. The rule provides that all such communications from the President to the Senate shall be kept secret "until the

---

[27] Mar. 24, 1922, 67-2, *Record*, p. 4496.
[28] May 18, 1988, 100-2, *Record*, pp. S 6072, 6077.
[29] July 31, 1946, 79-2, *Record*, pp. 10553-57; Aug. 1, 1946, 79-1, *Record*, pp. 10613-14.
[30] July 15, 1986, 99-2, *Record*, p. 16430.
[31] May 18, 1988, 100-2, *Record*, pp. S 6070-71.

Senate shall, by their resolution, take off the injunction of secrecy."

The following is a typical request for the removal of the injunction of secrecy:

Mr. ROBERT C. BYRD. As in executive session,

I ask unanimous consent that the injunction of secrecy be removed from the Third Protocol to the 1975 Tax Convention with the United Kingdom of Great Britain and Northern Ireland, as amended, signed at London on March 15, 1979 (Executive Q, 96th Congress, first session), transmitted to the Senate by the President of the United States on April 12, 1979.

I ask that the treaty be considered as having been read the first time, that it be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the *Record*.

The PRESIDING OFFICER. Without objection, it is so ordered.[32]

A document purporting to be a copy of an unsigned treaty of peace with Germany, presented to the Senate by a Senator, was held not to be a treaty within the meaning of the rule requiring secrecy on treaties laid before the Senate and proceedings thereon.[33]

The reading of such a document is not a violation of the rule imposing secrecy upon confidential communications or treaties made by the President to the Senate; the question of the reading of such a document, where objection is made, shall be decided by the Senate without debate.[34]

The order of the Senate, in case of removal of the injunction of secrecy from any of its proceedings, is entered in both the legislative and executive *Journal*s and published in the *Record*.[35]

Lay Aside Temporarily:

See "Lay Aside Temporarily," pp. 902-904.

Legislative Session—Treaty Consideration Out of Order:

See "Executive Business and Executive Sessions," pp. 832-842; "Legislative Sessions," pp. 907-908.

---

[32] Apr. 23, 1979, 96-1, *Record*, p. 8303-04.
[33] June 9, 1919, 66-1, *Journal*, pp. 59-60, *Record*, pp. 781-802.
[34] June 9, 1919, 66-1, *Journal*, p. 59, *Record*, pp. 781-89, 799-802.
[35] Feb. 8, 1900, 56-1, *Journal*, p. 131.

Notification to President:

Unanimous consent is necessary to waive the rule and notify the President on the day the advice and consent of the Senate is given to the ratification of a treaty.[36]

Petition on Pending Treaty:

A petition relating to a pending treaty from which the injunction of secrecy has been removed by the Senate may be presented in open session.[37]

Points of Order:

See "Amendments or Reservations, Question of," p. 1296; "Reservations to," pp. 1303–1305; "Treaty Reservation, p. 992.

Quorum Call Not Necessary Prior to Entering Agreement on Time for Final Vote:

A quorum call is not required in case of submission of a unanimous consent agreement fixing a time for a vote on a resolution of ratification of a treaty.[38]

Reading of Treaties:

See also "Executive Business in Legislative Session Out of Order," pp. 907–908.

Under Rule XXX, when a treaty is laid before the Senate for ratification it shall be read a first time; after it has been reported from a committee, and gone over 1 day for consideration. Absent a unanimous consent agreement providing to the contrary, a treaty reported from committee and pending before the Senate shall be read in its entirety, including the memoranda of understanding and protocols.[39] The second reading may be had by title only by unanimous consent,[40] or it may be dispensed with by unanimous consent, and regarded as having been read the second time.[41]

---

[36] Mar. 20, 1952, 82–2, *Record*, p. 2606.
[37] Dec. 15, 1884, 48–2, *Record*, p. 232.
[38] *See* Feb. 27, 1922, 67–2, *Record*, p. 3106.
[39] May 18, 1988, 100–2, *Record*, p. S 6045.
[40] July 23, 1945, 79–1, *Record*, p. 7941; Apr. 6, 1945, 79–1, *Record*, pp. 3164–65.
[41] Mar. 14, 1952, 82–2, *Record*, p. 2322.

The requirement that a treaty be read in its entirety may, by unanimous consent, be temporarily dispensed with, without prejudice to the rights of any Senator.[42]

The question of reading a document purporting to be a copy of an unsigned treaty, where objection is made, shall be decided by the Senate without debate.[43]

Recess—Business Following:

See "Recess—Business Following a Recess of the Senate," p. 840.

Reconsideration of Treaties:

See also "Reconsideration," pp. 1124–1149.

Prior to the elimination of the Committee of the Whole procedure for the consideration of treaties, the Senate on appeal decided that the reconsideration of a vote rejecting a resolution of ratification proposed to a treaty did not carry that treaty back to the Committee of the Whole; the resolution of ratification having been rejected, together with a motion to reconsider, it was held that it was not then necessary to return the treaty to the President.[44]

Where the Senate failed to advise and consent to the ratification of a treaty, and ordered its return to the President, it was held that a motion to reconsider the vote on the ratification of the treaty was not in order.[45]

Reference to Committee:

See also "References to Committees," pp. 1150–1169.

Under the Standing Rules, treaties are referred to committee for study and report.[46]

The Senate on different occasions has adopted orders for that particular session of Congress providing for the reference to committee of nominations and treaties from the President on days when there was no executive session.[47]

On January 19, 1978, a unanimous consent agreement was reached, to be effective for the remainder of the 95th

---

[42] May 17, 1988, 100–2, *Record*, pp. S 6004–11.
[43] June 9, 1919, 66–1, *Journal*, p. 59, *Record*, pp. 781–89.
[44] Nov. 19, 1919, 66–1, *Record*, pp. 8786–89.
[45] Mar. 19, 1920, 66–2, *Record*, pp. 4600–02.
[46] Rule XXX.
[47] Mar. 15, 1933, 73–1, *Journal*, p. 33, *Record*, p. 471; Jan. 4, 1934, 73–2, *Record*, p. 61; Jan. 7, 1935, 74–1, *Record*, p. 143.

Congress, providing for the reference of treaties to the appropriate committee on the day they were received from the President even if there were no executive sessions on that day.[48] Other like agreements for the reference of both nominations and treaties have been adopted by the Senate at the beginning of a new session or a new Congress. Such action is taken since the reference of treaties and nominations should actually occur in executive session since it is executive business.

Shortly after the opening of the first session of the 76th Congress, certain treaties and conventions, upon which the Senate took no final action in the 75th Congress, but which were left on the Executive Calendar, were referred to the Committee on Foreign Relations.[49]

Reservations to:

Reservations and understandings are treated as amendments to the resolution of ratification and are not in order until the resolution of ratification has been presented to the Senate.[50]

Before the Senate eliminated consideration of treaties in the committee of the whole, it was held that reservations were not in order while the treaty is in the Committee of the Whole; [51] they should not be acted on until the treaty has reached the stage of the consideration of the resolution of ratification.[52]

The Chair in 1978 advised the Senate that it would be in order to send to the desk an amendment in the nature of a substitute for the resolution of ratification and have it printed, while the treaty was still under consideration. The Chair likewise advised that it would take only a majority vote to agree to an amendment in the nature of a substitute for the resolution of ratification.[53]

Reservations are proposed to the resolution of ratification and voted upon prior to a vote on the resolution

---

[48] Jan 19, 1978, 95-2, *Record*, p. 20.
[49] Jan. 12, 1939, 76-1, *Record*, p. 238.
[50] *See* Mar. 9, 1967, 90-1, *Record*, p. 6002.
[51] Mar. 13, 1925, 69-Special Session, *Record*, p. 204; *see also* July 15, 1949, 81-1, *Record*, pp. 9534-37.
[52] Mar. 13, 1925, 69-Special Session, *Record*, p. 204.
[53] Mar. 9, 1978, 95-2, *Record*, p. 6211.

itself; [54] they must be acted on before the adoption of the resolution.[55]

Understandings and declarations are treated as amendments to the resolution of ratification and therefore must be agreed to before the adoption of the resolution of ratification.[56]

A point of order will not lie against an amendment in the form of a reservation to the resolution of ratification on the grounds that it refers to an amendment to another treaty which has already been agreed to, as long as it is directed solely to the resolution of ratification as a pending amendment.[57]

In 1926, in one instance, reservations to a Senate resolution in the nature of a treaty, upon which cloture had been invoked, were by unanimous consent first considered as in the Committee of the Whole.[58]

Where a treaty is reported with a reservation to the resolution of ratification the vote will first come on agreeing to the reservation and then on the resolution of ratification as amended, if amended; [59] reservations to a resolution of ratification proposed by a committee or by a Senator may be modified before any action is taken on them.[60]

Reservations are not subject to amendment after their adoption by the Senate.[61] When considered in the Committee of the Whole by unanimous consent, if agreed to, they are not subject to amendment at that stage of the proceeding unless reconsidered.[62]

A reservation to a measure requiring the advice and consent of the Senate, if passed over temporarily, is subject to amendment when subsequently taken up for consideration.[63] A reservation which is substantially the same as one previously offered and rejected is not in order; [64] if rejected it may be reoffered if changes have been made therein.[65]

---

[54] Feb. 9, 1955, 84-1, *Record*, p. 1411; Mar. 13, 1925, 69-Special Session, *Record*, p. 204; *see also* July 15, 1949, 81-1, *Record*, pp. 9534-37.
[55] *Ibid.*
[56] Apr. 19, 1971, 92-1, *Record*, pp. 10743-44.
[57] Apr. 18, 1978, 95-2, *Record*, pp. 10490-98.
[58] Jan. 26, 1926, 69-1, *Record*, pp. 2739-41.
[59] July 1, 1952, 82-2, *Record*, p. 8696.
[60] Apr. 12, 1945, 79-1, *Record*, p. 3291; Apr. 17, 1945, 79-1, *Record*, p. 3403.
[61] *See* Apr. 11, 1945, 79-1, *Record*, p. 3279.
[62] *See* Jan. 26, 1926, 69-1, *Record*, p. 2755.
[63] *Ibid.*
[64] Mar. 17, 1920, 66-2, *Record*, pp. 4448-49.
[65] Mar. 20, 1952, 82-2, *Record*, p. 2574.

A point of order, during the consideration of the treaty of peace with Germany, that a proposed reservation was covered by a committee reservation which had been previously adopted was overruled.[66]

The Senate by unanimous consent having considered as in the Committee of the Whole reservations to a Senate resolution advising and consenting to the adhesion on the part of the United States to the World Court protocol, the said protocol and adjoined statute were reported to the Senate and the reservations were concurred in en bloc.[67]

Vice President Marshall, in 1919, departing from the usual procedure in the consideration of treaties, ruled that the Senate in Committee of the Whole could consider reservations which were to be incorporated in the resolution of ratification when subsequently presented.[68]

Reservations—Unanimous Consent:

When the Senate is operating under a unanimous consent agreement on a resolution of ratification for a treaty which provides that only reservations may be offered, it would take unanimous consent to consider an understanding. Likewise, when a unanimous consent agreement limits amendments to the resolution of ratification for a treaty to two reservations to be offered by a specific Senator, the Chair on its own initiative interrupted that Senator when he attempted to call up an understanding and required unanimous consent to be granted therefor.[69]

Resolutions in Executive Session Go Over a Day on Objection:

Under Rule XXX, treaties are considered in executive session, and a treaty reported from committee may by unanimous consent be considered immediately; but otherwise, "it shall * * * lie over one day for consideration" and the word "day" means a calendar day, not legislative day.[70]

During the consideration in executive session of a resolution relating to the World Court, a motion to adopt a

---

[66] Nov. 18, 1919, 66-1, *Record*, pp. 8745-46.
[67] Jan. 27, 1926, 69-1, *Record*, p. 2823.
[68] Nov. 6, 1919, 66-1, *Record*, pp. 8013-22.
[69] June 11, 1981, 97-1, *Record*, p. 12099.
[70] *See* "Executive" day, p. 714 of this volume.

resolution, submitted on the same legislative day, calling on the Secretary of State for certain related documents, was conceded to be out of order.[71]

Resolutions of Ratification:

See also "Vote on Treaties," pp. 1309–1310.

A treaty must lie over 1 day before the resolution of ratification may be presented.[72]

After a resolution of ratification has been amended, the Chair puts the question on agreement to the resolution of ratification as amended.[73]

A resolution of ratification embracing the decisions of the Senate on a treaty should be proposed on a calendar day subsequent to the completion of the consideration of amendments.[74] It takes unanimous consent to consider it on the same calendar day it is proposed.[75] For discussion as to time of offering *see* proceedings for April 9, 1945.[76]

The requirement of the rule for 1 calendar day to elapse after the decisions of the Senate on a treaty before the presentation of a resolution of ratification is met by a recess of the Senate taken in legislative session.[77] That requirement, in one instance in 1926 was suspended by unanimous consent, and the resolution, with the reservations adopted by the Senate, was agreed to, two-thirds of the Senators present having voted in the affirmative.[78]

After the resolution of ratification is offered, amendments to the text of the treaty are not in order;[79] the Senate, on appeal decided that after a resolution of ratification had been offered, no further amendments to the resolution of ratification were in order under the cloture rule.[80]

A perfecting amendment to the resolution of ratification has precedence over a substitute for said resolution.[81]

---

[71] Jan. 23, 1926, 69-1, *Record*, p. 2658.
[72] May 18, 1988, 100-2, *Record*, pp. S 6070–71.
[73] Apr. 19, 1971, 92-1, *Record*, pp. 10743–44.
[74] *See* Mar. 18, 1920, 66-2, *Record*, p. 4536.
[75] Aug. 21, 1888, 50-1, *Record*, p. 7768.
[76] Apr. 9, 1945, 79-1, *Record*, pp. 3174, 3177–79.
[77] *See* Apr. 9, 1945, 79-1, *Record*, pp. 3176–77, 3223.
[78] Jan. 27, 1926, 69-1, *Record*, p. 2823.
[79] *See* Apr. 6, 1945, 79-1, *Record*, pp. 3160–61, 3164.
[80] Nov. 19, 1919, 66-1, *Record*, pp. 8786–89.
[81] Mar. 13, 1925, 69-Special Session, *Record*, p. 204.

During the consideration of the treaty with Germany, the Vice President, with a view to making in order on the succeeding day a resolution of ratification, after making inquiry, formally declared there were no more reservations or amendments to be offered.[82] Again during the consideration as in the Committee of the Whole of the United Nations Charter, unanimous consent was given to present the resolution of ratification; the treaty was then reported to the Senate by unanimous consent.[83]

Return of Treaty to the President of the United States:

A resolution reported by the Committee on Foreign Relations to authorize the withdrawal of a treaty is executive business and requires only a majority vote for adoption.[84]

The resolution of ratification of a treaty having been rejected, together with a motion to reconsider, it was held that it was not then necessary to return the treaty to the President.[85]

A resolution instructing the Secretary of the Senate to return to the President a treaty to which the Senate had failed to advise and consent does not have to lie over 1 day under the rule.[86]

In 1937, pursuant to a resolution reported by the Committee on Foreign Relations, and agreed to by the Senate, certain treaties were ordered returned to the Secretary of State.[87]

In 1952, pursuant to a request of the President, various treaties were returned to him by order of the Senate.[88]

Senate Procedure, Effect of Treaty on:

On one occasion the Chair stated in response to an inquiry that the terms of a treaty to which the Senate had not yet given its advise and consent had no effect on the procedures of the Senate.[89]

---

[82] Nov. 18, 1919, 66-1, *Record*, pp. 8759-60.
[83] July 27, 1945, 79-1, *Record*, p. 8129.
[84] Mar. 13, 1970, 91-2, *Record*, p. 7350.
[85] Nov. 19, 1919, 66-1, *Record*, pp. 8786-89.
[86] *See* Mar. 19, 1920, 66-2, *Record*, p. 4600.
[87] Apr. 29, 1937, 75-1, *Journal*, p. 249, *Record*, p. 3929.
[88] July 3 and 5, 1952, 82-2, *Record*, pp. 9502-03.
[89] *See* May 18, 1988, 100-2, *Record*, p. S 6081.

Table:

See also "Table," pp. 1273–1289.

An amendment carried to the table with a reservation, to which it was pending, may be reoffered as an independent question.[90]

Unanimous Consent Procedure:

It is quite the common practice in the disposition of noncontroversial treaties in recent years, after any debate thereof, to have them pass through their various parliamentary stages up to and including the presentation of the resolution of ratification, avoiding their detailed consideration in the Senate. If there are any committee amendments or noncontroversial amendments to be offered, as soon as any debate thereof is over, by unanimous consent, any such amendments would be adopted or rejected and the treaty is then, generally by unanimous consent, passed through its various parliamentary stages up to and including the presentation of the resolution of ratification.[91]

Understandings:

See "Reservations to," pp. 1303–1305; "Resolutions of Ratification," pp. 1306–1307.

Vote—Disclosure of in Closed Session:

Rule XXXI, paragraph 2, provides: "All business in the Senate shall be transacted in open session, unless the Senate as provided in Rule XXI by a majority vote shall determine that a particular nomination, treaty, or other matter shall be considered in closed executive session, in which case all subsequent proceedings with respect to said nomination, treaty, or other matter shall be kept secret: *Provided*, That the injunction of secrecy as to the whole or any part of proceedings in closed executive session may be removed on motion adopted by a majority vote of the Senate in closed executive session: *Provided further*, That any Senator may make public his vote in closed executive session."

---

[90] Mar. 18, 1920, 68–2, *Record*, pp. 4499, 4500.
[91] For an example, *see* the proceedings of Mar. 9, 1967, 90–1, *Record*, p. 6002.

Vote Required on Treaties:

The President, "by and with the advice and consent" of the Senate shall have power "to make treaties, provided two-thirds of the Senators present concur * * *." [92]

"On the final question to advise and consent to the ratification in the form agreed to, the concurrence of two-thirds of the Senators present shall be necessary to determine it in the affirmative; but all other motions and questions upon a treaty shall be decided by a majority vote, except a motion to postpone indefinitely, which shall be decided by vote of two-thirds." [93]

A majority vote only is required to consider a treaty in open executive session.[94]

A yea and nay vote is not required under the rules on the question of agreeing to a resolution of ratification.[95]

Two treaties in 1948 were approved by the adoption of one resolution of ratification,[96] and two or more treaties on various occasions have been approved by the adoption of the several resolutions of ratification by one vote,[97] as well as taking one vote, "on four resolutions of ratification, with each vote set out separately after each resolution of ratification," with the vote counting as four different votes, all under unanimous consent procedure.[98]

On September 28, 1973, unanimous consent was granted to act on six treaties en bloc and "that there be one roll call vote on the 6 treaties with that one roll call vote to count as six votes." Such unanimous consent agreements have been adopted on numerous other occasions, varying in number of treaties to be agreed to en bloc with one vote approving all of them but with the roll call votes to count in number equal to the number of treaties to be approved.[99]

The yeas and nays on one occasion were ordered on three treaties en bloc, which were not then before the

---

[92] Art. II, sec. 2.

[93] Rule XXX, para. 1(d).

[94] Dec. 20, 1928, 70-2, *Record*, p. 917.

[95] Aug. 3, 1977, 95-1, *Record*, p. 26284; *See* Dec. 8, 1947, 80-1, *Record*, p. 11136; *see* this citation for treaties failing because of lack of a two-thirds vote.

[96] June 2, 1948, 80-2, *Record*, p. 6940.

[97] Apr. 1. 1955, 84-1, *Record*, pp. 4206, 4232-33; July 6, 1955, 84-1, *Record*, pp. 9958-73; July 29, 1955, 84-1, *Record*, pp. 12019-25; July 19, 1956, 84-2, *Record*, pp. 13505, 13513; July 11, 1956, 84-2, *Record*, pp. 12287-88; Apr. 19, 1956, 84-2, *Record*, pp. 6608-16: Jan. 25, 1956, 84-2, *Record*, pp. 1220-24.

[98] Nov. 25, 1970, 91-2, *Record*, p. 38919.

[99] Sept. 28. and Oct. 1, 1973, 93-1, *Record*, pp. 32011, 32263; Oct. 30, 1973, 93-1, *Record*, pp. 35423-24; Nov. 26, 1973, 93-1, *Record*, pp. 37957-58.

Senate, after agreeing to such procedure by unanimous consent.[100]

Various treaties have failed of ratification because of the lack of a two-thirds vote by the Senate on approving the resolution of ratification.[101]

The Senate has on two occasions adopted a resolution of ratification on a treaty by a division vote.[102] On another occasion the Senate by unanimous consent considered three resolutions of ratification en bloc, and adopted them by a division vote.[103]

On the ratification of a treaty, Senators are announced as paired on the basis of two for to one against. For an exception, when the Senators were paired one for and one against *see* proceedings for August 21, 1888.[104] *See also* "Pairs," pp. 968–970.

Withdrawal of:

See "Return of Treaty to the President of the United States," p. 1307.

[100] May 4, 1967, 90–1, *Record*, p. 11858.
[101] *See* proceedings for May 2, 1945, 79–1, *Record*, p. 4050.
[102] Oct. 8, 1986, 99–2, *Record*, pp. 29520–21; July 24, 1986, 92–2, *Record*, p. 17563.
[103] Nov. 22, 1989, 101–1, *Record*, p. S 16616.
[104] Aug. 21, 1888, 50–1, *Journal*, p. 1607.