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STUDENT SPOTLIGHT

U.S. TREATY PRACTICE AND THE CONSTITUTION: LIMITATIONS ON EXECUTIVE AUTHORITY

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Even though an unequivocal preference for “joint possession” of authority between the Executive and Legislative branches is reflected in the United States’ founding documents, treaty-making functions remain a constitutionally convoluted domain. Though United States v. Belmont solidified judicial validation of non-treaty international agreements, the “political question” doctrine in Goldwater v. Carter has only expanded the Executive branch’s authority over the arena. Despite the overturning of the Chevron doctrine in Loper Bright, judicial restraint in foreign affairs has left the Executive Branch’s authority largely unchecked, particularly in treaty-making. Congressional acquiescence in this regard has exacerbated the situation further. Present pragmatic political realities have made the two-thirds majority threshold required for Article II treaties virtually unattainable, which explains Congressional inaction. However, the National Defense Authorization Act of 2024 has set a modern-day precedent of unified Congressional action in reclaiming institutional authority.

This paper analyzes the interactions of American constitutional morality with international law, particularly the United States' selective embrace of customary international law, assessing the resulting implications for the enforceability of treaty related frameworks and obligations among sovereign states.

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INTRODUCTION

The Founders of the United States envisioned treaty-making powers to be a “joint possession” of the Executive Branch, as well as the Legislative Branch, specifically with the extensive participation of the U.S. Senate.¹ Over the past half-century, however, core questions concerning the proper role of treaties in American foreign policy have repeatedly arisen: How did the Framers intend treaties to be formed, implemented, and dissolved? To what extent have contemporary practice and judicial interpretation diverged from that original understanding? And what consequences have such divergences had for the international order?

This inquiry demands examination through constitutional, jurisprudential, precedential, and practical lenses. It also requires scrutiny of the principled inconsistencies often attributed to international law and their implications for constitutional norms within the distinctly American context.

I. CONSTITUTIONAL FRAMEWORK

Treaties are specifically defined as international agreements in Article II, Section 2, Clause 2 of the United States Constitution, which provides that the President of the United States “shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur.”² Consequently, any “treaty” requires presentment to the United States Senate.³ Treaties were understood, at the time of constitutional drafting, as instruments of foreign intercourse between sovereigns, situated within the law of nations and requiring national unity.⁴ However, the Constitution does not explicitly define what constitutes a treaty. This responsibility falls to the Department of State, specifically the Office of Treaty Affairs within the Office of the Legal Adviser.⁵

II. DEPARTMENT OF STATE’S DETERMINATION OF TREATY STATUS

The Department of State’s determination of treaty status is codified in the Circular 175 process, and subsequently in the Foreign Affairs Manual, which provides the operative criteria to

Department personnel for classification of international agreements. 11 FAM § 723.3 provides the following considerations:⁶

The extent to which the agreement involves commitments or risks affecting the Nation as a whole;

Whether the agreement is intended to affect state laws;

Whether the agreement can be given effect without the enactment of subsequent legislation by the Congress;

Past U.S. practice as to similar agreements;

The preference of the Congress as to a particular type of agreement;

The degree of formality desired for an agreement;

The proposed duration of the agreement,

The need for prompt conclusion of an agreement, and the desirability of concluding a routine or short-term agreement; and

The general international practice as to similar agreements.

Circular 175 ensures that treaty-making takes place within constitutional bounds and in accordance with relevant domestic legislation, namely the *Case-Zablocki Act* of 1972.⁷ Article 102 of the United Nations Charter addresses international commitments such as the registration of treaties.⁸

Circular 175 procedures originate from Department of State Circular No. 175, issued on December 13, 1955.⁹ Colloquially known as C-175,¹⁰ it is a bureaucratic directive to ensure that the United States' treaty-making processes are adhered to, particularly regarding uniformity in negotiation, conclusion, reporting, publication, and registration procedures.¹¹ Agencies are required to submit a C-175 Memorandum to the Office of the Legal Adviser (Treaty Affairs) detailing the purpose, scope, terms, legal basis, alignment with foreign policy, and classification of the agreement in accordance with 11 FAM 723.3. C-175 helps maintain the Executive Branch's control over American foreign policy and compliance with transparency initiatives.¹²

III. VIENNA CONVENTION ON THE LAW OF TREATIES: CONSENSUS & DIVERGENCE

The Vienna Convention on the Law of Treaties (VCLT) (1969) is the foundational instrument codifying the rules that govern the formation, interpretation, and termination of treaties between states. Entering into force in 1980, it has 115 parties and 45 signatories, and provides the

authoritative legal framework for issues such as consent to be bound, reservations, and interpretive methodology. Although formally binding only on its parties, the Convention is widely regarded as a reflection of customary international law, and its principles are routinely applied even by non-parties, making it the central reference point for the operation of treaty law in the international system.

The United States signed the VCLT in 1970.¹³ However, as an unratified treaty, its role in U.S. treaty-making practices is rooted in Customary International Law, as opposed to a binding treaty obligation. The signing of a treaty signifies the signatory's agreement with the treaty's stated objectives and political intent to continue the treaty-making process. Signature triggers Article 18 of the VCLT, not to defeat the object and purpose of the treaty. On the other hand, ratification is a voluntary submission to the legal bounds of the treaty. The Office of the Legal Adviser (Treaty Affairs) within the Department of State acknowledges that the United States considers many provisions of the VCLT, including Articles 2, 26, and 31–33, to reflect Customary International Law.¹⁴

IV. NON-TREATY INTERNATIONAL AGREEMENTS UNDER U.S. LAW

Sole Executive Agreements

Sole executive agreements are sparingly used because of the limitations of Article II executive authority.¹⁵ Efficiency and speed generally explain the use of executive agreements. However, they are not the only non-treaty international agreements.¹⁶

Brokered in 1933 under the FDR presidency, the *Litvinov Assignment* was a claims-settlement agreement that was key to the normalization of diplomatic ties between the United States and the then-Soviet Union (USSR). Maxim Litvinov, former Foreign Minister of the Soviet Union, assigned to the United States claims to certain pre-revolutionary Russian assets located in the U.S. Thereby, the USSR enabled the U.S. government to assert those claims in its own courts as part of a broader settlement of financial disputes following recognition of the Soviet regime. This, in turn, precipitated the lawsuit *United States v. Belmont*, filed by the United States against a private holder of Soviet assets from within the state of New York to be transferred to the Soviet Union. The core holding was that sole executive agreements concerning external affairs were constitutional and could preempt conflicts with state laws in the same manner as formal treaties. Therefore, the decision validated sole executive agreements.¹⁷

The Supreme Court further upheld executive claims-settlement authority in *Dames & Moore v. Regan*,¹⁸ where the Court recognized broad executive authority in foreign affairs when supported by congressional acquiescence.¹⁹

Congressional-Executive Agreements

Congressional-executive agreements are the most commonly used non-treaty tool, especially in domains that pertain to Congress's Article I²⁰ powers regulating foreign commerce.²¹

This requires a simple majority in both Houses of Congress and the President's sign-off. Examples include several Free Trade Agreements (FTAs),²² the United States' entry into the World Trade Organization,²³ and the North American Free Trade Agreement (NAFTA),²⁴ which was replaced by the United States–Mexico–Canada Agreement (USMCA) in 2020.²⁵

Most of these are *ex ante*, meaning the congressional statute passes first, thereby allowing the Executive Branch to negotiate.²⁶ *Ex post* agreements are less common, wherein the chronology of events reverses.

Treaty-Based Executive Agreements

When a ratified treaty provides for the implementation of protocols, minutes, or executive action, an executive agreement in that regard is considered valid.²⁷ A key example is the Guantánamo Bay Naval Base Lease under the Cuban-American Treaty of Relations of 1903,²⁸ wherein executive agreements implementing the pre-existing treaty's terms did not require senatorial approval.²⁹

V. SCHOLARLY COMMENTARY

Scholarly analysis indicates that contemporary U.S. treaty practice has shifted away from formal treaties toward pragmatic realism, in place of constitutional idealism, given the Senate's two-thirds supermajority requirement for formal treaties as outlined in the Constitution.³⁰ As a result, while the letter of the law, as per established judicial interpretations, remains unquestionable, there are questions as to whether the intent of the Treaty Clause of the Constitution has been undermined in favor of practical considerations of flexibility in light of contemporary political polarization.³¹

VI. JUDICIAL DEFERENCE AND ADMINISTRATIVE INTERPRETATION

Historically, U.S. treaty-making policies have also benefited from judicial and congressional deference to the executive bureaucracy's interpretation of the classification of different international agreements as formal treaties or otherwise, acknowledging the significance of specialized expertise in regulatory domains. This principle was reflected in *Chevron U.S.A. Inc. v. Natural Resources Defense Council* (1984).³² Although not directly dealing with foreign affairs, in theory, it established a doctrinal mechanism for judicial deference to administrative interpretation of statutes.

Recently, the *Chevron* doctrine was overturned in *Loper Bright Enterprises v. Raimondo* (2024),³³ shifting interpretive authority to the judiciary. The overturning could open the door to the possibility that the judiciary takes it upon itself to interpret what constitutes a treaty and how it is to be defined.³⁴ Given the Court's historical attitude in this regard, it remains unlikely that *Loper Bright* will be extensively applied to foreign affairs.

VII. TERMINATION OF A TREATY

Although the Constitution explicitly outlines the treaty-making process, it is silent on the termination of treaties. Could the Executive Branch terminate an Article II treaty unilaterally, or does it need the consent of the Senate, as it does in forming said treaty?

The first time this issue was posed as a constitutional question before the Supreme Court was when President Jimmy Carter announced the abrogation of the Mutual Defense Treaty between the United States and the Republic of China on December 15, 1978.³⁵ Senator Barry Goldwater sued, arguing that the Executive Branch could not unilaterally terminate an Article II treaty, in what came to be known as *Goldwater v. Carter*.³⁶ There was no majority opinion in the case.³⁷ The Court refused to rule on the merits claim.³⁸ In a per curiam order, Justice Rehnquist deemed it a non-justiciable political question concerning the allocation of power between Congress and the President in relation to the foreign policy function of the United States.³⁹ Justices Brennan, Blackmun, and White dissented, arguing that the case warranted full briefing.⁴⁰

Justice Powell concurred in the judgment but on “ripeness” grounds, emphasizing that Congress had not taken a unified institutional position asserting its authority.⁴¹ The next section will illustrate the relevance of Justice Powell's concurrence in the discussion of the *North Atlantic Treaty* (NAT).

The political question doctrine is the core idea stemming from *Marbury v. Madison*.⁴² However, the modern framework is rooted in *Baker v. Carr*,⁴³ which holds that the judiciary can decline to hear certain cases because of their inherent non-justiciability, owing to a commitment to the political branches despite meeting other requirements to be heard. The six *Baker* factors are as follows:⁴⁴

- (a) There is a textually demonstrable constitutional commitment of the issue to a coordinate political department.
- (b) There is a lack of judicially discoverable and manageable standards for resolving it.
- (c) Deciding the case would require an initial policy determination of a kind clearly for nonjudicial discretion.
- (d) It would be impossible for a court to undertake independent resolution without expressing lack of respect due to coordinate branches.
- (e) There is an unusual need for unquestioning adherence to a political decision already made.
- (f) There is potentiality of embarrassment from multifarious pronouncements by various departments on one question.

VIII. THE NORTH ATLANTIC TREATY

The *North Atlantic Treaty* (NAT) is a collective defense treaty that established the North Atlantic Treaty Organization (NATO) in 1949.⁴⁵ Article 5 of the NAT states that an armed attack against one member shall be considered an attack against all, triggering collective defense obligations.⁴⁶ Article 13 of the NATO Treaty provides that any Party may cease to be a Party one year after its notice of denunciation has been given to the Government of the United States.⁴⁷

This raises the question: Who has the constitutional authority to issue such notice? The President alone? The Senate? Congress as a whole? Or some combination thereof?

The Supreme Court has never ruled on this question. The closest case, *Goldwater v. Carter*, did not produce a majority opinion and was dismissed on political question and ripeness grounds.⁴⁸ As a result, the constitutional question remains unresolved. However, during his first term, President Trump publicly suggested, on various occasions, that he could unilaterally withdraw the United States from NATO, asserting that congressional approval would not be necessary.⁴⁹

In 2024, Congress passed the *National Defense Authorization Act*, requiring congressional approval before the United States withdraws from NATO.⁵⁰ This statute reflects Congress's institutional position that withdrawal from the NAT implicates its constitutional prerogatives.

Whether such a statute would survive judicial review remains uncertain, but it demonstrates that Congress has now taken the “unified institutional position” that Justice Powell found lacking in *Goldwater*.⁵¹

IX. SUCCESSION OF STATES

The Vienna Convention on Succession of States in Respect of Treaties is uniquely positioned in its domain of treaty obligations and continuity. The Badinter Arbitration Commission,⁵² which greatly influenced the modern manifestation of customary international law in this regard, came much after the Vienna Convention codifying the law on succession.⁵³ Pursuant to the Vienna Convention,⁵⁴ it entered into force on November 6, 1996. However, with only limited ratifications, the authoritative effect of this treaty is constrained, a limitation exacerbated by the absence of major powers among its parties.⁵⁵

Article 2 defines a “newly independent state” as “a successor State, the territory of which immediately before the date of the succession of States was a dependent territory for the international relations of which the predecessor State was responsible.”⁵⁶ Article 5 incorporates the principle of *uti possidetis juris*,⁵⁷ under which treaties are understood to “run with the land,” a principle later reaffirmed by the Badinter Arbitration Commission.⁵⁸ Articles 12–15 codify the general rule that newly independent states are not bound by the treaty obligations of their predecessor unless they choose to accede individually,⁵⁹ while Articles 16, 27, and 28 reflect a

competing presumption of continuity in cases of succession, unification, or separation outside the colonial context.⁶⁰

Opinion No. 3 of the Badinter Arbitration Commission sets out normative criteria for recognition, including respect for human rights, minority protections, territorial integrity, democratic governance, and peaceful dispute resolution.⁶¹

The International Court of Justice (ICJ), in its *Kosovo Advisory Opinion*,⁶² relied extensively on reasoning consistent with the Badinter framework, although it avoided explicit reliance on the Commission to preserve political neutrality.⁶³ The United Nations has likewise adopted a pragmatic, case-specific approach to succession, as demonstrated by its differential treatment of the dissolution of the Socialist Federal Republic of Yugoslavia⁶⁴ and the recognition of the Russian Federation as the continuator state of the former Soviet Union.⁶⁵

From a United States perspective, Article II, Section 3 of the US Constitution gives the President the sole authority to “receive Ambassadors and other public ministers.”⁶⁶ The Supreme Court, in *Zivotofsky v. Kerry*, interpreted the powers of the Reception Clause to extend to the recognition of foreign states and governments, which is vested solely in the President.⁶⁷ In *Guaranty Trust Co. v. United States*, the Court further established that recognition determines whether a state continues or ceases to exist as a legal entity.⁶⁸ Additionally, in *Banco Nacional de Cuba v. Sabbatino*, the Court articulated the act of state doctrine, requiring judicial deference to executive determinations in matters of foreign sovereignty.⁶⁹ Congress subsequently limited this doctrine through the *Second Hickenlooper Amendment*, which restricts its application in cases involving expropriation in violation of international law.⁷⁰

X. CONCLUSION

Recognition decisions are inherently political, shaped by considerations of national interest, geopolitical strategy, and diplomatic expediency. The absence of a universally binding legal framework governing recognition reflects the major powers’ preference for flexibility. While such flexibility accommodates evolving geopolitical realities, it often produces outcomes that are inconsistent or selectively applied. Nevertheless, recognition remains a critical determinant of state continuity, international legitimacy, and access to global institutions, all of which are essential to the stability and viability of emerging states.

To conclude, as in all aspects of U.S. foreign policy, the Executive Branch is afforded considerable latitude in treaty-making. This is a significant shift from the Founding Fathers’ original intent to create international treaties. The Executive Branch has exerted uncontested authority over foreign policy, particularly in the International agreement arena, with the Judicial Branch’s support. The Congress has failed to exercise its treaty-making constitutional authority.

Exceptions notwithstanding, the U.S. Congress has failed to cohesively exercise its constitutional authority and responsibility in practice relating to treaty-making.

¹ *The Federalist No. 75 (Alexander Hamilton) 450 (Clinton Rossiter ed., 1961) (The Treaty-Making Power of the Executive).*

² U.S. CONST. art. II, § 2, cl. 2 (Treaty Clause).

³ *Id.*

⁴ *The Federalist No. 42 (James Madison) 267 (Clinton Rossiter ed., 1961) (The Powers Regulating the Intercourse with Foreign Nations).*

⁵ U.S. Dep't of State, *Treaties and International Agreements* (overview of the Office of Treaty Affairs' role in treaty law and practice).

⁶ 11 FAM § 723.3 (2023) (listing factors for determining whether an international agreement should be concluded as a treaty).

⁷ 1 U.S.C. § 112b a(2)b(1) (disclosure of international agreements to Congress within 120 days of entering into force).

⁸ U.N. Charter art. 102, June 26, 1945, 59 Stat. 1031, T.S. No. 993.

⁹ *Id.*

¹⁰ U.S. Dep't of State, Circular No. 175 (Dec. 13, 1955) (origin of C-175 procedures).

¹¹ Foreign Affairs Manual, 11 FAM 720–726 (Circular 175 procedures).

¹² 11 FAM § § 721.2-2, 723.3 (2023).

¹³ Vienna Convention on the Law of Treaties, Apr. 24, 1970, signed for the United States, S. Exec. Doc. L, 92-1; T.I.A.S. No. 993; 1155 U.N.T.S. 331.

¹⁴ U.S. Dep't of State, Office of the Legal Adviser, *DIGEST OF UNITED STATES PRACTICE IN INTERNATIONAL LAW* 2021, at 1–2 (2022); *see also*, Chubb & Son, Inc. v. Asiana Airlines, 214 F.3d 301, 307 (2d Cir. 2000) (“A treaty relationship requires mutual adherence to the same treaty version; amendment-only adherence does not suffice.”).

¹⁵ American Ins. Ass'n v. Garamendi, 539 U.S. 396, 415 (2003).

¹⁶ *See* RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 303 cmt. a (1987).

¹⁷ United States v. Belmont, 301 U.S. 324 (1937).

¹⁸ Dames & Moore v. Regan, 453 U.S. 654 (1981).

¹⁹ *See* Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 634–38 (1952) (Jackson, J., concurring). (Justice Jackson's tripartite framework, which transformed presidential power into a relational, context-dependent doctrine and became the Supreme Court's governing test for evaluating executive authority).

²⁰ *See* U.S. CONST. art. I, § 8, cl. 3.

²¹ RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 303 cmt. d (1987).

²² Office of the U.S. Trade Representative, *2023 Trade Policy Agenda and 2022 Annual Report* 18–20 (2023).

²³ Uruguay Round Agreements Act, Pub. L. No. 103-465, 108 Stat. 4809 (1994).

²⁴ North American Free Trade Agreement Implementation Act, Pub. L. No. 103-182, 107 Stat. 2057 (1993).

²⁵ United States–Mexico–Canada Agreement Implementation Act, Pub. L. No. 116-113, 134 Stat. 11 (2020).

²⁶ RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 303 cmt. e (1987).

²⁷ Altman & Co. v. United States, 224 U.S. 583, 600–01 (1912).

²⁸ Treaty of Relations Between the United States and Cuba, U.S.–Cuba, May 22, 1903, 33 Stat. 2248.

²⁹ United States v. Belmont, 301 U.S. 324, 330–31 (1937).

³⁰ Oona A. Hathaway, *Treaties' End: The Past, Present, and Future of International Lawmaking in the United States*, 117 YALE L.J. 1236, 1242–44 (2008).

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- ³¹ Robert E. Dalton, *National Treaty Law and Practice: United States*, in NATIONAL TREATY LAW AND PRACTICE 375, 383–84 (Duncan B. Hollis et al. eds., 2005).
- ³² *Chevron U.S.A. Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984).
- ³³ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).
- ³⁴ See generally Olivia Harker, *The Administrative State Under Threat: How Loper Bright Endangers Civil Rights and Disability Protections in Education*, 1 J. PARALEGAL EDUC. & PRAC. 1(2) (2026)(giving an example of what power the judicial branch could have in the domestic realm of administrative oversight of education).
- ³⁵ Mutual Defense Treaty, U.S.–Rep. China, Dec. 2, 1954, 6 U.S.T. 433.
- ³⁶ *Goldwater v. Carter*, 444 U.S. 996 (1979) (per curiam).
- ³⁷ *Id.*
- ³⁸ *Id.*
- ³⁹ *Id.* at 1002–06 (Rehnquist, J., concurring).
- ⁴⁰ *Id.* at 1006–07 (Brennan, J., dissenting).
- ⁴¹ *Id.* at 997–1000 (Powell, J., concurring).
- ⁴² *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 170 (1803).
- ⁴³ *Baker v. Carr*, 369 U.S. 186, 217 (1962).
- ⁴⁴ *Id.* at 217.
- ⁴⁵ North Atlantic Treaty, Apr. 4, 1949, art. 5, 63 Stat. 2241, 34 U.N.T.S. 243.
- ⁴⁶ *Id.* art. 5.
- ⁴⁷ *Id.* art. 13.
- ⁴⁸ *Goldwater v. Carter*, 444 U.S. 996 (1979) (per curiam).
- ⁴⁹ Donald J. Trump, Remarks by President Trump at Press Conference After NATO Summit, Brussels, Belgium (July 12, 2018), [Remarks by President Trump at Press Conference After NATO Summit | Brussels, Belgium – The White House](#).
- ⁵⁰ National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, § 1250A, 137 Stat. 136, 286–87 (2023).
- ⁵¹ *Goldwater v. Carter*, 444 U.S. 996, 997–1000 (1979) (Powell, J., concurring).
- ⁵² The Badinter Arbitration Commission was a five-member legal body created by the European Economic Community (EEC) in 1991 to provide authoritative legal opinions on the breakup of the Socialist Federal Republic of Yugoslavia (SFRY). It issued fifteen opinions between 1991 and 1993 that shaped modern international law on state dissolution, recognition, borders, and succession.
- ⁵³ Conference on Yugoslavia Arbitration Commission, 31 I.L.M. 1485 (1992).
- ⁵⁴ Vienna Convention on Succession of States in Respect of Treaties, opened for signature Aug. 23, 1978, 1946 U.N.T.S. 3 (entered into force Nov. 6, 1996).
- ⁵⁵ See U.N. Treaty Collection, Vienna Convention on Succession of States in Respect of Treaties, 1946 U.N.T.S. 3.
- ⁵⁶ *Id.* art. 2(1)(f).
- ⁵⁷ *uti possidetis*, Merriam-Webster Dictionary, [UTI POSSIDETIS Definition & Meaning | Merriam-Webster Legal](#) (last visited May 13, 2026).
- ⁵⁸ Arbitration Commission of the Conference on Yugoslavia, Opinion No. 3, 31 I.L.M. 1499, 1502 (1992).
- ⁵⁹ Vienna Convention on Succession of States in Respect of Treaties, arts. 12–15, 1946 U.N.T.S. 3.
- ⁶⁰ *Id.* arts. 16, 27–28.
- ⁶¹ Conference on Yugoslavia Arbitration Commission, Opinion No. 3, 31 I.L.M. 1488, 1497–98 (1992).
- ⁶² The ICJ’s Kosovo Advisory Opinion (2010) held that Kosovo’s unilateral declaration of independence did not violate international law because international law contains no general prohibition on declarations of independence. The Court did not decide whether Kosovo had a right to statehood or whether recognition was required; it answered only that the declaration itself was not unlawful.
- ⁶³ *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, 2010 I.C.J. 403 (July 22, 2010).
- ⁶⁴ Letter from the Secretary-General to the President of the Security Council, U.N. Doc. S/24592 (Sept. 29, 1992).
- ⁶⁵ Letter from Boris Yeltsin, President of the Russian Federation, to the Secretary-General, U.N. Doc. A/46/915 (Dec. 24, 1991).
- ⁶⁶ U.S. CONST. art. II, § 3 (Reception Clause).
- ⁶⁷ *Zivotofsky v. Kerry*, 576 U.S. 1, 30–32 (2015).
- ⁶⁸ *Guaranty Trust Co. v. United States*, 304 U.S. 126, 137–38 (1938).
- ⁶⁹ *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398, 428–30 (1964).

⁷⁰ Foreign Assistance Act of 1964, Pub. L. No. 88-633, § 301(d)(4), 78 Stat. 1009, 1013 (codified at 22 U.S.C. § 2370(e)(2)).

KEYWORDS: US TREATY PRACTICE, CONSTITUTION, VIENNA CONVENTION, EXECUTIVE AUTHORITY, JOINT POSSESSION, POLITICAL QUESTIONS.