



An Opportunity Cost Theory of US Treaty Behavior

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The United States often leads in the creation of treaties, but it sometimes never joins those treaties or does so only after considerable delay. This presents an interesting puzzle. Most international relations theory expects states to join treaties as long as the benefits outweigh the costs. Domestic theories modify this with the constraints of institutional veto players. Yet, sometimes neither of these arguments explains the delay or absence of US participation. We supplement these explanations with an opportunity cost theory. We argue that the advice and consent process sometimes slows or stalls because it imposes costs in terms of legislative time and political capital. These costs alter the calculus of key players and may obstruct the process. Statistical analysis supports the argument. The priority the Senate and President give to treaties depends not only on the value they assign to the treaty, but also on the value of the time needed to process the treaty. Presidents are less, not more, likely to transmit treaties to the Senate the more support they have in Congress. Furthermore, the more support the President has in Congress, the more the cost of Senate floor time matters for advice and consent.

Although the United States often takes the lead in international cooperation, sometimes it is slow to join multilateral treaties. Indeed, the Senate has long had a reputation as “the graveyard of treaties.” Lack of US participation can weaken some international legal regimes, such as the Kyoto Protocol, that require broad membership to succeed. Thus, scholars stress that the lack of US participation deprives the world of important leadership on such issues (Kormos, Grosko, and Mittermeier 2000:663). Even if many small and medium states join various treaties, the absence of key powers like the United States can prevent the treaty from effectively addressing international problems (Safrin 2008:13–15). Because hindrances to US participation hamper multilateral cooperation more broadly, we need to better understand their causes.¹

Some cases involve no real puzzle. A number of treaties, like the Disability Convention the Senate rejected in December 2012, flounder due to lack of political support. President Wilson enthusiastically pushed for the Treaty of Versailles, only to have the Senate famously reject it. Indeed, domestic preferences, and in particular the

preferences of key veto players, often help explain why treaties fail (Krutz and Peake 2009:145).

However, some treaties fail to advance in the Senate even when they have the requisite support. President Clinton transmitted the Law of the Sea to the Senate in 1994, and it has been on the Treaty Priority List of all Presidents since—and sometimes it enjoyed the support of more than two-thirds of the Senate (Winter 2009). Why then has the Senate not provided advice and consent despite the existence of sufficient support for ratification? Sometimes Presidents do not even transmit treaties that they support. In 2003, the United States signed the Framework Convention on Tobacco Control. Then-Senator Barack Obama joined in a letter urging President George W. Bush to transmit the treaty to the Senate. Yet, 6 years into Obama’s own presidency the treaty still lingered in the vaults of the State Department. Why do Presidents not transmit treaties they say they support? Why do some treaties remain stalled in the Senate despite strong incentives to move them forward?

This study argues that the answer sometimes lies in the idea of *opportunity costs*. The Senate and President sometimes push treaties to the side because they prefer to spend their resources and time on other, usually domestic, legislation that they value more. This opportunity cost—the foregone uses of political capital and Senate floor time (Koger 2010:22)—receives little attention in the study of ratifications, but it can prove quite critical to the fate of treaties. Because the political capital and agenda space in Washington is finite, a treaty must both have sufficient support on substantive grounds to pass through the institutional process *and* its value to politicians must outweigh the opportunity cost of their scarce political resources.

This insight matters for both theoretical and substantive reasons. Approaches such as two-level games suggest

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¹ The question here is not about exceptionalism, or the acceptability of the United States opting out of international treaties based on the interests of the United States. Deliberately refraining from participating in international law may be justified by a variety of reasons and is done by a number of countries (Safrin 2008; Bradford and Posner 2011).

that the key to understanding international cooperation is the overlapping preferences of domestic and international actors (Putnam 1988). Yet, we show that, even when domestic actors seemingly favor cooperation, ratification may still be delayed or denied. Moreover, delays in US ratification of signed treaties can hamper both the international credibility of the United States and also the particular treaty regime itself.

We first discuss the advice and consent process and US treaty ratification in greater depth. We then lay out our opportunity cost theory and derive a set of testable propositions. Next, as a prelude to the statistical analysis, we provide an overview of the multilateral treaties that required Senate advice and consent since 1967. The statistical analysis then begins by modeling transmittal decisions and then moves to the advice and consent process. Using a new data set on multilateral treaties, we show that opportunity cost concerns even influence the President's decision about whether to transmit a treaty, that opportunity costs magnify the traditional barriers to treaties in the Senate, and—somewhat counterintuitively—that under some conditions treaties are *less* likely to get advice and consent the more support the President has in Congress. The conclusion discusses the findings and their implications for legislative research, international relations theory, and policy.

Theories About Treaty Advice and Consent

The Senate can be speedy at granting advice and consent to treaties. In March 2003, the United States signed the NATO protocols to enable the accession of several new members. By April, the President transmitted the treaty to the Senate and by May, the Senate provided advice and consent. Such speed is rare, however. On average, multilateral treaties take about 2 years to get transmitted to the Senate and another two to become ratified. However, these figures mask considerable variation. Many treaties take much longer or stall completely. Indeed, a quarter of multilateral treaties signed by the United States never make it fully through the process, that is, they remain “unperfected.”

Despite its importance to both the US and multilateral cooperation, few scholars study the advice and consent process for treaties.² This is more surprising given the extensive focus on the advice and consent process for Presidential nominations (McCarty and Razaghian 1999; Binder and Maltzman 2002; Derouen, Peake, and Ward 2005). Before developing the opportunity cost argument, we first examine other possible explanations, such as theories of international relations, two-level bargaining, and domestic politics. These each offer some possible approaches to explaining the fate of treaties.

Most international relations research focuses on single treaties and treats states as rational, unitary actors that join treaty regimes that serve their interests (Fredriksson 2000; Moravcsik 2000; Simmons 2000, 2009; Buthe and Milner 2008). Sometimes states attach a signaling value to joining a treaty even if they do not intend to observe it (Vreeland 2008), but generally the argument is that a state will ratify a treaty when it calculates that doing so serves the national interest, however defined. Based on this standard rationalist logic, if a treaty is in the interest of the United States, then the United States should ratify it.

This interest-based logic explains the fate of many treaties, but not all. Sometimes the United States fails to ratify treaties that it clearly values. For example, US negotiators may push hard for certain provisions and manage to obtain nearly all their demands, but the United States nonetheless never ratifies the treaty. Similarly, sometimes the United States initiates treaties and enthusiastically signs them, but does not ratify them. For example, after 9/11, the United States pushed other countries to create and ratify the ILO Convention on Seafarers' Identity Documents to strengthen port-of-entry security, and the tripartite US delegation voted unanimously to adopt it in 2003. Yet, the treaty languished in the Senate, supposedly due to a visa provision that contradicts federalism provisions in US immigration law. Sometimes the United States even participates actively in, and complies with, treaty regimes, such as the Biodiversity Convention, but does not actually ratify the agreement. Or it endorses treaties it has not itself ratified by referencing them as precedential for other US-authored treaties, even incorporating them into agreements. For example, although the United States has not ratified most ILO Conventions, it is reinforcing the content of those conventions in a trade agreement with Peru (Charnovitz 2008:96). Thus, the United States at times behaves as if it finds the treaty in the national interest while still failing to ratify it.

Lack of US participation in treaties also cannot really be understood as a tactic of the US negotiators to build up leverage. The theory of two-level games suggests that states who have higher domestic barriers to ratification of international agreements might gain advantages in the international negotiations, because other states will make concessions to facilitate domestic agreement (Putnam 1988). However, when this occurs repeatedly, it may backfire. Thus, delayed or waylaid ratifications may cause other parties to lose confidence in the United States as a negotiating partner (Martin 2000; Galbraith 2012:70–71). Rather than being sources of leverage in international negotiations, expectations of domestic ratification difficulties can thus lead negotiating partners to doubt that the United States will ultimately join the regime. A former Legal Advisor to the State Department stressed this as a big problem for US negotiators, because “It may well be that we will sign the treaty, but our negotiating partners have no confidence that the executive branch will necessarily be able to get a potentially controversial treaty through the Senate” (Johnson 2010). When this happens repeatedly, nonparticipation in some areas can influence the ability of the United States to weigh in in other parts of the legal regimes. In this way, lack of US ratification of the Biodiversity Convention “reduced the United States' bargaining power during climate change and biosafety negotiations” (Kormos et al. 2000:662–663).

A classic institutional answer to these puzzles is the importance of key veto players (Moravcsik 2005:150–151), a body of arguments already well-defined in connection with domestic politics (Tsebelis 2002; Krehbiel 2010). Generally, the literature discusses two factors that determine the influence of veto players on policy change: the institutional structure (or rules) that empowers particular individuals or groups to stop policy change and the preferences of those actors (Tsebelis 2002:463). In the case of treaty ratification, the former factor is the supermajority requirement under Article II of the constitution. The effect of rules and preferences may be measured in a variety of ways. For example, Krutz and Peake (2009) use the

² Krutz and Peake (2009) is a notable exception.

veto player theory, defining preferences by using ideological scores for Senators. They find that, as the constitutional provisions would predict, the Senate rules enable 1/3 of Senators or the Senate foreign relations chair to block treaties, conditional on their ideological scores. Similarly, Haller and Holden (1997) have argued that the supermajority rule raises the risk that a treaty fails to gain advice and consent.

Veto player politics is clearly an important part of understanding the fate of treaties. It still leaves some puzzles, however. Some treaties stall although they have had the support of both Democratic and Republican Senate foreign relations chairs and although they are reported out of committee. This has been the case for the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, which gives countries tools and information they need to defend themselves against entry of dangerous chemicals. This is also true of the Stockholm Convention on Persistent Organic Pollutants, which seeks to “eliminate highly toxic, persistent and bioaccumulative chemicals that can move long distances in the environment.” These important examples make it clear that for some treaties even traditional veto player analysis is not enough. Sometimes, it only takes a few staunch opponents to make it nearly impossible for the Senate to provide advice and consent. But why can so few players block the process? A small number of opponents (fewer than 33) cannot formally constitute a veto player under Senate rules. Thus, these extreme preferences by a few Senators can explain these delays and derailments, but the mechanism is not clear. Yet other treaties linger, apparently suffering from the opposite predicament: Nobody pays any attention to them. But if the United States has cared enough to sign the treaty, then why not finish the process through advice and consent?

An Opportunity Costs Theory

Although existing theories about veto players and political ideology explain the fate of some treaties, they leave some questions open. To complement these theories, we draw on economic theory to offer an opportunity cost theory of treaty ratification. In economics, the opportunity cost of a resource refers to the value of the next-highest-valued alternative use of that resource. Scholars of domestic legislation have applied this concept to the time and resources of individual policymakers (Schiller 1995) but also to the fixed chamber time. For example, Koger refers to “[T]he foregone uses of the same [chamber] time for legislators as individuals as well as for the chamber collectively” (Koger 2010:22). Indeed, the Senate’s chamber time is not only fixed, but also scarce. A vast portion of its time goes to required routine business. This leaves little opportunity for discretionary activities (Walker 1977). Given that international policy matters have to draw on exactly the same remaining discretionary floor time as domestic policy, we argue that the United States sometimes delays or derails treaty ratification simply because political capital and Senate floor time are fixed and entail opportunity costs (Heitshusen 2013:4). As Koger (2010:33) argues more generally for legislation, “The expected gains from making a proposal must exceed the time and effort legislators invest in preparing it, organizing and coalition to support it, and taking the time of the chamber to debate and pass it.”

For a treaty to progress, the opportunity cost logic thus would mean that the net gains of the treaty must outweigh the opportunity costs of the advice and consent process. Thus, if the President or some Senators assign only low political value to a particular treaty *or* if they believe that passage of the treaty will take a lot of Senate floor time, they may decide that they would rather spend their political capital on other matters. If they think they have to fight a war of attrition to overcome opposition, this cost in terms of time and resources may tip the scales against moving the treaty forward. Under these conditions, the opportunity cost of processing the treaty may be too high for the treaty to gain attention, even if the President or more than the required two-thirds of the Senators think the treaty yields some benefits. As a result, whether or how fast a treaty makes it through the process depends on whether it has sufficient support to pass the constitutional process *and* on whether its value to politicians outweighs the opportunity cost of their political resources: legislative floor time and political capital.

The Fixed Political Agenda Space and Policy Priorities

Why do treaties incur these opportunity costs? Opportunity costs arise when resources are fixed and fully employed. Political agenda space is such a resource; there are only so many policy priorities a President can promote, and only so much Senate floor time to consider them. The media will pay attention to only so many issues on the Washington agenda. Both the President and the Senate must protect their legislative opportunities. They each face opportunity costs.

For the President, the transmittal process is not simple. If the United States signs an international agreement that falls under Article II of the Constitution, the President must transmit it to the Senate for advice and consent before the United States can ratify it. This process entails an analysis of the implications of the treaty including possible implementation legislation required, and the writing of a transmittal letter that serves as a report to the Senate Foreign Relations Committee (SFRC). Because of these requirements, usually there has to be some push from the White House (Halloran 2011), and this can take precious time away from domestic legislative priorities. Thus, transmittals can be costly, especially in the face of expected opposition. Indeed, in 1995 when President Clinton wanted to transmit the UN Convention on the Rights of the Child to the Senate, Jessie Helms, who chaired the SFRC, and 26 cosponsors introduced a resolution urging him to not transmit the Convention. Such opposition can be distracting or politically harmful for the President. Furthermore, because the President usually endorses the treaty in the transmittal letter, he may incur a reputational cost by transmitting treaties that stall (Krutz and Peake 2009:140). Dealing with treaties thus involves political costs, and withholding transmittal can conserve political capital.

For the Senate, floor time is of the essence. After transmittal, the SFRC must hold a meeting on the treaty, and eventually issue its own analysis and recommendation, and (if it has enough support) pass it out of committee. The treaty then has to be scheduled for debate, possible amendments, and a vote. To gain Senate advice and consent, the treaty must pass with at least a two-thirds majority. Crucial to differentiating the opportunity cost argument from a straight veto player model, the Senate rules for debate and passage enable opponents to

increase the time expended on a treaty, even if they do not have the ability to vote it down on the floor. Dealing with a treaty thus ties up the SFRC time, but even more importantly, it could potentially take up scarce discretionary time on the Senate floor. Senators seek to maximize their reputational returns from the issues they spend time on, favoring issues that have broad appeal (Walker 1977:430). Before scheduling a treaty for debate and a vote, the relevant actors therefore have to consider the opportunity cost of dealing with the treaty: What else could the Senate accomplish with that time? Even if the Senate is not being productive in terms of passing legislation, what else does the Senate want to be seen focusing on at that moment? Even if there is strong support for a treaty, Senators may hold back if they anticipate serious and potentially time consuming opposition—opposition that can result in any number of procedural maneuvers that could take up costly time in the Senate. This explains why so few treaties ever take up much floor time for debate. If senators expect them to take time, they do not schedule them.

Thus, both the President and the Senate face opportunity costs of fixed resources: Presidents are concerned with “misusing” political capital and opportunities. The Senators are protective of floor time, or how they are seen to be using their time by a public foremost focused on domestic matters. At the same time, the political benefits of treaty ratification are uncertain. Treaty ratification is often invisible, because the media rarely covers such events and whatever benefits treaties may bring may never be attributed to the treaty advocates directly.

The implication of these political calculations is central to our argument: Contrary to standard assumptions of international relations, the decision to push a treaty through the advice and consent process may be less about an isolated examination of costs and benefits of the treaty itself than about the political benefit of spending time on the treaty *relative* to the benefit of other possible agenda activity that may produce important domestic legislation such as health-care reform, for example. In other words: Senate advice and consent and, by association, transmittal decisions depends on the associated legislative opportunity cost.

The opportunity cost can manifest itself for many types of treaties. Even nondivisive treaties require some Presidential attention and Senate floor time to move through the process (Johnson 2010), and therefore even these may fall by the wayside, which is of course even more likely to occur if they are not considered particularly vital. More important treaties might also be affected by the opportunity cost, however. Even if opponents might not command the requisite 1/3 of Senators to block the treaty, their willingness to obstruct it (even the threat to do so) may impose such high costs in terms of time that supporters are reluctant to spend time on it when they have many competing priorities. In a time-constrained Senate, minimal winning coalitions that reach supermajority status have become less important. Each piece of legislation must compete with all other legislation and having only a minimum backing can deprioritize legislation on the agenda, slowing it down (Oppenheimer 1985:410). And although the Senate can use a cloture vote to end filibustering and technically should be able to do so easily if the treaty commands two-thirds support, Senators may be reluctant to push for treaties that push these boundaries (for example, by objecting to a unanimous consent request (Heitshusen 2013:4)).

Senator Richard Lugar’s comment (R-Ind) in a 2009 speech to the Washington Foreign Law Society nicely illustrates our theory:

[T]oo often, narrow objections to treaties are allowed to prevent any Senate consideration. The Senate’s rules allow the Senate to vote to cut off debate on a treaty, and thereby to ensure that a vote on the treaty may occur. But the Senate’s leadership—both Democrat and Republican—has been reluctant to exercise this option in recent years. Their concern appears to be that doing so would require the Senate to spend too much time debating particular treaties, to the exclusion of other matters that have greater domestic political appeal (Lugar 2009).

What Affects the Opportunity Costs of Treaty Advice and Consent?

The opportunity cost is foremost a function of the value of the domestic legislative agenda. Senators and Presidents favor issues that increase their popularity and chances for reelection (Mayhew 1974). This usually means a priority on domestic politics (Abramson, Aldrich, and Rohde 1987). This is not because the public does not care about international issues or that those are not important. Trade agreements such as NAFTA or decisions about war can engender considerable domestic debate (Howell and Pevehouse 2007). These issues, however, are rarely the topics of treaties submitted for Senate advice and consent. Trade-related treaties are usually handled through congressional-executive agreements, and choices about specific wars and their conduct are not treaty issues. Thus, despite often being of great significance, the modal Article II treaty is not the bread and butter of elections. Voters may hold preferences on a given treaty, but these rarely affect approval ratings or drive elections. For example, despite the overwhelming public support for the International Criminal Court since its earliest days,³ Senators clung to their opposition to the treaty because they know that such preferences do not drive election results. As the State Department Treaty Analyst and Depository Officer noted in an interview: “Treaties don’t have a constituency” (Halloran 2011).

The prioritization of domestic issues leads the opportunity cost theory to offer an unconventional proposition. Studies of legislative efficacy argue that when the President has more co-partisans in Congress, the chances of passing legislation is higher giving the President a greater incentive to introduce or push for favored legislation (Howell, Adler, Cameron, and Riemann 2000). This clearly holds for many legislative issues, but our opportunity cost theory predicts that with treaties Presidential support hinders rather than helps, because the boon of political capital raises the opportunity cost of the Senate agenda time. Unless they are highly valuable, treaties lose out to other, often domestic, priorities. As a result, despite the fact that they require greater support and thus would be easiest to pass at such times, when the President has greater support in Congress, treaties are *less*, not more, likely to advance. This is not to say that

³ As late as 2012 public support remained as high as 70%. Polling by the Chicago Council on Foreign Relations. For information on polling on the International Criminal Court, see the website of the American Non-Governmental Organizations Coalition for the International Criminal Court at <http://www.amicc.org/usicc/opinion>. Last accessed on December 11, 2013.

the President actively behaves as if low support is advantageous for treaties and so ramps up his transmittal of treaties when support is low. Rather, it is that as a baseline, the President processes treaties on an ongoing basis, but that when his support in Congress is high, he deprioritizes transmittals, thus leading to fewer transmittals when support is high.

Note that although the House lacks a formal role in the treaty process, it is of course essential to domestic policymaking (McCubbins and Cox 1993). Therefore, we expect the level of political support in *both* the House and the Senate to be relevant in the decision to transmit. That is, the President would be especially likely to focus on the highest priorities when there are sizable majorities in both legislative chambers. This leads to an observable proposition:

P1: *The more co-partisans the President has in the House and the Senate, the less likely he will be to transmit treaties to the Senate.*

Relatedly, evidence suggests that a President's approval rating correlates with his ability to further his legislative agenda (Canes-Wrone and De Marchi 2002). In particular, the empirical evidence points to increased Presidential efforts in areas of high salience to the public—areas that are nearly always related to domestic policy. Thus, higher approval levels should lead the President to focus on domestic, rather than foreign policy, agenda items. This suggests the following proposition:

P2: *The greater the President's approval ratings, the less likely he will be to transmit treaties to the Senate.*

The opportunity cost theory also leads to expectations about the propensity of the Senate to provide treaty advice and consent. As with transmittal, the opportunity cost theory predicts that the Senate will be less inclined to spend time on treaties when Senators have opportunities to push for domestic legislative victories. But when is this? Although time is always scarce in the legislative branch (Hall 1996), the value of Senate floor time varies. More specifically, it depends on the election cycle. In election years, particularly Presidential election years, domestic legislation becomes more contentious as the election grows nearer (Coleman 1999). Subsequently, Congress shuns policy positions that could antagonize their electorate and thus legislation on domestic issues slows considerably, lowering the opportunity cost of Senate floor time. Conversely, during nonpresidential election years, legislation is easier to pass, and thus the opportunity cost of floor time is higher. This leads to the following expectation:

P3: *Treaty advice and consent will be slower in nonpresidential election years.*

The opportunity cost of treaty advice and consent depends on how much time the Senate expects a treaty will require. This matters, because not all treaties are self-executing. Some require the passage of additional legislation to bring the United States into compliance with the treaty. This directly cuts into other domestic legislation opportunities, as new legislation will need to be written and passed. The Senate thus faces greater opportunity costs when it has to not only vote on the treaty itself, but also consider and pass implementing legislation. Thus, our opportunity cost theory expects requirements for implementing legislation to encumber treaty success.

P4: *Treaties that require implementing legislation will take longer to receive Senate advice and consent.*

Finally, as emphasized, the opportunity cost theory does not replace arguments about the importance of political preferences over the merits of a treaty and the possible political fights they engender. Rather, these theories are intended as complimentary explanations: There are times when the Senate will be more willing to bear the cost (in terms of time) of the political battle. Treaties may often take time to receive advice and consent due to traditional partisan wrangling, but the cost of that time depends on the particular factors discussed above.

With this in mind, we offer two final propositions about how these factors interact with the political support the President has in Congress. First, the cost of implementing legislation is especially pernicious to treaty advice and consent when the President has significant political support. While the Senate will always be hesitant to spend time providing advice and consent to a treaty that demands further legislative activity, the President's supporters will be especially unlikely to take up such treaties when they control larger numbers of votes. During such periods, more work may be done on the domestic side, making the treaty demands for follow-up legislation particularly costly. This is especially true since implementing legislation required by a treaty must go down the traditional law-making avenues: through both legislative chambers and onto the President's desk. This means that required implementing legislation, in combination with a significant number of co-partisans, should have an additive effect on the prospects for ratification. This leads to our fifth proposition:

P5: *Treaties that require implementing legislation will be slowed down more as presidential support in Congress increases.*

That is, the marginal effect of implementing legislation on time to advice and consent grows as presidential support increases.

Second, nonpresidential election years are often times of higher focus on domestic politics, as opposed to presidential election years when little concrete policy action occurs on the Senate floor, largely because issues grow increasingly contentious (Coleman 1999). The higher cost of floor time during nonpresidential election years should hinder advice and consent, but only during periods of stronger presidential support. The higher opportunity cost of nonelection years will matter more if the President has high support and subsequent opportunities for legislative accomplishments. Again, this echoes the previous hypothesis in that we expect an interactive effect of presidential support and the electoral calendar—opportunity costs may not substitute for partisan politics but are enhanced by them. Our final proposition flows from this idea:

P6: *During nonpresidential election years political capital matters more for treaties, because the value of the floor time is higher.*

That is, the marginal effect of nonpresidential election years on time to advice and consent grows as presidential support increases.

Treaty Selection

Our data include multilateral treaties subject to the advice and consent process after 1967, the first year for

treaties in the Senate's Thomas database.⁴ However, this time period also captures the fact that the use of filibustering, or the threat thereof, has increased over the last fifty years (Koger 2010:7) and that time has become more constrained in the Senate since the 1960s (Oppenheimer 1985:396–397). Thus, we expect opportunity cost to operate more since the 1960s. The data include all treaties that the United States has signed whether or not the President has transmitted them to the Senate.

Assembling a data set of these treaties was difficult, because the Thomas database only contains treaties that have been transmitted to the Senate; no list of signed but nontransmitted treaties exist. Furthermore, it is challenging to decide which international agreements belong on this list, as some may be executive agreements. To devise an accurate list, we searched multiple treaty databases for agreements the United States had signed but not acceded to. These databases include the United Nations Treaty Database, ECOLEX, The Hague Conference on Private International Law, and Oceana Law. We also compared our data set against a list of multilateral treaties from John Gamble's treaties and Wikipedia's "treaties by year of conclusion" (Wikipedia 2012). After assembling this list, we consulted with the Office of the Assistant Legal Adviser for Treaty Affairs in the State Department to identify treaties that were not designated for the advice and consent process, and also made sure our list was as complete as possible.

We limit our analysis to multilateral treaties, because these differ in important ways. First, bilateral treaties deal with a smaller set of standard topics. Thus, 88% of the bilateral treaties transmitted to the Senate between 1967 and 2011 fall into five categories: consular conventions, property or copyright treaties, tax conventions, investment treaties, and extradition treaties. This means that bilateral treaties often are renewals or minor revisions of treaties with a given country. For these reasons, Galbraith calls these treaties "repetitive bilateral treaties" (Galbraith 2012:4). It also means that bilateral treaties often follow standard formats, which enables the Senate to bundle them, meaning that the Senate passes two or more treaties of the same kind in the same vote. This bundling makes any delay in passing these bilateral treaties irregular because the Senate holds on to them until there is a hearing for treaties of a given type. Of course, the mere fact that the Senate often bundles bilateral treaties supports our argument: Bundling reduces the opportunity cost. Nonetheless, because bilateral and multilateral treaties differ significantly both in content and how the Senate handles them, we focus exclusively on multilateral treaties.

Although under international law executive agreements are identical to Article II treaties that receive Senate advice and consent, we exclude them here because, whether they are sole or Congressional-executive agreements, their process of ratification, and often their subject matters, differs from that of the Article II treaties. Sole executive agreements are unfettered by Congressional control, and therefore we would not expect the opportunity cost argument to apply. Similarly, Congressional-executive agreements, although requiring a vote in Congress, incur fewer opportunity costs because their legislative hurdles in the House are lower than that

of Article II treaties in the Senate. Furthermore, since Congressional-executive agreements often concern trade issues, they have more domestic political constituents; any opportunity costs arguments, if they apply, would therefore operate very differently. Finally, a president cannot simply remove an Article II treaty from his desk and convert it to a Congressional-executive agreement to facilitate passage. Treaties are usually designated as to type at the beginning of the international negotiation process and are not re-designated mid-stream (Halloran 2011). That treaties are not designated in an opportunistic way aligns with Hathaway's work (2008:1239–40), which examines the history of Article II versus Congressional-executive agreements. She argues there is no "identifiable, rational basis" by which international agreements come to have one designation over another. Rather, those designations are a result of a historical evolution of how certain subjects are treated in US law—not the anticipated likelihood of success of particular agreements.⁵

Descriptive Data

Our sample contained 352 multilateral treaties signed by the United States. Of these, the President has transmitted 320, and the average time to transmittal is about 1.8 years (standard deviation about 4 years), with the maximum being 43 years. After transmittal, the average advice and consent time was 2 years, with the standard deviation being about four and a half years, and the longest spell being 41 years. Roughly three-quarters of the signed treaties were ultimately ratified.

The next two figures display yearly signature, transmittal, and advice and consent trends since 1967. Figure 1 reveals a burst of signatures in the early 1970s and the 1990s, and a much lower rate in recent years: Whereas until 2003 the United States has always signed at least four multilateral treaties a year, after 2003 there has been 3 years when it signed only one such agreement, and 1 year, 2008, when it signed none. This shows that the flow of treaties available for transmittal varies, something we will account for in the model. Figure 1 also shows considerable variation over time in advice and consent.

On average, 4.2 multilateral treaties are passed in non-election years, 5.45 in midterm election years, and 8.52 in presidential election years. As expected in P3, Figure 2 shows presidential election years are particularly active with heightened activity in the fall. This further supports the opportunity cost theory, and, as an aside, it also suggests that despite their reputation for nonproductivity, some things might actually get accomplished in election years.

Multivariate Analysis

Consistent with other research on Senate consent procedures (McCarty and Razaghan 1999; Binder and Maltzman 2002; Derouen et al. 2005; Krutz and Peake 2009), we use a survival model. Moreover, we analyze both the transmittal decision and the Senate advice and consent decision. As a robustness check on identification, we use the predicted scores from the transmittal model in the

⁴ We drop treaties from the sample signed before 1945 to confine our analysis to post-war treaties and avoid outliers. This only results in dropping half a dozen treaties from our sample.

⁵ There is also no evidence that negotiating partners make demands as to the form of agreement. Furthermore, Hathaway (2008:1271) also argues that the US has a "remarkably unusual method of making international law." This makes it unlikely that other states could fully game the system by making demands as to agreement type.

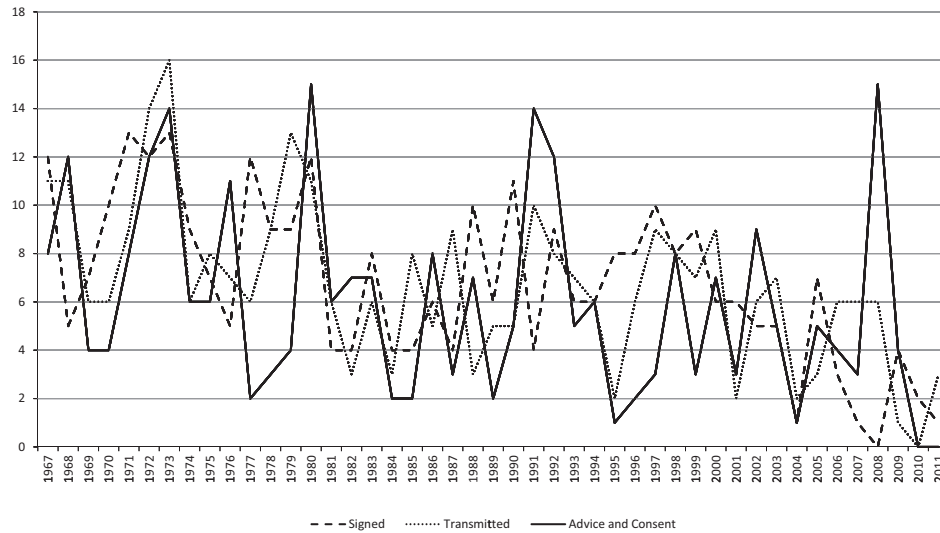


FIG 1. Flow of Article II Treaties Since 1967

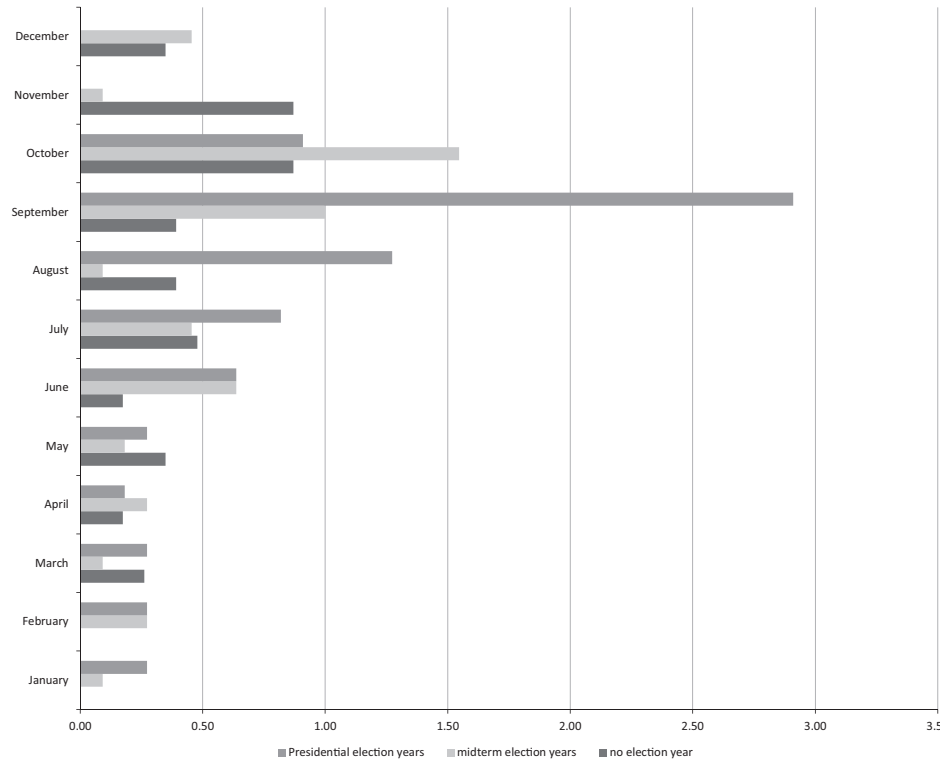


FIG 2. Average Number of Multilateral Treaties Receiving Advice and Consent in a Given Month, 1967–2011

subsequent advice and consent model to account for possible selection issues. Our data are time-series, cross-sectional setup in treaty-year format to capture changes in the key independent variables when a treaty remains on the President’s desk or in the Senate for more than 1 year.

Core Variables

We examine the influence of political party support in both houses of the legislature (P1) by defining *President % Control*, which is the percentage of the House and Sen-

ate controlled by the party of the President. To examine (P2), we introduce *Approval*, the annual average of the Gallup Presidential approval poll for each year of observation (Gallup 2012). We include this variable only in the first stage of our model given that Presidents likely consider this, while the Senate does not. To address P3 involving the dynamics of the electoral calendar and its effect on opportunity costs, we create an indicator for *Nonpresidential election year*. Finally, we address P4 by introducing the variable *Implementation*, which indicates whether the President’s transmittal letter notes that further domestic legislation is required to implement the treaty.

Control Variables

We include several control variables based on existing theories of the role of preferences and institutions. First, we consider the conventional explanations of political preferences and support of key veto players in the Senate. Research has found that opposition and support for treaties does show ideological patterns, with conservatives more likely to oppose treaties. Thus, conservatives were less likely to support the Panama Canal treaties (McCormick and Black 1983) and arms treaties (Krepon and Caldwell 1991; Delaet and Scott 2006) and more likely to add reservations (Auerswald and Maltzman 2003:1097). Analysis across treaties has also found that conservative Senate foreign relations chairs delay Senate advice and consent (Krutz and Peake 2009). Given this, we define *SFR Chair* as the DW-Nominate score of the chair of the SFRC. The Nominate score measures the underlying liberal-conservative spectrum of the voting record of members of Congress (Lewis and Poole 2004). Higher DW-Nominate scores suggest a more conservative committee chair, while lower values suggest a more liberal chair. Because the chair of the committee remains for 2 years, this variable varies every other year. Similarly, we use the DW-Nominate scores to define *Conservative Senator* to measure the ideology of the most conservative Senator in the chamber. The last ideological variable is an indicator for *Democratic President*.

We also calculate *Treaties Available* as the number of treaties available to be transmitted based on the number of untransmitted treaties left from previous presidents and the new number of treaties signed during the year. We control for these same dynamics in the advice and consent stage by computing the number of treaties under consideration in the Senate, also labeled *Treaties Available* but computed as the number of treaties available to the Senate, post-transmittal.⁶

Finally, issue area could influence the speed at which the treaty moves through the process. Our analytical focus here is not on how issue-specific treaty attributes hinder ratification, but we control for any treaty-level characteristic that might be correlated with the propensity to support these treaties. Thus, we classify treaties into four broad categories of types: *Human Rights* (for example, UN human rights treaties), *Commercial* (for example, trade agreements), *International Law* (for example, technical treaties regarding rules and procedures in international law), *Environment* (for example, regulatory treaties involving the environment), and *Arms Control* (for example, multilateral arms control treaties). If any particular type of treaty tends to lead to fights over distributional issues, these measures should appropriately control for these dynamics.

Results

We estimate a series of Weibull models using the accelerated failure time metric to ease interpretation. Positive coefficient estimates indicate *shorter* transmittal/ advice and consent times. Negative signs indicate *longer* transmittal/ advice and consent times.

The estimates of the transmit stage of the model are found in column 1 of Table 1. Supporting the opportunity cost logic in P1, *President % Control* is negative and

TABLE 1. Weibull Models of the Multilateral Treaty Transmittal Process, 1967–2008

	<i>Model 1.1</i>	<i>Model 1.2</i>
Arms Control	−0.059 (0.234)	−0.055 (0.234)
Commercial	−0.412** (0.176)	−0.409** (0.176)
Int'l Law	−0.241 (0.188)	−0.239 (0.188)
Human Rights	−0.479 (0.300)	−0.479 (0.300)
Approval	−0.008* (0.004)	−0.009** (0.004)
Conservative Senator	−1.241* (0.727)	−1.228* (0.727)
Democratic President	0.638*** (0.169)	0.652*** (0.169)
SFR Chair	−0.632*** (0.144)	−0.630*** (0.144)
Treaties Available	0.014* (0.007)	0.014* (0.007)
NonPresidential		0.107 (0.116)
Election Year		
President % Control	−3.506*** (0.897)	−3.638*** (0.905)
Constant	0.923 (0.609)	0.935 (0.606)
ln (<i>p</i>)	−0.071* (0.043)	−0.070 (0.043)
Observations	1,871	1,871

(Notes. Robust standard errors in parentheses. *** $p < .01$, ** $p < .05$, * $p < .1$.)

statistically significant: The more co-partisans the President has in Congress, the greater his opportunity costs and the longer he takes to transmit treaties. Moreover, the effect is substantively important as well. Increasing the average number of co-partisans by one standard deviation yields an increase in the predicted transmit time of nearly 25%, or 1 year.⁷ More ominously, moving from a President's party controlling 35% of the seats in Congress to 50% yields a predicted increase in median transmittal time of nearly 3 years.⁸

Similarly supportive of the opportunity cost logic in P2, the estimate of *Approval* also is negative and statistically significant indicating that higher levels of public approval may encourage the President to spend time on key priorities and therefore increase transmit times for treaties.

Several control variables achieve statistical significance, and the estimates are consistent with prior theoretical expectations. First, *SFR Chair* is negative and statistically significant, indicating that the more conservative the chairs, the longer the transmittal times. Similarly, as the most conservative Senator grows more conservative, the transmit time from the President's desk increases, as the negative and statistically significant coefficient on *Conservative Senator* suggests. This is consistent with the President's anticipatory logic that staunchly opposed senators may take up extraordinary floor time to block a treaty or make a distracting political issue out of a particular treaty. Conversely, the positive estimate of *Democratic President* indicates that democratic Presidents transmit treaties to the Senate faster. Finally, the *Commercial* indicator for treaty type is statistically distinct from the reference category (environmental treaties), but chi-square

⁷ All predicted probabilities are computed against a baseline model assuming a Republican President, a human rights treaty, and all other variables held at their mean or modal value. This finding is robust to adding an indicator variable to control for divided government to the model—the new variable is not statistically significant, nor does it affect the estimate of *President % Control*.

⁸ To make sure it is high support leading to lower transmittals, we conducted a simple t-test on the difference between the rate of transmittal when the President maintains a majority of co-partisans (0.16) and the rate when he does not (0.20). The difference is statistically significant at $p < .066$, suggesting it is indeed the lower transmittal rate with more support that drives this finding.

⁶ This takes account also of treaties that are no longer available because they have been returned to the president.

TABLE 2. The Multilateral Treaty Advice and Consent Process, 1967–2008

	<i>Model 2.1</i>	<i>Model 2.2</i>	<i>Model 2.3</i>
Arms Control	0.363 (0.229)	0.379* (0.229)	0.362 (0.229)
Commercial	0.343 (0.232)	0.346 (0.232)	0.340 (0.230)
Int'l Law	0.132 (0.258)	0.140 (0.256)	0.137 (0.258)
Human Rights	-1.495*** (0.397)	-1.470*** (0.398)	-1.492*** (0.397)
President % Control	-1.680 (1.040)	-0.801 (1.076)	-0.359 (1.275)
Conservative Senator	0.883 (0.662)	0.907 (0.663)	0.944 (0.659)
Democratic President	0.200 (0.188)	0.195 (0.188)	0.180 (0.189)
SFR Chair	-0.781*** (0.154)	-0.773*** (0.154)	-0.749*** (0.155)
Treaties Available	-0.009 (0.006)	-0.009 (0.006)	-0.010* (0.006)
NonPresidential Election Year	-0.416*** (0.103)	-0.403*** (0.103)	0.588 (0.630)
Election × Pres. % Control			-2.098* (1.276)
Implementation	-0.406** (0.207)	1.390* (0.773)	-0.401* (0.207)
Implement × Pres. % Control		-3.771** (1.609)	
Constant	-0.620 (0.683)	-1.079 (0.717)	-1.214 (0.778)
ln (<i>p</i>)	-0.100* (0.052)	-0.097* (0.052)	-0.095* (0.052)
Observations	1,406	1,406	1,406

(Notes. Robust standard errors in parentheses. *** $p < .01$, ** $p < .05$, * $p < .1$.)

tests show it cannot be distinguished from other treaty categories.

Model 1.2 re-estimates the transmittal stage of the model, adding *Nonpresidential Election Year* to ensure this variable does not also belong in the first stage of the model. As column 2 of Table 1 shows, the estimate of this new variable does not achieve statistical significance nor does it alter the estimates of our other variables of interest.⁹

Turning to our model of advice and consent, the first estimates can be found in Table 2, model 2.1. The estimates of the opportunity cost variables are consistent with our theory. First, consistent with P3, *Nonpresidential Election Year* is negative and statistically significant, indicating that treaties move through the advice and consent process at a much slower rate—about 40% slower in nonpresidential election years. This is an increase in predicted median advice and consent time of 6 years.

Consistent with P4, the *Implementation* variable is negative and statistically significant, suggesting that treaties requiring further legislative effort are more likely to experience a delay in advice and consent. This variable has a substantively important effect as well: Treaties requiring implementing legislation, on average, experience a forty percent increase in advice and consent time. Again, this amounts to a predicted increase in median advice and consent time of 6 years.

Interestingly, *President & Control* does not quite achieve statistical significance. Krutz and Peake (2009:159–161) find that the President's level of partisan support was statistically significant and that it increased time to ratification. And while they found this result puzzling, leaving it largely unexplained, they also combined transmittal and advice and consent stages. Our initial findings, the first to model the stages separately, suggest the important source of delay for this factor is in the transmittal stage.

Among our control variables, the measure of the ideology of the *Senate Foreign Relations Chair* is highly statisti-

cally significant and substantively meaningful. Increasing the conservativeness of the chair by one standard deviation leads to a predicted increase of nearly 40% in the time of advice and consent or roughly 2 years. The remaining estimates fail to achieve statistical significance, with one exception. The indicator for *Human Rights* treaties differs statistically from the reference category and also from the other treaty types, suggesting that human rights treaties are delayed extensively, a finding consistent with arguments in the legal literature that these treaties often raise constitutional or federalism concerns for the United States (Safrin 2008:1316; Bradley 2010:331, 333). Indeed, compared to the reference category (environmental treaties), human rights treaties linger, on average, more than 15 years longer in the Senate.

Models 2.2 and 2.3 assess the interactive propositions (P5 and P6). Model 2.2 finds support for P5. To assess these interaction effects, it is easiest to graphically examine the predicted change in advice and consent time while varying one of the interaction terms (here, *President % Control*).¹⁰ Figure 3 displays the marginal effect of implementing legislation on time to advice and consent, conditional on *Presidential % Support*. Consistent with the idea that time taken on political showdowns over treaties are more costly when the President has larger numbers of co-partisans and *could* push other legislative priorities, the figure shows that treaties requiring implementing legislation will be slowed down more as presidential support in Congress increases. Indeed, according to these estimates, the effect of *Implementation* becomes stronger as the President controls more seats in Congress. This gives support to our suggestion of an interactive effect of implementation and opportunity costs outlined in P5.

Similarly, Model 2.3 finds support for P6. Figure 4 displays the marginal effect of *Nonpresidential election years* on time to advice and consent, conditional on *President % Control*. Consistent with P6, it shows that the nonpresidential election years lengthen the advice and consent

⁹ The same is true of *Implementation*—adding it to the first stage of the model makes no difference to our estimates nor is the new variable statistically significant.

¹⁰ In addition, a test of joint significance indicates the two linear and interaction terms are jointly significant at the $p < .05$ level. This is true for model 2.2 and 2.3 estimates.

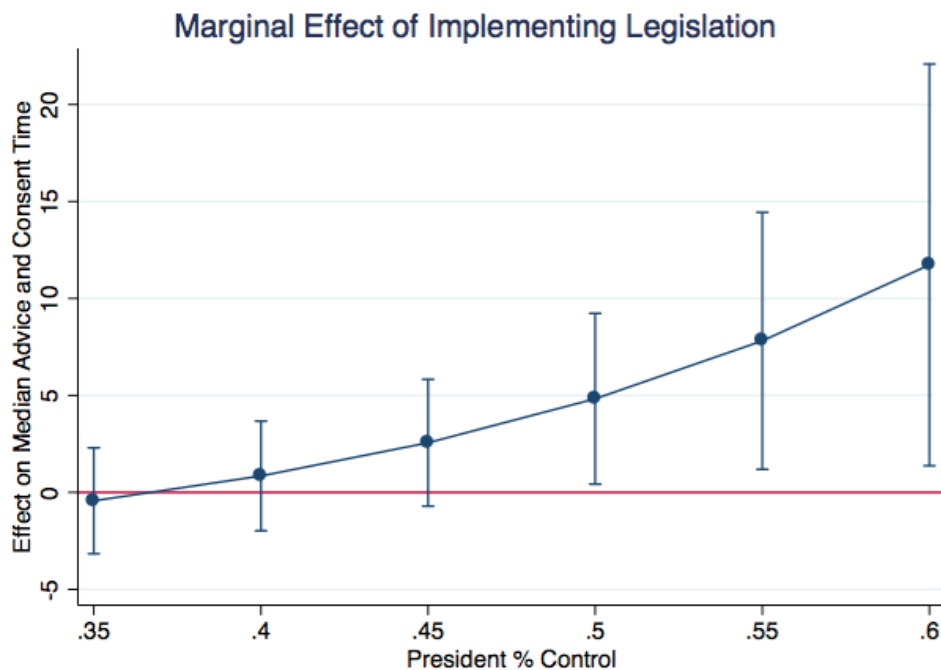


FIG. 3. The Marginal Effect (Using 90% Confidence Intervals) of Implementing Legislation on Time to Advice and Consent, Conditional on Percent Support for the President in Congress

process as presidential support increases.¹¹ That is, in nonelection years, when there is more of an emphasis on law-making generally, treaties take a back seat when the President has significant Congressional support. These final two models do suggest that the President's political support is important in calculations about advice and consent, although the initial estimates of *President % Control* were not statistically significant. Again, this is consistent with the idea that opportunity costs do not substitute for political calculations, but rather complement them—traditional measures of political power are statistically significant in the ratification stage *conditional* on measures of the value of legislative floor time.

We also perform a few additional robustness checks to ensure our results are not due to specification issues. First, we re-estimate model 2.1, but include a new variable, *Predicted Transmit*, which was generated from the estimated transmittal model in Table 1 to account for possible selection issues.¹² This new variable is not itself statistically significant in the re-estimation.¹³ This provides some evidence that there were no problematic selection processes driving our previous estimates.

Second, it is received wisdom that Presidents often turn to foreign policy in their second terms. It is also true that, in the recent past, Presidents have suffered from declines in co-partisans in Congress after their initial election to office. Thus, our finding could be a result of a natural decline in support in Congress combined with

more attention to foreign policy over time. To this end, we add an indicator variable controlling for a President's second term to each stage of our model. In neither case does this variable achieve statistical significance, nor does its presence alter our existing results.

Next, Presidents are also known to care about their legacies as they leave office. This could lead to a rush of activity toward the end of their terms (which we noted was the case in our descriptive statistics). This could be another explanation for our finding: It is not lowered opportunity costs that drive bursts of activity but a President's concern over his legacy. We regard this as unlikely since, as Table 1, column 2, shows, adding the *Nonpresidential Election Year* variable to the treaty transmission model adds no new explanatory power to the model. This suggests that Presidents do not push more treaties off their desk toward the end (or potential end) of their terms. The same is true if we specify two distinct variables: the first coded "1" if the year is one in nonpresidential election years; the second coded "1" if the year is one that the President is in his lame duck year. Neither variable, however, achieves statistical significance in the transmittal model.

Additionally, we replace *Nonpresidential Election* in the second stage of our model with these same two new variables: one for a President up for re-election, the other for a President in the last year of his second term. If a President is concerned about his legacy, we would be especially likely to see him exerting pressure for the Senate to move on treaties in his lame duck year. Like *Nonpresidential Election* in our initial ratification model, both of these variables are statistically significant, yet they are not statistically distinguishable from one another. That is, lame duck years result in no more treaty ratification than years where a President is up for re-election.

Finally, we re-estimate the models including only measures of Presidential support in the Senate, excluding the House. We note, however, that these are not adequate

¹¹ For both interaction graphs, we reverse the calculation of the marginal effects, as suggested by Berry, M. and Milton (2012). These new calculations yield similar substantive effects and identical substantive interpretations.

¹² Note that the model gains identification from the inclusion of *Approval* in the first stage and *Presidential Election Year* and *Implementation* in the second stage. In addition, because *Treaties Available* is measured as only those treaties on the President's desk in the first stage, it can also be used to help in model identification.

¹³ The standard error estimate is bootstrapped to account for estimation uncertainty.

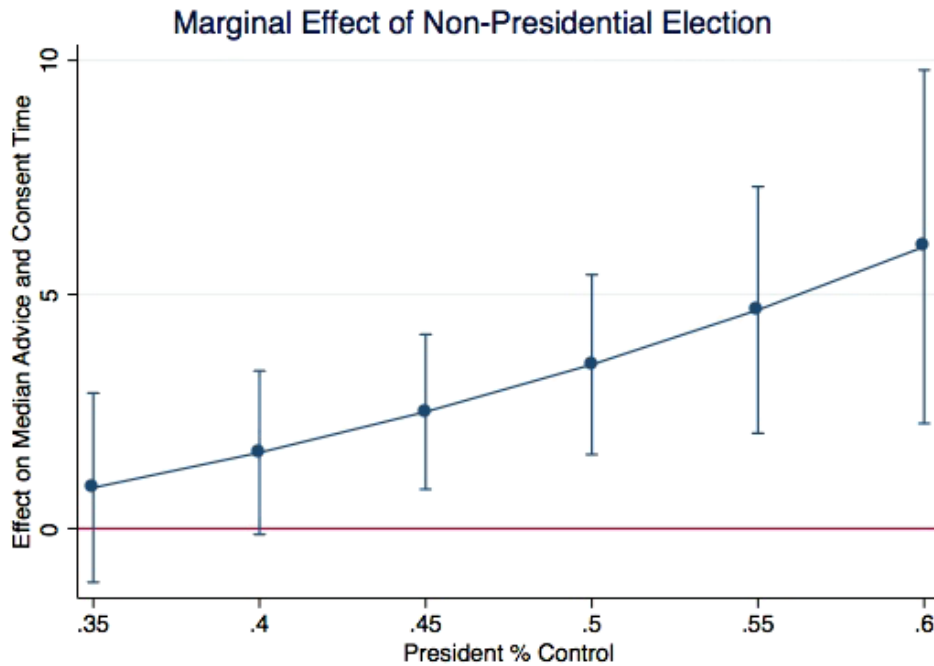


FIG 4. The Marginal Effect (using 90% Confidence Intervals) of Non-Presidential Election Year on Time to Advice and Consent, Conditional on Percent Support for the President in Congress

tests of our theory: While it is true that the Senate is responsible for treaty ratification, both Houses are needed to pass legislation that would be crowded out by treaties (including enabling legislation required by some treaties). Thus, we expect these models to show weaker results: If a President holds majority support in the Senate, but not the House, his opportunities for domestic legislation are reduced (as President Obama discovered in his second term).

The estimates using these new measures of *President % Support* are consistent with our expectations. In the first (transmittal) stage, the estimate of *President % Support*, using only Senate measures, remains statistically significant, but the size of the coefficient is 25% smaller. The same is true in the ratification stage of the model: While *President % Support* does not change in sign or significance in our base model, nor in the interactive models, its estimate is consistently smaller.¹⁴

Conclusion

We have advanced an opportunity cost theory of treaty ratification that argues that fixed political capital and agenda space forces the President and the Senate to choose whether to spend time on a given treaty or on other legislation. Time spent on treaties is time foregone for other legislation, thus the “cost.” This means that sometimes the decision to push a treaty through the advice and consent process may be less about the value of the treaty itself than about the benefit of spending time on the treaty *relative* to other possible agenda activity. The fate of a treaty therefore derives not *only* from costs and benefits as they relate directly to the treaty—as most international relations theory assumes—or about the preferences of veto players—as institutionalists argue.

Those factors clearly matter, and our theory makes no attempt to dismiss them. Rather, we argue that they obstruct the treaty process more or less under particular conditions when opportunity costs are high; the President and Senate may find these factors so large that treaties either get delayed or become stuck indefinitely.

Through interviews, descriptive analysis, and modeling of both the transmittal and advice and consent processes, we find considerable support for this theory. When the President has more co-partisans in Congress, opportunity costs are high. Consequently, the President is less likely to transmit treaties to the Senate. Moreover, in the Senate, the electoral calendar and the added implementation costs of the treaty matter more. Most of these factors should not matter—or should matter in different ways—but our opportunity costs theory explains their significance.

Our findings contrast with patterns in Senate advice and consent on presidential nominations (McCarty and Razaghian 1999; Binder and Maltzman 2002; Derouen et al. 2005). In that area, divided government, political polarization, and elections obstruct progress. This is because presidential nominations are forced onto the Senate agenda, whereas treaties constitute foreign-policy matters. As such, their introduction is optional and faces multiple hurdles.

Our argument matters for both theoretical and practical reasons. Theories on two-level games reason that the need to obtain domestic ratification strengthens the bargaining hand at the international level. But this need for ratification may be a liability rather than an advantage. The presence of opportunity costs may undermine the confidence other countries place in the United States as a negotiation and global cooperation partner. If Senate advice and consent is so difficult, other parties may be unwilling to make costly concessions and simply disregard US demands or abandon the negotiations entirely. This dynamic suggests a need to re-conceptualize the interplay

¹⁴ These, as well as all other robustness check results, are available in the online appendix.

between international and domestic actors in negotiations.

The findings also suggest that, at least in the United States, a unitary conceptualization of “national interest” does not translate as straightforwardly into domestic action as traditional cross-national analysis of treaty ratification assumes. Not only do states not act as unitary actors, but their decision to join treaties also does not depend purely on an analysis of those treaties’ inherent costs and benefits. States may not join treaties that advance their general interests. An incorporation of the domestic veto player model helps explain such outcomes, but even this model expects that treaties that enjoy wide support would receive timely Senate advice and consent. In contrast, we find that sometimes it is a matter of priority—rather than inherent value or support—that drives the ratification process.

Our argument also informs the literature on domestic institutions and international law. Various contributions to that literature identify courts (Putnam 2009), the desire for bureaucratic oversight (Goldstein 1996), and electoral incentives (Raustiala 1997) as domestic determinants of state engagement with international law. Our findings suggest that attention to the finite legislative docket helps explain why domestic institutions delay or deny international cooperation: When faced with possible resistance from courts, bureaucrats, or the public, leaders and legislators may choose to spend their time elsewhere—even if they support such cooperation.

Second, the findings raise some practical issues. If opportunity costs delay or derail US treaty ratifications, this may hamper US participation in multilateral cooperation in various global regimes. This may explain why the United States, although often in the forefront of treaty creation, lags behind other states in treaty ratification (Elsig, Milewicz, and Stürchler 2012). This in turn might weaken US soft power (Nye 1990), because the United States looks hypocritical when it extols other nations to ratify or follow international treaties that it has not itself joined (Spiro 2000). Without US leadership, fewer states may participate in global cooperation. Lack of US ratification of treaties also diminishes US influence on the treaty regime itself. If lack of ratification relegates the United States to observer status, the United States will be less able to participate in continued negotiations of the implementation of the treaty regime, a point bemoaned at times by President Clinton in his transmittal letters urging Senate action (Clinton 1997). Indeed, these practical concerns support the calls of some legal scholars for amending the process (Hathaway 2008; Galbraith 2012). The insights from this research suggest that whatever changes we might contemplate, it would be wise to consider how they affect the opportunity cost of policymakers.

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Supporting Information

Additional Supporting Information may be found in the online version of this article:

Table S1. Descriptive statistics.

Table S2. Robustness checks of the transmittal model.

Table S3. Robustness checks for advice and consent model.

Table S4. Senate-only robustness checks for interactive models.

Figure S1. Hazard rate for treaties signed by the US transmitted to the Senate.

Figure S2. Hazard rate for advice and consent of treaties transmitted to Senate.

Figure S3. Marginal effect of President Percent Control, conditional on Implementation.

Figure S4. Marginal Effect of President Percent Control, conditional on Election.