

WebMemo



Published by The Heritage Foundation

No. 3069
December 1, 2010

Five Controversial Treaties to Be Wary of in 2011

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It's only December 2010, but the Obama Administration, Congress, and the American media are already beginning to look ahead to the next set of elections in November 2012. Due to political considerations, it is unlikely that the Administration and Democrats in the U.S. Senate will push hard for the ratification of any controversial treaty during an election year.

Instead, they will have only 2011 in which to champion treaties that have thus far failed to gain the 67 votes necessary for ratification. It is possible that 2011 will come and go without any treaty being seriously considered by the Senate, but here are the five most likely candidates.

1. CEDAW. There have been multiple indications that the Administration may push for ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2011. First, the convention is on the State Department's treaty priority list, which was issued in May 2009. Listing CEDAW as a priority does not by itself mean that the treaty will be an actual priority, but recent statements from Administration officials support that conclusion.

For example, in August 2010, the State Department expressed its support for CEDAW in the U.S. submission to the United Nations Human Rights Council's Universal Periodic Review process, stating, "The Obama Administration strongly supports U.S. ratification of the Convention on the Elimination of all forms of Discrimination Against Women and is working with our Senate toward this end." More recently, an official from the Department of Justice testified before a Senate Judiciary subcom-

mittee that the Obama Administration's review of CEDAW was "approaching its final stages."

CEDAW was signed by President Jimmy Carter in 1980 and was voted out of the Senate Foreign Relations Committee on two occasions (in 1994 and 2002). If the Administration has any chance of getting traction on the controversial treaty, it will likely push for ratification in 2011.

Chance of CEDAW receiving Senate consideration in 2011: 75 percent.

2. Disabilities Convention. The Convention on the Rights of Persons with Disabilities was signed by Ambassador Susan Rice in July 2009 but has not yet been sent to the Senate for advice and consent. The Administration has noted its commitment to advancing this treaty and is likely conducting an analysis of the convention's provisions prior to submission to the Senate. Since the Administration actually signed the Disabilities Convention, it may feel a special "ownership" of it and may press for its ratification before CEDAW or other pending treaties.

The treaty, however, has many of the same problems as CEDAW and will likely face opposition by many Senate Republicans.¹

Chance of the Disabilities Convention receiving Senate consideration in 2011: 60 percent.

This paper, in its entirety, can be found at:
<http://report.heritage.org/wm3069>

Produced by the Margaret Thatcher Center for Freedom

Published by The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002-4999
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3. Ottawa Convention. The Administration has been under pressure from arms control groups to join the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (also known as the Ottawa Convention), which places an absolute ban on the possession or use of any type of anti-personnel land mine.

The Administration is conducting a review of the current U.S. land mine policy to determine whether the U.S. should join Ottawa. It is possible that the Administration is genuinely considering whether it should sign Ottawa, but it is also possible that the review is being done only to placate arms control groups, especially since the U.S. is already party to Amended Protocol II to the Convention on Certain Conventional Weapons, which places reasonable restrictions on the use of anti-personnel land mines.

Chance of the Ottawa Convention receiving Senate consideration in 2011: 10 percent.

4. Law of the Sea Treaty. It is very frustrating to internationalists that the Senate has failed to give its consent to ratification of the United Nations Convention on the Law of the Sea (also known as LOST). LOST has the support of a diverse range of interests, including segments of the U.S. military, environmental groups, and the oil and gas industry. Among the treaties that have languished in the Senate's "inbox" for years, LOST has long been considered "low-hanging fruit." Yet the treaty eludes ratification time and time again.

Chance of the Law of the Sea Treaty receiving Senate consideration in 2011: 15 percent.

5. New START. The lame duck session of Congress may come and go without the Senate voting on the Treaty Between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms (also known as New START). If so,

passage of the treaty will be a top Administration priority in the new Congress in January.

Skepticism in the Republican caucus—including concerns that were expressed by incoming Members such as Rand Paul (R-KY)—may yet scuttle the arms control measure. Ten newly elected Republican Senators called on Majority Leader Harry Reid (R-NV) to postpone any vote on New START until they are seated in January.²

Chance of New START receiving Senate consideration in 2011: 90 percent (unless, of course, a vote occurs during the 2010 lame duck).

Tricky Treaties. There are a few dark horse candidates (for example, the International Labour Organization Convention No. 111 Concerning Discrimination in Respect of Employment and Occupation and the Comprehensive Nuclear Test-Ban Treaty) that the Obama Administration may look at in 2011, but whichever treaty or treaties it chooses to push, the clock is ticking.

All of the treaties discussed above have the support of the Democratic leadership as well as Senator John F. Kerry (D-MA), the current chairman of the Foreign Relations Committee, and probably Senator Richard Lugar (R-IN), the ranking Republican on that committee. These treaties will therefore have little or no difficulty sailing through at the committee level, as was the case when LOST was voted out of committee in 2007.

Senators who are skeptical of unreliable treaty partners and multinational, aspirational conventions should therefore stay alert in 2011.

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1. Steven Groves, "Ratification of the Disabilities Convention Would Erode American Sovereignty," Heritage Foundation Backgrounder No. 2406, April 26, 2010, at <http://www.heritage.org/Research/Reports/2010/04/Ratification-of-the-Disabilities-Convention-Would-Erode-American-Sovereignty>.
2. Letter from Senators-elect to Senator Harry Reid, November 18, 2010, at <http://blunt.house.gov/Media/PDFS/NewSTARTLetter.pdf> (November 30, 2010).