

CRS Report for Congress

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Senate Consideration of Treaties

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The consideration of treaties and nominations constitutes the executive business of the Senate. The Senate conducts executive business only after it has resolved into executive session. Senate Rule XXIX is concerned with executive sessions; Rule XXX discusses proceedings on treaties. This report is one of a series of CRS fact sheets on aspects of the legislative process. For more information on legislative process, see [<http://www.crs.gov/products/guides/guidehome.shtml>].

When the President submits a treaty to the Senate, the treaty and any supporting materials are referred to the Committee on Foreign Relations. Paragraph 3 of Senate Rule XXIX requires that all treaties and "all remarks, votes, and proceedings thereon shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy." At the time the treaty is referred to committee, the Senate typically agrees by unanimous consent to remove the "injunction of secrecy." (See Senator Orrin G. Hatch "Removal of Injunction of Secrecy - Treaty Document No. 108-2," *Congressional Record*, daily edition, vol. 149, February 11, 2003, p. S2227.)

The Foreign Relations Committee has the options of ordering the treaty reported back to the Senate--favorably, unfavorably, or without recommendation--or of declining to act on the treaty. If the committee votes to report a treaty, it is placed on the Executive Calendar and must lie over on this calendar for one day before floor consideration (although the Senate may waive this layover requirement by unanimous consent).

When the Senate is prepared to consider the treaty, the majority leader typically makes a non-debatable motion in legislative session that the Senate go into executive session for the purpose of considering that treaty. If the Senate already is in executive session, or if the Senate agrees simply to resolve into executive session without the purpose for doing so being specified in the motion, then a motion made in executive session to proceed to any but the first item listed on the Executive Calendar is debatable.

Once in executive session, the Senate first considers the text of the treaty itself, just as it would consider the text of a bill in legislative session. The treaty is amendable and it is open for amendment at any point, with any amendments proposed by the Foreign

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Thomas Griffiths



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