

Executive Order—Moratorium on New Treaties

EXPLANATORY STATEMENT

Moratorium on New Multilateral Treaties

In recent decades, there has been a proliferation of multilateral treaties that purport to regulate activities that are domestic in nature. For example, the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”), is an international treaty that, according to the international committee officially charged with interpreting it, would, among other things, prohibit the celebration of Mother’s Day and require the decriminalization of prostitution. Likewise, the U.N. Convention on the Rights of the Child has been interpreted to prohibit spanking. Whether one agrees or disagrees with these outcomes as a substantive policy matter, these are not appropriate matters for international treaties. To the contrary, these types of treaties are emblematic of a larger problem, whereby these treaties are used to force countries to adhere to often radical domestic agendas that could not, themselves, otherwise be enacted in accordance with a country’s domestic laws.

The purpose of the accompanying executive order is to prevent the making of any new treaties—other than treaties that are clearly appropriate matters of international concern, such as treaties implicating national security, extradition, and international trade—until a high-level executive branch committee has had an opportunity to review and assess the treaty. It thus (1) creates a Committee to conduct this assessment, and (2) imposes a moratorium on new treaties (other than those involving national security, extradition, and international trade) except upon the Committee’s review and recommendation.

EXECUTIVE ORDER

MORATORIUM ON NEW MULTILATERAL TREATIES

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Article II, section 2, clause 2 of the U.S. Constitution, it is hereby ordered as follows:

Section 1. *Establishment of Treaty Review Committee.* There is hereby established a Treaty Review Committee (Committee), consisting of the Secretary of State, Secretary of Defense, Attorney General, Director of the Office of Management and Budget, Director of National Intelligence, Assistant to the President for National Security Affairs, the, and the Counsel to the President, or their respective designees.

Sec. 2. *Duties and Functions of Committee.* (a) The Committee shall undertake the following duties and functions:

(i) Review all multilateral treaties in which the United States is currently engaged in negotiations, and recommend to the President whether and to what extent the United States should continue to participate in such negotiations;

(ii) Review all multilateral treaties that have been negotiated and are awaiting the President's signature and recommend to the President whether he should sign any such treaty, and, if so, what reservations, understandings, and declarations would be warranted; and

(iii) Review all multilateral treaties that have been ratified and are currently in effect, and recommend to the President whether the United States should continue to be a party to such treaties.

(b) For the purposes of this order, a "multilateral treaty" subject to review under section 2(a) of this order shall mean all international agreements between the United States and two or more countries, whether embodied in a single instrument or two or more instruments, including those made with the advice and consent of the Senate, provided that a "multilateral treaty" shall not include any agreement or proposed agreement directly related to national security, extradition, or international trade.

(c) Nothing herein shall affect the Attorney General's authority to review treaties under section [6(b)] of Executive Order _____ [the Federalism executive order].

Sec. 3. *Moratorium.* No new multilateral treaty shall be submitted to the President for signature or to the Senate for advice and consent, except those recommended pursuant to subsection

2(a)(ii) of this order, unless its submission is based upon the recommendation of the Committee in accordance with section 2 of this order.

Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.