



International Agreements and Non-binding Instruments: The Case-Zablocki Act (Case Act)

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In the early 1970s, Congress passed legislation to address concerns that Presidents were increasingly bypassing the [Article II treaty process](#) by using executive agreements to make international legal commitments for the United States—sometimes without congressional involvement or knowledge. The legislation, generally known as the Case-Zablocki Act of 1972 (Case Act), originally [required](#) the Secretary of State to submit to Congress the text of all international agreements entered into force not submitted to the Senate as treaties. Fifty years later, in 2022, Congress [amended](#) the Case Act (codified as amended at [1 U.S.C. § 112b](#)) to require, among other things, the Secretary to submit the text of international agreements and “qualifying non-binding instruments” (QNIs), and to provide the legal authority relied on for each international agreement and QNI. [According](#) to a report prepared by the Senate Committee on Foreign Relations at the time of enactment, this amendment—entitled “Enhancing Transparency on International Agreements and Non-binding Instruments”—“strengthens and modernizes the Case Act and makes it applicable, for the first time, to non-binding instruments.”

This Legal Sidebar first explicates the international agreements and QNIs that are covered by the amendment’s requirements as well as the requirement that the State Department describe the legal authorities relied on to conclude such agreements and QNIs. It then analyzes the authorities that the State Department has cited for a selection of international agreements and QNIs. Finally, this Sidebar discusses considerations for Congress.

Binding International Agreements and QNIs

As amended in 2022, the Case Act [requires](#) the Secretary of State to submit on a monthly basis to the majority and minority leaders of the House and Senate and to the [Senate Foreign Relations and House Foreign Affairs Committees](#) (SFRC and HFAC) a list and the texts of all international agreements and QNIs that were “signed, concluded, or otherwise finalized during the prior month.” It also [requires](#) the Secretary to submit a “list of all international agreements that entered into force and [QNIs] that became operative ... during the prior month,” as well as the text “[if it differs](#) from the text previously provided” after the international agreement or QNI was “signed, concluded, or otherwise finalized.”

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International Agreements

The original Case Act [required](#) the Secretary of State to submit international agreements not submitted to the Senate as treaties (i.e., [executive agreements](#)) within 60 days after the agreement *entered into force*, a phrase that appears to reflect the [understanding under international law](#) that parties have adopted binding international legal commitments. International agreements enter into force for the United States after any relevant requirements under [U.S. domestic law](#) and [international law](#) have taken place and the President has ratified the agreement or otherwise [formally consented](#) to be legally bound [at the international level](#).

As amended, the act now [requires](#) the State Department to submit a list of and the texts of all agreements that were “signed, concluded, or otherwise finalized during the prior month.” The act [further requires](#) that “[t]he substance of oral international agreements ... be reduced to writing.”

The United States may sign or otherwise finalize many international agreements [well before](#) they enter into force and become binding on the United States, and some agreements that the President signs may [never](#) enter into force for the United States. The 2022 amendment thus not only increases the frequency of the reporting requirement; it also extends to the texts of international agreements that have been signed or otherwise finalized but have not yet entered force. This additional reporting requirement may provide Congress with more information about the international agreements that could eventually become binding on the United States at an earlier stage of the process.

QNIs

The 2022 amendment includes, for the first time, reporting requirements for QNIs. Although [not binding under international law](#), these commitments have become [prominent tools](#) in modern American diplomacy. As the United States stated in a 2025 [submission](#) to the International Law Commission, such instruments provide “flexibility ... to memorialize shared understandings, make political commitments, or advance cooperation with minimal procedural or other requirements in circumstances where establishing legal rights and obligations is not necessary.” [According](#) to the 2022 report prepared by the SFRC, QNI reporting requirements were necessary because, “as such instruments have proliferated, there has been increasingly less visibility into the international commitments made on behalf of the United States.”

The Case Act, as amended, requires submission only of non-binding instruments that are considered to be “qualifying” under the statute’s [two-pronged definition](#). First, under the statute, a QNI is a non-binding instrument that “is or will be under negotiation, is signed or otherwise becomes operative, or is implemented with one or more foreign governments, international organizations, or foreign entities, including non-state actors.” Second, the statute states that the instrument must be one either that “could reasonably be expected to have a significant impact” on U.S. foreign policy or “is the subject of a written communication from the Chair or Ranking Member of either of the appropriate congressional committees to the Secretary.”

The State Department [regulation](#) implementing the Case Act’s QNI requirements relating to the reporting of non-binding instruments that “could reasonably be expected to have a significant impact on the foreign policy of the United States” sets out [factors](#) to be taken into account. These factors, which the regulation states are to be considered in light of the “entire context of the transaction,” “include whether, and to what extent, the instrument”:

- is important “to the United States’ relationship with another country”;
- “[a]ffects the rights or responsibilities of U.S. citizens, U.S. nationals, or individuals in the United States”;
- “[r]equires changes to U.S. law to satisfy commitments”;
- “[p]resents a new commitment or risk for the entire Nation”; and

- “[i]s of Congressional or public interest.”

As noted above, the second category of QNIs subject to the Case Act are those that are “the subject of a written communication from the Chair or Ranking Member of either [the SFRC or HFAC] to the Secretary.” An example of this occurred in April 2025, when the Ranking Member of the [SFRC](#) invoked this part of the statutory definition of QNI in seeking the text of the arrangements that the Secretary of State announced the United States had made with El Salvador regarding the detention of individuals removed from the United States. The Secretary subsequently submitted the text of diplomatic notes exchanged between the United States and El Salvador regarding detentions as part of the administration’s [May 2025 Case Act QNI report](#).

[Exempted](#) from the statutory definition of QNI is “any non-binding instrument that is signed or otherwise becomes operative or is implemented pursuant to the authorities relied upon by the Department of Defense, the Armed Forces of the United States, or any element of the intelligence community.” Some legal scholars have surmised, based on empirical research, that this exemption [may exclude](#) a considerable number of non-binding instruments from the Case Act’s requirements.

Description of Legal Authorities

In addition to the requirement that the texts of international agreements and QNIs be submitted to Congress, the Case Act as amended [requires](#) the Secretary of State to provide Congress with “[a] detailed description of the legal authority” the executive branch believes supports the international agreement or QNI. The act further requires the Secretary to “[cite all](#) [legal] authorities relied upon” and “[include](#) the specific article or section and subsection reference” for citations to the Constitution, statutes, and treaties. If such references are “not available,” the act mandates that the citation “be as specific as possible.” Additionally, in cases where the executive branch relies on the President’s authority under Article II of the Constitution (whether alone or with other authority), the act [directs](#) “the Secretary or appropriate department or agency [to] explain the basis for that reliance.”

The Case Act as amended [requires](#) the State Department to publish this information within 120 days after international agreements enter into force and QNIs become operative. As of this writing, the [published](#) Case Act [reports](#) on the State Department’s website are for the months of October 2023 through October 2025. (The October 2025 reports for both [international agreements](#) and [QNIs](#) state that they were submitted on November 28, 2025 “as a result of the lapse of appropriations and associated shutdown of Department operations, which prevented an earlier filing.”) The following sections discuss the executive branch’s implementation of this requirement by examining a selection of the information regarding legal authority relied on for [international agreements](#) and [QNIs](#) that has been made available to the public on the State Department’s website.

Legal Authority Relied on for International Agreements Other Than Article II Treaties

The State Department has taken the [position](#) in its *Foreign Affairs Manual* that there are three potential sources of law that may, alone or in combination, provide the President with authority for executive agreements: [treaties](#) approved by the Senate, [statutes](#), and [Article II of the Constitution](#). The Secretary of State has relied on all three of these sources for international agreements in the publicly available Case Act reports.

Reliance on Previously Entered Treaties

Existing treaties appear to be the legal authority that the State Department has relied on the least for executive agreements in its published Case Act reports through October 2025. According to the State Department's *Foreign Affairs Manual*, “[t]he President may conclude an international agreement pursuant to a treaty brought into force with the advice and consent of the Senate, the provisions of which constitute authorization for the agreement by the Executive without subsequent action by the Congress.” In a 1956 decision, the Supreme Court upheld the President’s authority to conclude an executive agreement on criminal jurisdiction over U.S. armed forces stationed in Japan, in part based on the Senate’s approval of the underlying mutual security treaty between Japan and the United States. The Court reasoned that, because the security treaty approved by the Senate included a provision authorizing subsequent agreements regarding criminal jurisdiction, and because the Senate was aware that the agreement at issue was planned before providing its consent to the security treaty, the President had authority to enter into the executive agreement as long as it was not otherwise prohibited by the Constitution or legislation enacted after the security treaty. It is unclear whether the Court would have reached the same conclusion if the Senate had not been aware of the planned executive agreement at the time of its approval of the underlying treaty.

In most instances in which the State Department has relied on treaties as authority for executive agreements in its Case Act reporting, the Department also cites either the President’s Article II authority or statutes. For example, the Department cited the [United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances](#), as well as “Article II of the United States Constitution, sections 2 (conduct of foreign relations) and 3 (take care that the laws be faithfully executed),” in support of executive agreements with another country related to cooperation in countering illegal maritime operations. The Department has also relied on the [Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction](#), along with statutory authority regarding U.S. implementation of the Convention, for executive agreements with the Organization for the Prohibition of Chemical Weapons related to the evaluation of the proficiency of laboratories in analyzing chemical samples.

The Department sometimes cites specific treaty provisions, and sometimes cites only the treaty name. In at least two instances, the Department cited a specific condition in the Senate’s resolution consenting to U.S. ratification of a treaty. Additionally, the Department generally does not elaborate on how any asserted constitutional or statutory authority interacts with the authority it claims a treaty provides.

Reliance on Statutes

In its public reports published as of October 2025, the State Department has relied the most on statutory authority for executive agreements. In some instances, the statutes cited by the Department authorize the President to conclude agreements, and in others there is no such explicit delegation of authority. The Department generally does not elaborate on its interpretation of statutes that do not contain an explicit delegation. For example, the Department legally relies on an existing treaty and on a statute appropriating funds for compensation for a project to mitigate flood risks in the Columbia River Basin for an executive agreement with Canada providing for such compensation in the interim period during which the countries were finalizing amendments to the underlying treaty.

When the State Department has relied on Article II in addition to a statute, the Department tends to cite the following Article II sections with parenthetical remarks:

- “section 2 (conduct of foreign relations),” such as for an agreement with the European Union regarding satellite launches;

- “section 3 (take care that the laws be faithfully executed),” such as for [an agreement with Peru](#) regarding measures to combat drug trafficking; or
- “section 2 (conduct of foreign relations) and section 3 (take care that the laws be faithfully executed),” such as for [an agreement with Romania](#) regarding the use of traveler information.

In these instances, the Department often [does not explain](#) whether it considers each source to provide an independent basis of legal authority or believes both Article II and the relevant statute to be necessary to support the executive branch’s authority for executive agreement.

Exclusive Reliance on Article II

The State Department has relied solely on the President’s authority under Article II of the Constitution for several executive agreements in its published Case Act reports made publicly available on its website since the 2022 amendment took effect. In [most](#) instances, it has [cited](#) only “Article II of the United States Constitution, section 2 (commander-in-chief and conduct of foreign relations).” It has cited such authority for various agreements, including a [security agreement with Ukraine](#), a [status of forces agreement with Ecuador](#), and an [agreement regarding the protection of classified information with Italy](#). For other agreements, the Department [relies](#) only on asserted Article II authority related to “conduct of foreign relations,” such as for an [agreement with Estonia](#) concerning security measures for the protection of classified information, an [agreement with Ukraine](#) establishing a “U.S.-Ukraine Reconstruction Investment Fund,” and [multilateral economic agreements](#) with countries in the Indo-Pacific region. The Department [does not](#) further [elaborate](#) on its [interpretation](#) of the President’s Article II authority in relation to the given agreement.

The scope of the President’s authority to enter into binding international agreements solely based on Article II authority has at [times](#) been [disputed](#) and has not been elaborated on by courts [with much detail](#). While Article II, section 2, clause 1 explicitly [grants](#) the President the authority to act as the nation’s “Commander-in-Chief,” which is the description the State Department sometimes includes in the parenthetical following the citation, neither it nor any other [part of Article II](#) expressly refers to a power to “conduct foreign relations” or a power related to executive agreements. The Supreme Court has [held](#) that the President has some unilateral authority [inherent in Article II](#) to conclude [executive agreements settling foreign claims](#), based [in part](#) on the President’s inherent Article II power to recognize foreign governments. The Court has periodically referenced the power to conduct foreign relations in its opinions upholding unilateral executive agreements, at times [explaining that](#) the Constitution assigns this power to both branches, and sometimes [characterizing](#) it as one over which the President has the “vast share of responsibility.” The Court does not appear to have elaborated on this authority with much more specificity. In one opinion not involving an executive agreement, the Court [declined](#) to address the executive branch’s claim that the President has “exclusive authority to conduct diplomatic relations,” explaining that such an inquiry was unnecessary to resolve that case.

Legal Authority Relied on for QNIs

In [all its published](#) legal authority statements for QNIs through October 2025, the State Department has [relied](#) solely on [Article II](#). Specifically, [the](#) Department [states](#): “The President has authority under Article II to represent the nation in foreign affairs, including the authority to communicate with foreign governments and to determine the form and manner in which the Executive engages in diplomacy.” At least one appellate court has [held](#) the President’s Article II authority extends to making non-binding commitments to foreign companies, at least where those commitments are consistent with the President’s domestic authorities.

Considerations for Congress

As it assesses the executive branch's implementation of the Case Act's requirements, including examining the texts of the international agreements and QNIs submitted and the legal authorities relied on for these commitments, Congress may take into account several considerations.

As discussed, the 2022 Case Act amendments [require](#) the Secretary of State to submit to Congress international agreements that have been signed or otherwise finalized but not yet entered into force. As a result, Congress may consider taking actions to support, oppose, or restrict an agreement's entry into force for the United States. Congress has in the past, for example, [prohibited](#) the President from providing the United States' consent to be a party to an international agreement unless the agreement is approved by the Senate pursuant to Article II or authorized by statute.

Additionally, in the exercise of its oversight of the statutory authority relied on by the State Department in support of executive agreements, Congress may consider maintaining, expanding, or limiting statutory delegations. Where the executive branch relies on statutory authority that does not expressly reference authority to consent to international agreements, for example, Congress may consider explicitly providing such authority, specifying that the statute does not authorize international agreements, or conditioning the United States' becoming a party to the agreement on congressional approval.

Regarding QNIs, Congress may consider maintaining or adjusting the statutory definition depending on its assessment of the QNIs that it receives pursuant to the Case Act. Congress may, for example, codify the factors identified in the State Department [regulation](#) for determining whether a non-binding instrument "could reasonably be expected to have a significant impact on the foreign policy of the United States," or specify additional, fewer, or different factors. Additionally, Congress may consider maintaining or changing the statute's [exclusion](#) of non-binding instruments that are made pursuant to the authority of the Department of Defense, the U.S. Armed Forces, or the [intelligence community](#).

The Case Act also [provides](#) that "[t]he substance of oral international agreements shall be reduced to writing." The act appears [not to include](#) a similar explicit requirement for oral QNIs. While the [definition of QNI](#) could arguably be interpreted to include oral agreements, [some](#) Supreme Court [caselaw](#) suggests that the absence of an express requirement for reducing oral QNIs to writing, particularly where there is such a requirement for international agreements, might be interpreted to indicate Congress's intent not to impose that requirement for QNIs. While the State Department's Case Act regulations [address](#) the submission of oral international agreements, they do not appear to mention the treatment of oral QNIs. In light of this potential ambiguity, Congress may consider amending the Case Act to clarify whether it intended the writing requirement to apply only to oral international agreements or to oral international agreements and oral QNIs.

Congress may also assess the State Department's implementation of the Case Act's [requirement](#) that the Secretary provide "[a] detailed description of the legal authority" relied on for each international agreement and QNI. If Congress believes it needs different, less, or additional information in the exercise of its oversight role regarding the United States' international commitments, Congress may consider amending the Case Act to clarify or otherwise modify this requirement.

Finally, Congress may consider using its oversight authorities to examine the State Department's compliance with the Case Act's reporting requirements. Some Members have, for example, cited the executive branch's obligations under the Case Act in [letters](#) to the Secretary of State [seeking](#) information about agreements or arrangements with foreign countries that have been announced by the Trump Administration.

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