WILL CONGRESS REPEAL THE U.S. CONSTITUTION?

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One of our preeminent safeguards of constitutional government spelled out in the U.S. Constitution is the provision that treaties are valid only if ratified by two thirds of Senators present. If the Clinton Administration is successful in its plan to approve the GATT /WTO treaty by a simple majority vote in both Houses of Congress, the American people will have lost one of our major protections against tyranny and the Senate will have forfeited one of its major powers.

Will our elected officials flagrantly bypass the Treaty Clause, Article II, Section 2, Clause 2? Will they honor or dishonor their oath to support the Constitution? These questions will be answered in a lame duck session on November 29 and December 1.

The Constitution, which provides the framework of our unique system of self government, must not be overridden by Clinton and Trade Representative Mickey Kantor. If they want a change in the treaty provision, let them try to amend the Constitution in accordance with Article V.

To be sure, not all international agreements are "treaties." The Constitution specifically allows individual states, with the consent of Congress, to make agreements and compacts with foreign countries, but expressly forbids any state to make a treaty with foreign countries even with Congress's consent.

That language would make no sense unless we admit that treaties are very different from other international agreements, which may deal with one-time problems (such as the Iran hostage settlement) or be limited in scope or effect on our nationhood. However, any agreement that binds our nation to ongoing future actions (as in a mutual defense pact), or binds us to submit our laws or policies to an international body's mandates, must obey the Treaty Clause - unless our nation is ready to abandon constitutional government.

To see how out of line is the Clinton plan for GATT/WTO, compare the Senate's Article II power to advise and consent to important Presidential appointments. No one has suggested that, when Clinton finds it too difficult to get a friend (for example, Lani Guinier), confirmed for high office, he could just use a Congressional bypass procedure and get her confirmed by the House instead.

Not every international agreement is a treaty but, by any standard, GATT/WTO must be identified as a treaty requiring the traditional supermajority Senate ratification. Under GATT/WTO, the United States would relinquish a significant aspect of our national self-determination to a new World Trade Organization.

GATT/WTO would create a governing entity in Switzerland with legal powers capable of directly affecting the lives of all our citizens because of its power to affect

federal and state lawmaking. It accepts as lawful the possibility of the United States being subjected to substantial international sanctions against which we will not be legally allowed to retaliate.

GATT/WTO would significantly affect the law-making sovereignty of the United States and also of our 50 states. The World Trade Organization charter, which is an integral part of GATT/WTO, forcefully states in Article 16, paragraph 4, that each country "shall ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the [GATT] Agreements."

How could there be a more awesome use of the treaty power than for Congress to agree that, henceforth, all our federal, state and local laws will be made and enforced in subordination to the World Trade Organization rather than to the wishes of their constituents!

The Clinton Administration's spokesman, Mickey Kantor, answers this by saying that the WTO rulings would not automatically take effect to invalidate domestic laws. "Automatic" is the weasel word; if any one of the 123 nations persuades a WTO panel that any of our laws is GAIT-illegal, it could impose perpetual trade sanctions against the entire United States or against any single industrial sector, unless we could get all 123 nations to unanimously agree with the U.S. position.

This requirement for unanimity means that, under WTO, Fidel Castro alone would always have the power to prevent the United States from getting sanctions lifted. Article 22, paragraph 6, Article 17, paragraph 14, and Article 16, paragraph 4 of the WTO's Dispute Settlement Understanding make it absolutely clear that, for the first time in the history of U.S. participation in an international organization, the United States would have NO veto to protect our own national interests.

GATT/WTO advocates argue that there is precedent for using the Congressional bypass procedure for international trade agreements, but it is specious to say that prior violations of the Constitution make future violations okay. The Supreme Court in the 1983 *Chadha* decision rejected that argument by ruling a procedure unconstitutional that had been used by Congress in hundreds of statutes since 1932.

Nothing better shows the arrogance of the ruling elite of both political parties than their determination to flout the Treaty Clause in connection with GATT/WTO. The American people cannot afford to let these bipartisan elites amend our Constitution by subterfuge and repeal a provision they find inconvenient.