

A valid treaty between the United States and a foreign country provides for the elimination of all tariff barriers between the two countries. It authorizes the president of either country to issue a proclamation nullifying any state or local laws in that country that have the effect of impeding imports from the other country.

The foreign country uses the metric system of measurement, and thus all goods produced there and exported to the United States are packaged in metric sizes, such as liters and kilograms. A law of a state in the United States requires all goods sold in that state to be packaged in traditional American sizes, such as quarts or pounds. Because the state law substantially impedes imports from the foreign country, the President of the United States has issued a proclamation nullifying the state law pursuant to the treaty.

Is the President's proclamation valid?

- A. No, because the Constitution vests in Congress the exclusive authority to specify binding legal standards for weights and measures, and the President therefore lacks constitutional authority for the proclamation.
- B. No, because the principles of federalism embedded in the Constitution prohibit the President from taking action to invalidate a state law.
- C. Yes, because it is authorized by a valid treaty of the United States and is not prohibited by any provision of the Constitution and, therefore, is the supreme law of the land.
- D. Yes, because the President has inherent authority to nullify any state law that substantially impedes commerce between the United States and another country.

## Explanation:

Article II gives the **President** extensive power over foreign policy and international relations—including the power to **negotiate and enter into treaties** with foreign nations. But a treaty cannot be **ratified** (ie, signed into law) until it has been **approved** by a **two-thirds Senate vote** (no action by the House of Representatives required). It then becomes valid and binding on the federal and state governments:

- immediately, if the treaty is **self-executing**—ie, *contains* explicit enforcement provisions (as seen here)—*or*
- after implementing legislation or judicial action, if the treaty is **non-self-executing**—ie, *lacks* explicit enforcement provisions.

And under the [supremacy clause](#), an executed treaty **supersedes any conflicting state law** so long as the treaty is consistent with other constitutional provisions.

Here, the President issued a proclamation nullifying a state law that substantially impeded imports from a foreign country. This proclamation was authorized by an explicit enforcement provision in a *self-executing* treaty between the U.S. and the foreign nation. And since the proclamation is not prohibited by any constitutional provision, it is the supreme law of the land and nullifies the state law.

**(Choice A)** Article I, section 8 gives Congress the exclusive authority to specify standards for weights and measures. The President's proclamation does not interfere with that authority because it was merely used to eliminate a state-imposed packaging requirement—not to adjust national measurement standards.

**(Choice B)** The principles of [federalism](#) allocate power between the federal and state governments. But federalism does *not* prohibit the President from invalidating state laws pursuant to a federal statute or treaty (as seen here).

**(Choice D)** The President has *no* inherent authority to nullify a state law that substantially impedes commerce between the U.S. and another country. But the President can do so if authorized by Congress (eg, under its [commerce power](#)) or a valid treaty (as seen here).

## Educational objective:

A treaty must be approved by a two-thirds vote in the Senate (not the House of Representatives) before it can be ratified. Once this occurs, the treaty takes precedence over any conflicting state law pursuant to the supremacy clause.

## References

- *Medellin v. Texas*, 552 U.S. 491, 526–30 (2008) (explaining the President's powers to implement self-executing and non-self-executing treaties).

- *Ware v. Hylton*, 3 U.S. 199, 236–37 (1796) (declaring that treaties take precedence over conflicting state laws).

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### Treaty-making process



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