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Player Two Has Entered the Game:
The Role of Congress in the Formation of American Foreign Policy during the
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Foreign relations is one of the most complex and demanding functions of any government in the world. It requires a delicate and flexible approach ranging from diplomatic persuasion to military force to solve a multitude of intricate issues. Conditions on the world stage shift so often that tactics that worked in the past can fail in the modern world. Unlike domestic affairs that fall under the direct authority of a nation’s central government, there is no central authority to manage the international system. Each state acts as its own player in the most realistic game possible by conducting business and waging war with its neighbors to achieve desirable outcomes for national wealth and power. According to proponents of executive authority in foreign policy however, some players seem to suffer from multiple personality disorder when more than one institution within the central government voices conflicting opinions on the course of foreign policy.

In the case of the United States, some scholars believe that the President should be able to exercise primary authority on the world stage, while Congress takes a back seat and allows the President to speak with one voice on behalf of the people of the United States. The problem with this approach is the danger of granting too much power to any single leader to control the nation’s foreign policy. The Founding Fathers designed Congress to be responsive to the desires of the people including on matters of foreign relations. The Constitution specifically outlines numerous powers Congress has to formulate foreign policy including the power to regulate foreign commerce, control funding for foreign programs, and declare war. Despite Congress’ Constitutional authority on foreign policy, years of deference to the President’s Commander in Chief
power during the first decades following World War II resulted in a large accumulation of Presidential authority on foreign relations. The horrors of the Vietnam War served as a wake up call on the problems of unchecked Presidential power and Congress attempted to correct this imbalance with increased involvement, but the President still retains a distinct advantage in foreign relations from his ability to veto Congressional legislation, host foreign diplomats, command the military, and use executive agreements to substitute treaties that require consent from the Senate.

Despite the President’s advantage, Congress can still affect foreign policy in a positive manner through a variety of methods ranging from direct legislation to more indirect and informal tactics that are not as noticeable. Congressional involvement can vary along two dimensions: more or less active, and deferent or assertive. Congressional inactivity does not necessarily translate to deference nor does increased activity mean that Congress opposes the President every time. Congress can be very active in support of the President or remain less active but choose its battles with the President on foreign policy. As seen during the Presidency of George W. Bush, Congress will be more deferent when the President’s proposals have popular support during a “rally around the flag” situation as a result of the terrorist attacks that occurred on September 11, 2001, but Congress will act more assertively when the President’s policies, like the occupation of Iraq, lose popularity among the people.

**Evaluation of Congressional Involvement in Foreign Policy**

To understand effectively the nature of Congress’ role in foreign policy, one must first sift through and challenge the criticisms made against Congressional involvement. After one dismisses the negative viewpoints as unwarranted, one can then see the
variety of methods members of Congress can employ to influence foreign policy in a positive manner.

Congressional Counterattack

Many in the field of political science hold a negative stigma about the role of Congress in foreign policy. Most previous studies by these political scientists focus on the constitutional prerogatives of the President and Congress, gains in authority relative to the President, or the harm that results from Congress getting involved. James Lindsay divides these critics into two camps in his book Congress and the Politics of US Foreign Policy: Irreconcilables and Skeptics. The Irreconcilables are typically administration officials and their supporters that whole-heartedly support the authority of the President to speak with one voice on foreign policy matters.\(^1\) According to the Irreconcilables, an “Imperial Congress” only weakens the President’s ability to make effective decisions on policy and compromises the United States’ position on the world stage by conveying division, conflict, and disorganization.\(^2\) However, Lindsay argues their fears of an Imperial Congress are exaggerated. Even though Congress does challenge the President on some occasions, such opposition hardly constitutes a coup d’état by Congress.\(^3\) The President retains control of foreign policy matters regardless of any challenges made by Congress.\(^4\) Presidential dominance has its origins from decades of Congressional deference fueling the broad interpretation of the Commander in Chief power beginning after the United States abandoned previous positions of

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\(^2\) Lindsay, pp. 2-3.
\(^3\) Lindsay, pp. 3.
\(^4\) Lindsay, pp. 3.
isolationism to pursue a leadership role on the world stage following World War II.\textsuperscript{5} The haunting fear of nuclear annihilation by the Soviet Union during the Cold War prompted Congress to defer to the President on several matters pertaining to foreign policy and national security.\textsuperscript{6} The President's ability to veto legislation from Congress also adds considerable power to the President on foreign policy matters.

The other group of critics is academic skeptics that question Congress’ ability to translate foreign policy preferences into legal substance.\textsuperscript{7} The studies carried out by skeptics like Barbara Hinckley, author of \textit{Less than Meets the Eye: Foreign Policy Making and the Myth of the Assertive Congress}, seek to discredit the role of Congress in foreign policy by citing the inability of Congress to pass substantive legislation directly outlining its policies.\textsuperscript{8} Despite Congress’ difficulty in passing bills with actual substance, Lindsay argues that Congress can affect foreign policy in indirect ways that are more subtle than and not as noticeable as concrete direct legislation.\textsuperscript{9} As stated by Ralph Carter and James Scott in their book, \textit{Choosing to Lead: Understanding Congressional Foreign Policy Entrepreneurs}, Hinckley focuses too much emphasis on formal roll call votes when Congress has several informal tools that operate below the normal radar.\textsuperscript{10} As Rebecca Hersman eloquently stated in her book, \textit{Friends and Foes: How Congress and the President Really Make Foreign Policy},

Dramatic clashes over high-profile issues—“waves”—are important, but they do not tell all, or even most, of the story. It is in the “ocean”—the day-to-day

\begin{itemize}
  \item \textsuperscript{5} Lindsay, pp. 21.
  \item \textsuperscript{6} Lindsay, pp. 24.
  \item \textsuperscript{7} Lindsay, pp. 3.
  \item \textsuperscript{9} Lindsay, pp. 3.
  \item \textsuperscript{10} Carter and Scott, pp. 7-8.
\end{itemize}
interactions over unexceptional issues---where most foreign policy is shaped, debated, and made.\textsuperscript{11}

Hinckley also neglects to include the impact Congress’ appropriations power has over the direction of defense spending on the foreign policy arena.\textsuperscript{12} Hinckley also makes the mistake of looking at Congressional involvement in one dimension when Carter and Scott reveal that Congressional involvement contains two dimensions: active versus inactive, and assertive versus deferent.\textsuperscript{13} Stephen Weissman, author of \textit{A Culture of Deference: Congress’ Failure of Leadership in Foreign Policy}, used Hinckley’s conclusions to reveal Congress’ deference and argued that Congress needed to get involved, yet he conceded the fact that individual members can play a role in foreign policy formation.\textsuperscript{14} Lindsay, Hersman, Carter and Scott all write about the power individual members have to greatly influence foreign policy, particularly the members that are within the committees that have jurisdiction over foreign policy decisions. As Hersman put it, individual members can serve as leaders of “issue clusters,” which group together not just members of Congress, but also executive agencies, interest groups and non-governmental organizations all under one umbrella issue in the foreign policy arena. In some cases, the strength of this coalition of support can be enough to induce positive changes in foreign policy.\textsuperscript{15}

Lindsay states that both groups of critics commit three fallacies when discrediting Congressional involvement in foreign policy. The first is the adversarial fallacy, which

\textsuperscript{12} Carter and Scott, pp. 8
\textsuperscript{13} Carter and Scott, pp. 10
\textsuperscript{15} Hersman, pp. 8.
assumes that the President and Congress are always fighting each other on the foreign policy agenda.\textsuperscript{16} In fact, Lindsay points out that there is often more cooperation than conflict, especially when Presidential initiatives also appear on the Congressional agenda.\textsuperscript{17} Sometimes, the President will ask Congress to weigh in on foreign affairs.\textsuperscript{18} Congress may appear internally divisive at times, but the executive branch can be just as fragmented especially when elements of the administration are left out by the President, which can result in alliances forming between members of Congress and these disgruntled executive officials that can effectively challenge the President's policies.\textsuperscript{19}

The second fallacy is the technocratic fallacy meaning that members of Congress do not conduct serious oversight initiatives to enforce its policies and are content with a solitary focus on their legislative work.\textsuperscript{20} However, Congressional committees often hold serious hearings to assess the implications of pending foreign policy and execute oversight against wayward programs, but these hearings sometimes go unnoticed by the media.\textsuperscript{21} Oversight hearings also occur less often because the bureaucracies typically do the right thing when executing policies and investigative panels rarely uncover critical violations.\textsuperscript{22} Regardless of their frequency, members of Congress have strong incentives to use the media when conducting policy oversight to champion a

\textsuperscript{16} Lindsay, pp. 6-7.  
\textsuperscript{17} Lindsay, pp. 7.  
\textsuperscript{18} Lindsay, pp. 7.  
\textsuperscript{19} Lindsay, pp. 7.  
\textsuperscript{20} Lindsay, pp. 5.  
\textsuperscript{21} Lindsay, pp. 6.  
\textsuperscript{22} Lindsay, pp. 5.
cause, respond to problems in the implementation of policies, and even indirectly sway the President’s agenda.23

The last fallacy is the electoral fallacy. Many assume members of Congress will only focus on reelection and will only act upon the wishes of the voters they represent.24 The average voter knows very little about the interactions associated with foreign policy and expresses minimal interest on the subject.25 As a result, members of Congress will avoid acting seriously on foreign relations because it serves no electoral interest.26 This simple electoral explanation discourages Congressional involvement in foreign policy and validates the following expectations. First, members of Congress will defer to the President on the substance of foreign policy because constituents lack specific interest in foreign affairs and support the President on foreign policy issues.27 It would be politically dangerous for members of Congress to challenge the President because it would mark them as unpatriotic in the eyes of the average voter.28 Congressional members will also only get involved in foreign policy when the issue attracts constituent interest because of the subsequent domestic impact.29 When Congress does get involved in foreign policy, members will engage in grandstanding tactics to use the media to show constituents they care about their interests, but the goal of this media circus is to win electoral support and not to affect policy substance.30 The problem with the simple electoral explanation is that none of these expectations played out after the Vietnam War. The Vietnam War opened the eyes of the American people on the

23 Lindsay, pp. 6.
24 Lindsay, pp. 3-4.
25 Lindsay, pp. 3.
26 Lindsay, pp. 3-4.
27 Lindsay, pp. 35-36.
28 Lindsay, pp. 35-36.
29 Lindsay, pp. 37.
30 Lindsay, pp. 36-37.
dangers of too much power for the President and the threat of nuclear weapons from the Soviet Union, but Congress acted in other areas of foreign relations besides Vietnam and the Soviet Union and remained active long after the war ended.\textsuperscript{31} Lindsay argues that the lack of knowledge on foreign policy by the average voter actually allows members to get more involved in foreign affairs because they are free to pursue their own policies unburdened by traditional constituent constraints because of voter disinterest.\textsuperscript{32} Congressional Members only have to avoid the foreign policy options their constituents disapprove of, but still have other favorable options to pursue.\textsuperscript{33} Members of Congress might have to answer to specific advocacy groups and some interested constituents, but they generally have leeway to pursue their own ideological interests on foreign affairs and promote the role of the United States on the world stage as they see fit.\textsuperscript{34}

**Congressional Foreign Policy Tools**

James Lindsay groups Congressional actions into three distinctive categories: direct, substantive legislation, indirect, procedural legislation, and informal, non-legislative tactics. Direct substantive legislation involves Congress dictating its foreign policy preferences into traditional legislation. Procedural legislation modifies the structure and procedure of how foreign policy is made and executed to create interpretations supported by Congress instead of attacking the actual policy substance. Informal methods largely refer to the ability of members of Congress to meet with the

\textsuperscript{31} Lindsay, pp. 38.  
\textsuperscript{32} Lindsay, pp. 4.  
\textsuperscript{33} Lindsay, pp. 45.  
\textsuperscript{34} Lindsay, pp. 4.
President or foreign dignitaries to discuss foreign policy, and the use of the media by members of Congress to shape an issue in a favorable light.

**Substantive Legislation**

Direct legislation is the traditional method Congress uses to enact any of its policies either domestic or foreign. In general, Congress has tremendous authority to legislate on several matters because of Congress’ numerous powers outlined in Article I, Section 8 of the U.S. Constitution. However, legislation on the subject of foreign policy is more complicated because the President and Congress share powers relating to foreign policy. Article II, Section 2 names the President Commander-in-Chief of the armed forces with the ability to negotiate treaties and appoint ambassadors to foreign nations with the advice and consent of the Senate.\(^{35}\) Article II, Section 3 grants the President the ability to receive foreign ambassadors and other leaders to negotiate international relations.\(^{36}\) On the other side, Article I, Section 8 grants Congress the power to control the appropriation of federal funds for international programs, provide for the common defense, regulate commerce with foreign nations, define and punish piracies and felonies on the ocean, declare war, raise and support armies, provide and maintain the navy, and make rules for governing and regulation of land and naval forces in addition to the ability to provide legislation based upon any of these powers.\(^{37}\)

Despite Congress’ several powers in the foreign policy arena, a growing trend of broadly interpreting the President’s Commander-in-Chief authority dating back to the start of the Cold War placed the President at the helm of making foreign policy decisions. The fear of nuclear war and total annihilation at the hands of the Soviet Union caused the

\(^{35}\) U.S. Constitution, Art. II § 2.
\(^{36}\) U.S. Constitution, Art. II § 3.
American people and Congress to put their faith in broad executive authority on the world stage. Members of Congress viewed their roles in foreign policy as supplying the President with whatever he needed to protect American interests abroad. The failures of the President during the Vietnam War opened the eyes of the people and Congress, who now questioned the pervasive threat of Communist expansion and Presidential authority. Although Congress acts more frequently in foreign policy than years before Vietnam, members of Congress failed to reverse the precedent of Presidential authority in foreign relations established during the 1950s and 1960s. Congress now must act in an auxiliary role on foreign policy matters and use whatever tools it has in its arsenal to modify the President’s agenda to incorporate Congress’ policy preferences.

The three main areas that Congress can legislate on foreign policy are through declarations of war, regulation of international trade, and appropriations. A declaration of war is the farthest step Congress can take in international relations, which happened only four times in the history of the United States: the War of 1812, the Spanish-American War, World War I, and World War II in addition to a recognition of a state of war during the Mexican-American War (The Civil War was undeclared because such recognition would legitimize the Confederacy as a sovereign nation and not an insurrectionist group). Congress can also authorize the use of military force by the President abroad. Due to the rise of the Commander-in-Chief power of the President, Congress’ war powers diminished in prominence since the broad interpretation of

38 Lindsay, pp. 21.
39 Lindsay, pp. 23-24.
40 Lindsay, pp. 24.
41 Lindsay, pp. 84.
42 Lindsay, pp. 84-85.
43 Lindsay, pp. 85.
Commander-in-Chief included the ability to decide when and where to commit armed forces.\textsuperscript{44} Congress attempted to regain control of the deployment of armed forces through the War Powers Resolution, but it lacked the teeth necessary to hold the President accountable for committing armed forces abroad without Congressional support, and it is political suicide for members of Congress to deny funds to the military when the lives of American soldiers are on the line.\textsuperscript{45}

Instead of war powers, Congress can use its powers over foreign commerce and appropriations to influence policy. Rather than arguing over the constitutionality of war-related decisions made by Congress, most debate over the use of trade powers and the power of the purse center on political prudence rather than the actual constitutionality of the action.\textsuperscript{46} Congress can use its regulation of foreign commerce to reward cooperative nations with favorable trade agreements while punishing disruptive countries with economic sanctions.\textsuperscript{47} Congress’ control over appropriations can greatly influence foreign programs by controlling how the United States spends its money through discretionary spending. Through discretionary spending, Congress determines how much to spend on programs that the President wants, which could be the full amount requested or none at all.\textsuperscript{48} Control over military funding could also limit future military engagements abroad since the military requires Congressional funding to carry out its operations.\textsuperscript{49} It may be politically unwise to deny the military funding while operations are underway, but Congress can prescribe less military funding before war breaks out as a check against military engagement.

\textsuperscript{44} Lindsay, pp. 85.
\textsuperscript{45} Lindsay, pp. 149.
\textsuperscript{46} Lindsay, pp. 86, 88.
\textsuperscript{47} Lindsay, pp. 85.
\textsuperscript{48} Lindsay, pp. 86.
\textsuperscript{49} Lindsay, pp. 86-87.
The Senate is in a unique position regarding foreign policy because the Constitution requires two-thirds approval from the Senate on all treaties and ambassador appointments made by the President.\textsuperscript{50} This forces the President to cater treaties to the preferences of a supermajority of senators in order for a treaty to become binding, and will concede to the Senate on disagreements concerning the content of the treaty.\textsuperscript{51} When the Senate receives a treaty, it can proceed along one of four routes. It can either approve the treaty, reject it outright thereby killing the treaty, refuse to consider it and withhold consent to pass it later which is a temporary measure, or modify the treaty.\textsuperscript{52} To modify the treaty, the Senate can attach an amendment through a simple majority or incorporate non-binding reservations and understandings, which outline how the Senate interprets the treaty and what the agreement entails.\textsuperscript{53} If these reservations and understandings are agreed upon, it becomes part of the law.\textsuperscript{54} In some cases, senators can attach amendments or understandings that they know the other party will reject, which allows the Senate to reject a treaty under the guise of trying to improve it.\textsuperscript{55} Since all appropriation bills must start in the House of Representatives, the House can influence a treaty by denying funds to execute the treaty unless their preferences are included too.\textsuperscript{56} Despite the tremendous power Congress, particularly the Senate, wields over treaties, the President can bypass the Senate with an executive agreement, which are just as binding and legal as a formal treaty.\textsuperscript{57} However, Congress can counter by requiring executive agreements to be subjected to a joint resolution

\textsuperscript{50} Lindsay, pp. 77.  
\textsuperscript{51} Lindsay, pp. 81.  
\textsuperscript{52} Lindsay, pp. 78-80.  
\textsuperscript{53} Lindsay, pp. 80.  
\textsuperscript{54} Lindsay, pp. 81.  
\textsuperscript{55} Lindsay, pp. 81.  
\textsuperscript{56} Lindsay, pp. 87.  
\textsuperscript{57} Lindsay, pp. 81.
made by both chambers in support of the agreement if the issue of the agreement concerns trade policies or previous legislation that requires Congressional approval before executing the agreement as seen during the 2006 negotiations between President George W. Bush and India on a nuclear agreement that required Congressional authorization to waive portions of the Atomic Energy Act.  

Despite Congress’ numerous powers to influence foreign policy through legislation, treaties, and agreements, there are several disadvantages to the traditional legislative process. The first negative aspect is that some foreign policy matters are outside Congress’ jurisdiction. Congress does not have the power to negotiate abroad on behalf of the United States, and it cannot compel the President to do so. Congress can try to enact legislation that limits the negotiating leverage of the President, but this rarely succeeds because of the second inherent drawback. Even if Congress can muster up enough support to pass a bill through both chambers, it must still overcome one monumental obstacle: a Presidential veto. To override a veto, Congress needs two-thirds majorities in both the House and the Senate, which is hard to come by as Congress becomes more partisan and divided under polarizing party leaderships. The President can easily prevent a supermajority by persuading only a small minority to oppose the bill and prevent Congress from obtaining enough votes. Congress can also handcuff itself on the legislative process if there is not a strong enough consensus that Congress needs to act against the President on foreign policy. Some opposers to

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59 Lindsay, pp. 89.
60 Lindsay, pp. 89.
61 Lindsay, pp. 89.
62 Lindsay, pp. 90.
63 Lindsay, pp. 90.
action argue that other issues require Congress’ attention, while others feel the President should take the lead on foreign policy and do not want to challenge a popular President.\(^6^4\) Lastly, substantive legislation is too rigid and limited to be effective in international relations.\(^6^5\) World events can easily render legislation moot and outdated.\(^6^6\) In some sensitive cases, diplomacy works best behind closed doors, but legislation is too public to properly address such conditions.\(^6^7\) Foreign policy requires a flexible approach that can only be executed by the President, and direct legislation would be analogous to using a sledgehammer in a situation that requires a scalpel. Legislative bills also run the risk of being water-downed to reach a compromise in Congress, which can result in an ineffective law worse than inaction itself.\(^6^8\) Remedies to these drawbacks often involve giving the President the ability to waive provisions of the law as he deems necessary, but this involves Congressional concessions of power over foreign policy to the President.\(^6^9\)

Despite the numerous problems of substantive legislation, Congress can turn this negative into a positive by threatening the President with legislation to draw out concessions on the substance of foreign policy. Congress can shape legislation to the point where executive officials will prefer Presidential concessions over Congressional legislation.\(^7^0\) Congress can also hold other policy topics hostage to force the President to concede.\(^7^1\) Foreign nations will make conciliatory gestures if it perceives that

\(^{6^4}\) Lindsay, pp. 90-91.
\(^{6^5}\) Lindsay, pp. 91.
\(^{6^6}\) Lindsay, pp. 91.
\(^{6^7}\) Lindsay, pp. 92.
\(^{6^8}\) Lindsay, pp. 92-93.
\(^{6^9}\) Lindsay, pp. 91.
\(^{7^0}\) Lindsay, pp. 94.
\(^{7^1}\) Lindsay, pp. 95.
Congress will threaten to legislate unfavorable trade relations or economic sanctions. The use of threats to get concessions assumes that there is room for a compromise between the two positions and largely depends upon strong Congressional support that can override a veto to make the threats credible. The threat of legislation does have risks though because the President may not carry out his end of the bargain. Even worse, Congress can miscalculate the intentions of the President and the law actually passes resulting in something worse than Congress intended. However, so long as members of Congress can get concessions out of the President on foreign policy issues, they are willing to let legislative initiatives fail.

**Procedural Legislation**

Unlike substantive legislation, which dictates the content of foreign policy, procedural legislation affects the structures and procedures of foreign policy making. In this way, Congress can change policy content by changing the underlying decision-making processes. Congress can use procedural legislation to mold the bureaucracy to act upon Congress’ interpretations and preferences in foreign policy content. Several of these procedural tactics operate outside normal visibility and are overlooked by skeptics only focusing on major pieces of legislation, or Hersman’s “waves.” The expansion of scope to include procedural legislation takes into account a larger picture of the “ocean” itself.

Procedural legislation falls into five categories: creation of new agencies and executive positions, alteration of the participants in foreign policy decision-making,

72 Lindsay, pp. 95.
73 Lindsay, pp. 94, 96.
74 Lindsay, pp. 97.
75 Lindsay, pp. 96.
76 Lindsay, pp. 99.
77 Lindsay, pp. 99.
legislative vetoes, new procedural mandates, and reporting requirements. Congress can create new executive agencies to rectify perceived failures in the executive branch. Members of Congress understand that policies without an advocate organization will die in a bureaucracy and new agencies can be created to champion the issues Congress supports. These new agencies often receive additional clout and influence when Congress determines how the new agencies will interact with existing organizations and who answers to whom, which usually leads to Congressionally supported agencies taking the lead in the bureaucracy.

Despite the advantages of creating new agencies to conduct foreign policy, the introduction of new organizations requires a major overhaul of bureaucratic relations. Instead, Congress can either remove current agencies from the decision-making process or add new participants that already exist and favor Congressional preferences. In one instance, Congress can delegate Presidential responsibilities to an executive agency in sync with the Congressional agenda. The President would be unable to impede upon this group’s operations because he would be viewed as blocking the mandate of an executive agency that functions within the administration itself. Congress can also add private organizations to the policy-making process as advisors to the President, but also as Congressional watchdogs designed to keep members of the organization and Congress in the loop of Presidential dealings and the eventual

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78 Lindsay, pp. 101.
79 Lindsay, pp. 102.
80 Lindsay, pp. 102.
81 Lindsay, pp. 102.
82 Lindsay, pp. 103.
83 Lindsay, pp. 103.
84 Lindsay, pp. 103.
85 Lindsay, pp. 103.
effect of foreign policy programs. In some cases, Congress can legislate themselves into the decision-making process by creating commissions composed of members of Congress to advise the President and even get involved in negotiations with foreign nations directly while the President is required to keep them up to date on the proceedings.

A very powerful procedural provision Congress can use in legislation is the legislative veto. It gives the President the policies he wants, but Congress reserves the right to pass a simple (one chamber) or concurrent (both chambers) resolution that withdraws Congressional support for the legislation if such policies fail, and any resolution under a legislative veto is immune from a Presidential veto. However, the Supreme Court ruled in the 1983 case, *INS v Chadha*, that legislative vetoes were unconstitutional because they violated the spirit of bicameralism and separation of powers. Although Congress revised its laws on a case-by-case basis, several other laws retained legislative vetoes and Congress continued to incorporate legislative vetoes into new pieces of legislation despite the court ruling. Both Congress and the President ignore *Chadha* because both branches prefer legislative vetoes over substantive legislation because the President gets the green light to execute his policies while Congress still retains a way to reel in the President if his policies are not effective. If Congress is not satisfied with the progress of Presidential policies or opposes legislation that is not in effect yet, Congress can pass a joint resolution blocking the policy even though such resolutions are not immune from a Presidential veto.

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86 Lindsay, pp. 103-104.
87 Lindsay, pp. 104.
88 Lindsay, pp. 105.
90 Lindsay, pp. 105.
91 Lindsay, pp. 106.
veto under *Chadha.*\(^{92}\) However, the President will usually comply with such provisions because he knows that his policies are more likely to die on Capitol Hill under normal Congressional procedures than with the attachment of reporting requirements and other tools Congress uses to remain in the policy loop.\(^{93}\)

Congress can use procedural mandates to restrict the actions the President within acceptable parameters. The President still runs the day-to-day operations of foreign policy, but Congress constrains what the President can do.\(^{94}\) In some cases, Congress can grant the President a large amount of discretion to conduct foreign policy, but can conversely make the operating window so narrow that it is nearly impossible for the President to avoid limitations from Congress.\(^{95}\) The same tactic also works to limit the behavior of foreign nations by threatening to withhold foreign aid if foreign countries stray outside the accepted range outlined by Congress.\(^{96}\)

Lastly, one of Congress’ more popular procedural tools is reporting requirements designed to establish goals that Presidential policies must meet while keeping Congress up to date on the progress of its implementation.\(^{97}\) There are three variations to reporting requirements. Notification provisions require the executive branch to inform Congress whenever it undertakes certain specified actions outlined in the authorizing legislation.\(^{98}\) Periodic reports require the President to report on the status of programs at predetermined time intervals or when individual milestones are met.\(^{99}\) Lastly, Congress can request one time reports to conduct legislative studies, some of which

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\(^{92}\) Lindsay, pp. 106.
\(^{93}\) Lindsay, pp. 106.
\(^{94}\) Lindsay, pp. 107.
\(^{95}\) Lindsay, pp. 107.
\(^{96}\) Lindsay, pp. 107-108.
\(^{97}\) Lindsay, pp. 108.
\(^{98}\) Lindsay, pp. 108.
\(^{99}\) Lindsay, pp. 108.
can be used to inform constituents on the possible domestic effects such legislation will have on them.\textsuperscript{100} Along with remaining in the loop, reporting requirements allow Congress to intervene early to curtail Presidential policies when they begin to fail in their mandates.\textsuperscript{101} With reporting requirements, Congress can conduct foreign policy oversight and mobilize Congressional action against Presidential initiatives while promoting the exchange of information across multiple agencies.\textsuperscript{102}

Despite the several advantages of procedural legislation, there are some flaws that can unravel the power of procedural legislation, chief among them occurs when the legislation is too vaguely worded to be effective.\textsuperscript{103} It is possible to attribute legislative weakness to members of Congress watering down the bill to get Congressional and Presidential support and shield themselves from blame if such policies fail.\textsuperscript{104} Some members use procedural legislation to make Congress look invisible from the process for their own protection, but blame avoidance is not enough to fully explain the problems of procedural legislation. It assumes that constituents are intelligent when it comes to the demands of Congress, but not the costs of such legislation.\textsuperscript{105} Interest groups are in a better position to determine if members of Congress use procedural legislation for blame avoidance or serious policy formation.\textsuperscript{106} The vagueness of legislation better explains its failures, and if procedural legislation is too weak, the President can find loopholes and maneuver around procedural requirements to achieve the policies he

\textsuperscript{100} Lindsay, pp. 108.
\textsuperscript{101} Lindsay, pp. 109.
\textsuperscript{102} Lindsay, pp. 109.
\textsuperscript{103} Lindsay, pp. 113.
\textsuperscript{104} Lindsay, pp. 113.
\textsuperscript{105} Lindsay, pp. 113.
\textsuperscript{106} Lindsay, pp. 113.
wants without subjecting to Congress.\textsuperscript{107} The President may follow the limits of the law, but not act upon the intent of the law by reporting bad news discreetly or making it harder for Congress to change course.\textsuperscript{108} Oversight over Presidential actions requires substantial Congressional time and resources to be effective. As the costs of police work rise, members of Congress can become less inclined to detect executive non-compliance.\textsuperscript{109} Some programs, particularly the covert operations of the CIA, are too secretive for Congress to effectively monitor.\textsuperscript{110} It can also be very hard for members of Congress to even prove non-compliance occurred if executive decisions were judgement calls based upon vague legislation.\textsuperscript{111} Even if Congress can detect non-compliance, there is a large cost to effectively punish such non-compliance that requires credible commitments of Congressional resources, which plagued the War Powers Resolution because it is politically unwise to withhold funding from the military during a war.\textsuperscript{112} The executive branch has little incentive to comply to Congressional mandates if there is no imminent punishment against non-compliance.\textsuperscript{113} Congress may be able to derail covert operations by leaking sensitive information, but it is very hard for Congress to force executive agencies to adopt new policy positions than stop the old ones.\textsuperscript{114} Congress can try to hold other programs hostage, but such threats need to be credible and legitimacy fades when some members are personally invested in some programs.\textsuperscript{115} Congress cannot counter executive non-compliance if weak legislation

\textsuperscript{107} Lindsay, pp. 114.
\textsuperscript{108} Lindsay, pp. 115.
\textsuperscript{109} Lindsay, pp. 115.
\textsuperscript{110} Lindsay, pp. 115.
\textsuperscript{111} Lindsay, pp. 115-116.
\textsuperscript{112} Lindsay, pp. 116, 149.
\textsuperscript{113} Lindsay, pp. 116.
\textsuperscript{114} Lindsay, pp. 116.
\textsuperscript{115} Lindsay, pp. 116-117.
allows the President to maneuver around restrictions. Pieces of procedural legislation that effectively close loopholes are likely to succeed in forcing the President to operate within the acceptable boundaries Congress establishes.

**Informal Non-Legislative Tactics**

Congress’ informal, non-legislative practices can be just as effective on foreign policy issues as substantive and procedural legislation. The first informal tactic is called Congressional diplomacy, which pertains to members of Congress getting involved in diplomatic exchanges.\(^\text{116}\) Some members of Congress can pursue a “Lone Ranger” approach and conduct their own foreign policy negotiations, but this is very rare because the Logan Act prevents private American citizens from negotiating with foreign powers unless specifically authorized by the American government.\(^\text{117}\) Individual negotiations run the risk of derailing Presidential policy decisions while making alternative policies difficult to achieve. To spur positive Congressional involvement in negotiations, the President can invite members of Congress onto discussion panels as advisors or Congress can demand the President to include Congress in the deliberations.\(^\text{118}\) The President might seek to incorporate Congressional members into the diplomatic process because members of Congress might be less willing to strike down the proposals drafted by their colleagues.\(^\text{119}\) Regardless of Congressional support for such proposals, the inclusion of Congressional members in diplomatic negotiations allows Congress to be more involved in the formation of foreign policy. The most common form of Congressional diplomacy occurs when foreign dignitaries meet with

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\(^\text{116}\) Lindsay, pp. 120.
\(^\text{117}\) Lindsay, pp. 120-121.
\(^\text{118}\) Lindsay, pp. 122.
\(^\text{119}\) Lindsay, pp. 123.
members of Congress to exchange information, talk about foreign affairs, and lobby members for certain policies. The President will support such meetings when he can gain further support for his policies, but such meetings can blur the lines between informal discussions and Lone Ranger diplomacy. By meeting with members of Congress, foreign dignitaries can gain insight into the modes of operation on Capitol Hill and how to work the American political system to get what they want, but Congress also benefits because foreign nations will often have to temper their actions to satisfy the mood on Capitol Hill and achieve their ends. The opposite scenario applies as well because members of Congress can learn how foreign governments operate and how to get what they want from other nations. Through these informal meetings, both members of Congress and foreign dignitaries understand what proposals either side will agree to, and side deals can be made between foreign nations and Congress that can ultimately bypass the President’s positions. With pressures from both foreign nations and Congress to pursue the same agreement, the President ends up handcuffed into accepting the side deal made between members of Congress and foreign countries.

Congress can also take on an informal approach to foreign policy through private consultations with the President. The President might seek out the advice of Congress to gain political support for his policies, but Congress might have to use legislation or sheer persistence to get its own involvement in foreign policy negotiations. Genuine dialogue between Congress and the President can be hard to achieve because the President does not want restrictions on its policies, and members of Congress disagree.

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120 Lindsay, pp. 124.
121 Lindsay, pp. 125.
122 Lindsay, pp. 125-126.
123 Lindsay, pp. 126.
124 Lindsay, pp. 126.
125 Lindsay, pp. 127-128.
on how much involvement the President should extend to Congress.\textsuperscript{126} Some members feel that the President only needs to keep Congress in the loop, while others want Congress to play a larger role, yet both conditions are subject to the willingness of the President.\textsuperscript{127} It is easy for the President to seek Congressional advice on policies they both approve, but the President will be less likely to invite Congress to challenge his policies.\textsuperscript{128} Instead of relying upon the President to seek out Congress, members of Congress have to legislate themselves more involvement and seek out meetings with the President to discuss foreign policy issues.

The last and most powerful informal tool Congress can use is the ability to frame the media to gain popular support for certain issues. The increasingly advanced technologies available allow members of Congress to reach millions of people instantly and inexpensively.\textsuperscript{129} The attitudes about media usage are different that in the past. Previously, members of Congress viewed legislators that sought the public spotlight as grandstanders.\textsuperscript{130} However, it has become acceptable and common practice for members of Congress to use the media and the internet to get their messages out to their constituents and the other American citizens.\textsuperscript{131} Congress can use the media to publicly reveal the problems of the administration’s policies and the need for the general public to oppose the President’s programs.\textsuperscript{132} Congress can also use public committee hearings to bring in expert witnesses that will advocate positions Congress approves on a public medium like C-SPAN or political news organizations like CNN and Fox News.

\textsuperscript{126} Lindsay, pp. 129.
\textsuperscript{127} Lindsay, pp. 129.
\textsuperscript{128} Lindsay, pp. 129.
\textsuperscript{129} Lindsay, pp. 132-133.
\textsuperscript{130} Lindsay, pp. 133.
\textsuperscript{131} Lindsay, pp. 133.
\textsuperscript{132} Lindsay, pp. 134.
Members of Congress can release Congressional reports to the public and make speeches on the floor in front of television cameras to support their policy preferences. If Congress can gather enough popular support for its policies, it can tip the debate between Congress and the President in Congress’ favor and encourage members of Congress to pursue a more active role in foreign policy.\footnote{\text{Lindsay, pp. 137.}}

Although each has its own drawbacks, Congress has several methods it can use to affect foreign policy. Congress can legislate directly on the substance of foreign policy based upon its constitutional powers pertaining to declarations of war, regulation of trade, and appropriations of funds. Congress can also use procedural legislation and reporting requirements to affect the structures and procedures of decision-making process of foreign policy and limit the policies the President can do. Lastly, Congress can employ non-legislative techniques like the media and meetings with foreign leaders and the President to promote Congress’ foreign policy preferences.

**Congressional Involvement in the Foreign Policy of George W. Bush**

After one understands the tools Congress can use to influence foreign policy, one can better analyze specific pieces of legislation and see the role Congress played. In their book, *Choosing to Lead: Understanding Congressional Foreign Policy Entrepreneurs*, Ralph Carter and James Scott used several volumes of *Congressional Quarterly Almanac* to code and analyze involvement by individual members of Congress on several foreign relations issues including foreign policy, defense policy, appropriations, and international trade and finance.\footnote{\text{Carter and Scott, pp. 54}} Carter and Scott recognized that individual members interested in foreign policy are able to spearhead initiatives as
frontrunners to what Hersman defined as “issue clusters.” Carter and Scott’s study focused on only new introductions of policy and not subsequent pieces of legislation on spending unless members of Congress raised new issues on such programs.\textsuperscript{135} Any single activity on legislation by a member of Congress counted in their study, and some members engaged in multiple activities on a single piece of legislation.\textsuperscript{136} Carter and Scott considered Congressional activity as any one of the following ways Congress could be involved in foreign policy: introducing legislation and resolutions; proposing amendments in committees, subcommittees or on the floor; attending committee hearings; issuing Congressional reports; speaking on the floor or giving public statements; proposing motions to recommit (or kill) legislation; citing someone for contempt of Congress; engaging in fact-finding missions; enacting procedures on legislation; consulting with others on foreign policy; and participating in lawsuits.\textsuperscript{137}

Considering the data Carter and Scott collected from post-WWII to post-Cold War, they expected to see more Congressional foreign policy involvement from individual members during the first decade of the twenty-first century, which encompasses the Presidency of George W. Bush.\textsuperscript{138} There would be a slight decrease in involvement following September 11, 2001, but a resurgence in involvement would occur afterwards.\textsuperscript{139} As seen in the following table based upon data for 2003 and 2005, 67 members of Congress engaged in 172 acts of involvement in foreign policy issues.\textsuperscript{140}

<table>
<thead>
<tr>
<th>Entrepreneur Characteristics</th>
<th>Overall Average</th>
<th>2003</th>
<th>2005</th>
</tr>
</thead>
</table>

\textsuperscript{135} Carter and Scott, pp. 54
\textsuperscript{136} Carter and Scott pp. 54
\textsuperscript{137} Carter and Scott pp. 56
\textsuperscript{138} Carter and Scott pp. 209-210
\textsuperscript{139} Carter and Scott pp. 209-210
\textsuperscript{140} Carter and Scott pp. 211
This data set excludes 26 freshman members that each engaged in only one act each because these new members did not establish themselves as entrepreneurs at the start of their careers.\textsuperscript{141} If Carter and Scott included the freshman members, there would have been 87 acts in 2003 and 111 acts in 2005, which only reinforces the conclusion of a rise in Congressional involvement between 2003 and 2005.\textsuperscript{142} The average number of members getting involved in foreign policy rose from the post-Cold War 1990s which averaged only 26.2 active members.\textsuperscript{143} The average number of acts between the two periods actually dropped from 106 to 86.\textsuperscript{144} Based upon this data, one can expect to find that 2002 marked a low point of Congressional involvement in foreign policy and Congress became steadily more active as time passed with larger numbers of involvement predicted for 2006, 2007, and 2008 due to the controversies of the Iraq War and the subsequent shift of Congressional control over to the Democratic party following the 2006 elections.\textsuperscript{145}

Carter and Scott’s data proved several of their predictions to be accurate. Individual members of Congress became increasingly active as time passed to incorporate their preferences into foreign policy. Carter and Scott’s data paints the trend of a more deferential Congress during Bush’s first term, and a more active and assertive

\begin{table}[h]
\centering
\begin{tabular}{|l|c|c|c|}
\hline
Entrepreneur Characteristics & Overall Average & 2003 & 2005 \\
\hline
# of Entrepreneurs & 33.5 & 33 & 34 \\
# of Acts of Entrepreneurship & 86 & 73 & 99 \\
\hline
\end{tabular}
\end{table}

\textsuperscript{141} Carter and Scott, pp. 254
\textsuperscript{142} Carter and Scott, pp. 254
\textsuperscript{143} Carter and Scott, pp. 210
\textsuperscript{144} Carter and Scott, pp. 210-211
\textsuperscript{145} Carter and Scott, pp. 211
Congress during Bush’s second term first among the Republican majority and then among the subsequent Democratic majority.

However, Carter and Scott’s data focuses on the activities of individual members and not the collective work of Congress. It is also unclear what specific actions Carter and Scott coded and what the outcomes of such actions were. Under their parameters, if a member of Congress speaking at a hearing is a single Congressional initiative, then ten members speaking at the same hearing could be coded as ten distinct initiatives. Individual actions are a major component of Congressional involvement in foreign policy, but they do not give the broader picture necessary to determine the level of activity and assertiveness from Congress as an institution.

The use of Congressional Quarterly Almanac by Carter and Scott is a good baseline to analyze how Congress acted on major foreign policy legislation, but it is not enough to get a larger picture of Congressional involvement because it omits the activities of committees to conduct hearings, particularly oversight hearings that allow members of Congress to challenge the practices of the executive branch. An effective study of Congressional involvement in foreign policy should not focus on just the entries in the 2001-2008 volumes of Congressional Quarterly Almanac pertaining to foreign relations, defense, trade, and related appropriations. It should also include the hearings and investigative prints featured in the CIS Index for the committees that have jurisdiction over foreign policy, which are the House and Senate Foreign Affairs and Armed Services Committees along with the related subcommittees under the Appropriations Committee. The combination of legislation from Congressional Quarterly Almanac and the non-legislative activity in CIS Index will better reveal Congressional
involvement in foreign policy during the Presidency of George W. Bush. After each period’s legislative history will follow a table outlining the use of Lindsay’s Congressional foreign policy tools, the average amount Congress used each tool per year, and the percentage of successes for assertive pieces of legislation. Another table will reveal the number of hearings and investigative prints of each of the foreign policy committees for that time period, the average amount of committee activity, and how many hearings were oversight hearings. The full tables detailing each provision in the legislative histories, which serves as the foundations for the featured Congressional policy tools tables, will be outlined in the Appendix.

2001-2004: Congressional Deference

The terrorist attacks that hit the World Trade Center in New York City and the Pentagon in Arlington, Virginia on September 11, 2001 devastated the United States and left its citizens in a state of paralyzing shock, mournful sorrow, and heated anger. Sadness and rage soon transformed into a surging wave of patriotism and popular support for President George W. Bush and his national security policies to rid the world of terrorism. September 11th is an example of a “rally-'round-the-flag” effect, which occurs when a national leader takes advantage of patriotic feelings during a crisis situation to gather popular support for specific policies.\textsuperscript{146} In response, members of Congress began deferring to President Bush on several foreign policy issues because members of Congress did not want to appear disloyal or unsupportive of a popular President during a time of crisis in the eyes of their constituents. The broad authority Bush received a week after the attacks to conduct military operations against al-Qaeda

and the Taliban regime in Afghanistan is a clear indication of Congressional deference
to a popular President. Congress passed 420-1 in the House and 98-0 in the Senate the
authorization of the use of military force and granted Bush the authority to

Use all necessary and appropriate force against those nations, organizations, or
persons he determines planned, authorized, committed, or aided the terrorist
attacks that occurred on September 11, 2001, or harbored such organizations or
persons, in order to prevent any future acts of international terrorism against the
United States by such nations, organizations or persons.\textsuperscript{147}

In prior authorizations for war, Congress never gave the President the broad authority to
use force against organizations or individuals to prevent future attacks, and the wording
of this legislation presented Bush a green light to launch a global “war on terror”
Simultaneously, Congress unanimously passed an emergency supplemental
appropriations bill that granted a total of $40 billion for recovery, relief aid, and defense
reinforcement in the aftermath of the terrorist attacks.\textsuperscript{148} Bush immediately received $10
billion to spend at his discretion, $5.9 billion of which went to defense programs.\textsuperscript{149} Bush
also received an additional $10B after submitting his proposals to Congress for
spending the money, and Bush committed $8.1 billion more to defense.\textsuperscript{150} Congress
authorized the other $20 billion in the Fiscal Year 2002 Appropriations Bill. A few
months later, Congress gave the President the ability to waive sanctions against

\textsuperscript{147} Authorization for Use of Military Force. U.S. Public Law 107-40. 107th Cong., 1st sess., 18 September
\textsuperscript{148} 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist
\textsuperscript{149} 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist
\textsuperscript{150} 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist
Pakistan and provide foreign aid to Pakistan for the purpose of building an alliance to conduct military operations in Afghanistan.\textsuperscript{151} In exchange for Congressional support, Bush needed to certify that economic aid to Pakistan would foster democratic rule in the country.\textsuperscript{152} By the end of 2001, the United States was at war with the Taliban in Afghanistan, and President Bush had the support of patriotic American citizens and a deferential Congress.

After scoring a political victory with Operation Enduring Freedom in Afghanistan, President Bush set his sights on Iraq and Saddam Hussein. Many in the Bush administration believed that Iraq possessed weapons of mass destruction, and Bush thought he already had legal justification to pursue war against Iraq due to its failures to comply with United Nations sanctions, but Bush conceded and announced he would appear before Congress and the UN to seek approval for a military invasion of Iraq.\textsuperscript{153} Bush negotiated the language of the resolution before it landed in the Senate Foreign Relations Committee and drafted legislation granting him the authority to use force to defend the national security of the United States against the continuing threat posed by Iraq, and enforce all relevant United Nations Security Council resolutions regarding Iraq.\textsuperscript{154}

Bush agreed to drop language calling on the United States to “restore international peace and security to the region” because many Congressional members feared that

\begin{itemize}
\item \textsuperscript{151} A bill to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes. U.S. Public Law 107-57. 107th Cong., 1st sess., 27 October 2001.
\item \textsuperscript{152} A bill to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes. U.S. Public Law 107-57. 107th Cong., 1st sess., 27 October 2001.
\end{itemize}
this could justify military action elsewhere.\textsuperscript{155} Bush also agreed to certify that diplomacy could not solve this problem and to seek UN approval despite it not being required.\textsuperscript{156}

When Senate Majority Leader Tom Daschle (D-SC) wanted more clarity in the legislation about Bush’s authority under the law and specific requirements to use peaceful tactics before war, Bush broke off negotiations with the Senate and struck a new deal with House Minority Leader Richard Gephardt (D-MO) and persuaded House International Relations Chairman Henry Hyde (R-IL) to call a mark up hearing as added pressure on Gephardt.\textsuperscript{157} Gephardt stunned many Democrats with his deal with President Bush, but Gephardt did not want to look to weak on national security as he planned out his future Presidential campaign for 2004.\textsuperscript{158} Gephardt stated he regretted not voting for the Persian Gulf War in 1991, but others felt that anti-war Democrats Jim McDermott (D-WA) and Daivd Bonior (D-MI) embarrassed him with their disapproval for Bush’s policy towards Iraq.\textsuperscript{159} The International Relations Committee reported out a bill that gave Bush the latitude he wanted to conduct military operations in Iraq, but needed to report to Congress within sixty days of the start of hostilities instead of the ninety days Bush proposed.\textsuperscript{160} Despite several concerns emerging during floor debates about the coming war in Iraq, many Democrats voted for the bill to avoid looking weak on security and appear unpatriotic to their constituents because they opposed a popular President. Bush praised the bipartisan votes of 296-133 in the House and 77-23 in the

\begin{footnotes}
\end{footnotes}
Senate as America speaking with one voice.\textsuperscript{161} Two months after the bill passed, the UN Security Council gave its approval for a resolution giving Iraq one more chance to comply with UN mandates.\textsuperscript{162} Bush supported the resolution, but told the UN that the United States would make its own determination of Iraqi compliance and would act independently if necessary.\textsuperscript{163} On March 20, 2003, Bush finally launched the invasion and occupation of Iraq as authorized by the broad legislation Congress approved.

When startling evidence of abuse and torture surfaced out of Abu Ghraib prison in Iraq, the House and Senate each passed a non-binding resolution condemning the abuses and calling for a Congressional investigation.\textsuperscript{164} However, the House and Senate Armed Services, International Relations, and Judiciary Committees all shot down resolutions requesting the Bush administration to provide documents on the abuses for investigation.\textsuperscript{165} The foreign policy committees stepped aside on the issue and left the investigation up to the Pentagon and military officials.

Despite the amount of Congressional deference to President Bush following September 11th, Congress did enact one assertive piece of legislation involving sanctions against Syria. Bush opposed the imposition of sanctions on Syria, but members of Congress were upset over Syria’s tolerance of terrorism by granting terrorists the ability to cross its borders to launch attacks in Iraq against the American

\textsuperscript{161} "Hill Backs Use of Force in Iraq," pp. 9-6.
\textsuperscript{162} "Hill Backs Use of Force in Iraq," pp. 9-6.
\textsuperscript{163} "Hill Backs Use of Force in Iraq," pp. 9-6.
\textsuperscript{164} U.S. House. 2004. 	extit{Deploring the abuse of persons in United States custody in Iraq, regardless of the circumstances of their detention, urging the Secretary of the Army to bring to swift justice any member of the Armed Forces who has violated the Uniform Code of Military Justice, expressing the deep appreciation of the Nation to the courageous and honorable members of the Armed Forces who have selflessly served, or are currently serving, in Operation Iraqi Freedom, and for other purposes}. 108th Cong., 2nd sess., H. Res. 627.
occupation forces.\textsuperscript{166} Other members of Congress protested Syria’s occupation of its neighbor, Lebanon, and its alleged possession of weapons of mass destruction.\textsuperscript{167} Many pro-Israel interest groups, including the American-Israel Public Affairs Committee lobbied hard for Congressional sanctions, and Bush eventually dropped his objections to sanctions because of Syria’s failure to halt terrorism and assist in the Middle East peace process.\textsuperscript{168} Bush also probably supported the legislation because there was enough Congressional support to override a Presidential veto based upon the final vote totals: 398 to 4 in the House, 89 to 4 in the Senate, and 408 to 8 in the House to approve the Senate’s amendment to the \textit{Syria Accountability and Lebanese Sovereignty Restoration Act of 2003}. The legislation banned the exportation of “dual use items” to Syria, which are commercial items that also have military applications.\textsuperscript{169} Congress also required the President to impose any two of the following sanctions: halting all US exports to Syria except food and medicine, prohibiting investment in Syria by American companies, restricting Syrian diplomats to a 25 mile radius around New York City and Washington, DC, banning all Syrian aircraft from US airspace, reducing diplomatic contacts, and freezing Syrian assets in the US.\textsuperscript{170} The State Department had to also keep Syria on the list of state sponsors of terrorism, and the sanctions would be lifted only when Syria withdrew from Lebanon, ended its support of terrorism, and halted its

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{167} “Congress Imposes Syria Sanctions,” pp. 10-7.
\item \textsuperscript{168} “Congress Imposes Syria Sanctions,” pp. 10-7.
\end{itemize}
\end{footnotesize}
programs for weapons of mass destruction.\textsuperscript{171} However, the President still reserved the ability to waive the sanctions if there was a compelling national security interest, but Bush needed to report to Congress on his reasons for waiving the sanctions.\textsuperscript{172}

\begin{center}
\begin{tabular}{|c|c|c|c|c|c|}
\hline
2001-2004 & # of actions & # of deferent actions & # of assertive actions & # of successful assertive actions for Congress & % of successful assertive actions for Congress \\
\hline
Substantive & 14 & 5 & 9 & 3 & 33.33\% \\
Procedural & 3 & 0 & 3 & 1 & 33.33\% \\
Informal & 2 & 1 & 1 & 1 & 100\% \\
Congressional Procedure & 2 & 1 & 1 & 0 & 0\% \\
Total & 21 & 7 & 14 & 5 & 35.71\% \\
Average Per Year & 5.25 & 1.75 & 3.5 & 1.25 & 35.71\% \\
\hline
\end{tabular}
\end{center}

The table above describes a less active and deferent Congress. In total, Congress acted on foreign policy only 21 times from 2001-2004, most of which consisted of substantive pieces of legislation. Although Congress initiated more assertive actions than deferent ones, only 35\% of those assertive pieces of legislation were successful. There were more deferent actions than successful assertive ones which confirms the deferent attitude Congress adopted during the first term of President Bush. The deferent legislation that Congress enacted granted Bush considerable power to act upon his policy preferences, particularly the broad ability to launch two wars.

\begin{center}
\begin{tabular}{|c|c|c|c|c|c|}
\hline
Committees (2001-2004) & Hearings & Oversight Hearings & % of Oversight Hearings & Investigative Prints & Total Committee Activity & Average Committee Activity Per Year \\
\hline
House Armed Services & 83 & 38 & 45.78\% & 2 & 85 & 21.25 \\
House Foreign Affairs & 320 & 38 & 11.88\% & 20 & 340 & 85 \\
\hline
\end{tabular}
\end{center}


<table>
<thead>
<tr>
<th>Committees (2001-2004)</th>
<th>Hearings</th>
<th>Oversight Hearings</th>
<th>% of Oversight Hearings</th>
<th>Investigative Prints</th>
<th>Total Committee Activity</th>
<th>Average Committee Activity Per Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>House Appropriations Defense Subcommittee</td>
<td>11</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>11</td>
<td>2.75</td>
</tr>
<tr>
<td>House Appropriations Foreign Operations Subcommittee</td>
<td>23</td>
<td>0</td>
<td>0%</td>
<td>1</td>
<td>24</td>
<td>6</td>
</tr>
<tr>
<td>Senate Armed Services</td>
<td>66</td>
<td>23</td>
<td>34.85%</td>
<td>1</td>
<td>67</td>
<td>16.75</td>
</tr>
<tr>
<td>Senate Foreign Relations</td>
<td>192</td>
<td>52</td>
<td>27.08%</td>
<td>26</td>
<td>218</td>
<td>54.5</td>
</tr>
<tr>
<td>Senate Appropriations Defense Subcommittee</td>
<td>6</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>6</td>
<td>1.5</td>
</tr>
<tr>
<td>Senate Appropriations Foreign Operations Subcommittee</td>
<td>4</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Totals</td>
<td>705</td>
<td>151</td>
<td>21.42%</td>
<td>50</td>
<td>755</td>
<td>188.75</td>
</tr>
<tr>
<td>Average Per Year</td>
<td>176.25</td>
<td>37.75</td>
<td>21.42%</td>
<td>12.5</td>
<td>188.75</td>
<td>----</td>
</tr>
</tbody>
</table>

The activity from the foreign policy committees also paints the picture of a less active and deferent Congress. The levels of activity from the House and Senate Armed Services and Foreign Affairs Committees far exceeded the amount of activity from the Appropriations Subcommittees. The hearings that the Appropriations Subcommittees held all pertained to purely legislative matters unlike the several oversight hearings conducted by the other committees. Congress as a whole averaged approximately 188 informal actions within the committees, with a vast majority of such actions consisting of Congressional hearings. Despite Congress’ occasional oversight hearings, only 21% of all committee hearings involved oversight of previous foreign policy programs. Not only
did Congress grant the President tremendous power to pursue his policies, but Congress also did not hold the President responsible for his policy choices either.

Although Congress was able to be assertive on Syria, this represented a minor divergence from the trend of Congressional deference to President Bush on foreign policy issues that dominated the first term of the Bush Presidency. Members of Congress granted Bush broad authority to launch military campaigns in both Afghanistan and Iraq because the President enjoyed the popular support of patriotic Americans that wanted Bush’s policies to fight terrorism and rogue regimes. Congress could not oppose Bush on foreign policy because such opposition would label them as unsupportive and traitors to their constituents. As Bush’s policies began to lose support during his second term however, Congress gained an opportunity to reassert itself and get back into the game of foreign policy formation.

2005-2006: Rise of Congressional Assertiveness

By the start of President Bush’s second term, approval for the President and the occupation of Iraq was fading rapidly. Many American soldiers returned home in bodybags while reports of mismanagement and lies about the justifications for war caused disillusionment among the American public. Congressional Republicans in the majority watched as Bush’s approval ratings plummeted and sought to avoid going down with the ship by curbing the authority they granted Bush during the first term. A popular battlefield for Congress to oppose the President occurred on defense appropriation and authorization bills. In 2005, the defense appropriations bill was $4.4
it could conduct its own audits.\textsuperscript{178} Under the authorization bill, Congress granted detainees in Guantanamo Bay, Cuba a limited right to appeal their detentions and Sen. John McCain (R-AZ) added an amendment banning the abusive treatment of terror suspects.\textsuperscript{179} Bush strongly opposed McCain’s amendment and threatened to veto both the appropriations bill and the authorization bill unless Congress removed the amendment.\textsuperscript{180} However, Bush backed down to McCain because there was enough support in both chambers of Congress to override a veto and the appropriations and authorization bills both passed by large margins.

The following year saw continued Congressional opposition to Bush’s requests in defense appropriations and authorization. Under the 2006 defense appropriations bill, the Department of Defense received $377.6 billion, but Congress categorized most of the funds as discretionary spending under the control of Congress.\textsuperscript{181} Only $256 million of the total amount was not discretionary, and the final total was $4.1 billion less than Bush requested.\textsuperscript{182} Bush threatened to veto any bill that was $4 billion less than what he requested, but the Senate ignored his threat and cut an additional $200 million as a result. The appropriations bill also halted the conversion of nuclear missiles into conventional missiles and ranking Democrat on the Senate Foreign Relations Committee Joe Biden (D-DE) added a provision prohibiting any permanent bases in

In 2006, Republican senators on the Armed Services Committee challenged President Bush on several issues including military personnel and their families, the conduct of the Iraq War, and plans to purchase weaponry. The Armed Services Republicans wanted more Americans in uniform with higher wages and more health care benefits. They also added $20 billion for new armor for soldiers and vehicles and denied Bush less funds for Future Combat Systems and the F-35, while authorizing unrequested funds for ships, submarines, and warplanes to be stationed in the home states of the senior Armed Services Committee members. Despite claiming some provisions to be optional, Bush had to comply with these proposals because both appropriations and authorization bills passed by margins greater than the number required to override his veto.

The Supreme Court ruled in the 2006 case *Hamdan v. Rumsfeld* that detainees in Guantanamo Bay had the right to appeal their detentions in American courts. President Bush resisted the Court’s decision based upon the language of the military authorization for Afghanistan and argued that al-Qaeda members warranted exceptions to the protections of the Geneva Convention. However, Bush conceded to the Supreme Court and began working on a draft with Senate Majority Leader Bill Frist (R-TN) to create military tribunals for the detainees’ trials, but Sens. John Warner (R-VA),

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Lindsay Graham (R-SC), and John McCain, all Republican members of the Senate Armed Services Committee, opposed several provisions Bush attempted to put in the legislation.\textsuperscript{189} Bush’s version of the bill reinterpreted the United States’ obligations under the Geneva Convention to allow torture of suspects, allowed the use coerced evidence during the trial in addition to classified evidence the defendants could not see, and permitted trials to occur without the defendant present in the court.\textsuperscript{190} Despite a contentious lobbying campaign from the White House, the trio of senators used their military backgrounds to win enough Congressional support to oppose Bush’s bill and forced the President to concede some provisions.\textsuperscript{191} Bush agreed to drop the ability to reinterpret the Geneva Convention and the ability to use classified evidence in trials.\textsuperscript{192} Other members of Congress approved of the provision calling war crimes grave breaches of the Convention, but Bush managed to secure immunity from prosecution for the CIA agents that tortured terror suspects overseas.\textsuperscript{193} Several Democrats and a few Republicans however, opposed the continued ability to use coerced evidence for trials and the absence of habeus corpus rights for detainees during the military tribunals.\textsuperscript{194} Despite discontent over the remaining provisions Bush advocated, three Republican senators launched an effective challenge against the policies of the President and emerged victorious.

\textsuperscript{189} “Deal Reached on Military Tribunals,” pp. 5-9.
\textsuperscript{191} “Deal Reached on Military Tribunals,” pp. 5-9.
\textsuperscript{192} “Deal Reached on Military Tribunals,” pp. 5-9.
In June of 2006, President Bush wanted to negotiate a nuclear agreement with India to build an alliance with India and exchange nuclear materials. However, India did not sign the UN Nuclear Non-Proliferation Treaty and a transfer of nuclear materials from the United States to a nation that did not comply with the treaty was prohibited under the Atomic Energy Act. To make the agreement work, Bush had to waive provisions of the Atomic Energy Act with respect to India, but to do this he needed the approval of Congress who demanded a substantial level of involvement in the negotiations.\(^{195}\) Bush agreed to make the agreement with India subject to a joint resolution of support from Congress in addition to reporting requirements Congress attached to keep it in the loop on the progress of the deal.\(^ {196}\) Congress also reserved the right to call off the agreement if India detonated a nuclear weapon or broke any other agreement calling for non-proliferation.\(^ {197}\)

<table>
<thead>
<tr>
<th>2005-2006</th>
<th># of actions</th>
<th># of deferent actions</th>
<th># of assertive actions</th>
<th># of successful assertive actions for Congress</th>
<th>% of successful assertive actions for Congress</th>
</tr>
</thead>
<tbody>
<tr>
<td>Substantive</td>
<td>20</td>
<td>3</td>
<td>17</td>
<td>13</td>
<td>76.47%</td>
</tr>
<tr>
<td>Procedural</td>
<td>4</td>
<td>0</td>
<td>4</td>
<td>4</td>
<td>100%</td>
</tr>
<tr>
<td>Informal</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>---</td>
</tr>
<tr>
<td>Congressional Procedure</td>
<td>4</td>
<td>0</td>
<td>4</td>
<td>1</td>
<td>25%</td>
</tr>
<tr>
<td>Total</td>
<td>29</td>
<td>4</td>
<td>25</td>
<td>18</td>
<td>72%</td>
</tr>
<tr>
<td>Average Per Year</td>
<td>14.5</td>
<td>2</td>
<td>12.5</td>
<td>9</td>
<td>72%</td>
</tr>
</tbody>
</table>

The first half of President Bush’s second term marks a complete reversal of Congressional involvement in foreign policy. Congressional foreign policy activity


jumped to levels nearly three times more than during the first term with a significant increase of four times as many assertive actions. Not only did Congress act more assertively during this period, but Congress was also more successful in getting their policy preferences into law with a substantial jump in success rates from 35% to 72%. Members of Congress watched as President Bush’s policies began to unravel in 2005 because of the power they granted previously. Members of Congress, particularly Republicans in the majority, took themselves off the legislative bench to reassert their roles in foreign policy and correct the American trajectory on foreign relations.

<table>
<thead>
<tr>
<th>Committees (2005-2006)</th>
<th>Hearings</th>
<th>Oversight Hearings</th>
<th>% of Oversight Hearings</th>
<th>Investigative Prints</th>
<th>Total Committee Activity</th>
<th>Average Committee Activity Per Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>House Armed Services</td>
<td>63</td>
<td>44</td>
<td>69.84%</td>
<td>1</td>
<td>64</td>
<td>32</td>
</tr>
<tr>
<td>House Foreign Affairs</td>
<td>141</td>
<td>49</td>
<td>34.75%</td>
<td>8</td>
<td>149</td>
<td>74.5</td>
</tr>
<tr>
<td>House Appropriations</td>
<td>1</td>
<td>0</td>
<td>0%</td>
<td>3</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>House Appropriations</td>
<td>12</td>
<td>1</td>
<td>8.33%</td>
<td>0</td>
<td>12</td>
<td>6</td>
</tr>
<tr>
<td>House Foreign Operations Subcommittee</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senate Armed Services</td>
<td>42</td>
<td>16</td>
<td>38.10%</td>
<td>0</td>
<td>42</td>
<td>21</td>
</tr>
<tr>
<td>Senate Foreign Relations</td>
<td>69</td>
<td>27</td>
<td>39.13%</td>
<td>27</td>
<td>96</td>
<td>48</td>
</tr>
<tr>
<td>Senate Appropriations</td>
<td>5</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>5</td>
<td>2.5</td>
</tr>
<tr>
<td>Senate Appropriations</td>
<td>4</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Senate Foreign Operations Subcommittee</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totals</td>
<td>337</td>
<td>137</td>
<td>40.65%</td>
<td>39</td>
<td>376</td>
<td>188</td>
</tr>
<tr>
<td>Average Per Year</td>
<td>168.5</td>
<td>68.5</td>
<td>40.65%</td>
<td>19.5</td>
<td>188</td>
<td>----</td>
</tr>
</tbody>
</table>

Although the levels of committee activity remained relatively unchanged on average, the quality of these informal actions shows a more assertive Congress at work.
There were some increases and decreases among the individual committees, but it adds up to similar levels of committee activity seen during Bush’s first term. The Appropriations Subcommittees continued to conduct mainly hearings on legislative matters while the traditional committees handled the bulk of policy hearings and oversight. The percent of oversight hearings doubled from 21% to over 40% and the average number of investigative prints rose from 12.5 to 19.5. Instead of a quantitative increase in committee activity, Congressional foreign policy committees conducted more qualitative oversight hearings designed to check the President’s policies and rein back the mismanagements and failures that occurred during a period of deference to a once popular President.

The beginning of Bush’s second term involved a resurgence of Congressional assertiveness on foreign policy. After Congress saw the failures of the President’s policies and the problems of broad executive authority in foreign policy, Congress used the tools in its arsenal, mainly discretionary spending, to curb back the wasteful defense spending and mismanagement of the Iraq War. Congress also checked Presidential policies regarding detainees in Guantanamo Bay and kept Bush on a short leash during the nuclear negotiations with India. The fading popular support for Bush’s policies gave Congress the window it needed to assert itself and correct the failing policies of President Bush that Congress allowed when President had the patriotic support that September 11th created.

2007-2008: Democratic Congress

The elections of 2006 proved to be historic because the Democratic Party scored major electoral victories and secured both chambers of Congress for the first time since
the Democrats lost control of Congress during the Republican victories of the 1994 elections. Part of the Democrats successes can be explained by the failures of President George W. Bush on the Iraq War which created intense anti-Republican attitudes that dominated the electoral atmosphere. Many voters began equating the Iraq War with the Vietnam War as military quagmires in foreign countries. A major part of the Democratic campaign platform was the withdrawal of troops from Iraq and an end to a long and exhaustive war.

Despite the ambitious agenda of the Democrats, they had little success enacting legislation calling for troop withdrawals because the remaining Republicans rallied behind President Bush and denied the Democrats the support needed to overcome not just the filibuster in the Senate, but the Presidential veto as well. Congress first tried to establish a deadline of most of American forces out of Iraq by August of 2008, but the Senate compromised on setting the date as a goal to strive for rather than a formal deadline. The House agreed to the lesser version of H.R. 1591 because members of the House knew that the stricter bill they wanted would fail. Despite the bill passing the Senate, Bush vetoed H.R. 1591 and the House failed to gather two thirds approval for an override of the veto. The Democrats proposed another bill without a time table, but threatened to withhold funds for the war unless Bush reported on the progress of the Iraqi government. However, the Democrats backed down when Bush made speeches

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expands the amount to $70 billion for either Iraq or Afghanistan while leaving out a timetable for troop withdrawal in Iraq.\textsuperscript{208}

Despite their failure on withdrawing troops from Iraq, the Democratic Congress managed to scoring some successes against Bush on other parts of foreign policy. Congress continued its practices of denying Bush the funding he requested in the defense appropriations and authorization bills. The appropriations bill for the Fiscal Year 2008 left out emergency funds for the wars in Iraq and Afghanistan because the Democrats were reluctant to fund the war in Iraq unless there were major policy changes, but ultimately left this issue out to deal with in the aforementioned bills so that they could pass the appropriations bill. The total amount Congress approved was $459.6 billions of which $459.3 billion was discretionary, and the total amount was $3.4 billion less than Bush asked for.\textsuperscript{209} The Democrats used the appropriations bill to shift the priorities of defense spending towards more combat equipment, military training, battle gear for the National Guard and Army Reserve, and support for military families while allocating less for futuristic combat vehicles, weapons, and missile defense.\textsuperscript{210} The defense authorization granted $500 billion in national security, but Congress rewrote the spending plans of President Bush to mirror their preferences of weapon procurement, personnel policy, military health care, and regulation of private defense contractors.\textsuperscript{211} However, Bush vetoed the original version of the bill because the Iraqi government opposed one of the provisions in the bill allowing lawsuits against the Iraqi

government, even if such injustices occurred under Saddam Hussein. As a result, the Democrats granted the President the ability to waive the provision to satisfy the Iraqi government.

The defense appropriations for the next year continued to deny President Bush the amount of funding he requested. The fiscal year 2009 appropriations bill allocated $4 billion less than Bush requested while providing less for futuristic weapons and missile defense and more for the replacement of equipment for Iraq. The appropriations bill also allocated $452 million less for military personnel, $1.9 billion less for operations and maintenance, and $1.1 billion less for weapons procurement. Congress diverted the cut funding away from these programs and towards the Defense Health Program and research and development. The related defense authorization bill allocated $611.1 billion which was $1.4 billion less than Bush requested and nearly all of the cuts came out of the $70 billion Bush requested for Iraq and Afghanistan. Again Congress denied increased funding for futuristic weapons and missile defense and used the money for equipment in Iraq. However, Congress left out several provisions that Bush threatened to veto the legislation over including bans on the use of private contractors for interrogations and combat operations, the requirement of

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videotaping interrogations, and the necessity of Congressional approval for any future commitments of troops in Iraq.\textsuperscript{219} Other provisions that Bush opposed remained in the bill. Under the authorization bill, the Pentagon could not use funds for infrastructure projects in Iraq, establish permanent bases, control over oil resources.\textsuperscript{220} The Iraqi government also needed to share the costs of joint military operations, the Pentagon needed to report on their detention operations in Iraq, and the President had to submit reports concerning Iran’s nuclear program.\textsuperscript{221} In the President’s signing statement, Bush indicated that he reserved the right to disregard certain provisions, namely the ban on the use of funds to control oil resources in Iraq, and requirement of Iraq to share the costs of military operations with the United States.\textsuperscript{222} Despite previous concessions, the President scored a victory for himself by getting more than he requesting in supplemental war funding. Congress authorized $186.5 billion in unrestricted funding for Iraq and Afghanistan operations, even though Bush asked for only $183.9 billion.\textsuperscript{223} The House managed to pass a provision requiring withdrawals to begin within thirty days of enactment and end by December 31, 2009, but the Senate stripped the bill of all restrictions to pass the bill.\textsuperscript{224}

Although the Democrats did not enjoy as much success at their Republican predecessors did against Bush, they were able to enact some important pieces of legislation in foreign policy. The Democrats managed to force Bush to make revisions to the proposed trade agreement with Peru on labor and environment protections in order to get enough support for passage in Congress. The Democrats also increased the severity of breaking the existing *International Emergency Economic Powers Act* to put more pressure on Iran to halt its nuclear program. Under the *International Emergency Economic Powers Enhancement Act*, Congress increased the penalties on American companies for conducting business with sanctioned nations from $50,000 to $250,000 or double the amount of the transaction depending upon which amount was higher. The criminal penalties for such business also increased from $250,000 in fines and ten years imprisonment to $1 million in fines and twenty years imprisonment. The bill also left out any indications of a possible military strike against Iran. The House attempted to pass a stricter bill that banned all imports from Iran, labeled the Iranian Revolutionary Guard as a terrorist group for the purpose of freezing their assets abroad, and removed the ability of President Bush to waive the existing sanctions from 2006 while expanding the list of industries that could be punished under the bill, but these provisions failed in the Senate.

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After two years of negotiations, Congress revisited the nuclear deal with India for final authorization. The United States agreed to trade nuclear material with India while India agreed to the preconditions of international regulators like the IAEA and United States law.\textsuperscript{230} In order for Bush to make this deal, he needed to gain Congressional approval to waive provisions of the Atomic Energy Act that prohibited trading nuclear materials with non-signatories of the UN Non-Proliferation Treaty.\textsuperscript{231} Bush followed the conditions outlined in the 2006 law by reporting that India’s civilian program would be separate from its military program, India would allow the IAEA to send inspectors and implement safeguards, and India would be exempt from the restrictions of the Nuclear Suppliers Group.\textsuperscript{232} Congress agreed to the pact with India, but included the ability to conduct oversight on any future nuclear agreement with India concerning the reprocessing of nuclear fuel.\textsuperscript{233}

<table>
<thead>
<tr>
<th>2007-2008</th>
<th># of actions</th>
<th># of deferent actions</th>
<th># of assertive actions</th>
<th># of successful assertive actions for Congress</th>
<th>% of successful assertive actions for Congress</th>
</tr>
</thead>
<tbody>
<tr>
<td>Substantive</td>
<td>27</td>
<td>7</td>
<td>20</td>
<td>9</td>
<td>45%</td>
</tr>
<tr>
<td>Procedural</td>
<td>11</td>
<td>0</td>
<td>11</td>
<td>8</td>
<td>72.73%</td>
</tr>
<tr>
<td>Informal</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>---</td>
</tr>
<tr>
<td>Congressional Procedure</td>
<td>5</td>
<td>0</td>
<td>5</td>
<td>2</td>
<td>40%</td>
</tr>
<tr>
<td>Totals</td>
<td>43</td>
<td>7</td>
<td>36</td>
<td>19</td>
<td>52.78%</td>
</tr>
<tr>
<td>Average Per Year</td>
<td>21.5</td>
<td>3.5</td>
<td>18</td>
<td>9.5</td>
<td>52.78%</td>
</tr>
</tbody>
</table>

The latter portion of the Bush Presidency witnessed mixed results for Congressional involvement in foreign policy. The average amount of legislative activity from Congress rose again and doubled from 14.5 to 21.5. Although the number of assertive actions increased, the success rate for these policies dropped from 72% to 52%. Despite this drop in successful assertiveness, Congress continued to be more assertive and successful on its agenda than during its period of deference during Bush’s first term. The increased amount of activity from Congress and the decreased successes stems from several of Congress’ attempts to establish a plan on the highly contentious issue to withdraw troops from Iraq. Although the Republicans challenged Bush in 2005 and 2006 to reform of the conduct of the Iraq War, a full withdrawal of U.S. forces from Iraq was not on their agendas. When the Democrats adopted the primary foreign policy agenda of withdrawals from Iraq, the remaining Republicans rallied behind President Bush and blocked any attempt to end the war.

<table>
<thead>
<tr>
<th>Committees (2007-2008)</th>
<th>Hearings</th>
<th>Oversight Hearings</th>
<th>% of Oversight Hearings</th>
<th>Investigative Prints</th>
<th>Total Committee Activity</th>
<th>Average Committee Activity Per Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>House Armed Services</td>
<td>162</td>
<td>100</td>
<td>61.73%</td>
<td>10</td>
<td>172</td>
<td>86</td>
</tr>
<tr>
<td>House Foreign Affairs</td>
<td>217</td>
<td>69</td>
<td>31.80%</td>
<td>7</td>
<td>224</td>
<td>112</td>
</tr>
<tr>
<td>House Appropriations Defense Subcommittee</td>
<td>4</td>
<td>0</td>
<td>0%</td>
<td>2</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>House Appropriations Foreign Operations Subcommittee</td>
<td>5</td>
<td>0</td>
<td>0%</td>
<td>1</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Senate Armed Services</td>
<td>49</td>
<td>20</td>
<td>40.82%</td>
<td>3</td>
<td>52</td>
<td>26</td>
</tr>
<tr>
<td>Senate Foreign Relations</td>
<td>73</td>
<td>25</td>
<td>34.25%</td>
<td>26</td>
<td>99</td>
<td>49.5</td>
</tr>
</tbody>
</table>
The committee actions during the last two years of the Bush Presidency coincides with the legislative activity in Congress. The average number of hearings and investigative prints rose to 285 and 24.5 respectively leading to a rise in the average amount of informal committee activity by nearly 100 actions with most of the work coming from the traditional foreign policy committees and not the Appropriations Subcommittees. However, the number of oversight hearings remained static at around 41%. Instead of the qualitative increase between Bush’s first term and the first half of the second term, there was a quantitative increase between the first and second halves of the second term.

Under Democratic control, Congress continued the trend of assertiveness started by the Republicans in 2005 against President Bush, but ultimately failed to enact their policy preferences due to the partisan politics that dominated contentious issues like withdrawal from Iraq. The Democrats managed to claim some foreign policy victories on appropriations, trade agreements with Peru, sanctions against Iran, and limitations on the nuclear deal with India and specific provisions concerning Iraq, but the power of Bush’s veto and his support from the Republican party prevented the Democrats from achieving their major foreign policy goals of withdrawal from the Iraq War. The Democrats had to wait until their Democratic Presidential candidate, Sen. Barack
Obama (D-IL), won the Presidency in 2008 to achieve their goals scaling back troops from Iraq.

Conclusion

On foreign policy issues, Congress is more likely to defer to the President when the President has popular support for his policies. Congress gave President Bush the policies he wanted because the terrorist attacks of September 11, 2001 created a “rally ‘round the flag” effect that instilled patriotic passions among the American electorate and support for Bush’s national security policies and the global “war on terrorism.” The President already enjoys inherent advantages on foreign policy issues due to his powers to command the armed forces, negotiate with foreign dignitaries, and veto Congressional legislation, but the added support of the people makes it very difficult for members of Congress to oppose the President on foreign policy without appearing unpatriotic to their constituents. As a result, Congress took the deferent route and granted the President the policies he requested. When the President’s policies lose the support of the people and began to fail, as they did during the occupation of Iraq, Congress can pursue a more assertive foreign policy approach and challenge the President. In order to maintain Congressional levels of assertiveness, Congress needs to have a strong majority to overcome the President’s other advantages, which Congress obtained in 2005 to correct the conduct of the Iraq War, but lost it in 2007 when the Democrats changed the Iraq agenda from correction to withdrawal. When Congress does get involved in foreign policy, it can use a wide variety of tools ranging from the traditional direct legislation to the more subtile use of procedural legislation and informal non-legislative tactics. The success of a Congressional challenge to Presidential
policies largely depends upon the ability of Congress to gather enough support to override a Presidential veto, which the Republicans accomplished in 2005 and 2006 and the Democrats failed to do in 2007 and 2008. Other factors including the President’s desires to enact some form of legislation on issues like defense spending, a nuclear agreement with India, and trade relations with Peru allow Congress to draw out concessions from the President, but what separates the Republican successes in 2005 and the Democratic failures in 2007 is the ability to gain enough support to override a Presidential veto.

The conclusions one can draw about the Presidency of George W. Bush are not limited to that time period alone because recent evidence concerning the current administration of Barack Obama reveals the foundations for the trend to start again. According to Stephen Weissman’s article in the Congressional newspaper, Roll Call, titled Congress is Abdicating its Authority on Wars, Congress deferred to the popular President Obama on several policies regarding the conduct of the war in Afghanistan and the Afghan government. According to Stephen Weissman’s article in the Congressional newspaper, Roll Call, titled Congress is Abdicating its Authority on Wars, Congress deferred to the popular President Obama on several policies regarding the conduct of the war in Afghanistan and the Afghan government. Congress remained uninvolved in the foreign policy of President Obama and ignored messages from the American Embassy in Kabul, Afghanistan expressing deep concern about the implications of the President’s proposed surge in troop deployment to the country. These messages expressed concerns about the uncalculated variables of committing more troops to Afghanistan and the unreliability of the Afghan government. Afghan President Hamid Karzai “continued to shun responsibility for any sovereign burden....and his government had

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little or no political will or capacity to carry out basic tasks over governance.”²³⁷ Despite poor political conditions and warnings from Senate Foreign Relations Chairman John Kerry (D-MA), Obama proceeded to send thirty to thirty-four thousand more troops into Afghanistan.²³⁸ Problems are now beginning to surface with President Obama’s proposals, and if the Democrats lose seats after the 2010 elections, Congress might reassert itself again as it did in 2005 against Bush, and challenge Obama on foreign policy issues including the conduct of the war in Afghanistan. Afghanistan for Obama will be analogous to Iraq for Bush and will drive members of Congress to reassert their roles in the game of American foreign policy formation.

²³⁷ Weissman, 2010
²³⁸ Weissman, 2010
Bibliography


A bill to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes. U.S. Public Law 107-57. 107th Cong., 1st sess., 27 October 2001.


U.S. Constitution, Art. II § 3.

U.S. House. 2004. *Deploring the abuse of persons in United States custody in Iraq, regardless of the circumstances of their detention, urging the Secretary of the Army to bring to swift justice any member of the Armed Forces who has violated the Uniform Code of Military Justice, expressing the deep appreciation of the Nation to the courageous and honorable members of the Armed Forces who have selflessly served, or are currently serving, in Operation Iraqi Freedom, and for other purposes*. 108th Cong., 2nd sess., H. Res. 627.


## 2001-2004 Legislative Table

<table>
<thead>
<tr>
<th>Bill Name (2001-2004)</th>
<th>Policy Tool Category</th>
<th>Policy Tool Subcategory</th>
<th>Specific Provision</th>
<th>Final Outcome</th>
<th>Assertiveness Relative to the President</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorization for the Use of MilitaryForce</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Authorized President to use military force against nations, organizations, or persons responsible for killing or harboring those responsible</td>
<td>Passed Senate 58-0, Passed House 435-1, Became PL 107-40</td>
<td>Definitive</td>
</tr>
<tr>
<td>2001 Emergency Supplemental Appropriations Act</td>
<td>Substantive</td>
<td>Appropriations</td>
<td>$100B of the allocated $200B to be spent at the discretion of the President</td>
<td>Passed House 422-2, Passed Senate Unanimous Consent, Became PL 107-38</td>
<td>Definitive</td>
</tr>
<tr>
<td>2004 Emergency Supplemental Appropriations Act</td>
<td>Substantive</td>
<td>Appropriations</td>
<td>Additional $20B available for the President after submitting spending proposal report to Congress</td>
<td>Passed House 435-2, Passed Senate Unanimous Consent, Became PL 107-38</td>
<td>Definitive</td>
</tr>
<tr>
<td>Waiver of Sanctions Against Pakistan</td>
<td>Substantive</td>
<td>Trade-Sanctions</td>
<td>Authorized President to waive existing sanctions against Pakistan</td>
<td>Passed Senate Unanimous Consent, Became PL 107-27</td>
<td>Definitive</td>
</tr>
<tr>
<td>Authorization for the Use of Military Force Against Iraq Resolution of 2002</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Bush-conditioned language with Senate before reporting it to Foreign Relations Committee</td>
<td>Withdrawn from Senate by President, Moved to House, Passed House 386-133, Passed Senate 77-23, Became PL 107-345</td>
<td>Definitive</td>
</tr>
<tr>
<td>Authorization for the Use of Military Force Against Iraq Resolution of 2002</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Authorized President to use military force against Iraq and enforce UN Security Council Resolutions</td>
<td>Passed Senate 396-0, Passed House 77-23, Became PL 107-345</td>
<td>Definitive</td>
</tr>
<tr>
<td>Authorization for the Use of Military Force Against Iraq Resolution of 2002</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Bush-conditioned language with Senate before reporting it to Foreign Relations Committee</td>
<td>Withdrawn from Senate by President, Moved to House, Passed House 386-133, Passed Senate 77-23, Became PL 107-345</td>
<td>Definitive</td>
</tr>
<tr>
<td>Authorization for the Use of Military Force Against Iraq Resolution of 2002</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Authorized President to use military force against Iraq and enforce UN Security Council Resolutions</td>
<td>Passed Senate 396-0, Passed House 77-23, Became PL 107-345</td>
<td>Definitive</td>
</tr>
<tr>
<td>Authorization for the Use of Military Force Against Iraq Resolution of 2002</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Amendment by Rep. Barbara Lee (D-CA), urging the President to work with the UN to peacefully ensure Iraq did not have WMDs.</td>
<td>Defeated in House 373-76, Defeated in Senate 128-20</td>
<td>Assertive</td>
</tr>
<tr>
<td>Authorization for the Use of Military Force Against Iraq Resolution of 2002</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Amendment by Rep. John Spratt (D-SC) requiring President to seek UN resolution authorizing war or additional authorization from Congress if President went alone</td>
<td>Defeated in House 154-270, Defeated in Senate 77-23, Became PL 107-345</td>
<td>Assertive</td>
</tr>
<tr>
<td>Authorization for the Use of Military Force Against Iraq Resolution of 2002</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Motion to recommit by Rep. Dennis Kucinich (D-OH) with instructions to insert language requiring President to report on the impact of the war on the economy, Iraqi civilians and international stability,</td>
<td>Defeated in House 107-325, Defeated in Senate 77-23, Became PL 107-345</td>
<td>Assertive</td>
</tr>
<tr>
<td>Authorization for the Use of Military Force Against Iraq Resolution of 2002</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Amendment by Sen. Robert Byrd (D-WV) stating resolution would offer Congress power to declare war and authorization for force only to remove WMDs and if peaceful means fails</td>
<td>Defeated in Senate 31-66</td>
<td>Assertive</td>
</tr>
<tr>
<td>Authorization for the Use of Military Force Against Iraq Resolution of 2002</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Amendment by Sen. Chris Dodd (D-CT) authorizing force against Iraq to stop an “imminent” threat instead of “unambiguously” threat in the legislation. Ban export of “civil use” items to Iraq</td>
<td>Defeated in Senate 56-75, Defeated in House 281-146</td>
<td>Assertive</td>
</tr>
<tr>
<td>Syria Accountability and Lebanon Sovereignty Resolution Act of 2005</td>
<td>Substantive</td>
<td>Trade-Sanctions</td>
<td>Required President to impose at least 2 sanctions from a list outlined by Congress</td>
<td>Passed House 390-4, Amendment Passed House 450-0, Became PL 108-175</td>
<td>Assertive</td>
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<td>Syria Accountability and Lebanon Sovereignty Resolution Act of 2005</td>
<td>Substantive</td>
<td>Waiver of provision</td>
<td>President able to waive any provision for national security reasons but needed to report the reasons to Congress</td>
<td>Passed House 390-4, Amendment Passed House 450-0, Became PL 108-175</td>
<td>Assertive</td>
</tr>
<tr>
<td>Consideration of Abu Ghraib Prison Abuse</td>
<td>Provisions</td>
<td>Oversight</td>
<td>House non-binding resolution condemning the abuses and calling for Congressional investigation</td>
<td>Passed House 366-62, Disapproved by International Relations, Armed Services, and Judiciary Committees</td>
<td>Assertive</td>
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<td>Consideration of Abu Ghraib Prison Abuse</td>
<td>Provisions</td>
<td>Oversight</td>
<td>Senate non-binding resolution condemning the abuses and calling for Congressional investigation</td>
<td>Passed Senate 90-0, Dissented by Foreign Relations, Armed Services, and Judiciary Committees</td>
<td>Assertive</td>
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<td>Bill Name (IfSS-2008)</td>
<td>Policy Tool Category</td>
<td>Policy Tool Subcategory</td>
<td>Specific Provision</td>
<td>Final Outcome</td>
<td>Assumptions Relevant to the President</td>
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<td>Department of Defense, Emergency Supplemental Appropriations Act, 2006</td>
<td>Substantive</td>
<td>Appropriations</td>
<td>Appropriated $4.45 less than total requested by the President for defense programs.</td>
<td>Passed House 395-19</td>
<td>Supported by Senate (97-0) Conference Passed House 398-106 Conference Passed Senate 93-0 Became PL 109-149 Became PL 109-149</td>
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<td>Department of Defense, Emergency Supplemental Appropriations Act, 2006</td>
<td>Substantive</td>
<td>Discretionary Spending</td>
<td>Senate vote to increase $1.25 in one debate, but cut funds for advanced weaponry.</td>
<td>Passed Senate 65-4 Hotline invoked</td>
<td>Defeated Senate 64-4 Withdrawn by the President on September 2005 became PL 109-149</td>
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<td>Department of Defense, Emergency Supplemental Appropriations Act, 2006</td>
<td>Congressional</td>
<td>Motion to Recommit</td>
<td>Senate vote to increase $1.25 in one debate, but cut funds for advanced weaponry.</td>
<td>Passed Senate 65-4 Hotline invoked</td>
<td>Defeated Senate 64-4 Withdrawn by the President on September 2005 became PL 109-149</td>
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<td>National Defense Authorization Act for Fiscal Year 2006</td>
<td>Substantive</td>
<td>Appropriations</td>
<td>Authorized $1.25 less than the $441.98 the President requested for Iraq, maintenance, and personal.</td>
<td>Passed Senate 395-19</td>
<td>Passed Senate 395-19 Conference Passed House 374-31 Conference Passed Senate Vote Vote Became PL 109-149</td>
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<td>National Defense Authorization Act for Fiscal Year 2006</td>
<td>Substantive</td>
<td>Discretionary Spending</td>
<td>Capped costs for advanced weaponry, required the Defense Dept. to justify funds for such weapons, and required the DOD to conduct its own audits.</td>
<td>Passed Senate 395-19</td>
<td>Passed Senate 395-19 Conference Passed House 374-31 Conference Passed Senate Vote Vote Became PL 109-149</td>
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<td>Military Commissions Act of 2006</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Amendment to add a provision that would allow the President to order the military commissions to carry out any actions that are necessary to carry out the provisions of the act.</td>
<td>Passed Senate 395-19</td>
<td>Passed Senate 395-19 Conference Passed House 374-31 Conference Passed Senate Vote Vote Became PL 109-385</td>
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<td>Military Commissions Act of 2006</td>
<td>Substantive</td>
<td>War Powers</td>
<td>Amendment to remove provisions that would allow the President to order the military commissions to carry out any actions that are necessary to carry out the provisions of the act.</td>
<td>Passed Senate 395-19</td>
<td>Passed Senate 395-19 Conference Passed House 374-31 Conference Passed Senate Vote Vote Became PL 109-385</td>
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<td>Procedural</td>
<td>Motion to Recommit</td>
<td>Motion to recommit by Rep. Edward Markey (D-MA) with instructions to include language making agreement unconditional of India containing Iran, Pakistan, and China.</td>
<td>Passed Senate 395-19</td>
<td>Passed Senate 395-19 Conference Passed House 397-20 Conference Passed Senate Vote Vote Became PL 109-385</td>
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<td>Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006</td>
<td>Procedural</td>
<td>Legislative Veto-Joint Resolution</td>
<td>Presidential veto of provisions in Atomic Energy Act subject to joint resolution of approval that could be nullified if India violated agreement.</td>
<td>Passed Senate 395-19</td>
<td>Passed Senate 395-19 Conference Passed House 397-20 Conference Passed Senate Vote Vote Became PL 109-385</td>
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### 2007-2008 Legislative Table

<table>
<thead>
<tr>
<th>Bill Name</th>
<th>Year</th>
<th>Policy Text</th>
<th>Policy Text Company</th>
<th>Field Text</th>
<th>Field Text Company</th>
<th>Specific Provision</th>
<th>Final Outcome</th>
<th>Amortization</th>
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<td>Congress</td>
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#### 2007 Legislative Highlights


- **Health Care Reform**: Debate on health care reform草案 continued throughout the year. Passed by Congress and signed into law by President Barack Obama on March 23, 2010.

- **Budget Reconciliation Act**: Passed by Congress on September 27, 2009. Includes changes to the Affordable Care Act and other provisions to raise revenue and reduce spending. Signed into law by President Barack Obama on September 27, 2009.


- **DACA (Deferred Action for Childhood Arrivals)**: Passed by Congress and signed into law by President Barack Obama on June 27, 2012. Provides a pathway to legal status for certain undocumented immigrants who were brought to the United States as children and have lived here continuously since June 15, 2006.

- **Clean Water Act**: Passed by Congress and signed into law by President Barack Obama on December 7, 2016. Includes provisions to protect and restore the nation’s waters.

- **Farm Bill**: Passed by Congress and signed into law by President Barack Obama on May 15, 2014. Includes provisions to support agriculture, nutrition, and rural development.

- **TradeAgreements**: Passed by Congress and signed into law by President Barack Obama on October 3, 2015. Includes provisions to expand access to affordable goods and services from around the world.

- **Energy Independence and Security Act**: Passed by Congress and signed into law by President Barack Obama on December 15, 2007. Includes provisions to improve energy efficiency and conservation.

- **Economic Growth Act**: Passed by Congress and signed into law by President Barack Obama on February 20, 2008. Includes provisions to stimulate economic growth and create jobs.

- **Student Loan Relief Act**: Passed by Congress and signed into law by President Barack Obama on July 1, 2008. Includes provisions to provide relief to students and parents.

- **Habeas Corpus Reform Act**: Passed by Congress and signed into law by President George W. Bush on October 28, 2006. Includes provisions to reform the habeas corpus process.

- **Confederate Monument Removal Act**: Passed by Congress and signed into law by President Barack Obama on July 1, 2018. Includes provisions to remove confederate monuments.

- **Open Government Act**: Passed by Congress and signed into law by President Barack Obama on December 15, 2010. Includes provisions to increase transparency and accountability in government.

- **Secureile Immigration Reform Act**: Passed by Congress and signed into law by President Barack Obama on November 25, 2012. Includes provisions to secure the nation’s borders and reform the immigration system.

- **Foreign Intelligence Surveillance Act (FISA)**: Passed by Congress and signed into law by President George W. Bush on December 18, 2007. Includes provisions to authorize the National Security Agency to conduct surveillance without a warrant.

- **Domestic Violence Act**: Passed by Congress and signed into law by President Barack Obama on March 18, 2013. Includes provisions to prevent and respond to domestic violence.

- **E-Verify Act**: Passed by Congress and signed into law by President Barack Obama on December 21, 2009. Includes provisions to ensure employers verify the employment eligibility of their workers.

- **Border Security Act**: Passed by Congress and signed into law by President Barack Obama on March 6, 2013. Includes provisions to strengthen border security and immigration enforcement.

- **Iran Sanctions Act**: Passed by Congress and signed into law by President George W. Bush on July 19, 2008. Includes provisions to impose economic sanctions on Iran.

- **North Korean Nuclear Provisions Act**: Passed by Congress and signed into law by President George W. Bush on October 22, 2006. Includes provisions to prepare for a potential war with North Korea.

- **Somalia Relief Act**: Passed by Congress and signed into law by President Barack Obama on July 8, 2009. Includes provisions to assist the people of Somalia.

- **Haiti Earthquake Relief Act**: Passed by Congress and signed into law by President Barack Obama on January 22, 2010. Includes provisions to provide aid to Haiti.

- **global stabilization Act**: Passed by Congress and signed into law by President Barack Obama on September 27, 2010. Includes provisions to provide aid to countries in conflict.

- **Terrorism Prevention and Response Act**: Passed by Congress and signed into law by President Barack Obama on December 24, 2007. Includes provisions to prevent and respond to terrorism.

- **War on Terror Act**: Passed by Congress and signed into law by President George W. Bush on October 17, 2001. Includes provisions to authorize the use of military force against the Taliban and al Qaeda.

- **National Defense Authorization Act**: Passed by Congress and signed into law by President Barack Obama on October 16, 2010. Includes provisions to strengthen the military and national defense.