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Glenn W. Caulfield

University at Albany, State University of New York

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Player Two Has Entered the Game:

The Role of Congress in the Formation of American Foreign Policy during the

Presidency of George W. Bush

Glenn W. Caulfield

State University of New York at Albany

April 18, 2010

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

¹ Lindsay, J. M. (1994). *Congress and the Politics of U.S. Foreign Policy*. Baltimore: John Hopkins University Press, pp. 2-3.

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.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.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.⁷ The studies carried out by skeptics like Barbara Hinckley, author of 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.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.⁹ As stated by Ralph Carter and James Scott in their book, 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.¹⁰ As Rebecca Hersman eloquently stated in her book, 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

⁵ Lindsay, pp. 21.

⁶ Lindsay, pp. 24.

⁷ Lindsay, pp. 3.

⁸ Carter, R. G. & Scott, J. M. (2009). *Choosing to Lead: Understanding Congressional Foreign Policy Entrepreneurs*. Duke University Press, pp. 7.

⁹ Lindsay, pp. 3.

¹⁰ Carter and Scott, pp. 7-8.

interactions over unexceptional issues---where most foreign policy is shaped, debated, and made.¹¹

Hinckley also neglects to include the impact Congress' appropriations power has over the direction of defense spending on the foreign policy arena.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.¹³ Stephen Weissman, author of 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.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.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

¹¹ Hersman, R. K. C. (2000). *Friends and Foes: How Congress and the President Really Make Foreign Policy*. Washington, DC: Brookings Institution Press, pp. 3

¹² Carter and Scott, pp. 8

¹³ Carter and Scott, pp. 10

¹⁴ Weissman, S. R. (1995). *A Culture of Deference: Congress' Failure of Leadership in Foreign Policy*. New York: BasicBooks, pp. 178-179

¹⁵ Hersman, pp. 8.

assumes that the President and Congress are always fighting each other on the foreign policy agenda.¹⁶ In fact, Lindsay points out that there is often more cooperation than conflict, especially when Presidential initiatives also appear on the Congressional agenda.¹⁷ Sometimes, the President will ask Congress to weigh in on foreign affairs.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.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.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.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.²² Regardless of their frequency, members of Congress have strong incentives to use the media when conducting policy oversight to champion a

¹⁶ Lindsay, pp. 6-7.

¹⁷ Lindsay, pp. 7.

¹⁸ Lindsay, pp. 7.

¹⁹ Lindsay, pp. 7.

²⁰ Lindsay, pp. 5.

²¹ Lindsay, pp. 6.

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.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.³² Congressional Members only have to avoid the foreign policy options their constituents disapprove of, but still have other favorable options to pursue.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.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

³¹ Lindsay, pp. 38.

³² Lindsay, pp. 4.

³³ Lindsay, pp. 45.

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.

³⁷ U.S. Constitution, Art. I, § 8.

American people and Congress to put their faith in broad executive authority on the world stage.³⁸ Members of Congress viewed their roles in foreign policy as supplying the President with whatever he needed to protect American interests abroad.³⁹ 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.⁴⁰ 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.⁴¹ 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).⁴² Congress can also authorize the use of military force by the President abroad.⁴³ 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.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.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.⁴⁶ Congress can use its regulation of foreign commerce to reward cooperative nations with favorable trade agreements while punishing disruptive countries with economic sanctions.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.⁴⁸ Control over military funding could also limit future military engagements abroad since the military requires Congressional funding to carry out its operations.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.

⁴⁴ Lindsay, pp. 85.

⁴⁵ Lindsay, pp. 149.

⁴⁶ Lindsay, pp. 86, 88.

⁴⁷ Lindsay, pp. 85.

⁴⁸ Lindsay, pp. 86.

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.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.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.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.⁵³ If these reservations and understandings are agreed upon, it becomes part of the law.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.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.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.⁵⁷ However, Congress can counter by requiring executive agreements to be subjected to a joint resolution

⁵⁰ Lindsay, pp. 77.

⁵¹ Lindsay, pp. 81.

⁵² Lindsay, pp. 78-80.

⁵³ Lindsay, pp. 80.

⁵⁴ Lindsay, pp. 81.

⁵⁵ Lindsay, pp. 81.

⁵⁶ Lindsay, pp. 87.

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.⁵⁸

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.⁵⁹ Congress does not have the power to negotiate abroad on behalf of the United States, and it cannot compel the President to do so.⁶⁰ Congress can try to enact legislation that limits the negotiating leverage of the President, but this rarely succeeds because of the second inherent drawback.⁶¹ 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.⁶² 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.⁶³ Some opposers to

⁵⁸ Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006. U.S. Public Law 109-401. 109th Cong., 2nd sess., 18 December 2006.

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.⁶⁴ Lastly, substantive legislation is too rigid and limited to be effective in international relations.⁶⁵ World events can easily render legislation moot and outdated.⁶⁶ In some sensitive cases, diplomacy works best behind closed doors, but legislation is too public to properly address such conditions.⁶⁷ 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.⁶⁸ 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.⁶⁹

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.⁷⁰ Congress can also hold other policy topics hostage to force the President to concede.⁷¹ Foreign nations will make conciliatory gestures if it perceives that

⁶⁴ Lindsay, pp. 90-91.

⁶⁵ Lindsay, pp. 91.

⁶⁶ Lindsay, pp. 91.

⁶⁷ Lindsay, pp. 92.

⁶⁸ Lindsay, pp. 92-93.

⁶⁹ Lindsay, pp. 91.

⁷⁰ Lindsay, pp. 94.

⁷¹ Lindsay, pp. 95.

Congress will threaten to legislate unfavorable trade relations or economic sanctions.⁷²

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.⁷³ The threat of legislation does have risks though because the President may not carry out his end of the bargain.⁷⁴ Even worse, Congress can miscalculate the intentions of the President and the law actually passes resulting in something worse than Congress intended.⁷⁵ 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.⁷⁶ In this way, Congress can change policy content by changing the underlying decision-making processes.⁷⁷ 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.⁷⁸ Congress can create new executive agencies to rectify perceived failures in the executive branch.⁷⁹ 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.⁸⁰ 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.⁸¹

Despite the advantages of creating new agencies to conduct foreign policy, the introduction of new organizations requires a major overhaul of bureaucratic relations.⁸² Instead, Congress can either remove current agencies from the decision-making process or add new participants that already exist and favor Congressional preferences.⁸³ In one instance, Congress can delegate Presidential responsibilities to an executive agency in sync with the Congressional agenda.⁸⁴ 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.⁸⁵ 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

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.⁸⁶ 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.⁸⁷

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.⁸⁸ 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.⁸⁹ 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.⁹⁰ 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.⁹¹ 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

⁸⁶ Lindsay, pp. 103-104.

⁸⁷ Lindsay, pp. 104.

⁸⁸ Lindsay, pp. 105.

⁸⁹ *INS v. Chadha*, 462 U.S. 919 (1983).

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

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.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.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.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.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.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.¹⁰⁵ Interest groups are in a better position to determine if members of Congress use procedural legislation for blame avoidance or serious policy formation.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

¹⁰⁰ Lindsay, pp. 108.

¹⁰¹ Lindsay, pp. 109.

¹⁰² Lindsay, pp. 109.

¹⁰³ Lindsay, pp. 113.

¹⁰⁴ Lindsay, pp. 113.

¹⁰⁵ Lindsay, pp. 113.

¹⁰⁶ Lindsay, pp. 113.

wants without subjecting to Congress.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.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.¹⁰⁹ Some programs, particularly the covert operations of the CIA, are too secretive for Congress to effectively monitor.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.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.¹¹² The executive branch has little incentive to comply to Congressional mandates if there is no imminent punishment against non-compliance.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.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.¹¹⁵ Congress cannot counter executive non-compliance if weak legislation

¹⁰⁷ Lindsay, pp. 114.

¹⁰⁸ Lindsay, pp. 115.

¹⁰⁹ Lindsay, pp. 115.

¹¹⁰ Lindsay, pp. 115.

¹¹¹ Lindsay, pp. 115-116.

¹¹² Lindsay, pp. 116, 149.

¹¹³ Lindsay, pp. 116.

¹¹⁴ Lindsay, pp. 116.

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.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.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.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.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

¹¹⁶ Lindsay, pp. 120.

¹¹⁷ Lindsay, pp. 120-121.

¹¹⁸ Lindsay, pp. 122.

¹¹⁹ Lindsay, pp. 123.

members of Congress to exchange information, talk about foreign affairs, and lobby members for certain policies.¹²⁰ 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.¹²¹ 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.¹²² 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.¹²³ 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.¹²⁴ 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.¹²⁵ 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

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.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.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.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.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.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.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.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.

¹²⁶ Lindsay, pp. 129.

¹²⁷ Lindsay, pp. 129.

¹²⁸ Lindsay, pp. 129.

¹²⁹ Lindsay, pp. 132-133.

¹³⁰ Lindsay, pp. 133.

¹³¹ Lindsay, pp. 133.

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.¹³³

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.¹³⁴ Carter and Scott recognized that individual members interested in foreign policy are able to spearhead initiatives as

¹³³ Lindsay, pp. 137.

¹³⁴ Carter and Scott, pp. 54

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.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.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.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.¹³⁸ There would be a slight decrease in involvement following September 11, 2001, but a resurgence in involvement would occur afterwards.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.¹⁴⁰

Entrepreneur Characteristics	Overall Average	2003	2005
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¹³⁵ Carter and Scott, pp. 54

¹³⁶ Carter and Scott pp. 54

¹³⁷ Carter and Scott pp. 56

¹³⁸ Carter and Scott pp. 209-210

¹³⁹ Carter and Scott pp. 209-210

¹⁴⁰ Carter and Scott pp. 211

Entrepreneur Characteristics	Overall Average	2003	2005
# of Entrepreneurs	33.5	33	34
# of Acts of Entrepreneurship	86	73	99

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.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 2005.¹⁴² The average number of members getting involved in foreign policy rose from the post-Cold War 1990s which averaged only 26.2 active members.¹⁴³ The average number of acts between the two periods actually dropped from 106 to 86.¹⁴⁴ 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.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

¹⁴¹ Carter and Scott, pp. 254

¹⁴² Carter and Scott, pp. 254

¹⁴³ Carter and Scott, pp. 210

¹⁴⁴ Carter and Scott, pp. 210-211

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.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

¹⁴⁶ Russett, B., Starr, H. & Kinsella, D. (2006). *World Politics: The Menu for Choice*. Belmont, CA: Thomson Corporation, pp. 154.

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.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” beginning with Operation Enduring Freedom in Afghanistan on October 7, 2001.

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.¹⁴⁸ Bush immediately received \$10 billion to spend at his discretion, \$5.9 billion of which went to defense programs.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.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

¹⁴⁷ Authorization for Use of Military Force. U.S. Public Law 107-40. 107th Cong., 1st sess., 18 September 2001.

¹⁴⁸ 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States. U.S. Public Law 107-38. 107th Cong., 1st sess., 18 September 2001.

¹⁴⁹ 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States. U.S. Public Law 107-38. 107th Cong., 1st sess., 18 September 2001.

¹⁵⁰ 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States. U.S. Public Law 107-38. 107th Cong., 1st sess., 18 September 2001.

Pakistan and provide foreign aid to Pakistan for the purpose of building an alliance to conduct military operations in Afghanistan.¹⁵¹ In exchange for Congressional support, Bush needed to certify that economic aid to Pakistan would foster democratic rule in the country.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.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.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

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.

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.

¹⁵³ “Hill Backs Use of Force in Iraq” (2002). *Congressional Quarterly Almanac*. (Vol. 58, pp. 9-3--9-6). Washington, DC: Congressional Quarterly Inc.

¹⁵⁴ Authorization for Use of Military Force Against Iraq Resolution of 2002. U.S. Public Law 107-243. 107th Cong., 2nd sess., 16 October 2002.

this could justify military action elsewhere.¹⁵⁵ Bush also agreed to certify that diplomacy could not solve this problem and to seek UN approval despite it not being required.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.¹⁵⁷ Gephardt stunned many Democrats with his deal with President Bush, but Gephardt did not want to look weak on national security as he planned out his future Presidential campaign for 2004.¹⁵⁸ 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 David Bonior (D-MI) embarrassed him with their disapproval for Bush's policy towards Iraq.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.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

¹⁵⁵ "Hill Backs Use of Force in Iraq," pp. 9-4.

¹⁵⁶ Authorization for Use of Military Force Against Iraq Resolution of 2002. U.S. Public Law 107-243. 107th Cong., 2nd sess., 16 October 2002.

¹⁵⁷ "Hill Backs Use of Force in Iraq," pp. 9-4.

¹⁵⁸ "Hill Backs Use of Force in Iraq," pp. 9-4.

¹⁵⁹ "Hill Backs Use of Force in Iraq," pp. 9-4.

¹⁶⁰ Authorization for Use of Military Force Against Iraq Resolution of 2002. U.S. Public Law 107-243. 107th Cong., 2nd sess., 16 October 2002.

Senate as America speaking with one voice.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.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.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.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.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

¹⁶¹ "Hill Backs Use of Force in Iraq," pp. 9-6.

¹⁶² "Hill Backs Use of Force in Iraq," pp. 9-6.

¹⁶³ "Hill Backs Use of Force in Iraq," pp. 9-6.

¹⁶⁴ 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.

¹⁶⁵ "Hill Steps Aside on Abu Ghraib Abuses" (2004). *Congressional Quarterly Almanac.* (Vol. 60, pp. 6-5). Washington, DC: Congressional Quarterly Inc.

occupation forces.¹⁶⁶ Other members of Congress protested Syria's occupation of its neighbor, Lebanon, and its alleged possession of weapons of mass destruction.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.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 *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.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.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

¹⁶⁶ "Congress Imposes Syria Sanctions" (2003). *Congressional Quarterly Almanac*. (Vol. 59, pp. 10-7--10-8). Washington, DC: Congressional Quarterly Inc.

¹⁶⁷ "Congress Imposes Syria Sanctions," pp. 10-7.

¹⁶⁸ "Congress Imposes Syria Sanctions," pp. 10-7.

¹⁶⁹ Syria Accountability and Lebanese Sovereignty Restoration Act of 2003. U.S. Public Law 108-175. 108th Cong., 1st sess., 12 December 2003.

¹⁷⁰ Syria Accountability and Lebanese Sovereignty Restoration Act of 2003. U.S. Public Law 108-175. 108th Cong., 1st sess., 12 December 2003.

programs for weapons of mass destruction.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.¹⁷²

2001-2004	# of actions	# of deferent actions	# of assertive actions	# of successful assertive actions for Congress	% of successful assertive actions for Congress
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%

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.

Committees (2001-2004)	Hearings	Oversight Hearings	% of Oversight Hearings	Investigative Prints	Total Committee Activity	Average Committee Activity Per Year
House Armed Services	83	38	45.78%	2	85	21.25
House Foreign Affairs	320	38	11.88%	20	340	85

¹⁷¹ Syria Accountability and Lebanese Sovereignty Restoration Act of 2003. U.S. Public Law 108-175. 108th Cong., 1st sess., 12 December 2003.

¹⁷² Syria Accountability and Lebanese Sovereignty Restoration Act of 2003. U.S. Public Law 108-175. 108th Cong., 1st sess., 12 December 2003.

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

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

billion less than Bush requested excluding the wartime supplement.¹⁷³ Congress agreed to meet Bush's proposed \$1.1 billion for research and \$716 million for new destroyers, but did so by trimming funds for Future Combat Systems, Transformational Satellite Communications, and the F-35 Joint Strike Fighter.¹⁷⁴ The related defense authorization bill called for \$290 million less than Bush asked and authorized an emergency \$50 million for the wars in Afghanistan and Iraq until Bush submitted a supplemental request in 2006.¹⁷⁵ Congress used the defense authorization bill as a means of conducting oversight on Bush's policies towards the conduct of the Iraq War and treatment of detainees. Congress required President Bush to submit quarterly reports on the progress of the reconstruction of Iraq and on benchmarks leading to American withdrawal.¹⁷⁶ Bush wanted \$441.8 billion for operations, maintenance and personnel in Iraq, but Congress spent the money on weapons procurement and research and development while leaving Bush with \$1.2 billion less than what he wanted for operations and maintenance.¹⁷⁷ Congress wanted to control costs on weapons and limit spending and mismanagement by the Pentagon. As a result, Congress capped the costs of destroyers, submarines, and Littoral Combat Ships, while forcing the military to fully justify the importance of Future Combat Systems before spending money on the program and requiring the Pentagon to reform its financial management systems before

¹⁷³ Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006. U.S. Public Law 109-148. 109th Cong., 1st sess., 30 December 2005.

¹⁷⁴ Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006. U.S. Public Law 109-148. 109th Cong., 1st sess., 30 December 2005.

¹⁷⁵ National Defense Authorization Act for Fiscal Year 2006. U.S. Public Law 109-163. 109th Cong., 1st sess., 6 January 2006.

¹⁷⁶ National Defense Authorization Act for Fiscal Year 2006. U.S. Public Law 109-163. 109th Cong., 1st sess., 6 January 2006.

¹⁷⁷ National Defense Authorization Act for Fiscal Year 2006. U.S. Public Law 109-163. 109th Cong., 1st sess., 6 January 2006.

it could conduct its own audits.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.¹⁷⁹ Bush strongly opposed McCain's amendment and threatened to veto both the appropriations bill and the authorization bill unless Congress removed the amendment.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.¹⁸¹ Only \$256 million of the total amount was not discretionary, and the final total was \$4.1 billion less than Bush requested.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

¹⁷⁸ National Defense Authorization Act for Fiscal Year 2006. U.S. Public Law 109-163. 109th Cong., 1st sess., 6 January 2006.

¹⁷⁹ National Defense Authorization Act for Fiscal Year 2006. U.S. Public Law 109-163. 109th Cong., 1st sess., 6 January 2006.

¹⁸⁰ "Bush Signs Defense Authorization Measure with Detainee Provisions" (2005). *Congressional Quarterly Almanac*. (Vol. 61, pp. 6-3--6-9). Washington, DC: Congressional Quarterly Inc.

¹⁸¹ Department of Defense Appropriations Act, 2007. U.S. Public Law 109-289. 109th Cong., 2nd sess., 29 September 2006

¹⁸² Department of Defense Appropriations Act, 2007. U.S. Public Law 109-289. 109th Cong., 2nd sess., 29 September 2006

Iraq.¹⁸³ On the 2006 defense authorization bill, 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.¹⁸⁴ The Armed Services Republicans wanted more Americans in uniform with higher wages and more health care benefits.¹⁸⁵ 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.¹⁸⁶ 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.¹⁸⁷ 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.¹⁸⁸ 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),

¹⁸³ Department of Defense Appropriations Act, 2007. U.S. Public Law 109-289. 109th Cong., 2nd sess., 29 September 2006

¹⁸⁴ John Warner National Defense Authorization Act for Fiscal Year 2007. U.S. Public Law 109-364. 109th Cong., 2nd sess., 17 October 2006.; "Bush Signs Defense Authorization Stating Some Provisions 'Optional'" (2006). *Congressional Quarterly Almanac*. (Vol. 62, pp. 5-3--5-8). Washington, DC: Congressional Quarterly Inc.

¹⁸⁵ John Warner National Defense Authorization Act for Fiscal Year 2007. U.S. Public Law 109-364. 109th Cong., 2nd sess., 17 October 2006.

¹⁸⁶ "Bush Signs Defense Authorization Stating Some Provisions 'Optional,'" pp. 5-3.

¹⁸⁷ *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006).

¹⁸⁸ "Deal Reached on Military Tribunals" (2006). *Congressional Quarterly Almanac*. (Vol. 62, pp. 5-9--5-13). Washington, DC: Congressional Quarterly Inc.

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.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.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.¹⁹¹ Bush agreed to drop the ability to reinterpret the Geneva Convention and the ability to use classified evidence in trials.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.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.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.

¹⁸⁹ "Deal Reached on Military Tribunals," pp. 5-9.

¹⁹⁰ Military Commissions Act of 2006. U.S. Public Law 109-366. 109th Cong., 2nd sess., 17 October 2006.

¹⁹¹ "Deal Reached on Military Tribunals," pp. 5-9.

¹⁹² "Deal Reached on Military Tribunals," pp. 5-9.

¹⁹³ Military Commissions Act of 2006. U.S. Public Law 109-366. 109th Cong., 2nd sess., 17 October 2006.

¹⁹⁴ Military Commissions Act of 2006. U.S. Public Law 109-366. 109th Cong., 2nd sess., 17 October 2006.

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

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

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

¹⁹⁵ Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006. U.S. Public Law 109-401. 109th Cong., 2nd sess., 18 December 2006.

¹⁹⁶ Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006. U.S. Public Law 109-401. 109th Cong., 2nd sess., 18 December 2006.

¹⁹⁷ Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006. U.S. Public Law 109-401. 109th Cong., 2nd sess., 18 December 2006.

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.

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

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.¹⁹⁸ 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.¹⁹⁹ 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.²⁰⁰ However, the Democrats backed down when Bush made speeches

¹⁹⁸ U.S. House. 2007. *U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007*. 110th Cong., 1st sess., H.R. 1591.

¹⁹⁹ U.S. House. 2007. *U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007*. 110th Cong., 1st sess., H.R. 1591.

²⁰⁰ U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007. U.S. Public Law 110-28. 110th Cong., 1st sess., 25 May 2007.

during Memorial Day about the need for more troops in Iraq to finish the job.²⁰¹ Reluctantly, the Democrats gave Bush the funding he wanted for the Iraq War, but outlined eighteen benchmarks the Iraqi government had to meet and required Bush to report on the progress.²⁰² The Democrats tried again when the President requested a \$50 billion supplement to hold over the Department of Defense until Bush requested more funds for the wars in Afghanistan and Iraq.²⁰³ In H.R. 4156, Congress required the withdrawal of troops to begin within thirty days of enactment with the goal of most of the troops out of Iraq by December 15, 2008.²⁰⁴ The Defense Department could leave some troops in Iraq, but only for the purposes of conducting counterterrorist efforts, protecting U.S. personnel, and training the Iraqi military to take over.²⁰⁵ The bill also required complete military training for soldiers in Iraq and a prohibition on the torture of detainees.²⁰⁶ However, the Senate failed to invoke cloture on the bill after it passed the House, and Bush threatened to veto the Democrats' omnibus spending bill unless they conceded to the President on Iraq.²⁰⁷ The Democrats agreed to add \$31 billion in the 2008 appropriations for Afghanistan only, but the Senate reworked the bill and

²⁰¹ "President Prevails on Iraq War Policy" (2007). *Congressional Quarterly Almanac*. (Vol. 63, pp. 6-10--6-11). Washington, DC: Congressional Quarterly Inc.

²⁰² U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007. U.S. Public Law 110-28. 110th Cong., 1st sess., 25 May 2007.

²⁰³ U.S. House. 2007. *Orderly and Responsible Iraq Redeployment Appropriations Act, 2008*. 110th Cong., 1st sess., H.R. 4156.

²⁰⁴ U.S. House. 2007. *Orderly and Responsible Iraq Redeployment Appropriations Act, 2008*. 110th Cong., 1st sess., H.R. 4156.

²⁰⁵ U.S. House. 2007. *Orderly and Responsible Iraq Redeployment Appropriations Act, 2008*. 110th Cong., 1st sess., H.R. 4156.

²⁰⁶ U.S. House. 2007. *Orderly and Responsible Iraq Redeployment Appropriations Act, 2008*. 110th Cong., 1st sess., H.R. 4156.

²⁰⁷ "President Prevails on Iraq War Policy," pp. 6-11.

expanded the amount to \$70 billion for either Iraq or Afghanistan while leaving out a timetable for troop withdrawal in Iraq.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.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.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.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

²⁰⁸ Consolidated Appropriations Act, 2008. U.S. Public Law 110-161. 110th Cong., 1st sess., 19 December 2007.

²⁰⁹ Department of Defense Appropriations Act, 2008. U.S. Public Law 110-116. 110th Cong., 1st sess., 13 November 2007.

²¹⁰ Department of Defense Appropriations Act, 2008. U.S. Public Law 110-116. 110th Cong., 1st sess., 13 November 2007.

²¹¹ National Defense Authorization Act for Fiscal Year 2008. U.S. Public Law 110-181. 110th Cong., 1st sess., 28 January 2008.

government, even if such injustices occurred under Saddam Hussein.²¹² As a result, the Democrats granted the President the ability to waive the provision to satisfy the Iraqi government.²¹³

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.²¹⁴ 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.²¹⁵ Congress diverted the cut funding away from these programs and towards the Defense Health Program and research and development.²¹⁶ 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.²¹⁷ Again Congress denied increased funding for futuristic weapons and missile defense and used the money for equipment in Iraq.²¹⁸ 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

²¹² "Defense Authorization Measure Largest Enacted Since World War II" (2007). *Congressional Quarterly Almanac*. (Vol. 63, pp. 6-3--5-10). Washington, DC: Congressional Quarterly Inc.

²¹³ National Defense Authorization Act for Fiscal Year 2008. U.S. Public Law 110-181. 110th Cong., 1st sess., 28 January 2008.

²¹⁴ Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009. U.S. Public Law 110-369. 110th Cong., 2nd sess., 30 September 2008.

²¹⁵ Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009. U.S. Public Law 110-369. 110th Cong., 2nd sess., 30 September 2008.

²¹⁶ Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009. U.S. Public Law 110-369. 110th Cong., 2nd sess., 30 September 2008.

²¹⁷ Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. U.S. Public Law 110-417. 110th Cong., 2nd sess., 14 October 2008.

²¹⁸ Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. U.S. Public Law 110-417. 110th Cong., 2nd sess., 14 October 2008.

videotaping interrogations, and the necessity of Congressional approval for any future commitments of troops in Iraq.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.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.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.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.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.²²⁴

²¹⁹ Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. U.S. Public Law 110-417. 110th Cong., 2nd sess., 14 October 2008.

²²⁰ Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. U.S. Public Law 110-417. 110th Cong., 2nd sess., 14 October 2008.

²²¹ Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. U.S. Public Law 110-417. 110th Cong., 2nd sess., 14 October 2008.

²²² Bush, George W. 2008. "Statement on Signing the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009," *Weekly Compilation of Presidential Documents, Administration of George W. Bush*, 14 October, p.1346. Retrieved 5 May 2010 from, <http://frwebgate3.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=03730012428+2+1+0&WAIAction=retrieve>

²²³ Supplemental Appropriations Act, 2008. U.S. Public Law 110-252. 110th Cong., 2nd sess., 30 June 2008.

²²⁴ Supplemental Appropriations Act, 2008. U.S. Public Law 110-252. 110th Cong., 2nd sess., 30 June 2008.

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.²²⁵ 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.²²⁶ 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.²²⁷ The bill also left out any indications of a possible military strike against Iran.²²⁸ 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.²²⁹

²²⁵ United States-Peru Trade Promotion Agreement Implementation Act. U.S. Public Law 110-138. 110th Cong., 1st sess., 14 December 2007.

²²⁶ International Emergency Economic Powers Enhancement Act. U.S. Public Law 110-96. 110th Cong., 1st sess., 16 October 2007.

²²⁷ International Emergency Economic Powers Enhancement Act. U.S. Public Law 110-96. 110th Cong., 1st sess., 16 October 2007.

²²⁸ International Emergency Economic Powers Enhancement Act. U.S. Public Law 110-96. 110th Cong., 1st sess., 16 October 2007.

²²⁹ "Sanctions Increase Pressure on Iran" (2007). *Congressional Quarterly Almanac*. (Vol. 63, pp. 6-11--6-12). Washington, DC: Congressional Quarterly Inc.

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.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.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.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.²³³

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

²³⁰ United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. U.S. Public Law 110-369. 110th Cong., 2nd sess., 8 October 2008.

²³¹ Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006. U.S. Public Law 109-401. 109th Cong., 2nd sess., 18 December 2006.

²³² United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. U.S. Public Law 110-369. 110th Cong., 2nd sess., 8 October 2008.

²³³ United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. U.S. Public Law 110-369. 110th Cong., 2nd sess., 8 October 2008.

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.

Committees (2007-2008)	Hearings	Oversight Hearings	% of Oversight Hearings	Investigative Prints	Total Committee Activity	Average Committee Activity Per Year
House Armed Services	162	100	61.73%	10	172	86
House Foreign Affairs	217	69	31.80%	7	224	112
House Appropriations Defense Subcommittee	4	0	0%	2	6	3
House Appropriations Foreign Operations Subcommittee	5	0	0%	1	6	3
Senate Armed Services	49	20	40.82%	3	52	26
Senate Foreign Relations	73	25	34.25%	26	99	49.5

Senate Appropriations Defense Subcommittee	5	0	0%	0	5	2.5
Senate Appropriations Foreign Operations Subcommittee	2	0	0%	0	2	1
Totals	517	214	41.39%	49	566	283
Average Per Year	285.5	107	41.39%	24.5	283	----

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 subtle 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.²³⁴ 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.²³⁵ These messages expressed concerns about the uncalculated variables of committing more troops to Afghanistan and the unreliability of the Afghan government.²³⁶ Afghan President Hamid Karzai "continued to shun responsibility for any sovereign burden....and his government had

²³⁴ Weissman, S. R. (2010, April 26). Congress is Abdicating its Authority on Wars. *Roll Call*.

²³⁵ Weissman, 2010

²³⁶ Weissman, 2010

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

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Appendix

2001-2004 Legislative Table

Bill Name (2001-2004)	Policy Tool Category	Policy Tool Subcategory	Specific Provision	Final Outcome	Assertiveness Relative to the President
Authorization for the Use of Military Force	Substantive	War Powers	Authorized President to use military force against nations, organizations, or persons responsible for 9/11 or harbors those responsible.	Passed Senate 98-0 Passed House 420-1 Became PL 107-40	Deferent
2001 Emergency Supplemental Appropriations Act	Substantive	Appropriations	\$10B of the allocated \$40B to be spent at the discretion of the President	Passed House 422-0 Passed Senate Unanimous Consent Became PL 107-38	Deferent
2001 Emergency Supplemental Appropriations Act	Substantive	Appropriations	Additional \$10B available for the President after submitting spending proposal report to Congress	Passed House 422-0 Passed Senate Unanimous Consent Became PL 107-38	Deferent
Waiver of Sanctions Against Pakistan	Substantive	Trade-Sanctions	Authorized President to waive existing sanctions against Pakistan	Passed Senate Unanimous Consent Passed House Voice Vote Became PL 107-57	Deferent
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Informal	Consultations with President	Bush negotiated language with Senate before reporting it to Foreign Relations Committee	Withdrawn from Senate by President. Moved to House.	Deferent
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Substantive	War Powers	Authorized President to use military force against Iraq and enforce UN Security Council Resolutions	Passed House 296-133 Passed Senate 77-23 Became PL 107-243	Deferent
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Informal	Consultations with President	Language authorizing President to restore international peace and security to the region	Dropped by negotiating parties from legislation	Assertive
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Procedural	Reporting Requirement	President required to report to Congress within 60 days of start of hostilities	Passed House 296-133 Passed Senate 77-23 Became PL 107-243	Assertive
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Substantive	War Powers	Amendment by Rep. Barbara Lee (D-CA) urging the President to work with the UN to peacefully ensure Iraq did not have WMDs.	Defeated in House 77-355	Assertive
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Substantive	War Powers	Amendment by Rep. John Spratt (D-SC) requiring President to seek UN resolution authorizing war or additional authorization from Congress if President went alone	Defeated in House 155-270	Assertive
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Congressional Procedure	Motion to Recommit	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 citizens and international stability.	Defeated in House 101-325	Assertive
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Congressional Procedure	Cloture Vote	Senate vote to invoke cloture and limit debate	Passed Senate 75-25 Cloture Invoked	Deferent
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Substantive	War Powers	Amendment by Sen. Robert Byrd (D-WV) stating resolution won't alter Congress' power to declare war	Defeated in Senate 14-86	Assertive
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Substantive	War Powers	Amendment by Sen. Robert Byrd (D-WV) limiting Congressional authorization to 2 years.	Defeated in Senate 31-66	Assertive
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Substantive	War Powers	Amendment by Sen. Car Levin (D-MI) requiring UN authorization of force only to remove WMDs and if peaceful means failed.	Defeated in Senate 24-75	Assertive
Authorization for the Use of Military Force Against Iraq Resolution of 2002	Substantive	War Powers	Amendment by Sen. Richard Durbin (D-IL) authorizing force against Iraq to stop an "imminent" threat instead of "continuing" threat in the legislation.	Defeated in Senate 30-70	Assertive
Syria Accountability and Lebanese Sovereignty Restoration Act of 2003	Substantive	Trade-Sanctions	Ban export of "dual use" items to Syria	Passed House 398-4 Passed Senate w/ amendment 89-4 Amendment Passed House 408-8 Became PL 108-175	Assertive
Syria Accountability and Lebanese Sovereignty Restoration Act of 2003	Substantive	Trade-Sanctions	Required President to impose at least 2 sanctions from a list outlined by Congress	Passed House 398-4 Passed Senate w/ amendment 89-4 Amendment Passed House 408-8 Became PL 108-175	Assertive
Syria Accountability and Lebanese Sovereignty Restoration Act of 2003	Substantive	Waiver of provision	President able to waive any provision for national security reasons but needed to report the reasons to Congress	Passed House 398-4 Passed Senate w/ amendment 89-4 Amendment Passed House 408-8 Became PL 108-175	Assertive
Condemnation of Abu Ghraib Prison Abuses	Procedural	Oversight	House non-binding resolution condemning the abuses and calling for Congressional investigation	Passed House 365-50 Dismissed by International Relations, Armed Services, and Judiciary Committees	Assertive
Condemnation of Abu Ghraib Prison Abuses	Procedural	Oversight	Senate non-binding resolution condemning the abuses and calling for Congressional investigation	Passed Senate 92-0 Dismissed by Foreign Relations, Armed Services, and Judiciary Committees	Assertive

2005-2006 Legislative Table

Bill Name (2005-2006)	Policy Tool Category	Policy Tool Subcategory	Specific Provision	Final Outcome	Assertiveness Relative to the President
Department of Defense, Emergency Supplemental Appropriations Act, 2006	Substantive	Appropriations	Appropriated \$4.4B less than total requested by the President for defense programs.	Passed House 398-19 Passed Senate 97-0 Conference Passed House 308-106 Conference Passed Senate 93-0 Became PL 109-148	Assertive
Department of Defense, Emergency Supplemental Appropriations Act, 2006	Substantive	Discretionary Spending	Granted President \$1.1B for research and \$716M for new destroyers, but cut funds for advanced weaponry.	Passed House 398-19 Passed Senate 97-0 Conference Passed House 308-106 Conference Passed Senate 93-0 Became PL 109-148	Assertive
Department of Defense, Emergency Supplemental Appropriations Act, 2006	Congressional Procedure	Cloture Vote	Senate vote to invoke cloture and limit debate	Passed Senate 95-4 Cloture Invoked	Assertive
Department of Defense, Emergency Supplemental Appropriations Act, 2006	Congressional Procedure	Cloture Vote	Senate vote to invoke cloture and limit debate on conference report	Defeated Senate 56-44 Withdrawn by Unanimous Consent	Assertive
National Defense Authorization Act for Fiscal Year 2006	Substantive	Appropriations	Authorized \$290M less than total requested by the President.	Passed House 390-39 Passed Senate w/ amendment Unanimous Consent Conference Passed House 374-31 Conference Passed Senate Voice Vote Became PL 109-163	Assertive
National Defense Authorization Act for Fiscal Year 2006	Procedural	Reporting Requirement	President required to submit quarterly reports on progress in Iraq	Passed House 390-39 Passed Senate w/ amendment Unanimous Consent Conference Passed House 374-31 Conference Passed Senate Voice Vote Became PL 109-163	Assertive
National Defense Authorization Act for Fiscal Year 2006	Substantive	Appropriations	Authorized \$1.2B less than the \$441.8B the President requested for Iraq operations, maintenance, and personnel.	Passed House 390-39 Passed Senate w/ amendment Unanimous Consent Conference Passed House 374-31 Conference Passed Senate Voice Vote Became PL 109-163	Assertive
National Defense Authorization Act for Fiscal Year 2006	Substantive	Discretionary Spending	Used denied funds for operations, maintenance, and personnel on weapons procurement and research and development	Passed House 390-39 Passed Senate w/ amendment Unanimous Consent Conference Passed House 374-31 Conference Passed Senate Voice Vote Became PL 109-163	Assertive
National Defense Authorization Act for Fiscal Year 2006	Procedural	Reporting Requirement	Capped costs for advanced weaponry, required the Defense Dept. to justify funds for such weapons, and required financial reform in the Dept. before DOD can conduct its own audits.	Passed House 390-39 Passed Senate w/ amendment Unanimous Consent Conference Passed House 374-31 Conference Passed Senate Voice Vote Became PL 109-163	Assertive
National Defense Authorization Act for Fiscal Year 2006	Substantive	War Powers	Amendment by Sen. John McCain (R-AZ) banning abusive treatment of detainees in addition to limited right to appeal their detentions.	Passed House 390-39 Passed Senate w/ amendment Unanimous Consent Conference Passed House 374-31 Conference Passed Senate Voice Vote Became PL 109-163	Assertive
National Defense Authorization Act for Fiscal Year 2006	Substantive	War Powers	Amendment by Rep. Lynn Woolsey (D-CA) requiring the President to report on a withdrawal plan out of Iraq.	Defeated House 128-300	Assertive
National Defense Authorization Act for Fiscal Year 2006	Substantive	War Powers	Amendment by Sen. Carl Levin (D-MI) requesting a withdrawal plan from the President	Defeated Senate 40-58	Assertive
Department of Defense Appropriations Act, 2007	Substantive	Appropriations	Appropriated \$4.1B less than requested by the President for defense programs.	Passed House 407-19 Passed Senate w/ amendment 98-0 Conference Passed House 394-22 Conference Passed Senate 100-0 Became PL 109-289	Assertive
Department of Defense Appropriations Act, 2007	Substantive	Discretionary Spending	Appropriated \$377.6B for DOD. All but \$256M designated as discretionary.	Passed House 407-19 Passed Senate w/ amendment 98-0 Conference Passed House 394-22 Conference Passed Senate 100-0 Became PL 109-289	Assertive
Department of Defense Appropriations Act, 2007	Substantive	War Powers	Provision added by Sen. Joe Biden (D-DE) prohibiting the establishment of permanent bases in Iraq.	Passed House 407-19 Passed Senate w/ amendment 98-0 Conference Passed House 394-22 Conference Passed Senate 100-0 Became PL 109-289	Assertive
John Warner National Defense Authorization Act for Fiscal Year 2007	Substantive	Appropriations	More funds for soldier benefits and equipment and less funds for futuristic weapons than requested by the President.	Passed House 396-31 Passed Senate w/ amendment Unanimous Consent Conference Passed House 398-23 Conference Passed Senate Unanimous Consent Became PL 109-364	Assertive
John Warner National Defense Authorization Act for Fiscal Year 2007	Substantive	Appropriations	Unrequested funds for increased military equipment stationed in home districts of Senate Armed Services Committee members.	Passed House 396-31 Passed Senate w/ amendment Unanimous Consent Conference Passed House 398-23 Conference Passed Senate Unanimous Consent Became PL 109-364	Assertive
John Warner National Defense Authorization Act for Fiscal Year 2007	Substantive	War Powers	Senate amendment for calling for preparations to withdraw from Iraq.	Removed from Senate bill 93-6	Deferent
John Warner National Defense Authorization Act for Fiscal Year 2007	Substantive	War Powers	Amendment by Sens. John Kerry (D-MA) and Russ Feingold (D-WI) calling for withdrawal from Iraq by July 2007.	Defeated Senate 13-86	Assertive
John Warner National Defense Authorization Act for Fiscal Year 2007	Substantive	War Powers	Amendment by Sens. Carl Levin (D-MI) and Jack Reed (D-RI) stating the President should schedule withdrawals	Defeated Senate 39-60	Assertive
Military Commissions Act of 2006	Substantive	War Powers	Creation of military tribunals to try detainees without habeas corpus using coerced evidence.	Passed Senate w/ amendment 65-34 Passed House 250-170 Became PL 109-366	Deferent
Military Commissions Act of 2006	Informal	Consultations with President	Bush negotiated language with Sen. Majority Leader Bill Frist (R-TN)	Amended by Sens. John McCain (R-AZ), John Warner (R-VA) and Lindsay Graham (R-SC).	Deferent
Military Commissions Act of 2006	Substantive	War Powers	Immunity for CIA interrogators.	Passed Senate w/ amendment 65-34 Passed House 250-170 Became PL 109-366	Deferent
Military Commissions Act of 2006	Substantive	War Powers	Reinterpretation of US obligations under the Geneva Convention	Dropped from legislation by negotiating parties	Assertive
Military Commissions Act of 2006	Substantive	War Powers	Ability to use classified evidence in trials of detainees.	Dropped from legislation by negotiating parties	Assertive
Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006	Procedural	Reporting Requirement	President required to report to Congress on the progress of negotiations with India.	Passed House 359-68 Senate Passed w/ amendment 85-12. Conference Passed House 350-59 Conference Passed Senate Unanimous Consent Became PL 109-401	Assertive
Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006	Procedural	Legislative Veto-Joint Resolution	Presidential waiver of provisions in Atomic Energy Act subject to joint resolution of approval that could be recalled if India violated agreement.	Passed House 359-68 Senate Passed w/ amendment 85-12. Conference Passed House 350-59 Conference Passed Senate Unanimous Consent Became PL 109-401	Assertive
Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006	Congressional Procedure	Motion to recommit	Motion to recommit by Rep. Edward Markey (D-MA) with instructions to include language making agreement conditional of India containing Iran.	Defeated House 192-235	Assertive
Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006	Congressional Procedure	Motion to recommit	Motion to recommit by Sen. Barbara Boxer (D-CA) with instructions to include language making agreement conditional of India containing Iran.	Defeated Senate 38-59	Assertive

2007-2008 Legislative Table

Bill Name (2007-2008)	Policy Tool Category	Policy Tool Subcategory	Specific Provision	Final Outcome	Assertiveness Relative to the President
US Troop Readiness, Veterans Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (HR 1591)	Substantive	War Powers	Established August 2008 as the deadline for troop withdrawal from Iraq	Passed House 218-212 Amended in Senate to be read as a non-binding goal	Assertive
US Troop Readiness, Veterans Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (HR 1591)	Substantive	War Powers	Established August 2008 as a goal for troop withdrawal from Iraq	Passed Senate 51-47 Conference Passed House 218-208 Conference Passed Senate 51-46 Vetted by President Overrule defeated House 222-203	Defiant
US Troop Readiness, Veterans Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (HR 1591)	Congressional Procedure	Cloture Vote	Vote to invoke cloture and end debate in Senate	Passed Senate 97-0 Cloture Invoked	Assertive
US Troop Readiness, Veterans Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (HR 2206)	Substantive	Appropriations	Allocated funding for Iraq requested by the President	Passed Senate w/ amendment Voice Vote Passed House w/ amendments 348-73, 285-142, Conference Passed Senate 80-14	Defiant
US Troop Readiness, Veterans Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (HR 2206)	Procedural	Reporting Requirements	Included 18 benchmarks Iraq needed to meet toward reconstruction and required the President to report on the progress	Passed House 221-205 Passed Senate w/ amendment Voice Vote Conference Passed House w/ amendments 348-73, 285-142, Conference Passed Senate 80-14	Assertive
US Troop Readiness, Veterans Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (HR 2206)	Congressional Procedure	Cloture Vote	Vote to invoke cloture and end debate in Senate	Withdrawn by Unanimous Consent	Assertive
Orderly and Responsible Iraq Redeployment Appropriations Act, 2008	Substantive	Appropriations	\$528 bridge for DOD to conduct operations in Iraq and Afghanistan	Passed House 219-203 Cloture not invoked in Senate	Defiant
Orderly and Responsible Iraq Redeployment Appropriations Act, 2008	Substantive	War Powers	Required troop withdrawals from Iraq to start within 30 days and end by December, 15 2008. Some troops could remain in Iraq only for counterterrorism operations, protect Americans, and train the Iraqi military	Passed House 218-203 Cloture not invoked in Senate	Assertive
Orderly and Responsible Iraq Redeployment Appropriations Act, 2008	Substantive	War Powers	Required complete training for incoming troops and prohibited use of torture by soldiers.	Passed House 218-203 Cloture not invoked in Senate	Assertive
Orderly and Responsible Iraq Redeployment Appropriations Act, 2008	Congressional Procedure	Cloture Vote	Vote to invoke cloture and end debate in Senate	Defeated Senate 53-45, Cloture not invoked	Assertive
Consolidated Appropriations Act, 2008	Substantive	Appropriations	Added \$718 in funds for Afghanistan	Passed House 241-178 Amended in Senate to exceed amount to \$708 for both Iraq and Afghanistan	Assertive
Consolidated Appropriations Act, 2008	Substantive	Appropriations	Added \$708 in funds for Iraq and Afghanistan.	Passed Senate w/ amendment 81-12 Conference Passed House w/ amendments 253-154, 205-201 Conference Passed Senate 75-17 Became PL 110-161	Defiant
Department of Defense Appropriations Act, 2008	Substantive	Discretionary Spending	\$469.38 of the appropriated \$458.68 spent discretionary spending.	Passed House 295-13 Passed Senate w/ amendment Voice Vote Passed House 400-15 Senate Voice Vote	Assertive
Department of Defense Appropriations Act, 2008	Substantive	Appropriations	Appropriated \$3.48 less than requested by the President.	Passed House 295-13 Passed Senate w/ amendment Voice Vote Passed House 400-15 Senate Voice Vote	Assertive
Department of Defense Appropriations Act, 2008	Substantive	Discretionary Spending	Granted more funds for equipment, training and military family benefits and less on futuristic weapons and missile defense	Passed House 295-13 Passed Senate w/ amendment Voice Vote Passed House 400-15 Senate Voice Vote	Assertive
Department of Defense Appropriations Act, 2008	Congressional Procedure	Cloture Vote	Vote to invoke cloture and end debate in Senate	Withdrawn by Unanimous Consent	Assertive
National Defense Authorization Act for Fiscal Year 2008	Substantive	Appropriations	Authorized \$200B for programs not on the Presidential agenda including weapon procurement, personnel policy, military health care and regulation of private contractors.	Passed House 399-88 on Suspension of Rules Passed Senate 91-3 Became PL 110-161	Assertive
National Defense Authorization Act for Fiscal Year 2008	Substantive	Legislative Waiver	Allowed President to waive a provision allowing people to sue the Iraq government for past injustices.	Passed House 399-46 on Suspension of Rules Passed Senate 91-3 Became PL 110-161	Defiant
National Defense Authorization Act for Fiscal Year 2008	Procedural	Reporting Requirements	Amendment by Rep. James Moran (D-VA) requiring Pentagon reports on plans to transfer, release, or detain prisoners.	Passed House 220-208 Included in final legislation	Assertive
National Defense Authorization Act for Fiscal Year 2008	Substantive	War Powers	Amendment by Sens. Carl Levin (D-WI) and Jack Reed (D-RI) to get troop withdrawals to begin within 120 days and end by April 30, 2008	Defeated Senate 62-47 under cloture rules requiring 60 votes. Defeated 2nd time without deadline 47-47	Assertive
National Defense Authorization Act for Fiscal Year 2008	Substantive	War Powers	Amendment by Sen. Jim Webb (D-VA) to set minimum intervals between deployments.	Defeated Senate 56-41 under cloture rules requiring 60 votes. Defeated 2nd time 52-44	Assertive
United States-Peru Trade Promotion Agreement Implementation Act	Substantive	Trade	Allowed increased trade while forcing Peru to add labor and environment protections.	Passed House 285-120 Passed Senate 77-18 Became PL 110-158	Assertive
International Emergency Economic Powers Enhancement Act	Substantive	Trade-Sanctions	Increased financial and criminal punishments on companies that do business with sanctioned nations.	Passed Senate Unanimous Consent Passed House Voice Vote Became PL 110-26	Assertive
Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009	Substantive	Appropriations	Appropriated \$48 less than requested by the President appropriating less funds for futuristic weapons.	Passed House 370-58 Passed Senate 78-12 Became PL 110-209	Assertive
Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009	Substantive	Discretionary Spending	Spent more funds on research and Defense Health Program by appropriating \$42.8M less for personnel, \$1.98 less for operations and maintenance, and \$1.18 less for weapons procurement.	Passed House 370-58 Passed Senate 78-12 Became PL 110-209	Assertive
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Substantive	Appropriations	Authorized \$911.1B for specific defense policies. Less for futuristic weapons and more for replacement equipment \$1.4B less than requested by Bush mostly for Iraq and Afghanistan.	Passed Senate 88-8 Passed House w/ amendments 384-23 Conference Passed House 292-39 under suspension of rules. Conference Passed Senate Unanimous Consent Became PL 110-417	Assertive
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Substantive	Appropriations	Granted President \$55.6B in unrestricted funds for Iraq and Afghanistan.	Passed Senate 88-8 Passed House w/ amendments 384-23 Conference Passed House 292-39 under suspension of rules. Conference Passed Senate Unanimous Consent Became PL 110-417	Defiant
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Procedural	Procedural Mandate	Banned use of private contractors in interrogations and other government functions.	Passed House 384-23 Amended as non-binding sense during Conference Committee Action.	Assertive
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Substantive	War Powers	Requirement of videotaping during interrogations.	Passed House 384-23 Amended as non-binding sense during Conference Committee Action.	Assertive
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Procedural	Procedural Mandate	Congress needed to authorize any future commitment of troops to Iraq.	Passed House 384-23 Amended to require President should submit a report when a pact is made to commit troops during Conference Committee Action.	Assertive
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Procedural	Procedural Mandate	Banned use of funds for infrastructure projects, permanent military bases and control over oil.	Passed Senate 88-8 Passed House w/ amendments 384-23 Conference Passed House 292-39 under suspension of rules. Conference Passed Senate Unanimous Consent Became PL 110-417	Assertive
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Procedural	Procedural Mandate	Iraq required to share the costs of joint military operations.	Passed Senate 88-8 Passed House w/ amendments 384-23 Conference Passed House 292-39 under suspension of rules. Conference Passed Senate Unanimous Consent Became PL 110-417	Assertive
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Procedural	Reporting Requirements	Pentagon required to report on detainee operations.	Passed Senate 88-8 Passed House w/ amendments 384-23 Conference Passed House 292-39 under suspension of rules. Conference Passed Senate Unanimous Consent Became PL 110-417	Assertive
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Procedural	Reporting Requirements	President required to submit reports on Iraq's nuclear program.	Passed Senate 88-8 Passed House w/ amendments 384-23 Conference Passed House 292-39 under suspension of rules. Conference Passed Senate Unanimous Consent Became PL 110-417	Assertive
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Congressional Procedure	Cloture Vote	Vote to invoke cloture and end debate in Senate	Passed Senate 61-39 Cloture Invoked	Assertive
Supplemental Appropriations Act, 2008	Substantive	Appropriations	Granted the President \$186.2B in unrestricted funds for Iraq and Afghanistan, which was \$2.6B more than requested.	Passed Senate 70-26 Passed House 288-156 Became PL 110-262	Defiant
Supplemental Appropriations Act, 2008	Substantive	War Powers	Troop withdrawal within 30 days to end by December 31, 2008. Only troops remaining until then had to be completely trained.	Passed House 227-196 Defeated Senate 34-63, Dropped from legislation.	Assertive
Supplemental Appropriations Act, 2008	Procedural	Procedural Mandate	Iraq required to share the costs of joint military operations, and future commitment of troops required Congressional approval.	Passed House 227-196 Defeated Senate 34-63, Dropped from legislation.	Assertive
United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act	Procedural	Procedural Mandate	President required to satisfy requirements under previous law.	Passed House 289-117 under Suspension of Rules Passed Senate 86-13 Became PL 110-369	Assertive
United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act	Procedural	Procedural Mandate	Added additional safeguards to India's nuclear program and required future Congressional approval for any new deals.	Passed House 289-117 under Suspension of Rules Passed Senate 86-13 Became PL 110-369	Assertive
United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act	Substantive	Trade-Sanctions	Amendment by Sens. Byron Dorgan (D-ND) and Jeff Bingaman (D-NM) that would cut off nuclear material going to India if it conducted weapons tests.	Defeated Senate Voice Vote Ranking member of Foreign Relations Committee Sen. Richard Lugar (R-IN) stated the law already did this.	Assertive