

Frédéric Gagnon

A Cold War-like Consensus?



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of U.S. Congressional-Executive Relations
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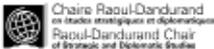
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A Cold War-like Consensus? Toward a Theoretical Explanation of U.S. Congressional-Executive Relations Concerning National Security Policy After 9/11¹

By *Frédéric Gagnon*

Abstract

Comparing three theoretical approaches to congressional-presidential interplay in foreign policy, this paper argues that the most useful and convincing theoretical explanation of congressional deference to the George W. Bush administration's national security policy focuses on three variables: a) Congress's perception of the existence of a global threat to U.S. national security; b) presidential success in foreign affairs; and c) the presence of an undivided government in Washington (with both Congress and White House controlled by the same party). Of the three variables, a) seems to be the most significant. Thus, this paper concludes that the 9/11 terrorist attacks on New York and Washington have created the conditions for a Cold War-like consensus in the United States. The general agreement that international terrorism is a global threat that needs to be fully assessed by the U.S. government reverts back to the Cold War pattern with respect to national security affairs of a dominant presidency and a compliant Congress in U.S. legislative-executive relations. In the near future, Congress may assert its foreign policy powers to a greater degree if the White House experiences difficulties with the global war on terrorism or if the Democratic Party regains control of the Senate and/or the House of Representatives. However, it seems that as long as Congress perceives that U.S. national security is threatened by the "global and urgent threat" of terrorism, the presidency will be able to concentrate national security powers in its own hands.

1. Paper prepared for the International Studies Association (ISA) Conference in Montreal, Canada, March 17-20, 2004. I wish to thank Charles-Philippe David, Joseph M. Grieco, Marie T. Henehan, David Grondin, Benoit Gagnon, Sébastien Barthe and everyone at the Raoul Dandurand Chair for their valuable help and comments.

Introduction

Though U.S. congressional-executive interaction in matters of national security policy has varied significantly over time, a majority of scholars argue that since World War II it has been marked by a pattern of “dominant presidency-compliant Congress.”² Writing about congressional-executive relations during the period of the Cold War, Michael Mastanduno notes that:

[t]he two branches worked out an arrangement in which Congress delegated authority and deferred politically to the Executive, on the grounds that only the presidency possessed the institutional resources, intelligence capability, and decision-making qualities—speed, steadiness, resolve, and flexibility—required to conduct the cold war effectively and lead a global coalition in the struggle against the Soviet Union and communism.³

Despite Congress’s attempts to reassert its constitutional foreign policy powers after the collapse of the Soviet Union and to resist the presidency’s continued efforts to dominate U.S. national security affairs⁴, an examination of the interplay between the George W. Bush administration and Congress in the formulation and execution of the U.S. global war on terrorism shows that, today, congressional-executive relations in Washington remain dominated by the Executive. For example, in the cases of the increase of the U.S. military budget for fiscal years 2003 and 2004, and the wars in Afghanistan and Iraq, Congress has given the presidency the opportunity to enjoy almost unlimited powers as Commander-in-Chief of the United States and author of U.S. foreign policy while national security powers have become concentrated in the hands of the White House.⁵

The main purpose of this paper is to find the most useful and convincing theoretical explanation for this dynamic. More precisely, my intent is twofold. First, I will compare three different approaches to U.S. congressional-executive interplay in foreign policy: 1-Ryan C. Hendrickson’s “domestic” approach; 2-James M. Lindsay’s “threat perception” approach; and 3-Marie T. Henahan’s critical issue theory. There are

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2. See, for example, Louis Fischer, *Presidential War Power*, Lawrence (KS): University Press of Kansas, 1995; *Idem.*, *Congressional Abdication on War & Spending*, College Station (TX) : Texas A & M University Press, 2000; Stephen R. Weissman, *Culture of Deference: Congress’s Failure of Leadership in Foreign Policy*, New York (NY): Basic Books, 1996; James Meernick, “Presidential Decision Making and the Political Use of Force”, *International Studies Quarterly*, vol. 38, 1994, p. 121-138; and Paul E. Peterson, “The International System and Foreign Policy”, in *The President, the Congress, and the Making of Foreign Policy*, Paul Peterson (ed.), Norman (OK): University of Oklahoma Press, 1994.
 3. Michael Mastanduno, “The United States Political System and International Leadership: A “Decidedly Inferior” Form of Government?” in *American Foreign Policy: Theoretical Essays*, 4th ed., G. John Ikenberry (ed.), New York : Longman, 2002, p. 238.
 4. Ralph G. Carter, “Congress and Post-Cold War U.S. Foreign Policy”, in *After the End: Making U.S. Foreign Policy in the Post-Cold War World*, James M. Scott (ed.), Durham (NC): Duke University Press, 1998, p. 108-137.
 5. For instance, see Nancy Kassop, “The War Power And Its Limits” , *Presidential Studies Quarterly*, vol. 33, n° 3 (September 2003), p. 509-529; and Sabine Lavorel, *La politique de sécurité nationale des États-Unis sous George W. Bush*, Paris : L’Harmattan, 2003.

two reasons why I have chosen these approaches: a) they focus on different variables in the explanation of congressional deference to the Executive in national security policy; and, b) these differences make me think that perhaps the best way to understand congressional-presidential interaction after 9/11 is to combine at least two of the three approaches or some aspects of each of them. This brings me to the second task of my paper, namely, to test the three approaches against empirical evidence and to identify their respective strengths and weaknesses.

As I will demonstrate in this paper, it appears that the most useful and convincing theoretical explanation for congressional deference to the George W. Bush administration in national security policy should revolve around three variables: a) Congress's perception of the existence of a global threat to U.S. national security; b) presidential success in foreign affairs; and, c) the presence of an undivided government in Washington (with both Congress and the White House controlled by the same party). Of the three variables, I think the first is the most important and decisive. Thus, I argue that the 9/11 terrorist attacks on New York and Washington have created the conditions for a Cold War-like consensus (between Congress and the presidency and between the Republican and the Democratic parties). The general agreement that international terrorism is a global threat that needs to be fully assessed by the U.S. government is reminiscent of the Cold War pattern of a dominant presidency and a compliant Congress in U.S. legislative-executive relations involving national security affairs. In the near future, if the White House experiences difficulties with the global war on terrorism or if the Democratic Party regains control of the Senate and/or the House of Representatives, Congress may assert its foreign policy powers to a greater extent than it does at present. However, as long as Congress believes the United States is menaced by the "global and urgent threat" of terrorism, the presidency will be able to concentrate U.S. national security powers in its own hands.

Three theoretical approaches to congressional behaviour

Many theoretical approaches can be employed to explain congressional behaviour with respect to national security policy. Of these, I will presently discuss three. As we will see, each has something different to say regarding congressional-executive interplay in foreign policy. Comparing the three allows us to entertain more than one explanation for congressional deference after 9/11.

The first of these approaches was developed by Ryan C. Hendrickson.⁶ I call it the "domestic" approach because it focuses on domestic (or internal) explanatory variables rather than on systemic (or external) variables. According to Hendrickson: "Congress's deference to the president [...] is a pattern determined by political conditions at the time of the use of force, by the choices made by key individual members of Congress, and often by partisan considerations".⁷ Thus, to explain why President Clinton was

6. Ryan C. Hendrickson, *The Clinton Wars: The Constitution, Congress, and War Powers*, Nashville (TN): Vanderbilt University Press, 2002.

7. *Ibid.* p. xiii.

able to use force in Somalia, Haiti, Bosnia and Kosovo, and also against Osama Bin Laden and Saddam Hussein, all with only limited input from Congress, Hendrickson focuses on internal factors like Clinton's leadership in foreign affairs, the will of Democrats in Congress to protect their Democratic President and the absence of assertive individual leaders among senators and representatives.⁸

Relatively absent in Hendrickson's model are systemic or external explanatory variables of congressional-executive relations. As such, Hendrickson does not say much about the impact of international events on congressional behaviour. To be sure, he does admit that in the case of Iraq, the Senate and the House abdicated their war powers and deferred to Clinton because legislators widely agreed to define Saddam Hussein as "the enemy."⁹ In other words, Hendrickson acknowledges that in some instances the way members of Congress perceive the international context in which the United States evolves has an influence on congressional behaviour. But at the same time, he does not appear to believe that the most important variables in the explanation of congressional-executive interplay in national security affairs are systemic or external: "Prima facie," writes Hendrickson, "[the end of the Cold War] provided Congress the opportunity to serve as a stronger check on the Commander-in-Chief and break the pattern of deferential behaviour it had followed so frequently during the cold war."¹⁰ But in the end, the author of *Clinton Wars* observes that Congress did not avail itself of this opportunity, and this leads him to believe that one should concentrate on domestic rather than on international politics in order to understand why it is that Congress refuses to assert its formal foreign policy powers.

The second approach I will discuss here is that of James M. Lindsay.¹¹ I call it the "threat perception" approach because Lindsay argues that the degree to which Congress aggressively exercises its national security policy powers "turns foremost on whether the country sees itself as threatened or secure and to a lesser extent on how well the President handles foreign policy."¹² In other words, according to Lindsay, when Americans and members of Congress believe they face few external threats, or when they think that international engagement could itself produce a threat, they see less merit in deferring to the White House on foreign policy and more merit in congressional activism. As Lindsay explains, "[D]ebate and disagreement are not likely to pose significant costs; after all, the country is secure."¹³ On the contrary, when Americans and Congress believe the United States faces an external threat, they quickly convert to the belief that their country needs strong presidential leadership. "Congressional dissent that was previously acceptable suddenly looks to be unhelpful

8. To see how Hendrickson uses these variables to explain why Congress chose to defer to the Executive in the particular case of Somalia, read *Ibid.* p. 39-42.

9. *Ibid.*, p. 159.

10. *Ibid.*, p. xii.

11. James M. Lindsay, "Deference and Defiance: The Shifting Rhythms of Executive-Legislative Relations in Foreign Policy", *Presidential Studies Quarterly*, vol. 33, n° 3 (September 2003), p. 530-546.

12. *Ibid.*, p. 530.

13. *Ibid.*, p. 532.

meddling at best and unpatriotic at worst,”¹⁴ writes Lindsay. Being perceived to be on the wrong side is a condition that senators and representatives usually want to avoid, especially when they are aware that it could hurt them come the next election.

In addition to these considerations, Lindsay argues that to a lesser extent congressional behaviour also depends on whether or not a President’s foreign policy actually seems successful. For instance, during the Cold War Congress determined that the gravity and urgency of the threat of Soviet communism justified accepting a concentration of foreign policy powers in the hands of the White House. However, Congress stopped deferring to the President coincident with the souring of public opinion on the Vietnam War. In sum, what Lindsay tells us is that the most important variable in the explanation of the degree of congressional assertiveness in foreign policy has its roots in the international environment (and this, whether or not U.S. national security is threatened). The complementary variable on which Lindsay focuses relates to the domestic level of analysis of international relations (the ability of the president to lead a successful foreign policy).

The third approach I want to describe here is the critical issue theory developed by Marie T. Henehan.¹⁵ It resembles the “threat perception” approach more than the “domestic” one because it devotes a great deal of attention to systemic or external variables as explanations of congressional-presidential interplay. In Henehan’s own words, “[t]he critical issue theory of congressional behaviour on foreign policy holds that the most important factor in shaping congressional assertiveness and acquiescence is the life cycle of critical foreign policy issues. While domestic politics have a role in foreign policy behaviour, the most important issues in history that shape U.S. foreign policy have had their source in the international environment.”¹⁶ For this reason, Henehan argues that action on and disagreement over foreign policy issues in Congress increase with the advent of a critical issue and fall with the implementation of a policy response to that issue. According to Henehan, in addition to “critical issues”, there is another factor that can lead to an intensification of congressional activity and disagreement: “[I]f the policy response to the critical issue fails, activity and disagreement will increase, and in fact, congressional assertiveness will also include attempts at permanent mechanisms to prevent the same type of failure from occurring again.”¹⁷

There are great similarities between the critical issue theory and the “threat perception” approach. Even though they do not classify their variables in the same way, Lindsay and Henehan essentially describe the same factors when they evoke: a) “threat”

14. *Ibid.*

15. Marie T. Henehan, *Foreign Policy and Congress: An International Relations Perspective*, Ann Arbor (MI): University of Michigan Press, 2000; *Idem.*, “Critical Issues and Trends in Congressional Foreign Policy Behavior Since the Cold War”, Paper Presented to the Joint Conference of the International Studies Association and the Central and East European International Studies Association (CEEISA) Budapest, June 26-28, 2003.

16. Henehan, Marie, “Critical Issues and Trends in Congressional Foreign Policy Behavior”, p. 2.

17. *Ibid.*, p. 2.

(Lindsay) and “critical issues” (Henehan); and, b) the idea of a “president unable to handle foreign policy well” (Lindsay) and the idea of a “policy failure” (Henehan). Yet Henehan and Lindsay do not quite agree on the impact international events have on congressional behaviour. Henehan says that when critical issues move from the external environment to the foreign policy agenda, debate breaks out over how to respond. At this point, according to Henehan, Congress is usually active and assertive with regard to its foreign policy powers. But, as she also observes, senators and representatives eventually defer to the Executive once a policy option is chosen and implemented. For instance, in the case of anti-communism, the recognized options were accommodation, rollback, and containment. Once containment was chosen, debate waned and the executive was left to implement the decision.¹⁸ Using Lindsay’s approach, one could probably argue that the impact of international events on congressional deference is more automatic than Henehan thinks. Lindsay doesn’t pay much attention to how aggressively Congress debates policy options with respect to critical issues. He says that major threats to U.S. national security lead Congress to give the President almost unlimited leeway in determining foreign policy.

Another difference between Henehan’s and Lindsay’s approaches is that Henehan considers one more explanatory variable in congressional-presidential relations than does Lindsay, namely, partisanship. As she puts it, “Although divided government is not on its own predictive of variations in congressional assertiveness, the levels of activity and disagreement are higher in [...] cases of a critical issue and policy failure in the presence of divided government compared to [...] cases of critical issues during eras when the same party controlled both branches”.¹⁹ Thus, for example, a Congress led by Democrats would be more assertive when dealing with a Republican President and less assertive when dealing with a Democratic President, and vice-versa.

18. *Ibid.*, p. 4.

19. *Ibid.*, p. 2.

Fig. 1 • Three approaches to congressional behaviour in matters of national security

| | HENDRICKSON'S "DOMESTIC" APPROACH | LINDSAY'S "THREAT PERCEPTION" APPROACH | HENEHAN'S CRITICAL ISSUE THEORY |
|---|--|---|--|
| CONGRESSIONAL DEFERENCE IS LINKED TO... | <p>DOMESTIC FACTORS</p> <ul style="list-style-type: none"> • presidential leadership in foreign affairs • presidential protection by members of same party in Congress • absence of assertive individual leaders in Congress | <p>SYSTEMIC AND DOMESTIC FACTORS</p> <ul style="list-style-type: none"> • existence of an external danger that makes Americans see their country threatened • presidential success in foreign affairs | <p>SYSTEMIC AND DOMESTIC FACTORS</p> <ul style="list-style-type: none"> • implementation of responses to critical issues of foreign policy • presidential success in foreign affairs • undivided government (Congress and White House controlled by same party) |
| CONGRESSIONAL ASSERTIVENESS IS LINKED TO... | <p>DOMESTIC FACTORS</p> <ul style="list-style-type: none"> • absence of presidential leadership in foreign affairs • absence of presidential protection by members of same party in Congress • presence of assertive individual leaders in Congress | <p>SYSTEMIC AND DOMESTIC FACTORS</p> <ul style="list-style-type: none"> • absence of threats to U.S. national security • presidential failure in foreign affairs | <p>SYSTEMIC AND DOMESTIC FACTORS</p> <ul style="list-style-type: none"> • periods of debate over policy options to respond to critical issues of foreign policy • presidential failure in foreign affairs • divided government (Congress and White House controlled by different parties) |

Testing approaches: Which is the most useful and convincing?

Hendrickson's "domestic" approach

Using Ryan Hendrickson's approach to explain congressional deference to the Executive after 9/11, one would concentrate on domestic factors like George W. Bush's leadership in foreign affairs, the absence of leaders in Congress willing to challenge the Bush administration's dominance in foreign affairs, and presidential protection by Republicans in Congress.

First, it is accurate to say that President Bush has acted with strong leadership in his conduct of U.S. foreign policy since 9/11. With 90 per cent of the American people approving his performance in the aftermath of the terrorist attacks on New York and Washington, Bush was able to portray himself as the "the man of the hour"²⁰. Furthermore, with the American people asking the White House to implement a set of domestic and international policy responses to the activities of terrorist organizations like Al-Qaeda, Bush's attitude towards Congress has been to claim essentially unilateral powers as Commander-in-Chief of the United States. In the words of former White House press secretary Ari Fleischer: "The way our nation is set up, and the way the Constitution is written, wartime powers rest fundamentally in the hands of the executive branch."²¹

With Bush's popularity remaining strong for the last three years, we could argue that there has been scant political incentive for Congress to challenge the Republican administration's national security initiatives such as the U.S.A. Patriot Act²² or the strategy of preemption developed in the "National Security Strategy of the United States of America" of September 2002.²³ In the first case, as Nancy Kassop shows, the majority of senators and representatives complied with the White House's demands to rush the bill through Congress, bypassing routine legislative procedures such as committee considerations.²⁴ In the second case, congressional authorization for the use of force against Iraq shows that members of Congress complied with Bush's decision to use preemptive strikes to overthrow Saddam Hussein.

The second variable that Hendrickson's "domestic approach" would lead one to consider is the absence of leaders in Congress willing to challenge the Bush administration's dominance in foreign affairs. If we take the example of Iraq and examine the positions of the main figures of both the Democratic and Republican parties in the

20. See George C. Edwards, "Riding High in the Polls : George W. Bush and Public Opinion", George C. Edwards III et Philip John Davies (ed.), *New Challenges For the American Presidency*, New York (NY) : Pearson Longman, 2004, p. 24.

21. Quoted in Dana Milbank, "In War, It's Power to the President", *Washington Post*, November 20, 2001, p. A01.

22. For a copy of the U.S.A. Patriot Act, see: <http://www.epic.org/privacy/terrorism/hr3162.pdf>.

23. For a copy of that document, see the White House Web site: <http://www.whitehouse.gov/nsc/nss.pdf>.

24. Nancy Kassop, *op. cit.*, p. 515.

Senate and in the House, it is possible to argue that this variable is quite relevant when it comes to explaining congressional deference to the Executive. For instance, even though he had declared that Democrats would “ask the tough questions” about President Bush’s war strategy,²⁵ in the final analysis former Senate Majority Leader Thomas Daschle’s (D-SD) position on Iraq appeared somewhat ambivalent after he decided to back H.J. Res. 114 to authorize the use of force against Saddam Hussein.²⁶ Of course, there are several explanations for his course of action. One is that Daschle didn’t want to be perceived as un-patriotic by voting against the resolution. Another is that voting in favour of the resolution was a good way for Daschle to avoid further criticism from GOP figures like Senator Trent Lott (MS) and Congressman Tom Delay (TX) – who had accused him of trying to “divide the country”²⁷ – while questioning Bush’s domestic policies as opposed to his foreign policy.²⁸

In brief, what is important here is that Daschle’s decision to back H.J. Res. 114 had a great impact on the way other Democrats in Congress voted on the resolution. Had Daschle remained strongly dedicated to questioning President Bush’s war plans for Iraq, one can argue that many members of the Democratic Party might have followed their leader and resisted the Bush administration’s efforts to exert pressure on Congress to approve H.J. Res. 114 before the midterm election of November 2002. As Senator Robert Byrd (D-WV) wrote in the *New York Times* of March 12, 2002, “Congress not only has the right to question a president’s policies, but also the duty”.²⁹ And to a large extent, Hendrickson’s “domestic” approach is correct in holding that one of the main reasons why Congress granted President Bush a great deal of leeway with respect to Iraq is that the political context in Washington was not favourable to criticism of the Republican administration from congressional leaders like Daschle.

The third factor Hendrickson uses to explain congressional deference in national security policy is presidential protection by Republicans in Congress. This is where I think the “domestic” approach appears less useful and convincing: it seems difficult to measure the impact of partisanship on congressional behaviour when we consider that in the weeks and months following September 11 most foreign policy debates and decisions in Congress have been characterized by a general consensus between the Democratic Party and the GOP. For example, there were strong bipartisan votes on S.J. Res. 23 to authorize the use of U.S. military force “against those responsible for the [terrorist] attacks launched against the United States”³⁰ (98-0 in the Senate³¹ and 420-

25. Michael Tomasky, “The Republican War Critic”, *Salon.com* :

http://www.salon.com/politics/feature/2002/03/19/dissent/index_np.html

26. For a copy of H.J. Res. 114, see <http://www.house.gov/young/iraqres.pdf>.

27. See Michael Tomasky, *op. cit.*

28. Barthélémy Courmont, “Les pouvoirs de guerre en débat à Washington”, Institut français des relations internationales (IFRI), septembre 2003, p. 63.

29. Robert C. Byrd, “Why Congress has to ask questions”, *New York Times*, March 12, 2002, Section A, p. 27.

30. For a copy of S.J. Res. 23, see <http://www.law.cornell.edu/background/warpower/sj23.pdf>.

31. For a complete overview of the results of that roll call vote, see the U.S. Senate Web site: http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=1&vote=00281

1 in the House³²), on H.J. Res. 114 to authorize the use of U.S. military force against Iraq (77-23 in the Senate³³ and 296-133 in the House³⁴), on the U.S.A. Patriot Act (98-1 in the Senate³⁵ and 357-66 in the House³⁶) and on the increase in the U.S. military budget to \$400 billion per year.³⁷ Thus, contrary to Hendrickson's thesis on congressional-presidential interplay, partisan considerations do not automatically have an impact on congressional attitudes regarding U.S. foreign policy after 9/11. Many Democrats in Congress have rallied around President Bush's policy proposals for the global war on terrorism.

Lindsay's "threat perception" approach

According to Lindsay, the main reason that Congress surrendered its foreign policy powers to the Bush administration was that the United States perceived itself to be threatened by an external enemy. This analysis seems particularly interesting when we consider that, so far, 9/11 has had a major impact on U.S. foreign policy³⁸. Furthermore, focusing on an external variable to explain congressional-executive interplay may help us understand something neglected by Hendrickson's approach: a majority of individuals in Congress have backed President Bush's national security policy proposals regardless of partisan considerations.

"If the Union's existence were constantly menaced," wrote Alexis de Tocqueville in his *Democracy in America*, "one would see the prestige of the executive growing."³⁹ This classic sentence says a lot about current congressional-executive interaction. While a "domestic approach" would lead one to explain congressional deference to the executive in reference to President Bush's leadership in foreign affairs, I believe it is impossible to separate that internal factor from the external variable from which it emerges. As polls show, and as a "domestic" approach would lead us to point out, though Bush's approval ratings were certainly above 90 per cent when the United States launched Operation Enduring Freedom in Afghanistan (October 7, 2001), such was not the case in the weeks preceding the terrorist attacks on New York and Washington. For instance, during August 2001, only 55 per cent approved President Bush's performance (see fig. 2). What this situation tells us is that in times of crisis or war, such as the situation

32. For complete results of that roll call vote, see: <http://clerk.house.gov/evs/2001/roll342.xml>.

33. For a complete overview of the results of that roll call vote, see: http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=2&vote=00237

34. See: <http://clerk.house.gov/evs/2002/roll455.xml>.

35. For a complete overview of the results of that roll call vote, see: http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=1&vote=00302.

36. See: <http://clerk.house.gov/evs/2001/roll398.xml>.

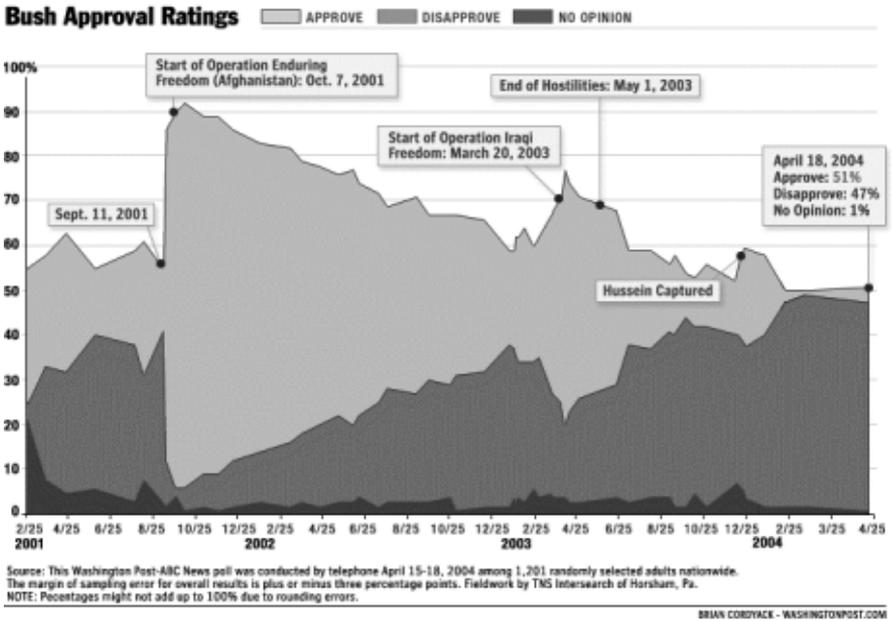
37. See Lisa Friedman, "Congress OKs \$400 Billion Defense Bill: Southland's Funding Secure", *Los Angeles Daily News*, May 22, 2003.

38. For interesting discussions of that impact, see James F. Hoge Jr. and Gideon Rose (ed.), *How Did This Happen? Terrorism and the New Year*, New York : Public Affairs, 2001; and Craig J. Calhoun, Paul Price and Ashley Timmer (ed.), *Understanding September 11*, New York : New Press, 2002.

39. Quoted in James M. Lindsay, *op. cit.*, p. 532.

following 9/11, the American people tends to rally around the flag and support its President⁴⁰ – and as Bush’s case shows, the “rally around the flag effect” seems to operate even when the White House is led by an individual who since being elected has often been portrayed as an “accidental president.”⁴¹

Fig. 2



Since 9/11, senators and representatives have tended to rally around their president just like other Americans. In his State of the Union address of January 2002, President Bush thanked the Congress for its “unity and resolve.”⁴² He was referring to the almost unlimited leeway U.S. legislators had granted him in establishing a national security policy to fight terrorism. For instance, as Nancy Kassop recalls, debates among senators on S.J. Res. 23 to authorize the use of force in Afghanistan occurred *after* the

40. For examples of theoretical contributions concerning the “rally around the flag effect”, see Richard Stoll, “The Guns of November: Presidential Reelections and the Use of Force, 1947-1982”, *Journal of Conflict Resolution*, vol. 28, n 2, June 1984, p. 231-246; and Barbara Hinckley, *Less Than Meets the Eye: Foreign Policy Making and the Myth of the Assertive Congress*, Chicago (IL): University of Chicago Press, 1994.

41. Marc J. Hetherington and Michael Nelson, “Anatomy of a rally effect : George W. Bush and the War on Terrorism”, PS : Political Science and Politics (January 2003), p. 37-42.

42. For a copy of the State of the Union Address of January 2002, see the White House Web site: <http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html>.

vote.⁴³ Thus, since 9/11, many in Congress have agreed with an argument that is often made against a legislative branch of government that is overtly assertive in foreign affairs: with 535 different personalities, egos and sets of interests, Congress is a body prone to gridlock and inaction, and this risks jeopardizing U.S. national interests when quick responses are needed to cope with an external enemy.⁴⁴

Because this argument was quite popular during the Cold War as a justification for presidential dominance in foreign affairs, I think a comparison between congressional-executive relations during the 1950s and 1960s and the relations between Congress and the White House concerning national security policy after 9/11 would be useful. During the Cold War, as Bruce Jentleson explains, “the fearsome nature of the Soviet threat and the overhanging danger of nuclear war were seen as the functional and moral equivalent of war” in the United States.⁴⁵ Describing Pennsylvania Avenue as a “one-way street,” Jentleson uses the expression “spirit of bipartisanship” to characterize the strong support from the Republican-majority Congress, led by Senate Foreign Relations Committee Chair Arthur Vanderberg, for the foreign policies of President Truman, a Democrat.⁴⁶

The same foreign policy bipartisanship lasted through almost every Pennsylvania Avenue combination: a Republican president supported by a Democratic Congress (Eisenhower, 1955-60), a Republican president supported by a Republican Congress (Eisenhower 1953-54), and Democratic presidents supported by Democratic Congresses (Truman 1949-52, Kennedy 1961-63, and Johnson 1963 to about 1966). So, in a context where there was a consensus in Washington that Soviet communism was an urgent threat that needed to be contained, partisan considerations seemed to wane in Congress and U.S. legislators tended to think that only the presidency possessed the information and expertise necessary to understand the world. As such it could move with the speed and decisiveness necessary to make key decisions, and moreover it had the will and the ability to guard secrecy. Thus, during the Cold War, and especially during the first two decades after World War II, the existence of a global threat to U.S. national security gave the Executive the opportunity to extend its foreign policy authority at the expense – some might say with the agreement – of Congress. Congress “has served us well in our internal life”, Senator J. William Fullbright once wrote, but “the source of an effective foreign policy under our system is Presidential power”.⁴⁷

Today, when Congressman Bill Young (R-FL) says that “it is important that the Congress, the House, the Senate, [and] the President [...] speak in one solid voice that we will not now nor ever tolerate the type of terrorist activities that we saw brought

43. Nancy Kassop, *op. cit.*, p. 514.

44. Ryan C. Hendrickson, *op. cit.*, p. 167.

45. Bruce W. Jentleson, *American Foreign Policy: The Dynamics of Choice in the 21st Century*, New York (NY) & London: W. W. Norton & Company, 2000, p. 120.

46. *Ibid.*, p. 119.

47. Quoted in *Ibid.*, p. 120.

upon our shores yesterday⁴⁸, or when Democratic representative Dick Gephardt says “We are shoulder to shoulder. We are in complete agreement and we will act together as one. There is no division between the parties, between Congress and the president,”⁴⁹ one can argue that there are strong incentives for the existence in Washington of a Cold War-like consensus on the threat of terrorism. Nine-eleven has created the conditions for a general agreement among Americans that international terrorism is a global threat that needs to be fully assessed by the U.S. government, and this situation has had major consequences for U.S. legislative-executive relations⁵⁰. As was the case during the Cold War, it gives the presidency many arguments to justify a concentration of U.S. foreign policy powers in the hands of the White House. If we want to protect U.S. national security against organizations like Al-Qaeda, President Bush might say, we sometimes have to act quickly, and this can mean we need shorter debates in Congress over foreign policy options to fight terrorism. This is exactly what happened with the Patriot Act, when the Bush administration exerted pressure for the bill to bypass most of the usual committee process in favour of high-level, closed-door, executive-legislative negotiations.⁵¹ This is also what happened in the counterterrorism campaign overseas, when Bush ordered sensitive intelligence briefings to be limited to eight of the 535 members of Congress.⁵² Because these kinds of increases in presidential powers would have been difficult to achieve without Congress concluding that the extraordinary times of post-9/11 demand extraordinary foreign policy measures on the part of the White House, Lindsay seems right in saying that congressional deference depends above all on whether or not the United States perceives itself as threatened by an external enemy.

The second factor Lindsay puts forward to explain congressional deference to the executive is presidential success in foreign affairs. Here, too, his approach is relevant to the discussion of post-9/11 congressional-executive relations. In the case of Iraq, for example, the continued losses suffered by U.S. troops in Baghdad and other cities have led members of Congress to question Bush’s foreign policy more than it was the case when both the Senate and House approved the use of military force against Saddam Hussein⁵³. The investigation by Congress in recent months into possible abuse of intelligence information about alleged weapons of mass destruction in Iraq represents another instance of the same phenomenon.⁵⁴ While Republican Senator John Warner said that he ordered the inquiry because of the depth and seriousness of the issue, Democrats like Congressman Henry Waxman were not afraid to state that, “[To] date,

48. See the U.S. House of Representatives Web site: <http://www.house.gov/young/terrorism.htm>.

49. Quoted in Barbara Sinclair, “Context, Strategy, and Chance : George W. Bush and the 107th Congress”, in Colin Campbell and Bert A. Rockman (ed.), *The George W. Bush Presidency : Appraisals and Prospects*, Washington (D.C.) : CQ Press, 2004, p. 122.

50. *Ibid.*

51. Nancy Kassop, *op. cit.*, p. 515.

52. Dana Milbank, *op. cit.*, p.2.

53. Mark Sherman, “Senators Debate Whether it’s Another Vietnam”, *The Seattle Times*, April 8, 2004 : http://seattletimes.nwsource.com/html/nationworld/2001898294_quagmire08.html.

54. See “US Senate Opens Iraq Weapons Probe”, *BBC News*, June 3 2003. See: <http://news.bbc.co.uk/2/hi/americas/2958138.stm>.

[President Bush has] offered no explanation as to why [he] and [his] most senior advisers made repeated allegations based on forged documents”.⁵⁵

However, as Warner’s and Waxman’s positions and recent congressional debates over the issue of Iraq show, it would be accurate to amend Lindsay’s approach by arguing that when a president experiences problems with a foreign policy plan like the recent reconstruction of Iraq, most of the members of Congress who will try to challenge the Executive belong to the opposing party. For instance, at the end of February 2004, Senate Majority Leader Bill Frist (R-TN) and Senator Jon Kyl (R-AZ) planned a lengthy debate on Iraq as a means of responding to intensifying Democratic attacks on President Bush over his conduct in the war and its turbulent aftermath.⁵⁶ Because these kinds of discussions are becoming more and more partisan, with the Republicans protecting their president and the Democrats criticizing the White House and backing Democratic presidential candidate John Kerry, I believe partisan considerations have again become important after a “presidential failure in foreign affairs.” Thus, it appears that a combination of Lindsay’s “threat perception” approach and Henehan’s critical issue theory produces a more promising explanation of congressional behaviour in national security policy than does Lindsay’s approach taken alone.

Henehan’s critical issue theory

Henehan’s theory would define 9/11 as an international event that turned the global war on terrorism into a top priority on the U.S. foreign policy agenda. According to Henehan, when a critical issue of foreign policy like terrorism moves from the international arena to the foreign policy agenda, “it produces a great deal of debate within society as a whole, within Congress, and between Congress and the president”.⁵⁷ Even if it seems that Congress has had the opportunity to play a significant role in shaping overall policy with regard to the critical issue of terrorism, the empirical evidence shows that senators and representatives did not really seize this opportunity until the Bush administration encountered its first problems in Iraq (multiplication of U.S. military losses on the ground, incapacity to find WMD, etc.). For instance, as Congressman Ron Paul (R-TX) wrote in August 2002 concerning the hearings and testimony on Iraq in the Senate Foreign Relations committee, “Never mind that our State department and CIA have stated that Iraq is not involved in terrorism [...] None of those testifying questioned for a minute the President’s absolute authority to order a military invasion at will.”⁵⁸ In sum, contrary to Henehan’s theory, I would argue that Congress did not play an assertive role in national security policy in the first months following 9/11. As I said above, Congress has rallied around the flag; it has agreed to let the Bush

55. *Ibid.*

56. Alexander Bolton, “GOP’s Iraq Ambush: Senate Republicans Work With Bush to Turn Tide on War”, *The Hill*, February 26 2004. See: <http://www.thehill.com/news/022604/iraq.aspx>.

57. Marie T. Henehan, “Congress and Critical Foreign Policy Issues: Past, Present, and Future”. See: <http://www.ou.edu/special/albertctr/extensions/spring2001/Henehan.html>

58. Representative Ron Paul, “Will Congress Debate War with Iraq?”, August 6 2002. See: <http://www.house.gov/paul/tst/tst2002/tst080502.htm>.

administration decide what should be the best policy options to protect U.S. national security against terrorism.

In this context, as Dana Milbank explains, Bush and his top foreign policy advisors “moved to seize power that [previously they] shared with other branches of government.”⁵⁹ In November 2001, only one month after 9/11, Bush—without Congressional action—had already proposed reorganizing the Immigration and Naturalization Service. He soon announced U.S. renunciation of the ABM treaty, a decision that passed without much comment on Capitol Hill.⁶⁰ And just weeks before the ABM withdrawal announcement, the White House issued the Military Order of November 13,⁶¹ which declared that the foreign citizens of the United States detained while waging the war on terror could be tried before military commissions. As James Lindsay explains, the order presumably interfered with Congress’s constitutional authority to “define and punish [...] offenses against the law of nations” and its right to make all other laws “necessary and proper” for executing the enumerated powers of the federal government.⁶² Still, members of Congress did not reject Bush’s decision. Some lawmakers like Representative Lynn Woolsey (D-CA), Senator Patrick Leahy (D-VT) and Senator Dianne Feinstein (D-CA) doubted the wisdom of the military commission or worried that the Military Order would infringe upon American civil liberties,⁶³ but the majority complied with the Bush administration on this issue.

For this and other reasons mentioned above, I think that between Lindsay’s “threat perception” approach and Henehan’s critical theory, the former offers a more accurate account of the present congressional-executive interplay in national security policy: when senators and representatives see their country threatened by an external enemy, Congress certainly takes part in the national debates over policy options, but this role is not an assertive one. It consists essentially of approving presidential foreign policy decisions *in addition to* giving the White House considerable leeway with respect to their implementation.

The second and third variables Henehan uses to explain congressional behaviour in national security policy after 9/11 can be summarized as follows: a) whether or not George W. Bush’s foreign policy is successful; and, b) whether or not the U.S. government is divided. I discussed variable a) when I tested James Lindsay’s approach, so I will not say much about it at this juncture except to mention that difficulties encountered by the Bush administration in Iraq at present show that presidential failures in foreign policy induce Congress to ask the White House more questions about the policies it has

59. Dana Milbank, *op. cit.*

60. James Lindsay, *op. cit.*, p. 540.

61. For a copy of the Military Order of November 13, see the White House Web site: <http://www.whitehouse.gov/news/releases/2001/11/20011113-27.html>.

62. James Lindsay, *op. cit.*, p. 540.

63. See Greg Neugebauer, “Military Tribunals and the War on Terrorism: Does Congress Matter?” *Juris* (Spring 2002), p. 6. See: <http://www.juris.duq.edu/spring2002/pdf/military.pdf>.

implemented. As such, I would retain this factor in my own theoretical explanation of legislative-executive interaction concerning national security policy after 9/11. However, since I did not discuss variable b) in my examination of James Lindsay's approach, I will present a more detailed analysis of it here.

When Henehan says that congressional behaviour in national security policy depends on whether or not members of the same party control both Congress and the White House, she is drawing our attention to some very important characteristics of the U.S. Congress.

First, as authors such as Justin Vaïsse observe, even if there is no strict party discipline in either the Senate or the House, partisan unity in Congress has nevertheless become stronger since the 1970s.⁶⁴ This unity was particularly evident during the second half of the 1990s, when Republicans such as Newt Gingrich (Speaker of the House from 1995 to 1999) and Jesse Helms (Chairman of the Senate Foreign Relations Committee from 1995 to 2001) led partisan efforts to confront Democratic President Clinton on foreign policy issues such as U.S. participation in and financial contribution to the activities of the UN.⁶⁵

Second, it seems important to focus on partisanship when we consider that Congress's legislative work is organized along party lines, with members of the majority party in both chambers occupying the most important and powerful positions. For example, the Speaker of the House institutionally holds broad-ranging powers and presides over debates among congresspersons. The Speaker makes rulings on points of order, has priority right of recognition on the floor, and sets the agenda by deciding what and when legislation comes before the House. The Speaker moreover appoints members of his party to task forces and has statutory responsibility to fill positions on commissions. In the Senate, the Majority Leader plays a role similar to the one played by the Speaker of the House, possessing priority right of recognition on the floor, controlling the calendar of debate and the time of discussion over legislation, ruling on points of order, appointing members of his party to task forces and also having statutory responsibility to fill positions on commissions. When we consider that in the foreign policy arena, congressional leaders like the Speaker of the House and the Senate Majority leader show "increasingly partisan patterns in their support for presidential positions,"⁶⁶ it seems

64. Justin Vaïsse, "Le Congrès", in Charles-Philippe David, Louis Balthazar, Justin Vaïsse, *La politique étrangère des États-Unis : Fondements, acteurs, formulation*, Paris: Presses de Science Po, 2003, p. 279. See also Barbara Sinclair, "Leading and Competing: The President and the Polarized Congress", in *New Challenges For the American Presidency*, George C. Edwards III and Philip John Davies (ed.), New York (NY): Pearson Longman, 2004, p. 85-100; and John E. Owens, "Challenging (and Acting for) the President: Congressional Leadership in an Era of Partisan Polarization", in *New Challenges For the American Presidency*, George C. Edwards III and Philip John Davies (ed.), New York (NY): Pearson Longman, 2004, p. 123-143.

65. See Jerel A. Rosati, *The Politics of United States Foreign Policy*, Belmont (CA): Thomson Wadsworth, 2004, p. 310-311; and Steven W. Hook and John Spanier, *American Foreign Policy Since World War II*, Sixteenth edition, Washington (D.C.): CQ Press, 2004, p. 265-266.

66. Ralph C. Carter, *op. cit.*, p. 120.

natural to argue that Congress will tend to defer more to the Executive when the majority of its members share the same party affiliation as the President. Speaker of the House Dennis Hastert (R-IL) and Senate Majority Leader Bill Frist (R-TN) have been strong supporters of Bush's foreign policy since 9/11. This has been particularly so in the case of Frist, whose actions to silence Senate Democratic critics of the war in Iraq provide evidence of close tactical coordination with the White House.⁶⁷

If the Democratic Party controlled Congress, the Bush administration would encounter a very difficult relationship with the Senate and the House. Occupying the positions of Speaker of the House and Senate Majority Leader, Democratic leaders would possess more power and incentive to bring their questions and criticisms to the floor of both chambers. George W. Bush would not find congressional approval for his legislative agenda to be as easily attainable as it appears now. In sum, congressional-executive interplay would manifest greater conflict over national security policy and it would be less pertinent to talk about a pattern of "dominant presidency-compliant Congress" than is currently the case.

Concluding reflections

Toward a theory of congressional behaviour in national security policy

The main objective of this paper has been to find the most useful and convincing theoretical explanation of congressional deference to the Executive with regard to national security policy after 9/11. To achieve this objective, I compared three approaches to U.S. congressional-presidential interaction in foreign policy: Ryan C. Hendrickson's "domestic" approach, James M. Lindsay's "threat perception" approach, and Marie T. Henehan's critical issue theory. I then tested each one using multiple examples in order to show their explanatory strengths and weaknesses.

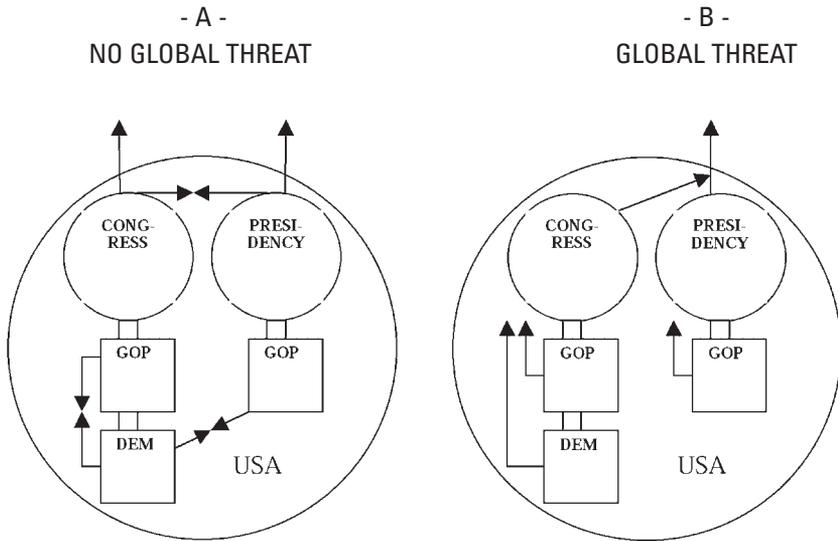
The conclusions of my paper can be summarized as follows:

- The evidence of congressional-executive interaction after 9/11 suggests that the most important variable in an explanation of congressional deference or assertiveness in national security policy is whether or not members of Congress see their country as threatened by an external enemy. When Congress believes U.S. national security is threatened by a global force such as communism or terrorism, it tends to defer to the Executive and to accept a concentration of foreign policy powers in the hands of the White House. This is the case irrespective of domestic or personal factors such as partisan considerations. Thus, after 9/11 Congress complied with the Bush administration's policy proposals to wage a global war on terrorism and there were strong bipartisan votes on legislation such as the Patriot Act and resolutions such as S.J. Res. 23 and H.J. Res. 114. In short, I think a useful theory of congressional-executive interplay with regard to national security policy would concur with

67. Alexander Bolton, *op. cit.*

Marie Henchan that when senators and representatives perceive no global threat to U.S. national security, “there is no single direction for policy – no grand strategy – and Congress is freed up to pursue a wider variety of agendas and challenge the president without being susceptible to having to restrain itself for reasons of national security.”⁶⁸ In this latter context, Washington becomes witness to a situation in which both Congress and the presidency try to play an important foreign policy role. It is a situation where Congress challenges and questions the White House and its foreign policy choices, and where parties in Congress do not hesitate to expound different points of view on U.S. national security policy in general (see fig. 3-A).

Fig. 3 • Theoretical models of congressional-executive interplay in national security policy



As Ralph Carter and others have pointed out, this depiction of congressional-executive relations seems to be a good description of what actually happened in Washington after the end of the Cold War. The collapse of the Soviet Union placed the United States in an international context characterized by the absence of a global threat to U.S. national security. This context gave everyone in Washington the opportunity to consider more than just one U.S. national security policy or grand strategy. At the time, Congress’s behaviour concerning foreign policy formulation and conduct was more a reflection of resistance towards the Executive and less an expression of willingness to comply with the White House than during the Cold War (see fig. 4).

68. Marie T. Henchan, “Critical Issues and Trends in Congressional Foreign Policy Behavior,” p. 13.

Fig. 4 • Congressional Foreign Policy Behaviours by Type and Period

| Behaviour Type | 1946-1982 | 1992-1995 |
|-----------------------|------------------|------------------|
| Compliance | 34 % | 24 % |
| Resistance | 31 % | 39 % |
| Rejection | 12 % | 10 % |
| Independence | 24 % | 28 % |
| Total | 101 % | 101 % |

Note: Rounding error produces the totals of 101 percent.

Source: Ralph Carter, 1998, p. 111⁶⁹.

As I have argued in this paper, 9/11 profoundly changed that dynamic because it created the conditions for a Cold War-like consensus in Washington. Congress came to believe that there was an urgent, global threat to U.S. national security; and to avoid jeopardizing U.S. national interests, it rallied around the flag and gave President Bush all the leeway necessary to lead the war on terrorism. In the words of Ivo H. Daalder and James M. Lindsay: “In a replay of a well-know phenomenon in American politics, the [September 11 terrorist] attacks shifted the pendulum of power away from Capitol Hill and toward the White House”.⁷⁰ As fig. 3-B shows, when Congress perceives a global threat to U.S. national security (such as communism during the Cold War or terrorism after 9/11), it tends to abandon its foreign policy role and surrender its foreign policy powers to the presidency. Within Congress, a “spirit of bipartisanship” appears as senators and representatives put their partisan considerations aside and work together to back the Executive.

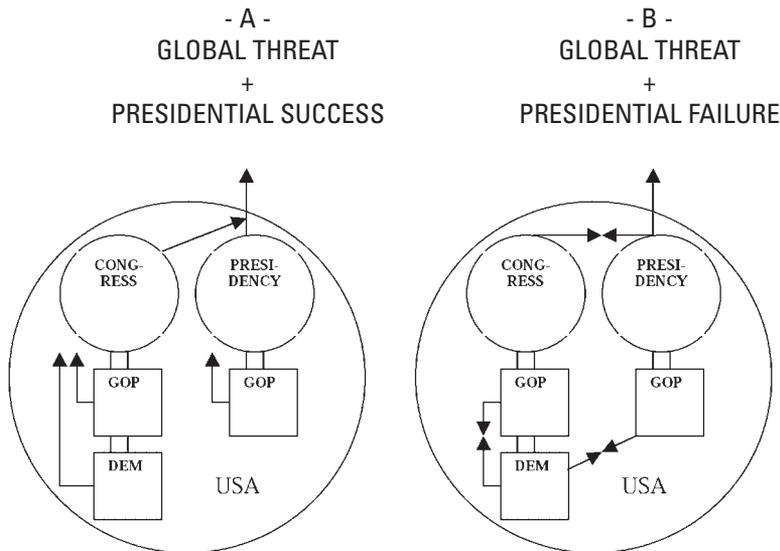
The second variable I would include in my theory of congressional-executive relations with respect to national security policy is presidential success (or failure) in foreign policy. When Congress perceives a global threat to U.S. national security, it accepts a concentration of foreign policy powers in the hands of the White House, but not at any cost and not permanently. Congressional deference to the Executive remains intact as long as the White House wages a successful foreign policy (see fig. 5-A). But if the Executive encounters major difficulties with important plans it has initiated in response to what Congress perceives as a global threat, U.S. legislators begin to question

69. Carter defines “Compliance” as a situation where the administration got exactly what it wanted; “Resistance” as a situation where Congress refused to give the administration exactly what it wanted; “Rejection” as a situation where Congress rejected the administration’s proposals; and “Independence” as a situation where Congress initiated its own foreign policy agenda. For the purpose of this paper, I take “compliance” as a synonym of congressional deference, and “resistance”, “rejection” and “independence” as different degrees or types of congressional assertiveness.

70. Ivo H. Daalder and James M. Lindsay, *America Unbound: The Bush Revolution in Foreign Policy*, Washington (D.C.): Brookings Institution Press, 2003, p. 92.

the wisdom of U.S. foreign policy; they assert their foreign policy powers to a greater degree and work to re-establish their traditional role as counterweight to the executive (see fig. 5-B). As I demonstrated in this paper, this is exactly what has been happening in the case of the war against Saddam Hussein. While the Bush administration is still unable to find WMD in Iraq, the U.S. military suffers losses everyday in Baghdad and other cities. As a result, many members of Congress have become critical of the White House.

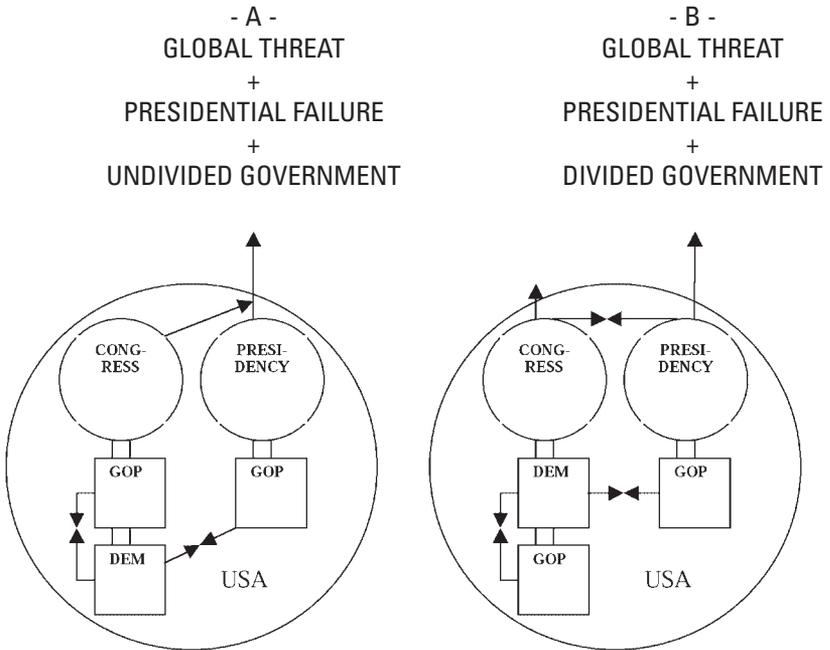
Fig. 5 • Theoretical models of congressional-executive interplay in national security policy



- I believe, however, that a situation involving both a global threat to U.S. national security and a presidential foreign policy failure requires that a third variable be taken into account in determining how aggressively Congress will assert its foreign policy powers and play an active role in determining U.S. national security policy. That variable is partisanship. In my estimation, partisanship in Congress becomes important once again when the Executive encounters problems dealing with a global threat. Because the majority party in both the Senate and the House controls leadership positions in their respective chambers, and because leaders in Congress show strong partisan patterns in their support for presidential positions, Congress will tend to defer to the Executive when the government in Washington is undivided (Congress and White House controlled by same party) (see fig. 6-A). On the contrary, senators and representatives will seriously challenge the executive when there is a divided government in Washington. Congress may even reject presidential

proposals and initiate its own policy agenda to preserve U.S. national security against an external enemy (see fig. 6-B). Right now, if we take the case of Iraq, we see that Republicans in Congress protect their president and that many Democrats criticize the administration. But because the Democratic Party does not control Congress, its members do not exercise enough institutional power to make all their criticisms heard on the floors of the Senate and the House. At the same time, the GOP has made sure that close coordination between members of Congress like Senate Majority Leader Bill Frist and the White House will enable the party to send a message of strong unity to the Democrats and silence critics like Tom Daschle (D-SD), making them appear “un-patriotic” or “obstructionist.” Thus, because the same party controls both Congress and the White House, deference to the Executive in issues of national security policy distinguishes of congressional sessions and debates (see fig. 6-A).

Fig. 6 • Theoretical models of congressional-executive interplay in national security policy



While I hope that the theoretical explanation developed in this paper furthers understanding of congressional-executive relations in connection with national security after 9/11, I am also conscious that my models have their limits. First, it could be argued that the theoretical explanation advanced here focuses on partisanship but neglects other domestic or personal variables like ideology, the fact that the primary

goal of senators and representatives is to win re-election,⁷¹ or the fact that the main tendency of individuals in Congress is to pursue personal policy preferences⁷² and/or to satisfy powerful lobbies. To a large extent, I would agree with such a view. But at the same time, I would argue that, just like partisanship, ideology and the importance accorded to winning re-election or to personal policy preferences tend to wane when members of Congress perceive that the United States is threatened by an external enemy. In other words, I think that in the post-9/11 era, senators and representatives have put their personal goals and ideological differences aside. Both liberals and conservatives have tended to maintain that protecting the American people against terrorism is their first priority and that times of crisis demand great unity and support for the policies of the White House. “[M]ost liberals have grown lazy in defending civil liberties and now are approving wars that we initiate,” stated Representative Ron Paul (R-TX) on July 2003.⁷³ Such statements lead me to believe that 9/11 has made ideological considerations in Congress less important than they were before.

That being said, I think two conditions can give the domestic or personal factors mentioned above renewed influence in the Senate and in the House: a) congressional belief that terrorism is no longer a global threat to U.S. national security; and, b) presidential failure in foreign policy. But since Congress is organized along partisan rather than ideological lines, and since parties have been ideologically polarized in the Senate and the House since the 1970s,⁷⁴ I think partisanship remains the most useful domestic variable for predicting congressional behaviour with respect to its foreign policy powers. For instance, in May 2004, with the Bush administration facing the Abu Ghraib prison scandal, congressional hearings on Iraq broke into partisan bickering as photos of prisoner abuse were examined and discussed by U.S. legislators.⁷⁵ In the House, Jeff Miller (R-FL) criticized Minority Leader Nancy Pelosi (D-CA) for comments she made about President Bush’s handling of the Iraq campaign. He also drew anger from Ellen Tauscher (D-CA) when he interrupted her. “With all due respect, Mr. Miller, I sat here and listened to you politically attack the leader of my

71. This argument is developed in contributions like David Mayhem, *Congress: The Electoral Connection*, New Haven (CT): Yale University Press, 1974.

72. For example, see Keith Krehbiel, “Where’s the Party?”, *British Journal of Political Science*, n° 23, 1993, p. 235-266 and *Idem*, *Pivotal Politics: A Theory of U.S. Lawmaking*, Chicago: University of Chicago Press, 1998.

73. Representative Ron Paul, “Neo – CONNED!” July 10 2003. See: <http://www.house.gov/paul/congrec/congrec2003/cr071003.htm>.

74. See for example, David W. Rohde, *Parties and Leaders in the Postreform House*, Chicago: University of Chicago Press, 1991; Gary C. Jacobson, “Party Polarization in National Politics: The Electoral Connection,” in *Polarized Politics: Congress and the President in a Partisan Era*, Jon R. Bond and Richard Fleisher (ed.), Washington D.C.: CQ Press, 2000, p. 9-30; and Jamie L. Carson, Michael H. Crespin, Charles J. Finocchiaro and David W. Rohde, “Linking Congressional Districts Across Time: Redistricting and Party Polarization in Congress,” paper prepared for the 2003 Annual Meeting of the Midwest Political Science Association, Chicago, IL.

75. Pauline Jelinek, “More Prison Abuse Photos Disclosed; House Panel Erupts Into Bickering Over Iraq”, *The Boston Globe*, May 21 2004 : http://www.boston.com/dailynews/142/wash/More_prison_abuse_photos_discl.:shtml.

party who I think asked some very serious and sobering questions,” Tauscher said. “And if you’re going to turn this into a political meeting perhaps you should leave this building to do that.”⁷⁶

A second reservation concerning my paper could centre on the question of how it is possible to determine which one of my model’s three independent variables (no threat/threat perception, foreign policy failure/success, or divided/undivided government) is the most important to explain congressional assertiveness / deference to the executive in national security policy⁷⁷. I think that in order to answer this question I would want to attempt to develop a general theory of congressional behaviour in relation to national security policy. And what would be useful in this context is a demonstration based on the scientific deductive method in order to measure the correlation between the dependent variables⁷⁸ of my models (congressional assertiveness / deference) and their independent variables⁷⁹ (no threat / threat perception, foreign policy failure / success, and divided / undivided government).

The scientific deductive method involves two steps⁸⁰:

1. A hypothesis (or a set of hypotheses) is elaborated. It derives from a theoretical argument such as the one I proposed in this paper. As we saw earlier, the case of congressional-executive interaction in the post-9/11 era allowed me to develop three pairs of hypotheses about congressional behaviour with respect to national security policy:

First pair: Congress defers to the executive when its members perceive a global threat to U.S. national security / Congress asserts its national security powers when it perceives no global threat to U.S. national security;

Second pair: Congress defers to the executive when U.S. legislators believe U.S. foreign policy is successful / Congress asserts its national security powers when U.S. legislators believe U.S. foreign policy is unsuccessful (or a failure);

Third pair: Congress defers to the executive when the government in Washington is undivided / Congress asserts its national security powers when the government in Washington is divided.

76. *Ibid.*

77. I would like to thank Mr. Joseph Grieco for drawing this problem to my attention during my ISA presentation.

78. Stephen Van Evera defines the dependent variable as “A variable framing the caused phenomenon of a causal theory or hypothesis. In the hypothesis “literacy causes democracy”, the degree of democracy is the dependent variable”. Stephen Van Evera, *Guide to Methods for Students of Political Science*, Ithaca and London: Cornell University Press, 1997, p. 11.

79. Stephen Van Evera defines the independent variable as “A variable framing the causal phenomenon of a causal theory or hypothesis. In the hypothesis “literacy causes democracy”, the degree of literacy is the independent variable”. *Idid.*, p. 10.

80. André-J. Bélanger, “Épistémologues de la science politique à vos marques !”, in *Épistémologie de la science politique*, Lawrence Olivier, Guy Bédard and Jean-François Thibeault (dir.), Sainte-Foy : Presses de l’Université du Québec, 1998, p. 29.

2. A test of the hypotheses is performed. It consists of observing the relevant empirical evidence and data, and asking if observations are congruent with the hypotheses. In my case, three pairs of tests would be required:

First pair: *Does Congress defer each time U.S. legislators perceive that the United States is threatened by an external enemy?* To answer this question, an observation of congressional-executive relations during the 1812 war against Great Britain, during the 1898 war against Spain, during World War I against Germany and Austria-Hungary, during World War II against Germany, Italy and Japan, and during the Cold War would be useful, because they all represent periods when the United States faced at least one major external enemy. And as preliminary evidence suggests⁸¹, those periods also corresponded with congressional deference in foreign policy, which confirms one of the hypotheses I developed in this paper.

Is Congress assertive each time U.S. legislators perceive that the United States is not threatened by an external enemy? Here, the test would consist of observing cases such as congressional-executive relations during the 19th Century (after the 1812 war, except the period of the American Civil War of 1861-1865), and during the post-Cold War period (1991-2001). These are two periods when U.S. legislators and the American people tended to agree that the United States was evolving in a peaceful world. And as preliminary evidence shows, those periods also corresponded with great congressional assertiveness in foreign policy⁸². So a second hypothesis developed in this paper seems to pass the test.

Second pair: *Does Congress defer each time U.S. legislators think U.S. foreign policy is successful?* Answers to this query could derive from observations of congressional-executive interaction during the presidencies of Franklin Delano Roosevelt and Truman (during and soon after World War II), and George W. Bush (during and soon after the Gulf War of 1991). Preliminary evidence tends to confirm this third hypothesis.⁸³

Is Congress assertive each time U.S. legislators think U.S. foreign policy is unsuccessful (or a failure)? Here, the examples of congressional-executive relations during the failures of the Vietnam War and the humanitarian intervention in Somalia in 1993 would be helpful. And again, the evidence would lead me to answer the question in the affirmative.⁸⁴

Third pair: *Does Congress defer each time there is an undivided government in Washington?* Many examples would serve to answer the question, such as congressional-

81. See Justin Vaïsse, *op. cit.*, p. 250-252.

82. *Ibid.*

83. *Ibid.*

84. In the case of Vietnam, see Glenn P. Hastedt, *American Foreign Policy: Past, Present, Future*, Fifth edition, Upper Saddle River: Prentice Hall, 2003, p. 241. In the case of Somalia, see Ryan C. Hendrickson, *op. cit.*, p. 35-39.

executive relations during the following periods: 1921-1933 (Republican presidencies of Warren Harding, Calvin Coolidge and Herbert Hoover vs. 67th, 68th, 69th, 70th, and 71st Republican congresses); 1933-1947 (Democratic presidencies of Franklin Delano Roosevelt and Harry Truman vs. 73rd, 74th, 75th, 76th, 77th, 78th, 79th Democratic congresses); 1949-1953 (Democratic presidency of Truman vs. 81st and 82nd Democratic congresses); 1961-1969 (Democratic presidencies of John F. Kennedy and Lyndon Johnson vs. 87th, 88th, 89th and 90th Democratic congresses); 1977-1981 (Democratic presidency of Jimmy Carter vs. 95th and 96th Democratic congresses); and 1993-1995 (Democratic presidency of Bill Clinton vs. 103rd Democratic Congress).

Is Congress assertive each time there is a divided government in Washington? Again, many periods in the history of U.S. congressional-executive relations could be explored here: 1919-1921 (Democratic presidency of Woodrow Wilson vs. 66th Republican Congress); 1947-1949 (Democratic presidency of Harry Truman vs. 80th Republican Congress); 1959-1961 (Republican presidency of Dwight Eisenhower vs. 86th Democratic Congress); 1969-1977 (Republican presidencies of Richard Nixon and Gerald Ford vs. 91st, 92nd, 93rd and 94th Democratic congresses); 1987-1993 (Republican presidencies of Ronald Reagan and George H. W. Bush vs. 100th, 101st and 102nd Democratic congresses); and 1995-2001 (Democratic presidency of Bill Clinton vs. 104th, 105th and 106th Republican congresses).

Concerning this third pair of questions, and contrary to the first and second, I find it difficult to observe a clear linkage between congressional deference / assertiveness and partisanship with only preliminary data or evidence. With the 1995-2001 period, evidence clearly shows that congress tends to be assertive in national security policy when the government in Washington is divided⁸⁵. But as I noted earlier, Congress deferred to the executive even in times of divided government during the first two decades of the Cold War. This example tends to confirm one of the central ideas of this paper: the most significant variable in explaining congressional deference or assertiveness in national security policy is whether or not U.S. legislators see their country as threatened by an external enemy.

To reinforce this idea and lend credence to the three pairs of hypotheses presented above, I would ultimately have to select those periods of congressional-executive relations in which it is possible to isolate each of the three independent variables (no threat / threat perception, foreign policy failure / success, and divided / undivided government) of my models. For instance, I could compare the “no threat + divided period” of 1995-2001 and the “threat + divided period” of 1955-1960 to see if the “threat / no threat perception pair” really has an impact on congressional behaviour in national security policy. Another example would be to compare the “no threat + undivided

85. Henchan, Marie, “Critical Issues and Trends in Congressional Foreign Policy Behavior”, p. 2.

period” of 1993-1995 with the “no threat + divided period” of 1995-2001 to see to what degree the “divided / undivided government pair” influences congressional-executive interaction concerning national security affairs. With additional comparative tests of this sort, I would ultimately be able to determine which of the “no threat / threat perception”, “successful / unsuccessful foreign policy” and “divided / undivided government” pairs influences congressional behaviour the most (or the least).

A third reservation about my approach can be expressed as follows: Perhaps the model developed here provides a convincing explanation of congressional deference to the executive in national security policy after 9/11, but what does it have to say about the future development of congressional-executive interplay in national security affairs? To this question, I would reply that my theoretical explanation can provide *some* insight into such developments, but it cannot offer a comprehensive commentary. So before I conclude, I would like to point out a few examples that indicate where my models, however much explanatory power they may possess, leave certain questions unanswered:

Based on my models, I can argue that congressional assertiveness in foreign policy will increase when individuals in Congress no longer perceive terrorism to be a global threat to U.S. national security. But it remains difficult to predict when and why such changes in congressional perceptions are likely to occur. Will it perhaps be the result of a significant event like the capture of Osama Bin Laden by the Bush administration? If this should be the case, one could say that presidential success in foreign affairs does not work in favour of congressional deference *all the time*. It can also diminish the perceived importance of a global threat among members of Congress and, in keeping with my theoretical explanation, lead to greater congressional assertiveness in national security policy.

My models suggest that a “new September 11” on American soil would make Congress rally around the flag again, and, for national security reasons, accept a greater concentration of foreign policy powers in the hands of the White House. However, the Senate and the House could also interpret a “new September 11” as a “presidential foreign policy failure.” What would result from this “new September 11”? My models suggest congressional deference to the Executive in national security affairs, but there is good reason to suppose that the answer would not be quite so simple.

In sum, these limitations and others that readers might conceivably point out lead me to temper the “scientific” claims of my research. Because I do not profess to be able to predict congressional behaviour any more than the social sciences are in general capable of predicting any human behaviour, I think my research should be understood for what it is: an attempt to explain congressional deference to the Executive in national security policy in *one particular* case and context – the aftermath of 9/11.

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