

Congressional Action on Foreign Aid Policy, 1945-2003

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Introduction

The primary objective of this paper is to document and to examine the role that the United States Congress has played in developing and institutionalizing U.S. policy on foreign economic, military, and development assistance from the immediate post-World War II era to the immediate post-9/11 era. Hopefully, it speaks also to the literature devoted to understanding the dynamics that influence, and that inhibit, periods of major policy reform during the rise of the “policy state”¹ – the era that emerged after World War II, in which the U.S. government expanded its legitimate control over a greater number of issues, and in which control over the direction of public policy on these issues became the main goal and the main prize of political office. Many scholars have examined and explained periods of major reform during this period within domestic issue areas – civil rights, labor, education, and immigration, to name a few – but there are fewer accounts of the factors that contribute to major reform (or lack thereof) on major issues within the foreign policy realm.

Some scholars who have examined major reform in foreign policy issue areas include Richard H. Immerman,² in his account of the politics of intelligence reform, and Jennifer L. Merolla and Paul Pulido,³ in their examination of the major changes to homeland security and terrorism policy in the post-9/11 environment. Even fewer scholars have examined the particular pathways through which foreign aid policy has developed over time. This may be because foreign aid policy is, perhaps, a difficult case. The American public is widely unformed or misinformed about the actual levels of federal spending devoted to foreign assistance,⁴ and it would be difficult to argue that foreign aid could be placed amongst the

¹ Karen Orren and Stephen Skowronek, “The Policy State: A Developmental Synthesis,” unpublished paper, 2011.

² Richard H. Immerman, “The Politics of Intelligence Reform” in Jenkins and Milkis, eds., *The Politics of Major Policy Reform in Postwar America*, 2014, pp. 227-252.

³ Jennifer L. Merolla and Paul Pulido, “Follow the Leader: Major Changes to Homeland Security and Terrorism Policy” in Jenkins and Milkis, pp. 253-281.

⁴ John Norris, “Five Myths about Foreign Aid,” *Washington Post*, 28 April 2011.

most divisive issues of the past half-century. In this way, one of the major pathways by which major policy reform can potentially occur – through the construction of an issue as a “public problem” that requires elite, governmental attention to solve⁵ – may simply not be present in the case of foreign aid. With this in mind, this paper looks primarily at the institutional role that Congress has played in constructing foreign aid policy, absent any “electoral connection”⁶ in this particular issue area, and examines the instances of landmark legislation on foreign aid that Congress has passed within a broader historical narrative that seeks to examine Congressional responsiveness to the external, strategic environment and Congressional responsiveness to actions of the Executive.

In order to compile a comprehensive universe of landmark laws related to foreign aid, I utilized three crucial sources. The first are Stephen W. Stathis’ two compilations of landmark U.S. acts and treaties – the first examining the time period 1774-2002⁷ and the second (edition) examining 1774-2012⁸ – that were generated through an exhaustive examination of the Congressional record. Second, after extracting a list of foreign aid-related acts from Stathis’ comprehensive account, I then cross-checked this compilation against David R. Mayhew’s *Divided We Govern*⁹ dataset, which was also sourced from a comprehensive sweep of contemporary and historical assessments of important legislation, and which included (where possible) a record of the enacting coalitions in Congress. Third, after combining these lists, I utilized Keith T. Poole and Howard Rosenthal’s *Vote View*¹⁰ dataset in order to supplement the enacting coalition data recorded by Mayhew and to provide additional information, in some cases, on final passage votes.

⁵ Jenkins and Milkis, Introduction.

⁶ David R. Mayhew, *Congress: The Electoral Connection*, 1974.

⁷ Stephen W. Stathis, *Landmark Legislation 1774-2002: Major U.S. Acts and Treaties*, 2003.

⁸ Stephen W. Stathis, *Landmark Legislation 1774-2012: Major U.S. Acts and Treaties*, 2014.

⁹ David R. Mayhew, *Divided We Govern: Party Control, Lawmaking, and Investigations 1946-2002*, 2005.

¹⁰ Keith T. Poole and Howard Rosenthal, *Vote View Database for Windows*, 2003.

I have also supplemented these findings, in some cases, with roll call data from Govtrack.us (which, in turn, leverages some of Poole and Rosenthal's data) and from the Office of the Clerk of the U.S. House of Representatives (Clerk.house.gov). Where possible, I have tried to include information that highlights differences between Northern and Southern Democrats in voting coalitions prior to 1964 – while also noting that, generally speaking, there were no discernible “conservative coalition” votes that bled over into final passage votes in the foreign aid issue area. Any instances in which the total numbers of Democrats and Republicans do not add up their total numbers in the House and Senate during that time, or that do not sum to overall numbers in both those institutions, are likely the result of a few members not voting in the final passage vote, of small numbers of “other” party members present in that particular Congress, or of small errors in the data. Finally, the landmark laws that serve as the primary building blocks of this analysis are of my own selection. I have tried to include those laws that institutionalized new policy, that represented significant departures from previous policy, and/or that represented larger trends in any particular time period under examination. The result, I hope, is a representative narrative of the development of U.S. foreign aid policy, examined through the lens of major Congressional actions over time.

The main argument that this paper seeks to advance is that the development of foreign aid policy has occurred in multiple conceptual layers. The first of these stories, traced throughout the paper, demonstrates how Congressional action on foreign aid has responded to external world events and to strategic international priorities. These reactions to changes in the external environment are evidenced by shifting foreign aid policy priorities over time, to include shifting regional foci and the enactment of legislation intended to apply to specific countries during specific crises. The second of these developments is an inter-institutional

story of the evolving relationship between the Congress and the Executive, and their respective prerogatives in determining United States foreign policy. There is a clear historical narrative of “reaction and counter-reaction”¹¹ between Congress and the Executive, in which Congress has insisted on using its foreign policy-making powers more assertively during certain periods than in others. Congress typically reasserts its power in the foreign policy sphere after demonstrated abuses of Executive power – and these episodes seem to occur after periods in which the Executive has consolidated foreign policy decision-making power in times of war or crisis. This cyclical battle clearly spills over into Congress’ involvement in and oversight of foreign aid policy decision-making. Congress has also tended to pursue broad objectives – both in the domestic and foreign policy realms – that significantly shaped the restrictions and the conditions that have been placed on foreign aid over time. Finally, this paper will dive selectively into an intra-institutional story, providing information on enacting coalitions in the House and the Senate upon final passage for some of the most important foreign aid enactments.

The paper will first take a wider view of Congressional powers and prerogatives in foreign policy-making – particularly in relation to the competing, overlapping powers of the Executive – and of Congress’ foreign aid decision-making structures, more specifically. The paper will then turn to an analysis of the development of foreign aid policy as organized into distinct historical periods that capture important moments of policy institutionalization and revision. Finally, the paper will conclude with a brief discussion of the major factors that have shaped Congressional action on U.S. foreign aid policy from the end of World War II to the beginning of the War on Terror – primarily, external events, inter-institutional struggles with the Executive branch, and the pursuit of broad, overarching objectives.

¹¹ Gerald Felix Warburg, *Conflict and Consensus: The Struggle Between Congress and the President over Foreign Policymaking*, 1989.

Congressional Powers in Foreign Affairs: An “Invitation to Struggle”

The foreign policy-making powers of the Legislative and Executive branches of the American government are, by design, intended to overlap and to compete with one another. Fearful both of an imperialist President and of a Congress able to consolidate law-making powers and effectively legislate the other branches out of existence, the American Founders intentionally constructed a system of institutional checks and balances that would govern both the branches’ interactions with each other and the policy decision-making process that would shape the United States’ relationships with and behavior toward foreign nations. Also fearful that the United States would become embroiled in foreign conflict and intrigue, the American Founders constructed complicated processes for the declaration of war and the ratification of treaties, amongst other things, to ensure that the United States’ actions abroad would be considered and deliberate. The distribution of these powers in the foreign policy-making (and the domestic) realms amounts to an epic “invitation to struggle”¹² between the Executive and the Congress that promotes a dynamic, and sometimes fraught, relationship between the two branches. And, while the powers of the Executive have, over time, come to resemble what some scholars have labeled an “imperial” Presidency,¹³ there have also been periods of time in which Congress has directly, and critically, responded to abuses of Executive power.

The powers given to Congress by the Constitution in the realm of foreign policy are outlined in Article 1, Section 8. Arguably, some of the most important of these powers include the power to appropriate funds (the so-called “power of the purse”), the power to declare war, and the powers, in the Senate, to ratify treaties and to confirm important

¹² Gerald Felix Warburg, “Congress: Checking Presidential Power” in Roger Z. George and Harvey Rishikof, eds., *The National Security Enterprise: Navigating the Labyrinth*, 2011.

¹³ Arthur M. Schlesinger, Jr. *The Imperial Presidency*, 1973, among others.

cabinet-level (and other) appointments.¹⁴ The powers of the Executive are somewhat more “ambiguous” – and include jurisdiction over diplomatic activities and the President’s role as Commander in Chief of the Armed Forces of the United States.¹⁵ Given the competition and overlap between Congressional and Presidential powers in foreign affairs, and the President’s various advantages in information and ability to act as a ‘unitary’ player on foreign policy issues, Congress’ main recourse in shaping the foreign policy agenda lies in its power to oversee Executive action and to signal priorities (and dissatisfactions) through appropriations. As stated by Jeffery A. Meyer, Congressional “control” over foreign policy is the power to review.¹⁶ And, in contrast to the common belief that there has been an enduring consensus in American foreign affairs, politics – institutional, partisan, and personal – simply do not “stop at water’s edge.”

Congress and Foreign Aid: A Brief Overview

For the purposes of this paper, foreign aid is defined as the transfer abroad of money, materials, or services in the form of gifts, loans, sales, credits, guaranties, or subsidies by the United States government – or similar, regulated transfers by private entities.¹⁷ Historically, several rationales have been given in support of the use of foreign aid as a foreign policy tool, to be wielded both as an incentive and as a potential punishment. American commercial interests are often invoked in support of foreign aid, as are humanitarian concerns. Arguably the most prevalent, and the most effective, rationale that has been promulgated is one that calls upon foreign aid’s importance in enhancing United States national security. The broad strokes of this line of argumentation are that foreign aid

¹⁴ Warburg, in George and Rishikof, 2011.

¹⁵ Warburg, in George and Rishikof, 2011.

¹⁶ Jeffery A. Meyer, “Congressional Control of Foreign Assistance,” 1988.

¹⁷ Slightly modified definition from Meyer, 1988.

has the ability to help stabilize nations (economically, and also in terms of security) in fights against America's enemies (read Communism, and later, terrorism). Congress has played an important and enduring role in helping to shape U.S. responses to shifting external environments in line with these broad national security goals.

Within Congress, the primary Committees that currently have jurisdiction over foreign aid authorizations are the House Foreign Affairs Committee and the Senate Foreign Relations Committee (overseeing most forms of aid) and the House and Senate Agriculture Committees (overseeing food aid, particularly). In terms of foreign aid appropriations, the House and Senate Appropriations Subcommittees on State-Foreign Operations, Agriculture, and Defense hold primary responsibility for funding most foreign aid accounts.¹⁸ It is important to note that, as appropriations committees have become more powerful over time (at the expense of their authorizing counterparts), so too have foreign aid appropriations become increasingly more important as policy vehicles. This is witnessed by the fact that a comprehensive foreign aid authorization has not been passed since 1985, and more and more foreign aid policy language has commonly been inserted into omnibus appropriations bills.¹⁹ Just as foreign aid authorizations have followed this broader institutional trend, there have been several other trends relating to Congressional action on foreign aid that are worth mentioning briefly here.

Firstly, Congressional oversight of foreign aid activities has varied across time. As documented by Meyer, there have been at least three distinct periods of Congressional oversight of Executive foreign aid activity: Congress gradually turned from a "casual bystander" during the "delegation phase" in the 1960s, to an "informed spectator" during the "investigation phase" of the 1970s, and, finally, to an "active participant" in foreign aid

¹⁸ Curt Tarnoff and Marian Leonardo Lawson, "Foreign Aid: An Introduction to U.S. Programs and Policy," 2012.

¹⁹ Tarnoff and Lawson, 2012.

policy-making during the “review phase” in the 1980s.²⁰ This paper will provide a continued examination of these trends in Congressional oversight and in Congressional policy-making (and policy-constraining) action over time. Another broad trend in Congressional action on foreign aid is that Congress, generally, tends to pursue broad objectives over time,²¹ and these objectives have very often resulted in Congress placing corresponding restrictions and conditions on foreign aid programs. Some of these broad objectives, which will be discussed in more detail throughout the paper, include arms control, human rights concerns, democracy promotion, and the war on drugs. These Congressional objectives and larger trends have continually made an enduring impact on the direction of U.S. foreign aid policy – and the remainder of this paper endeavors to trace these historical developments.

The Aftermath of World War II and the Emerging Cold War – 1945-1950s: Foreign Aid Becomes Foreign Policy

The United States underwent a profound shift in its orientation toward the outside world in the immediate post-World War II era. Instead of retreating once again into isolationism, as it had done in the immediate aftermath of World War I, the United States became a global leader, filling the economic and military vacuum left in a devastated Europe and rising to meet the new challenge presented by the Soviet Union, a former ally and potential new foe. The immediate post-war period witnessed the birth of several new international institutions, crafted primarily by the United States, which were intended to provide an institutional framework to manage the economic and security concerns of all nations and to prevent any future devolution into absolute war. Along with the United States’ ratification of the United Nations Treaty, a correction of the failure to participate in

²⁰ Meyer, 1988.

²¹ Warburg, 1989.

Wilson's League of Nations, the United States Congress also passed several other acts during this period that would have important implications for the later institutionalization of U.S. foreign aid policy.

During this period, Congress largely consented to U.S. participation in world organizations, and helped create both the international and domestic structures that would help govern a more institutionalized foreign aid policy in the future. One such significant act was the passage of the Bretton Woods Agreement Act (Approved July 31, 1945 - P.L. 79-171; 22 U.S.C. 286), which authorized U.S. participation in multilateral development banks, to include the International Monetary Fund and the International Bank for Reconstruction and Development.²² The Senate also ratified U.S. Participation in the United Nations (Concluded June 26, 1945; ratified by the Senate July 28, 1945 - 59 Stat. 1031), which provided for U.S. membership in all six key organizations of the United Nations – the General Assembly, the Security Council, the Economic and Social Council, the International Court of Justice, the Trusteeship Council, and the Secretariat.²³ And, a few months later, Congress allowed the appointment of U.S. representatives to these UN agencies (Approved December 20, 1945 - P.L. 264; 59 Stat. 619-621).²⁴

In terms of constructing new domestic foreign policy-making structures, the passage of the National Security Act of 1947 (Approved July 26, 1947 - P.L. 253; 61 Stat. 495-510) – passed in both the Senate and the House by voice vote – created the modern U.S. foreign policy-making apparatus by consolidating the War and Navy Departments into a single Department of Defense, headed by a civilian Secretary of Defense, by designating the Chairmen of the Joint Chiefs of Staff as the principal military advisers to the President, and

²² Stathis, 2003.

²³ Stathis, 2003, pp. 227.

²⁴ Stathis, 2003, pp. 227.

by establishing the National Security Council (as well as the position of a National Security Adviser) to coordinate national security policy.²⁵ These broad, structural changes were prompted by perceived failures in American performance during World War II; and, in establishing these new Executive branch structures, Congress sought to mitigate these issues and to rationalize the national security process. Later, abuses of power within some of these very structures, primarily in the National Security Council, would prompt Congressional backlash and enhanced Congressional control over foreign policy-making.

Foreign aid policy in the immediate post-war era was primarily ad hoc, responding to crises as they occurred – and the main objective motivating U.S. aid to foreign nations during the immediate post-war period was to prevent the spread of Communism. Indeed, the strategic, overarching logic of foreign aid policy from the end of World War II to the collapse of the Soviet Union in 1991 was to enhance the stability of foreign nations in order to prevent them from drifting into the Soviet sphere of influence. In this regard, Congressional pursuit of the broad objective of anti-Communism responded to the new, strategic environment that emerged in the post-war era, and this objective became a permanent condition of United States’ foreign aid policy until the late 1980s.

Some early examples of Congressional approval of aid in the service of stabilizing foreign nations include the Foreign Relief Act of 1947 (Approved May 31, 1947 - P.L. 84; 61 Stat. 125-128), which provided \$350 million in economic assistance to several countries damaged by the effects of the war and by the severe winter of 1946-1947 – and which stipulated that the vast majority of these funds would be made available to Austria, China, Greece, Hungary, Italy, Poland, and Trieste – the nations that appeared to be most “at risk”

²⁵ Stathis, 2014.

in the immediate aftermath of the war.²⁶ Similarly, the Greek-Turkish Aid Pact of 1947 (Approved May 22, 1947 - P.L. 75; 61 Stat. 103-105) highlights Congressional response to immediate, international crises. In the pact, Congress authorized \$400 million in economic and military aid to the governments of Greece and Turkey, both of which were engaged in defending against Soviet encroachment in the region at the time.²⁷ The Pact easily passed in the Senate (67-23) on April 22, 1947, with 32 Democrats (15 Northern and 17 Southern) voting in favor and 35 Republicans voting in favor – and the Pact also easily passed in the House (287-107) on May 9, 1947, with 160 Democrats (61 Northern and 99 Southern) voting in favor and 127 Republicans voting in favor. These two acts served as precursors to the Marshall Plan, the passage of which irrevocably institutionalized foreign aid as foreign policy.

Passage of the Greek-Turkish Aid Pact, 1947

U.S. House	“Yea”	“Nay”	Total
Democrat	160	13	173
Republican	127	94	221
Total	287	107	

U.S. Senate	“Yea”	“Nay”	Total
Democrat	32	7	39
Republican	35	16	51
Total	67	23	

Data Source: Mayhew, Divided We Govern

The Marshall Plan, the largest, most comprehensive aid package in U.S. history to that point, firmly established foreign aid as a viable tool in advancing U.S. foreign policy

²⁶ Stathis, 2003, pp. 230.

²⁷ Stathis, 2003, pp. 230.

objectives. The Plan (Approved April 3, 1948 - P.L. 472; 62 Stat. 137-159) established the Economic Cooperation Administration and authorized \$5.3 billion for the first year (of four years) of economic assistance to sixteen European countries.²⁸ The Plan also provided \$275 million for additional military aid to Greece and Turkey, \$463 million for economic and military aid for China, and \$60 million for a United Nations fund for children.²⁹ The Plan passed the Senate on March 13, 1948, with 38 Democrats (18 Northern and 20 Southern) and 31 Republicans voting in favor – and passed the House on March 31, 1948, with 158 Democrats (66 Northern and 92 Southern) and 171 Republicans voting in favor. Two years later, Congress expanded upon the Marshall Plan precedent with passage of the Foreign Economic Assistance Act of 1950 (Approved June 5, 1950 - P.L. 535; 64 Stat. 198-210), which authorized an additional \$3.6 billion in appropriations for six foreign aid programs – the Marshall Program, economic aid to Korea, aid to the U.S.-recognized government of China, the United Nations program to aid Palestine refugees, the United Nations International Children’s Emergency Fund (UNICEF), and the “Point Four” program, which called for technical assistance and capital investment in economically underdeveloped countries.³⁰

²⁸ Stathis, 2003, pp. 231.

²⁹ Stathis, 2003, pp. 231.

³⁰ Stathis, 2003, pp. 235.

Passage of the Marshall Plan, 1948

U.S. House	“Yea”	“Nay”	Total
Democrat	158	11	169
Republican	171	61	232
Total	329	72	

U.S. Senate	“Yea”	“Nay”	Total
Democrat	38	4	42
Republican	31	13	44
Total	69	17	

Data Source: Poole and Rosenthal, Vote View

Congress further institutionalized foreign aid “as foreign policy” throughout the 1950s – and while Congress largely delegated much authority to the Executive in managing the foreign aid programs of the late 1940s, some of the first restrictions on aid appear in the authorization bills of the 1950s. These restrictions, however, pale in comparison to later restrictions Congress would place on the President, and these restrictions allowed for the President to easily bypass them with citation of any national security priority.³¹ For example, the Mutual Defense Assistance Control Act of 1951 (Approved October 6, 1951 - P.L. 213; 65 Stat. 644-647) provided for mandatory termination of aid to any country that was supplying Soviet-dominated areas with arms or munitions, unless the President determined that such shipments were “not detrimental to national security.”³² The Mutual Security Act of 1951 (Approved October 10, 1951 - P.L. 195; 65 Stat. 373-387), which authorized approximately \$7.5 billion for foreign military, economic, and technical aid, served as the first legislative vehicle on foreign aid policy that would be renewed in Congress each year for

³¹ Meyer, 1988.

³² Stathis, 2003, pp. 237-238.

a decade.³³ The Act easily passed in the House (235-98) and in the Senate (56-21).

Additionally, the Mutual Security Act of 1954 revised and consolidated all previous foreign assistance legislation based on the framework of the 1951 Act, and was the first single piece of legislation to underlay and institutionalize U.S. foreign assistance programs.³⁴

Another significant, permanent authorization that Congress passed in this period was the Agricultural Trade and Development Assistance Act of 1954 (Approved July 10, 1954 - P.L. 83-480; 7 U.S.C. 1691) – which commonly became known as the Food for Peace program – and which authorized the President to sell up to \$700 million worth of surplus agricultural commodities to friendly foreign nations and to donate another \$300 million in surplus commodities for “famine relief” and other assistance.³⁵ The Food for Peace Program, passed by voice vote in both the House and the Senate, provided the legal basis for United States food aid programs. Congress also passed more regionally-focused authorizations during this period, such as the Middle East Resolution of 1957 (Approved March 9, 1957 - P.L. 85-7; 71 Stat. 5-6), which authorized the President “cooperate with and assist any Middle Eastern nation desiring assistance in developing economic and military strength to preserve their independence and to protect themselves against armed Communist aggression,” and which authorized \$200 million to carry out the provisions of the act.³⁶

³³ Stathis, 2003, pp. 237.

³⁴ United States Agency for International Development. *Brief Chronology and Highlights of the History of U.S. Foreign Assistance Activities*.

³⁵ Stathis, 2003, pp. 241.

³⁶ Stathis, 2003, pp. 248-249.

Passage of the Mutual Security Act of 1951

U.S. House	“Yea”	“Nay”	Total
Democrat	missing	missing	---
Republican	76	78	154
Total	235	98	

U.S. Senate	“Yea”	“Nay”	Total
Democrat	37	4	41
Republican	19	17	36
Total	56	21	

Data Source: Mayhew, Divided We Govern

Congressional action on foreign aid policy in the immediate post-World War II era through the 1950s was largely ad hoc, responding to immediate crises in various regions – but it was also consistent with the overarching foreign policy objective of containing Communism by stabilizing at-risk nations. During this period, Congress assisted in establishing new precedents for foreign aid, with Congressional approval of the Marshall Plan representing an acceptance of foreign aid as a legitimate foreign policy tool. A consensus that foreign aid ought to be used to further U.S. foreign policy objectives began to emerge, as these acts passed relatively easily in the House and the Senate with large bipartisan supporting coalitions. The collective experience of World War II seemingly disabused both parties of the notion that the United States could remain aloof from developments around the world and discredited arguments in favor of American isolationism. And, throughout the 1950s, Congress continued to enact legislation that began to consolidate the post-war foreign policy regime and that began to introduce restrictions (aimed at the broader objective of anti-Soviet, anti-Communist containment) – while

simultaneously still permitting the Executive wide-ranging authority to implement foreign aid programs and to side-step restrictions by invoking national security concerns.

The Cold War Continues – the 1960s and the Early 1970s: FAA and USAID

Congressional action on foreign aid continued to pursue the broad objective of “fighting” Communism in the 1960s and took on an increasingly institutionalized form. The 1960s were a watershed period for foreign aid legislation, built upon the earlier frameworks of the 1950s. There was also a noticeable regional shift that occurred in the 1960s, with more focus being placed upon the development and the security of Latin American nations. Under the Kennedy Administration, large strides were taken to further institutionalize U.S. foreign aid priorities and objectives – the most important of these changes being the enactment of the Foreign Assistance Act (FAA) of 1961 and the creation of an Executive branch agency to oversee U.S. development assistance programs, the United States Agency for International Development (USAID). Congressional enactments during this period continued to facilitate this institutionalization and continued to grant the President a wide berth in managing and executing foreign aid programs.³⁷

Two major enactments that preceded the Foreign Assistance Act of 1961 were the Act of Bogota (1960) and the International Development Associations Act (Approved June 30, 1960 - P.L. 86-565; 74 Stat. 293-295).³⁸ The Act of Bogota served as the basis for the “Alliance for Progress” program in Latin America, in which the United States increased economic aid to U.S-friendly Latin American nations. The International Development Associations Act (IDAA) authorized U.S. membership in the International Development Association (IDA) and the payment of approximately \$320 million (for U.S. subscription to

³⁷ Meyer, 1988.

³⁸ Stathis, 2003, pp. 253.

the association) to be paid over five years.³⁹ The IDAA also required Congressional authorization of all future subscriptions or loans to the IDA and required Congressional authorization of any future amendments the IDA’s articles of agreement.⁴⁰ Additionally, in the Peace Corps Act (Approved September 22, 1961 - P.L. 87-293; 75 Stat. 612-627), Congress granted “permanent legislative authority” to the Peace Corps to enlist “willing” young Americans to serve as technical instructors (and in other roles) in less developed countries, and authorized \$40 million for fiscal year 1962 to carry out the purposes of the act.⁴¹

Passage of the Peace Corps Act (1961)

U.S. House	“Yea”	“Nay”	Total
Democrat	178	24	202
Republican	75	55	130
Total	235	79	

U.S. Senate	“Yea”	“Nay”	Total
Democrat	voice	voice	---
Republican	voice	voice	---
Total	---	---	

Data Source: Mayhew, Divided We Govern

³⁹ Stathis, 2003, pp. 253.

⁴⁰ Stathis, 2003, pp. 253.

⁴¹ Stathis, 2003, pp. 256.

Passage of the Foreign Assistance Act of 1961

U.S. House	“Yea”	“Nay”	Total
Democrat	182	54	236
Republican	78	78	156
Total	260	132	

U.S. Senate	“Yea”	“Nay”	Total
Democrat	48	14	62
Republican	21	10	31
Total	69	24	

Data Source: Mayhew, Divided We Govern

The Foreign Assistance Act of 1961 is perhaps the “most landmark” of all of the landmark legislation on U.S. foreign aid policy, easily passing in the House (260-132) and easily passing in the Senate (69-24). The FAA (P.L. 87-195; 22 U.S.C. 2151) is the most comprehensive single piece of legislation on foreign aid priorities and covers most bilateral economic and security assistance programs.⁴² Indeed, while the FAA has been modified and amended over time, it still effectively serves as the primary legislative framework for contemporary U.S. foreign aid programs. One such amendment to the FAA of 1961 occurred in the following year, in the Foreign Assistance Act of 1962. This act (Approved August 1, 1962 - P.L. 87-565; 76 Stat. 255-263) amended the FAA to prohibit aid to Communist nations, to countries that provided items of “strategic value” to Cuba, and countries that permitted their ships to carry economic aid to Cuba.⁴³ Again, the President

⁴² Tarnoff and Lawson, 2012.

⁴³ Stathis, 2003, pp. 257.

could easily waive these restrictions with a determination that such actions were in the “national security” interests of the United States.⁴⁴

Overall, the 1960s were both a watershed period in the development of U.S. foreign aid policy and a continuation along the objective of utilizing foreign aid as a policy tool to prevent the spread of Communism. The most important departure from the primarily ad hoc foreign aid bills of the late 1940s and the 1950s was the comprehensive institutionalization of U.S. foreign aid policy priorities in the form of the Foreign Assistance Act of 1961. A new focus on the economic security and development of Latin American nations also served as a departure from the focus on Europe and “at-risk” nations in the immediate post-World War II environment. An additional continuity with the foreign aid legislation of the 1950s was the placement of relatively weak restrictions on the uses of foreign aid – as the President still possessed the authority to circumvent these restrictions in the name of national security.

Watergate and Vietnam – The Mid-To-Late 1970’s: Congress Ascendant

The 1970s witnessed several important events that significantly altered the inter-institutional relationship between Congress and the Executive. The impetus for change came in the form of two major events, one domestic and one foreign: Watergate and Vietnam. Institutional distrust in the wake of abuses of Executive power prompted Congress to take a more active role in oversight of the Executive, and this enhanced “investigation” of Executive activities clearly bled over into Congressional control of foreign aid.⁴⁵ Amongst the most important Congressional checks placed on Executive power in foreign affairs was the passage of the War Powers Act of 1973. Even prior to the War

⁴⁴ Stathis, 2003, pp. 257.

⁴⁵ Meyer, 1988.

Powers Act, however, Congress began to take additional measures to check the abuses of power in the Executive branch. In enacting the Prohibition on Funds for U.S. Combat Activities in Southeast Asia (Approved July 1, 1973 - P.L. 93-50, Title III, Sec. 307; 87 Stat. 129), Congress prohibited any funds from “being expended to support directly or indirectly combat activities in or over Cambodia, Laos, North Vietnam, and South Vietnam by United States forces” after August 15, 1973.⁴⁶

Congress also pursued many broad objectives during this period – to include human rights promotion and arms control – that significantly impacted the allocation of foreign aid dollars. It was also during the 1970s that the foreign policy “consensus” that existed from the late 1940s through the 1960s began to crumble, the primary catalyst being Democratic distrust of the continued prosecution of the Vietnam War. And, even prior to Watergate, Congress had begun to assert itself more forcefully in foreign policy decision-making. In the Foreign Assistance Act of 1971, Congress reined in some of the Executive’s power to “waive” restrictions and required the President to submit certain findings and notifications before using his independent foreign aid authorities.⁴⁷

In the Foreign Assistance Act of 1974, Congress made additional and significant revisions to the Foreign Assistance Act of 1971. In the 1974 Act – which passed over the objections of most Republicans in the House (210-193) and narrowly passed in the Senate (44-41) – Congress restructured foreign development assistance into several major sectors or “functional accounts.” The act also included the Hughes-Ryan Amendment – introduced by Senator Harold E. Hughes (D-Iowa) and Representative Leo Ryan (D-CA) – which placed restrictions on funding for foreign covert operations and required the President to report all

⁴⁶ Stathis, 2003, pp. 289.

⁴⁷ Meyer, 1988.

CIA covert operations to Congress. Additionally, the 1974 act attached human rights restrictions to economic aid.

In addition to human rights promotion, Congress also pursued the broad objective of arms control during this period. The enactment of the Arms Export Control Act of 1976 (Approved June 30, 1976 - P.L. 90-629; U.S.C. 2751) was one of the most significant permanent foreign aid authorization laws, which simultaneously authorized and placed restrictions on foreign military sales and foreign military financing.⁴⁸ The act authorized Congressional review of all commercial and government sales of major military defense equipment abroad, valued at \$7 million or more, and prohibited private companies from selling major defense equipment, valued at \$25 million or more, to foreign countries.⁴⁹

Passage of the Foreign Assistance Act of 1974

U.S House	“Yea”	“Nay”	Total
Democrat	131	89	220
Republican	79	104	183
Total	210	193	

U.S Senate	“Yea”	“Nay”	Total
Democrat	16	30	46
Republican	28	11	39
Total	44	41	

Data Source: Mayhew, Divided We Govern

⁴⁸ Stathis, 2003, pp. 296.

⁴⁹ Stathis, 2003, pp. 296.

Passage of the Arms Export Control Act of 1976

U.S. House	“Yea”	“Nay”	Total
Democrat	191	85	276
Republican	75	69	144
Total	258	146	

U.S. Senate	“Yea”	“Nay”	Total
Democrat	voice	voice	---
Republican	voice	voice	---
Total	---	---	

Data Source: govtrack.us

Congress also responded to pressing strategic, regional issues during this period. In fulfilling U.S. pledges for assistance in the Camp David Accords – which normalized the relationship between Egypt and Israel and enhanced stability in the Middle East – Congress passed the Special International Security Assistance Act of 1979 (Approved July 20, 1979 - P.L. 96-25; 93 Stat. 89-93). The act authorized the President to provide Israel \$2.2 billion in long-term arms sales loans to upgrade the Israeli Defense Forces and an \$800 million military grant – and provided Egypt \$1.5 billion in arms sales loans, \$200 million in economic assistance, and a \$100 million long-term low-interest loan.⁵⁰

In the wake of Executive abuses of power – from distrust of Executive prosecution of the Vietnam War to distrust of Executive privilege in the Watergate scandal – Congress responded by reasserting its powers to review and to set conditions upon foreign policy. These reassertions were manifest in Congress electing to pursue its own broad objectives and to embed those goals into foreign aid policy. The primary objectives that Congress pursued during this period were human rights promotion and arms control – and these

⁵⁰ Stathis, 2003, pp. 306.

objectives can clearly be seen in the foreign aid-related enactments of this period. A certain level of Congressional deference to the Executive that had existed in the immediate post-war period began to crumble, and Congressional checks on abuses of power by the Executive would be a major feature of Congressional action on foreign aid into the 1980s as well.

The 1980s and the Legacy of Iran Contra: Additional Congressional Restrictions

Congress continued to assert its power in foreign policy-making throughout the 1980s and continued to place key restrictions, which aligned with its objectives, on foreign aid programs. Just as the controversies over Vietnam and Watergate fueled a Congressional reaction to Executive power in the 1970s, the Iran Contra Affair served as an additional example of an egregious Executive branch (if deniably a Presidential) overreach of authority. As Meyer notes, Congress continued along the ascendant trend of the 1970s and instituted additional oversight and review measures on foreign aid, to include objective definitional limits, expanded consultation requirements, independent fact-finding, shortened authorization periods, and an expansion of expedited (“fast track”) review procedures, in the mid-through-late 1980s.⁵¹

It is also important to note that Congress passed the last general foreign assistance authorization law in 1985 – the International Security and Development Cooperation Act of 1985. In the absence of the regular enactment of foreign aid authorization bills, appropriations measures considered annually within the State-Foreign Operations spending bill have assumed greater significance for Congress’ ability to influence foreign policy.⁵² Congress, however, continued to enact more individualized – single country, single region, or single program – foreign aid authorizations throughout and after the 1980s. Congress

⁵¹ Meyer, 1988.

⁵² Tarnoff and Lawson, 2012.

also continued to pursue broad objectives during this period, which included a domestic anti-drug abuse campaign and the withdrawal of support from nations that had recently ousted U.S.-friendly regimes. The pursuit of these objectives clearly influenced legislative enactments on foreign aid during this period.

One of the key restrictions that Congress implemented – that arguably precipitated the National Security Council’s circumvention through the questionable program of arms sales to Iran in order to fund the Nicaraguan Contras – was the refusal to permit U.S. assistance to paramilitary groups in Nicaragua. In the Boland Contra Aid Amendment (Approved December 21, 1982 - P.L. 97-377, Title VII; 96 Stat. 1865), Congress prohibited U.S. assistance to paramilitary groups “for the purpose of overthrowing the government of Nicaragua or provoking a military exchange between Nicaragua and Honduras” – and specifically prohibited the Central Intelligence Agency or the Department of Defense from “furnishing military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country’s armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking military exchange between Nicaragua and Honduras.”⁵³ Congress’ restrictions on aid to a particular nation in this case exemplify Congressional reassertion of its powers and prerogatives to affect foreign policy decision-making during particular foreign crises.

In addition to country-specific restrictions, Congress also enacted blanket conditions that coincided with its collective, broad objectives. For example, the Anti-Drug Abuse Act of 1986 (Approved October 27, 1986 - P.L. 99-570; 100 Stat. 3207-192) was primarily intended to mitigate domestic drug abuse, but it also included provisions that cut off

⁵³ Stathis, 2003, pp. 323.

assistance to any “major illicit drug producing country.”⁵⁴ The act received overwhelmingly bipartisan support and easily passed in the House (392-16) and in the Senate (97-2).

Additionally, Congress also instituted the so-called “coup provision” in an appropriations act – now known as “section 7008” – that prohibited most forms of foreign aid funding from being made available for assistance “to the government of any country whose duly elected head of government is deposed by military coup d’ état or decree or... [by a] coup d’ état or decree in which the military plays a decisive role.”⁵⁵ The “coup provision” has been slightly altered over time, but is still currently “on the books” and has been active in some form or another since 1986.⁵⁶

Passage of the Anti-Drug Abuse Act of 1986

U.S. House	“Yea”	“Nay”	Total
Democrat	222	15	237
Republican	170	1	171
Total	392	16	

U.S. Senate	“Yea”	“Nay”	Total
Democrat	45	1	46
Republican	51	1	52
Total	97	2	

Data Source: govtrack.us

Throughout the 1980s, Congress continued to enact both specific and broad restrictions, and continued to add to the broad objectives written into the foreign policy legislation of the 1970s. Now, in addition to arms control and human rights considerations,

⁵⁴ Stathis, 2003, pp. 325.

⁵⁵ “Congressional Control of Foreign Assistance to Post-Coup States: Assessing Executive Compliance from Honduras to Egypt,” 2014.

⁵⁶ “Congressional Control of Foreign Assistance to Post-Coup States: Assessing Executive Compliance from Honduras to Egypt,” 2014.

Congress enacted additional layers of legislative conditionality and restriction on foreign aid – adding post-coup restrictions and anti-drug restrictions to foreign aid funding.

Responding to changing external realities precipitated by the end of the Cold War, Congress would legislate additional objectives into foreign aid policy in the 1990s – and these objectives were primarily aimed at promoting and supporting democratization movements.

After the Fall of the Wall – the 1990s: Democracy Promotion

After the fall of the Berlin Wall in November 1989 – and the eventual collapse of the Soviet Union in 1991 – the United States faced a significantly altered international environment. After decades of existing in a “bipolar world,” the United States emerged from the Cold War as a world hegemon – leaving policymakers to grapple with the United States’ new and unprecedented position of power. Some scholars deemed this period the “end of history”⁵⁷ and others heralded a new age in which the future fault lines of international conflict would be cultural, not geopolitical.⁵⁸ In any case, the Cold War foreign policy “paradigm” – in which the United States effectively maintained a constant war posture against a constant enemy – no longer seemed to apply.⁵⁹ Congressional action during the late-1980s and the early 1990s responded to these changes in the external environment and helped to define the United States’ new strategic objectives in a unipolar world. These objectives centered on democracy promotion in areas previously under Communist control. And, again, these objectives had a profound impact on the allocation of U.S. foreign aid funding, in pursuit of overarching foreign policy goals.

⁵⁷ Francis Fukuyama, “The End of History?,” 1989.

⁵⁸ Samuel P. Huntington, “The Clash of Civilizations?,” 1993.

⁵⁹ David Rothkopf, *Running the World: The Inside Story of the National Security Council and the Architects of American Power*, 2005.

The first major enactment that Congress passed after the fall of the Berlin Wall was the Support for Eastern European Democracy – or SEED Act – of 1989 (P.L. 101-179 - 22 U.S.C. 5401). Congress followed this act with additional, comprehensive bills aimed at promoting democratic transitions in former Soviet states. In October 1992, Congress passed the Aid to Former Soviet Satellite States – or FREEDOM Support – Act (P.L. 102-511; 22 U.S.C. 5801), which authorized \$410 million in bilateral assistance to the newly independent states of the former Soviet Union.⁶⁰ The act passed the House (232-164), with House Republicans nearly evenly split in their support of the legislation and House Democrats solidly in favor of the programs. The act passed in the Senate by voice vote. The act incorporated some of the main Congressional objectives initiated in previous decades – stipulating that aid could be cut off for violations of human rights or international law and authorizing previously appropriated defense and security assistance funds to facilitate the dismantling of nuclear, biological, and chemical weapons in support of arms control and non-proliferation.⁶¹

The act further provided mechanisms for setting up democratic institutions and civil organizations, encouraging American business ventures, and establishing exchange programs and U.S. diplomatic posts, in accordance with overarching democracy promotion objectives.⁶² In addition to the FREEDOM Support Act, Congress passed the supplementary Aid to Former Soviet Union Satellite States (P.L. 103-87, Title V, Sec. 560; 107 Stat. 966-967) a year later, which provided an additional \$2.5 billion in economic and technical aid to the independent states of the former Soviet Union.⁶³

⁶⁰ Stathis, 2003, pp. 343.

⁶¹ Stathis, 2003, pp. 343.

⁶² Stathis, 2003, pp. 343.

⁶³ Stathis, 2003, pp. 347.

Passage of the FREEDOM Support Act (1992)

U.S. House	“Yea”	“Nay”	Total
Democrat	154	86	240
Republican	78	77	155
Total	232	164	

U.S. Senate	“Yea”	“Nay”	Total
Democrat	voice	voice	---
Republican	voice	voice	---
Total	---	---	

Data Source: Clerk.House.gov

Faced with a significantly altered geopolitical environment, Congressional action on foreign aid during the late 1980s and the 1990s helped to solidify the United States’ nascent relationships with former Soviet states and helped to support democratic transitions in the post-Soviet space. Additionally, Congressional action helped to define new strategic priorities while adhering to the many broad objectives – human rights, arms control, and anti-drug abuse – that had been articulated in the previous decades. With the collapse of the Soviet Union, and the absence of Communism as a monolithic enemy, Congressional support of democratization efforts helped define the new, post-Cold War policy paradigm in the long-decade between the end of the United States’ battle against Communism and the coming battle against terrorism.

The Aftermath of September 11th – the Early 2000’s: Fighting Terrorism and Fighting Aids

In the wake of the terrorist attacks on September 11, 2001, policymakers in the United States reoriented themselves toward fighting a new monolithic enemy – terrorism.

The general pattern in foreign assistance since 9/11 has been the strategic reallocation of foreign assistance dollars – both in the form of foreign aid appropriations and in defense appropriations – to strategic countries (particularly Afghanistan, and then Iraq) in the War on Terror.⁶⁴ Congressional foreign aid enactments in the early 2000s, however, also institutionalized new programs and new entities designed to foster improvements in global health and development, fueled primarily by humanitarian rationales. One such major enactment in the early 2000s was the passage of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (P.L. 108-25; 22 U.S.C. 7601), which passed in the House (375-41) on May 1, 2003 and in the Senate by voice vote.⁶⁵ The act provided authorizations and appropriations for aid to combat these diseases, in conjunction with President George W. Bush’s (President’s) Emergency Plan for AIDS Relief (PEPFAR). Additionally, the passage of the Millennium Challenge Act of 2003 (Division D, Title VI of P.L. 108-199) created the Millennium Challenge Corporation, a U.S. government company that works primarily with lower and lower-middle income nations on development and infrastructure goals. Congressional action on foreign aid in the early 2000s continued to respond to national security challenges and also addressed broad humanitarian concerns, shifting the focus of foreign aid to the fight against AIDS and the fight against terrorism.

⁶⁴ Robert K. Fleck and Christopher Kilby, “Changing Aid Regimes? U.S. Foreign Aid from the Cold War to the War on Terror,” 2010.

⁶⁵ Stathis, 2014, pp. 455.

Conclusions:

This paper has provided a legal and policy history of United States foreign aid, viewed through the lens of major Congressional enactments on foreign aid policy from the immediate post-World War II era through the immediate post-9/11 era. Throughout the paper, I have attempted to trace landmark foreign aid enactments in an effort to examine what factors are the most important in shaping the development of foreign aid policy over time and in influencing Congressional action on foreign aid. The three factors that seem to have shaped Congressional action on foreign aid most prominently are external events and crises, inter-institutional tensions between Congress and the Executive, and Congressional pursuit of broad, overarching (foreign and domestic) objectives over time.

Landmark Congressional actions on foreign aid have largely been bipartisan, and votes on the issue of foreign aid perhaps align better with a hawk-dove dimension than with a partisan dimension. Foreign aid is also perhaps an inherently difficult case to interpret from a partisan perspective, as foreign aid has primarily a *foreign* constituency, and the American public appears largely uninformed (and uninterested) in foreign aid funding. In this regard, major reforms of foreign aid policy seem qualitatively different from other major domestic reforms enacted during the time period considered here. In the absence of clear divisions on foreign aid within American society writ large, national interest-type arguments in support of foreign aid – to include trade and commercial interests, liberal values, and national security – seem to be the most influential in determining the characteristics of foreign aid policy.

External events have clearly shaped Congressional action on foreign aid, as Congress has pursued strategic objectives that have shifted in correspondence with the broader international, geopolitical environment. Through landmark enactments, the U.S. Congress

played a prominent role in helping to define strategic priorities – in pursuit of enhanced relationships with particular nations and particular regions, and in pursuit of the overarching objectives of countering Communism and countering terrorism. Additionally, Congressional reactions to Executive abuses of power – most likely to occur during periods of war or periods of crisis – have also played an important role. In direct response to both international (Vietnam, Iran Contra) and domestic (Watergate) events, Congress re-asserted its authority in the foreign policy realm through the enactment of restrictions and conditions on Presidential foreign policy-making power. These restrictions significantly reshaped foreign policy decision-making processes and had a direct impact on the characteristics of U.S. foreign aid policy.

Finally, Congress' pursuit of broad, overarching objectives – both in the realms of domestic policy and foreign policy – have consistently spilled over into the foreign aid issue area and have significantly influenced foreign aid legislation. Particularly, the pursuit of these objectives has resulted in Congress placing many additional conditions on foreign aid – to include arms control and non-proliferation, human rights, the war on drugs, and democracy promotion – from the post-World War II period through the post-9/11 period. These Congressional initiatives have proven to be “sticky” over time and have significantly shaped the rules and the conditions that have come to define United States foreign aid policy.

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