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[How U.S. Foreign Policy Is Made]

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President Barack Obama forcefully told Israeli Prime Minister Benjamin Netanyahu it was time to restart the Palestinian peace process, in a meeting in the Oval Office of the White House, May 18, 2009, in Washington, D.C. (AMOS MOSHE MILNER—GPO VIA GETTY IMAGES)

**T**HE CONSTITUTION has been described as an “invitation to struggle” between the President and Congress over the making of foreign policy.

Look at the tugging and hauling of the last several decades. The post-World War II bipartisan consensus that produced such epic breakthroughs as the creation of the United Nations, the Marshall Plan for European economic recovery and the North Atlantic Treaty Organization foundered in the turmoil of the Vietnam War. The collapse of the Soviet Union and the lack of agreement on the U.S. role in the post-cold-war world generated even more contention. Following the horrific events of September 11, 2001, the country found itself in a perilous new time, and, ironically, conflict between the branches continued unabated:

- The Congress creates a new executive Department of Homeland Security that the President initially opposed due to fears of inefficiency and redundancy.
- The President unilaterally withdraws from the 1972 Anti-Ballistic Missile Treaty, even though the Senate had ratified the treaty. The President believes that he has a constitutional right to abandon treaties at his discretion.
- Congress authorizes a special, bipartisan federal commission on the intelligence failures prior to 9/11. The White House originally opposed the independent panel as unnecessary.
- The President asks for an \$87 billion grant to rebuild Iraq; the Senate instead approves a loan that must be paid back relatively quickly.

- Opposition from some Republican senators threatens the ratification of the New Strategic Arms Reduction Treaty in 2010, a cornerstone of President Barack Obama’s “reset” of U.S.-Russia relations; treaty ratification requires the support of at least 67 senators.

How can a President provide effective leadership abroad if Congress blocks his policy initiatives? How can Congress give the President full rein over foreign policy without abdicating powers vested in it by the Constitution? In making foreign policy, should the President lead or be a coequal partner? Which branch of government determines the nation’s foreign policy and which one is responsible for carrying it out? And what is the role of the public?

America’s foreign policy is the expression of its goals in the world and of how it proposes to achieve them. It is a reflection of the nation’s interests, the most basic of which are sovereignty and independence. But there are many more: democracy, economic security, protection of human rights, environmental security.

Foreign policy is also an expression of how a nation relates to other countries. If the nation turns inward and chooses to have nothing to do with its neighbors, that choice is its foreign policy. Today such a choice is hardly practical because the

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*This article was written by Nancy Hoepli-Phalon, FPA’s editor in chief from 1981 to 1998. It has been updated by FPA editors.*

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world has become too interdependent for any country, least of all the U.S., to isolate itself. Every facet of life in America is affected by decisions made in other parts of the world.

And foreign policy is an expression of preferences for particular instruments, such as diplomacy or economic power or military force.

Compared to every other liberal democracy, the U.S. makes its foreign policy in a cumbersome way. The framers of the Constitution, wary of impulsive decisions that could embroil the country in war, built into that document a number of safeguards that have prevented tyranny, but sometimes at the cost of speed and efficiency. These safeguards frequently pit Congress against the executive branch, make it difficult to develop and implement a cohesive foreign policy, create uncertainty as to what that policy is, and give foreign governments and special interests an opportunity to apply pressure at many points, not just one.

The complexity of foreign policymaking has greatly increased with the blurring of the distinction between foreign and domestic issues. More and more the two overlap as a

consequence of global interdependence and the breakdown of traditional barriers. Among many examples, the near-collapse of the global financial system in 2008 only affirmed the extent of the world's linkages. In turn, the definition of foreign policy expands into issues ranging from financial regulatory reform to climate change.

Economics—and especially trade—is one of the areas in which foreign and domestic concerns invariably intersect. U.S. tax policy is domestic, but it affects an American manufacturer's cost of doing business and the competitiveness of his products. American labor laws affect the number of workers hired, the number of jobs available in the U.S. and the number of Americans who are—or who are not—looking for work. In fact, almost every law relating to business or labor also has an impact, directly or indirectly, on American foreign trade.

Finally, developments that the framers of the Constitution could not have foreseen have added to the complexity of policymaking. These include the growth in the outreach and influence of the media (especially the internet), political organizations and special-interest groups. ■

## CONGRESS, THE PRESIDENT AND FOREIGN POLICY

**T**HE U.S. CONSTITUTION divides power between the three branches of government: the legislative, the executive and the judiciary. It also gives each branch some check on the other. The President can veto legislation; Congress can override the President's veto; the courts can declare a law of Congress or an act of the President unconstitutional—although they have been reluctant to act on the issues of “high policy” that have traditionally been the realm of foreign affairs.

The Founding Fathers, conditioned by their colonial experience, were suspicious of executive power, which they equated with the oppressive British monarchy and colonial governors. They regarded Congress as the most “democratic” of the three branches.

Congress's power to tax and control government spending—the “power of the purse”—is possibly its most important. Although the President usually cannot spend money not appropriated by Congress, he has always been granted some latitude in emergencies. President Bill Clinton, during the Mexican peso crisis of 1994–95, circumvented Congress, which opposed a bailout for Mexico, by making a loan from funds at his disposal.

The Constitution assigns the Senate a distinctive role in the foreign policy process—to advise the President in negotiating agreements, to consent to them once they have been signed and to approve presidential appointments, including the secretary of state, other high officials of the State Department, ambassadors and career Foreign Service Officers. The Senate does not have to consent to or reject a treaty. The Senate can approve a treaty and in the process amend it or attach reservations. These must be approved by the other country or countries signing the treaty before it enters into force.

Since the Vietnam War, Congress has become more assertive in foreign affairs. This is partly a result of the breakdown of the postwar bipartisan consensus in foreign policy (the principle that politics stops at the water's edge); partly in reaction to what Congress saw as the executive's abuse of power; and partly due to the fact that money has become more important in carrying out foreign policy—and Congress controls the money.

The Senate used to confirm nominees routinely. That is no longer the case. Competent ambassadorial designates are sometimes held up or denied, while less-competent ones may sail through. Sometimes a nomination may be delayed by one or more members of the committee as a bargaining tactic in order to gain leverage with the Administration. The U.S. Senate has so far indefinitely delayed the nomination of Matthew Byrza to the post of U.S. ambassador to Azerbaijan, a position that has been vacant for over a year and a half, in part due to the influence of domestic Armenian and Azeri lobby groups.

### The President's role

Under the Constitution, the President serves as head of state and head of government. In most other governments (Britain's and Germany's, for example), the two functions are separate. As head of state, the President is, in effect, the personification of the U.S.—its visible image, its official voice and its primary representative to the outside world. As head of government, he formulates foreign policy, supervises its implementation and attempts to obtain the resources to support it. He also organizes and directs the departments and agencies that play a part in the foreign policy process. Along with the Vice-

President, he is the only government official elected nationally. This places him in a unique position to identify, express and pursue the “national interests” of the U.S.

The President’s specific foreign policy powers under the Constitution are few and restricted. He serves as Commander in Chief of the Army and Navy; nominates and appoints ambassadors and other public ministers, subject to the advice and consent of the Senate; and makes treaties, by and with the advice of the Senate, provided two thirds of the senators present concur.

The President’s specific powers may be few but his role in foreign policy, many believe, is crucial. “Only the President, by defining and articulating our interests,” writes Lee Hamilton, who served for 34 years as Democratic Representative from Indiana, “can restrain the experts and bring along voters and a reluctant Congress in support of American leadership.” Attention to domestic issues can often supplant foreign policy ones in the context of American politics, so the President’s ability to communicate the importance of U.S. engagement with the world to the public will be increasingly significant.

### Treaty-making

The framers deliberately made treaty-making cumbersome so that the country could not enter into alliances lightly. Thomas Jefferson wrote concerning treaties, “...our system is to have none with any nation, as far as can be avoided.” Behind that proscription was a fear of “entangling foreign alliances” that might lead to war.

The difficulty of convincing two thirds of the Senate to consent to controversial treaties has prompted Presidents to substitute executive agreements with other countries for treaties. (Executive agreements are either written or oral and they usually commit the parties to undertake certain steps or to accept obligations.) Most of the understandings and commitments between the U.S. and foreign governments today

take the form of executive agreements, although these are nowhere mentioned in the Constitution. The North American Free Trade Agreement (NAFTA) and U.S. membership in the World Trade Organization (WTO) are considered congressional-executive agreements: both were voted on and passed by a simple majority vote in the House of Representatives and Senate under the terms of preexisting legislation. While the use of this mechanism has been challenged in the third realm of U.S. politics—the judicial—so far the Supreme Court has refused to rule on the issue.

### Power to make war

Although the President is the Commander in Chief, the power to declare war rests with Congress. Did the Constitution intend that all uses of force be declared by Congress? Scholars disagree. In any event, Congress has only exercised the right in response to a presidential request. There have been only five *declared* wars in the nation’s history (World War II, 1941–45, was the last declared war), a fact which illustrates both the changes in the nature of international conflict and the shift to the President of the power to employ the armed forces without a legal authorization by Congress. The most recent conflicts in Afghanistan and Iraq were no exception, as the Congress only gave its support of the President’s right to use force at his discretion.

The President also has the power to receive foreign ambassadors and, in effect, to recognize foreign governments. The President has two additional informal but influential powers in foreign affairs. One of these is the ability to determine the national agenda—or bring issues to the forefront of public attention and concern. The other—which ranks among the President’s most potent weapons for controlling foreign policy—is the power to commit the nation to a particular course of action diplomatically. Once he does so, it can be extremely difficult for the President’s opponents to alter that course.



President Obama meets with his advisers about the situation in Pakistan in the White House Situation Room, October 7, 2009. With him (left to right) are Chairman of the Joint Chiefs of Staff Adm. Michael Mullen, Defense Secretary Robert Gates, Vice President Joe Biden, (Obama), National Security Adviser Gen. James Jones, Secretary of State Hillary Clinton, then Director of National Intelligence, Adm. Dennis C. Blair, and Central Intelligence Agency (CIA) Director Leon Panetta. (PETE SOUZA—THE WHITE HOUSE/GETTY IMAGES)

## THE POLICYMAKING MACHINERY

**M**AKING FOREIGN POLICY requires the participation of the President, the executive branch, Congress and the public. Conducting foreign policy, on the other hand, is the exclusive prerogative of the President and his subordinates in the executive branch. The distinction is fuzzy but important: you *make* policy when you decide to protect the security of the Persian Gulf; you *conduct* policy when you send the Navy to do it.

Until World War II, one agency, the Department of State, established in 1789 and the highest-ranking Cabinet department, and one individual, the secretary of state, who is directly responsible to the President, managed foreign affairs. The traditional functions of the State Department and its professional diplomatic corps, the Foreign Service, include negotiating on behalf of the U.S. government with foreign governments and in international organizations; defending the U.S. position in the world; reporting on and analyzing conditions in foreign countries and institutions such as the UN; representing the American people and current U.S. policies to the world; promoting relations with decision-makers abroad; advancing U.S. trade and investment; and protecting U.S. nationals overseas from discriminatory and/or inhumane treatment. It currently directly employs nearly 20,000 people worldwide and another 30,000 local employees to help support department needs abroad in some 250 embassies, missions, consulates and branch offices.

The U.S. emerged from World War II a nuclear superpower with global interests. The National Security Act of 1947, among other things, created a Department of Defense, a permanent intelligence agency and a small Cabinet-level National Security Council (NSC), which includes the President, the Vice-President, the secretaries of State, Defense and Treasury, the chairman of the Joint Chiefs of Staff and the Director of National Intelligence, to help the President manage and coordinate foreign policy. The NSC staff, headed by the President's national security adviser, consists of specialists in geographic areas and functional issues, such as arms control.

Policymaking machinery tends to expand or contract,



*Aerial photograph of the Pentagon, September 26, 2003 (ANDY DUNAWAY—USAF/GETTY IMAGES)*

depending on the exigencies of the situation. The outbreak of the cold war with the Soviet Union within months of the Allied victory in World War II put U.S. security and the containment of communism at the top of the nation's agenda. This meant that the Defense Department and the Central Intelligence Agency (CIA) frequently shared the foreign policy limelight with the State Department. A host of new agencies was also created to deal with security issues, from the National Security Agency, which collected, evaluated and disseminated intelligence gleaned from electronic communications, to the Arms Control and Disarmament Agency, which proposed, implemented and monitored measures to limit or reduce weapons of war.

**Cold-war agencies.** Other agencies created during the cold war to deal with America's expanded global responsibilities were the U.S. Information Agency (USIA) and the U.S. Agency for International Development (USAID). USIA planned and conducted informational and propaganda programs abroad. Its radio arm, the Voice of America, is a powerful shortwave radio network capable of beaming programs to most countries.

USAID administers foreign economic assistance programs. In consultation with foreign governments, it formulates aid projects, establishes procedures for carrying them out, and provides experts and other personnel.

**The Pentagon.** Military power serves as an instrument of diplomacy—as a means of achieving goals defined by civilian officials of the government. The head of the Defense Department is a civilian secretary who serves in the President's Cabinet. The principal military adviser to the President is the chairman of the Joint Chiefs of Staff, a strategy board consisting of the senior officers of the Army, Air Force, Navy and Marine Corps. The chairman is designated by the President.

When, where and to what extent the U.S. should use its armed forces to achieve its foreign policy objectives is a highly charged issue. Since World War II, U.S. troops have served in Korea, Southeast Asia, the Dominican Republic, Lebanon, Grenada, Panama, the Persian Gulf, Somalia, Haiti, Bosnia and Herzegovina, Kosovo, East Timor, Afghanistan and Iraq.

In the 1990s, the will to send U.S. troops abroad seemed to dissipate. In the aftermath of 9/11, however, the U.S. has engaged in two major military actions, in Iraq and Afghanistan, involving hundreds of thousands of soldiers. Additionally, the U.S. has taken on the burden of a worldwide war on terrorism, leading many to wonder whether the U.S. remains ambivalent about sending troops abroad.

**Intelligence.** The "intelligence community" is a group of federal agencies that includes the CIA, the National Security Agency and the Defense Intelligence Agency. Since the intelligence reforms in response to 9/11, one could arguably add the Department of Homeland Security (DHS), the

Federal Bureau of Intelligence (FBI) and various other acronyms to the list (see topic on “American National Security Since 9/11,” p. 23). They collect information (for example, how many nuclear weapons China possesses), assess its accuracy and reliability, and disseminate the information to decisionmakers. In addition, the intelligence community, most notably the CIA, undertakes, with the approval of the President, clandestine operations.

**Other executive departments.** Since the earliest days of the Republic, the Treasury Department has played a major role in foreign relations. It is concerned today with the stability of the dollar abroad, foreign-exchange rates, commodity prices, debt service on foreign loans and bread-and-butter issues that affect the well-being and prosperity of the American people. The Office of Foreign Assets Control within the Treasury is also responsible for implementing and enforcing various U.S. economic and trade sanctions.

Other executive departments deeply involved in foreign policymaking are Commerce (which in 1995 the Republican majority in Congress hoped to abolish), the Office of the U.S. Trade Representative and, to a somewhat lesser extent, Labor, Agriculture and Energy. Following the demise of the cold war, the priorities on the U.S. global agenda shifted pronouncedly from national security concerns to the creation of new opportunities for trade, commerce and investment. Hence the consolidation of some of the cold-war agencies. In October 1998, both the Arms Control and Disarmament Agency and the USIA were abolished and their duties were assigned to the State Department. While USAID still remains in business, its staff now reports to the secretary of state instead of directly to the White House.

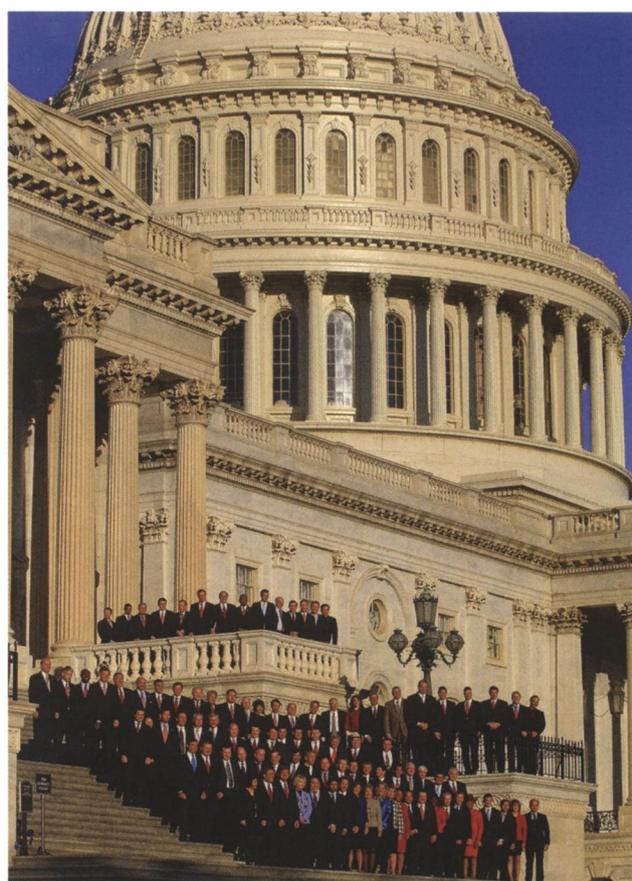
More recently, the creation of the Department of Homeland Security, which began functioning in early 2003, substantially altered the role of executive departments in foreign policy matters. The department, which comprises over 230,000 employees from 22 separate agencies, has become extremely powerful in matters relating to trade, borders, immigration and security.

### Formulation

George Washington once remarked that the U.S. ought to have the most successful foreign policy of any country in the world because it had so many self-styled secretaries of state. Since his day, the difficulty of developing a cohesive, relevant and feasible foreign policy has increased enormously.

Theoretically, the process of formulation should begin with a clear definition of the national interests, followed by a delineation of the policies that would promote those interests and the course of action by the various departments and agencies that would further those policies, as well as the allocation of the resources needed to carry them out.

In practice, no system is likely to produce a cohesive, viable and supportable foreign policy. The national interest is a cluster of particular interests, and the agencies and staffs involved may have very different views as to what it should be. ■



*Newly elected freshmen members of the upcoming 112th Congress pose for a group photo on the steps of the U.S. Capitol on November 19, 2010, in Washington, D.C. They are due to take office in January 2011. (MARK WILSON—GETTY IMAGES)*

## THE AMERICAN POLITICAL PROCESS

Throughout most of U.S. history, a very small group of people conducted foreign affairs. In the minds of this “elite,” public participation had no place in the management of foreign relations. It was President Woodrow Wilson, a tireless champion of democracy, who was determined to “democratize” diplomacy—to do away with “secret deals” arrived at “behind the backs of the people” in favor of “open covenants openly arrived at.” His ideas had a profound impact on the U.S. conduct of international relations long after his era.

Not all members of the public exert the same degree of influence on policymaking. Social scientists tend to classify the public into three groups: the public-at-large or mass opinion, the attentive public and organized interest groups.

The public-at-large tends to have less interest in foreign policy issues than in local and family concerns. It tends to be poorly informed and sometimes distressingly ignorant. In a study conducted a few years ago, most high-school students could not identify the U.S. on an unlabeled map of



Voters cast their ballots in Westport, WI, on November 2, 2010, in elections that recalibrated the balance of power in Washington and across the nation. (NARAYAN MAHO—THE NEW YORK TIMES)

the world. The public-at-large is also crisis-oriented. Its interest is aroused by vivid television coverage—for example, the events of 9/11—that demand some kind of response. Finally, the public's foreign policy outlook tends to change with some regularity—from isolationist to interventionist and back.

The attentive public—or elite opinion on foreign policy—represents perhaps 10%–20% of the American people. It consists of citizens who are genuinely interested and involved. They tend to be better educated and more informed. Many communicate their views to policymakers in Washington. They write letters, sign petitions, visit their representatives. The attentive public helps focus the attention and arouse the interest of the apathetic. They participate in the activities of organizations like the Foreign Policy Association, World Affairs Councils, the United Nations Association of the U.S.A., the American Association of University Women and the League of Women Voters, which have contributed significantly to raising the level of public interest in and understanding of foreign affairs. The public-opinion elite also serves as a source of new and creative ideas for policymakers and as informed critics of prevailing policy.



Tens of thousands of people streamed onto the National Mall in Washington, D.C. on October 30, 2010, for a rally hosted by liberal comics Jon Stewart and Stephen Colbert. (NICHOLAS KAMM—AFP/GETTY IMAGES)

The third category consists of organized interest groups. There are literally thousands of these. In addition to the “big three”—business, labor and agriculture—they represent every segment of society imaginable—religious denominations, war veterans, Foreign Service Officers, ethnic groups, environmental groups and human-rights advocacy organizations. Many individual business corporations with foreign interests maintain permanent offices in Washington, D.C.

Some of the most intensive and successful lobbying is conducted by executive agencies and officials of the U.S. government. The President has several White House assistants whose responsibility is “legislative relations.” Their primary goal is to gain support for the President’s foreign and domestic programs on Capitol Hill. The Department of State, along with nearly all other executive departments, has a Bureau of Congressional Relations, which monitors Capitol Hill.

### Democratization of foreign policy

The foreign policy process is continuously evolving and has become more pluralistic, primarily as the result of the growing interdependence of the U.S. with the rest of the world and the dramatic expansion of the role of the media, particularly the internet. Decisions can no longer be made by the executive branch alone in consultation with a small group of foreign policy experts on the outside. Notes a report by the U.S. Advisory Commission on Public Diplomacy, a presidential commission created by Congress to provide bipartisan oversight: “America still needs diplomacy between governments, but policies and negotiated agreements will succeed only if they have the support of publics at home and abroad.”

Once engaged, how can citizens make their voices not only heard but effective? What they need most of all is an understanding of the policymaking process. They can then develop an effective strategy for exerting their influence. This includes expressing their goals in a clear message and demonstrating that they have a strong political base and speak for key constituencies. The proliferation of sources for news and opinion, including blogs and online forums, has aided this trend immensely, with the public able to organize and make their views known to opinion-makers as never before.

Wider participation or pluralism in the formulation of policy brings new voices into the process, and as a result decisions are likely to be based on a broader consideration of the issues and a fuller assessment of the alternatives. But greater participation also makes the foreign policy process more cumbersome. Extensive public discussion does not necessarily lead to consensus; it can be divisive and inconclusive, as evidenced in the debate on the U.S.-led attack on Saddam Hussein’s Iraq and President George W. Bush’s war on terrorism. It is especially unsuited to formulating long-range national strategy or addressing complex issues. But democracies are often unwieldy and untidy. As the British statesman Sir Winston Churchill once remarked, democracy is “the worst form of government except all those other forms that have been tried from time to time.” ■