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The 109th Congress: Asia-Pacific Policy Outlook

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EXECUTIVE SUMMARY

Topic:

This report analyzes the outlook and impact that the 109th Congress—the Republican Congressional members in particular—may have on American foreign policy issues related to the Asia-Pacific.

Main Argument:

Given their small but important gains in the 2004 congressional elections, Republican members of Congress could have a particularly large voice in U.S. foreign policy. The attitudes of these Republicans—as well as other members of Congress—are not uniform, however, often having different priorities regarding free trade principles, human rights, and national security concerns. These differences appear most prominent in the areas of U.S. China policy, the normalization of American military relations with Indonesia, the North Korean nuclear issue, ratification of the Law of the Sea Treaty, and the U.S. relationship with the United Nations. Successful coalition building within and across political parties will shape the course of American foreign policy toward Asia during the 109th Congress.

Organization of the Report:

The report begins by providing an overview (p. 1) of changes that have occurred since the 2004 elections both within the U.S. Congress and in the general environment in which Congress operates. This is followed by analysis of likely Congressional attitudes towards, and action on, the following foreign policy issue areas over the next two years:

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A conclusion (p. 16) summarizes the main points of the report.

ABSTRACT

Having made small but important gains in the 2004 election, Republicans have a historic opportunity to put their mark upon American foreign policy in the 109th Congress. Their attitudes—as well as those of the other members of Congress—in this area are not uniform, however, and there exist important differences in terms of how lawmakers and the coalitions they form prioritize free trade principles, human rights, and national security concerns. China looms particularly large as a topic in all three of these categories, which divides each party when debating policy trade-offs involving Beijing. Two other similar areas of dispute involve the normalization of military relations with Indonesia and how best to deal with the North Korean nuclear problem. Tensions could also surface in such areas as foreign aid allocation, America’s relationship with the United Nations and related agencies, extending trade promotion authority for the president, and realigning the U.S. military posture overseas—all issues which could have important implications for nations in the Asia-Pacific region. In addition, high on Congress’ agenda early in 2005 will be appropriations to support U.S. and international relief efforts in South and Southeast Asia following the devastating December 2004 earthquake and tsunami; the region’s long-term aid and reconstruction requirements will also be significant, meaning that Congress will be called on to assist the affected countries for many years to come. This report seeks to analyze how Congress views, and would be likely to respond to, these and other Asia-Pacific policy issues.

KEYWORDS: U.S. Congress; U.S. Foreign Policy; Republicans; Asia-Pacific.

Introduction

For most Republicans in the U.S. Congress at the start of 2005, the proverbial glass of water appears half full. President George W. Bush won reelection, and the Party made important gains in the Senate (picking up 4 seats) while widening its control of the House of Representatives (by 3 to a new total of 232 seats). Add to that a seemingly wounded opponent—symbolized by the election defeat of the Democrats’ Senate leader, Tom Daschle (D-SD), and one would anticipate a satisfied group of Republicans.

For the 109th Congress overall, however, the glass looks half empty. America’s legislature controls the nation’s purse strings, and there is less money to work with as the government’s financial health has deteriorated rapidly since the start of the 108th Congress. The federal budget deficit ballooned by more than 160 percent from 2002 to 2004, thanks to the combination of a flat economy, tax cuts, and spending increases; the red ink totalled over \$412 billion at the end of 2004. That figure represents roughly 3.6 percent of the U.S. gross domestic product (GDP) for that year, the highest percentage since 1993.¹ The nation’s total debt now stands at close to \$7.4 trillion, which is about 20 percent higher than two years ago.

This comes at a time when President Bush is proposing a variety of costly initiatives, such as introducing private accounts to the Social Security system and making earlier tax cuts permanent. Though the Bush administration plans to trim the budget deficit over time and restrain government spending overall, there are near-term requirements for key policy goals—such as a new Medicare prescription drug benefit, bolstering homeland security, and supporting U.S. military and reconstruction activities in Iraq and Afghanistan—that may frustrate these cost-cutting plans. For example, the administration is requesting upwards of \$80 billion as supplemental funding for fiscal year (FY) 2005, bringing the total budget for U.S. involvement in Iraq and Afghanistan since the start of 2003 to over \$250 billion.

At quick glance, the new Congress seems only slightly changed from the 108th. In the House, for example, over 98 percent of Representatives who sought reelection retained their seats, and the Republicans’ gain of 3 seats (to a total of 232, compared to 202 Democrats and 1 left-leaning Independent) does not significantly alter the political landscape. The Republicans remain in solid control in the House, and Speaker Dennis Hastert (R-IL) reportedly has indicated that he intends to allow votes only on legislation that is supported by “the majority of the majority.”²

Due to term limits, the House Appropriations Committee has a new chairman, with Jerry Lewis (R-CA) taking over for Bill Young (R-FL). Change also came to the Trade Subcommittee of the House Ways and Means Committee, when former chairman Phil Crane (R-IL) lost his reelection bid and Clay Shaw

¹ Based on the U.S. Congressional Budget Office’s September 2004 baseline budget projections and historical data.

² Charles Babington, “Hastert Launches a Partisan Policy,” *Washington Post*, November 27, 2004.

(R-FL) became the new chairman. Other Asia-relevant chairmanships, however, have stayed the same. The only major change in either the House Republican or Democratic leadership has been the death of Robert Matsui (D-CA), who had served as chairman of the Democratic Congressional Campaign Committee.³

There is less continuity in the Senate, and the Republicans' 10-seat advantage (55–44–1) should prove to be a significant development.⁴ This gain will increase both their presence and their claim on resources in committees, and means that Republicans will not need to bargain as hard for the fewer cross-over votes that will now be required to break a Democratic filibuster on a given issue.⁵ Democratic opposition needs to be targeted carefully in order to be effective. What little legislative ammunition the Democrats have will therefore likely be saved for controversial domestic issues—such as Social Security reform, energy policy issues, tort reform, and the appointment of conservative judges to the federal bench (possibly including the Supreme Court). That the Democrats need to marshal resources should strengthen Republican influence over the foreign policy agenda on the Hill.

Republican leadership in the Senate remains largely unchanged, though the Democrats have a new Minority Leader in Harry Reid (D-NV), with Dick Durbin (D-IL) taking over Reid's former job of Minority Whip. Shuffling among committee chairmanships will be limited. Richard Lugar (R-IN) continues as chairman of the Foreign Relations Committee. Lisa Murkowski (R-AK) has replaced Sam Brownback (R-KS) as the new chair of the Subcommittee on East Asian and Pacific Affairs. The only other foreign policy-related committee change is the replacement (due to term limits) of Ted Stevens (R-AK) as head of the Appropriations Committee by Thad Cochran (R-MS).

Though Republicans as a group might have more clout in Congress, their attitudes toward foreign policy issues are not uniform, and there exist important differences in terms of how each lawmaker prioritizes free trade principles, human rights, and national security concerns. China looms particularly large as a topic in all three of these categories, which divides Republicans when debating policy trade-offs involving Beijing. Two other major areas of dispute involve the normalization of military relations with Indonesia and how best to deal with the North Korean nuclear problem. The same is true for ratification of the Law of the Sea Treaty, which Senator Lugar hopes to push forward but which many other Republicans oppose. Tensions could also surface on such issues as foreign aid allocation, America's relationship with the United Nations (UN) and related agencies, extending trade promotion authority for the president, and realigning the U.S. military posture overseas. While Congress' role in foreign policymaking is limited by the primacy of the executive branch, the course of debate on these (and other) topics could have important implications for U.S. foreign policy towards nations in the Asia-Pacific region.

³ Matsui's death (from complications arising from a rare blood disease) means that the Democrats have only 201 seats in the House, pending a special election in the spring of 2005.

⁴ Forty-four represents the smallest number of Democratic Senators since 1929, when there were thirty-nine senators in the 71st Congress. Republicans held a ten-seat advantage from 1997 through 2000, though the Democrats controlled the White House during that period.

⁵ Sixty votes are needed in many cases in order to close debate on an issue and force a vote.

China and Hong Kong

Though America's foreign policy in Asia is rooted in its economic and military relationships with the region's democracies, more time on Capitol Hill will probably be spent discussing issues related to China than any other Asian country, especially now that Beijing is a key player in the multilateral effort to negotiate a solution to the North Korean nuclear problem. U.S.-China relations have been relatively constructive during the last few years, but the mood in Congress seems increasingly combative. One of the more frequent topics for debate will no doubt be America's increasing trade deficit with China. In October 2004 the trade-in-goods deficit with China reached an all-time monthly high of \$16.8 billion, and the year-to-date tally for the first ten months alone exceeded last year's previous record total for the entire twelve months. In fact, the deficit in October alone was greater than the yearly sum in 1991. At year-end 2004, the bilateral U.S.-China trade deficit was a staggering \$161.98 billion. The U.S. merchandise trade deficit with China is by far the nation's largest, now more than double that of the next closest trading partner, Japan.⁶

China is an easy target for lawmakers responsible to manufacturing constituents who are looking for someone to blame for local economic woes; the weapon of choice for these members of Congress has been to try and pressure the administration to deal more resolutely with Beijing on China's currency valuation policy. Bills such as the Currency Manipulation Prevention Act (H.R. 3269) or a similar bill sponsored by Chuck Schumer (D-NY) in the Senate (S. 1586) have not gone far, but this issue will likely gain a bit more traction in 2005 if the trade deficit continues to rise. These bills, and others like them, have attracted some bipartisan support, and Schumer's new placement on the Finance Committee will make it easier for him to push for new legislation. There is a limit to what Congress can do in this area, however, and the potential impact of the legislative branch has less to do with successful legislation than with pressuring the administration to take certain actions—such as the U.S. challenge to China's value-added tax policies on semiconductors in 2004, which eventually brought about change.

In a December 2004 report to Congress on China's World Trade Organization (WTO) compliance, the United States Trade Representative (USTR) was not overly critical of Beijing, stating that China "deserves due recognition for the tremendous efforts made to reform its economy to comply with the requirements of the WTO."⁷ The report, however, continued to highlight the protection of intellectual property rights, trading rights, distribution services, and certain other sectors as key areas of concern and vowed to carefully scrutinize China's progress in 2005. Reflective of the government's focus on China, the USTR established a separate and expanded Office of China Affairs in April 2004, which was specifically provided for in the FY2004 Consolidated Appropriations Act (P.L. 108-199) with support from Representative Frank Wolf (R-VA) and Senator Judd Gregg (R-NH). The end of textile quotas in 2005 will keep Congress keenly focused on the trend of imports from China, since China's price competitiveness in this area could lead to a surge of exports.

⁶ U.S. Census Bureau, <www.census.gov/foreign-trade/balance/c5700.html>.

⁷ *2004 Report to Congress on China's WTO Compliance*, United States Trade Representative, December 11, 2004, p. 3.

Others in Congress see trade not just as an end unto itself but also as a means to pressure China's leadership on other foreign policy issues, such as negotiations with North Korea or the protection of civil liberties in Hong Kong. Some, like Representative Brad Sherman (D-CA), have suggested that the United States use its "enormous economic power" (i.e., threaten to restrict imports from China) in order to encourage a harder Chinese line with Pyongyang.⁸ Still others have recommended that Washington should review Hong Kong's treatment under the U.S.-Hong Kong Policy Act (P.L. 102-383) as a way to limit Beijing's interference in the former colony's political affairs—though most would probably agree with Representative Jim Leach (R-IA), chairman of the Committee on International Relations' Subcommittee on Asia and the Pacific, that such a move would be counterproductive.⁹

Still, as Leach has stated, "from a Congressional perspective, it seems self-evident that advancing constitutional reform (in Hong Kong)—including universal suffrage without undemocratic power structuring—would contribute to the city's political stability and economic prosperity."¹⁰ The House Committee on International Relations' Chairman Henry Hyde (R-IL) recently likened Hong Kong to a "miners' canary," in the sense that a curtailment of civil liberties there would "warn of approaching danger [and is] an unmistakable indicator of the course of China's historic transition."¹¹ Such a curtailment could take the form of the reintroduction of anti-subversion legislation (the so-called Article 23), which was shelved indefinitely following large-scale protests in Hong Kong in 2003.

There is a split personality in Congress (even among Republican members) in terms of how to craft optimal U.S. foreign policy towards China. Although not necessarily a new development, this division is an increasingly important component of American policymaking in general. Many lawmakers believe that gentle but steady prodding of Beijing is the best way to influence China's leadership on trade, human rights, or security issues. The Congressional-Executive Commission on China (CECC, established in 2000 to both monitor human rights and the development of the rule of law in China) issued its most recent annual report in October 2004. Though the CECC found much to criticize, the main thrust of its recommendations was that the U.S. government should urge China to do better in one human rights area or another.¹²

A separate commission issued a much sterner message in its June 2004 Report to Congress. The U.S.-China Economic and Security Review Commission (USCC) report warned that "a number of the

⁸ "U.S. Policy in East Asia and the Pacific," hearing before the Subcommittee on Asia and the Pacific, June 2, 2004, Serial No. 108-124, <www.house.gov/international_relations>.

⁹ The U.S.-Hong Kong Policy Act has provided the president with a tool to determine if Hong Kong is no longer sufficiently autonomous to deserve separate recognition from China in terms of visas, commercial licenses, export controls, and other matters.

¹⁰ Representative James A. Leach, "A Congressional Perspective on Asia and the Pacific: Remarks Prepared for Delivery," Woodrow Wilson Center for International Scholars, November 9, 2004.

¹¹ Representative Henry J. Hyde, "Hong Kong, China, and the World," speech at the Conrad Hotel, Hong Kong, December 2, 2004.

¹² The CECC is co-chaired by Jim Leach (R-IA) in the House and Chuck Hagel (R-NE) in the Senate. Leach took over in September 2004 for Doug Bereuter (R-NE), who stepped down to become president of the Asia Foundation.

current trends in U.S.-China relations have negative implications for [America's] long-term economic and national security interests," and that this relationship requires "urgent attention and course corrections." In addition to addressing Chinese manipulation of currency markets and other trade issues, the USCC report recommended that Congress take steps to: (1) restrict U.S. commercial involvement with Chinese firms deemed to have connections with the proliferation of weapons of mass destruction (WMD) or their delivery systems,¹³ (2) enhance its oversight role in the implementation of the Taiwan Relations Act, (3) revise the law governing the Committee on Foreign Investment in the United States (CIFUS) to add national economic security (not just national security) as a criterion to be reviewed for such investments,¹⁴ and (4) restrict foreign defense contractors who sell sensitive military-use technology to China from participating in U.S. defense-related cooperative research.¹⁵ On this last point, tensions could rise if the European Union decides to lift its ban on military sales to China (which has been in effect since the 1989 Tiananmen Square massacre) or if Israel steps up similar transactions with Beijing. Signs of increased suspicion in Congress were evident in the expansion of Chinese entities subject to the president's International Emergency Economic Powers (Sec. 1222 of the FY2005 defense appropriations bill, P.L. 108-375).

To date, China has made just enough improvement in most areas (e.g., strengthening the rule of law, protecting human rights, and stemming proliferation) to keep Beijing's fiercest critics on Capitol Hill at bay. Congressional pressure continues, however, to simmer below the surface. Were it not for the diversions posed by Iraq and the war on terrorism (which are points of cooperation between the two countries), U.S.-China ties could easily take on attributes of hostility—such as what characterized the Congress' relationship with Japan in the early 1990s. The U.S.-China relationship remains in a precarious state, teetering between constructive partnership and detrimental antagonism—the latter of which could arise from a heightened U.S. sense of economic or military competition, a policy clash over Iran or North Korea regarding these countries' nuclear programs, or a skirmish involving Hong Kong or Taiwan.

Taiwan

The 109th Congress opens amid a continued strain in relations across the Taiwan Strait, suggesting that the future of Taiwan will remain prominently displayed on Congress' radar screen. Beijing has been considering a draft "anti-secession" law that would obligate its armed forces to take military action against Taiwan if Taipei ever declared independence. This development has coincided with the release of a defense white paper in China which has warned that the People's Liberation Army would crush "at any cost"

¹³ In November 2004 the United States imposed sanctions, under the Iran Nonproliferation Act of 2000, on four Chinese firms (including a state-run entity) for selling either weapons or cruise and ballistic missile technology and equipment to Iran. Another eight Chinese firms were similarly sanctioned in January 2005.

¹⁴ In January 2005, for example, three House committee chairmen urged CIFUS to investigate the national security implications of IBM's proposed \$1.75 billion sale of the company's personal computer division to a China-based company.

¹⁵ U.S.-China Economic and Security Review Commission, "2004 Annual Report to Congress," June 2004.

a move by the Taiwan authorities that “constitutes a major incident of ‘Taiwan independence’.”¹⁶ All of these developments are perhaps a direct result of the reelection of Taiwan’s independence-minded president, Chen Shui-bian, in March 2004; Chen has consistently put Washington in the difficult position of trying to balance U.S. support of Taiwan’s democracy (and deterrence vis-à-vis Beijing) with Washington’s “one China policy” (and discouragement of Taipei’s moves towards formal independence).

It has been a difficult balancing act, to be sure. Some felt that policy tilted towards Taiwan in the early part of President Bush’s first term. Much to the dismay of Congress, however, the administration has perhaps overcorrected later in the past year or two. Taiwan-related resolutions and bills on Capitol Hill increased in the 108th Congress (compared to two years earlier). Most of these were geared towards demonstrating support for Taiwan via the Taiwan Relations Act, promoting the island’s participation in international organizations, or facilitating visits by high-ranking Taiwanese officials to the United States.¹⁷ In addition, Senators George Allen (R-VA) and Tim Johnson (D-SD) inaugurated the Senate Taiwan Caucus in September 2003.¹⁸ How the Bush administration will deal with this challenge in its second term depends on many factors beyond White House control, but Congress will be quick to try and counter any moves it deems are too sympathetic of Beijing’s position.

The issue of U.S. military sales to Taiwan will no doubt arise in Congress. Any role would generally be limited to acting as a potential brake on such sales, though such intervention would be rare. The Bush administration has been trying to consummate a major arms deal with the Taiwanese government since 2001 (a move supported by Congress), but the largest components of the package have been held up in Taipei due to domestic political fights over cost and other concerns. In the meantime, smaller contracts on equipment (such as early-warning radar systems) have proceeded smoothly, much to Beijing’s displeasure. In addition, in 2004 Congress included an amendment to the FY2005 Defense Authorization Act (H.AMDT. 543 to H.R. 4200) that requires the Defense Department to undertake a program of senior military officer and official exchanges with Taiwan that is designed to improve the island’s defenses.

The Korean Peninsula

North Korea

Congress’ role in the effort to eliminate North Korea’s nuclear and other WMD programs has evolved from acting as a funder of energy assistance for the North Korean regime to promoting human rights and the free flow of information into and out of that reclusive country, a change in goals far more preferable to many Republicans (and some Democrats) on Capitol Hill. As the periodic “six-party” multilateral talks

¹⁶ “China’s National Defense in 2004,” Information Office of the State Council of the People’s Republic of China, December 2004, <english.people.com.cn/whitepaper/defense2004/defense2004.html>.

¹⁷ For example, a bill introduced by George Allen (R-VA), which, among other provisions, called on the Secretary of State to report on the U.S. plan to obtain observer status for Taiwan at the World Health Assembly summit, became law in June 2004 (P.L. 108-235).

¹⁸ The Senate caucus has ten members, which complements the House caucus of over one hundred.

with North Korea plodded along in 2004, a committed group of lawmakers was able to pass a human rights bill focused on that country. The North Korean Human Rights Act of 2004 (P.L. 108–333) was introduced by Jim Leach (R-IA) in the House, received broad support in the International Relations and Judiciary Committees, and was helped along by Senator Sam Brownback (R-KS) and others on the Foreign Relations Committee. Modest in many respects and representing a step back from Brownback’s earlier, tougher versions, the law still has the potential to impact the negotiation process with Pyongyang in subtle ways, and the 109th Congress will no doubt carefully monitor its implementation.

The law authorizes \$4 million annually (until 2008) both to supply North Koreans with radios capable of receiving foreign broadcasts and to provide grants for non-governmental organizations (NGOs) that support human rights, democracy, and other programs in North Korea. The law also authorizes \$20 million to support NGOs that provide humanitarian assistance in that country. In addition, the law calls on the president to appoint a special envoy for human rights in North Korea (an appointment which should take place early in 2005) and authorizes the Secretary of State to facilitate the submission of applications by North Korean citizens seeking protection as refugees. Another provision suggests that U.S. non-humanitarian assistance to North Korea should be contingent upon Pyongyang’s progress in such areas as human rights, decriminalizing political expression, disclosing all information regarding abducted citizens of Japan and South Korea, and reforming the North Korean prison and labor camp system. New bills might seek to change this “suggestion” to a requirement.

The North Korean leadership has strongly criticized the legislation as a tangible sign that Washington aims to bring down its regime. The law could in fact complicate U.S. efforts to coordinate with both South Korea and Japan on proposals in the multilateral talks. Senator Brownback and others in Congress are doing what they can to encourage the outflow of North Korean refugees. Ironically, these U.S. moves come at a time when the South Korean government is conversely trying to limit so-called planned defections, in part to demonstrate to Pyongyang that Seoul is not seeking to undermine the North Korean system.¹⁹ A bipartisan delegation of lawmakers led by Representative Curt Weldon (R-PA) visited North and South Korea in January in order to get a first-hand look at the situation and to express Congressional support for the Bush administration’s current six-party proposal, all the while probing for a way to move beyond the current impasse.

Congress will not stray too far from the White House lead on North Korea policy, though some Democrats and moderate Republicans will recommend a more flexible U.S. negotiating position in order to stem the growth of Pyongyang’s plutonium stockpile. If President Bush needs political support to help push a more punitive policy towards Pyongyang, however, he has plenty of allies on which to rely within the Republican leadership, policy committees, and—even if it runs counter to the more moderate Chairman Richard Lugar’s (R-IN) judgment—the Senate Foreign Relations Committee.²⁰ One thing most Republi-

¹⁹ Though no longer on the Foreign Relations Committee, Brownback will still continue to pursue these policies from his new position on the Judiciary Committee.

²⁰ Punitive actions could include reimposing U.S. sanctions on North Korea that were lifted in September 1999, further cracking down on North Korean illicit trade, or toughening monitoring requirements as a condition for future U.S. humanitarian assistance.

can lawmakers have made very clear is that they would not consider any formal treaty that provides security assurances to Pyongyang as a part of a deal for North Korea's denuclearization.

South Korea

As for U.S. relations with South Korea, in addition to involvement in North Korea policy, Congress' most influential roles could be related to some lingering trade disputes with Seoul and the realignment of U.S. military forces on the peninsula (discussed separately below). South Korea has been accused in past bills (e.g., S. 1592) of manipulating its currency to America's disadvantage, and has negotiated with the USTR in recent years on such issues as protection of intellectual property rights in South Korea, market access in certain sectors, and America's use of its trade laws. None of these trade issues have seriously threatened the bilateral relationship, and the two countries announced a settlement in the area of telecommunications in April 2004, and one on rice in December.

Another issue in bilateral relations is Seoul's unhappiness that South Korea is not a participant in the U.S. Visa Waiver Program. Talks between the two sides on possibly exempting South Korean tourists for short-term stays began in December 2004, but there is always the possibility that a broader initiative on immigration policy in the 109th Congress could complicate those negotiations. Separately, South Korea earned a good deal of Congressional appreciation when Seoul committed a sizeable number of troops to assist with the reconstruction effort in Iraq.

Japan

Japan's low profile in Congress will likely continue for the next two years. Then-USTR Robert Zoellick, who had often criticized Japanese economic practices in the past, issued a glowing U.S.-Japan Regulatory Reform Report in June 2004 that praised Japan for the "significant" deregulation it has achieved over the past year.²¹ While some of this positive spin might stem from a desire to demonstrate progress near the end of a presidential term, there is no doubt that Prime Minister Junichiro Koizumi's reform efforts align well with U.S. thinking.

This, coupled with the strong Bush-Koizumi relationship, suggests that the White House will not be focused on trade issues, with the exception of a few select items such as apples, beef, and medical equipment. Beef in particular could attract attention on Capitol Hill in the near term if U.S. exports to Japan, halted in December 2003 due to a minor outbreak of Mad Cow Disease, do not resume soon under new, consensual testing and tracking procedures. The pressure will increase significantly if a timetable for re-

²¹ Office of the United States Trade Representative, "USTR Zoellick Praises Japan for Market-Opening Reforms, Urges More Progress," June 8, 2004.

sumption is not announced by the end of March 2005, which is when Canadian beef is expected to start flowing into the United States again after a nineteen-month hiatus imposed as a response to a similar problem.²²

Congress will also closely watch Japan's experiment with the privatization of its postal service; such attention stems from both the Japan Post's involvement with financial services and the worries expressed by the U.S. Chamber of Commerce and the American Insurance Association (among others) that foreign firms could be put at a disadvantage in those markets. Separately, an updated U.S.-Japan Tax Treaty sailed through Congress and was ratified by the Senate in March 2004.

Outside of trade issues, Congress might have dealings with Japan in the area of a proposed realignment of overseas U.S. military bases (similar to South Korea), which could increase pressure in Japan to reduce the scale of its Host Nation Support payments and consequently become an issue in U.S. defense budget debates on the Hill. In addition, Congress will have some oversight responsibilities regarding stepped-up U.S.-Japan cooperation on missile defense development, most recently demonstrated by a December 2004 bilateral memorandum of understanding that establishes a high-level committee to supervise the missile defense alliance. As with South Korea, Congress is appreciative of Japan's ongoing contributions in Iraq.

ASEAN Members

High on Congress' agenda in early 2005 will be appropriations to support U.S. and international relief efforts in South and Southeast Asia following the devastating December 2004 earthquake and tsunami that killed an estimated 250,000 in the region and left millions without shelter or basic necessities. The United States has already pledged \$350 million to a growing global fund, and supplemented that contribution by deploying military assets to deliver aid and provide medical attention. Indonesia was the hardest hit, suffering at least two-thirds of the casualties. Short-term needs could be funded by a supplementary spending bill early in the first session, but the long-term aid requirements will also be significant. This is a disaster from which it will take years to recover. Lawmakers in both parties agree that U.S. support alone could ultimately run into the billions of dollars. Such extensive U.S. outlays also mean extensive Congressional oversight, especially given the recent revelations of corruption related to the UN-Iraq Oil for Food program. Aid might also take the form of debt relief or debt restructuring for certain countries (notably Indonesia), a development which would also involve Congress.

Beyond the tsunami aftereffects, discussion on the Hill related to Southeast Asia will likely revolve around the more common issues of the promotion of trade and democracy, human rights protection, and military cooperation in the war against terrorist groups.

²² South Korea has a similar import ban in effect for American beef.

Indonesia

As noted above, the new Indonesian government led by President Susilo Bambang Yudhoyono (elected in September 2004) now has an unprecedented human and economic tragedy to address in the wake of the tsunami disaster. This task is complicated by the ongoing challenges of a fragile economy, domestic terrorist activity, and separatist violence. Jakarta's response to the latter issue will be scrutinized by U.S. lawmakers out of a concern that major tsunami relief efforts in Aceh will be affected.

Overall, Congress is encouraged by the incremental strengthening of the democratic process in Indonesia, but the annual battle over normalizing military relations with Jakarta will probably continue. The consolidated appropriations bill for FY2005 (P.L. 108–447) contains provisions relating to Foreign Military Financing (FMF) for several countries, including Indonesia.²³ FMF for Indonesia was provided for in the law, but is only available if, among other conditions, the Secretary of State certifies to Congress that the Indonesian government is prosecuting and punishing members of the armed forces who are alleged to have committed gross violations of human rights. An exception to this restriction is the ability to allocate \$6 million of FMF for the Indonesian navy, as long as the funds are used to enhance maritime security in the region.

There is no doubt that the Bush administration would like to normalize relations with Indonesia's armed forces (TNI), including resumption of FMF. The administration and its allies in Congress have consistently moved toward this goal; steps have included the announcement of the resumption of the Bilateral Defense Dialogue this summer and the push for the resumption of International Military Education and Training (IMET) with Indonesian officers (a program of which President Yudhoyono is a graduate).²⁴ Motivations for this policy include a desire to execute the war against terrorist groups in Southeast Asia more effectively and to maintain an Indonesian market for U.S. defense firms. A successful collaboration with Jakarta in the tsunami relief and reconstruction effort could help further the administration's objectives. While the administration has announced its intent to resume the full IMET program, complete normalization of military relations is, however, more difficult.²⁵ Other Congressional appropriations for Indonesia support economic development and counterterrorism assistance, neither of which is controversial.

Philippines

U.S. security cooperation with the Philippines, a major non-NATO ally as of 2003, has been a significant component of bilateral relations in recent years, and Congress continues to support both military

²³ FMF provides grants and loans for the purchase of U.S.-produced arms, military training, and other defense services.

²⁴ Congress first terminated IMET for Indonesia in 1992 in protest of human rights abuses by the Indonesian army in East Timor. Other incidents that have occurred since, such as the unresolved murder of two American teachers in Timika in 2002, have prevented full restoration.

²⁵ Congress has allowed for a more limited IMET program in recent years, which has focused on the civilian and management side of the TNI's military apparatus.

and economic aid programs for the Philippine government.²⁶ President Gloria Macapagal-Arroyo won another term in office in May 2004 on a platform of economic reform, job creation, and the fight against terrorism. Assistance will come from many programs—such as the U.S. consolidated appropriations bill for FY2005 (P.L. 108–447)—and take the form of economic aid, FMF (at \$30 million), and IMET and police training (\$4 million).²⁷ The Philippines also became eligible for the FY2005 Threshold Program of the U.S. Millennium Challenge Account development initiative.²⁸ This kind of support will likely continue in the 109th Congress.

Another issue of concern to the Philippines was a bill (S. 68), sponsored by Senator Daniel Inouye (D-HI), to improve benefits for Filipino veterans of World War II. The bill did not make it out of the Committee on Veterans' Affairs, but will probably be reintroduced this year. Its prospects are uncertain. Also, Representative Tom Lantos (D-CA) has vowed to undo the visa blockade for nurses from abroad, which—if successful—will please Filipino applicants. One thing the Philippines did receive in the last Congress was an expansion of about \$30 million in product coverage in the Generalized System of Preferences (GSP) program, funding which was announced as part of a broader package by President Bush in 2003.

Thailand

Thailand was also hard hit by the tsunami disaster, with over 8,000 deaths, spurring Congress to fund relief and development assistance for the Thai people. In addition, there are a number of important trade, human rights, and security issues related to Thailand up for discussion on Capitol Hill. The United States and Thailand are now in the process of negotiating a free trade agreement (FTA), which the USTR launched with a notification to lawmakers in February 2004. If the talks proceed smoothly, a completed U.S.-Thai FTA could be considered by the 109th Congress, though some representatives have already pressed for special treatment of certain products such as tuna and automobiles (H.Con.Res. 366).

The Thai government is now fighting a more open battle against Muslim separatist groups; these groups are concentrated in the south of the mainly Buddhist country along the Malaysian border. This has brought Thailand and the United States closer together as allies in the war against both terrorist organizations and the drug trafficking that helps sustain them. Washington named Thailand a major non-NATO ally in 2003, and Congress is amenable to funding increases for military training, equipment, and joint exercises. The only complications are worries by some in the United States that a crackdown on terrorists is

²⁶ Major non-NATO allies are eligible for priority delivery of excess defense articles, stockpiling of U.S. defense articles, purchase of depleted uranium anti-tank rounds, participation in cooperative research and development programs, and participation in certain military equipment purchase financing schemes.

²⁷ Economic aid comes in the form of the Economic Support Fund (ESF) at \$35 million, which will help fund the transition of Muslim separatist guerilla fighters to peaceful pursuits.

²⁸ \$1.5 billion was appropriated by Congress for the Millennium Challenge Account aid program in FY2005. The only other Asian nation in the Threshold Program is East Timor. Mongolia, Sri Lanka, and Vanuatu are Asian countries eligible for the FY2005 funds.

coming at the expense of human rights, and that the Thai government is not properly treating refugees who have fled persecution in neighboring Burma. Some qualifying language along these lines has been added lately to certain Thai appropriations (e.g., H.R. 4818), including funds provided specifically to assist Burmese refugees.

Burma

The renewed detention of democracy advocates by the ruling military junta in Burma, including the extended house arrest of democracy leader Aung San Suu Kyi, has set back U.S.–Burma relations and ensured the continuation of U.S. economic sanctions. These sanctions were most recently codified in the Burmese Freedom and Democracy Act of 2003 (P.L. 108–61) and again by joint resolution in 2004 (P.L. 108–272). Little change is expected in the next Congress, and there could be an even broader effort to promote democracy in the region. Senator Mitch McConnell (R-KY) sponsored the Asia Freedom Act of 2004 late in the 108th Congress (S. 3016), and this measure—which would expand democracy assistance and impose new visa restrictions for countries throughout Asia—might be reintroduced in 2005. The bill sought to name a new UN democracy fund the “Daw Aung San Suu Kyi Democracy Fund.”

Cambodia

Congress continues to oppose the extension of non-humanitarian U.S. funds or loans by international financial institutions to Cambodia. This opposition stems from concerns about corruption in that country and what Congress considers a lackluster local investigation into the March 1997 grenade attack against the Khmer Nation Party (H.R. 4818). This opposition has frustrated the Bush administration’s efforts to include a small amount of IMET funding for Cambodia in the 108th Congress, and the situation seems unlikely to change in the next two years. Symbolic of Congress’ hard line on Cambodia was yet another democracy-related bill from Senator McConnell’s office, the Cambodia Democracy and Accountability Act of 2003 (S. 1365)—though that legislation never made it out of the Foreign Relations Committee. Still, the plethora of such bills seeking to promote democracy and human rights in Asia and around the world (often with bipartisan support) represents a strengthening trend in foreign policy activism among U.S. lawmakers. One can expect the consolidation of these efforts in a new, proactive bill called the “End Dictatorship, Assist Democracy (EDAD) Act” in the 109th Congress. Targets of the bill could include China, Vietnam, Burma, Cambodia, and many others—even though such spotlighting would conflict with many of the administration’s policies.

Vietnam

The EDAD could also incorporate parts of the Vietnam Human Rights Act of 2004 (H.R. 1587), which was introduced by Representative Christopher Smith (R-NJ). The bill was aimed at restricting U.S. non-humanitarian assistance to the Vietnamese government, supporting human rights organizations and

causes there, and facilitating measures to overcome Vietnam's jamming of Radio Free Asia. The bill passed the House by a large margin in 2003, but languished in the Senate. Later, in September 2004, Senator Brownback introduced companion legislation in the Senate (S. 2784) and, though having failed to move forward in the waning days of 2004, the bill could see renewed effort in 2005.

While still mindful of concerns about human rights, religious freedom, and the treatment of ethnic minorities, the Bush administration will, however, try to persuade Congress that now is not the time to legislate new restrictions on Vietnam. The belief of the White House is that "the overall bilateral relationship—economic, political, and cultural—is improving."²⁹ These issues will continue to be debated annually, given that Vietnam's normal trade relations status (extended in 2001) must be renewed each year. Renewal is expected, but isolated trade conflicts have surfaced over shrimp and catfish, triggering both anti-dumping cases in the United States and the imposition of new duties in some instances. Vietnam's effort to gain entry into the WTO will also be a key element of U.S.-Vietnam relations, as successful trade negotiations with Washington will be important in achieving this goal.

Another Vietnam issue of interest to Congress relates to immigration. The consolidated appropriations bill for FY2005 (H.R. 4818) contained language to allow for in-country refugee processing in Vietnam and to clarify the term "qualified national." A different bill (H.R. 3987) designed to confer automatic citizenship to certain individuals born in Vietnam (as well as in Korea, Laos, Cambodia, or Thailand) was introduced by Representative Lane Evans (D-IL) in 2004, but did not emerge from the House Committee on the Judiciary. Separately, the State Department selected Vietnam as the fifteenth focus nation (and the first in Asia) for President Bush's Emergency Plan for AIDS Relief in June 2004. This move will open up millions of dollars in new funds for Vietnam to use in combating HIV/AIDS over the next few years.

Malaysia

Congress' relationship with Malaysia has improved since former Prime Minister Mahathir Mohamad turned power over to his deputy, Abdullah bin Ahmad Badawi, in 2003. Abdullah's National Front coalition subsequently won a landslide electoral victory in March 2004, creating a stable political environment for America's tenth largest trading partner—minus the periodic flaps caused by Mahathir's critical remarks, such as those involving Israel in 2003 (see H.RES. 409). On the trade front, the United States and Malaysia signed a Trade and Investment Framework Agreement (TIFA) in 2004 that creates a bilateral forum to help enhance trade ties. A TIFA has often been used as a stepping stone for negotiating an FTA (as in the case of Thailand), and some in Congress—including Senator Max Baucus (D-MT)—have advocated making Malaysia an FTA priority. The USTR has many competing agendas in the next two years, however, and several issues need to be resolved before FTA talks can begin in earnest.

²⁹ Deputy Assistant Secretary of State Matthew Daley, "Trade and Human Rights: The Future of U.S.-Vietnamese Relations," testimony before the SFRC Subcommittee on East Asian and Pacific Affairs, February 12, 2004.

Counterterrorism cooperation is a growing component of the relationship, but is not as close as in the cases of U.S. cooperation with the Philippines, Australia, or Singapore. In general, Congress will look for opportunities to support stronger U.S.-Malaysia ties. Cautiousness will persist, however, due in part to friction over America's Mideast policies, as well as to Congress' perception that Malaysia is not fully cooperative in efforts to shut down nuclear proliferation networks (e.g., the Iran Freedom Support Act, H.R. 5193).

Laos

The big news for Laos was the extension, after several years of failed attempts, of normal trade relations (NTR) in the waning days of the 108th Congress. The measure was included in the Miscellaneous Trade and Technical Corrections Act of 2004 (P.L. 108-429), even though the day before the vote Senator Norm Coleman (R-MN) proposed the Laotian Democracy Act (S. 3000) as a way to blunt the impact of NTR until Laos has met certain conditions on human rights. Coleman's measure never made it out of the Finance Committee, but Congress can be expected to watch Laos carefully for restrictions on religious freedom or for persecution of the Hmong minority. Bilateral trade is minimal (about \$9 million), but is expected to grow. The United States will also continue to extend funds to help clean up unexploded ordinance leftover from the Vietnam War.

Australia

Trade and security cooperation will be the main themes on Capitol Hill regarding Australia. The United States and Australia concluded an FTA in 2004, which was quickly approved by Congress via implementing legislation (H.R. 4759). The agreement went into effect at the start of this year, and lawmakers will carefully monitor how the pattern of bilateral trade develops, especially for dairy, beef, and other agricultural products. A number of security-related issues will also likely come up for consideration. Australia is a stalwart ally of the United States in the war against terrorist organizations (as well as in Iraq and Afghanistan), and Congress is receptive to administration requests to strengthen security cooperation. This support was evident in a measure passed in 2004 to expedite both bilateral exchanges and trade in defense articles and services with Australia within the FY 2005 defense appropriations (P.L. 108-375). Australia is also an important part of the administration's plan to realign U.S. military forces in Asia.

U.S. Military Realignment and Security Issues

In August 2004 the Bush administration announced a proposal to alter the U.S. overseas military basing posture. The proposal recommends establishing new operating sites, transferring several thousand troops and their families back to the United States, and adjusting the roles and missions of the U.S. forces that remain in Europe and Asia. Decisions made in the next two years could significantly affect U.S. military capabilities, Defense Department funding requirements, U.S. military relations with its allies, and the upcoming 2005 round of the domestic Base Realignment and Closure (BRAC) process.

The Pentagon is enthusiastic about these proposals, which would thin and realign the U.S. troop presence primarily in South Korea, but also in Japan as well. The plan could also open up a new rotational U.S. military presence in Singapore and Australia. There are several potential oversight issues for Congress, such as cost, relations with allies, local legal arrangements, and the impact on the BRAC process. This last point concerns many members of Congress whose districts contain military bases that are candidates for closure; these members of Congress could be reluctant to appropriate money for new facilities abroad if base-related jobs are being lost in their respective home states.

In order to help assess the situation, Congress established the Overseas Basing Commission in 2003 (P.L. 108–132). The Commission made its first Pacific Command fact-finding trip in November 2004, and more Commission meetings are planned for 2005. The BRAC process will begin in earnest when the Defense Department submits its closure and realignment recommendations expected in May. Many lawmakers are sympathetic to the Pentagon's strategic rationale for updating its Cold War-era basing arrangements, but a May 2004 Congressional Budget Office report cast doubt on the potential cost-effectiveness of the proposal. Overall, Congress is likely to support the administration's plan, but battles over some of the details could result in restrictions and thus complicate the State and Defense Departments' negotiations with America's allies in the region.

On other issues, Congress will continue to offer support for foreign forces or groups involved in military operations designed to combat terrorism (e.g., P.L. 108–375), which could have implications for certain Southeast Asian countries. Senator Lugar is expected to reintroduce the Conventional Arms Threat Reduction Act (S. 2981), which would fund a global program to secure or eliminate stocks of man-portable air defense systems (MANPADS), tactical missile systems, and other conventional weapons. The deployment of a missile defense system is going forward in the United States and will continue to receive support, but the pace of funding could slow due to the favoring of counterproliferation and counterterrorism priorities.

Trade and Business Issues

Two issues will top Congress' trade agenda in the first half of 2005: extending trade promotion authority (TPA, also known as "fast track" authority) until 2007 and reviewing U.S. membership in the WTO. President Bush will request the TPA extension by the beginning of March, which will automatically go into effect unless Congress specifically rejects the request before June. TPA extension will generate debate in Congress, but lawmakers will not likely refuse the president on this issue, allowing the administration to continue with bilateral and multilateral trade negotiations. Also in March, the Bush administration will send a report to Congress on the costs and benefits to the United States of its participation in the WTO. By law (P.L. 103–465), America's WTO membership must be reviewed and approved by Congress every five years, and—though the measure will be opposed by some—approval is expected.

Congress did eliminate one point of friction with the WTO in 2004 by repealing the antidumping provision of the Revenue Act of 1916 (H.R. 1047). The legislative branch has not, however, yet acted on the so-called Byrd Amendment that directs the distribution of some monies collected via antidumping

duties to injured U.S. firms. The Bush administration has pressed for that provision's repeal in order to avoid retaliation by other WTO members, making this issue likely to arise again in the 109th Congress.

The USTR will continue to press U.S. trading partners on the Doha Development Agenda negotiating framework in pursuit of a new global trade deal. The next ministerial conference is scheduled for December 2005 in Hong Kong. Some lawmakers, such as Senator Baucus, have pointed to China's success in negotiating an ambitious trade agreement with ASEAN as a reason for the United States to be more aggressive in negotiating FTAs with Asian nations beyond Thailand (pending), Singapore, and Australia (implemented during the 108th Congress). As mentioned earlier, Baucus has suggested that Malaysia should be the first priority, but he has also recommended pursuing trade agreements with Korea, Japan, and Taiwan.³⁰ The United States did sign a TIFA with Mongolia in 2004.

There are numerous other trade-related issues for Congress to consider in the next two years. The start of 2005 marked the end of a textile quota system in industrialized countries, and many in Congress fear that the United States will be flooded with cheap imports from China. Other Asian nations—including Cambodia, Mongolia, and Indonesia—worry that Chinese textiles will soon displace their exports. Congress will monitor the textile trade closely, as well as trade in other traditionally sensitive sectors such as agriculture, shrimp, tuna, and steel. Among the U.S. Chamber of Commerce's top legislative priorities for 2005 is battling global intellectual property theft, and the organization is likely to push for legislation to toughen penalties on counterfeiting and piracy.

In order to help fund port security measures in the United States, special user fees might be contemplated, which could impact exporters in Asia. Whether or not to extend provisions covering terrorism risk insurance will also be dealt with in 2005. In addition, the White House is pressing the Senate to ratify the Law of the Sea Treaty as a part of the "U.S. Ocean Action Plan" that the administration submitted to Congress in December 2004—something that Senator Lugar has long advocated and tried to accomplish in the 108th Congress. A number of conservative Republicans led by Senator Jim Inhofe (R-OK), however, criticize the treaty as an assault on America's sovereignty, and this group could have enough votes to block the measure, which requires a two-thirds majority to pass.

Conclusion

Republicans in Congress now have an excellent opportunity to put their mark upon American foreign policy, though it is not at all clear that they have a cohesive vision for how they want to wield this influence.³¹ There are a number of significant trade-offs that must be considered when crafting foreign policy in

³⁰ U.S. Senate Committee on Finance, "Speech of U.S. Senator Max Baucus Regarding Asia Trade Policy to the Institute of International Economics," December 8, 2004.

³¹ It is important not to overstate the role of Congress in American foreign policymaking. What influence the legislature does possess, however, is now more firmly under Republican control, and to a degree not remembered by most Americans alive today. This suggests that intra-party divisions (or lack thereof) on foreign policy issues will have more impact on successful legislation than inter-party splits.

this new era, and important gaps remain between the White House and Congress, as well as among Republican lawmakers themselves. Successful coalition-building within and between parties in Congress will have a determinative effect on the specific shape of those foreign policy developments.

For some in Congress, issues such as the promotion of democracy and human rights go hand in hand with the war against terrorist groups or a strategy to ameliorate the North Korean threat. Others, however, see a need to compromise at times in the former area in order to deal effectively with the latter. At what point does the effort to protect America's borders and tighten immigration rules undermine the aspirations of free traders and globalists? Can Washington make demands of its allies in the security arena without giving up something in return? Should the United States embed its power within multilateral institutions, or should it spurn those structures in favor of forming willing coalitions to combat nuclear and WMD proliferation, expand trade, respond to crises, and enhance regional security? These and other questions will be debated over the next two years, and although one cannot expect clear-cut answers, the way that Congress and the White House reacts in each case will incrementally build momentum for the future course of America's foreign policy. ^(NBR)



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