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**Taking the last stronghold? Analyzing executive pressure on authorization legislation in
foreign policy**

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Abstract:

The specter of unchecked executive discretion in transformative times looms large in public and academic debates on the separation of powers dynamics in the US – especially in foreign policy. While presidential unilateralism and preponderance in foreign policy has been studied extensively, the arena of legislating annual authorization is far less widely recognized as an important venue of interbranch struggles over foreign policy. I argue that this leads to an underestimation of congressional efforts to constrain executive discretion over foreign policy. Based on an examination of the quality and quantity of executive challenges to foreign policy provisions attached to the National Defense Authorization Acts (1985-2020), I demonstrate that presidents oppose a widening range of foreign policy topics in more assertive terms. The analysis also uncovers strong support for my prediction that this trend is driven by increasing polarization and divided government. Overall, this paper extends our knowledge of the domestic underpinnings of American foreign policy and points to an exciting area of research on the balance of power between Congress and the president.

Keywords: Foreign Policy, Lawmaking, Interbranch Relations, Polarization, Divided Government

10.300 words

1. Introduction

The specter of unchecked executive discretion in transformative times looms large in public and academic debates on the separation of powers dynamics in the US – especially so in foreign and defense policy. In the face of global power shifts, domestic turmoil and the almost constant crisis-mode of American politics, the prevalence of presidential power in foreign and defense policy is almost generally assumed. Interbranch confrontations with Congress, it seems, occur largely on domestic policies as the high-pitched battles on President Biden’s infrastructure bill or the American Rescue Plan showcased. In foreign and defense policy, legislative confrontations between Congress and the president seem less frequent and inconsequential because lawmakers either defer to the executive (Fisher 2000; Svensen 2019) or ultimately give way to the presidents’ institutional and informational advantages (Howell & Pevehouse 2007; Milner & Tingley 2015).

In this paper, I intend to provide a change of perspective that illuminates extant interbranch struggles over foreign policy legislation that often remain unseen because they deviate from the traditional trajectory in lawmaking from standalone bills to laws. I argue that it has become more common for legislators to aim to constrain executive privilege in foreign policy through unorthodox pathways – even more so when polarization is high (Lee 2015; Carcelli 2021) and when the government is divided (Kriner & Schwarz 2008; Guenther & Kernell 2021). I suggest that the venue of congressional efforts to constrain executive power in foreign policy has shifted to omnibus authorization legislation. President Obama pinpointed this pressure in one of his communications to Congress in 2012 regarding the National Defense Authorization Act: “A number of the bill's provisions raise additional constitutional concerns, including encroachment on the President's exclusive authorities related to international negotiations.” President Trump’s remarks in his Statement of Administration Policy (SAP) for the NDAA in 2017 offer additional

testimony to this trend: “[...] several provisions [...] could potentially dictate the position of the United States in external and military affairs and, in certain instances, direct the conduct of international diplomacy.” Hence, when Congress passes the annual defense authorization bill, it “[...] frequently incorporates unrelated foreign policy legislation.” (McKeon & Tess 2019, p. 83). Therefore, focusing on the drop in the number of hearings (Fowler 2015; Binder 2018) or in the quantity of foreign policy bills passed (Hinckley 1994; Binder 2018) runs the risk of underestimating congressional influence on foreign policy as provisions that are attached to authorization legislation go unnoticed.

The change of venue for interbranch confrontation makes sense for Congress at least for four reasons. First, Congress invokes its power of the purse, which marks a stronghold of legislative power across policy domains. Second, this move complicates presidential opposition as the stakes in the passage of large spending and authorization bills are much higher. Since the line-item veto was ruled unconstitutional by the Supreme Court in 1998, presidents can only veto an entire bill instead of vetoing specific sections of draft-statutes. This strengthens the authorization-leverage because the political costs on the line for vetoing a large authorization bill far exceed the costs of vetoing any specific provision. Third, these bills usually have a deadline, which creates pressure for the executive branch not to risk the bill’s failure lightly for the benefit of advancing parts of the foreign policy agenda. Fourth, the urgency and importance of annual must-pass legislation shields the corresponding legislative processes from deadlock and obstruction that otherwise is often characteristic of lawmaking in polarized times. I term this strategic maneuver the *authorization-leverage*.

I rely on executive communications to Congress that address the NDAA for the fiscal years 1986-2021 to assess the extent to which presidents increasingly fight Congress on provisions that

are tied to pivotal authorization legislation in foreign and defense policy. More specifically, I leverage SAPs to uncover the extent to which presidents target sections in the respective NDAA that address matters of international affairs. The case of President Obama's unsuccessful attempts to close the Guantanamo Bay prison illustrates well how limitation riders and other amendments to the NDAA can prevent the executive branch from achieving foreign policy goals central to their agenda. Hence, I posit the following research question: *To what extent and under which conditions do presidents fight Congress on foreign policy issues in the context of authorization legislation?*

I assess three central propositions in connection to this question: First, I expect that presidential challenges of provisions in the NDAAs rises over time as Congress challenges presidents more frequently within these legislative processes. SAPs are the product of the Office of Management and Budget's efforts to monitor legislative processes. Essentially, they pinpoint provisions in bills and coordinate the presidents' responses that often culminate in a degree of opposition carefully tailored to their readiness to compromise on a given issue. Hence, they are envoys of presidential efforts to inject their influence in a legislative process that legislators have come to favor as a way of exercising their role as checks and balancers of the executive. I suggest that presidential challenges become more prominent in quantity and quality over time to counter these ambitions. Second, I argue that partisan polarization in Congress fosters the use of the *authorization-leverage*, because these important bills are less likely to be gridlocked for long given the stakes and the deadline. Also, polarization mandates broader coalitions to pass important authorization legislation. Lastly, polarization has changed lawmaking on Capitol Hill in a way that favors unorthodox pathways for legislative processes such as restricting debates or passing larger and more diverse legislative packages (Sinclair 2012). Hence, if polarization increases, the quantity

and quality of executive challenges in SAPs in regard to foreign policy provisions in authorization legislation also increases.

Third, I argue that divided government fosters congressional ambition to exercise its legislative powers to the effect of curbing executive power in foreign policy. However, this dynamic is more difficult to see when it plays out in the context of omnibussed authorization legislation. In divided government, Congress tends to invest more in oversight (Kriner & Schwarz 2008). I suggest that congressional activism to confront presidents on their foreign policy preferences increases when the government is divided, which becomes evident in more executive rebukes in SAPs. Similar to polarization, the fact that divided party control of Congress and the White House has become the norm rather than the exception has changed the dynamics of lawmaking. For much of the 20th century, the adage ‘the president proposes, the Congress disposes’ on average adequately encapsulated interbranch relations in mostly unified and less polarized settings. However, “over time, divided party control of these branches became the norm and turned the venerable adage on its head.” (Guenther & Kernell, 2021: 641). Overall, I argue that interbranch relations in foreign policy are more contested than many previous studies acknowledge.

My empirical strategy relies on a mixed methods approach, which leverages content analysis of SAPs to measure the extent to which presidents target section in the NDAA that refer to matters of foreign policy. I also employ linear regression modelling and descriptive statistics to evaluate the impact of polarization and divided government. My findings suggest that presidents fight with Congress on foreign policy issues more extensively and in more assertive terms in authorization legislation over time. Significant parts of congressional efforts to constrain presidential discretion in foreign policy seem to unfold in the context of annual must-pass authorization legislation. My results also suggest that rising polarization and divided government contribute to this trend. More

broadly, this study helps illuminate the domestic underpinnings of American foreign policy in times of global power shifts in that it indicates eroding consensus between the branches on multiple foreign policy issues like alliance politics, treaty negotiations and partnership funds. Overall, my analysis indicates a growing influence of domestic politics on foreign policy in the US.

This paper proceeds as follows: Next, I connect my research to the ongoing debate between proponents of the unilateral presidency and those that find a more assertive Congress before I illuminate the rationales behind my arguments in more detail. Then I outline my empirical strategy, which I leverage to assess my original data-set. I conclude with the discussion of my results.

2. Literature Review

Presidents are generally assumed to have the upper hand in directing foreign policy, while Congress struggles to play its role as a counterweight. This is the essence of the imperial presidency literature (Schlesinger 1973; Rudalevige 2005, Hendrickson 2015) that echoes in a prominent section of contemporary studies on interbranch relations (Edelson 2016; Johns 2020; Marshall & Haney 2021). The message of this body of the literature is clear: “Congress has seemingly forfeited its position in shaping foreign policy to an increasingly imperial presidency.” (Marshall & Haney 2021, p. 683). On an abstract level, the two-presidency theory (Wildavsky 1966; Canes-Wrone et al. 2008) suggests that presidential success in lawmaking is greater in foreign policy than it is in domestic policy largely due to the president’s institutional advantages and because the public expects presidents to take the lead. Another prominent source of evidence for congressional weakness is the relative lack of legislative action (Binder 2018). In a similar vein, research on executive unilateralism regularly finds that presidential discretion is most pronounced in foreign policy (Marshall & Pacelle 2005; Lowande, 2014; Bolton & Thrower, 2016;

Belco & Rottinghaus, 2017; Warber et al., 2018) – especially so when international crises occur (Young 2013; Lowande & Rogowski 2021) or when the use of force is concerned (Lewallen 2017; Burns 2019).

Congress appears to falter on what Corwin (1984, p. 201) has famously defined as “[...] an invitation to struggle for the privilege of directing American foreign policy.” at a time when American foreign policy faces the concurrence of fundamental challenges including the erosion of bipartisan consensus on how to best respond to international challenges. This large body of literature suggests that Congress abdicated its foreign policy influence at a critical time for the US and for international relations more broadly. As a result, foreign policy (e.g. international treaties) is rarely anchored in interbranch consensus anymore, which makes it more susceptible to swift turnarounds – witness the American (re-)commitment to the Paris Climate Accords.

The spiking polarization of American politics seemingly weakens the legislative branch’s role as a balancer of executive power. It undermines oversight and favors congressional abdication (Fowler 2015; Friedrichs 2021). Politics no longer stops at the water’s edge (Jeong & Quirk 2019) and partisan strife became a significant force in the realm of foreign policy (Carter & Scott 2021). To bypass a frequently gridlocked Congress, presidents exercise their power unilaterally more assertively and more often (Edelson 2016), which accentuates their prevalence in foreign policy even further and lends additional credence to the argument for faltering constraints on executive power. Due to polarization, the currency of success in the legislative branch is now the extent to which legislators can prevent members of the other party from achieving their political goals (Hetherington & Rudolph 2015). Consequently, marshalling bipartisanship to check executive power in the policy realm presidents seem to dominate to begin with has become far more difficult. In short, Congress appears hamstrung by polarization as presidential power in foreign policy soars.

In this paper, however, I assess an underappreciated battleground where the interbranch imbalance is not as pronounced yet – authorization legislation. I argue that these often omnibussed bills still provide a legislative stronghold of congressional influence on foreign policy, which has recently come under heavy executive pressure. “An agenda-control and coalition-building tool, the omnibus bill is typically assembled in order to get something passed that otherwise faces uncertainty.” (Krutz 2000, p. 553). Focusing on legislative riders, Hassell and Kernell (2016, p. 849) argue that “they are inserted into these ‘must-have’ bills because they could not get past the president’s veto pen as stand-alone authorization bills.” My arguments explain how this basic logic still applies in today’s polarized and divided government and my analysis uncovers corresponding empirical patterns of Congress tying constraints on presidential power to the National Defense Authorization Act more, which shows as more prominent preemptive executive responses to these drafts. In the face of seemingly overwhelming presidential discretion in foreign policy, legislators rely on the strategic combination of their power of the purse and the importance of large and annual spending legislation to force the president’s hand and to pass otherwise uncertain legislative constraints. This, of course, does not preclude unilateral action to ultimately outmaneuver Congress, but it certainly increases the political cost for executive unilateralism. I focus on how presidents exert preemptive pressure by means of Statements of Administration Policy (SAPs) to exercise greater control over this avenue of congressional activity.

There is more to congressional influence on foreign policy than many proponents of an imperial presidency give Congress credit for. One dimension of this focuses on how congressional investigations negatively impact the political capital of presidents, which is predominantly measured by their approval ratings. As such, “[...] investigations systematically impose political costs on the president by diminishing his levels of support among the public.” (Kriner & Schickler

2014: 513). Oversight hearings and investigations are effective congressional tools for mobilizing public opinion against presidents, which seems to make the latter hesitant to provoke interbranch conflict all too easily even when Congress utilizes this tool less frequently (Kriner & Schickler 2016). As a consequence, congressional stewardship of public opinion rose to novel prominence as a check on executive power. Similarly, Christenson and Kriner (2017) argue that presidents oftentimes anticipate congressional retaliation in the form of legislators working to drive their approval ratings down. Hence, there is an indirect side to congressional checks on the executive that often goes unnoticed. This also echoes in scholarship on the informal constraints on executive power in foreign policy (Christenson & Kriner 2017), which challenges the reach of the argument that the contemporary presidency is imperial.

More on the formal side of constraints, Tama (2019) uncovers that members of Congress surprisingly often cooperate across party lines to push through sanctions legislation that the White House deems ill-advised. Tama pinpoints antipresidential-bipartisanship and shows that “legislators regularly force the president’s hand and, in doing so, sometimes alter international events.” (ibid: 15). Similarly, Böller and Herr show that Congress successfully implemented securitization discourses on US-Russian relations in order to force a reluctant president to sign into law a tough sanctions regime on Russia (2019: 16). This directly speaks to previous evidence gathered by Carter and Scott (2009) on foreign policy entrepreneurs in Congress, Lavelle (2011) on legislating US policy on international organizations as well as Auerswald and Campbell (2012) on Congress’s role in shaping national security policy, all of which suggest considerable congressional sway over foreign policy when viewed from the vantage point of lawmaking. The bottom line is that presidents are more powerful in foreign policy “[...] but at the end of the day, Congress controls budgets and the financing of all government policies in addition to enacting

laws regarding all policies.” (Milner and Tingley 2015: 34). While rapid decision-making often precludes lawmaking in foreign policy action, consequential constraints in the form of budget cuts, reporting requirements and limitation riders are indeed important legislative tools available to constrain presidents.

In sum, the literature on interbranch relations in foreign policy making provides a mixed picture that varies greatly on the extent of the imbalance between Congress and the presidency. Is Congress really as weak as the imperial presidency, the two-presidencies theory and executive unilateralism suggest or is there more to congressional influence on foreign policy beyond informal constraints? This study helps to provide further nuance to answers for this overarching question as it illuminates an arena of interbranch struggles over foreign policy that is more contested than is hitherto noticed.

3. Arguments and Hypotheses

I argue that proponents of a largely unconstrained presidency miss an important dynamic. Congress relies more heavily on its authorization-leverage to constrain presidential power. Rather than holding hearings or passing stand-alone bills addressing a particular issue of international affairs directly, legislators tie legislation that constrains presidents to large authorization bills. This raises the political costs for presidents to oppose the bill outright and moves the debate to a context still dominated by Congress. “Substantively, the power of the purse is among the most significant sources of authority for Congress as well as an important arena in which serious policy questions are litigated and decisions are made.” (Bolton & Thrower 2019, p. 1279). Presidents try to access this stronghold with more assertive SAPs to curb congressional efforts to balance executive privileges in foreign policy. Hence, presidents and Congress increasingly fight about foreign

policy in the context of NDAAAs, because this marks one of the still operational means for Congress to influence foreign policy as other options like hearings or standalone statutory action become more troublesome in times of polarization and divided government. Hence, legislators use their substantive power of the purse to influence foreign policy. In essence, “It [Congress] must legislate. Every year, the authorization process lead to must-pass bills that keep the government funded and give the legislative branch a chance to influence policy.” (McKeon & Tess 2019, p. 3).

The almost constant crisis mode of US politics tends to accentuate presidential discretion at least for the periods when the rally-‘round-the-flag effects are in full effect (Young 2013; Lowande & Rogowski 2022). This adds to the incentives for legislators already disadvantaged in foreign policy to play to their remaining strengths. Hence, they use the authorization-leverage to compel the president to engage them on questions of foreign policy in the playing field they deem more leveled. Presidents, in turn, through their monitoring and negotiation strategies facilitated by the OMB channel their superiority in foreign policy by releasing more assertive and extensive SAPs to “[...] enjoy a better prospect for success than if they had waited for their ‘take it or leave it’ choice.” (Hassell & Kernell, 2016: 857). In sum, I expect to see a broader range of foreign policy issues negotiated in the context of authorization legislation as well as more presidential assertions of power.

H1: The range and intensity of presidential challenges of foreign policy provisions included in the NDAA rises over time.

According to Abramowitz and Webster (2018, p. 134) negative partisanship “[...] almost certainly reshaped the legislative process in Washington.” (see also Sinclair 2012; Hetherington & Rudolph 2015). As such, deadlock and obstruction became more prominent characteristics of lawmaking in polarized times (Lee 2015; Binder 2018). Polarization has become a pervasive

phenomenon in American politics (McCarty 2019) – even in foreign policy (Friedrichs & Tama 2022). Lawmaking in polarized times often means to pursue unorthodox pathways to pass otherwise uncertain measures. With regards to authorization legislation, this means that foreign policy gains prominence in interbranch negotiations on large legislative packages. Yet, polarization does not preclude bipartisanship (Adler & Wilkerson 2013; Curry & Lee 2020). In fact, it might even support it. Given the importance of large annual authorization bills and accounting for the fact that bipartisanship on matters of foreign policy is still more likely as compared to domestic policies (Bryan & Tama 2021), I argue that polarization pressures legislators to form larger coalitions to pass such proposals. Put differently, in polarized times the group of swing voters in the minority party diminishes and the majority party must strike broader bargains to win enactment of legislation. This, in turn, motivates presidents to insert their influence preemptively before respective conference committees can muster broad bipartisan majorities. To illustrate, prior to Trump’s veto of the NDAA for the fiscal year 2021, the conference committee report passed the House in a 335-78 vote and in the Senate with a 84-13 vote, foreshadowing the required two-thirds-majorities required to overrule his subsequent veto. Therefore, I hypothesize that rising polarization correlates with more intense and more extensive interbranch negotiations on foreign policy in connection to the passage of the NDAA.

H2: High levels of polarization correlate with increasing quality and quantity of presidential challenges to foreign policy provisions included in the NDAA.

Interbranch competition in lawmaking reveals institutional tensions that are often at the forefront of the public and academic discourse on legislative bargaining especially in settings of divided government (Key, 1964; Krehbiel, 1998; Mayhew 2005; Bolton & Thrower, 2019). In general terms, divided government is found to be either inconsequential for (Mayhew 2005) or

detrimental to policy-making productivity (Howell et al. 2000; Binder 2003). This follows formal theories of lawmaking that originate in V.O. Key's (1964: 688) famous argument that "common party control of the executive and the legislature does not ensure energetic government, but division of party control precludes it." Scholarship embraced V.O. Key's notion theoretically (Krehbiel 1998; Chiou and Rothenberg 2003), but still struggles to pinpoint it empirically (Binder 2015; Kirkland and Phillips 2018). "Considered as a whole, the preponderance of evidence from previous studies suggests divided government has at least some negative effect on legislative productivity." (Hughes & Carlson 2015, p. 775). I postulate that this is in part due to a lack of theory on a productive side to divided government. Baumgartner et al. (2014), Gray and Jenkins (2017), Ansolabehere et al. (2017) as well as Lee (2020) have argued that divided governments have become more productive in the polarized climate on Capitol Hill. Two prominent explanations emerged: First, the legislators' calculus for ensuring reelection has shifted under the impression of more important party labels. Policy outcomes in divided government can be perceived as collaborative successes for both parties, while obstructing a unified government is electorally promising for the minority party. Second, the positive effect of unified government on policy-making productivity decreased because of the growing filibuster threat. As majorities are usually rather narrow in the House and the Senate, unified party control becomes less consequential for the passage of bills in the face of more frequent filibusters. In sum, unorthodox lawmaking in light of polarization means that the incentives for the minority party to participate collaboratively in policy-making have shifted to favor settings of divided governments. In this way, divided government can foster bipartisanship and assist legislators to exercise the authorization-leverage, which would show in more assertive SAPs in divided governments. Additionally, presidents and the majority-party in Congress are more likely to be at odds with each

other when party labels differ. Overall, I suggest that divided government leads to a more active Congress in terms of incorporating constraints on executive power in foreign policy within the NDAA.

H3: Divided government increases the prospect for more extensive and assertive executive assertions of power in negotiations on foreign policy provisions in NDAs.

4. Empirical Strategy

As all three hypotheses indicate, I define executive assertiveness in SAPs as my response variable to estimate the quality and quantity of interbranch negotiations on foreign policy issues in the context of annual authorization legislation – the NDAs, 1985-2020. Regarding their quality, I code the content of SAPs along the structured coding framework as established by Kernell et al. (2019, p. 337). It codes SAPs along eight categories ranging from strong support (1) to the highest degree of veto threat certainty (8). I adapt its application by only coding those sections of the SAPs that refer to issues of foreign policy before summing up the numeric values of the applied codes that indicate presidential opposition to estimate a comprehensive foreign policy assertiveness-score.¹ My focus on foreign policy includes provisions on international relations (e.g. international diplomacy, military deployment, alliance politics, partnership funds, intelligence and information sharing and trade relations) while it excludes issues of procurement and organizational aspects of government (e.g. spending on military equipment, property management, salary issues, matters concerning national guard, border protection and military governance). In terms of quantity, I employ content analysis to provide an overview on the foreign

¹ The values are not weighed against non-assertive sections of the SAPs, because, as SAPs grew more extensive over time, they almost exclusively added presidential opposition. Put differently, no additional sections with presidential support would provide significant counterweights to the added opposition.

policy topics discussed as part of the NDAA. Signing statements serve as a control to pinpoint those provisions that presidents continue to oppose after legislative bargaining has concluded, which might foreshadow unilateral action.

The coding proceeds as follows: A reference to a specific section or a broader theme in the SAP marks one coding unit, which covers the bulk of the textual data. I assigned each coding unit one code that contributes to the assertiveness score if the coded section is category 5 or higher.² Categories 1, 3 and 4 were never coded across the sample. In sum, challenging more sections of the NDAA specifically will lead to a higher assertiveness score.³ SAPs addressing NDAs are usually structured along an almost institutionalized sequence that applies across presidencies. Presidents would begin by voicing their general support for the passage of the bill, while most of them also thank the respective Committee for working on the legislative content. Then, they outline a list of the sections that they object to, with most presidents referring to the specific sections of the draft accurately or addressing an issue area as a whole. SAPs tend to close with presidents saying that they look forward to working with Congress on the identified issues, which hints at the strategic value SAPs hold for presidents: setting the agenda for interbranch negotiations. On one end, lawmakers try to capitalize on their authorization-leverage. On the other end, presidents invoke the imbalance of power in foreign policy. In consequence, interbranch tension as measured here in the quantity and quality of preemptive executive challenges to foreign policy provisions in the NDAA rise.

² An overview of all coded elements for the calculation of the assertiveness score, the coding scheme and anchor examples per category from the texts of the analyzed SAPs is available in the supplementary appendix for this paper.

³ The values are not weighed against non-assertive sections of the SAPs, because, as SAPs grew more extensive over time, they almost exclusively added presidential opposition that factors in with the aggregated assertiveness score. Put differently, no additional sections with presidential support would provide significant counterweights to the added opposition.

As there are generally two versions of NDAA's for each fiscal year and because I cover 36 fiscal years between 1985 (the year with the first SAP that addressed an NDAA) and 2020, the expected number of SAPs is 72. However, the actual N for SAPs between 1985 and December 2020 is 62. The NDAA in 1987 covered the fiscal years 1988 and 1989 (-2). Hence, there was no separate NDAA for 1989. Furthermore, President Trump in 2019 and 2020, President Obama in 2014 as well as President Reagan in 1985, in 1986 and in 1987 only issued one SAP (-6). Lastly, President Trump in 2018 did not release SAPs to the respective bills at all, which departs notably from previous presidential practice (-2).

For the composition of government measure, the code (1) indicates that the government is divided, whereas (0) signals that it is unified. I coded the composition of government measure from the vantage point of the SAP. Hence, when the office of the president and the house of Congress receiving the SAP are controlled by the same party, the applied code is (0), whereas I treated it as a divided setting when the receiving house and the presidency do not share the same party label (1). To measure the degree of polarization, I calculate the distance between the means of the Nokken-Poole-Estimates for Republicans and Democrats in Congress. I add four control variables based on my literature review: Presidential approval ratings, the war-time variable, the end-of-term variable and the honeymoon-variable. The values for presidential approval ratings rely on periodic polling data provided by the American Presidency Project (Wolley & Peters, 2020). I traced the approval ratings two months prior to as well as two months after the release of each SAP that addressed a draft NDAA. This ensures that the measure captures the period in which the first SAP is drafted as well as the stage in which Congress considers it. The respective values are the mean of all reported values within the four-month period. The war-time variable controls for effects specific to the use of force. When the US is at war, congressional deferral and

presidential power is expected to become more pronounced, which would largely eliminate the need for executive assertions of power in SAPs.⁴ The variable “honeymoon” codes the first year of any term as 1 and all others as 0. It controls for the potentially mediating effect of a newly formed government that benefits from a fresh commitment to collaborate across the aisle. The end-of-term variable codes the last year of any term as 1 and all others as 0. It controls for intensifying efforts by both parties to accentuate differences from the opponent in an election year.⁵

5. Findings

My analysis reveals that the NDAA has become a prominent venue for the interbranch struggle to influence American foreign policy. The quality and the quantity of presidential challenges of foreign policy provisions included in the NDAA as conveyed to Congress prior to floor consideration significantly increased. This is to say that SAPs for the NDAA cover a broader range of foreign policy issues and presidential opposition uses more assertive language by more frequently released targeted veto threats. Within the 62 SAPs, I identified 289 sections or issue areas that presidents oppose. Presidents predominantly target these foreign policy provisions with a category 7 veto threat and establish their opposition in corresponding signing statements. This suggests that they often did not achieve their legislative goals on deleting undesired sections prior to the bill reaching their desk for signature. The authorization-leverage appears to become a preferred strategy for Congress to legislate constraints on executive power in foreign policy. Table 1 illustrates the results of my content analysis of all SAPs and focuses on the range of foreign

⁴ I code the Gulf War (1990-91), the Bosnia and Kosovo missions (1997-99) and the heaviest fighting during the wars in Afghanistan and Iraq (2001-04) as 1 and all other years as 0.

⁵ A complete list of all variables is available in the paper’s appendix. I also ran a model with the Party-Unity-Vote-Score instead of the Nokke-Poole distance measure without finding challenges to the conclusions drawn from my first model (see appendix).

policy topics addressed in the respective SAP, while it also highlights those issues that presidents addressed in their signing statement.

Table 1: Foreign Policy Topics in SAPs that address the draft NDAAAs, 1985-2020⁶

⁶ This is a summary of the topics covered. I will provide a list of all sections and themes coded for the calculation of the foreign policy assertiveness score to the repository of the publishing journal. I am also happy to share it with anyone from our APSA panel upon request.

Year	Bill	Foreign Policy Topics in SAPs (in bold: issue addressed in corresponding Signing Statement after the bill passed)
1985	S. 1029	X
1986	S. 2638	X
1987	H.R. 1748	Restrictive ABM provisions; Opposing amendments that would mandate compliance with SALT II despite Soviet violations
1989	H.R. 2461	X
	S. 1352	X
1990	H.R. 4739	Troops Deployment to NATO (Fighter Wing in Italy), Overseas deployment matters
	S. 2884	X
1991	H.R. 2100	X
	S. 1507	X
1992	H.R. 5006	X
	S. 3114	X
1993	H.R. 2401	X
	S. 1298	Limit the President's flexibility on the mission in Somalia, "Accelerate the withdrawal of U.S. from Europe"
1994	H.R. 4301	Reduce funding for NATO
	S. 2182	X
1995	H.R. 1530	Limits the assignment of military forces under United Nations (UN), fulfilling treaty obligations, regulations of ABM treaty; presidential veto
	S. 1124	Antiballistic Missile (ABM) Treaty , Missile Defense Matters, Peacekeeping , international inspections of Department of Energy facilities, US-Russia relations, Strategic Cooperation Between the United States and Israel
1996	H.R. 3230	restrictions on implementing the ABM Treaty, preclude any agreement to "multilateralize" the ABM Treaty , retiring any strategic systems
	S. 1745	infringe upon the President's conduct of foreign affairs
1997	H.R. 1119	Bosnia Withdrawal Amendment, Bosnia Operations
	S. 936	Bosnia Withdrawal Amendment
1998	H.R.3616	imposes an expenditure limitation on funds for U.S. participation in Bosnia peacekeeping operations , any amendment that would further restrict or prohibit licensing of commercial satellite launches by China, the amendment which would cap expenditures for NATO enlargement
	S. 2060	Mandated Bosnia Withdrawal Amendments
1999	H.R. 1401	Cuts in funding for the Kosovo mission, several Kosovo floor amendments, US-Russia relations
	S. 1059	cooperative programs with Russia, violations of international agreements
2000	H.R. 4205	Kasich Kosovo Amendment, chemical weapons destruction facility at Schuch'ye, the prohibition on building fossil fuel plants as a means of shutting down the three Russian nuclear reactors, Restrictions on armed forces personnel on duty in the Republic of Colombia
	S. 2549	Kosovo Amendment
2001	H.R. 2586	X
	S. 1438	X
2002	H.R. 4546	Constraints on the president's authority to solely manage foreign affairs
	S. 2514	X
2003	H.R. 1588	X
	S. 1050	X
2004	H.R. 4200	restricts U.S. exports to countries making certain shipments to China, Train and Equip assistance to Iraq and Afghanistan military forces, Restrictions of Plan Colombia, trade contracts with European firms
	S. 2400	UN Oil-for-Food
2005	H.R. 1815	Procurement from Foreign Persons who Trade with China, Prohibition on Procurement from Beneficiaries of Foreign Subsidies, Fossile Material Disposition Program, China and Taiwan related issues, impediments of president's ability to negotiate with foreign countries
	S. 1042	Buy American Act Amendments , Fossile Material Disposition Program, Capital Security Cost Sharing
2006	H.R. 5122	China and Taiwan related issues, Support for Counter-Drug Activities of Certain Foreign Governments, Expansion of Operations of Civil Support Teams
	S. 2766	X
2007	H.R. 4986	Amendments on Iran, Guantanamo-Related Amendments

	S. 1547	Guantanamo related issues, Amendment on U.S. Withdrawal from Iraq, Amendments on Iran, Guantanamo-Related Amendments, missile defense site in Europe, Security cooperation Pakistan, US-Thailand relations, missions in Haiti and Lebanon; <i>Presidential Veto Message</i>
2008	H.R. 5658	date for Iraq withdrawal, changing legal traditions with Iraq, Iran issue, international trade agreements, European Missile Defense program, limits CERP obligations for Iraq
	S. 3001	date for Iraq withdrawal, changing legal traditions with Iraq, Iran sanctions legislation, Iraq and Afghan Security Forces, restrict president's abilities to conduct foreign affairs
2009	H.R. 2647	Missile Defense and US engagement with NATO allies, Limits on Building Partner Capacity (Afghanistan & Iraq), International Agreement with Japan
	S. 1390	Pakistan Counterinsurgency Fund, Building Partnership Capacity (Afghanistan & Iraq); Constitutional concerns sharing information on ongoing diplomatic negotiations
2010	H.R. 6523	Building Partnership Capacity (Afghanistan and Iraq); Phased Adaptive Approach for Missile Defense in Europe
	S. 3454	Building Partnership Capacity (Afghanistan and Iraq); Phased Adaptive Approach for Missile Defense in Europe; Iraqi Security Forces Fund, Guantanamo Bay Prison , prevent conflict with passed legislation on Iran sanctions
2011	H.R. 1540	Conditions on the Executive's ability to implement the new START treaty, Guantanamo Bay Prison; Negotiations with Russia on missile defense matters; military requirements in Europe
	S. 1867	Guantanamo Bay Prison, Overseas Construction Funding, international treaties (Bahrain + Japan/Guam), Activities with partner nations in Yemen
2012	H.R. 4310	impinge on the President's ability to implement the New START Treaty, Guantanamo Bay Prison; Missile Defense issues; i.e. Israel's Iron Dome, European Phased Adaptive Approach, NATO; Medium Extended Air Defense System, Italy and Germany; limit the President's ability to determine U.S. military requirements in Europe, Military Deployment in the Middle East; restriction in reimbursement for Pakistan from Coalition Support Funds, Activities w. partner nation Afghanistan
	S. 3254	Guantanamo Bay Prison; Medium Extended Air Defense System Italy and Germany; restriction in reimbursement for Pakistan from Coalition Support Funds; Office of Security Cooperation Iraq
2013	H.R. 3304	Detainee Matters Guantanamo Bay Prison , New START treaty; Missile Defense requirements East Asia + NATO; hamper the President's ability to enter into an executive agreement with a foreign country, by decreasing U.S. negotiating leverage with the Afghan Government); Nuclear Treaty Matters; Special Visas for Iraqi and Afghan Nationals; Foreign Commercial Satellite Communication
	S. 1197	Detainee Matters Guantanamo Bay Prison ; Marine Corps Presence in Asia-Pacific Region; Limitation on the Availability of Funds for the Task Force for Business and Stability Operations, Afghanistan; Special Visa Programs for Iraqi and Afghan Nationals; Joint Training Exercises with friendly foreign nations; Constitutional Concerns President's authority as commander in chief and international negotiations
2014	H.R. 3979	Guantanamo Bay Prison ; Open Skies Treaty in regards to Russia; Missile Defense Cooperation Poland, Aegeis System; Cooperative Threat Reduction and Security Cooperation with Russia; Iran Nuclear Negotiations
2015	H.R. 1735	Guantanamo Bay Prison ; Assistance for Iraq in the fight against IS; Counterterrorism Partnership Fund; Sense of Congress on the Negotiations with Iran; Open Skies Treaty; Missile Defense Poland and Romania; Striking the Afghanistan exception for the notification requirement on presidents to Congress for military operations; Joint Intelligence Project with Great Britain; Naval Nuclear Propulsion Program with other countries; Special Visas for Afghan nationals; <i>Presidential Veto Message</i>
	S. 1376	Guantanamo Bay Prison ; Counterterrorism Partnership Funds; Open Skies Treaty; Missile Defense Programs Poland Romania; Limitations to the Ukrainian Security Assistance Initiative
2016	H.R. 4909	Funding cuts for fight against IS; fight against IS in Iraq and Reporting Requirement; Guantanamo Bay Prison ; Coalition support fund Pakistan; Counterterrorism Partnership Fund; Joint Intelligence Analysis Complex Alliance with Europe; Hiring staff to step-up intelligence gathering on Russia; Cuts to funds for assistance to Russia on nuclear security; Reporting requirement on Russian violations of the INF-treaty; Open Skies Treaty; New START-treaty; Special Visas for Afghan nationals
	S. 2943	Guantanamo Bay Prison; US-Cuba military engagement; Counterterrorism Partnership Fund; Pakistan Security Enhancement Authorization; Security Cooperation Enterprise Reform; Security Programs in Afghanistan; Special immigrant visas for Afghan nationals
2017	H.R. 2810	Limits on operations in Syria and Iraq; Reporting requirement on military cybersecurity activities; Overseas Contingency Operations funds for Israel; Weapon Systems in regards to the INF treaty and US-Russian relations; Open Skies Treaty and US-Russian Relations; Usage of foreign commercial satellite services; Missile Defense Cooperation Romania; ongoing national security initiatives with the Republic of Palau; Constitutional concerns regarding executive power in foreign affairs
	S. 1519	requires the Secretary to provide a 30-day notice to Congress on new initiatives regarding military operations to counter ISIS; "would enact certain foreign policy and military determinations that are traditionally within the purview of the President in Cybersecurity); Weapon Systems in regards to the INF treaty and US-Russian relations; Foreign Military Sales, reconstruction, development, and stabilization efforts globally, including foreign disaster relief and humanitarian assistance; Constitutional concerns regarding executive authority in recognizing foreign nations, commanding the armed forces, diplomacy
2019	S. 1790	Nuclear deterrence matters; INF-Treaty matters; Information sharing broadly; Sharing of information on sensitive military operations; Guantanamo Bay Prison, keeping it operational; Open Skies Treaty; 15-day holding period of assistance to Syrian opposition; Special Visas for Afghan nationals, Reduced funding for foreign policy objectives
2020	H.R. 6395	Force Reduction Afghanistan Limitations; Force Reduction Germany Limitation; Open Skies Treaty; Indo-Pacific-Reassurance Initiative); Nonimmigrant status for certain nationals of Portugal, underfunding in terms of the implementation of executive authorities in foreign policy; <i>Presidential veto message</i>

Table 1 shows that salient foreign policy provisions only began to feature prominently in presidential SAPs on draft NDAA's during Clinton's tenure. Also, presidential opposition in signing statements appears to be more focused on particularly undesired provision. In the late 1980s and early 1990s fewer provisions in the respective NDAA received targeted executive opposition. Prominent topics included nuances in the U.S. commitments to NATO in terms military personnel and funding. Next to that, interbranch negotiations on treaty matters focused on the ABM treaty and the SALT II treaty. In the late 1990s President Clinton faced congressional opposition on the Kosovo as well as the Bosnia and Herzegovina missions. His power over the use of force was contested by consecutive NDAA's that incorporated a sense of Congress and legislative provisions demanding the withdrawal of the US military from the conflict area. Nevertheless, the range of topics was rather limited, which began to change after the terrorist attacks of 9/11. While Congress appears to have steered clear of challenging items on the presidential agenda in the immediate aftermath of the terrorist attacks, interbranch tensions on foreign policy pick up in 2005, when President G.W. Bush laments encroachment on his constitutional right to conduct foreign affairs. The range of topics also widens. Issues like China-Taiwan matters, Buy American Act Amendments and security assistance to Afghanistan and Iraq draw presidential opposition. Towards the end of G.W. Bush's tenure, legislators and the president disagree on multiple high-profile foreign policy issues like the Guantanamo Bay Prison, the on U.S. withdrawal from Iraq, amendments on Iran policy, missile defense sites in Europe, security cooperation Pakistan and missions in Haiti and Lebanon.

The emerging trend of more presidential challenges to foreign policy provisions included in the NDAA continues and accelerates during President Obama's tenure – particularly so in his second term. To illustrate, in his SAP for the draft NDAA in 2015, Obama faced congressional

pressure on Guantanamo Bay Prison matters, security assistance for Iraq in the fight against ISIS, the counterterrorism partnership fund, a sense of Congress on the negotiations with Iran regarding the nuclear deal, the Open Skies Treaty, Missile Defense posture Poland and Romania, the Afghanistan exception for the notification requirement on presidents to Congress for military operations, the Joint Intelligence Project with Great Britain, Naval Nuclear Propulsion Program with other countries and Special Visas for Afghan nationals. Treaty-matters also feature more prominently ranging from the Open Skies treaty to the New START-treaty and the INF-treaty, while Obama's pressure to close Guantanamo Bay Prison did not keep legislators from reassuring their constraints on this matter in every NDAA during his tenure. President Trump addresses a similar range of topics, while the substance of his opposition differs. To illustrate, Congress uses the NDAA to challenge executive preponderance in foreign policy in multiple areas like limits on operations in Syria and Iraq, reporting requirement on military cybersecurity activities, Overseas Contingency Operations funds for Israel, Weapon Systems in regards to the INF treaty and US-Russian relations, the Open Skies Treaty and US-Russian Relations, the usage of foreign commercial satellite services, Missile Defense Cooperation with Romania, ongoing national security initiatives with the Republic of Palau, which lead President Trump to raise constitutional concerns regarding executive power in foreign affairs. In 2019, he feels compelled to assert executive privilege in foreign policy broadly in his SAP for the NDAA: "While Congress's spending power is broad, it cannot be deployed to accomplish unconstitutional ends, including through the use of authorizations restrictions to prevent the President from exercising his constitutional authority to suspend, terminate, or withdraw from a treaty." Clearly, the authorization-leverage is increasingly deployed to constrain the president on a broad range of foreign policy, which supports H1.

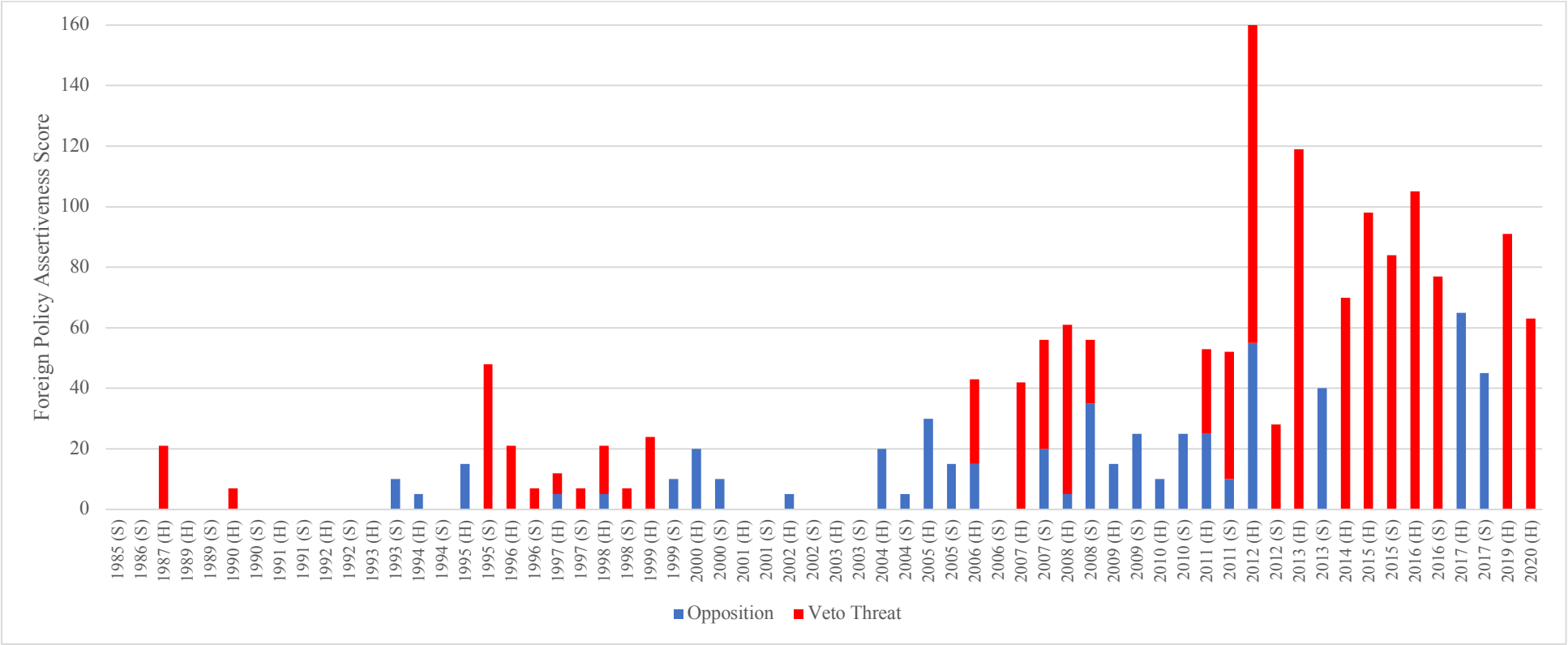
Figure 1 quantifies the quality and the quantity of interbranch negotiations on matters of foreign policy in the context of NDAA's and finds that high-pitched interbranch battles have become the norm rather than the exception. My aggregate foreign policy assertiveness score adds up the values of the applied codes, which provides initial insights on my response variable and the distribution of its values across my timeframe. Figure 1 also differentiates between presidential challenges that includes a veto threat on the targeted provision and those that do not. It stands out that presidential challenges in SAPs did not only address a growing set of foreign policy issues. They also adopted increasingly assertive rhetoric that released veto threats more frequently. The quality of presidential challenges as illustrated in figure 1 appears to support H1. Interestingly, presidents seem to be particularly assertive when their respective term ends. After having served two terms, George W. Bush and Barack Obama leave office with high assertiveness scores in their respective last years. I find lower assertiveness-scores early in the analyzed presidencies, which could be indicative of the honeymoon phase and fresh presidential commitments to reach out across the aisle. The latter appears to fade over time as presidents tend to grow more assertive as their tenure progresses. In this way, the initial findings seem to be rather consistent with established dynamics of interbranch relations.

Figure 1 also indicates that no president had to assert his foreign policy powers more vigorously than President Obama – particularly so in his second term. By 2014, he exclusively released veto threats on multiple foreign policy provision that lawmakers have attached to the NDAA – usually with strong bipartisan support for the respective conference committee's report. To illustrate, in 2016, both the House and the Senate version of the draft NDAA received 15 and 11 targeted veto threats in the SAP respectively. The president clearly tried to implement limits on congressional constraints. Yet, the conference committee report passed the House in a 375-34 vote

and the Senate in a 92-7 vote.⁷ The ensuing regression analyses provide more detailed and robust insights on the effects of divided government and polarization on the foreign policy assertiveness score. Nevertheless, the descriptive statistics in combination with the results of my content analysis regarding the range of foreign policy topics covered in interbranch confrontation on NDAAs suggest that settings of divided government and rising polarization help to explain the emerging trend.

⁷ I included an overview of the votes on conference committee reports for all the NDAAs covered by my timeframe in the appendix of this paper.

Figure 1: Foreign Policy Assertiveness Score per SAP, 1985-2020



Source: Own illustration

The first linear regression model includes all independent variables, while the second linear model excludes irrelevant predictors using the method of stepwise regression modelling. The dependent variable is continuous, but it lacks normality of distribution as the original histogram showed a leftward (or positive) skew. I corrected this by applying a square-root transformation to the values of the dependent variable, which established a sufficient level of normality (Osborne, 2013, pp. 176). Lastly, I outline the different significance levels in the last line of the regression output in table 3. I employ Marek Hlavac's (2018) stargazer package to illustrate the results. Table 2 reports the coefficients' estimates as well as the standard errors (in parentheses) for the predictors.

Table 2: The effects of divided government and polarization

	Foreign Policy Assertiveness	
	(1)	(2)
Divided Government	1.822*** (0.475)	1.856*** (0.438)
Polarization	26.043*** (2.716)	25.943*** (2.681)
Approval Rating	-0.057* (0.026)	-0.082*** (0.019)
Honeymoon	-0.163 (0.555)	
End of Term	0.045 (0.566)	
War	-0.973 (0.664)	
Constant	-13.194*** (2.687)	-12.112*** (2.558)
N	62	62
R ²	0.771	0.762
Adjusted R ²	0.746	0.750
Residual Std. Error	1.712 (df = 55)	1.701 (df = 58)
F Statistic	30.869*** (df = 6; 55)	61.849*** (df = 3; 58)

*p < .05; **p < .01; ***p < .001

The variance inflation factor (vif)-test successfully ruled out multicollinearity for the conclusive model (2). Hence, the coefficient estimates and p-values are reliable. Also, the basic regression assumptions are not compromised as the visual evaluation of the diagnostic plots for both models indicate. Furthermore, using the cook's distance measure, no particularly influential observation impacts the regression results. However, the Durbin-Watson-test as well as the Breusch-Godfrey-test indicate that auto-correlation is a problem in model 2, while the Breusch-Pagan-test does not convincingly rule out issues of heteroskedasticity. The most prominent countermeasure for both issues relies on the heteroskedasticity and autocorrelation consistent Newey-West-standard-errors, which yield robust results for the significant predictors.⁸ The adjusted R²-values for both regression models suggest that my results explain a convincing extend of the variation in the response variable. In sum, the regression analyses deliver reliable results that indicate statistically significant predictors for change in presidential assertiveness.

The results of my regression analysis support H2 and H3. Divided government appears to be a significant predictor of more assertive executive challenges. The positive coefficient's estimate for divided government suggests that, all other independent variables held constant, settings of divided party control are associated with an increase in the mean of the foreign policy assertiveness score. In divided government, presidents compete with lawmakers over foreign policy issues in the context of the NDAA more assertively. In this way, divided party control might foster congressional influence on foreign policy under the condition that Congress can muster large coalitions for must-pass legislation. Almost all of the conference committee reports on draft NDAA's included in my study passed both houses of Congress with overwhelming bipartisan majorities, which suggests that legislators do succeed to work across the aisle when must-pass

⁸ The results of these quality-checks for the regression models are available in this paper's appendix.

legislation is concerned. The regression output reports an even stronger effect for polarization in both Models. This suggests that presidents assert their foreign policy powers more extensively in the face of lawmakers employing the authorization-leverage more broadly when the receiving House of the respective SAP is either controlled by the opposing party or when the net distance between the mean ideological position of both parties increases. Contrary to conventional wisdom that expects loosened constraints on presidents due to gridlock when polarization rises, I find polarization to be associated with more high-pitched interbranch battles over a wide range of foreign policy issues.

I controlled for the effect of approval ratings and the results indicate a significant and rather counterintuitive result. Given the negative coefficient's estimate for this measure, the mean of foreign policy assertiveness appears to rise in response to a decrease in presidential approval ratings. Previous studies found that high approval ratings embolden presidents to be more assertive (Christenson & Kriner, 2019) and raise their prospects of success in lawmaking (Barrett & Eshbaugh-Soha, 2007), while they also increase the political costs for Congress to oppose popular presidents. My results suggest that this might differ in the context of authorization legislation. In the context of must-pass legislation, presidents might intend to compensate for lower public approval ratings with more direct assertions of their power. However, my study cannot establish this link with confidence given the limited empirical scope. Still, this result should motivate further research on how the effect of presidential approval might differ across types of legislation.

Model 2 excluded the irrelevant predictors “Honeymoon”, “End of Term” and “War” using stepwise regression modelling. The periods of a presidential term appear to be inconsequential for the quality and quantity of presidential challenges targeted at foreign policy provisions in the draft NDAA. Similarly, times of war are not associated with significant changes in the foreign policy

assertiveness score. Table 1 suggests otherwise and points to a pause of interbranch legislative confrontations when the US is at war. Given the regression output, this relationship lacks empirical evidence at least with regards to my empirical scope.

Table 3 explores possible interaction effects between divided government and rising polarization on the foreign policy assertiveness score. Both occur more frequently over time and the definitions of H2 and H3 suggest that the presence of one factor might compound the effect of the other.

Table 3: Interaction effects of divided government and polarization

	Foreign Policy Assertiveness	
	(1)	(2)
Divided Government	-3.350 (4.003)	-3.851 (3.944)
Polarization	21.475*** (4.429)	20.951*** (4.337)
Approval Rating	-0.058* (0.026)	-0.082*** (0.019)
Honeymoon	-0.112 (0.553)	
End of Term	0.032 (0.562)	
War	-0.894 (0.663)	
DivGov:Pol	6.909 (5.311)	7.602 (5.222)
Constant	-9.724* (3.774)	-8.406* (3.592)
N	62	62
R ²	0.778	0.770
Adjusted R ²	0.749	0.754
Residual Std. Error	1.702 (df = 54)	1.684 (df = 57)
F Statistic	27.034*** (df = 7; 54)	47.811*** (df = 4; 57)

*p < .05; **p < .01; ***p < .001

Table 3 supports the conclusions drawn from table 2. Approval ratings and polarization remain significant predictors of an increase in foreign policy assertiveness. The results for the interaction term indicate a notable effect that, however, lacks statistical significance. Hence, there is no statistically significant interaction between divided government and polarization. Still, one interpretation of the notable coefficient's estimate is that the effect of polarization is at least to some extent conditioned on a setting of divided government. Also, the interpretation of the coefficients' estimates for the variables that are part of the interaction term is troublesome as they only report the effect of $X_{\text{Polarization}}$ on assertiveness under the condition that $X_{\text{Composition of government}}$ is "0". Hence, I can only see conditional effects for the individual independent variables that are part of the interaction term and these conditional effects preclude any meaningful interpretation of predictors that cannot assume the value zero. Since polarization is never "0" in the data, I cannot interpret the conditional effect of divided government if I include the interaction-term. The effect of approval ratings remains unchanged as reported in table 2.⁹

In conclusion, divided government and rising polarization are associated with more extensive and more contested interbranch negotiations on foreign policy issues in the context of NDAAAs. The results present sufficient evidence to suggest that the authorization-leverage enjoys greater attention by lawmakers that face an uphill battle with presidents on foreign policy. I find that significant parts of the struggle over American foreign policy now takes place in the realm of authorization legislation, which indicates that congressional checks on the executive might not be as silent as proponents of the imperial presidency suggest. Clearly, there is more to congressional

⁹ I also ran five separate regression models to control for president-specific effects without finding substantive changes to the patterns and conclusions as reported in tables 2 and 3. However, the trends are to some extent driven by the Obama-Administration and the corresponding model with this control suggest a significant albeit weak president specific effect on foreign policy assertiveness. However, the broader conclusions still hold as the significant predictors remain significant and strong. Figure 1 also indicated that 2012 might be an influential outlier, but the results do not change substantially when this year is excluded from the dataset.

activity on matters of foreign policy than established measures of policy productivity can capture. The high degrees of presidential assertiveness indicate that presidents across administrations try to preemptively weaken the authorization-leverage, but the multitude of signing statements, the recurrence of undesired foreign policy provisions within and across administrations as well as more expansive veto rhetoric suggest that these efforts often fall short. Therefore, I conclude that the influence of authorization politics on foreign policy has increased.

6. Discussion of the results

This study finds that Neustadt's (1960) was correct in arguing that presidents must bargain to influence legislative processes – even when foreign policy is concerned. In my analysis, I shed light on a central question in interbranch relations: Has Congress abdicated its role as a balancer of executive power in foreign policy? The answer to this question has important implications for the study of the domestic underpinnings of American foreign policy. I demonstrate that presidents increasingly struggle with lawmakers on a widening range of foreign policy issues and that they rely on more assertive language to do so, which more frequently relies on decisive and targeted veto threats. The argument for an imperial presidency seems less convincing in light of the extent to which interbranch negotiations on foreign policy now seem to take place where Congress exerts significant influence. As the content analysis uncovered, the use of force is also a contested issue in the arena of legislating authorization, which notably departs from an unchecked presidency in this domain. Overall, this article deepens our understanding of the mechanisms available to Congress to participate in foreign policy making. As such, my findings demonstrate that lawmakers use the authorization-leverage to engage presidents on foreign policy in an arena they still consider their home field.

The arguments developed in this article could be extended to the exercise of the authorization leverage and corresponding executive assertiveness in other authorization legislation. Also, future research could study how SAPs integrate into the broader legislative strategy of presidents and congressional reactions to them. Here, I have examined one of the most significant and recurring legislative processes with clear implications for American foreign policy. I demonstrated that the composition of government is associated with more prominent interbranch disputes over foreign policy provision in the NDAA. Also, Polarization is an important piece of the puzzle of interbranch dynamics but not necessarily to the effect of loosened constraints on presidents. Instead, I show that rising polarization appears to be associated with high-pitched battles over foreign policy in the context of annual authorization legislation. The urgency of must-pass legislation likely compounds the pressure on both sides to strike a bipartisan bargain, which is likely broader given that the parties are more internally cohesive in polarized times. In turn, broader bipartisanship complicates presidential opposition and strengthens the authorization-leverage as a tool to constrain the executive. In sum, my results show that congressional constraints are not solely dependent on standalone legislation, hearings or informal measures. Instead, the extent and quality of executive challenges to foreign policy provisions in NDAAAs indicate the lawmakers increasingly rely on their authorization-leverage to exert legislative pressure on presidential power in foreign policy. Multiple avenues for further research connect to my findings. I consider two directions to be particularly promising: First, the most urgent empirical question that comes to mind turns to the extent to which presidential preemptive challenges are successful in bringing about desired changes in the targeted bills. Echoing the two-presidency theory, comparative perspectives could explore differences in the application of the authorization-leverage and presidential responses to legislative pressure across policy fields.

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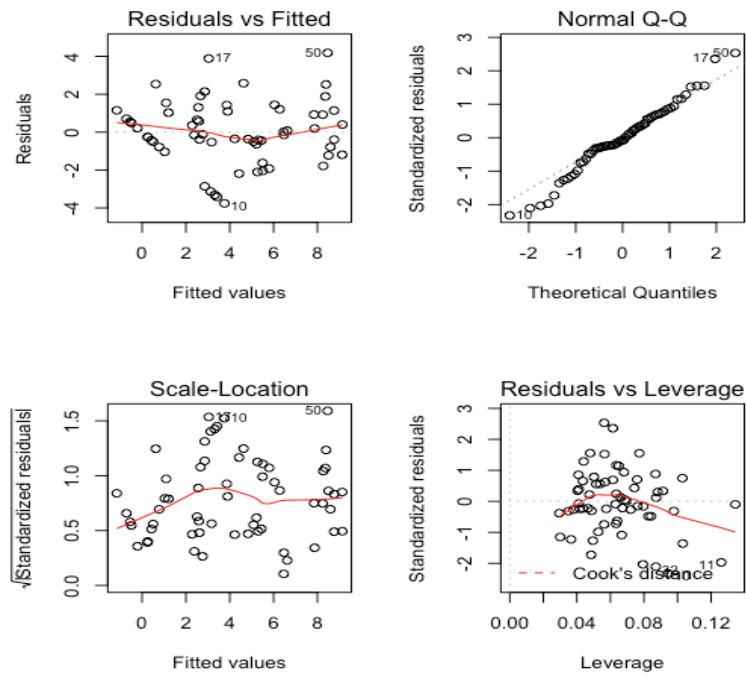
Appendix

Votes on conference committee report

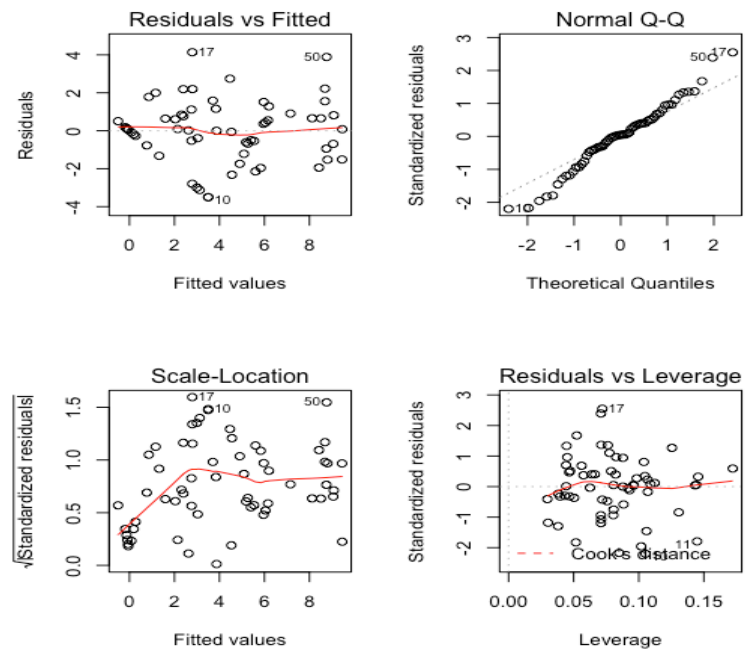
Year	Vote on Conference Report
1985	Conference Report House “Voice Vote”, Senate: 94-5
1986	Conference Report House 283-128; Senate Voice Vote
1987	Conference Report House 264-158; Senate: 86-9
1989	Conference Report House: 236-172; Senate: 91-8
1990	Conference Report House: 271-156; Senate: 80-17
1991	Conference Report House 329-82; Senate: 79-15
1992	Conference Report House: 304-100; Senate: Unanimous consent*
1993	Conference Report House 273-135; Senate 77-22
1994	Conference Report House 280-137; Senate: 80-18
1995	Conference Report House: 287-129; Senate: 56-34
1996	Veto new bill; Conference Report House 285-132; Senate: 73-26
1997	Conference Report House 286-123; Senate: 90-10
1998	Conference Report House: 373-50; Senate: 96-2
1999	Conference Report House 375-45; Senate: 93-5
2000	Conference Report House 382-31; Senate: 90-3
2001	Conference Report House 382-40; Senate: 96-2
2002	Conference Report House: Voice Vote; Senate: Voice Vote
2003	Conference Report House: 362-40; Senate: 95-3
2004	Conference Report House: 359-14; Senate: unanimous consent
2005	Conference Report House: 374-41; Senate: voice vote
2006	Conference Report House: 398-23; Senate: Unanimous consent
2007	H.R. 1518 Vetoed; Agreed in House: 369-45; Senate: 91-3
2008	Resolving differences; House passed 392-39; Senate: 88-8
2009	Conference Report House: 281-146; Senate: 68-29
2010	Conference Report House 341-48; Senate: unanimous consent
2011	Conference Report House 283-136; Senate: 86-13
2012	Conference Report 315-107; Senate 81-14
2013	Passes House: Voice vote; Senate: 84-15
2014	Resolving differences; House passed 300-119; Senate: 89-11
2015	Vetoed; Conference Report on vetoed bill: House: 270-156; Senate: 70-27; S. 1356 passed in House 370-58 on motion to suspend rules; Senate: 91-3
2016	Conference Report House: 375-34; Senate: 92-7
2017	Conference Report House: 356-70; Senate: Voice vote
2019	Conference Report House: 377-48; Senate: 86-8
2020	Conference Report House: 335-78; Senate: 84-13; Subsequently overruled veto

*Unanimous consent = no opposition and no vote.

Diagnostic Plots for Table 2 Model 2



Diagnostic Plots for Table 3 Model 2



Newey-West-Standard-Error test for table 2, model 2

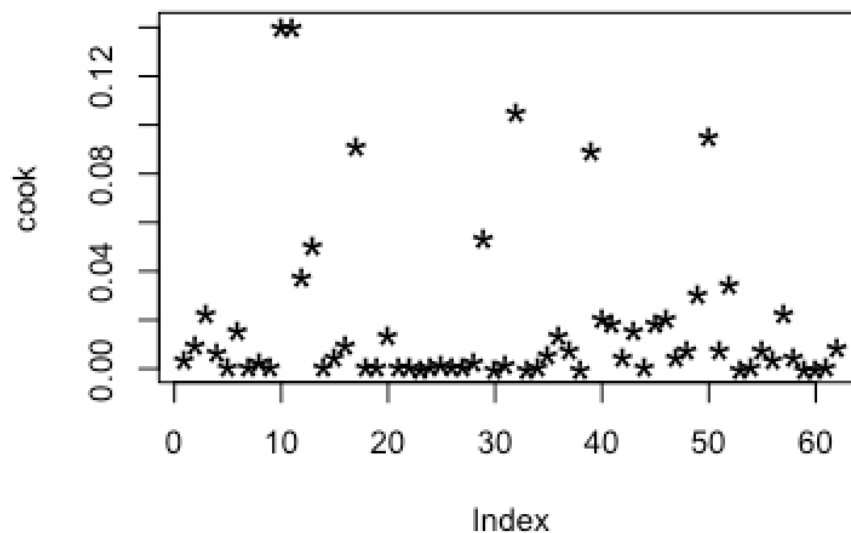
t test of coefficients:

	Estimate	Std. Error	t value	Pr(> t)	
(Intercept)	-12.112488	3.435996	-3.5252	0.0008337	***
FP\$DivGov	1.856067	0.433684	4.2798	7.099e-05	***
FP\$Pol_NP	25.943231	3.261026	7.9555	7.271e-11	***
FP\$Approval	-0.082393	0.021951	-3.7534	0.0004057	***

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Cook's Distance Measure for table 2, model 2

Influential Observations by Cook's distance



Regression output with the PUV-score instead of the Nokken-Poole Distance measure

	Foreign Policy Assertiveness	
	(1)	(2)
Divided Government	1.876* (0.734)	1.939** (0.665)
Polarization	0.102** (0.038)	0.099** (0.035)
Approval Rating	-0.095* (0.040)	-0.112*** (0.030)
Honeymoon	0.288 (0.848)	
End of Term	0.684 (0.890)	
War	-0.420 (1.032)	
Constant	1.942 (3.410)	3.083 (3.099)
N	62	62
R ²	0.461	0.453
Adjusted R ²	0.403	0.424
Residual Std. Error	2.626 (df = 55)	2.578 (df = 58)
F Statistic	7.850*** (df = 6; 55)	15.989*** (df = 3; 58)

*p < .05; **p < .01; ***p < .001

Coding Categories

Category	Description
1	The administration strongly supports the bill with no objections
2	The administration supports the bill with minor opposition
3	The administration defers to Congress on the enactment of the bill
4	The administration has no objection to the bill
5	The administration objects to, is opposed to or has concerns about the bill or certain sections of it
6	The secretary of (relevant agency) will recommend to the President that he should veto the bill
7	Senior advisors will recommend to the president that he should veto the bill or certain sections of the bill
8	The president will veto the bill, if it remains in its current form or if certain sections are not adapted

Source: Kernell et al. 2019: 337 with minor adaptations.

Overview of all variables

	Number of SAP in the dataset	Composition of Government	Approval Rating	Polarization PUV-Score	Polarization Nokken-Poole	Foreign Policy Assertiveness Score	Honey-moon	End of Term	War
1985	1	0	56.8	49.6	0.62	0	1	0	0
1986	2	0	62.2	52.3	0.62	0	0	0	0
1987	3	1	47.8	63.7	0.65	21	0	0	0
1989	4	1	67.6	56.3	0.65	0	1	0	0
1989	5	1	67.7	35.3	0.62	0	0	0	0
1990	6	1	70	49.1	0.66	7	0	0	1
1990	7	1	65.5	54.3	0.62	0	0	0	1
1991	8	1	77.2	55.1	0.66	0	0	0	1
1991	9	1	70.7	49.3	0.63	0	0	0	1
1992	10	1	37.7	64.5	0.66	0	0	1	0
1992	11	1	35.9	53	0.63	0	0	1	0
1993	12	0	45	65.5	0.72	0	1	0	0
1993	13	0	46.9	67.1	0.64	10	1	0	0
1994	14	0	47.9	61.8	0.72	5	0	0	0
1994	15	0	45	51.7	0.64	0	0	0	0
1995	16	1	47.6	73.2	0.77	15	0	0	0
1995	17	1	46.4	68.8	0.66	48	0	0	0
1996	18	1	54.6	56.4	0.77	21	0	1	0
1996	19	1	55.6	62.4	0.66	7	0	1	0
1997	20	1	57.4	50.4	0.79	12	1	0	1
1997	21	1	57.4	50.3	0.7	7	1	0	1
1998	22	1	62.5	55.5	0.79	21	0	0	1
1998	23	1	62.4	55.7	0.7	7	0	0	1
1999	24	1	59.9	47.3	0.79	24	0	0	1
1999	25	1	59.2	62.8	0.68	10	0	0	1
2000	26	1	58.2	43.2	0.79	20	0	1	0
2000	27	1	58.2	48.7	0.68	10	0	1	0

	Number of SAP in the dataset	Composition of Government	Approval Rating	Polarization PUV-Score	Polarization Nokken-Poole	Foreign Policy Assertiveness Score	Honey-moon	End of Term	War
2001	28	1	73.7	55.3	0.68	0	1	0	1
2001	29	1	73.7	40.2	0.8	5	1	0	1
2002	30	0	75.9	43.3	0.8	5	0	0	1
2002	31	0	73	45.5	0.68	0	0	0	1
2003	32	0	66.5	51.7	0.81	0	0	0	1
2003	33	0	66.5	66.7	0.67	0	0	0	1
2004	34	0	49.3	47	0.81	20	0	1	1
2004	35	0	49.3	52.3	0.67	5	0	1	1
2005	36	0	47.6	49	0.83	15	1	0	0
2005	37	0	45.4	62.6	0.71	15	1	0	0
2006	38	0	35.9	54.5	0.83	42	0	0	0
2006	39	0	36.3	57.3	0.71	0	0	0	0
2007	40	1	33.4	62	0.82	42	0	0	0
2007	41	1	32	60.2	0.73	56	0	0	0
2008	42	1	29.4	53.3	0.82	61	0	1	0
2008	43	1	29.2	51.6	0.73	56	0	1	0
2009	43	0	59.9	50.9	0.82	15	1	0	0
2009	45	0	57.6	72	0.76	25	1	0	0
2010	46	0	47.3	40	0.82	10	0	0	0
2010	47	0	44.9	78.6	0.76	25	0	0	0
2011	48	1	46.2	75.8	0.87	53	0	0	0
2011	49	0	42.4	51.1	0.78	52	0	0	0
2012	50	1	46.7	72.8	0.87	160	0	1	0
2012	51	0	51.7	59.8	0.78	28	0	1	0
2013	52	1	47.6	68.6	0.87	119	1	0	0
2013	53	0	42.1	69.8	0.85	40	1	0	0
2014	54	1	43.1	72.6	0.87	70	0	0	0
2015	55	1	46.3	75.1	0.88	98	0	0	0
2015	56	1	46.3	69.3	0.86	84	0	0	0
2016	57	1	51.1	73.4	0.88	105	0	1	0
2016	58	1	51.1	46	0.86	77	0	1	0
2017	59	0	37.7	76	0.89	65	1	0	0

	Number of SAP in the dataset	Composition of Government	Approval Rating	Polarization PUV-Score	Polarization Nokken-Poole	Foreign Policy Assertiveness Score	Honey-moon	End of Term	War
2017	60	0	37.1	68.9	0.84	45	1	0	0
2019	61	1	41.7	68	0.88	91	0	0	0
2020	62	1	41.8	69.8	0.88	63	0	1	0