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CONGRESS AND
FOREIGN POLICY, 1976

REPORT

OF THE

SPECIAL SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES



JANUARY 2, 1977

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FOREWORD

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C., January 2, 1977.

This report has been submitted to the Committee on International Relations by Hon. Lee H. Hamilton, chairman of the Special Subcommittee on Investigations.

The findings and recommendations in this report are those of the Special Subcommittee on Investigations and do not necessarily reflect the views of the membership of the full Committee on International Relations.

THOMAS E. MORGAN, *Chairman.*

(III)

CONCLUSION

The Commission has been very fortunate to have had the cooperation and assistance of the many individuals and organizations who have helped it in its work. The Commission has also been very fortunate to have had the cooperation and assistance of the many individuals and organizations who have helped it in its work. The Commission has also been very fortunate to have had the cooperation and assistance of the many individuals and organizations who have helped it in its work.

Thomas H. Morgan, Chairman

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LETTER OF TRANSMITTAL

JANUARY 2, 1977.

HON. THOMAS E. MORGAN,
Chairman, Committee on International Relations,
Washington, D.C.

DEAR MR. CHAIRMAN: I enclose a report of the Special Subcommittee on Investigations, with recommendations. In making this report, our subcommittee found most helpful the testimony of 17 witnesses with expertise on the subject of Congress and foreign policy and with experience in the executive and legislative branches of Government. Their testimony was heard from June to September 1976.

This report attempts to determine what some of the characteristics and problems of executive-legislative relations have been, and offers some suggestions on how these problems can be addressed and how Congress' appropriate role in foreign policymaking formulation can be best insured.

I believe this report will be helpful and useful to Members of Congress, executive branch officials, and all other persons interested in ameliorating executive-legislative relations and the processes by which American foreign policy is formulated and executed.

While the conclusions, recommendations, and findings of this report represent a consensus of the members of the subcommittee, not all members of the subcommittee endorse all of them, and each is at liberty to agree or disagree with specific statements and recommendations in the report.

As a personal note I would like to thank Joseph Montville, a 1976 Congressional Fellow sponsored by the American Political Science Association, who served in my office for several months and assisted me during this inquiry.

Your comments and those of any of our colleagues on the full committee would be most welcome.

Respectfully submitted,

LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations.

LETTER OF INTENT

I, the undersigned, do hereby certify that the following is a true and correct copy of the original as the same appears in the records of the Board of Education of the City of New York.

Witness my hand and seal this 1st day of January, 1901.

JOHN J. HANCOCK, Secretary.

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I. CONCLUSIONS

1. Relations between the executive and legislative branches need urgent attention and improvement, lest existing frictions seriously impair the attainment of U.S. foreign policy objectives.

Solutions to the foreign policy problems confronting the Nation require a measure of domestic consensus, new emphases in our foreign policy initiatives, and quite possibly a new style in the conduct of our foreign affairs, all of which will depend on better relations between the two branches of Government and a mutual understanding of each branch's role and responsibilities in foreign policy.

2. The breakdown of the remarkable post-Second World War consensus during the Vietnam war has been followed by a further deterioration of executive-legislative relations because of a series of foreign policy confrontations.

The problem facing both Congress and the executive branch is not so much the necessity to rebuild a new foreign policy consensus as it is the need to achieve a working relationship between the two branches that will enhance the United States' capability to conduct a democratic and effective foreign policy. Periods of consensus between the legislative and executive branches of Government on foreign policy matters have been the exception rather than the rule throughout American history.

The duality of responsibility inherent in the Constitution of the United States and the American system of government has made the achievement of consensus in foreign affairs a difficult and painstaking process for both branches of Government.

3. Despite disagreement between the executive and legislative branches on some foreign policy initiatives in recent years, many important areas of agreement between the two branches remain.

Agreement between the two branches was illustrated by the major foreign policy initiatives of the immediate post-war period, such as U.S. participation in the United Nations, the Truman doctrine, and the Marshall plan. Congress and the executive branch have continued to agree on such fundamental issues as the security of Western Europe and Japan and the peaceful resolution of the Middle East conflict.

Congress has been supportive of such initiatives as economic assistance programs, the initial opening up of relations with the People's Republic of China, and strategic arms limitations talks. Today, concern over world economic developments and a growing awareness of the requirements of the new international economic order provide great opportunities for expanding areas of agreement between the two branches.

4. The Constitution provides that foreign policy powers are *shared* by both the President and the Congress.

(1)

This constitutional mandate requires the continuing assertion of congressional activism in foreign policy matters.

War powers, treaty powers, appointive powers, and "foreign commerce" powers are all shared powers under the Constitution, requiring the Congress to play an important and continuing role in the formulation of foreign policy.

5. Our constitutional system is predicated on a certain tension and adversary relationship between Congress and the executive branch, particularly in foreign policy.

However, each branch must not let adversary considerations dominate the relationship. For relations to ameliorate, the executive branch must be more willing to consult with the Congress in a timely and adequate fashion, prior to taking action, while Congress must be willing to accept the responsibilities and burdens of fuller participation in the policy process.

Controversies over what type of domestic consensus is to be sought and the difficulty of achieving an agreed consensus have contributed to the adversary relationship between the two branches. The present adversary relationship has been both a cause and an effect of the breakdown in the foreign policy consensus over the past decade.

6. Many of the problems affecting legislative-executive relations are attitudinal rather than structural, and no amount of structural innovations will solve them.

Although a congressional "joint committee on national security" has often been mentioned as a ready palliative for the deficiencies of executive-legislative relations, it is highly doubtful that such a committee, cumbersome in size of membership and principally composed of committee chairmen and ranking members with many competing interests and commitments, would solve the attitudinal problems of interbranch relations.

The executive branch, in spite of declarations to the contrary, often considers Congress at best a nuisance, and will always prefer it to play a minimal role in the foreign policy process. On numerous occasions executive branch officials have not been sufficiently responsive to Congress' desire to influence the foreign policy formulation process, have refused to consult in a timely or adequate fashion with Congress, and have tended to consider Congressmen and their staffs as unqualified participants in the foreign policymaking process.

At the same time, Members of Congress have often adopted views based on narrow and parochial interests that represent part, but not all, of the factors involved in complicated foreign policy decisions. Many Members are also unwilling to make decisions and accept responsibility for their consequences. If Congress is to play an effective role, more of its Members need to maintain a sustained interest, be less motivated by parochial concerns, and be more willing to accept responsibilities inherent in a foreign policymaking role.

7. From a legislative viewpoint, the crux of the problem between the executive branch and the Congress in foreign policy today is the inadequate state of consultation between the two branches.

If the executive branch and Congress are able to agree on what consultation should involve, which Members of Congress are to be consulted, and at what point in the decisionmaking process consultation ought to occur, the potential for conflict between the two branches can be reduced and a better working relationship can be facilitated.

To insure such consultation, Congress may have to enact legislation that requires consultation for certain types of executive action (security assistance, energy policy, trade policy), as the War Powers Resolution does for the commitment of American troops into hostilities. Congress can also induce consultation by requiring that a certain action be expressly authorized by Congress or by providing for a legislative veto of certain actions. Such legislative controls require the executive branch to consult extensively, carefully, and promptly, with Congress or its designated representatives to insure that whatever action it intends to take is not negated by Congress.

However, no matter how routinized and accepted a practice consultation might become, Members of Congress need to be wary of the tendency to be co-opted by the executive branch. Consultation should not preempt the congressional role as critic and overseer of the executive branch. A degree of balance between the confrontation generated by an historical adversary relationship and the co-optation risked by close relations with the executive branch must always be the goal.

8. From the executive branch's perspective, the principal obstacles to better executive-legislative relations are the diffusion of power and responsibility in Congress, the multiplicity of members' interests and opinions, and congressional tendencies to undertake legislative initiatives that impair the implementation of foreign policy objectives.

A large number of committees and subcommittees with overlapping jurisdictions deal with foreign policy issues in Congress, placing heavy burdens on the executive branch, especially the State Department, in its effort to consult with Members of Congress.

The executive branch feels confronted by 535 opinions rather than presented with a coherent body or a centralized group representative of that body. Congress' inability to harmonize conflicting interests and to consider foreign policy in its totality, are major concerns of the executive branch.

Although Congress may be difficult to consult with, its inherent strength is its representativeness of the divergent opinions of the American people. In seeking to build a consensus on foreign policy, the executive branch should respect Congress' role in a democratic society, realize that there are a few ways to deal with the problems a diverse and democratic body presents, and be determined to work with Congress for the good of the Nation.

9. The activism of Congress in foreign policy is healthy and will continue.

An activist Congress can be a vital element of our democratic process. The activism of Congress has been spurred, in part, by the growing interest of Members in foreign affairs, a greater concern about international relations by the American people and the increasing interrelationship between domestic and international problems.

II. RECOMMENDATIONS

1. Both Houses of Congress should reform committee structures, streamline jurisdictions and improve intercommittee coordination on foreign policy issues. The foreign affairs committees of both Houses should have overall responsibility in coordinating the foreign policy activities of Congress. The practice of using sequential or concurrent referral of the most important legislation affecting foreign relations to the foreign affairs committees of both Houses should be established.

Congress must solve the problems of overlapping and disparate committee jurisdiction if it is to play a coherent and effective role in the conduct of American foreign policy. The foreign affairs committees of both Houses must be accorded primary and principal responsibility for foreign affairs in Congress. This would improve significantly Congress' ability to look at foreign policy problems from a broad perspective.

In instances in which they do not have jurisdiction, the House International Relations Committee and the Senate Foreign Relations Committee should be given sequential referral of all important legislation with foreign policy consequences. In cases where sequential referral is not possible or desirable, the House International Relations Committee and the Senate Foreign Relations Committee should seek concurrent referral.

Concurrent or sequential referral of the most important legislation with foreign policy implications to the Senate Foreign Relations Committee and the House International Relations Committee, is a procedure that would strengthen those committees' coordination and oversight capabilities in foreign policy. (Sequential and concurrent referral of legislation is provided for in the 93d Congress' H. Res. 988 as adopted, the Committee Reform Amendments of 1974.)

The International Relations Committee should also move swiftly to exercise its special review power over foreign intelligence activities, especially since no other procedure presently exists in the House of Representatives to perform such an important oversight function.

In any event, it is of crucial importance to the foreign affairs committees' abilities to coordinate and review foreign policy issues as a whole, that any House, Senate, or joint intelligence committee not become a competing or independent center of congressional oversight of foreign policy *per se*.

Furthermore, since nuclear proliferation and foreign economic policy have important national security and foreign policy ramifications, they are areas in which the House International Relations Committee

and the Senate Foreign Relations Committee should intensify their participation by seeking greater oversight and legislative jurisdiction over them.

Since 17 out of the 22 standing committees of the House of Representatives consider aspects of foreign policy, while in the Senate, 16 of 19 committees deal with foreign policy issues, committee reform is essential if the Congress is to help develop a single, purposeful foreign policy.¹

Undoubtedly, some jurisdictional overlap between committees will remain. To function more effectively within this framework, the leadership and the chairmen and ranking minority members of the several committees dealing with international issues, in both Houses, should meet periodically, either separately or jointly, to resolve conflicting interests and coordinate congressional action on foreign policy issues.

The House International Relations Committee and the Senate Foreign Relations Committee should follow closely the legislative work of other committees, which involves foreign policy matters and, if necessary, communicate their concerns to such committees, whether or not the legislation is referred either sequentially or concurrently to the foreign affairs committees.

To assist in this process, the International Relations and Foreign Relations Committees should designate staff members to follow the foreign affairs activities of other committees in each House and to monitor the consideration by other committees of legislation which has been voted out of the International Relations and Foreign Relations Committees.

2. While the current practice of holding hearings in various committees on the same foreign policy issues provides checks and balances invaluable to the congressional oversight function, joint hearings among committees and subcommittees with overlapping jurisdictions and even joint hearings between House and Senate committees and subcommittees should be initiated.

In some cases, joint hearings can generate more consistent and coherent consideration of and debate on foreign policy problems confronting the Congress. Joint hearings could reduce the often excessive amounts of time spent by high-ranking executive branch officials testifying on particular issues and avoid unnecessary duplication and repetition. It could also help to prevent the inclination by some executive agencies to try to play one committee off against another.

Hearings between subcommittees of different committees of the same House, or between subcommittees of the House and Senate would also be desirable. In some instances, they would also be preferable to joint hearings between full committees since they would be less unwieldy and easier to organize. Furthermore, they would allow more flexibility and greater indepth examination in their consideration of foreign policy issues.

¹ A list of these committees can be found in the "Findings" section (p. 20).

3. To exercise Congress' oversight powers more effectively, the House International Relations Committee and the Senate Foreign Relations Committee should hold hearings more frequently, both at the committee and subcommittee levels, on subjects not directly related to legislation.

If the Congress intends to play a principal role in shaping foreign policy, it must develop an ability to anticipate and investigate problems. The existing hearing structure must therefore be used more often as a vehicle for inquiries not directly related to expiring or new legislation. Such policy inquiries would be less "reactive" and less "negative" than many of Congress' foreign policy initiatives appear to be today.

The subcommittees of the foreign affairs committees of both Houses have had a good record of conducting inquiries into policy problems, which have often had beneficial results, whether or not legislation was enacted. The capacity to hold such hearings must be used readily and frequently. To fulfill their oversight mission in a consistent and assertive way, the subcommittees of both the House International Relations Committee and the Senate Foreign Relations Committee must also hold frequent hearings whose purpose would be to keep abreast of important developments in the areas under their jurisdiction.

4. Both the legislative and executive branches must organize themselves for handling the many pressing international economic issues confronting the Nation.

Neither the executive nor the legislative branch is well-organized to deal with regional and global economic challenges. While international security issues may have been the crux of American foreign policy concerns in the cold war period, the Nation is faced today with a series of international economic and social pressures which may generate the security problems of the future if they are not dealt with.

Congress' ability to consider international trade, finance, monetary, and energy matters, the entire fabric of interdependence is just as hampered as that of the executive branch by lack of coordination and clear mandate. Competing executive agencies pursue varied and often conflicting interests in the area of international economic policy. A coherent and consistent global economic strategy and effective coordination will remain elusive if the internal structures of both branches are not overhauled.

The articulation of foreign economic policy could become the general responsibility of the Department of State. Other departments might participate, as appropriate, in the formulation of policy, but leadership should be the responsibility of the Department of State. The importance of foreign economic policy in our external relations could be emphasized by making it the special responsibility of the Deputy Secretary of State. At the very least, the Under Secretary for Economic Affairs should play a principal role as the executive branch's spokesman on this subject.

Congress should simultaneously improve its capacity to deal with international economic matters by reorganizing itself principally as suggested in recommendation No. 1, particularly by having the foreign

affairs committees acquire primary jurisdiction over international trade policy, including tariffs.

5. The current system of consultation between the Department of State, as the principal executive agency responsible for foreign policy, and the Congress is inadequate and must be improved, with the emphasis on prior consultation.

The lack of effective consultation over the last several years has been responsible for much of the tension and distrust that exist today between the two branches on foreign policy matters. The State Department's adherence to its own concept of consultation has been matched by Congress' failure to take the initiative to consult with the executive branch on Congress' legislative proposals.

At the root of the problem is the executive branch's lack of *prior* and timely consultation with Congress. Consultation by State Department officials with more Members of Congress, *before* decisions are taken, based on a genuine desire to seek congressional input into decision formulation, would represent a crucial step in the attempt to rebuild a good working relationship.

While the State Department's consultative procedures with the entire Congress need to be strengthened, the foreign affairs committees of both Houses should continue to receive special attention and serve as focal points for consultation.

6. In the case of crises or special foreign policy problems, joint "ad hoc" groups should be instituted to serve as additional focal points for consultation with the executive branch. Their memberships would be chosen by the leadership of each House and would draw on the staffs of the relevant committees.

These joint bipartisan "ad hoc" groups would go to the White House to be consulted on important policy matters and would include not only chairmen and ranking minority members of the four or five standing committees having international concerns, but also other members, particularly middle- and junior-ranking members (who need not necessarily be members of these particular committees) who are known to have special interest or expertise in the crisis or problem at hand.

The members of these "ad hoc" groups would be chosen by the leadership of each House. The number of members comprising each of these groups would be determined by the leadership and vary according to the nature of the crisis or problem, the availability and expertise of potential members, and other circumstances as perceived by the leadership. The membership of these groups would not necessarily be based on proportional representation.

Because the membership of these "ad hoc" groups would be appointed by the congressional leadership (rather than by the White House, as that of current "leadership groups" is), Congress could control who would be consulted and would have greater leverage in consulting with the executive branch. Consultation through "ad hoc" groups would come to be regarded as a congressional prerogative and any White House failure to consult would look less like the White House refraining from exercising a privilege of consultation and more like a failure to comply with a congressional mandate.

The staffs of these "ad hoc" groups would be drawn from the personal staffs of the members chosen to compose the groups and from the staffs of the aforementioned standing committees.

Drawing on the assistance of the National Security Council staff and its information, and on the resources of the Department of State, these groups could perform an essential coordinating function for Congress as a whole and be a vehicle for congressional input into crisis-management and other important foreign policy situations.

Such groups would not and could not speak for Congress as a whole on foreign policy issues, nor would they have permanent charters as standing committees have. They would be nonlegislative and temporary.

The purpose of this type of group would be to give Congress and the executive branch a broadly representative and authoritative focal point for consultation without the problems and demands a fully incorporated standing "joint committee on national security" might present.

Discussions and consultation might, in a crisis situation, concentrate on these groups, but should never be confined solely to them.

These "ad hoc" groups would be empowered to call witnesses to testify, but the thrust of their activities should be in the form of direct, constant, and informal contact and consultation with the relevant executive agencies.

Consultation with these groups should not be confined to crisis situations. Consultation on major and continuing policy concerns could also occur with "ad hoc" groups, when broad congressional consensus is needed.

However, the foreign affairs committees of both Houses should remain the principal established foci for consultation between the two branches.

7. To enhance further the consultative process, the Department of State should provide: Regularly scheduled formal briefings before the foreign affairs committees by senior officials on U.S. foreign policy activities and international developments; special briefings before these committees on sudden and developing crises, without exception and as soon as they occur; and frequent informal briefings of members by senior and junior State Department officials, at the request of individual members and committees or at the initiative of the State Department itself, on other foreign policy concerns that may arise. Such briefings should be complemented by weekly, written "foreign policy bulletins" for Members of Congress from the regional and functional bureaus of the Department of State.

The need for Congress to be constantly consulted and informed in foreign affairs warrants the initiation of mechanisms to insure that Members of Congress have increased and formal access to senior officials of the Department of State. Periodic, formal briefings from Under Secretaries and Assistant Secretaries of State, perhaps every 3 months, on the state of our relations with foreign nations and on world and regional political and economic developments, would provide

members with a regular opportunity to have contact with our principal foreign policy executive department.

While the Secretary of State himself would not be relieved of the obligation to testify before committees of Congress, establishing such guidelines for other senior officials would ease some of the burdens placed on the Secretary of State to testify before congressional committees.

While the upgraded Under Secretary for Congressional Relations (see recommendation No. 10) should preserve his particular role as conveyer of State Department policy and liaison with Congress, the Under Secretaries for Political Affairs, Economic Affairs, and Security Assistance, and the Assistant Secretaries and Directors heading the various regional and functional bureaus, should testify on a regular basis before congressional committees and subcommittees, and be given broad authority to speak for and represent the Secretary of State.

Such briefings should be held before the House International Relations Committee and the Senate Foreign Relations Committee (separately), adopt the format of traditional congressional hearings, and be open or closed, based on mutual agreement between the two branches.

These periodic, regularly scheduled hearings should be supplemented by special briefings on developing crises and problems that hit the press suddenly. The executive branch should recognize the need of Members of Congress for prompt and up-to-the-minute information and counsel on world events and crises-in-the-making. Members tend to be crisis-oriented and are invariably called upon to deal with pressing and immediate foreign policy problems rather than with longer range policies.

To complement the consultative process and to respond to continuing and growing interest on the part of many members, the executive branch, particularly through the Department of State, must react to world developments with prompt and pertinent briefings on Capitol Hill.

Moreover, informal briefings on matters of concern both to Congress and the executive branch, between Members of Congress and State Department officials (at senior and junior levels), should be held as frequently as possible.

These briefings, called either at the request of individual members or at the initiative of State Department officials, would provide another needed opportunity to maintain a steady flow of information on a variety of issues that may come up. Informal briefings permit a freer exchange of information and ideas between Members of Congress and administration officials than do hearings or the suggested formal briefings. Such informal briefings are additional and useful sources of information.

In most instances of such briefings, policy options toward immediate and continuing foreign policy matters should be made available to Congress. The executive branch should seek to respond to Congress' desire and need to know what the various aspects and options of our policy are toward international problems that arise.

Finally, in order to insure a "continuum" of consultation and information, regional and functional bureaus in the Department of State should be required to provide all Members of Congress with weekly, written "foreign policy bulletins" that would outline significant international developments and U.S. policy responses. Such bulletins would serve as important background material for Members of Congress participating in hearings, "ad hoc" groups, briefings, and "question hour" periods (see recommendation No. 8).

The executive branch has a continuing responsibility to identify foreign policy problems, existing and anticipated, for Congress' consideration. The making of a wise and effective foreign policy by the United States depends on a process of education of Congress, provided in large measure by briefing and informing, in a timely and continuous manner, its members and committees, on the complex and numerous issues of international affairs.

8. Early in the 95th Congress, the executive and legislative branches should agree to initiate a "question hour" period, during which the Secretary of State in particular, but also other Cabinet officers, answer questions from Members of Congress.

Like the "question hour" or interpellation period used in the parliamentary system of government, the use of such a procedure by the U.S. Congress will provide direct and regular access to the executive branch's senior foreign policy official. He should appear before each House of Congress separately and in alternation, once a month while Congress is in session.

These sessions would be open to the entire membership of the House and Senate, and would take the form of "question-and-answer" periods. The practice would be limited to foreign policy matters, and the sessions would be open or closed depending on the sensitivity of the issues and on the will of the parties.

This device would supplement, but not be a substitute for, the Secretary of State's appearances before the standing committees of Congress.

Other Cabinet officers who have foreign policy responsibilities should also appear for such sessions, when requested by Congress, although presumably not as frequently or periodically as the Secretary of State.

A "question hour" period on a wide range of issues will help restore a dialog and facilitate the flow of information between both branches on important matters of foreign policy and national security.

Ground rules for this procedure will have to be determined between the two branches, taking into account Congress' right to know and query, and the executive branch's justified concern over the possible revelation of secret and sensitive information.

9. The legislative veto should continue to be used as a basic device for insuring effective prior consultation by the executive branch.

Even if the climate of confidence between Congress and the executive branch can be reestablished, the legislative veto will be essential

as a device of last resort and as a check on the executive branch. When denied a role in the early stages of policy formulation, Congress, through the use, or threat of use, of the legislative veto, will be able to involve itself in the later stages of the policymaking and implementing cycle.

Congress will tend to use its veto less frequently if it is consulted in a timely and regular fashion by the executive branch.

10. The office of Assistant Secretary of State for Congressional Relations should be upgraded to an Under Secretaryship and be made a major policymaking post.

Detailed knowledge and comprehension of the inner workings of the legislative branch should be given greater consideration in the State Department hierarchy. Upgrading the office can give its holder more leverage in presenting congressional views, moods, intents, and demands in high-level discussions within the State Department.

Relations between the State Department and Congress are sufficiently important to command the attention of a policy official at the highest level. The Under Secretary would continue to serve as the State Department's primary link to Congress and to be responsible for day-to-day relations between the State Department and Congress.

The upgraded office should be supported by a strong Congressional Relations Bureau staff, and by liaison officers in each regional and functional bureau, who would deal specifically with Congress.

11. Congress must legislate a statutory basis for information classification and develop new security procedures for handling classified information and dealing with sensitive intelligence reports.

Early in the 95th Congress, the House International Relations Committee and the Senate Foreign Relations Committee should direct their respective Rules Committees to initiate legislation establishing a statutory basis for the system of information classification. Such a statute should insure a congressional role in classification procedures now exclusively controlled by the executive branch and would guarantee Congress' access to classified documents of all agencies within the executive branch. It should also provide for restraints and sanctions for misuse of information by Members of Congress and their staffs (who have appropriate security clearances).

Senate Resolution 400 of the 94th Congress, establishing the Senate Select Committee on Intelligence, has outlined plausible sanction procedures. This resolution provides that the Select Committee on Standards and Conduct investigate any unauthorized disclosure of intelligence information, report any significant breach of confidence or unauthorized disclosure, and recommend such actions as censure, removal from committee membership, or expulsion from the Senate for Senators, and removal from office or employment or punishment for contempt for officers or employees.

Because of the nature of the information they deal with, the foreign affairs committees of both Houses should have a direct and substantial role in devising such legislation and establishing such procedures.

A fundamental issue which needs serious debate in Congress is the question of a Member's responsibility with sensitive information. Some Members prefer not to receive very sensitive information because, as public figures, they do not know how to use it should they have questions about it. It is difficult to determine what a Member's responsibility is for information provided about a decision or action taken with which the Member disagrees, in which the Member had no voice, or which the Member feels has important, and perhaps dangerous, foreign policy ramifications.

12. To make better judgments on foreign policy issues confronting the United States, Congress must make better use of available information and acquire new sources of information.

Congress should utilize more fully both internal Government information and outside sources of information. Its oversight and scrutiny of the more than 100 reporting requirements contained in legislation on foreign policy and foreign aid issues in some 50 laws need to be intensified.

In the various investigative and research support facilities available through the Congressional Research Service, the General Accounting Office, the Congressional Budget Office, and the Office of Technology Assessment, Congress should have access to reliable information, including technical and scientific information and data on the many short-term and long-term problems it faces in the foreign policy areas.

However, Congress has less access to critical medium-term assessments and analyses that might affect legislation within a matter of months or over the span of a congressional session. Congress can deal with this problem by using outside "think-tanks," reevaluating the functions and emphases of some of the already available sources, and maintaining a sustained oversight of these legislative agencies.

The executive branch can also play a role in providing Congress with more timely and pertinent information. Too often in dealing with Congress, State Department officials present Congress with positions that appear to be based on a 90-10 percent internal division when, in fact, the decision was resolved on a 55-45 percent split.

The material Congress needs to make better judgments on crucial foreign policy problems should include carefully selected key information about alternatives available, not solely alternatives chosen. This particular problem is as much a problem of executive branch attitude as it is one of "information-flow."

While Congress must recognize its dependence on the executive branch for the provision of information, it must be aggressive in seeking new sources of information from outside the Government and other than the present congressional investigative agencies.

Outside "think-tanks" should be used. Congress could also seriously consider the creation of a congressional "foreign policy assessment office", which would have access to a broad range of executive branch information, including intelligence analyses, policy options and alternatives, and field reporting, and would help systematize the rather informal and erratic exchange processes of present executive-legislative relations.

The creation, perhaps, of an "assessment office", which would "audit" and analyze policy options and decisions the way GAO audits

governmental financial activities, might serve not only to balance the inevitable dependence of Congress on the executive branch for information, but also to enhance Congress' capacity to evaluate medium-term foreign policy problems. Congress currently has better capabilities for examining short- and long-term problems.

In the final analysis, the establishment of a steady flow of information to members and their staffs is indispensable. The ability of Congress to obtain complete and comprehensive information from Government sources and elsewhere is critical to its efforts to play an assertive and positive role in foreign affairs.

13. Although the President's Special Assistant for National Security Affairs should not be compelled to testify before congressional committees, he should be confirmed by the Senate. In addition, greater efforts should be made to develop closer contacts between the National Security Council (NSC) and Congress.

The powerful role of the Special Assistant to the President for National Security Affairs, because of the capability of that particular office-holder to play a dominant part in formulating national security policy, must be subjected to some congressional review. The degree to which the Special Assistant and head of the NSC staff becomes more a policymaker than a coordinating "manager" determines not only his or her prominence within the foreign policy apparatus of the United States, but also the nature of his or her relations with Congress.

Since the position has become more a policymaking one in recent years, Congress should enact legislation requiring Senate confirmation of nominees for Special Assistant. However, the advisory and confidential nature of the relationship between the Special Assistant and the President should not be compromised by compelling him to testify before congressional committees once he has been confirmed.

Since Congress strongly prefers to deal with the established departments of the executive branch, and because of the special advisory character of the NSC staff, contacts between the two institutions have been severely and unfortunately limited. This situation must change, and, without requiring that staff members of the NSC be confirmed by the Senate or testify before committees, closer ties and contacts should be developed between Members of Congress and their staffs and the NSC staff.

NSC staff links with the congressional "ad hoc" groups mentioned in recommendation No. 6 should also be encouraged, particularly if the NSC's policy role evolves beyond one of management and coordination.

14. It is in the national interest and in the interest of a coherent foreign policy for Congress to be represented at international conferences and for participating members to have a substantive voice in decisions made by the American delegation. Members should also participate in major international trips by senior American officials, including the President.

The practice of having Members of Congress attend important international conferences and accompany major executive branch officials on international trips should become a matter of course. As conference

participants, they should be involved in all substantive decisions of the delegation. They should neither be considered ceremonial "window-dressing" in U.S. delegations, nor should they publicly oppose the diplomatic position of the United States and thereby risk undermining it.

The practice of having members participate substantively in delegation decisions should also apply to members of the House International Relations Committee and the Senate Foreign Relations Committee who annually participate in General Assembly sessions of the United Nations.

In addition, it would be useful for Members of Congress to be involved in major trips abroad by the President and his cabinet officers (particularly the Secretaries of State, Defense, Treasury, and Commerce). Such travel with senior Government officials can help provide Members of Congress with a perspective of our interests and of the complexities of our relations with states around the world unobtainable any other way. At the same time, the executive branch would be continuously aware of potential congressional attitudes towards and criticisms of its policy initiatives.

15. The Department of State should reinstitute the publication of the Secretary of State's "foreign policy report," which would provide a basic and comprehensive statement of our foreign policy.

Such documents (entitled, *United States Foreign Policy: A Report of the Secretary of State*) were prepared and published for 1969-70, 1971, and 1972. They served the useful purpose of providing a comprehensive overview of our national interests and foreign policy objectives. While these documents require much effort to produce, they do provide Congress and the public with a substantive and relatively detailed picture of our foreign policy and its goals. No other Government document serves that function.

16. The President should institutionalize the practice of delivering a "state of the world" report or message to Congress, which would outline broad foreign policy goals.

Annual "state of the world" reports, presented by the President to a joint session of Congress shortly after the "State of the Union" address, would not only delineate American foreign policy, but also serve as a basis for a general debate, in Congress, on the tenets and objectives of U.S. foreign policy. Such a debate is needed, as Congress too often confines itself to dealing with expiring legislation and to disapproving specific policy initiatives with which it disagrees.

The debate would give the President and the world an idea of the divergent interests and concerns of those composing the Congress of the United States, and would offer Members of Congress an early opportunity to express themselves on the broader aspects of U.S. foreign policy. Such a broad, more active, legislative review of general foreign policy goals could only serve to enhance Congress' overall perspective and role in foreign policy.

17. Without necessarily enlarging congressional staffs, except perhaps in the area of international economics, Congress should improve its foreign affairs staffs' effectiveness and oversight capabilities, and thereby the state of overall relations between the executive and legislative branches.

If the present atmosphere of distrust between the executive and legislative branches over foreign policy is to be changed, it is essential that solid working-level relationships develop between the foreign policy bureaucracies and congressional staffs. Several suggestions should be pursued.

First, in order to ease the adversary nature of most relations between the two branches, a host of new staff interchanges and contacts must be encouraged to increase and develop ties on Capitol Hill. This would involve free-wheeling exchanges of views in which set positions and policies on both sides give way to discussion of alternatives and their ramifications. The State Department's Open Forum Panel has supported such activities. Such exchanges would also broaden the perspective of congressional staffers and improve the nature of the working relationship with the executive branch.

Second, junior congressional aides and younger Foreign Service officers should have greater opportunities to experience brief exchange assignments. Programs that currently allow some 30 Foreign Service officers to take 1- or 2-year assignments in Congress, in State capitals, or with local governments, should be expanded. Selected congressional aides with foreign policy expertise and interest should have an opportunity and be encouraged to work for periods of probably no more than 6 months in the foreign policy agencies of the Government. These assignments should allow the aides to work in agencies other than the Department of State and within different sections of one agency. (For example, at the State Department, 3 months would be spent in Congressional Relations and 3 months in a regional or functional bureau.)

Third, congressional committee staffs responsible for foreign policy should travel more, attend international conferences more often, and increase their oversight work abroad. The latter might entail temporary duty overseas lasting a few months instead of a few weeks.

III. FINDINGS

During its inquiry, the Special Subcommittee on Investigations found a broad consensus that Congress should play a central role in the formulation of American foreign policy. Despite weaknesses Congress has manifested, both in its approach to foreign policy issues and in its organization to deal with them, democratic decisionmaking mandates a congressional role in the making of foreign policy.

Witnesses before the subcommittee agreed that Congress and the executive branch need to take practical steps to operationalize the concept that they are co-equals who need to work together in the foreign policy formulation process and that such a process should not be viewed as a contest between Congress and the executive branch in which there are winners and losers.

A. NATURE OF THE PROBLEM

1. THE HISTORICAL DEBATE

The role of Congress in the formulation of American foreign policy has been a subject of intense discussion and debate among statesmen, scholars, constitutional experts and Congress-watchers, almost from the time the United States declared its independence 200 years ago.

Throughout our history, Congress' role in foreign policy has been determined by the role of the Presidency and congressional reactions to the exercise of that role. The debate on the respective roles and powers of the Presidency and Congress began in the early days of the Nation. Commenting on the powers of the executive in *The Federalist*, Alexander Hamilton wrote:

The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind, as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate created and circumstanced as would be a President of the United States.

Periods of congressional assertiveness in foreign policy have been frequent in the Nation's history. The Vietnam experience has merely been the latest and perhaps most potent catalyst for congressional activism in foreign affairs.

Congressional actions in the foreign affairs field have depended on the composition of the legislative chambers and the predispositions of the legislators, the character, style, and philosophy of the President and the political circumstances in which foreign policy issues emerge.

Late in the 19th century, congressional domination of the American governmental process was entrenched in many policy areas. Aspects of that relationship persisted until close to World War II.

In recent years, the increasing centralization of power in the Presidency has been caused, in part, by bad memories of a frustrated League of Nations experiment, recognition of the need for a powerful wartime and postwar Presidency, the nuclear age and the development of mass communications, and the emergence of the United States as the most powerful global military and economic power.

While the decision of the United States not to participate in the League of Nations followed a bitter confrontation between the Congress and the President, the participation of the United States in the United Nations system was the result of a concerted effort to seek a consensus on foreign policy in the postwar era, based on cooperation between Congress and President.

The breakdown of the domestic foreign policy consensus during the Vietnam experience rekindled the debate over the relative roles of Congress and the President in the conduct of foreign policy. This debate resulted from frustrations among many Members of Congress, because they had not participated in policy decisions relating to military involvement and later disengagement.

Although the first important act in the congressional-executive interchange over the Vietnam war, the Gulf of Tonkin Resolution, was one in the tradition of the foreign policy consensus of the cold war, that episode was later to symbolize the larger debate over the nature and extent of America's global security interests and over the role of Congress in foreign affairs.

That debate continues today in an activist Congress. Few observers see any change in Congress' attitude as the new administration enters office in 1977.

2. CONGRESS AS ADVERSARY AND PARTNER

The recent activism of Congress in foreign affairs has been both a cause and an effect of the cracks in the foreign policy consensus which occurred in the immediate postwar period. Constitutional dictates and political considerations have put Congress in the paradoxical position of both being a partner and an adversary in foreign policymaking.

The adversary nature of the executive-legislative relationship was envisioned for the system of government created by the Founding Fathers. Although the course of the Vietnam war and the unexpected developments related to the Watergate incident have fueled this adversary relationship, the renewed debate over the congressional role should be seen as a sign that Presidential dominance is neither required nor constitutionally mandated and that congressional assertiveness is vital to the preservation of the constitutional system and a necessary element for a democratically conceived foreign policy.

Furthermore, the conflictive relationship between the two branches need not have a winner and a loser. The mechanisms of debate and review of policy bring about decisions and actions which stand a better chance of serving the interests and values of the American people. As two observers of the congressional scene wrote recently:

Both sides can win or lose in proportion to the degree they recognize that they are *not* two sides but integral elements of the same government, elected to pursue the common interests of the American people.¹

In other words, each branch must *listen* to the other's views and opinions and view itself not as an *advocate* in a debate but rather as a *contributor* to a discussion, for the common good of all.

On the other hand, total cooperation between the two branches should not be considered the *sine qua non* of foreign policymaking. Whatever the shortcomings of the adversary relationship and the benefits of an improved and formalized consultative process, Congress, constitutionally and historically, should continue to pursue its crucial role as a *critic* of executive branch policy.

The concern of Congress should be to strike a balance between responsible criticism, based on appropriate and measured oversight and review of executive branch policy, and necessary cooperation with the executive branch, stimulated by strengthened *a priori* consultation procedures.

In retrospect, Edward S. Corwin's maxim that the U.S. Constitution "is an invitation to struggle for the privilege of directing American foreign policy," best characterizes the state of executive-legislative relations throughout most of American history, except perhaps for that remarkable era of consensus immediately following World War II.

Yet, the nature of the problem may not be that each branch must engage in a constant conflict to seek control over the formulation of our foreign policy but rather to ensure that the wisest policies, with broad support, are implemented. *Wise policies* should be the objective, not *control* by one branch or the other, for we have recently seen that the dominance of one branch over another can not only result in bad policy but also undermine the democratic process.

As former Secretary of State Dean Acheson wrote over 20 years ago:

The central question is not whether the Congress should be stronger than the Presidency, or vice versa; but how the Congress and the Presidency can both be strengthened to do the pressing work that falls to each to do, and to both to do together.²

B. STRENGTHS AND WEAKNESSES OF THE LEGISLATIVE BRANCH OF GOVERNMENT

Congress' strengths and weaknesses are both structural and attitudinal. Its main strength is representativeness; its main weakness is diffusion of power and authority.

1. ATTITUDINAL DEFICIENCIES

While recognizing that structural deficiencies in Congress have weakened its contribution to foreign affairs, a major set of problems

¹ Alton Frye and Jack Sullivan, "Congress and Vietnam: The Fruits of Anguish," *The Vietnam Legacy: The War, American Society and The Future of American Foreign Policy*, ed. Anthony Lake (New York: New York University Press, 1976), p. 215.

² Dean Acheson, *A Citizen Looks at Congress* (New York: Harper & Brothers, 1956), p. 56.

emanates from the attitudes Congressmen have developed. Deference to the executive branch, general disinterest in foreign policy issues, lack of sustained interest in any particular issue, parochial considerations due to constituent and interest group pressures, and fear of "meddling" with the national security apparatus or of taking responsibility for actions in the area, are all *attitudinal* problems that no amount of *structural* reform can remedy.

Former Senator Fulbright perhaps summed it up well when he commented to the Murphy Commission that:

* * * it has not been a lack of available power which has undermined congressional authority in foreign affairs but a lack of willingness to assert authority, make decisions, and accept responsibility for their consequences. Further, I am convinced that, whatever useful reforms are made in the organization and procedures of Congress, all the streamlining in the world will be no substitute for the character and backbone of the Members.³

Given the strengths and weaknesses of Congress and the executive branch, crucial attitudinal changes and procedural improvements for obtaining information and prior consultation are necessary prerequisites for any structural alterations to have an impact.

2. THE ASSERTIVENESS OF CONGRESS

The activism and assertiveness of Congress in foreign policy matters have resulted from many factors and should be viewed positively.

Congress has been able to act forcefully with the legislative means at its disposal, especially the authorization and appropriation processes and the legislative veto. Although often viewed by the executive branch as methods of obstructing the policy execution process, these mechanisms can nevertheless be strengths which are often effectively used to inject a congressional input into foreign affairs formulation.

Congress' representativeness remains its major source of strength. Congressmen, by being in continuous contact with the people and representing their disparate interests and concerns, have served not only to insure democratic control over the foreign policymaking process, but have also been the conveyors of sometimes ambivalent and occasionally vociferous public opinion.

Recent events have demonstrated that without a genuine public consensus of support, the executive branch cannot legitimately and effectively pursue any foreign policy. Congressional support is necessary for long-term policy, while congressional opposition to a policy can impede and undermine that policy.

Because Congress and the executive branch share constitutional responsibilities in the foreign policy field, Congress can serve several important purposes: it can help formulate policies; it can act to check the growing power of the Presidency; it can support the President, when necessary and desirable, in his foreign policy initiatives; it can monitor the attitudes of the American people; and it can assist in informing and educating the people on foreign policy matters.

³ "Congress and Executive-Legislative Relations: Appendix L," *Commission on the Organization of the Government for the Conduct of Foreign Policy* (June 1975), Volume 5 (Washington, D.C.: U.S. Government Printing Office), p. 59.

3. STRUCTURAL WEAKNESSES

Remedies for structural weaknesses in Congress are often easy to propose since they often involve simply abolishing, consolidating, or replacing existing structures. There was an almost unanimous feeling during the hearings that structural changes are essential for Congress to assert itself more effectively in the foreign policy process.

First, the diffusion of power and the multiple interests and responsibilities of most Members of Congress create serious structural problems with which all foreign policy agencies have had difficulties coping. Most witnesses agreed that one serious obstacle to effective prior consultation was the diffusion of leadership on foreign policy questions in Congress.

The executive branch no longer found that it could, as it once had, confer with a few key Congressmen and fulfill its obligation to consult. No longer can a small group of powerful men "deliver" the U.S. Congress. Middle-level and junior-ranking Members of Congress do not consider administration discussions with committee chairmen to constitute adequate prior consultation but insist on their own admission to these private sessions early in the policy formulation process.

Second, jurisdictional diffusion, reflected in the lack of any centralized coordinating and reviewing procedure, particularly in the area of foreign economic policy, is a crucial reason for Congress' lack of effectiveness.

Presently, 17 of 22 committees of the House of Representatives deal with aspects of foreign policy. They are:

Agriculture	Interstate and Foreign Commerce
Appropriations	Judiciary
Armed Services	Merchant Marine and Fisheries
Banking, Currency and Housing	Public Works and Transportation
Budget	Science and Technology
Education and Labor	Small Business
Government Operations	Veterans' Affairs
Interior and Insular Affairs	Ways and Means
International Relations	

In the Senate, 16 of 19 committees have some jurisdiction over foreign policy. They are:

Aeronautical and Space Sciences	Foreign Relations
Agriculture and Forestry	Government Operations
Appropriations	Intelligence
Armed Services	Interior and Insular Affairs
Banking, Housing and Urban Affairs	Judiciary
Budget	Labor and Public Welfare
Commerce	Public Works
Finance	Veterans' Affairs

Congress' ability to continue to have a sustained impact on foreign policy will depend, in part, on future structural changes. Overlapping committee jurisdictions and vague mandates inhibit Congress' efforts to address many important foreign policy issues, two of the most notable being foreign economic policy and nuclear proliferation policy.

4. A "JOINT COMMITTEE"

To remedy some of Congress' structural weaknesses, the establishment of a "Joint Committee on National Security" has often been suggested. Many witnesses before the subcommittee recommended the creation of such a committee, which could be comparable to the one recommended by the Murphy Commission on the Organization of the Government for the Conduct of Foreign Policy, as the best method for improving Congress' coordination of foreign policy matters.

The Special Subcommittee on Investigations felt, however, that such a committee would not, in and of itself, be effective in correcting Congress' weaknesses, improving attitudes in Congress and the executive branch, and ameliorating the current state of executive-legislative relations.

A joint committee, composed of the leadership of Congress and the senior members of the several committees concerned generally with foreign policy would be both unwieldy in size and too demanding on those who would compose its membership. It would also be incapable of solving some of the major impediments to effective congressional participation in foreign policy, such as the lack of meaningful, prior consultation, attitudinal constraints, and disparate and overlapping committee jurisdictions.

Rather, for the foreseeable future, the present foreign affairs committees should serve as coordinating mechanisms and focal points for consultation and information. Recognition that the committees need to find ways to deal with issues that cut across jurisdictional lines of other committees, and that there is a need for better consultative procedures, does not require the creation of a new committee.

5. CONCLUSION

Whether the solution is a new Joint Committee on National Security, a strengthening of the present committees dealing with foreign affairs, or other jurisdictional changes, the consensus was that the present set of procedures and relationships was not adequate, given Congress' role and capabilities in playing a constructive part in foreign policy-making.

Streamlining jurisdictions, strengthening the coordinating and oversight roles of the foreign affairs committees of both Houses, greater prior consultation of Congress by the executive branch, and attitudinal changes in both the executive and legislative branches will improve and strengthen Congress' ability to play a role in foreign policy.

C. STRENGTHS AND WEAKNESSES OF THE EXECUTIVE BRANCH

The strength of the executive branch in the foreign policy process lies in the nature and mandate of the office of the Presidency. As commander in chief of the armed forces and the principal governmental officer responsible for the execution of policy, the President is at the center of America's relations with foreign states. As the *executor* of foreign policy, the American people look to him for leadership and consider him their representative before the world.

The executive branch's unparalleled access to information and expertise has been a major source of its strength vis-a-vis Congress. In

fact, the executive branch's vast information resources will have to be shared with Congress more often and in greater detail if Congress is to begin to share effectively in the making of foreign policy with the executive.

The very organization of the executive branch of Government gives it another advantage in carrying out American foreign policy. With power centralized in one man, decisionmaking can be rapid and execution of policy immediate.

No one challenges the premise that the executive branch has the primary responsibility for implementing foreign policy. Economic aid, security assistance, diplomacy, and other instruments of our relations with foreign nations, are carried out by executive agencies at home and through various field offices abroad. In spite of Congress' powers to legislate and oversee, the executive branch is granted wide discretion in implementing American foreign policy.

A feeling that pervasive power in foreign policy belongs to the executive branch, whether justified or not, has colored the nature of the executive branch's relations with and attitudes towards Congress.

The belief that the executive branch is best suited and equipped to conduct foreign relations has led many, whether in the National Security Council or the Department of State, to look upon Congress as a nuisance in the policy process or as though Capitol Hill were something close to what one witness called "enemy territory." Congressional attempts to limit executive action, such as putting constraints on or curtailing economic and security assistance, are often considered too blunt and restrictive for the State Department to mesh with global U.S. diplomatic objectives. Some in the executive branch believe that unless Congress specifically prohibits something through the legislative process, they are in a strong legal position to carry out any policy.

Secretary of State Henry Kissinger once commented on Congress' role as follows:

The Congress can set broad guidelines and decide basic policies. But the Congress does not have the organization, the information or the responsibility for deciding the tactical questions that arise daily in the conduct of our foreign relations, or for executing a coherent, consistent, comprehensive policy.

Such attitudes minimize the congressional role and weaken the executive branch's ability to deal with Congress as a "partner" which shares constitutional powers for foreign policy with the executive branch. The expectation of deference to the executive branch, vindicated so frequently by past congressional timidity, has slowly eroded as congressional activism has increased.

These attitudes, plus the perception that diffusion of power and jurisdiction multiplicity are flagrant congressional weaknesses, have jeopardized the initiation of genuine and satisfactory prior consultation procedures. Distrustful of congressional assertiveness, wary of its power to oversee and investigate, the executive branch has frequently felt torn between its awareness of the congressional role in foreign affairs dictated by the Constitution and its own clear preference to ignore Congress.

While diffusion of power and lack of coordination were considered by the executive branch to be sources of legislative branch weaknesses and reasons for the unsatisfactory nature of executive-legislative relations, comparable criticisms could be addressed to the organization of the executive branch, particularly in areas like foreign economic policy and nuclear proliferation. The problems of interdependence require increasing attention, and there will be a need to reorganize the executive branch to deal more effectively with them. The functions of the Council on International Economic Policy (CIEP), for example, which seems to have failed to assume a proper and forceful role in coordinating U.S. foreign economic policy, need to be reevaluated.

As foreign economic policy shares prominence with politico-military affairs, not only will there be a need for executive agencies to consult and coordinate more effectively with each other, but the State Department, as the principal focal point in the diplomatic process, will have to affirm its leadership in many areas of foreign relations, including economic policy, while taking into account the legitimate and sometimes contradictory interests of other executive departments.

The executive branch's inherent strength lies in its ability to conduct the day-to-day business of foreign policy. To the extent that the exercise of that ability does not preclude a meaningful role for Congress in the formulation of foreign policy, the executive branch should expect and receive support from the legislative branch. In fact, often, it is only when the executive branch ignores Congress that difficulties in executive-legislative relations arise and Congress becomes obstinate (the Vietnam war and the arms embargo to Turkey being cases-in-point).

Policy coordination within the executive branch, coupled with a timely consultation process with Congress, that insure proper consideration of all views and interests in the formulation of policy, are vital prerequisites for the conduct of an effective foreign policy. Both of these, however, will require improved mechanisms and procedures for contact and understanding between the two branches and especially attitudinal changes that would mitigate the present atmosphere of distrust.

D. EXECUTIVE-LEGISLATIVE INTERACTION

The problem facing those concerned with the formulation of American policy is the general improvement of executive-legislative relations.

Congress and the executive branch will interact as both adversaries and partners. As Congress attempts to share in the making of foreign policy, it should not forsake the adversary aspect of its relations with the executive branch. It should avoid co-optation and retain its role as a critic.

Better mechanisms and procedures for enhancing and increasing executive-legislative interaction can permit Congress' more effective and informed participation both as a partner and an adversary.

In order to provide the optimal opportunity for Congress and the executive branch to develop an effective mix of their partnership and adversary roles, there must be close and ongoing consultation between these two branches of Government, sustained congressional hearings

and inquiries, open and closed, on legislative and nonlegislative matters, and more frequent informal contacts at all levels.

1. CONSULTATION

The issue of the consultation of Congress in foreign policy matters is one that preoccupied the subcommittee during the hearings.

Frequently, executive branch consultation with Congress has been too little and too late. Consultation has meant a *post facto* or simultaneous notification of action taken, rather than a genuine prior presentation of options involving their full discussion and consideration.

Members of Congress expressed their dissatisfaction with this lack of consultation on continuing "non-crisis" foreign policy issues, which reduced their input into foreign policymaking. It was also noted that certain congressional foreign policy initiatives which had unfortunate results would probably not have occurred, had there been earlier and fuller consultation with the executive branch.

Consultation should mean more than "touching base" with key congressional leaders. The procedures by which consultation is carried out must give Congress a legitimate opportunity to participate in the making of policy. In the best of circumstances, consultation should entail asking or seeking the advice of Congress *before* a final decision is made or an action carried out. At the very least, the executive branch should provide Congress with the range of policy alternatives considered feasible. Adequate consultation of Congress entails *prior* consultation on, and continued congressional participation in, foreign affairs.

Congress might need to consider legislating formalized mandatory consultative procedures, for which a precedent is provided in section 3 of the War Powers Resolution, an act designed to insure congressional consultation and authority whenever U.S. troops are committed into hostilities abroad. The legislation of such a requirement in such areas as security assistance, trade policy, and economic aid, could sustain congressional participation in crucial foreign policy areas.

The subcommittee also noted a need for Congress to develop better procedures for insuring its input into crisis-management. Timely and prompt participation by Congress in crisis situations is essential to ensure its understanding and support of Presidential action. The assertion that time and information constraints preclude any systematic congressional role beyond *post facto* notification appears unjustified if there is an executive branch willingness to see Congress have a role in foreign policy. To improve crisis-management consultation, the subcommittee found that the creation of "ad hoc" groups, formed by Congress to deal with specific crises, would be a more effective and flexible tool than more formal options such as a joint committee.

Improved consultative procedures during crisis situations, to be provided by "ad hoc" groups, would help to eliminate the frequently criticized tendency of Congress to be overly reactive and disruptive in foreign affairs, and would downplay the recent emphasis on the adversary nature of executive-legislative relations. The initiation of effective consultative procedures by the executive branch, along with

Congress' full use of available information sources both inside and outside the Government, are essential to improving the foreign policy formulation process.

2. HEARINGS

Congressional hearings have been the most formal and public way that Congress and its committees keep the executive branch accountable for its actions, and keep themselves informed on what the specifics of our foreign policy are. In hearings, the executive branch is called upon to justify its policies to Congress and the people it represents.

Since hearings are the most ready means available to Members of Congress for interaction with the executive branch, they are the most frequently used vehicle for keeping Congress informed about official U.S. Government policy.

Congressional hearings are a major and more visible component of executive-legislative interaction. There is a continued need for Congress to have the executive branch "go on record" as to what our foreign policy entails, and hearings are still the best way to create a public record.

Effective congressional oversight and participation in foreign affairs demand the holding of hearings on a wide range of legislative as well as nonlegislative matters with both Government witnesses and outside experts.

The hearing process, however, often tends to promote the adversary aspect of executive-legislative relations. Members of Congress use the hearing forum to "cross-examine" executive branch witnesses. The extent to which executive branch witnesses are forthcoming in their presentations and answers to questions will help determine the nature of executive-legislative interaction.

As a forum both for acquiring information and dispensing criticism, hearings perform the invaluable functions of keeping Congress attuned to the state of our foreign relations and the executive branch aware of congressional moods and intentions.

3. INFORMAL CONTACTS

Informal contacts between Members of Congress and their staffs in congressional offices and committees and officials at all levels in the regional and functional bureaus of the Department of State and other foreign affairs agencies provide useful channels of communication between the two branches. They should be welcomed and encouraged.

Informal contacts between Members of Congress and their staffs in a measure of harmony between the two branches in thrashing out the complexities of foreign affairs. Informal briefings, by executive branch officials, free from the strictures of congressional hearings, are invaluable not only because of the exchange of information they promote, but also because they develop a sense of partnership and mutual responsibility between the two branches in an atmosphere of reduced tension.

It is helpful to the pursuance of an effective foreign policy that Assistant and Deputy Assistant Secretaries of State meet frequently with Members of Congress and that working-level Foreign Service officers be in contact with personal and committee staffs on the Hill. Such contacts are particularly important when major legislation affecting our foreign policy is being considered in committee, and when the executive branch is about to engage on new policy and diplomatic initiatives.

The desire of both executive branch officials at all levels and Members of Congress and their staffs to meet and discuss foreign policy problems, informally and privately, permits each branch to realize and appreciate the concerns and limitations of the other.

However, these informal contacts should be considered supplementary to, and not a substitute for, more rigorous prior consultation procedures.





