



ANALYSIS

Congress and Asia-Pacific policy: Dysfunction and neglect

Aaron L. Connelly
September 2015

LOWY INSTITUTE
FOR INTERNATIONAL POLICY

The Lowy Institute for International Policy is an independent policy think tank. Its mandate ranges across all the dimensions of international policy debate in Australia — economic, political and strategic — and it is not limited to a particular geographic region. Its two core tasks are to:

- produce distinctive research and fresh policy options for Australia's international policy and to contribute to the wider international debate
- promote discussion of Australia's role in the world by providing an accessible and high-quality forum for discussion of Australian international relations through debates, seminars, lectures, dialogues and conferences.

Lowy Institute Analyses are short papers analysing recent international trends and events and their policy implications.

The views expressed in this paper are entirely the author's own and not those of the Lowy Institute for International Policy.

EXECUTIVE SUMMARY

The Obama administration has undertaken a rebalancing of US attention, efforts, and assets both to the Asia-Pacific region and within that region. Yet congressional dysfunction and inattention have repeatedly undermined the Obama administration's ability to execute its rebalance strategy.

While partisan gridlock in Congress has hindered the execution of US foreign policy overall, it has disproportionately affected US policy towards the Asia-Pacific because the region has had few champions in either house in recent years. And where key members have sought to protect US engagement in the Middle East and Eastern Europe from the worst effects of congressional dysfunction, there have been far fewer efforts with regard to US engagement in the Asia Pacific. To the extent individual members have claimed to focus on the region, it has often been in pursuit of narrow objectives focused on a single country or issue area.

This Analysis provides some suggestions for greater engagement between US and regional policymakers and Congress. Though there are signs of increased interest in the current Congress, the nature of that interest and whether it can be sustained will depend on efforts by individual members, administration officials, and US allies and partners in the years to come.

When President Barack Obama announced a renewed US focus on the Asia-Pacific region in a landmark address to the Australian Parliament in November 2011, it heralded a gradual but unmistakable rebalancing of US attention, efforts, and assets both to the region and within the region.¹ Yet, while Obama's speech at Parliament House in Canberra was well received, most of Capitol Hill has never come around to his rebalance strategy.² In fact, in several important respects, the US Congress has thwarted its implementation. The gap between the Obama administration and the US Congress on Asia-Pacific policy is a product of both the general decline of Congress as an institution and the specific decline of Asia expertise among its members.

Congress has become increasingly dysfunctional as a result of political polarisation in both houses, a consequence in part of ideologically cohesive districts and increasing political polarisation in the broader population. That dysfunction has disproportionately affected those issues without powerful champions, such as engagement with the Asia-Pacific region. While key members of Congress have sought to shield US engagement in the Middle East or Eastern Europe from the worst effects of congressional gridlock, engagement with the Asia Pacific has lacked such protection. When members have turned their attention to Asia-Pacific issues, it has often been in pursuit of narrow objectives focused on a single country or issue, without reference to a broader regional strategy. Indeed, one risk is that Congress may well replace a lack of interest in Asian affairs with an unhealthy preoccupation with China.

[Congressional] dysfunction has disproportionately affected those issues without powerful champions, such as engagement with the Asia-Pacific region.

This Analysis first sketches the Obama administration's policy towards the Asia-Pacific region from 2011 to 2015. Next, it explores the sources of congressional interest in foreign policy and the region, including constituent groups and personal interests. These sources lead most members to focus on other areas of foreign policy rather than the Asia Pacific, or on narrow sets of issues in the Asia Pacific rather than the region as a strategic system where US national interests are at stake. The Analysis then identifies specific episodes of partisan gridlock that have hindered the achievement of foreign policy objectives that otherwise enjoy broad support. Finally, it offers some recommendations for deepening Congress' engagement with Asia-Pacific issues.

THE MUCH MISUNDERSTOOD REBALANCE

The rebalance has often been misportrayed as an effort to contain China. When the press and members of Congress have made reference to the rebalance, they have frequently argued that the administration's strategy has failed because it has not been hard enough on Beijing. But that debate misrepresents the goals and strategy behind the rebalance, which is primarily about supporting the norms and institutions that

undergird the liberal order in the Asia-Pacific region, and was never intended to be (all) about China.

THREE ASSUMPTIONS

Within the Obama administration, three assumptions shaped the decision to rebalance to the Asia Pacific.³ First, it was apparent that the greatest share of the world's economic dynamism would shift to the emerging economies of East, South, and Southeast Asia over the coming century. Economic engagement with the region was therefore critical to US prosperity. The ability to invest in the development of these economies, and to sell goods and services to their growing middle classes, would power US growth for decades to come. To take advantage of this dynamic, in 2010 the United States joined negotiations to further liberalise regional trade in goods and services, and expand the Trans-Pacific Partnership (TPP) into a large, high-standard trade pact.⁴

Second, as Asia's economic transition continued, Asian countries would improve the capacity of their armed forces. For many in the Obama administration, this need not be a cause for concern unless that hard power were to be used to bend the norms and institutions of the international system to the whims of rising illiberal powers.⁵ To help shape the future of the regional order, the Obama administration resolved to ensure it was at the table and in a position to shape important norms and institutions when they were discussed and tested, both diplomatically and militarily. The United States joined the East Asia Summit and its associated organs in 2010,⁶ and the Pentagon announced that it would deploy 60 per cent of its overseas naval and air assets to the Pacific region by 2020.⁷

Neither of these first two assumptions was particularly different from those of the Obama foreign policy team's predecessors in the Bush administration. Following Secretary of State Hillary Clinton's announcement at the 2009 ASEAN Regional Forum that the United States was "back in Asia," former Bush officials protested, not unreasonably, that they had never left Asia.⁸ But the Obama administration's commitment to end two wars in the Middle East offered an opportunity to increase US engagement in a way that the Bush administration, distracted by Iraq and Afghanistan, was unable to do. The attention, energy, and resources that have been thrown into TPP negotiations, regional diplomacy, and military engagement represent a significant increase in tempo from the Bush administration.

But the rebalance was not just about tempo. A third assumption distinguished the Obama administration's approach from its predecessors. The Bush administration, like most of its predecessors since the Vietnam War, was primarily focused on Northeast Asia. There were several disadvantages to this approach: much of the economic growth in the region was now occurring in Southeast Asia; the

...the Obama administration resolved to ensure it was at the table and in a position to shape important norms and institutions...

concentration of US forces in Northeast Asia made them more vulnerable to attack, and less agile in contingencies elsewhere in the region; and the lion's share of regional diplomacy was organised and led by the Association of Southeast Asian Nations.

From this last assumption was born the “rebalance within the rebalance,” through which the United States increased diplomatic, military, and economic engagement with Southeast Asia relative to Northeast Asia.⁹ While the shift that followed has been perhaps the least appreciated aspect of US policy in the region, it has been among the most important.

The United States improved its attendance record at key Southeast Asian diplomatic conferences and joined several new ones, giving US officials a voice in debates over the future of the regional order.¹⁰ The United States also shifted its military presence south, by deploying 2500 Marines to Australia, sending four Littoral Combat Ships to Singapore, penning a comprehensive partnership with Vietnam, and signing an agreement with Manila that allows US forces to rotate through the Philippines and use the Philippines' facilities.

This increase in diplomatic engagement with Southeast Asia gave the United States a voice in the most important discussions of regional norms over the ensuing years. But just as importantly, by empowering Southeast Asian nations to take the lead in regional diplomacy and then pledging to back up their autonomy with an increased military presence, the United States indicated that it seeks to create space for the countries of the region to chart their own strategic futures, rather than dictate those futures to them, either alone or in cooperation with Beijing or any other power. That autonomy is a fundamental element of the liberal system the United States seeks to defend.

CHALLENGES IN THE EXECUTION OF THE REBALANCE

Though the fundamentals of the rebalance strategy are sound, the communication of the strategy has been problematic. In particular, the rebalance has failed to deliver the high-level attention from some administration principals that the early stages of the strategy led the region to expect. While former Secretary of State Hillary Rodham Clinton dedicated significant time and attention to Asia, her successor, John Kerry, has focused on diplomacy in the Middle East and Europe.¹¹ Where former National Security Adviser Tom Donilon spent a significant period of time on bilateral diplomacy with China, his successor, Susan Rice, has focused greater attention on crises involving Ukraine, the Islamic State, and Ebola.

Greater attention from principals would have been helpful in more effectively communicating the priority the administration places on the Asia-Pacific region, and may have prevented messaging mistakes such as the administration's initial opposition to the China-led Asia Infrastructure Investment Bank. But the institutionalisation of the

Greater attention from principals would have been helpful in more effectively communicating the priority the administration places on the Asia-Pacific region.

rebalance strategy started in Obama's first term. By designating larger budgets for the region and establishing a more frequent pattern of diplomatic and military interaction in the region, as well as ongoing negotiations towards the TPP, the administration committed the United States to steadily increasing the time, energy, and money its officials spend on the region, whether its principals' hearts are in the strategy or not. That increase has not waned.

However, the administration also failed to convince sceptics that the rebalance was not an attempt to contain China. In this, the administration shares some blame. The Pentagon under the Obama administration has occasionally described the rebalance and its increased military engagement with security partners in the region — partnerships that are intended to achieve a broad range of security goals — in terms that suggest it is merely an effort to counter China, rather than a more sophisticated effort to build partnerships and patterns of interaction with the militaries of the region.

...the rebalance was never intended to be all about China.

As a result, the rebalance has often been judged by members of the press and members of Congress by how tough administration officials have been on Beijing.¹² But the rebalance was never intended to be all about China. Rather, the rebalance was designed to uphold the liberal order in the region, principally through engagement with the entire region, including China.¹³ Moreover, US officials have been careful not to take any actions that would present countries of the region a stark choice between Washington and Beijing, a choice Southeast Asian leaders have repeatedly said they do not want to be asked to make.¹⁴ There has also been a recognition that Chinese actions that disregard international norms and laws are serious challenges to the regional order, and that the United States must seek to deter those actions. But the United States has not attempted to prevent China's rise, merely those Chinese actions that are inconsistent with international norms and laws.

Despite missteps in communicating the rebalance, it still represents a substantial increase in engagement with the region which understands the importance of third country sensitivities in US–China competition. The United States has been held back, not so much by the Obama administration's inattention or an unwillingness to be tough on China, but by a Congress so paralysed by partisanship that it can no longer carry out some of its most basic functions.

CONGRESS AND FOREIGN POLICY

The US Constitution distinguishes the American system from the parliamentary system common to many of its allies including Australia, by reserving specific foreign policy powers for Congress. These include the power to declare war, raise an army, maintain a navy, and regulate foreign commerce. Most scholars have argued that in the field of foreign

policy, the Constitution does not so much decree a separation of powers, as popularly thought, but rather a sharing of powers.¹⁵

Through its broader power to authorise and appropriate funds and to conduct oversight, Congress has a significant ability to influence foreign policy. In the best circumstances, this can lead to what the former chairman of the House Foreign Affairs Committee, Lee Hamilton, called a “creative tension” between the executive and legislative branches.¹⁶ These tensions between Congress and the administration have grown since the Vietnam War, when scholars generally agree Congress became more actively interventionist in foreign policy.¹⁷

In recent years, however, “creative tension” has descended into gridlock, with great consequences for Asia-Pacific policy. The polarisation of the US public, and the rise of more ideologically cohesive districts, have led to increasing polarisation in both houses of Congress. The growing ideological chasm between Democrats and Republicans on Capitol Hill has made even the most basic functions of Congress difficult to achieve. On foreign policy, and particularly on Asia-Pacific policy, the loss in recent electoral cycles of senior leaders who might have once delivered bipartisan protection of important priorities has exacerbated the consequences of this decline, with serious ramifications for US leadership in the world and in the Asia-Pacific region in particular.

...“creative tension” has descended into gridlock, with great consequences for Asia-Pacific policy.

PARLIAMENTARY PARTIES

Over the past two decades, Democrats and Republicans have become increasingly ideologically orthodox.¹⁸ In 1992, according to Pew Research Center survey data, the median Democrat was to the left of 64 per cent of Republicans. Now the median Democrat is to the left of 92 per cent of Republicans. The median Republican has gone from a position to the right of 70 per cent of Democrats to a position to the right of 94 per cent of Democrats.¹⁹

Moreover, congressional districts have become increasingly ideologically cohesive, either because many are drawn that way by state legislators — a practice sometimes known as gerrymandering — or because Americans have ‘sorted’ themselves into like-minded communities and districts over the last two decades.²⁰ Most seats in the House, therefore, are ‘safe seats’, in the sense that they are unlikely to flip from one party to the other. In the 2014 general election, the average margin of victory in the House was more than 35 percentage points. Of 435 seats, only 26 (6 per cent) were decided by a margin of 5 percentage points or less.²¹

But these seats are not necessarily ‘safe’ for the members who hold them. Senators and representatives must worry about a challenge not from the other party, but from within their own party. While primary challenges have always been a feature of the US electoral system, the increase in ideological cohesion has increased the perceived likelihood of success for challengers attacking from the flanks. These challenges

produce more hard-line members of Congress, and fear of such a challenge drives many members to adopt more extreme positions once in office.²²

Even senators — who are elected from states with permanent boundaries and are therefore immune to the effects of gerrymandering — are increasingly vulnerable to primary challenges from constituents who expect their representatives to hew to an ideological orthodoxy. The long-serving chairman of the Senate Foreign Relations Committee, Senator Richard Lugar, was defeated by just such a challenge in 2012.

These extreme positions are reflected in measurements of partisan unity within Congress. Since the 1970s, the Republican and Democrat caucuses have become increasingly cohesive, and further and further apart when their votes are scored along an ideological spectrum.²³ As Thomas Mann and Norm Ornstein have noted, the parties now demonstrate a level of discipline resembling a parliamentary system.²⁴ Yet unlike a parliamentary system, the US system of separation of powers requires compromise if anything is to be accomplished. This is particularly true in the Senate, where a supermajority of 60 per cent of votes can be required to pass legislation.

THE LOSS OF SENIOR LEADERS

Since the 1970s, Congress has also undergone an institutional decentralisation that has diminished the influence of senior members. This shift has been exacerbated by the departure of several former opinion leaders in foreign affairs in both houses since 2010. Junior members are now far less likely to find senior members with foreign affairs leadership experience whom they can rely on for guidance.

The loss is most pronounced in the Senate. Three former chairmen of the Senate Foreign Relations Committee — Richard Lugar, Joe Biden, and John Kerry — all departed between 2008 and 2012. As a result, the most senior members on foreign policy in the current Congress are not very senior at all. Kerry waited 24 years after his election to the Senate in 1984 to become chairman of the committee. By contrast, his successor, Senator Robert Menendez, waited just six years.

As one senior official in the Clinton administration explained, in the 1990s it was possible to call three senior members of the House Democratic caucus on a foreign policy issue, and each would carry with him 50 votes.²⁵ As White House defeats in the House on Syria and trade have shown, that is no longer the case. Now, the administration must work much harder to convince many more members to vote with it on foreign policy issues. On the recent vote on the Obama administration's Iran deal, only a campaign-style effort, costing millions of dollars, was able to win over enough members to prevent Congress from scuttling the deal.²⁶

Junior members are now far less likely to find senior members with foreign affairs leadership experience whom they can rely on for guidance.

FOREIGN POLICY CONSEQUENCES

As the parties' positions have drifted further apart, it has become increasingly difficult for the members of the two parties to find a zone of compromise.²⁷ This difficulty afflicts not just grand bargains or the most controversial issues, but the basic functions of Congress: authorising and appropriating funds.

The first indication of the new era of congressional dysfunction came seven months after the 112th Congress was sworn in. In August 2011, the Republican leadership of the House of Representatives refused to pass legislation raising the ceiling on the amount of debt that can be issued by the Treasury without major budget cuts in return. The debt ceiling is normally raised by Congress without significant controversy, because Congress has already authorised and appropriated the funds, and because a failure to do so would likely result in a sovereign default. But the increasingly conservative Republican caucus in the House sought the opportunity to achieve greater spending cuts by holding hostage the full faith and credit of the federal government.

Despite intense negotiations between President Obama and Speaker of the House John Boehner, no grand bargain on spending cuts could be reached. In order to raise the debt ceiling and avert sovereign default, Obama and Boehner agreed to throw further deliberations to an extraordinary 'supercommittee' of both houses to hash out a compromise. The supercommittee's plan would have then gone to the floor of both houses for an up-or-down vote. If the supercommittee did not deliver a plan, the cuts would be carried out indiscriminately, across the board, by 'sequestering' appropriations. The prospect of indiscriminate cuts was meant to be so unthinkable that the committee would be forced to return a plan.

Yet the supercommittee still could not compromise. The indiscriminate cuts, which are split evenly between defence and non-defence spending, began to take effect in 2013. Despite efforts to lift sequestration, it remains in place.²⁸ This presents a serious challenge to the United States' ability to maintain a high level of diplomatic and military engagement overseas. In particular, it has thrown into doubt whether the Pentagon will be able to continue to increase the number of ships and aircraft deployed to East Asia as part of the rebalance.²⁹

...sequestration... presents a serious challenge to the United States' ability to maintain a high level of diplomatic and military engagement overseas.

GOVERNMENT SHUTDOWN

A further example of congressional dysfunction was the shutdown of the federal government in October 2013, when a faction of the Republican caucus in the House refused to approve a continuing resolution that would have funded government operations. They objected to provisions funding parts of the Obama administration's universal healthcare plan. The plan, known as 'Obamacare', had already been approved three

years earlier but requires Congress to approve further funding annually if it is to run effectively.

Though many (if not a majority) of Republican members did not favour a shutdown, fearing that Americans would blame them for the dysfunction, the shutdown campaign by right-wing members of their caucus put them in a difficult position: vote to fund the government, and risk a primary challenge from a more conservative candidate the following year; vote not to fund the government, and most Americans would view Republicans as responsible for the gridlock on the Hill.

For the Republican leadership, the question was even more acute, with House Speaker John Boehner concerned about a coup by more conservative members of his own caucus if he allowed the funding to pass with mostly Democrat votes. For 16 days, the federal government partially shut down, suspending non-essential functions, before Boehner allowed a vote to fund the government.

The shutdown had foreign policy consequences. The failure revealed the sclerosis of the US political system at a time when many elites worldwide were wondering whether democratic systems could meet the challenges of the 21st century.³⁰ At a more immediate level, it forced President Obama to stay at home to work on the crisis, rather than travelling during the first week of the shutdown to the Asia-Pacific Economic Cooperation (APEC) summit in Indonesia, where he was to push US trade and economic objectives, and most critically to the East Asia Summit in the Philippines, where he was to address Chinese assertiveness in the South China Sea. Southeast Asian leaders, looking for a signal of US commitment to the region, were left wondering whether the United States' political system would permit it to continue to support the regional order.³¹

Southeast Asian leaders, looking for a signal of US commitment to the region, were left wondering whether the United States' political system would permit it to continue to support the regional order.

THE FAILURE OF THE AUTHORISATION PROCESS

The government shutdown was only the most extreme example of partisanship preventing Congress from addressing its regular order of business. For the last half century, the Senate Foreign Relations Committee (SFRC) and House Foreign Affairs Committee (HFAC) have held the responsibility of writing and passing a law authorising spending by the State Department. These authorisations are then funded by an appropriations bill, which is written and passed by the Foreign Operations Subcommittee of the Senate and House appropriations committees.

Yet disagreements over social policy overseas, particularly whether to fund family planning organisations that discuss abortion with their clients, has meant that Congress has not passed an authorisation bill for the State Department since 2002. In this way, the SFRC and HFAC have lost their most important tool for influencing foreign policy. The appropriations committees, through the foreign operations

subcommittees, now arguably have more influence over foreign policy than the foreign affairs committees, where the greater subject matter expertise lies.³²

SFRC and HFAC still hold oversight hearings, and occasionally withhold authorisation for executive departments to spend money on line items through a back-end process of what are known as ‘congressional notifications’. In the Senate, the SFRC also considers ambassadorial nominees and other foreign affairs nominees. These hearings and processes, however, focus the mind of the committee on a single issue or country in isolation, rather than the broader strategy for a region or issue area. That narrow focus often discourages a more strategic approach to regional foreign policy.

IMPACT ON ASIA-PACIFIC POLICY

Congressional dysfunction has made US policy in a wide range of areas less discerning and less strategic, but its effects have been particularly acute in policy towards the Asia Pacific. While Congress has shielded US engagement in the Middle East or Eastern Europe from the worst effects of congressional dysfunction, members have not made the same effort on East Asia. This neglect has expanded the scope for individual members to push specific concerns with respect to a single country or issue, without regard to how it fits into a broader regional strategy.

The fallout from a particular episode of congressional gridlock is instructive in this regard. In late 2013, Republicans were using the chamber’s requirement for a 60 per cent supermajority to block an unprecedented number of judicial appointees.³³ In response, Senate Majority Leader Harry Reid decided to take what had become known in Washington as the “nuclear option,” eliminating four decades of precedent by changing the rules to require only a simple majority to move to a vote on most nominations.³⁴

Republicans saw this as an extraordinary violation of the rights of the minority party, and in retaliation availed themselves of other obstructionist tactics unique to the US Senate, including forcing the chamber to take days to approve any administration nominee. Among these nominees were dozens of individuals recently nominated for ambassadorial positions by the Obama administration. The dispute continued for around ten months, at one point leaving vacant nearly a quarter of all ambassadorial posts overseas.³⁵

The dispute did not affect all regions equally, however. When Russian forces annexed Crimea, Republicans in the Senate relented and allowed the new ambassador to Russia to be confirmed. In the Middle East, the Senate quickly allowed ambassadors to Iraq, Egypt, and Kuwait to be confirmed. But nominees for Asia Pacific did not receive special dispensation until the Republicans relented en masse. The nominee for

While Congress has shielded US engagement in the Middle East or Eastern Europe from the worst effects of congressional dysfunction, members have not made the same effort on East Asia.

ambassador to Vietnam, a country eagerly seeking reassurance from the United States due to tensions in the South China Sea, waited five months. The US Permanent Representative to ASEAN waited nine months, thus missing several important meetings on the tensions in the South China Sea.

LACK OF LEADERSHIP ON THE ASIA-PACIFIC REGION

Few members in recent Congresses are focused on Asia-Pacific policy.³⁶ The region has still not captured the attention of the American public or the media, as there are few votes and few appearances on *Meet the Press* to be won through work on the region. The press still focuses disproportionately on Europe and the Middle East. When President Obama travelled to China, Myanmar, and Australia for a series of summits in November 2014, the press plane chartered for the trip was half full.³⁷ As one staffer on the Hill explained:

“You need a position on the Middle East peace process to run for office in this country. You don’t need one on the South China Sea.”³⁸

It is not surprising, then, that interest in the region has waned. With Senators Bond and Webb departing at the end of 2010 and 2012, respectively, there are few senators with an interest in or experience with Southeast Asia issues in particular. The Asia-Pacific Subcommittee of the Senate Foreign Relations Committee is among the least coveted committee assignments. In 2015, after presidential contender Senator Marco Rubio turned down the chairmanship of the subcommittee, it went to a freshman, Colorado Senator Cory Gardner.³⁹

“You need a position on the Middle East peace process to run for office in this country. You don’t need one on the South China Sea.”

SINKING THE LAW OF THE SEA

Hyperpartisanship, the loss of leadership and the lack of congressional interest in Asia have all contributed to one of the more damaging decisions taken by Congress in the last few years in terms of US interests in the Asia Pacific: the refusal to consent to the ratification of the UN Convention on the Law of the Sea (UNCLOS). Though the failure to ratify the convention diminishes US leadership in the world more broadly, because the debate over rules and norms is strongly contested between the United States and China, it had particularly grave consequences for US leadership in the Asia Pacific.

The United States, concerned about Chinese flouting of international norms in the Asia-Pacific region, has argued that all countries in the region should embrace UNCLOS, which affirms freedom of navigation and lays out mechanisms for the peaceful resolution of maritime disputes. Yet this advocacy has been made somewhat self-consciously, because the United States itself has never ratified the convention. In the 1980s, President Ronald Reagan refused to sign UNCLOS because he took issue with the way it divided and taxed seabed resources. These

concerns were resolved through a 1994 renegotiation of the convention, allowing President Bill Clinton to sign the treaty. But opposition remains on the conservative wing of the Republican Party, where extreme scepticism towards any international organisation seems to animate suspicions that the treaty will encroach to an unacceptable degree on US sovereignty.⁴⁰

In 2012, with tensions rising over Chinese assertiveness in the South China Sea, a bipartisan push was made by Senators Kerry and McCain to persuade their colleagues to consent to the ratification of UNCLOS. Yet, as the end of the session approached, a right wing political action committee began pressuring moderate Republican senators who had not yet declared their opposition. Under pressure, Senators Rob Portman and Kelly Ayotte, both known to be champions of international engagement, became the 33rd and 34th senators to declare their opposition. Because the 100-member US Senate requires a two-thirds majority to ratify any treaty, Portman and Ayotte's decision sunk the effort to ratify the treaty.⁴¹

In a less partisan atmosphere, moderate Republicans would have been free to vote for the treaty. Moreover, if more leaders in the Senate had experience with Asia-Pacific issues, McCain would have likely been joined by other senior members of his party in seeking to convince fellow members of his caucus to join him in supporting UNCLOS. It is difficult for the United States to advocate for the liberal international order, and to pressure rising powers like China to accept and obey international law, when the US Senate rejects the concept outright.

TRANS-PACIFIC PARTNERSHIP

One potential response to the argument that congressional dysfunction has become an obstacle to deeper US engagement in the Asia Pacific was the recent passage of the Trade Promotion Authority (TPA), which gives the president the right to submit a trade agreement like the TPP for an up-or-down vote. But, in fact, the very tight vote in favour of TPA underlined many of the problems referred to above.

Among policymakers in the Obama administration and in the foreign policy community of both parties in Washington, the TPP is seen as the linchpin of the rebalance strategy. On the Hill, however, it is seen very differently. When Obama delivered his State of the Union Address to Congress in January 2015, he seemed to recognise this in putting a harder, even mercantilist, edge on the administration's talking points about economic engagement when he exclaimed:

"China wants to write the rules for the world's fastest-growing region. That would put our workers and our businesses at a disadvantage. Why would we let that happen? We should write those rules. We should level the playing field."⁴²

... the very tight vote in favour of TPA underlined many of the problems referred to above.

Though the president's remarks referred to a debate over rules, as the rest of his rebalance strategy does, the context and underlying tone suggested this was primarily about seeking to divert the benefits of trade to the United States.

The leadership of both the Senate and House trade committees pushed for passage of the measure, and the measure eventually passed with support from Republicans and moderate Democrats. But the debate in Congress focused on issues such as tariffs, labour protections, and the perception that the TPP would be a handout to big business. Sophisticated arguments about TPP's importance to the US position in Asia played little role in swaying the 28 Democrats in the House and 13 Democrats in the Senate who voted for the bill.⁴³

In an earlier era, members who otherwise nursed lingering concerns about the specific costs of free trade could be convinced by colleagues concerned about geopolitical issues in East Asia to support agreements that were in the broader national interest.⁴⁴ As that era has ended, members of Congress have increasingly prevailed upon trade negotiators to commit to the defence of narrow interests in order to receive authorisation to make a deal, tying negotiators' hands and making trade agreements like the TPP much more difficult to conclude.⁴⁵

...there is the risk that where members of Congress develop or show an interest in the Asia Pacific, it will be a narrow interest.

THE LACK OF A STRATEGIC APPROACH

While few members of Congress are interested in Asia-Pacific policy, there are a number of members, particularly in the House, who are interested in specific countries or issues in the Asia Pacific. Their interest is often driven by a large immigrant or ethnic population in their district, or personal background with an issue. These drivers are not unique to the Asia-Pacific region. In the absence of concern for the broader regional picture, however, there is the risk that where members of Congress develop or show an interest in the Asia Pacific, it will be a narrow interest.

For example, the chairman of the House Foreign Affairs Committee, Ed Royce, represents a large number of ethnic Korean constituents in his southern California district. Royce has taken a particular interest in North Korea issues, and has spoken out in favour of South Korea's claim in its territorial dispute with Japan, despite longstanding US government policy to never take sides in third-party territorial disputes.⁴⁶ When Japanese Prime Minister Shinzo Abe visited Washington in April 2015, Royce delayed approval for Abe's landmark speech to a joint meeting of Congress over concerns, often expressed by Korean-Americans, about Abe's view of Japan's wartime history.⁴⁷ Regardless of the merit of his positions, Royce's advocacy on behalf of one US ally at the expense of another makes it more difficult for the State Department to balance the interests of its two Northeast Asian allies and encourage cooperation between them.

Other members have a long history of advocacy on a particular issue, and view the region through the prism of that issue. This is particularly true of human rights advocates on the Hill, many of whom question engagement with any country in the region with a record of human rights abuses, and discount efforts by US officials to work to improve the human rights records of all Asian countries as part of a broader regional strategy. For example, in 2014, 70 per cent of the hearings concerning the Asia Pacific held by the House Foreign Affairs Committee and its subcommittees focused on issues of human rights and democracy. Only 9 per cent of hearings on the Middle East and 14 per cent of the hearings on Europe focused on human rights and democracy.⁴⁸

Advocacy for democracy, human rights, and fair labour practices is a long-time feature of US foreign policy, and there is no suggestion here that it should not be. But members of Congress often seem to neglect the need to incorporate that advocacy into a broader approach that recognises other US interests in the region, if for no other reason than such an approach is required to make progress on any issue at all, including human rights. This has been less of a problem in the Senate, where, for example, Senator McCain has used his considerable credibility, as a victim of Vietnamese torture when he was a prisoner of war, to argue for an approach that deepens engagement with Hanoi while still advancing US advocacy for human rights there.⁴⁹

But the loss of other senior leaders who can frame an issue more strategically, and the relative lack of interest in the broader region, allow individual members to define the US relationship with a particular country through the prism of a single issue. This is clearly unhelpful in the conduct of diplomacy in the region.

ARMED SERVICES' FOCUS ON CHINA

The Senate and House Armed Services Committees' approach to the region can differ significantly from their counterparts on the Foreign Affairs and Foreign Relations Committees. The Armed Services committees, primarily concerned with US–China competition when it comes to the Asia Pacific, often see the rest of the region in the context of that competition. Because the Armed Services committees write the annual National Defense Authorization Act — which, unlike the SFRC and HFAC State Department authorisation bill, passes every year — the Armed Services committees can wield significant influence over security-related areas of foreign policy. The example of US relations with Myanmar is instructive.

In 2014, members of the House Foreign Affairs Committee from both parties sought to place restrictions on the Pentagon's ability to conduct military-to-military diplomatic activities with Myanmar's military.⁵⁰ The bills emerged at a time when there were legitimate concerns that Myanmar's reform process had stalled, with several prominent instances

The Armed Services committees, primarily concerned with US–China competition when it comes to the Asia Pacific, often see the rest of the region in the context of that competition.

of human rights abuses, some committed by the military, receiving attention on Capitol Hill. But they also came at a time of increased concern that the military, dissatisfied with the prospect of instability in Myanmar, might seek to take back some of the powers it forfeited in the handover to quasi-civilian control in 2011.⁵¹

The administration and reformers in Myanmar argued that the cause of reform would be set back by taking military-to-military diplomacy off the table, because military men in Myanmar are more likely to meet with and be persuaded by fellow uniformed officers. Some members of the Armed Services committees found these arguments persuasive. But more importantly, key members feared that keeping Myanmar's armed forces at a distance would merely benefit Beijing. Determined not to lose Myanmar, the House Armed Services Committee used its muscle to work out a compromise.⁵² Rather than broadly restricting engagement with Myanmar's Armed Forces, it specifically authorised engagement on human rights, civilian control, disaster relief, and military medicine, as well as aid in the event of a natural disaster.⁵³

But the adoption of a single-minded focus on US–China competition is to trade one narrow prism for another.

The compromise reached on engagement with Myanmar's military is one indication that attitudes toward Asia-Pacific policy may be undergoing a slight shift in Congress. While human rights activists might have won the day in previous sessions, by late last year concern about Chinese regional ambitions held greater sway. As concern about the expansion of Chinese influence carries greater and greater purchase with members of Congress, the likelihood increases that they will view individual countries and issues in East Asia in a broader regional context.

But the adoption of a single-minded focus on US–China competition is to trade one narrow prism for another. There must be a more sophisticated understanding of the politics of the region, particularly the concern of most regional states (other than Japan) that they not be made to choose between the United States and China. US efforts to shape Chinese behaviour that are seen as overly confrontational may backfire. Getting this balance right is difficult enough for US officials at the White House, the State Department, and the Pentagon. Anti-Chinese activism in Congress, as it has at various points in the past, will make it more difficult still.

AN AGENDA FOR ENHANCED ENGAGEMENT

In an increasingly polarised Congress, increased congressional interest in the Asia-Pacific region can be a powerful boon for the administration and US partners in the region. But unless the administration and US partners can successfully shape that activism in the years to come, it could also scuttle otherwise effective diplomatic initiatives. Following are some suggestions for enhanced engagement between US and partner policymakers and Congress.

REFORM THE CLEARANCE PROCESS AT THE DEPARTMENT OF STATE

To cultivate a more nuanced understanding of the region, the administration should energise and streamline communication with congressional committees. While the Pentagon gets high marks in this regard, staffers and members on the Hill regularly complain that the State Department has stonewalled them on requests for more information about administration policies.⁵⁴ While the congressional relations staff at the State Department tries hard to obtain answers to questions from the Hill, the much-maligned clearance process at State, which gives multiple officials the opportunity to revise any response, prevents quick action and produces least common denominator answers.⁵⁵ Frustrated with the lag time, members often find the only way to extract answers from the administration is to require a report in statute. The administration is now required to produce thousands of reports every year, some of them on questions that have long been rendered irrelevant by events, further slowing down the bureaucracy.⁵⁶

While others have suggested reforming the clearance process more broadly, the State Department should take action now to streamline the clearance process for response to congressional inquiries. These reforms could then be applied more broadly later. Although streamlining the process might expose a difference of opinion among various bureaus at State, members are already well aware that these differences of opinion exist through regular meetings with representatives of those bureaus. A reformed clearance process would remove a major source of congressional animus toward administration officials when they are called upon to explain US policy.

A number of more junior members of both chambers have also evinced an interest in Asia-Pacific affairs...

CULTIVATE PROMISING NEW LEADERS

Both the administration and US partners should also invest greater time and resources reaching out to promising new leaders on Asia-Pacific issues in the House and Senate. The new chairman of the House Subcommittee on Asia and the Pacific, Representative Matt Salmon, has shown a keen interest in Asia issues since his days as a young man living in Taiwan. Unlike previous chairmen who 'settled' for the subcommittee chairmanship, Salmon has sought it from his first day in Congress.⁵⁷ Since taking the gavel, he has demonstrated a sophisticated grasp of regional politics.⁵⁸ He has energised the work of the committee, holding a flurry of hearings on a range of subjects in his first few months in office.⁵⁹

A number of more junior members of both chambers have also evinced an interest in Asia-Pacific affairs, which should be cultivated by the administration and US partners. Some of them, such as Representative Tulsi Gabbard of Hawaii and Representative Tammy Duckworth of Illinois, are veterans of the conflicts in Iraq and Afghanistan and thus speak with particular credibility on foreign policy issues.⁶⁰ The freshman

senator from Alaska, Dan Sullivan, a Marine Reserve infantry officer who served in the Middle East and as an assistant secretary of state in the Bush administration, has turned his attention to Asia-Pacific policy at the encouragement of Senator McCain.⁶¹

Greater efforts to consult with these members should be made by the Department of State, in particular. (The Department of Defense's large congressional relations staff needs no encouragement in this respect.) US partners in the region should seek to attract these members to travel to the region for consultations during congressional recesses. The State Department should also seek to grow its Pearson Fellows Program, which places Foreign Service officers in congressional offices for one-year assignments. The program is currently dwarfed by the equivalent program for military officers: the State Department sends 10–12 Foreign Service officers, while the military sends around 100.⁶²

American allies and security partners with high-calibre public servants, such as Australia and Singapore, should similarly seek arrangements to place their civil servants in US congressional offices. Though Australian public servants occasionally serve in congressional offices on irregular fellowship or exchange programs, the Australian Government should establish a program of regular exchanges that would see multiple Australians serving in key offices at any given time.⁶³ Although there may be some sensitivities about foreign government employees working on the Hill, these exchanges occur regularly in the armed services and the rest of the executive branch. Budgetary concerns should likewise be considered in that context. If foreign exchange programs into US executive agencies are considered worth the budget, surely programs on Capitol Hill are at least as worthwhile. Most members, always hungry for additional, high-quality staff, would welcome the assistance.

Members of the president's cabinet should also speak about Asia-Pacific policy...around the country.

SPEAK TO THE AMERICAN PEOPLE

Finally, both the administration and friendly foreign governments should take the opportunity to go directly to members' supervisors: the American people. Ignorance or a lack of interest in the region among the electorate is a major reason that members are not as engaged on Asia-Pacific policy in a strategic way. Members of the president's cabinet should also speak about Asia-Pacific policy, not in Washington, but around the country. Secretary of Defense Ash Carter's speech in Arizona in April 2014 was a good step in this direction.⁶⁴ Australian and Southeast Asian leaders should also seek out audiences far from Washington to explain their region's importance to America.

Moreover, if President Obama truly views an increased US commitment to Asia as a major part of his legacy, he should speak about that commitment to the American people himself. The importance of the US commitment to Asia, and the role it plays in his biography and legacy, should be a major theme of the valedictory address that Obama will give

as he prepares to leave office in January 2017. Such speeches can be influential, as Eisenhower's farewell address famously showed.⁶⁵ An Obama speech highlighting his legacy on Asia could do the same.

CONCLUSION

The US Congress shows few signs of emerging from its deepening partisanship and institutional paralysis, but there are recent signs of increased interest in the Asia-Pacific region in the current Congress. The nature of that interest and whether it can be sustained will depend on efforts by individual members, administration officials, and US allies and partners in the years to come.

In this new environment, US policymakers and partners in the region must ask how they can most effectively advocate for an adroit US engagement in the region in their new circumstances. This Analysis provides only a few suggestions, mainly in the way of more responsive and more active engagement with members. It is incumbent on all US policymakers and partners in the region with an interest in an engaged United States to continue to look for new ways to work with Congress to ensure that it is a partner, rather than an obstacle, to the maintenance of the liberal order in the region.

NOTES

¹ Remarks by Barack Obama to the Australian Parliament, Canberra, 17 November 2011, <https://www.whitehouse.gov/the-press-office/2011/11/17/remarks-president-obama-australian-parliament>.

² David Crowe, "US, Australia Hit Back at China Criticism," *Australian Financial Review*, 17 November 2011, <http://www.afr.com/news/policy/defence/us-australia-hit-back-at-china-criticism-20111116-jeefm>.

³ Kurt M. Campbell and Ely Ratner, "Far Eastern Promises: Why Washington Should Focus on Asia," *Foreign Affairs*, May/June 2014, <https://www.foreignaffairs.com/articles/east-asia/2014-04-18/far-eastern-promises>.

⁴ The United States, under Bush administration Trade Representative Susan Schwab, indicated a desire to join the TPP negotiations in September 2009. It did not join negotiations, however, until after the Obama administration reviewed US trade policy during its first year in office, and made its own decision to commit to the talks. See Deborah Elms, "US Trade Policy in Asia: Going for the Trans-Pacific Partnership?" *East Asia Forum*, 26 November 2009, <http://www.eastasiaforum.org/2009/11/26/u-s-trade-policy-in-asia-going-for-the-trans-pacific-partnership/>.

⁵ This analytical approach is most closely associated with former Deputy Secretary of State Robert Zoellick, who in a 2006 speech laid out a vision for a China that acted as a "responsible stakeholder" in the international system. See Robert B. Zoellick, "Whither China: From Membership to Responsibility?" Remarks to National Committee on US–China Relations, New York City, 21 September 2005, <http://2001-2009.state.gov/s/d/former/zoellick/rem/53682.htm>. Many in the Obama administration also adopted these assumptions. See, for example, Kurt Campbell, "China's Challenge and Asia's Rise: The Case for US Strategic Reengagement in the Asia-Pacific Region," Prepared Statement of Dr Kurt Campbell before US Senate Foreign Relations Committee (Washington DC: Center for a New American Security), 15 May 2008, 9, http://www.cnas.org/sites/default/files/publications-pdf/Kurt%20Campbell%20Testimony_Senate%20Foreign%20Relations%20Committee_May%2015,%202008.pdf.

⁶ The United States announced its intention to join the East Asia Summit in 2010, and Secretary of State Hilary Clinton attended the summit that year as a guest of the chair, Vietnam. The United States first attended as a full member, sending President Obama, in 2011.

⁷ US Department of Defense, "The Asia-Pacific Maritime Security Strategy: Achieving US National Security Objectives in a Changing Environment," 14 August 2015, 22, http://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF.

⁸ See, for example, Daniel Twining, "Is the Obama Administration Willing to Back Up Clinton's Talk with Action?" The German Marshall Fund of the United States,

14 October 2011, <http://www.gmfus.org/commentary/obama-administration-willing-back-clintons-talk-action>.

⁹ Thomas E. Donilon, "The United States and the Asia-Pacific in 2013," Remarks to the Asia Society, New York, 11 March 2013, <https://www.whitehouse.gov/the-press-office/2013/03/11/remarks-tom-donilon-national-security-advisor-president-united-states-an>.

¹⁰ Perhaps most importantly, the US decision to join the East Asia Summit, a regional summit hosted by the ASEAN chair, created an institution of regional meetings with a broad agenda that for the first time includes all the leaders of all the key countries in the region. It quickly became the primary venue for discussion of the South China Sea crisis. As a member of the East Asia Summit, the United States also earned the right to send its secretary of defense to the ASEAN Defense Ministers' Meeting every year, where regional security issues are discussed. The Obama administration also improved upon the attendance record of the Bush administration at the ASEAN Regional Forum (ARF). Bush's second term Secretary of State, Condoleezza Rice, skipped the ARF twice, in 2005 and 2007, as her aides suggested that it was just a 'talk shop', that held little value for the United States. (Rice also skipped the meetings to signal US displeasure with a perceived lack of ASEAN pressure on Myanmar to move toward democracy.) Southeast Asian diplomats viewed this as an indication that the Bush administration was not interested in East Asian diplomacy. See Barry Desker, "The Worth of the ASEAN Regional Forum," S. Rajaratnam School of International Studies, 25 July 2006, <http://www.isn.ethz.ch/Digital-Library/Articles/Detail/?lang=en&id=52252>.

¹¹ Although Kerry has still improved upon former secretary Condoleezza Rice's attendance record at regional summits.

¹² Interview with staff, US Congress, Washington, June 2014. See also Ralph Cossa and Brad Glosserman, "Return to Asia: It's Not (All) About China," *PacNet* no. 7, 30 January 2012, <http://csis.org/files/publication/Pac1207.pdf>.

¹³ One of the architects of the rebalance policy, Kurt Campbell, has attempted to clarify the purpose of the rebalance and to dispel some of these misunderstandings, writing that "This misperception ignores the fact that deepening engagement with Beijing has been a central and irrefutable feature of the rebalancing policy" (Campbell and Ratner, "Far Eastern Promises," *Foreign Affairs*). For example, upon entering office, the administration proposed that the United States and China hold an annual summit to work through thorny issues of bilateral concern and identify areas of cooperation, co-chaired by each country's senior-most economic and foreign policy official. The Strategic and Economic Dialogue (or S&ED), as the summit is known, expanded the scope of similar meetings under the Bush administration to include strategic issues, rather than just economic issues. No other foreign government receives such broad and frequent high-level attention. The readout of the last S&ED, held in June 2015, reports engagement — either cooperation or dialogue — across 127 issue areas on the strategic track alone. See US Department of State, "US–China Strategic & Economic Dialogue Outcomes of the Strategic Track," Media Note, 24 June 2015, <http://www.state.gov/r/pa/prs/ps/2015/06/244205.htm>.

¹⁴ See, for example, the comments by Singaporean diplomat Chan Heng Chee in Phua Mei Pin, "US–China Ties 'Still Most Important'," *Straits Times*, 20 October 2012.

¹⁵ Richard E. Neustadt, *Presidential Power: The Politics of Leadership* (New York: John Wiley & Sons, 1960).

¹⁶ Lee Hamilton, "Congress and US Foreign Policy," Remarks to the Trilateral Commission, March 1999, 47–50, http://trilateral.org/download/doc/Washington_19991.pdf.

¹⁷ James M. Lindsay, *Congress and the Politics of US Foreign Policy* (Baltimore: Johns Hopkins University Press, 1994), 24–25.

¹⁸ There is an extensive academic literature on US political polarisation, and several ongoing debates about its extent and nature that are outside the scope of this Analysis. For more on these debates, see Marc J Hetherington, "Review Article: Putting Political Polarization into Perspective," *British Journal of Political Science* 39, no. 2 (2009), 413–438.

¹⁹ "Political Polarization in the American Public," Pew Research Center, June 2014, 10. Ideological consistency is based on responses to ten political values questions.

²⁰ While there is broad consensus in public discourse that gerrymandering leads to greater polarisation, in the political science literature there is a debate as to just how influential gerrymandering is in producing greater polarisation. The political scientist John Sides has argued that gerrymandering is less influential than the public discourse would suggest. See John Sides and Eric McGhee, "Gerrymandering Isn't Evil; Why Independent Redistricting Won't Save Us From Gridlock," *Politico Magazine*, 30 June 2015, <http://www.politico.com/magazine/story/2015/06/could-gerrymandering-be-good-for-democracy-119581>.

²¹ "Margin of Victory Analysis for the 2014 Congressional Elections," Ballotpedia, http://ballotpedia.org/Margin_of_victory_analysis_for_the_2014_congressional_elections.

²² Robert G. Boatright has documented an increase in competitive primary challenges against members of the House since the 1990s, and an increase in primaries motivated by ideology among Republicans since 2008. See "The 2014 Congressional Primaries in Context," Campaign Finance Institute, 30 September 2014, Figure 1 and Figure 5, http://www.cfinst.org/pdf/papers/Boatright_2014_Primaries_in_Context_9-30-14.pdf. While Boatright has expressed scepticism and notes that it is impossible to quantify the extent to which the threat of a primary challenge influences incumbents' behaviour, my interviews with staff on Capitol Hill in 2014 and 2015 indicated that the prospect of a primary threat is never far from their minds.

²³ Christopher Hare, Keith T. Poole and Howard Rosenthal, "Polarization in Congress Has Risen Sharply. Where Is It Going Next?" *Washington Post*, 13 February 2014, <http://www.washingtonpost.com/blogs/monkey-cage/wp/2014/02/13/polarization-in-congress-has-risen-sharply-where-is-it-going-next/>.

²⁴ Thomas E. Mann and Norman J. Ornstein, *It's Even Worse than It Looks: How the American Constitutional System Collided with the New Politics of Extremism* (New York: Basic Books, 2012), 102.

²⁵ Interview with former senior official, Washington, December 2014.

²⁶ Julie Hirschfeld Davis, "Obama Begins Campaign in Congress for Iran Nuclear Deal," *New York Times*, 4 August 2015, <http://www.nytimes.com/2015/08/05/us/politics/netanyahu-appeals-to-american-jews-to-oppose-iran-nuclear-deal.html>.

²⁷ Members are encouraged in this by voters, particularly the most partisan voters who are most likely to vote in primaries, and who generally say that they want their elected representatives to compromise but then describe the preferred compromise as a capitulation by the other side. See "Political Polarization in the American Public," Pew Research Center, 57.

²⁸ Kristina Peterson and Nick Timiraos, "GOP to Stick to Sequester Spending Limits in 2016 Budget," *Wall Street Journal*, 10 March 2015, <http://www.wsj.com/articles/gop-to-stick-to-sequester-spending-limits-in-2016-budget-1426018538>.

²⁹ *US Pacific Command and US Forces Korea in Review of the Defense Authorization Request for FY2016 and the Future Years Defense Program, Before the Senate Armed Services Comm.*, 114th Cong. (2015) (testimony of Admiral Samuel J. Locklear III, Commander of US Pacific Command), <http://www.pacom.mil/Media/SpeechesTestimony/tabid/6706/Article/585392/transcript-senate-armed-services-committee-hearing-on-the-us-pacific-command-us.aspx>.

³⁰ Richard N. Haass, "How the Shutdown Weakens US Foreign Policy," interview by Bernard Gwertzman, Visiting Fellow, Council on Foreign Relations, 2 October 2013, <http://www.cfr.org/budget-debt-and-deficits/shutdown-weakens-us-foreign-policy/p31534>.

³¹ Steve Holland and James Pomfret, "Obama Cancels Asia Tour over Shutdown; Raises Questions on US Pivot," Reuters, 4 October 2013, <http://www.reuters.com/article/2013/10/04/us-usa-fiscal-obama-cancel-idUSBRE99302J20131004>.

³² Interview with staff, US Congress, Washington, April 2015.

³³ The 60 per cent supermajority was required to overcome a filibuster preventing a vote to confirm, rather than for confirmation itself. But both parties, when in the minority, have increasingly used the filibuster to prevent nominees from coming up for an actual confirmation vote. In this way, they are able to block nominees that otherwise have the support of the majority of the Senate. While this tactic was once reserved for the most objectionable nominees, it had come to be deployed semi-regularly.

³⁴ Paul Kane, "Reid, Democrats Trigger 'Nuclear' Option; Eliminate most Filibusters on Nominees," *Washington Post*, 21 November 2013, http://www.washingtonpost.com/politics/senate-poised-to-limit-filibusters-in-party-line-vote-that-would-alter-centuries-of-precedent/2013/11/21/d065cfe8-52b6-11e3-9fe0-fd2ca728e67c_story.html.

³⁵ Noah Bierman, "Amid Senate Gridlock, Ambassador Positions Remain Unfilled," *Boston Globe*, 1 September 2014,

<https://www.bostonglobe.com/news/world/2014/08/31/ambassadors-are-latest-casualty-senate-gridlock-dozens-awaiting-votes-for-months/ZNZsWWAenyPsykBSDYG8VN/story.html>. Republicans occasionally tried to deflect blame for the hold-ups by drawing attention to the lack-lustre qualifications of many Obama administration political appointees, but this was a red herring. Presidents of every party have named political appointees to about a third of ambassadorial posts, and in any event most of the nominees who were held up were career Foreign Service officers.

³⁶ For a more thoroughgoing discussion of the sources of congressional interest in foreign policy, see James M. Lindsay, "Legislative Motivation and Foreign Policy," in *Congress and the Politics of US Foreign Policy*.

³⁷ Paul Farhi, "On Obama's Asia Trip, Members of Media Will Have to Pay \$60,000 Each for Flights," *Washington Post*, 30 October 2014, https://www.washingtonpost.com/lifestyle/style/on-obamas-asia-trip-members-of-media-will-have-to-pay-60000-each-for-flights/2014/10/30/224b7bb2-607d-11e4-8b9e-2ccdac31a031_story.html. It is noteworthy that the press stories that resulted from this episode were not focused on the unprecedented lack of press interest in the president's visit to the region, but rather on the high cost of a seat on the press plane, a problem that only existed because the full cost of the charter had to be spread across far fewer journalists.

³⁸ Interview with staff, US Congress, Washington, June 2015.

³⁹ Interview with staff, US Congress, Washington, April 2015.

⁴⁰ Thomas Wright, "Outlaw of the Sea: The Senate Republicans' UNCLOS Bluster," *Foreign Affairs*, 7 August 2012, <https://www.foreignaffairs.com/print/1070919>.

⁴¹ Austin Wright, "Law of the Sea Treaty Sinks in the Senate," *Politico Magazine*, 16 July 2012, <http://www.politico.com/news/stories/0712/78568.html>. A president could still send the treaty to the Senate should the odds of passage come to seem more promising in the future, but the push by Kerry and McCain was seen as the last foreseeable opportunity to secure its consent.

⁴² Barack Obama, State of the Union Address, US Capitol, 20 January 2015, <https://www.whitehouse.gov/the-press-office/2015/01/20/remarks-president-state-union-address-january-20-2015>.

⁴³ Interviews with Asia policy specialists and staff, US Congress, Washington, June 2015. While tariffs, labour protections, and the other issues that dominated the discussion on the Hill are certainly important, it was nonetheless remarkable that the United States' strategic position in Asia was nearly completely absent from members' decision-making processes on the most important piece of legislation regarding the region in 15 years.

⁴⁴ The vote on awarding permanent normal trade relations (PNTR) to China was one such vote where such a dynamic played out in Congress. Interview with former senior administration official, Washington, November 2014.

⁴⁵ There has been persistent speculation among observers that the United States has been unwilling to compromise on intellectual property protections for biologic pharmaceuticals in the TPP because US Trade Representative Michael Froman promised Senator Orrin Hatch, the chair of the Senate Finance Committee, and who also writes the first draft of trade legislation in the upper house, that he

would not compromise on that point. The US inflexibility on biologics has been a major point of contention among negotiators attempting to conclude the deal. Jonathan Weisman, "Patent Protection for Drugs Puts Pressure on US in Trade Talks," *New York Times*, 30 July 2015, http://www.nytimes.com/2015/07/31/business/international/pacific-trade-deal-drugs-patent-protection.html?_r=0.

⁴⁶ "Royce: Dokdo is Korean Territory," *Yonhap*, 16 May 2015, <http://english.yonhapnews.co.kr/news/2015/05/16/0200000000AEN20150516000200315.html>.

⁴⁷ Interview with staff, US Congress, Washington, April 2015.

⁴⁸ The House Foreign Affairs Committee and its subcommittees held 105 hearings in 2014. Fourteen hearings concerned issues in the Asia Pacific; nine of those focused on human rights or democracy. Thirty-two hearings concerned the Middle East; three of them related to human rights or democracy. Seven hearings concerned Europe, including Russia and Ukraine; one of them focused on human rights and democracy. The list of hearings can be accessed at https://foreignaffairs.house.gov/legislation?type=hearing&tid=All&tid_1=All. The Senate Foreign Relations Committee heard less on human rights in all regions, holding only one hearing on human rights of seven on East Asia, one of thirteen on the Middle East, and none of six on Europe. The Senate holds fewer issue-based hearings than the House, but holds dozens of confirmation hearings each year for US diplomats. The list of hearings can be accessed at <http://www.foreign.senate.gov/hearings?year=2014&c=113>.

⁴⁹ Statement by Senator John McCain, Hanoi, 8 August 2014, <http://www.mccain.senate.gov/public/index.cfm/2014/8/statement-by-senator-john-mccain-in-hanoi-vietnam>.

⁵⁰ The bills would have strictly limited interactions unless the Defense Department could verify that it had met high standards of human rights and civilian control. In the short term, it was unlikely that Myanmar's military, whose leadership is still sceptical of such concepts, would meet those standards. The bills were H.R. 4377, 113th Congress (2014), <https://www.congress.gov/bill/113th-congress/house-bill/4377/text>; and H.R. 3889, 113th Congress (2014), <https://www.congress.gov/bill/113th-congress/house-bill/3889/text>. H.R. 4377 was approved by the Subcommittee on Asia and Pacific Affairs, but died in the full committee.

⁵¹ Interview with US diplomat, February 2013, and interview with US defence official, April 2015. See also Phuong Nguyen, "Revisiting US Military Ties with Myanmar," *CogitAsia*, 11 December 2014, <http://cogitasia.com/revisiting-u-s-military-ties-with-myanmar/>.

⁵² Interview with staff, US Congress, Washington, June 2015.

⁵³ H.R. 3979 – Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, 113th Congress (2014), Section 1253.

⁵⁴ Interview with staff, US Congress, Washington, June 2014.

⁵⁵ Joseph Cassidy, "10 Ways to Fix America's Ailing State Department," *Foreign Policy*, 20 July 2015, <http://foreignpolicy.com/2015/07/20/state-department-kerry-obama/>.

⁵⁶ David Fahrenthold, "Unrequired Reading," *Washington Post*, 3 May 2014, <http://www.washingtonpost.com/sf/national/2014/05/03/unrequired-reading/>.

⁵⁷ Interview with staff, US Congress, Washington, April 2014.

⁵⁸ See, for example, Salmon's remarks at the US–ASEAN Business Council Annual Gala, Washington, 15 June 2015, <https://salmon.house.gov/media-center/remarks/remarks-us-asean-business-council-annual-gala>.

⁵⁹ Only four of the fourteen focused primarily on human rights and democracy. The remainder often included discussion of these issues, but in the broader regional context. The list of hearings can be accessed at https://foreignaffairs.house.gov/legislation?type=hearing&tid=56&tid_1=41.

⁶⁰ Interview with staff, US Congress, Washington, December 2014.

⁶¹ Interview with staff, US Congress, Washington, June 2015.

⁶² Travis Sharp, "Congressional Fellowships and Foreign Policy: DOD vs State," *Budget Insight* (blog), Stimson Center, 25 August 2009, <https://budgetinsight.wordpress.com/2009/08/25/congressional-fellowships-and-foreign-policy-dod-vs-state/>.

⁶³ Interview with foreign diplomat, Washington, December 2014.

⁶⁴ Ash Carter, "Remarks on the Next Phase of the US Rebalance to the Asia-Pacific," Speech at the McCain Institute, Arizona State University, Tempe, 6 April 2015, <http://www.defense.gov/News/Speeches/Article/606660>.

⁶⁵ "Eisenhower's Warning Still Challenges a Nation," National Public Radio, 16 January 2011, <http://www.npr.org/2011/01/16/132935716/eisenhowers-warning-still-challenges-the-nation>.

ABOUT THE AUTHOR



Aaron L. Connelly

Aaron L. Connelly is a Research Fellow in the East Asia Program at the Lowy Institute for International Policy, where he focuses on Southeast Asia, particularly Indonesia and Myanmar, and the US role in the region.

Prior to joining the Lowy Institute, Aaron worked at Albright Stonebridge Group and the Center for Strategic and International Studies (CSIS) in Washington. He was also a Fulbright scholar and visiting fellow at CSIS in Jakarta. Aaron is a graduate of the Walsh School of Foreign Service at Georgetown University and the Elliott School of International Affairs at George Washington University.

Aaron's position is supported by the Lowy Institute's Engaging Asia Project which was established with the financial support of the Australian Government.

Aaron L. Connelly
Tel: +61 2 8238 9120
aconnelly@lowyinstitute.org

LOWY INSTITUTE
FOR INTERNATIONAL POLICY

31 Bligh Street
Sydney NSW 2000 Australia

Tel: +61 2 8238 9000
Fax: +61 2 8238 9005

www.lowyinstitute.org
twitter: @lowyinstitute