

# The Role of Congress in U.S. Foreign Policy toward Iran: Analysis of Congressional Sanctions

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## Abstract

U.S. foreign policy making is a complicated process because of the number of players involved. Generally, the executive branch is considered to be responsible for decision making and implementing U.S. foreign policy. The Constitution of the United States, however, has assigned some foreign policy powers and responsibilities to Congress granting importance to its role in U.S. foreign policy. U.S. foreign policy toward the Middle East has been one of the areas where the U.S. Congress has exerted its influence through its foreign policy powers. This paper looks into the role the U.S. Congress has played in U.S. foreign policy toward Iran with a focus on sanctions laws passed in Congress. Using Scott and Carter's two-dimensional model of activity and assertiveness, this paper argues that the U.S. Congress has become both more active and more assertive in U.S. foreign policy making toward Iran specifically in the case of sanctions and it has taken the role of a Competitive Congress in its relations with the executive branch.

**Keywords:** Congress, foreign policy, Iran, sanction

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### **Introduction**

Foreign policy powers in the United States are divided between the President and Congress. Corwin (1957) describes foreign policy making in the United States as “an invitation to struggle” because there is an ambiguous framework of foreign policy powers and responsibilities assigned to both Congress and the president. Although the executive branch is the most important branch in foreign policy decision making and the president is the most important individual, the constitution has granted Congress a role through its legislative power “to raise and support armies; to provide and maintain a navy; to make rules for the regulation of land and naval forces; to organize, arm, discipline, and call forth the militia; and to declare war” (Article 1, Section 8). In addition, other roles of Congress include “regulating international commerce and immigration, defining and punishing piracies, granting letters of marque and reprisal, making rules concerning capture on land and water, and making all laws necessary and proper for carrying into execution the foregoing powers” (Article 1, Section 8). Moreover, the United States' political system has been designed in a way to avoid past European experience, meaning that power should not be concentrated in one branch of government. As a result, the system of checks and balances exists. The Lockian view manifested in the U.S. constitution gives way to a system in which strong presidency is avoided and the legislative branch is given a prominent role. Therefore, the role of Congress in foreign policy is an important feature of American political system and Congress and its members

are “at least potentially influential in U.S. foreign policy” (Kamal-Shahda, 2001:1).

When it comes to U.S. policy on Iran, Congress is an important player trying to exert its influence on policy making. Thus, one cannot analyze U.S. foreign policy toward Iran without considering the Congressional role in this regard. In the following sections, after a brief review of literature on Congress and foreign policy, the two-dimensional model of Congressional activity and assertiveness is explained. Finally, the role of Congress in U.S. sanctions against Iran is analyzed to see which type of Congress we have had with regard to Iran.

### **I. Congress and Foreign Policy**

McKay (2004) in his book *American Politics and Society*, states that the U.S. Congress is the “most powerful legislature in the world” and “has been remarkably successful in maintaining its independence from executive influence” (McKay, 2004:129). He believes that the “powers and functions of Congress have changed over time” but it has “remained an essentially autonomous institution” (McKay, 2004:129). As mentioned earlier, the powers of Congress are defined in the constitution and this has partly led to the independence of Congress. When it comes to foreign policy and the extent to which the U.S. Congress influences foreign policy, the literature shows a range of views on the matter. The conventional thinking until quite recently has been the preeminence of the president in the making of foreign policy. Rockman (1994) considers the “leadership in foreign policy” to be the “particular responsibility of the president “because of constitutional interpretations of presidential prerogatives in foreign policy and the president’s unique ability to act” (Rockman, 1994:59). The precision of this view is; however, challenged especially after the Vietnam War and numerous analysts have studied the role of Congress in foreign policy. Scholars such as Randall Ripley and James Lindsay hold that “it is impossible to understand fully the foreign

policy-making in the United States without accounting for Congress” (Ripley and Lindsay, 1993:6). Nonetheless, observers such as Barbara Hinckley (1994) and Stephan Weissman (1995) believe that Congress has been ineffective in foreign policy-making and Congressional assertiveness is a myth. Yet, the Congressional role in foreign policy has been analyzed from different perspectives and the literature in this regard is quite abundant. Some scholars such as Smith (1989) and Henkin (1990) have studied the role of Congress in foreign policy from a legal perspective. Other areas which have been researched include the impact of Congressional involvement and influence by analysts such as Jones and Marini (1988); Crovits and Rabkin (1989); Mann (1990). Congressional behavior and factors generating it have been examined by observers such as McCormick and Wittkopf (1990); Blechman (1991); Lindsay and Ripley (1992) and motives behind voting on foreign policy issues has been studied by scholars such as McCormick (1985); Carter (1989); and Lindsay (1990).

Much of this literature has come to the conclusion that Congress and its members have become more important and influential in foreign policy issues since the Vietnam War. In the Cold War period from 1947 to 1968, mostly because of the policy consensus between the two branches of the government and the two parties, Congress was “generally deferent to executive leadership on foreign policy issues” (Scott and Carter, 2002:152). The Cold War consensus was; however, destroyed by the Vietnam War (Ibid:153). The release of Pentagon Papers in 1971 which showed, according to a 1996 *New York Times* article, that “the Johnson administration has systematically lied, not only to the public but also to Congress”, was perhaps the starting point of Congressional resurgence in foreign policy (Apple, 1996). The Watergate Scandal and Iran-Contra affair were the later events which resulted in more Congressional oversight over the executive branch.

Based on the literature, most observers believe in the resurgence of Congress in the realm of foreign policy . The question that arises

here is whether Congress has become more active or more assertive in foreign policy since these two are not exactly the same.

## II. Congressional Activity and Assertiveness

To assess Congressional activity and assertiveness in post-World War II foreign policy-making, Scott and Carter (2002) have examined Congressional behavior in foreign policy by surveying Congressional Quarterly Almanac from 1946 to 1997 and randomly selecting the first case from 1946, and every fourth case thereafter. The cases chosen for this study have “observable direct or indirect effects on other nations” (Scott and Carter, 2002:154). These cases are tested against two hypotheses of Congressional activity and Congressional assertiveness. By Congressional activity, Scott and Carter (2002) assume that over time since World War II, that Congress “has become more active in U.S. foreign policy” and by assertiveness, they assume that since World War II, that Congress “has become more assertiveness in U.S. foreign policy” (Ibid). Suggesting that the analysis of Congress being resurgent or acquiescent as it has been observed by scholars such as Lindsay and Hinckley is one-dimensional, Scott and Carter (2002) came up with a two-dimensional model “created by an activity continuum {less active-more active} and an assertiveness continuum {less assertive-more assertive}”. As a result they come up with four models of Congressional foreign policy behavior which are a *Competitive Congress*, a *Disengaged Congress*, a *Supportive Congress*, and a *Strategic Congress*. Each of these models are defined by Scott and Carter (2002) as follows: “A *Competitive Congress* whose greater levels of both activity and assertiveness lead it to challenge the president for foreign policy influence, a pattern of behavior reflective of the idea of a resurgent Congress. A *Disengaged Congress* whose relative inactivity and compliance with presidential preferences reflect the acquiescent Congress more involved in domestic policy than foreign policy and more likely to defer to and support the president. A *Supportive Congress* whose greater activity is

combined with less assertive behavior, indicating a Congress cooperating with the president to achieve foreign policy goals over which there is substantial consensus; and A *Strategic Congress* whose combination of less activity but greater assertiveness suggest a Congress that selects its battles carefully but is willing to challenge the president when it is interested {less active but more assertive}" (Ibid:164). In the following sections, Congressional role with regard to Iran sanctions is analyzed to see which type of Congress best fits the case of Iran.

### III. U.S. Congress and Iran

Before the Islamic Revolution and during Mohammad Reza Shah's reign, the United States and Iran maintained a close relationship and Iran was considered by the U.S. to be the main pillar of the "two pillar" policy along with Saudi Arabia. The political and economic interests of the U.S in the Middle East were protected by the Shah and, in return the U.S. helped the Shah to maintain his rule (Fayazmanesh, 2008:12). By the mid-1970s, Iran became the largest buyer of U.S. military goods as the Shah spent large sums of petrodollars on arms from the U.S. (Ibid). The U.S. Congress during the Shah's years was supportive of the administration policy and approved most of the military sales to Iran (Kamal-Shahda, 2001)

The 1979 Islamic Revolution and the seizure of U.S. embassy in Tehran marked the termination of friendly relationship between the two countries. In response to the hostage crisis, Carter issued a series of Executive Orders imposing a wide range of economic sanctions on Iran. These sanctions included banning the import of Iranian crude oil<sup>(1)</sup>, freezing about \$12 billion in Iranian government assets including bank deposits, gold and other properties within U.S. jurisdiction<sup>(2)</sup>, barring the export of U.S. goods to Iran and severely restricting financial transactions with Iran<sup>(3)</sup>, banning all Iranian imports and prohibiting U.S. citizens from travelling to and conducting business with Iran.<sup>(4)</sup>



Just after the Islamic Revolution, Congress also aligned itself with the administration policy on Iran and became critical of the new government in Iran (Kamal-Shahda, 2001). On May 17, 1979 the Senate passed a resolution {S. Res. 164} expressing that it was against the alleged “summary executions without due process in Iran”<sup>(5)</sup>. In December, 1979 another resolution {S. Res. 318} was passed in the Senate which “called upon all nations to join in cooperative efforts to restrict relations with Iran”.<sup>(6)</sup> In 1982, 1984, 1988, and 1990 Congress passed several resolutions criticizing human rights in Iran. Congress also “included provisions in the several foreign appropriations acts [since 1985] for withholding the proportionate share of U.S. contributions to international organizations programs allocated to Iran” (Ibid: 178).

With the release of hostages in 1981 and based on the Algiers Accord signed between Iran and the U.S. on January 19, 1981, sanctions had to be lifted. They were; however, re-imposed on Iran by the Reagan administration in 1984. The U.S. State Department designated Iran as a state sponsor of terrorism accusing it of being involved in the 1983 bombing of U.S. marine barracks in Beirut. The 1984 sanctions prohibited weapons sales and all U.S. assistance to Iran and in the midst of war with Iraq, Iran was denied access to financial aid, dual-use technology and U.S. defense exports. The U.S. also opposed all loans to Iran from international financial institutions. In 1986, Congress passed the Arms Export Act, barring Iran from receiving U.S. arms and spare parts. In 1987, Reagan issued Executive Order 12613 prohibiting the importation and exportation of any goods or services from Iran.

An important event during the presidency of Reagan which led to more Congressional oversight of the executive branch was the Iran-Contra Affair. The release of the news of Iran-Contra affair in 1986 led to special committees being set up in the Senate and House “to investigate all aspects of the Iran-Contra affair, which resulted in a 10-month investigation, including 12 weeks of public hearings”

(Kamal-Shahda, 2001:188).

In the 1990s, the United States tried to isolate Iran as part of the strategy of “dual containment” of Iraq and Iran. Brzezinski and Scowcroft were two of the proponents of this strategy.

Iran was described as a rogue state and a threat to U.S. interests in the Persian Gulf and the Middle East by Congress and the Clinton administration. In the 1990s Iran was considered a source of concern to the United States. U.S. concerns as Brzezinski describes were Iran’s “conventional military buildup, its opposition to the peace process, its promotion of Islamic militancy, its support of terrorism and subversion, and its quest for nuclear weapons” (Brzezinski, Scowcroft and Murphy, 1997:26). Congress also collaborated with the administration in containing Iran and Congressional sanctions on Iran were imposed in the 1990s.

In the following parts, the sanction laws of 1990s and the relationship between Congress and the executive branch in making and passing these laws are reviewed.

**The Iran-Iraq Non-proliferation Act of 1992:** U.S. foreign policy in the 1990s was very much influenced by two events. The first was the end of the Cold War and the collapse of the Soviet Union and the second one was the second Persian Gulf war which expelled Saddam from Kuwait (Litwak, 2000). With the removal of the Soviet threat and the experience of Iraq fresh in mind, Iran was viewed as “the type of security challenge that the United States would face in the post-Cold War era” (Litwak, 2000:166). George H. W. Bush had also talked about the need to be prepared for the “Iraqs of the future” when Saddam invaded Kuwait. The CIA’s 1992 National Intelligence Estimate on Iran’s nuclear program portrayed Iran as what was later characterized a rogue state- “a Third World regime armed with WMD and threatening a region of vital interest to the United States” (Ibid). The Bush administration engagement strategy prior to the 1990 had also failed as Bush’s idea of using trade and economic tools to expand political influence over Iraq did not bear fruit. Due to this experience,



the political rationale against pursuing an engagement strategy toward Iran was reinforced in the minds of Americans and led them to focus more on strengthening the non-proliferation regime after the second Persian Gulf War (Ibid).

Congress and the administration both shared this view that proliferation of Iran's ballistic missile capacity and alleged weapons of mass destruction "represented a serious threat to U.S military forces in the Persian Gulf, a threat to the free flow of oil out of this critical region, and a threat to U.S allies in the region" (Kamal-Shahda, 2001). For example, Senator McCain in his speech before Congress on April 08, 1992 describes Iran as a "pariah state" which supports "terrorism and hostage-taking in Lebanon" and violates "basic human rights within its own borders" (Congressional Record, 1992: S5056). McCain also accuses Iran of stockpiling missiles, biological and chemical weapons and advocates "tougher international arms control regime" against states that he calls "real threats to peace" (Ibid).

In order to reduce these threats as mentioned by Senator McCain, Congress passed the Iran-Iraq Arms Nonproliferation Act [P.L. 102-484] which imposes a number of sanctions on foreign countries and firms that help Iran modernize its military capabilities. This bill was originally proposed by Senators John McCain and Al Gore on April 4, 1992 in response to reports of Russian and Chinese technical support to Iran's nuclear program, and the sale of submarines and missiles to Iran. The bill passed Congress as part of the National Defense Authorization Act for FY1993 [Title XVI] and in October 1992, President Bush signed the bill into law. In this case Congress and the administration collaborated to reach a foreign policy objective. The passage of this bill helped the Bush administration try to "win multilateral support for measures to forestall the development of" alleged "Iranian WMD capabilities" (Litwak, 2000:166).

**Comprehensive Iran Sanctions Act of 1995:** In the first half of the Clinton administration, the U.S. attitude toward Iran began to

harden and the U.S. sanctions against Iran began to intensify. A major player in intensifying U.S. sanction policy was Israel which after the Persian Gulf War of 1991 focused its attention on portraying Iran as a threat and trying to contain it.

In the 1994 Congressional elections, Republicans managed to gain the majority in the House and Senate. In this atmosphere, U.S. policy toward Iran began to proceed in a hardline direction. Brzezinski et al. (1997) attribute the real impetus for this shift to American domestic politics and to what they state as “the administration’s desire to head off a challenge on Iran policy mounted by an increasingly bellicose Republican Congress” (Ibid). Fayazmanesh (2008) refers to the situation of American domestic politics as a “competition between a predominantly Republican Congress and a Democratic administration as to which one was more hostile to Iran and thus loyal to Israel” (Fayazmansh, 2008:73). In this case Congress “sought to direct several aspects of U.S. policy towards Iran” (Kamal-Shahda, 2001). For example, Senator Alfonse D’Amato, the Chairman of the Senate Banking Committee on January 25, 1995 introduced a bill [S.277, the Comprehensive Iran Sanctions Act of 1995] to impose a total ban on trade with Iran and to cut off the estimated \$3.5 billion a year in oil purchased from Iran by subsidiaries of U.S. companies and sold in a third country (Lelyveld, 1995 as cited in Fayazmanesh, 2003).

No final floor action was taken on this bill, but the threat of legislation “generated pressure on the administration to take tougher actions against Iran to match the congressional initiative and seize the initiative on Iran’s policy” (Kamal-Shahda, 2000:182). It seemed that as stated by Fayazmanesh (2008), there was a “competition” between the executive and legislative branches to influence U.S. foreign policy in a more anti-Iran direction. With Congress trying to lead the U.S. Iran policy through the efforts of D’Amato, the Clinton administration also pursued its own measures to expand sanctions on Iran.

On March, 1995 President Clinton issued executive order [NO. 12957] which prohibited the financing, management, or supervision by U.S. firms of the development of Iranian petroleum resources. This order was issued as a response to reports that the U.S. firm Conoco had initiated a contract with Iran to develop oil fields around Iran's Sirri Island and shortly after that Conoco had to withdraw from its contract with Iran. On May 6, 1995 Clinton issued another Executive Order [No. 12959] which prohibited U.S. goods, technology, and services to Iran and the re-export of certain U.S. goods and technology to Iran from third countries. It also prohibited new investments by U.S. persons in Iran and any brokering and other dealing by U.S. persons in goods and services of Iranian origin or owned or controlled by Iran. Through this Executive Order, the loophole under which foreign affiliates of U.S. oil companies were purchasing approximately 25% of Iran's oil exports for overseas trade was closed. Although Senator D'Amato's introduced bill was not given a vote on the floor, its objective was achieved through these Executive Orders. Once this loophole was closed, Congress moved a step further to sanction foreign companies that trade with or invest in Iran. This congressional action took place after the reports that a French company, Total SA signed a contract with Iran to develop the Sirri islands oil fields, and after the testimony of administration officials before Congress that Iran was "able to find new buyers for almost all the oil previously purchased by affiliates of U.S. oil companies" (Congressional Record, 1995: S18829). In addition to this, Under Secretary of State for Political Affairs Peter Tarnoff in testimony before the Banking Committee's October 11 hearing had said that "a straight line links Iran's oil income and its ability to sponsor terrorism, build weapons of mass destruction, and acquire sophisticated armaments". Therefore, Congress acted to prevent foreign investment in Iran's energy sector and Senator D'Amato introduced a bill in the Senate [S. 1228, Iran Foreign Oil Sanctions Act of 1995] on September 8, 1995. This bill intended to place

sanctions on any foreign company that supplies Iran with equipment to extract petroleum, natural gas, or other activities. The goal of this legislaion was to prevent Iran from obtaining hard currency through its export of oil since the U.S. accused Iran of using the money to acquire nuclear bomb and to fund international terrorism. During the Senate debate on this bill, Senator Edward Kennedy proposed that the same sanctions be extended to Libya for its role in the bombing of Pan Am Flight 103 in December 1988 and Senate approved this amendment.

Along with the bill introduced in the Senate, a similar bill was introduced in the House by Congressman Gilman. The bill called the Iran-Libya Sanctions Act [ILSA] or [H.R. 3107] required the Presidnt to impose any two of the six specified sanctions, on any foreign person [individual, firm, or governmnet enterprise] that invests more than \$40 million in the petroleum industries of Iran or Libya in any one year. The six sanctions were: denial of Export-Import Bank loans for U.S. exports to the sanctioned entity; denial of specific U.S. licenses for exports to the sanctioned entity; denial of U.S. bank loans of over \$10 million in one year to the sanctioned entity; disallowing a sanctioned entity, if it is a financial institution, to serve as a primary dealer of U.S. Government bonds or as a repository of U.S. Government funds; and prohibition on imports from the sanctioned person to the United States; prohibition on U.S. Government procurement from or contracting with the sanctioned entity (Congressional Record, 1996: H6470-H6472).

The Clinton administartion expressed their concerns about this bill due to its adverse effect on U.S companies. At the Senate Banking Committee's October 11 hearing, Under Secretary Tarnoff told the committee that “that the administration was making great efforts to persuade other nations to cooperate with the embargo of Iran” and he expressed concerns that the enacting of the legislation “would make it more difficult to get that cooperation” (Congressional Record, 1995: S18829). He had also appeared before the House



International Relations Committee on November 9, 1995, to point out the difficulty of enforcing the sanctions for the administration and expressing concern about a backlash against U.S. companies. He; however, expressed a willingness to work with Congress to thwart Iran's sponsorship of terrorists and to develop possible legislation (Kamal-Shahda, 2001). As a result, the administration negotiated with Congress and eventually a provision was included in the bill that gave the President "the necessary flexibility to determine the best mix of sanctions in a particular case, and to waive the imposition or continued imposition of sanctions when he determines it is important to the national interest to do so" (Congressional Record, 1995: S18829). Accordingly, the bill passed the House on June 19, 1996 by a vote of 415-0 (Congressional Record, June 19, 1996: H6528- H6529), and passed the Senate on July 16, 1996 by voice vote (Congressional Record, July 16, 1996: S7917). This bill became Law on August 5, 1996.

**Sanctions in the Second Half of Clinton Administration:** In the second half of Clinton Administration, Congress became concerned about military cooperation between Iran and foreign firms and governments. In 1995, Russia agreed to finish the reactor project in Bushehr which was worth about \$800 million (Kerr, 2014). The reports of Russian agreement to build four nuclear reactors for Iran, made leading Republican members of Congress threaten to cut off all aid to Russia unless Moscow canceled the nuclear energy deal with Iran. These Republican Congressmen were Senate Majority Leader Robert Dole, Chairman of the Appropriations Subcommittee for Foreign Appropriations, and Speaker of the House, Newt Gingrich. In an effort to punish Russia for making a deal with Iran, Congressman Benjamin Gilman introduced the Iran Missile Proliferation Sanctions Act [H.R. 2709]. The goal of this bill was to place sanctions on Russian firms contributing to the development of Iran's missile program. Several members of Congress spoke in support of the bill and emphasized that the bill was necessary since

“the administration appears unable or unwilling to sanction the Russian entities that are providing essential missile components and technical assistance to extend the range of Iran’s Scud missiles to 1,300 kilometers” (Committee Report on Iran Missile Proliferation Act of 1997, November 4, 1997). Moreover, some members believed that the administration’s approach of engaging Russia to halt its military cooperation with Iran was not effective. The report of the House International Relations Committee clearly stated that Congress had a “fundamental disagreement with the Administration over the utility of sanctions legislation and Congress would not hesitate to impose unilateral sanctions when an administration’s policy was demonstrably ineffective in protecting America’s vital interests” (Ibid). The bill required the President to submit periodic reports to Congress identifying those entities where there was credible evidence they had transferred, attempted to transfer, or provide technical assistance or facilities that contributed to Iran’s efforts to acquire, develop, or produce ballistic missiles (Congressional Record, November 12, 1997: H10646). The bill also gave the president a waiver for the imposition of any sanction if he determined and reported to Congress that such a waiver was essential to the national security of the United States (Ibid).

Clinton administration was opposed to this bill and in a letter to Lee Hamilton, the ranking Democrat on the House Foreign Relations Committee, Madeline Albright, Secretary of State said that she would recommend that the president veto the bill. She argued that “the bill’s threshold for sanctions was too low and the administration could find itself imposing penalties erroneously, harming political and economic relationships” (Kamal-Shahda, 2001:195). A reason for the reluctance of the administration to impose more sanctions was the pressure from U.S. industries, particularly in the oil and agriculture sectors, against them. Fayazmanesh (2003) believes that the “strong corporate pressure persuaded the secretary to modify U.S. foreign policy, using such excuses as the election of President Khatami and Iran’s positive



record in the war against drugs” (Fayazmanesh, 2003:235).

Despite the administration’s argument against the passage of the bill, it passed Congress overwhelmingly; it passed the house on November 12, 1997 by voice vote, and passed the Senate on May 22, 1998 by a vote of 90-4 (Congressional Record, 1998: S5390). President Clinton vetoed, for the first time, the bill sponsored by Congressman Benjamin Gilman. Although the President vetoed the bill, its passage generated pressure on the Clinton administration to be tougher on Russian firms aiding Iran and in order to avoid congressional override of the veto as it had been announced by the House Speaker, Newt Gingrich, the Clinton administration “came up with a compromise sanction of its own against some Russian institutes that were under investigation for supplying missile technology to Iran” (Fayazmanesh, 2003:236). On July 15, the Clinton administration announced that it was taking steps to punish Russian firms for their possible aid to Iran’s missile program. After that, Republicans of Congress decided to put off the veto override vote and on July 28, 1998 Clinton issued Executive Order [No. 13094] to enable the banning of trade with, aid to, and procurement from foreign entities assisting alleged weapons of mass destruction programs in Iran or elsewhere. As a result of this Executive Order, in 1998 seven Russian entities and in 1999 three more Russian firms were sanctioned for making material contributions to Iran’s alleged nuclear weapons and missile programs.

Congress; however was not satisfied with the actions of the Clinton administration and a similar bill to the Iran Missile Proliferation Sanctions Act called the Iran Nonproliferation Act [H.R. 1883] was introduced by Representative Benjamin Gilman on May 20, 1999. This new bill was broader in scope than the previous one passed in 1998. The sanctions on the new bill not only applied to transfers of missile technology but also to transfers of technology that had the potential of making a material contribution to the development of nuclear, chemical, biological, or certain advanced

conventional weapons. These sanctions included: a ban on U.S. government procurement from or contracts with the entity, a ban on U.S. assistance to the entity, a prohibition of U.S. sales to the entity of any defense articles or services, and denial of U.S. licenses for exports to the entity of items that can have military applications or dual use items (Congressional Record, 1999: H8166).

In order to take into account the concerns expressed by the administration about the old Iran Missile Proliferation Sanctions Act, the new bill in contrast “authorized, rather than mandated, the President to impose sanctions on Russian entities that assisted Iran’s missile program” and alleged WMD program (Kamal-Shahda, 2001). The new bill also made exceptions for transfer of goods, services, and technology that were made unknowingly, and did not contribute materially to Iran’s alleged weapons programs (Congressional Record, 1999: H8166) . Accordingly, the bill passed the House on September 14, 1999 by a vote of 419-0 (Congressional Record, 1999: H8177), and passed the Senate on February 24, 2000 by a vote of 98-0 (Congressional Record, 2000: S756-S757). With the modifications made to the new version of the Iran Missile Proliferation Sanctions Act, the Iran Nonproliferation Act was signed by President Clinton and became a public law on March 14, 2000 [P.L. 106-178].

**Sanctions during Bush’s Presidency:** After Clinton, George W. Bush was elected as president. During Bush’s presidency attention shifted to Iran’s nuclear file after a member of MEK brought Iran’s nuclear program in the spotlight in 2002. Bush’s presidency is marked by the important events of September 11<sup>th</sup>, the War on Terror and the Iraq War. Bush’s campaign for democracy promotion which started with the Iraq war of 2003 was also a goal of U.S. foreign policy toward Iran during the Bush administration. In line with this policy of the administration and in response to the reports of Iran making progress in its nuclear program, Iran Freedom Support Act was introduced on January 6, 2005 in the House by Congresswoman Ileana Ros-Lehtinen [R-Florida]. Some members of Congress were





also concerned that “foreign companies had begun to openly ignore ISA<sup>(7)</sup>” (Katzman, 2007). Iran Support Freedom Act [H.R. 282, S. 333] was introduced “to extend ISA indefinitely, to close some of its perceived loopholes, and to authorize funding for pro-democracy activities in Iran” (Katzman, 2007). H.R. 282 was passed by the House on April 26, 2005.

This bill; however “met opposition from the administration, which said it reduced the flexibility to reach a diplomatic solution to Iran’s uranium enrichment program and the threat that it was developing nuclear weapons” (Abrams, 2006). The reason for this opposition was that in its second term, the Bush administration decided to formally join the EU3, along with China and Russia for nuclear talks with Iran. Parchami (2014) believes that this decision of the United States to take part in the P5+1 negotiations was “a tacit admission by the USA that the Iranian nuclear crisis could only be resolved through multilateral cooperation: unity among the Transatlantic allies and an understanding with Russia and China” and “an implicit recognition of the hitherto strategic failure of the USA” (Parchami, 2014:324).

The new approach in the second half of the Bush’s presidency was also due to Washington’s internal politics. The appointment of Condoleezza Rice as Secretary of State brought about a change in the tactic of U.S. policy toward Iran. The change in favor of greater engagement with Iran was perhaps due to hawks like UN Ambassador John Bolton losing the power struggle inside the Bush Administration. When Rice became the Secretary of State, she “threw her weight behind Nicholas Burns, the Undersecretary of State for Political Affairs who was a long-standing proponent of a carrot and stick strategy” (Parchami, 2014). In May 2005, Rice informed Bolton of “the change in Iran policy” and of Washington’s readiness “to sit down with its European partners and directly negotiate with the Iranians” (Ibid). The whole idea of entering into negotiations and engagement with Iran was a change in tactic as the

substance of U.S. foreign policy toward Iran had not changed (Rouhani, 2011). On May 31, 2006, Rice offered direct but conditional talks with Iran. The condition was the suspension of uranium enrichment by Iran (Parchami, 2014). The aim of this strategy was to offer bilateral talks with the United States and “an incremental improvement in US-Iranian relationship if Iran cooperated by ending uranium enrichment program or to refer Iran’s nuclear dossier to the UNSC if Iran refused to cooperate” (Ibid). This action of the United States could be interpreted as a strategy to isolate Iran further and garner multilateral support to refer Iran’s nuclear file to the UNSC for the imposition of tougher sanctions.

While the United States was playing diplomacy to garner more multilateral support for UN sanctions against Iran, Congress started its own agenda for unilateral U.S. sanctions against Iran. The initial opposition to H.R. 282 was perhaps due to the administration trying to garner multilateral support to create pressure on Iran for its nuclear program. As a result, the H.R. 282 proposal did not pass the Senate. Congress however, did not stop the push for the Iran Freedom Support Act and “toward the end of the 109<sup>th</sup> Congress, H.R. 6198, a modified version of H.R. 282, was introduced to address administration concerns that H.R. 282 and S. 333 did not allow sufficient administration flexibility” (Katzman, 2007). H.R. 6198 like H.R. 282 “made sanctionable sales of WMD-useful technology or ‘destabilizing numbers and types of advanced conventional weapons and added required determination that Iran ‘poses no significant threat’ in order to terminate application to Iran. Unlike H.R. 282, it recommended, but did not require, a 180-day time limit for a determination of violation and changed the multi-lateral sanctions waiver provision to a national security interest waiver” (Katzman, 2007). This bill also approved assistance for human rights, pro-democracy and independent organizations (Abrams, 2006).

Iran Freedom Support Act was passed by the House and Senate by voice vote and unanimous consent, and was signed into law by the

president on September 30, 2006 [P.L. 109-293]. This act changed the name of ILSA to the Iran Sanctions Act [ISA] and made the promotion of Iranian democracy official U.S. policy (International Crisis Group, 2013).

**Sanctions during Obama Administration:** The election of Barack Obama in 2008 with his promise of change heralded a different approach in U.S. foreign policy compared to that of the Bush administration. The two-track policy; however, remained at the core of U.S. policy toward Iran i.e. the belief that “a good-faith invitation to dialogue needed to be complemented by continued, and even sharpened pressure, if it were to produce results” (International Crisis Group, 2013). As Pollack and Takeyh (2011) contend Obama’s approach to Iran was “another variant of the basic strategy embraced by the George W. Bush administration a carrot-and-stick policy designed to create a combination of incentives and disincentives which would convince the Iranian leadership to give up its nuclear program” (Pollack and Takeyh, 2011:8).

Between 2009 and 2012, the Obama administration hardened its attitude toward Iran through both toughening sanctions and turning to UNSC for additional measures against Iran (International Crisis Group, 2013). Obama’s carrot and stick policy; however, was not long tolerated even by Obama’s fellow Democrats in control of both Houses (Broude, Busch and Porges, 2011). On April 28, 2009 Iran Refined Petroleum Sanctions Act [IRPSA] was introduced in the Senate as [S. 908] by Senator Evan Bayh, signaling Congressional skepticism of Obama’s carrot and stick policy by “introducing several sticks in the form of sanctions bills” (Winton, 2014). The Senate bill attracted 75 cosponsors. Its companion was then introduced in the House as H.R. 2194 on April 30 by Representative Howard L. Berman, Chairman of the House Foreign Affairs Committee and attracted 343 cosponsors. The two bills were designed to punish corporations anywhere in the world that supplied Iran with refined petroleum (Calabresi, 2009). The Obama administration while

insisting on its openness to talks with the government of Iran, was stepping up its behind-the-scene efforts to approve new sanctions at the UNSC (Calabresi, 2009).

At the very beginning of Obama's first term, Congress introduced new Iran sanction bills. Although the ultimate goal of the Obama administration was also to put more pressure on Iran to change its course, the new sanctions bills introduced in April 2009, according to a senior administration official, could close off all chances for diplomacy since you could not turn congressional measures on and off as you liked (Calabresi, 2009). Congress, however, was adamantly pursuing the passing of new sanctions bills. On October 28, IRPSA was passed in the House Foreign Affairs Committee by a voice vote. The Senate version of the bill entitled the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009 [S. 2799] was unanimously approved at the Senate Banking Committee under chairman Christopher Dodd. The Senate bill incorporated IRPSA provisions. Before the House bill was brought to the floor, Deputy Secretary of State James Steinberg wrote a letter to Senator Kerry, then chair of the Senate Foreign Relations committee and expressed the State department's "serious substantive concerns" over the sanction bills (Steinberg, 2009). In his letter he stated the concern that Congressional action might weaken the administration's efforts to build up international support to increase the pressure on Iran and asked him to temporarily delay the consideration of the bill. Steinberg's letter was written on December 11, 2009 and on December 15, House passed the bill with 412 votes in favor, 12 against, and 4 present. The Senate also expressed its dissatisfaction with the message of the administration and in a bipartisan letter to President Obama on January 27, 2010, the senators called for "crippling sanctions" and expressed their hope that the "administration will pursue parallel and complementary measures... to increase the pressure on the Iranian government" (Winton, 2014). Accordingly, the Senate, ignoring the administration's concerns,



passed CISADA by a voice vote on January 28. On July 1, 2010 Obama signed the bill into law.

The Obama administration continued the policy of increasing pressure on Iran by issuing Executive Orders 13553, and 13572 to penalise Iranian officials for their alleged role in nuclear and missile program, alleged human rights abuses, and alleged financial and operational assistance to the Syrian government (International Crisis Group, 2013). Congress, however was not satisfied with these efforts and once again “seized the initiative in demanding the administration take a tougher line on Iran” (Winton, 2014). In a letter to President Obama in August 2011, 92 senators demanded his administration “do more to increase the economic pressure” on Tehran through the imposition of “crippling sanctions on Iran’s financial system by cutting off the Central Bank” (Ibid). In November 2011, Senators Mark Kirk and Robert Menendez tried to “force the issue by introducing amendments to the 2012 Defense Authorization” (Ibid). These amendments were responsible for what Hillary Clinton described as “the most stringent, crippling sanctions” to date and were directed at oil exports and the Central Bank of Iran, the main arteries in Iran’s economy (Ibid). The Obama administration expressed concerns over the inflexibility of the amendments and on November 29, Deputy Secretary of State Bill Burns, Treasury Deputy Secretary Neal Wolin, and deputy national security adviser Denis McDonough called an emergency meeting on Capitol Hill with Senators Kirk, Menendez, and Kerry. In that meeting they argued that the amendment “would critically hinder their attempts to create a multilateral sanctions infrastructure” (Ibid). Kirk, Menendez and Kerry; however, refused to withdraw the amendment. On December 1, Treasury Secretary Timothy Geithner also wrote a letter to Senate Armed Services chair Carl Levin and stated that “the Administration’s strong opposition to the amendment because it threatened to undermine the effective, carefully phased, and sustainable approach undertaken to build strong international pressure against Iran” (Klein,

2013). On December 1, administration officials also lobbied against the amendment at a Senate Foreign Relations Committee hearing. Undersecretary of State for political affairs Wendy Sherman, and Undersecretary of the Treasury for terrorism and financial intelligence, David Cohen, expressed the administration's disapproval. Cohen claimed the amendment risked "fracturing the international coalition that had been built up over the last several years to bring pressure to bear on Iran" (Winton, 2014). Another reason for their objection was that the administration was already considering Iran sanctions and was concerned that the new sanctions legislation could get "in the way of the administrations's efforts to implement the last round of Iran sanctions, the Iran Threat Reduction and Syria Human Rights Act" (Rogin, 2012). Notwithstanding the administration's opposition to the inflexibility of the amendment, in the afternoon of December 1<sup>st</sup>, the Senate voted unanimously [100-0] in favor of the amendment. The administration continued lobbying for some provisions in the amendment and eventually due to the fierce lobbying effort of the White House, Congress agreed to modify the amendment. This modification gave the president leeway to delay action if he concluded that the clampdown on Iran's oil export would disrupt the oil market and gave him the power to invoke a waiver to exempt any country from sanctions based on national security considerations (Landler, 2012). Consequently, the National Defense Authorization Act of 2012 was passed in the House and Senate on December 14 and 15 respectively. President Obama signed it into law on December 31, 2011.

On July 31, 2012 Obama announced new U.S. sanctions which targeted Iran's oil as well as banks in China and Iraq for facilitating transactions for Iranian banks under sanctions (Crawford, 2012). In collaboration with the administration, on August 3, the legislation titled the Iran Threat Reduction and Syria Human Rights Act of 2012 [H.R. 1905] passed the House with the vote of 421-2 and passed the Senate by unanimous consent (Kane, 2012). Obama signed the act



into law on August 10, 2012. Iran Threat Reduction and Syria Human Rights Act expanded the Iran Sanctions Act of 1996 and the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010. It also codified various prohibitions which were recently imposed by executive orders. In addition to strengthening the existing sanctions, ITRSHRA imposed liability on U.S parent companies for activities by their foreign-owned or controlled subsidiaries that would be prohibited if undertaken directly by US persons (Torresen & Crosby, 2012).

The trend of strengthening sanctions continued throughout the year 2012. In December 2012, the Iran Freedom and Counterproliferation Act of 2012 drafted by Senators Robert Menendez [D-NJ] and Mark Kirk [R-IL] was introduced in Congress and was codified at Subtitle D, sections 1241-1255 of the National Defense Authorization Act for Fiscal Year 2013 [H.R. 4310] and overwhelmingly passed the House and Senate in late December 2012. IFCPA greatly expanded the scope of US extraterritorial sanctions on Iran's energy, shipping, and shipbuilding sectors. It also included sanctions on Iran's ports. The provisions of IFCPA assert jurisdiction over all persons, including foreign nationals and foreign entities (Zolandz and Feldman, 2013). The Obama administration was concerned that the broader mandatory U.S. extraterritorial sanctions could threaten European firms that dealt with Iran and "impair the cooperation with the EU and other key international partners whose support was vital to advance U.S. security and foreign policy interests" (Mancuso, Pisa-Relli, Brenner and Cirincione, 2013). After the passage of NDAA 2013, however, Obama signed it into law on January 2, 2013.

Another round of sanctions were initiated in 2013 as the Nuclear Iran Prevention Act of 2013 [H.R. 850] which passed the House with 400 votes for the act and 20 against it (Zarate and Christy, 2014). This act expands and intensifies current economic sanctions against the Central Bank of Iran for oil purchases. Due to

the start of the negotiations with Iran which led to the conclusion of Joint Plan of Action in November 2013, the Obama administration has tried to postpone the Senate action on this bill, although Senators Menendez and Kirk have repeatedly threatened to pass the Senate version of the bill. Obama also warned that he would veto the bill if it passed the Senate.

The Republican victories in the 2014 Congressional elections and their retaking of the Senate majority has also increased the chances of passing new sanctions bill in 2015 as a vocal majority of Republicans have clamored for a vote on Iran sanctions all year (Costello, 2014). Although Senator Bob Corker, the incoming chair of the Senate Foreign Relations Committee has expressed that he will take a more cautious approach on Iran sanction legislation. His sponsored bill, however, calling for the White House to have to secure a vote of confidence from Congress on any Iran deal has been criticized in the latest hearing of the Senate Foreign Relations Committee on December 4, 2014 as making any final nuclear deal impossible to secure (Ibid). In addition, few Republicans share his view of taking a more cautious approach with regard to Iran sanctions legislation (Ibid).

### Conclusion

This article was an attempt to select a model for Congressional foreign policy behavior with regard to Iran based on Scott and Carter's activity-assertiveness models. It can be said that in the case of sanctions against Iran, U.S. Congress has mostly followed the pattern of a *Competitive Congress*. As defined by Scott and Carter (2002), a *Competitive Congress* has both higher levels of activity and assertiveness and challenges the president for foreign policy influence.

Before the Islamic Revolution and after that until the 1990s, U.S. Congress is mostly supportive of the administrations' policy on Iran. After the 1979 Islamic Revolution, U.S. Congress reflects the model of a Supportive Congress. It becomes more active by passing





several resolutions criticizing human rights in Iran and calling on other countries to restrict relations with Iran. Its level of assertiveness is; however, lower. But from the 1990s onwards, we see more assertive behavior from Congress. Since the 1990s, Congress becomes both more active and more assertive with regard to Iran. Although since the Islamic Revolution in Iran, the policy of the United States has been to contain Iran and the executive branch and Congress have shared the same objective, Congress has favored more punitive measures in sanctioning Iran. In some cases it has created pressure on the executive branch to opt for tougher sanctions such as the sanctions in the second half of the Clinton administration. More recently, in case of the sanctions in the National Defense Authorization Act of 2012, Obama wrote a letter to the Senate expressing his concerns over the backlash against foreign companies that might have adverse effect on America's relations with other countries. The Iran sanctions amendment in NDAA of 2012; however passed the Senate with a vote of 100-0. Obama's letter could not even change the opinion of his fellow Democrats in the Senate. Most of the Iran sanctions bills have passed Congress with almost unanimous consent, indicating a bipartisan support of Iran sanctions in the U.S. Congress. Differences in tactics of dealing with Iran may exist between the executive and legislative branches but as the votes on Iran sanctions bill show, differences do not exist along party lines among the lawmakers in Capitol Hill. Therefore, since the 1990s we see a Congress that has become more assertive in its behavior toward Iran and is willing to challenge the president to influence U.S. Iran policy.

## Notes

1. Proclamation 4702, Imports of Petroleum and Petroleum Products From Iran, 12 November 1979.
2. Executive Order 12205, prohibiting certain transactions with Iran, 7 April 1980. Food, medicine and humanitarian aid were exempted.
3. Executive Order 12211, further prohibitions on transactions with Iran, 17 April 1980. The Treasury's Office of Foreign Assets Control [OFAC] is in charge of administering and enforcing U.S. sanctions.
4. Summary of the Resolution available at <https://beta.congress.gov/bill/96th-congress/senate-resolution/164?q=%7B%22search%22%3A%5B%22S.+Res.+164%22%5D%7D>.
5. Summary of the Resolution available at <https://beta.congress.gov/bill/96th-congress/senate-resolution/318?q=%7B%22search%22%3A%5B%22S.+Res.+318%22%5D%7D>.
6. Summary of the Resolution available at <https://beta.congress.gov/bill/96th-congress/senate-resolution/318?q=%7B%22search%22%3A%5B%22S.+Res.+318%22%5D%7D>.
7. Iran Sanctions Act.

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