Congress and Foreign Policy

I. Powers of Congress

A. Constitutional Roles

1. Power of the Purse
2. Power over Appointments (Senate)
3. Shared Treaty Power (Senate)
4. Congressional Trade Authority
5. Oversight Power

B. Power in Practice

1. Legislate Policy
2. Condition Appropriations
3. Hold Hearings
4. Question Nominees
5. Mandate Reports

C. Innovations to Control Executive

1. Legislative veto: INS v. Chadha, 1983
2. Concurrent resolutions: only in war powers resolution
3. Report and wait: joint resolutions (e.g., 22USC2776)
4. Require certifications: 'institutional lies'?

D. Structural Power

1. Delegate authority to executive
2. Create or eliminate agencies
3. Obstruct president's agenda
4. Shape executive perceptions and expectations

E. Structural Limits to Congress's Power

1. Congress is not a corporate body
2. Small staffs limit monitoring capabilities: CBO, GAO, CRS
3. Limited diplomatic role: junkets v. fact-finding
F. Political Limits on Congress’ Power

- Increased partisanship limits cooperation
- Ideological divergence limits cooperation

G. Treaties v. Executive Agreements

1. Executive makes int'l commitments
2. Senate may not be consulted
3. Proposed Bricker Amendment, 1954

"Congress shall have power to regulate all executive and other agreements with any foreign power or international organization."

4. Reporting under Case-Zablocki Act, 1972

II. Who should control foreign policy?

A. Prudential Arguments Against Congressional Control

1. Legislated policy is inflexible
2. Sub-national interests dominate policy
3. Congress lacks expertise to manage fp

B. Prudential Arguments for Congressional Control

1. Deliberative capacity is superior
2. President may lack expertise
3. Bureaucratic politics distort policy

C. Unintended Advantages of Congressional Role

1. Scapegoat in diplomatic talks
2. Bargaining advantage
3. Signal credibility of threats & commitments