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**Restoring the Checks and Balances:
A Panacea for the Transatlantic
Relationship?**

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INTRODUCTION

The Bush administration has been blamed by many for the recent crisis in transatlantic relations. For many observers, President Bush appears to be more powerful than any other president since the end of the Cold War. With the Republican Party in control of both the House of Representatives and the Senate, it has been difficult to challenge this president on any issue.¹

The Constitution of the United States established two institutions designed to check the powers of the presidency: Congress and the Supreme Court. Although there have been efforts by the Republican party to nominate new conservative justices,² the Supreme Court thus far has not followed the administration blindly—as demonstrated by the recent rulings on affirmative action and same sex marriage. It is, therefore, fair to say that the Judiciary is more or less fulfilling its constitutional role. In relations with Congress, however, this administration appears to wield preponderant influence. Trent Lott not only lost his position as Senate Majority Leader because of the controversial speech he gave at the birthday event for late Senator Strom Thurmond, but also because there was a move to oust him—a move reportedly supported by the White House. Arthur Schlesinger recently expressed the fear that presidential government (the “imperial presidency”) has returned.³ Congressional approval for the war in Iraq suggests that an imbalance exists. Is it of a temporary or enduring nature?

This paper will focus on the congressional-presidential relationship. Is Congress still capable of fulfilling its constitutional duty of oversight over presidential policies? Is it still capable of preventing President Bush from establishing another “imperial presidency”? Why has Congress failed to challenge President Bush as much as it did other presidents? Why did Congress not react more forcefully after the evidence of Iraq’s WMD capability failed to materialize following the Iraq war?

This paper tries to answer why the Bush administration is as powerful as it is today, focusing on the American system of checks and balances. It will assess, from a European perspective, whether current developments are threatening these checks and balances and whether Congress is capable of healing the transatlantic relationship by correcting the direction of American foreign policy. Specifically, is it realistic to expect Congress to change the administration’s policy in a direction that is more in tune with European views?

THE U.S. CONSTITUTION AND CHECKS AND BALANCES

The fundamental principle embodied in the Constitution of the United States is the system of checks and balances, the idea that each branch of government—the judicial, the legislative, and the executive branch—should be independent and, therefore, keep one another in check. In 1787, when the Constitution was written, it was unclear how best to delineate the respective areas of authority for each branch of government. As such a separation of powers was without historic precedent, the Constitution was rather vague in defining the precise responsibilities for each branch of government.

The authors of the Constitution argued amongst themselves about whether the executive or legislative branch was the dominant institution. It is not necessary to go into every detail of the federalist debate but it is remarkable that the key elements of this debate have survived until today. Alexander Hamilton advocated a strong executive branch, while James Madison defended a strong legislature. Decisions of the U.S. Supreme Court, such as that penned by Justice Jackson in 1952, have tended toward compromise.⁴ In fact, the U.S. Constitution invites debate, and there is a legal twilight zone in which both the legislature and the executive branch have equal powers. The most powerful instrument Congress has at hand in any policy field is the power of the purse. It is impossible for any administration to conduct policy without money appropriated by Congress. One aspect of the system of checks and balances involves the president proposing legislation that can be rejected by Congress.⁵ In practice, it is left to politics and tactics to decide who prevails in this twilight zone.⁶

The cleavages persist—members of Congress prefer James Madison's (and Thomas Jefferson's) approach, and presidents tend to favor Alexander Hamilton's interpretation. This became apparent when Congress repealed the Gulf of Tonkin Resolution in 1970 and passed the War Powers Act in 1973,⁷ an attempt by Congress to reassert its constitutional authority. The reassertion of congressional prerogatives, however, did not work the way it was anticipated by many proponents of the Act. There has been a lot of debate as to whether the Gulf of Tonkin resolution was, in fact, constitutional. From a legal standpoint, the War Powers Act is practically meaningless, because too many loopholes exist. Despite all the legal questions, the Act has had practical consequences. Gerald Ford was the only president to refer to the War Powers Act directly. Other presidents have de facto obeyed the recommendations of that resolution without specific reference to the War Powers Act, while denying its constitutionality. To this day, the constitutionality of the War Powers Act has never been tested. A chance

to test the Act was missed when members of Congress filed a lawsuit in May 1999 against President Clinton alleging that the air campaign against Yugoslavia was “unconstitutionally conducting an offensive military attack against the Federal Republic of Yugoslavia without obtaining a declaration of war or other explicit authorization from Congress and despite Congress’ decision not to authorize such action.”⁸ The air campaign ended too early, and the Supreme Court dismissed the case.

It is important to understand that the U.S. system of checks and balances is unique. In addition to the party politics that play a role in the legislative process, both the legislative and the executive branches of government are institutionally independent and depend on each other less than they would in a parliamentary system. The chief executive and legislature are elected in different elections and with the exception of impeachment, Congress cannot remove the president from office. The other side of the coin is that it usually is much more difficult for the chief executive to get legislation through Congress because even his fellow party members sometimes reject it.

The constitutional division of powers in the United States is therefore fundamentally different from the separation of powers codified in many European constitutions, like the German *Grundgesetz*. In the European system, parliament does not challenge the government in the same way that Congress does in the United States. This means that only the opposition—the minority side—really tries to challenge the executive’s policy. With the minority side lacking efficient legal instruments to control the government, it is unlikely that parliament can effectively challenge the executive branch.⁹ Parliament, or individual members of the legislature, can have a significant impact on the government’s policy but only when there are either very slim majorities or the government is completely out of touch with the majority side.

An illustrative case was Chancellor Gerhard Schröder’s decision to provide German troops for Operation “Enduring Freedom” in Afghanistan. Sending troops abroad has always been a difficult issue for the Germans, especially for the left wing of the Social Democratic Party and the Greens, the two parties in Schröder’s ruling coalition. Consequently, a group of 16 members of parliament refused to follow “their” Chancellor on the issue, posing a serious threat to Gerhard Schröder’s leadership.¹⁰ The opposition parties made it clear that they did not oppose the mission itself. However, under the rules of a parliamentary system, no one expected the Christian Democrats and the Free Democrats to be the ones to rescue Schröder’s government. Consequently, the chief executive linked his political future to the participation of German troops in Operation “Enduring Freedom.” In the end, Schröder’s pressure on his fellow party members and his coalition partners worked, and they voted to support him.

The failure of many Europeans to recognize Congress as an important actor in U.S. foreign policy makes transatlantic relations even more difficult, because political balances and processes have been changing in the United States. The 1994 election saw a historic shift in majorities in Congress. The new Republican majority in both chambers tried to enact a policy agenda very different from that of the Clinton administration and that of the Europeans. The European failure to take Capitol Hill seriously caused serious problems for the Europeans. Negotiating a treaty with the Clinton administration was one thing, but getting it approved in the Senate was almost equally important. The Europeans learned some hard lessons on the role of Congress in the 1990s, in the contested battles over the Comprehensive Test Ban Treaty (CTBT) and the Chemical Weapons Convention (CWC).

THE POLITICAL DIMENSION

The current political situation appears to represent an anomaly in American history. With the Republicans in charge on both ends of Pennsylvania Avenue, President Bush appears invincible. The president in 2002 managed to prevent his party from losing its majority in Congress—an unusual feat in a midterm election, when the president's party often loses seats. Not only did the Republicans not lose, they also took back the Senate and increased the Republican majority in the House. Since the president was very active in the campaign, many members of Congress owe their seats to him, giving him additional influence. The electoral outcome shifted the relationship between these members of Congress and the chief executive, making it more similar to the relationship between a member of parliament and the prime minister/chancellor in a parliamentary system.

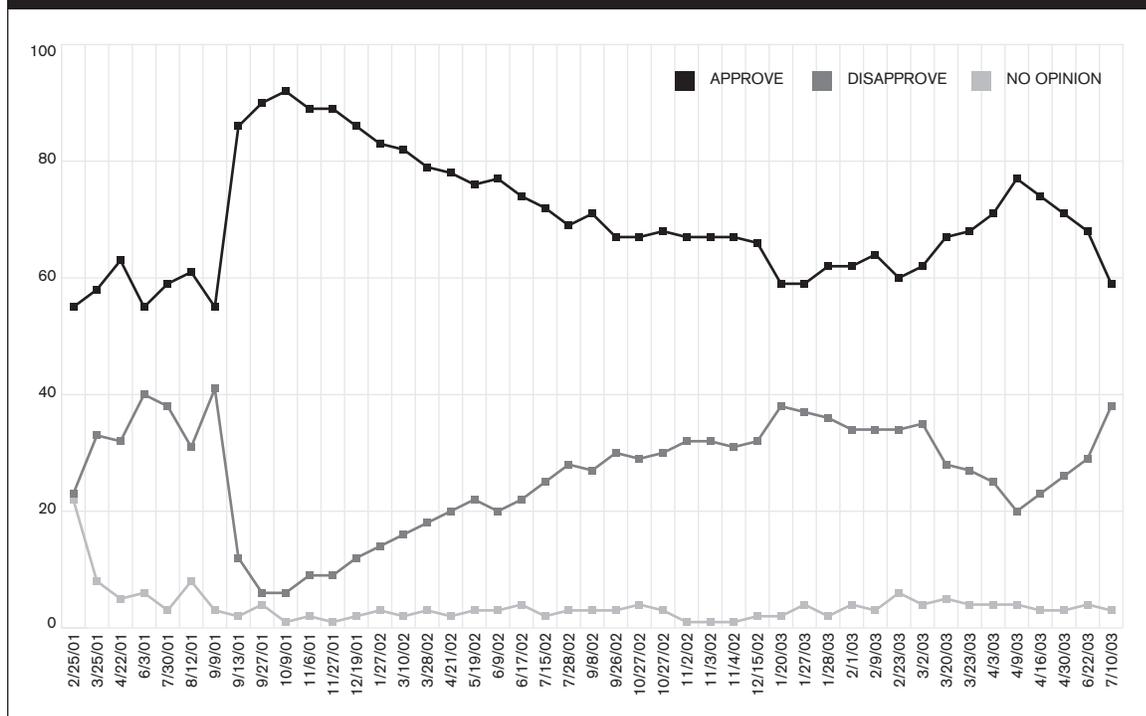
There have been periods in history, however, when one party controlled both the White House and Capitol Hill, without the president assuming a more dominant role. The Democratic party had majorities in Congress and controlled the executive in the first two years of the Clinton administration, yet Clinton encountered resistance on the Hill. The situation under George W. Bush appears to be fundamentally different. What distinguishes President Bush from his predecessor?

Redistributing Powers to the Presidency

Bill Clinton was president at a time when most Americans felt more secure than ever before in history. The threat of communism had faded, and the U.S. commitment to world affairs was being questioned. In addition, the nation faced significant

domestic challenges: first and foremost, the need to balance the budget and pay back the debts accumulated during the 1980s. It was for these reasons (and also in order to fulfill his campaign promises) that Clinton initially focused primarily on domestic issues. George W. Bush's presidency appears to have started with a similar focus on domestic issues. The winner of a highly disputed election that showed the country almost evenly divided, the new president was forced to focus on the domestic agenda if he wanted to have a chance at reelection. While the budget imbalances seemed to have been addressed, the economy was already showing some signs of weakness. It was the terrorist attacks of September 11, 2001 that transformed the agenda. Following the attacks, the country united behind Bush as commander-in-chief. In the weeks that followed, national security emerged as a unifying paradigm. The new priority of the administration was undisputed in the domestic political arena.

FIGURE 1: JOB APPROVAL RATES FOR GEORGE W. BUSH, SOURCE: WASHINGTON POST-ABC NEWS POLL



The war on terrorism and the focus on national security represented an opportunity for the president to reclaim the powers the executive branch had been “deprived” of since the 1970s. Any occupant of the White House would likely have seized this opportunity to increase its powers, since most presidents arguably prefer the Hamiltonian interpretation of the Constitution. For that reason, Bush reoccupied large areas of what Justice Jackson called the “twilight zone,” a legal area in which both the president and Congress have the power to act. It needs to be stressed, however, that it is left to politics alone to decide which side prevails.

At a time of national crisis, it is difficult for members of Congress to challenge a president’s position, especially on national security issues. A country that perceives itself to be in a state of war often grants the chief executive more expansive powers. Those who challenge him on national security-related issues run the risk of being portrayed as weakening the hand of the commander in chief. The administration can, however, overextend this mandate. One example is

the controversy over John Poindexter and the futures market on terrorist events in the Middle East.¹¹

Additionally, the office of the president has a structural advantage vis-à-vis Congress. The founding fathers’ intention was that the president be responsible for the handling of a national crisis, and Congress is not designed to conduct wars. Further, Congress is not designed to micromanage any policy or mission. Its structures are too inefficient, and it is too poorly staffed. As long as the president does not make serious mistakes, he is invulnerable on national security issues as long as a threat exists. According to James Lindsay,¹² there are only two circumstances in which Congress can challenge the president’s foreign policy—if there is no longer an external threat and if the president makes a significant foreign policy mistake.

Moreover, it has always been difficult for Congress to challenge popular presidents. Job approval ratings above 60% make it easy for any president to win over Congress on many issues. A member of

Congress who challenges a popular president runs the risk of jeopardizing his own career. On the other hand, unpopular presidents are very likely to be challenged by members of Congress. Because high job approval ratings insulate the administration from Congressional challenges, ratings are a very valuable form of insurance for any president, as seen in the current administration. Bush's approval ratings are likely to erode, however, since they no longer appear to be driven by foreign policy. As the *Cook Report* states, "foreign policy and terrorism concerns no longer dominate the public's attitudes toward President Bush and his quest for a second term."¹³ One will have to wait and see whether, or when, other issues such as the economy become important enough to erode this advantage.

Many Congressional Republicans will remain reluctant to challenge the president, even in the face of declining approval ratings. Since 1994, both chambers of Congress have been in firm Republican hands but majorities have been close. Under these conditions (which existed before September 11, 2001), it is unlikely that a Republican Congress is likely to challenge a president who shares their political views. In addition, there are some representatives and senators who owe their seats partly to the aid of President Bush in the 2002 midterm election campaign.¹⁴ The Republican party appears in tight control of the conservative wing of the GOP, the group that also leads the current administration. Both the Republicans on Capitol Hill and the Republicans on the other end of Pennsylvania Avenue appear to share the same interests and mission.

The Democrats are either divided or too hesitant to challenge President Bush on many issues. Although they are the minority party, the Democrats still have powerful tools in their hands to influence legislation, since in a closely divided Senate it is only possible to get things done with unanimous consent. Political parties are, however, anything but united voting blocks on Capitol Hill, although the House and the Senate work in different ways in this respect. Trying to lead Democrats in Congress, to some extent, reminds one of herding cats. Because of these internal divisions, the Democrats failed in March 2003 to prevent the resolution in support of the 2003 Iraq war from

passing in Congress. Former House Democratic Leader Richard Gephardt, attempting to keep the House Democrats as united as possible, had to compromise and was forced to strike a deal with the Bush administration. Although he tried to return as quickly as possible to the domestic agenda, particularly the economy, where he believed the Republicans were weak, he failed to keep his troops together.¹⁵ The defection of many Democrats weakened the position of Senate Majority Leader Thomas Daschle. Daschle, an outspoken critic of the war against Iraq, did not filibuster the resolution,¹⁶ a decision criticized in Europe. Theoretically, Daschle could have made such a move, as every Senator has the right to do so. However, such a symbolic move would have weakened Daschle's standing as Senate Majority Leader. With just 23 Democrats opposing the resolution, Daschle lacked the necessary votes to prevent cloture and had to withdraw his opposition.¹⁷ This incident highlights the fact that the Senate Majority Leader is neither the House Majority Whip nor the *Zuchtmeister* (taskmaster) of the Senate.¹⁸

The 2004 Election

The prospects to shift the balance in Congress or between the Congress and the executive branch may depend significantly on the outcome of the 2004 election. Even though the Republican party is in a relatively strong position, the Democrats have potential, given that all recent elections have shown that the country is almost evenly divided. In order to be successful again, the Democrats will have to make crucial structural decisions. On the one hand, congressional Democrats have become very liberal, because they have lost their once firm grip on the South. Moreover, traditional Democratic supporters, such as African American voters, whose support was previously taken for granted, appear to be drifting away from the party.¹⁹

There is little agreement within the party, however, over the right strategy to achieve its aims. The Democrats also need to retain the support of the Hispanic community. Some argue that the Democrats need to move to the center in order to attract new voters. The "Third Way" that was identified with the

Clinton administration, and the fact that Bill Clinton could be reelected in 1996 despite a Republican majority in Congress, indicate that such an approach could be successful again. Centrist Democrats have also argued that the Democrats cannot win without a credible national security strategy. Kenneth Pollack and Ron Asmus have started to develop democratic alternatives to the Bush administration's foreign policy, for example, by developing a "neoliberal take on the Middle East. The support for the war against Iraq might cause problems for the neoliberal approach inside the Democratic party as well, given that roughly two out of three Democrats disapprove of Bush's handling of Iraq.²⁰

It is not only that the Democrats are currently in a difficult position to gain political advantage right now. It is also important to know that President Bush has a team that knows exactly how to play politics. In the last three years, and particularly during the Iraq debate, the administration has controlled the political agenda and message masterfully. In summer 2002, for example, Senate Democrats had been relatively well organized to challenge the administration's view on the implications of a war against Iraq.²¹ Several days of hearings in the Senate Foreign Relations Committee,²² organized by then-chairman Joseph S. Biden, and the subsequent media coverage forced the advocates of a war against Iraq to go on the defensive. As the Democrats left Washington to campaign or for vacation, it was easy for the Bush team to get the Iraq issue under control again. The turning point was the speech by Vice President Cheney²³—a speech that received much attention in Europe, especially in Germany. The list of issues on which the administration has outmaneuvered the Democrats can easily be extended to include domestic issues such as Medicare.

Bush on more than one occasion has successfully deflected public attention from brewing political problems. For example, Bush replaced Treasury Secretary Paul H. O'Neill and chief economic adviser Lawrence B. Lindsey²⁴ at a time when everyone was celebrating the Republican success in the midterm elections and the Democrats were still licking their wounds. Bush did a major reshuffle of his cabinet at a time when it caused the least damage.

In preparation for the upcoming Congressional races, the Republicans are cementing their majorities as congressional districts are gerrymandered in favor of incumbents in electoral races.²⁵ Redistricting will solidify the current majorities, giving Democrats the only chance of a real swing in the House of Representatives after the next census in 2010. The fierce debate between Democrats and Republicans over redistricting in Texas²⁶ shows the significance of the redistricting that has taken place in other parts of the country in favor of the Republican party. The Republicans, who have accused the Democrats of using heavy-handed tactics in the past to exclude the minority from the decision-making process, appear to be applying the same tactics to strengthen their House leadership.²⁷ With the Republicans in a position that enables them to get almost anything they want through the House, Congress could turn more and more into a rubber stamp for the administration's policies, particularly if the Republicans strengthen their majority in the Senate.

Redistributing Powers from the Presidency

In the longer term, with an increasing number of members of Congress in increasingly secure seats, representatives arguably could become more independent and, therefore, refuse to follow the party line. As a result of gerrymandering, representatives will be elected with much more comfortable margins, and many members of Congress will not have to worry about reelection. Even though this can have the effect of increasing partisan politics, it also can lead to members of Congress becoming mavericks who are hard to control by both the House leadership and for the White House. On the other hand, members who face close reelection campaigns are more likely to listen to their constituents rather than to the White House or the Majority Whip. Sometimes the regional interests or strong personal perspective and ambition of individual members also diverge from the party line. For example, the most consistent criticism of the war against Iraq for the most part did not come from Congressional Democrats, but from Senator Chuck Hagel, a Republican from Nebraska.²⁸ This shows that

partisan politics cannot explain everything that happens on Capitol Hill.

Even though the Iraq conflict shows that, in the case of an external threat, the President can easily prevail on national security related issues. The Iraq debate is also a good example of Congress' desire to be included in the decision-making process. There was broad bipartisan support on Capitol Hill demanding that Congress should decide whether the United States should go to war.²⁹ Following the conflict, Congress passed a resolution calling for greater involvement of the United Nations in the reconstruction of Iraq with bipartisan support. Although Congress has generally followed the president's lead on Iraq, it is still possible for a Republican led Congress to challenge President Bush. The 103rd Congress after all did not give President Clinton an easy time, refusing to renew the fast track authority of "their president."

Further, although the GOP occupies the leadership positions on Capitol Hill, President Bush may not be able to get everything he wants through Congress. In order to get something through Congress, Senate Republicans still have to compromise with the Democrats in the Senate. This is because the rules of the Senate provide any Senator with the instruments to bring the legislative process to a complete standstill through the use of the filibuster.³⁰ If the majority side of the Senate fails to win the necessary 60 votes to invoke cloture, the only way to run the Senate is by unanimous consent, including the minority side, the Democrats. The main vehicles are unanimous consent agreements to which the Senate leadership has agreed, which can only be brought to the floor when no senator has threatened a filibuster. This gives the Democrats important leverage in the legislative process. However, the Senate, by nature of its rules, is not as partisan as the House of Representatives or the German *Bundestag*, even though partisanship has increased since the Republicans took over in 1994.

Even though the Bush administration has been very successful in implementing its agenda, certain things are beyond the control of the administration. With a fast growing budget deficit, a difficult economic situation, and 2.5 million people laid off since 2000, the Bush administration could find itself in a situation comparable to that of Herbert Hoover or Lyndon B. Johnson, both of whom served only one term. In addition, it is possible that the mission in Iraq could fail. At the time of this writing (August 2003), a *Washington Post* opinion poll showed that 25 percent of the population say that they are worse off economically since George W. Bush took the White House, the worst rating in that category since the presidency of his father. Another alarming figure is the fact that 14 percent of those surveyed give the president primary responsibility for the state of the economy.³¹ This is not a dramatic figure so far, but it has to be watched closely by the Bush advisors.

The above issues are only partly controllable by the president and his administration. If a serious crisis emerges and undermines the leadership of the presidency, the Bush administration could easily go on the defensive. The quick reshuffle of the Bush cabinet after the November 2002 elections shows that the president regards the economic issue as critical to his reelection prospects.

CHECKS AND BALANCES AS A PANACEA FOR THE TRANSATLANTIC RELATIONSHIP?

Numerous factors have strengthened the hand of President Bush and made it more difficult for Congress, especially congressional Democrats, to conduct efficient oversight over the administration's policies. The post 9/11 external security threat, high approval rates for President Bush, and the Republican majorities in the House and Senate are important factors that make it difficult to organize congressional opposition to the current administration. Whether the president's advantage proves enduring depends on several factors. First, although the war on terror is likely to continue, it is unlikely that the administration will receive a *carte blanche* by Congress in every field. Much will depend on how successfully the war on terror is conducted by the administration and how it is perceived on Capitol Hill.

Another crucial factor will be whether the Democrats prove capable of reacting effectively to the tactics of the Bush administration and craft a viable long-term strategy for the future development of the party. Evidence to date is not promising on either count. The Democrats are divided internally and often shy away from challenging the president's policies, as happened in the case of the Iraq Resolution. If the Democrats remain split on many issues and do not manage to get across their message of being a viable alternative to the administration, they will also weaken the checks and balances system, since strong opposition is one prerequisite for effective legislative oversight and, therefore, control of the government.

From a European perspective, however, a stronger, more independent Congress will not necessarily result automatically in policies that are more palat-

able to the Europeans. The opposite can be the case, a restoration of the American attempts to pass "buy American" legislation make clear. For this reason, no one should expect the checks and balances to be a panacea that will repair the transatlantic relationship. In fact, the many controversial transatlantic disputes had their origins on Capitol Hill. Even though it is obvious that the Bush administration represents views that are fundamentally distinct from that of its predecessor, even if an American president were to endorse the European point of view, there is no guarantee of congressional endorsement. This is especially the case with controversial treaties such as the Kyoto Protocol, the International Criminal Court (ICC), and the Comprehensive Test Ban Treaty (CTBT). The Bush administration is thus not the only branch of government that should be blamed for the failure of the United States to ratify the Rome Statute

for the International Criminal Court and the Kyoto Protocol. In both cases, it was not only the standpoint of the administration that mattered, but also the very broad bipartisan opposition to these treaties on Capitol Hill. In fact, these treaties had no chance of Senate approval at all in the Clinton years, especially since the Republicans were in charge on Capitol Hill. In this context, one has to remember the difficulty of ratifying the Chemical Weapons Convention (CWC) treaty and the defeat of the CTBT in the Senate.

The Comprehensive Nuclear Test Ban Treaty, the Rome Statue of the International Criminal Court, and the Kyoto Protocol are examples of the fact that negotiating an international treaty with an administration is often not enough to result in ratification. Congress remains an important institution, and it has capabilities and powers to limit an administration's ability to maneuver. External factors, such as the terrorist threat, can make it difficult for Congress to act, but it is also up to Congress itself to decide whether it wants to be independent. If it does not and decides to go further down the road it has been going the last two years, another era of presidential government is likely.

It is difficult to predict whether or when Congress will become strong again. The Europeans, including EU institutions as well as national governments, must first acknowledge that Congress can play a very important role in shaping U.S. policy. Secondly, the Europeans have to establish long-term relationships with key actors on Capitol Hill, including contacts to staffers. This will be a long and rocky road since it is very difficult to deal with the various factions inside an administration. However, in order to better understand American foreign policy and prevent stereotypes and misunderstandings, a greater engagement of Congress on a much broader scale is overdue.

REFERENCES

- Linda Feldmann and Warren Richey: "Power shift to president may stick," in: *Christian Science Monitor*, October 03, 2002, available online: <http://www.csmonitor.com/2002/1003/p01s02-uspo.htm>
- Helen Dewar: "GOP Escalates Push for Nominees", in: *The Washington Post*, July 26, 2003, Page A06
- Arthur Schlesinger: "The Imperial Presidency Redux," in: *The Washington Post*, June 28, 2003, Page A25
- Peter Brand and Alexander Bolton: "GOP threats halted GAO Cheney suit," in: *The Hill*, February 19, 2003, February 19, 2003, Page 1
- Crabb, Cecil Van Meter and Holt, Pat M.: "Invitation to Struggle: Congress, the president, and foreign policy," *CQ Press*, Washington, D.C., 1992
- <http://www.cnn.com/ALLPOLITICS/stories/1999/06/03/war.powers> interview with Staffer of the House International Relations Committee, July 18, 2003
- Wolfgang Rudzio: *Das politische System der Bundesrepublik Deutschland*, 4th edition, Opladen 1996, Page 242
- <http://edition.cnn.com/2001/WORLD/europe/11/08/ret.germany.schroeder/index.html>
- Jonathan Rauch: "The Accidental Radical," in: *National Journal*, July 26, 2003, Page 2404
- Bradley Graham: "Poindexter to Leave Pentagon Research Job," in: *The Washington Post* August 1, 2003, Page A01
- Interview with James Lindsay on July 22, 2003
- Charles Cook: "Foreign Policy Is No Longer Driving Bush's Ratings," in: *National Journal*, July 12, 2003
- Dan Balz and Walter Pincus: "Why Commander in Chief Is Losing the War of the 16 Words," in: *The Washington Post* July 24, 2003, Page A10, available online: http://www.swp-berlin.org/pdf/swp_aktu/swpaktu_55_02.pdf
- Josef Braml: "Freie Hand für Bush?," in: *SWP Aktuell* 55 (Dezember 2002)
- FINAL VOTE RESULTS FOR ROLL CALL 455, <http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=455>
- Bill Summary & Status for H.J.RES.114 (107th Congress) on <http://thomas.loc.gov>
- Josef Braml: "Freie Hand für Bush?," in *SWP Aktuell* 55, Dezember 2002, Page 8 available online: http://www.swp-berlin.org/pdf/swp_aktu/swpaktu_55_02.pdf

Harold Meyerson: "The Democrats' War Trap," in: *The Washington Post*, July 23, 2003; Page A23

Jim VandeHei and Juliet Eilperin: "Targeting Lobbyists Pays Off For GOP. Party Earns More Funds, Influence," in: *The Washington Post*, June 26, 2003, Page A01 available online at <http://www.washingtonpost.com/ac2/wp-dyn/A33669-2003Jun25?language=printer>

Lynette Clemetson: "Democrats worry as young blacks drift from party," in: *International Herald Tribune*, August 9-10, 2003, Page 1, available online at: <http://www.ihf.com/articles/105743.html>

Kenneth Pollack and Ronald D. Asmus: "The Neoliberal Take on the Middle East," in: *The Washington Post*, July 22, 2003, available online at: <http://www.washingtonpost.com/ac2/wp-dyn/A26009-2003Jul21?language=printer>

Dan Balz and Claudia Deane: "Public Opinion On Bush Stabilizes. War, Budget Fuel Partisan Division," in: *The Washington Post*, August 13, 2003; Page A01, available on line at: <http://www.washingtonpost.com/ac2/wp-dyn/A50881-2003Aug12?language=printer>

Hearings in the Senate Foreign Relations Committee in July 2003

Morton M. Kondracke: "The Best and the Worst: Iraq Debate opens, but Drug Bill Fails," in: *Roll Call*, August 5, 2003

Remarks by the Vice President to the Veterans of Foreign Wars 103rd National Convention, available online at: <http://www.whitehouse.gov/news/releases/2002/08/print/20020826.html>

Dan Balz: "On Economy, Bush Reveals His Soft Spot," in: *The Washington Post*, December 9, 2002, Page A01

Mike Allen: "Cheney Says Failing to Attack Iraq Would Have Been 'Irresponsible'," in: *The Washington Post*, July 25, 2003; Page A01

Jonathan E. Kaplan: "How do you lose a House seat," in: *The Hill*, June 17, 2003, Page 6

Peter Brand: "Texas Dems seeking to block DeLay gambit," in: *The Hill*, Washington, D.C.

Norman Ornstein: "Intervention Time: GOP Should Rein in Chairman Thomas," in: *Roll Call*, July 23, 2003

Brody Mullins: "New Defense Battle Looms," in: *Roll Call*, June 18, 2003

Associated Press: "North Korea, not Iraq, most urgent threat, Hagel says," in: *The Independent*, February 7, 2003, available online: http://www.theindependent.com/stories/020703/new_hagelkorea07.shtml

Peter Slevin and Helen Dewar: "Citing Qualms, Lawmakers Seek Details on Iraq; Senate Hearings Begin Today on Threat, Risks of Invasion," in: *The Washington Post* July 31, 2002, Page A14

Barbara Sinclair: "Unorthodox Lawmaking. New Legislative Processes in the U.S. Congress," Second Edition, *CQ Press*, Washington DC, 2000, Page 53

Dan Balz and Claudia Deane: "Public Opinion On Bush Stabilizes. War, Budget Fuel Partisan Division," in: *The Washington Post*, August 13, 2003; Page A01, available on line at: <http://www.washingtonpost.com/ac2/wp-dyn/A50881-2003Aug12?language=printer>

NOTES

- 1 Linda Feldmann and Warren Richey: "Power shift to president may stick," in: *Christian Science Monitor*, October 3, 2002, available online: <http://www.csmonitor.com/2002/1003/p01s02-uspo.htm>
- 2 Helen Dewar: "GOP Escalates Push for Nominees", in: *The Washington Post*, July 26, 2003, Page A06
- 3 Arthur Schlesinger: "The Imperial Presidency Redux," in: *The Washington Post*, June 28, 2003, Page A25
- 4 (1952). 343 U.S. 579, United States Supreme Court.
- 5 Interview with staff member of the House International Relations Committee, July 18, 2003
- 6 Crabb, Cecil Van Meter and Holt, Pat M.: "Invitation to Struggle: Congress, the president, and foreign policy," *CQ Press*, Washington, D.C., 1992
- 7 According to the War Powers Act, there are only three conditions under which the President can send troops abroad:
1) if Congress has declared war; 2) if Congress has authorized the mission; and 3) if a state of national emergency exists.
- 8 <http://www.cnn.com/ALLPOLITICS/stories/1999/06/03/war.powers>
- 9 Wolfgang Rudzio: *Das politische System der Bundesrepublik Deutschland*, 4th edition, Opladen 1996, Page 242
- 10 <http://edition.cnn.com/2001/WORLD/europe/11/08/ret.germany.schroeder/index.html>
- 11 Bradley Graham: "Poindexter to Leave Pentagon Research Job," in: *The Washington Post* August 1, 2003, Page A01
- 12 Interview with James Lindsay on July 22, 2003
- 13 Charles Cook: "Foreign Policy Is No Longer Driving Bush's Ratings," in: *National Journal*, July 12, 2003
- 14 Josef Braml: "Freie Hand für Bush?," in: *SWP Aktuell* 55 (Dezember 2002)
- 15 FINAL VOTE RESULTS FOR ROLL CALL 455, <http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=455>
- 16 Bill Summary & Status for H.J.RES.114 (107th Congress) on <http://thomas.loc.gov>
- 17 Cloure is a parliamentary procedure by which debate is ended and an immediate vote is taken on the matter under discussion.
- 18 Josef Braml: "Freie Hand für Bush?," in *SWP Aktuell* 55, Dezember 2002,
Page 8 available online: http://www.swp-berlin.org/pdf/swp_aktu/swpaktu_55_02.pdf
- 19 Lynette Clemetson: *Democrats worry as young blacks drift from party*, in: *International Herald Tribune*, August 9-10, 2003, Page 1, available online at: <http://www.ihf.com/articles/105743.html>
- 20 Dan Balz and Claudia Deane: "Public Opinion On Bush Stabilizes. War, Budget Fuel Partisan Division," in: *The Washington Post*, August 13, 2003;
Page A01, available on line at: <http://www.washingtonpost.com/ac2/wp-dyn/A50881-2003Aug12?language=printer>
- 21 Hearings in the Senate Foreign Relations Committee on July
- 22 Morton M. Kondracke: "The Best and the Worst: Iraq Debate opens, but Drug Bill Fails," in: *Roll Call*, August 5, 2003
- 23 Remarks by the Vice President to the Veterans of Foreign Wars 103rd National Convention, available online at: <http://www.whitehouse.gov/news/releases/2002/08/print/20020826.html>
- 24 Dan Balz: "On Economy, Bush Reveals His Soft Spot," in: *The Washington Post*, December 9, 2002, Page A01
- 25 Jonathan E. Kaplan: "How do you lose a House seat," in: *The Hill*, June 17, 2003, Page 6
- 26 Peter Brand: "Texas Dems seeking to block DeLay gambit," in: *The Hill*, Washington, D.C.
- 27 Norman Ornstein: *Intervention Time: GOP Should Rein in Chairman Thomas*, in: *Roll Call*, July 23, 2003
- 28 Associated Press: "North Korea, not Iraq, most urgent threat, Hagel says," in: *The Independent*, February 7, 2003, available online: http://www.theindependent.com/stories/020703/new_hagelkorea07.shtml
- 29 Peter Slevin and Helen Dewar: "Citing Qualms, Lawmakers Seek Details on Iraq; Senate Hearings Begin Today on Threat, Risks of Invasion," in: *The Washington Post* July 31, 2002, Page A14
- 30 A filibuster can be overwritten by invoking cloture, but this still means that the Senator who started the filibuster retains the right to speak for 30 hours.
See Barbara Sinclair: *Unorthodox Lawmaking. New Legislative Processes in the U.S. Congress, Second Edition*, CQ Press, Washington DC, 2000, Page 53
- 31 Dan Balz and Claudia Deane: "Public Opinion On Bush Stabilizes. War, Budget Fuel Partisan Division," in: *The Washington Post*, August 13, 2003;
Page A01, available on line at: <http://www.washingtonpost.com/ac2/wp-dyn/A50881-2003Aug12?language=printer>

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