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Congress and the Middle East, 2011-2020: Selected Case Studies

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SUMMARY

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Christopher M. Blanchard, Coordinator
Specialist in Middle Eastern Affairs

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Congress shaped U.S. national security policy toward several critical crises and contingencies in the Middle East and North Africa (MENA) during the decade from 2011 through 2020—a period of upheaval, conflict, and change in that region.

Under the U.S. Constitution, the legislative and executive branches of government use a range of tools in exercising their respective foreign policy powers. The President and the executive branch provide leadership in the development of U.S. foreign policy and are principally responsible for its implementation. Members of Congress may issue legislative directives, make policy statements, offer advice, and use authorization, appropriations, and oversight powers to influence U.S. approaches. In response to emerging contingencies and conflicts in the MENA region over the last decade, Congress created and modified foreign aid and security assistance authorities; provided funding for humanitarian aid, stabilization efforts, transition support, and some military interventions; imposed limitations on U.S. military operations and cooperation with foreign partners; and mandated that the President implement stringent sanctions against U.S. adversaries. Reflecting the unique circumstances created by regional events and the innovative executive branch approaches those events required, Congress enacted new oversight requirements to ensure its consultation. Congress may examine the experiences over the decade to assess the results of its use of legislative tools to influence U.S. foreign policy. Analysis of case studies of various specific legislative interventions in specific events and countries shows use of a range of congressional policy tools with varied outcomes. Key considerations include how chosen congressional policy tools relate to executive branch-led foreign relations initiatives and the effects that country- and context-specific factors may have on policy results.

Among the tools that Congress used to shape U.S. policy responses in the MENA region from 2011 through 2020, the most direct and tangible were its appropriation and authorization powers. Congress expanded U.S. assistance to Tunisia's emerging democratic government and to Jordan's monarchy to help it cope with a range of challenges. Congress placed conditions on U.S. assistance to longtime partner Egypt amid its various transitions. Congress authorized and funded novel security assistance programs in Iraq and Syria. Reflecting changing congressional views, Congress acted to end U.S. assistance to the Palestinian Authority, but later enacted revisions to allow for the possibility of resuming some types of aid. Congress also provided for extensive U.S. sanctions targeting Iran for its nuclear program, weapons proliferation, restrictions on human rights and democracy, and support to armed groups and U.S.-designated terrorists. Congress pressed the executive branch to take a stringent approach to U.S. nuclear negotiations with Iran, made legislative proposals that shaped the international context for negotiations, and enacted measures that allowed it to review related agreements.

Congressional consensus about U.S. military operations and other security programs in the region proved more elusive. Congress considered, but did not enact, proposals that alternatively would have authorized and funded or prohibited and constrained the 2011 U.S. military intervention in Libya. Congressional oversight of U.S. support to some Arab Gulf partners' 2015 intervention in Yemen influenced efforts to limit U.S. involvement by invoking provisions in the War Powers Resolution, rejecting certain arms sales, and imposing conditions on some forms of U.S. assistance. Vetoes of measures and unresolved policy debates underscored deep differences between some Members and successive Administrations.

Costly military operations in Iraq from 2003 through 2011 and perceived domestic budget constraints led Members to scrutinize funding requests and to direct the Administration to secure partner contributions as a condition of some U.S. assistance. Congress also structured some U.S. aid as loans or loan guarantees. The United States did not engage in new large-scale military ground operations in the region during the decade and instead led or participated in multilateral responses. Nevertheless, the United States allocated more than $85 billion dollars (current dollars) from 2011 to 2020 to support U.S. military operations in the region, provide foreign military financing assistance to Arab governments, and alleviate humanitarian suffering, among other aid.

Over the decade in question, shared views about the gravity of unfolding changes in the MENA region did not always lead Members of Congress to shared conclusions about the implications of regional transformation for U.S. interests or what steps, if any, Congress should take independently or to support or constrain related executive branch policies. Advocates for greater U.S. support for regional change or U.S. intervention in the region's conflicts often faced opposition from skeptics concerned about the wisdom or sustainability of greater U.S. involvement, particularly in light of competing domestic or other priorities. These dynamics continue to characterize debate in Congress over U.S. policy toward the region.

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Overview

The legislative and executive branches of government use a range of tools in exercising their respective foreign policy powers under the U.S. Constitution (**Appendix**). Interactions between Congress and the Obama and Trump Administrations from 2011 to 2020 shaped U.S. policy toward the Middle East and North Africa (MENA, **Figure 1**) in demonstrable ways during a time of unrest, conflict, and change throughout the region.[1] The executive branch led in defining U.S. responses as regional turmoil emerged and spread. Members of Congress issued legislative directives, made policy statements, offered advice, and used their authorization, appropriations, and oversight powers to influence U.S. approaches. As new contingencies and conflicts emerged, Congress created and modified foreign aid and security assistance authorities; provided funding for military intervention, stabilization, and humanitarian responses; imposed limitations on U.S. military operations; and mandated that the President implement stringent sanctions against U.S. adversaries. The case studies below highlight some tools of congressional influence on U.S. foreign policy, as well as limits to those tools, by examining their use in the decade beginning in 2011.[2]

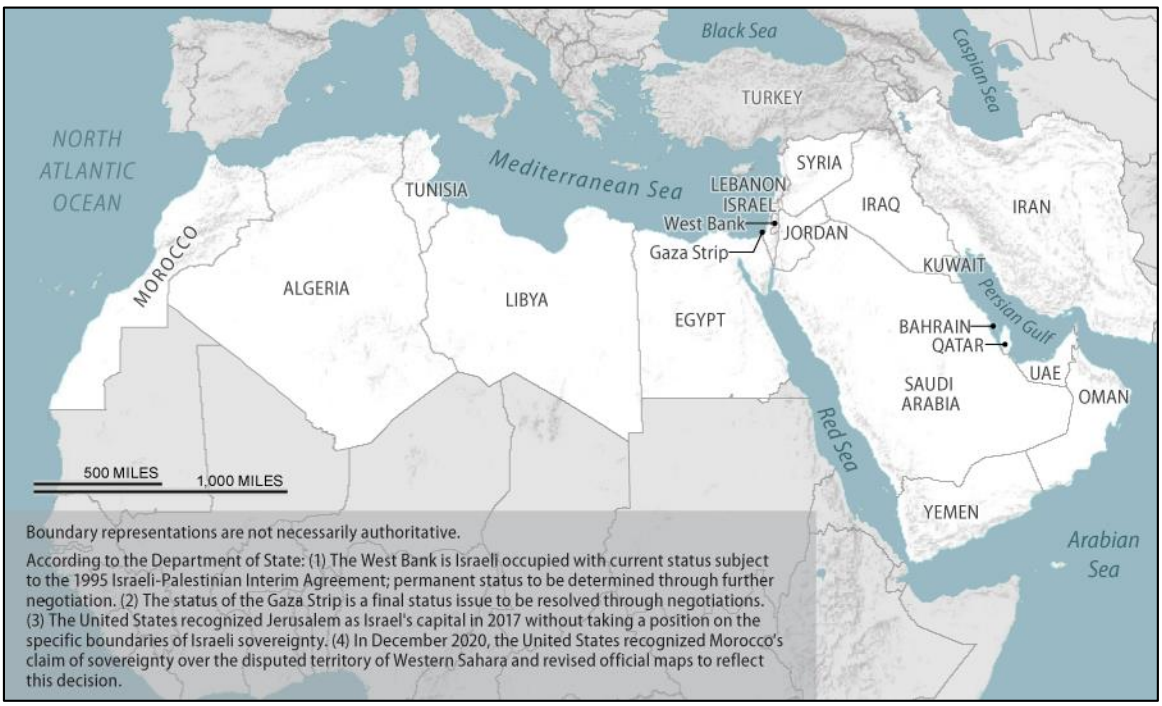
- On **Tunisia**, Congress supported an expansion of U.S. assistance to the country's emerging democratic government and engaged directly with transitional leaders, within some constraints imposed by growing congressional skepticism of foreign aid in general and concern about national security threats emanating from MENA states in transition. See "Tunisia: Transition Assistance and Oversight."
- On **Libya**, Congress considered proposals both to restrict or authorize U.S. military intervention, while exercising oversight over executive branch planning for post-conflict scenarios. See "Libya: Military Intervention and its Aftermath."
- On **Egypt**, Congress enacted conditions on longstanding U.S. assistance to promote continued compliance with regional peace agreements and to encourage the executive branch to prioritize democratization and human rights in dealings with transitional authorities. See "Egypt: Aid Conditionality and Human Rights."
- On **Syria** and **Iraq**, Congress created and annually modified novel train and equip authorities to enable U.S. defense cooperation with non-state partners in Syria and security forces in Iraq, balancing flexibility with constraints. See "Syria and Iraq: Security Assistance in Complex Conflicts."
- On **Yemen**, Congress acted to direct an end to U.S. military involvement and voted to block select arms sales to U.S. partners, leading President Donald Trump to veto related legislation. See "Yemen: Arms Sales and Security Cooperation."
- On **Jordan**, Congress appropriated funds to expand U.S. partnership, amid a range of security, economic, and humanitarian challenges facing the kingdom. See "Jordan: Comprehensive Partnership."

[1] For the purposes of this report, the MENA region encompasses those countries and territories under the responsibility of the State Department's Bureau of Near Eastern Affairs: Morocco, Algeria, Tunisia, Libya, Egypt, Israel, the West Bank and Gaza, Lebanon, Syria, Jordan, Iraq, Iran, Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, and Yemen.

[2] The authors chose the cases as illustrative examples, among many others, of congressional use of various tools. Other instances of congressional influence over policy occurred relative to other cases and countries in the region. The report presents the cases in rough chronological order, although the developments they describe in many cases occurred simultaneously and influenced the views and actions of U.S. policymakers iteratively.

- On the **West Bank and Gaza**, Congress acted to end prevailing patterns of U.S. assistance to the Palestinian Authority (PA) based on concerns about PA leaders' policies. See "The Palestinians: Changes to U.S. Foreign Assistance."
- On **Iran**, Congress provided for extensive U.S. sanctions targeting Iran for its nuclear program, weapons proliferation, restrictions on human rights and democracy, and support to armed groups and U.S.-designated terrorists. Congress pressed the executive branch to take a stringent approach to U.S. nuclear negotiations with Iran, made legislative proposals that shaped the international context for negotiations (including by imposing secondary sanctions and targeting sanctions evaders), and enacted measures that allowed Congress to review related agreements. See, "Iran: Sanctions, the JCPOA, and 'Maximum Pressure'"

Figure 1. Map: Middle East and North Africa Region



Source: CRS. Includes Esri and U.S. State Department data.

Notes: All areas and boundaries approximate.

Context and Congressional Approaches

Prologue to Change

U.S. security concerns in the wake of the September 11, 2001, terrorist attacks and subsequent U.S. interventions in Afghanistan and Iraq motivated significant congressional interest in countering extremism and promoting accountable governance in the MENA region and beyond.[3] The war in Iraq and its regional consequences dominated the policy agenda for the United States in much of the region and demanded considerable investments of time and resources by Congress and the executive branch. In addition to longstanding support for Israel, U.S. approaches largely prioritized engagement with leaders of the region's authoritarian Arab states and sought to influence their policy choices, particularly on security matters.

Some in Congress sought to become more familiar with the internal challenges and emerging social movements shaping the Middle East and North Africa, though in most MENA countries, domestic politics remained uncompetitive and governance remained closed. Despite efforts by some Members to engage with a broader range of local political and economic actors in the region and address underlying social, governance, or economic trends, congressional initiatives encouraging political reforms gained limited traction.[4] In contrast, consistent U.S. policy interest in Iran spanned successive Administrations and periods of alternating political control in Congress. Large-scale protests and state violence against demonstrators in Iran followed the country's disputed 2009 election, foreshadowing unrest to come elsewhere in the region.

President Barack Obama and other U.S. policymakers sometimes argued[5] for the importance of reform for the MENA region in the years immediately prior to the "Arab Spring"[6] uprisings of 2011 (including in Iran) and had engaged in formal efforts to consider alternative U.S. approaches.[7] Nevertheless, as of late 2010, U.S. assistance and policy initiatives reflected historic patterns of engagement. Authoritarian governments and supportive elites across the region proved

[3] This report does not examine U.S. policy debates and congressional action with regard to the U.S. decisions to intervene militarily in Afghanistan in 2001 and Iraq in 2003 or subsequent U.S. attempts to stabilize those countries.

[4] See, for example, S.Res. 375 in the 108th Congress and S. 12 in the 109th Congress. See also out of print CRS Reports RS22053, *The Broader Middle East and North Africa Initiative: An Overview*, by Jeremy M. Sharp; and RL33486, *U.S. Democracy Promotion Policy in the Middle East: The Islamist Dilemma*, by Jeremy M. Sharp, both available to congressional requesters from the author.

[5] Speaking in Cairo, Egypt, in June 2009, President Obama said, "America does not presume to know what is best for everyone, just as we would not presume to pick the outcome of a peaceful election. But I do have an unyielding belief that all people yearn for certain things: the ability to speak your mind and have a say in how you are governed, confidence in the rule of law and the equal administration of justice, government that is transparent and doesn't steal from the people, the freedom to live as you choose. These are not just American ideas, they are human rights. And that is why we will support them everywhere." U.S. National Archives and Records Administration (NARA), Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2009, Book 1 (Washington, DC: GPO, 2010), Remarks in Cairo, June 4, 2009, pp. 760-8.

[6] The term "Arab Spring" came to be applied, primarily in non-MENA media and policy discussions but then globally, as a catch-all term for the diverse and unique instances of political upheaval and popular activism that occurred in the MENA region from late 2010 onward. The use of the term remains contested. For an overview of related debates, see Ibrahim N. Abusharif, *Parsing "Arab Spring"*, Occasional Paper, Northwestern University in Qatar, February 2014.

[7] In August 2010, President Obama reportedly issued a Presidential Study Directive through which his Administration "identified likely flashpoints, most notably Egypt, and solicited proposals for how the administration could push for political change in countries with autocratic rulers who are also valuable allies of the United States." Mark Landler, "Secret Report Ordered by Obama Identified Potential Uprisings," *New York Times*, February 16, 2011.

predictable, if at times unpalatable, interlocutors and partners for the United States, even as corruption, human rights abuses, and a lack of accountability sowed the seeds of future upheaval.

Military cooperation with the Arab Gulf states remained a key pillar of U.S. defense strategy as the Obama Administration sought to draw down U.S. military forces in Iraq, expand U.S. military operations in Afghanistan, and contain Iran. U.S. assistance to Egypt and partnership with the Jordanian government had evolved to incorporate some reform-oriented elements, but long-standing security cooperation programs and diplomatic commitments to peace with Israel limited the extent to which Congress and the Administration (along with its predecessors) were willing to alter elements of those bilateral relationships. The Obama Administration had explored the possibilities of rapprochement with antagonist regimes in Libya and Syria, but those efforts had not provided for robust U.S. relationships with populations in either country. Congress had pressured successive Administrations to reduce U.S. military involvement in Iraq (as discussed below), and some Members sought to reduce U.S. military deployments in the region in light of challenges at home and elsewhere. The outbreak of unrest and violence in several MENA countries in late 2010 and early 2011 challenged Congress and the executive branch to overcome these inertial influences quickly and to expand their shared knowledge of internal developments in several countries.

The 2011 MENA Uprisings and Their Aftermath: Congressional Context

The 112th Congress opened its first session in January 2011 with the 2010 election returning control of the House of Representatives to the Republican Party and providing the Democratic Party with a slim majority in the Senate (51 of 100 seats). Voters elected a large number of new, fiscally conservative Republican candidates to office in the House, some of whom sought to address what they viewed as executive branch overreach in a range of policy areas. Contentious consideration in early 2011 of a series of continuing resolutions to fund government operations for FY2012 was punctuated by consideration of House proposals to cut spending and to repeal recently enacted healthcare, investment reform, and consumer protection legislation. Congressional Quarterly's *Almanac* described the 112th Congress as of 2011 as having been "dominated by fiscal issues," "widely characterized as paralyzed and dysfunctional," and highly partisan.[8]

In this environment, Members of Congress considered emerging crises in Tunisia, Egypt, Libya, Syria and other fluid, ambiguous, and rapidly evolving situations across the Middle East and North Africa, each of which posed challenges for U.S. national security. Changing events placed pressure on executive branch officials to respond quickly. Some policy responses invoked sensitive questions of executive and legislative authority, including with regard to the use of military force and the redirection of previously appropriated funds for new purposes.

Throughout 2011 and repeatedly in the years that followed, these dynamics persisted. Competing, high profile domestic agenda items occupied debate among Members and limited the amount of attention available for foreign policy. Over time, the increasing prevalence of violence in the MENA region's crises, mass displacement, competing foreign interventions, attacks on U.S. government personnel and facilities, and transnational terrorism raised the strategic and political stakes of U.S. responses and invited additional congressional attention. However, the political sensitivity of these trends complicated efforts to build congressional and inter-branch consensus. By 2017, Congressional Quarterly's *Almanac* described "legislative dysfunction that had grown pervasive for both parties in recent years" and "continued weakening of the committee process and other parliamentary deliberations."[9] These factors contributed to the emergence of limited-commitment, context-specific approaches that defined overall U.S. policy toward the MENA region through 2020.

[8] According to CQ in 2011, "so profound was the partisan enmity and distrust that it could not be bridged even by the most powerful single players from each party." CQ found that "votes in both chambers broke down along party lines the most often of any of the 58 years that Congressional Quarterly had measured party unity votes." See "Partisanship and Stalemates Lead to Record Low Approval of Congress," *CQ Almanac*, 2011.

[9] In 2017, CQ analysts wrote that President Trump's election and unique governing style led to "a less robust legislative agenda, especially given the unified partisan control of the legislative and executive branches." See "Republicans Overhaul Taxes, Confirm Gorsuch, but Falter at Health Care Push," *CQ Almanac*, 2017.

Over time and with considerable debate, Congress and the executive branch reoriented some U.S. policies and realigned some resources to respond to the region's interconnected, evolving crises. Amid optimism among some in the United States and many in the region about the prospects for positive change, Members of Congress and Administration officials sought to understand who were the newly active and empowered movements and leaders, what grievances they sought to resolve, what goals they sought to achieve, and how their actions might affect U.S. interests. Initial U.S. insight into these questions was limited, and rapidly changing circumstances continually required officials and lawmakers to adapt in the years that followed.[10]

Revisiting Resources: Appropriations and the "Arab Spring"

Among the tools that Congress used to shape U.S. policy responses, the most direct and tangible were its appropriation and authorization powers. The U.S. response to the MENA uprisings of 2011 and subsequent events in the region took place contemporaneously with significant budgetary constraints in the United States. Secretary of State Hillary Rodham Clinton testified in March 2011, citing the "extraordinarily difficult budgetary climate" and arguing, "existing budget levels and earmarks greatly limit our flexibility to respond to contingencies."[11] She further asserted

> we must ensure that we have the resources to respond to the reality of unfolding events in the Middle East and recognize the opportunity, as well as the security imperative, that these events bring with them. Simply put, current funding levels make it difficult for us to meet the emerging needs of the region at this time of unparalleled opportunity. It is critical that the parameters of our assistance remain flexible so that State and USAID [U.S. Agency for International Development] can respond quickly and strategically within a rapidly changing environment....

Congress completed work on FY2011 appropriations amid unfolding unrest in the MENA region in April 2011, enacting a continuing resolution for foreign operations funding that largely left spending levels and authorities unchanged from the previous fiscal year.[12] Nevertheless, the executive branch and Congress consulted and reallocated nearly $800 million in prior-year funds to respond to unrest and support transitions through March 2012.[13]

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[10] Secretary of State Hillary Rodham Clinton acknowledged that U.S. understanding of unfolding change was limited when discussing Libya before the Senate Foreign Relations Committee in March 2011, testifying: "We don't know these players. We just opened an Embassy for the first time in years in 2009. We were just getting to know a lot of these people. We are not as aware even of what went on in Egypt and Tunisia, and I have to admit to a certain level of opacity about both of those circumstances." Testimony of Secretary of State Hillary Rodham Clinton in U.S. Congress, Senate Committee on Foreign Relations, *National Security and Foreign Policy Priorities in the FY2012 International Affairs Budget*, hearing, 112th Cong., 1st sess., March 2, 2011, S.Hrg. 112-361 (Washington, DC: GPO, 2011).

[11] Testimony of Secretary of State Hillary Rodham Clinton in U.S. Congress, Senate Committee on Foreign Relations, *National Security and Foreign Policy Priorities in the FY2012 International Affairs Budget*, hearing, 112th Cong., 1st sess., March 2, 2011, S.Hrg. 112-361 (Washington, DC: GPO, 2011).

[12] Appropriations legislation directed that bilateral economic aid "shall be made available to support democratic transitions in the Middle East and North Africa, including assistance for civil society organizations and the development of democratic political parties," and required reporting on Egypt's transition within 45 days. See Full-Year Continuing Appropriations, 2011 (Division B, Title XI, Sec. 2123, P.L. 112-10).

[13] According to the State Department's FY2013 congressional budget justification for foreign operations, "initial transition support commitments in FY2011 and FY2012" amounted to "nearly $800 million." The Department stated that, "While the USG [U.S. government] was able to respond quickly to the Arab Spring with additional resources, these funds were reallocated from within programs in the region, resulting in real opportunity costs in bilateral programs, or by reducing funding available in regional/global accounts for other needs." *U.S. Department of State, Congressional Budget Justification*, Volume 2, Foreign Operations, Fiscal Year 2013, March and April 2012.

In considering FY2012 appropriations levels during 2011, Congress chose not to make new, large-scale transition support resources available as a comprehensive provision. Rather, appropriations and authorizations were made on a discrete basis at levels that were not dramatically different than Congress had provided in previous years.[14] As a result, most transition-focused U.S. assistance to the Middle East and North Africa through 2012 came from reprogrammed prior-year monies, especially from the Economic Support Fund (ESF) account.[15] The August 2011 enactment of the Budget Control Act of 2011 (P.L. 112-25), enforced new limits on discretionary federal spending.

In an effort to continue transition assistance and better respond to contingencies while maintaining preexisting aid commitments, the Obama Administration sought additional funding and authorities from Congress. In its February 2012 budget request for FY2013 foreign assistance, the Administration proposed a $770 million Middle East and North Africa Incentive Fund (MENA-IF) to offer additional aid more flexibly as a democratization and liberalization incentive to countries in transition. The proposal sought to create a new source of funding beyond country allocations from established accounts that would remain available for a broad range of potential economic, humanitarian, or security uses. The Administration proposed that the Fund be established as a standalone account to eliminate some of the budget "trade-offs" and bureaucratic delays associated with reallocating or reprogramming funds available within existing accounts.[16]

Some Members of Congress opposed providing the Administration with the requested level of additional funding and discretion, and supporters of the proposal sought to require additional consultation with the executive branch in the event of its adoption. The House Appropriations Committee declined to create or fund the new account in its version of the FY2013 Department of State, Foreign Operations, and Related Programs (SFOPS) Appropriations Act (112th Congress, H.R. 5857, reported out of committee in May 2012), but did direct the use of up to $200 million for transition support activities from other accounts to be made available for transition support activities by the act (under the committee report accompanying the bill, H.Rept. 112-494).[17] In contrast, the Senate Appropriations Committee proposed to create the new MENA-IF account and to appropriate $1 billion for it to respond to what it described as "historic and unprecedented opportunities for change" (112th Congress, S. 3241, reported out of committee in May 2012, and accompanying report S.Rept. 112-172). In the end, Congress did not reconcile these two

[14] In the conference report on the FY2012 Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2012, which included the Department of State, Foreign Operations, and Related Programs Appropriations Act (H.Rept. 112-331 on P.L. 112-74, adopted December 2011), Congress allocated $50 million to a Middle East/North Africa Response Fund "to provide the Department of State and USAID with the necessary flexibility to respond quickly to political crises" in the MENA region. In allocating the funds, which were a relatively limited amount given existing aid levels for the region, Congress directed the Administration "to consult with the Committees on Appropriations on the uses of such funds and submit a spending plan for all funds provided in this Act and prior appropriations acts for these purposes." The act (Division I, Section 7041) directed the use of assistance funds for Libya and Syria, and provided for enterprise funds for Egypt and Tunisia.

[15] For information on foreign assistance accounts, see CRS Report R40482, *Department of State, Foreign Operations Appropriations: A Guide to Component Accounts*, by Nick M. Brown and Cory R. Gill.

[16] In discussing the Administration's request, officials said the Administration had been "doing lots of trade-offs to come up with" funds to respond to contingencies and transitions in the Middle East and North Africa. Deputy Secretary of State for Management and Resources Thomas Nides and USAID Administrator Rajiv Shah, Special Briefing on the 2013 State Department and USAID Budget, U.S. Department of State, Washington, DC, February 13, 2012.

[17] The House recommended $175 million in Economic Support Fund (ESF) monies and $25 million in Foreign Military Financing (FMF) "to promote regional peace and security, political and economic reform, and stabilization efforts in the Middle East and North Africa." The committee directed that of these funds, $70 million be made available for the Middle East Partnership Initiative (MEPI), $5 million for USAID's Office of Middle East Partnerships, and "not less than" $50 million for Jordan.

proposals: as it did in FY2011, Congress appropriated foreign assistance funding for FY2013 through a series of continuing resolutions that did not include or provide new funds for the requested MENA-IF account.[18]

The Obama Administration's FY2014 request again proposed the MENA-IF account and sought $580 million for it. The House again declined to create the account or appropriate funds for it. The Senate instead proposed the creation of a Complex Foreign Crises Fund, to be funded with $575 million to support, among other things, "loan guarantees and enterprise funds for Jordan, Tunisia, and Egypt." (S.Rept. 113-81)[19]

Throughout this period, congressional committees of jurisdiction worked with the Obama Administration to reprogram prior year funding to meet emergent transition support and contingency response needs. Consultations on these reprogramming actions created opportunities for Members of these committees and their staff to engage with executive branch officials on various proposals and initiatives. In January 2014, Congress provided a source of additional funding with flexible authorities at the scale similar to that sought by the Administration. That month, Congress passed an omnibus appropriations act for FY2014 that provided that the Administration could reprogram up to $460 million in Overseas Contingency Operation (OCO)-designated[20] funds from various accounts to a new Complex Crises Fund "mainly for the prevention of complex crises and to respond to unanticipated contingencies."[21]

By that date, revolution and counter-revolution had swept through Egypt, and conflict and security threats had placed increased pressure on U.S. government officials in Libya in the aftermath of the 2012 attacks on U.S. facilities in Benghazi. The raging war in Syria had displaced millions, tested U.S. resolve, and empowered the Islamic State. Congress had grappled with the ambiguity presented by the region's upheaval, debated varying responses, and engaged with executive branch counterparts to make additional resources available for U.S. responses. Nevertheless, Congress, like the executive branch, faced challenges in predicting the impact of discrete changes on the region as a whole and foreseeing how unfolding events might have problematic second- and third-order effects on U.S. interests.

Responding to Adversaries and Rivals

As activism and unrest surged in the MENA region during 2011, U.S. policymakers debated the final steps in the U.S. military drawdown and eventual withdrawal from Iraq. From 2006 onward, Congress had signaled its decreasing willingness to continue support for U.S. military operations there. Members expressed different preferences for what a post-drawdown U.S. presence in Iraq

[18] For context, see Josh Rogin, "State Department's new Middle East fund falls victim to Capitol Hill dysfunction," *Foreign Policy*, September 27, 2012.

[19] Congress separately provided funds for loan guarantees in successive appropriations measures after 2011, as discussed in the Tunisia and Egypt case studies below.

[20] For background on OCO funding and usage, see CRS Report R44519, *Overseas Contingency Operations Funding: Background and Status*, by Brendan W. McGarry and Emily M. Morgenstern.

[21] Joint Explanatory Statement, Division K, P.L. 113-76. Section 8003(c) of the SFOPS Act permitted the Secretary of State "to transfer funds, not to exceed a total of $460,000,000" from OCO funds made available under the ESF, International Narcotics Control and Law Enforcement (INCLE), and FMF accounts to funds available under the Complex Crises Fund. The act required, however, "That upon determination that all or part of the funds so transferred from such appropriations are not necessary for the purposes for which they were transferred, such amounts may be transferred back to such appropriation and shall be available for the same purposes and for the same time period as originally appropriated."

would look like.[22] As of 2011, the executive branch reported to Congress that Iraqi security forces had demonstrable capability gaps and could face threats from remaining insurgent forces. From the time of that report through 2014, the conditions that would facilitate the rise of the Islamic State—wide-scale conflict in Syria and renewed sectarian antagonism in Iraq—emerged.

By mid-2014, the Islamic State had come to dominate large areas of Syria and Iraq and to support or encourage transnational terrorism in Europe and the United States. In response, the United States launched military strikes against the group, returned thousands of U.S. military personnel to Iraq, deployed troops inside Syria, and invested billions of dollars in partner forces in Syria and Iraq through multi-year assistance and training programs (see "Syria and Iraq: Security Assistance in Complex Conflicts"). From August 2014 through September 30, 2020, the executive branch had obligated $49.2 billion for Operation Inherent Resolve in Syria and Iraq.[23]

At the same time, longstanding concern about Iran's nuclear program and regional policies had motivated Congress to direct additional sanctions in conjunction with the Obama Administration's attempts to negotiate a multilateral agreement to constrain Iranian nuclear activity. The Administration considered this diplomatic initiative to be among its top priorities in the region, if not globally. The talks culminated in the United States, its allies, and Iran signing the 2015 Joint Comprehensive Plan of Action (JCPOA) nuclear agreement, which set in motion subsequent U.S. and international sanctions relief for Iran (See "Iran: Sanctions, the JCPOA, and 'Maximum Pressure'"). In 2018, the Trump Administration withdrew the United States from the JCPOA, asserting that the accord did not address the broad range of U.S. concerns about Iranian behavior and would not permanently preclude Iran from developing a nuclear weapon. U.S.-Iran tensions increased thereafter, and the potential for conflict heightened in 2019 and 2020, amid Iran-attributed attacks on Arab Gulf State energy infrastructure and non-U.S. ships transiting the region, attacks by Iran-backed groups targeting U.S. personnel in Iraq, and the U.S. killing in Iraq of Iranian Islamic Revolutionary Guard Corps-Qods Force Commander Major General Qasem Soleimani.[24]

Throughout the decade, U.S. concerns about strategic competition with Russia and China also grew. Having abstained when the U.N. Security Council voted in March 2011 to allow for military operations to protect Libyan civilians, Russia and to a lesser extent China thereafter used their veto power to prevent the Security Council from endorsing additional interventions in the region. Both expressed concerns about preserving sovereignty and preventing political interference. Russia's 2015 military intervention in the civil war in Syria on behalf of the government of Bashar al Asad bolstered that government's attempts at self-preservation in the face of threats from a variety of groups, including the Islamic State. In 2011, President Obama

[22] See U.S. Congress, Senate Committee on Foreign Relations, *Iraq: The Challenging Transition to a Civilian Mission*, hearing, 112th Cong., 1st sess., February 1, 2011, S. Hrg. 112-360 (Washington, DC: GPO, 2011); Senate Committee on Armed Services, *U.S. Policy Toward Iraq*, hearing, 112th Cong., 1st sess., February 3, 2011, S. Hrg. 112-112 (Washington, DC: GPO, 2011); House Committee on Foreign Affairs Subcommittee on the Middle East and South Asia, *Preserving Progress: Transitioning Authority and Implementing the Strategic Framework In Iraq, Part 1*, hearing, 112th Cong., 1st sess., June 1, 2011, H.Hrg. 112-29 (Washington, DC: GPO, 2011); and, Senate Committee on Armed Services, *The U.S. Strategy in Afghanistan and Iraq*, hearing, 112th Cong., 1st sess., September 22, 2011, S. Hrg. 112-349 (Washington, DC: GPO, 2012).

[23] Operation Inherent Resolve (OIR) is the operation to eliminate the Islamic State group and the threat it poses to Iraq, Syria, and the wider international community. Department of Defense (DOD) Comptroller, Cost of War Update as of September 30, 2020, in Lead Inspector General for Overseas Contingency Operations, *Report on Operation Inherent Resolve*, October 1, 2020–December 31, 2020.

[24] See CRS Report R46148, *U.S. Killing of Qasem Soleimani: Frequently Asked Questions*, coordinated by Clayton Thomas.

had called for Asad to step down. The intervention raised Russia's strategic profile in the region and engaged U.S. policymakers in diplomatic competition and military deconfliction.

Reexamining Assumptions: Regional Partnerships

Changes in the posture and assertiveness of some U.S. regional partners accompanied political change in the region. Saudi Arabia, the United Arab Emirates (UAE), Qatar, and Turkey acted to shape political outcomes, to back favored partners, and in some cases to intervene militarily to protect their interests. These shifts led Congress to see these actors less as quiescent partners and more as independent actors whose motives, actions, and suitability as partners would be more rigorously examined. In some cases, Congress challenged long-time U.S. partners, for example, voting to block certain arms sales to Saudi Arabia and UAE ("Yemen: Arms Sales and Security Cooperation") and the House rebuking Turkey for its policies in Syria (H.J.Res. 77 in the 116th Congress).[25]

U.S. assumptions about providing assistance to the Palestinians and Israeli-Arab relations also evolved during the decade. Changing priorities and policies pursued by Palestinian leadership generated opposition among some in Congress to prevailing patterns of U.S. aid, which had contributed to Palestinian economic development and security institutions as a component of U.S. support for a two-state solution ("The Palestinians: Changes to U.S. Foreign Assistance").

In 2020, the UAE, Bahrain, Morocco, and Sudan normalized their relations with Israel. This moved away from a previous intra-Arab consensus that had predicated such normalization on the establishment of a Palestinian state. The resulting Abraham Accords present a new model for relations between Israel and other Arab states, but raise questions about what U.S. policy commitments (such as arms sales, shifts in diplomatic engagement, or new assistance arrangements), if any, should be made or maintained to incentivize or support related agreements.

Seeking Consensus?

During the decade from 2011 to 2020, Congress rarely exhibited durable consensus on how to approach the changing MENA region, or to respond to events and conditions in its individual countries. It is debatable whether Congress is or should serve as a consensus-seeking body in national security matters, and it is difficult to determine authoritatively the relationship domestic political factors have on foreign policy positions in Congress. Many in Congress expressed hope that the United States could help establish a more durable form of stability in the MENA region—stability that accommodated and reinforced peaceful political change, pluralism, and new relationships among regional actors. As this report explores, some Members of Congress defined stability as the maintenance of long-prevailing elements of the strategic status quo prior to 2011, such as U.S. partnership with select governments and the preservation of core Arab-Israeli peace agreements. Others advocated for new policies that would prioritize efforts to protect civilians, promote the fundamental political rights of regional citizens, and create mutually advantageous economic opportunities. The use of the U.S. military in various roles and contexts was an area of continued congressional debate. A shared opposition to new U.S. military engagements united some Members from disparate perspectives, while others argued for the selective use of military force and suggested that the United States should embrace the costs and responsibilities of expanded engagement.

[25] A companion joint resolution S.J.Res. 57 introduced in the Senate and referred to the Senate Foreign Relations Committee was not considered further.

In some areas of controversy within Congress, such as U.S. involvement in the war in Yemen, successive debates and legislative initiatives demonstrated that majority views could change over time in size and composition and that the actions of congressional majorities could force the executive branch to change its approach or, alternatively, to reassert its will through veto. With regard to Libya, disparate congressional perspectives precluded a clear signal from the legislative branch as to whether to pursue or discontinue U.S. military action. In areas of agreement in Congress, Members made available new resources (Jordan) or new authorities to support unique partners (Syria and Iraq). The United States did not engage in new large-scale military ground operations and encouraged multilateral responses, but the cumulative expense of U.S. humanitarian assistance and military operations in response to certain regional crises exceeded an estimated $67 billion as of March 2021.[26]

Many Members of Congress argued that—whatever the U.S. approach—the demonstration effect of U.S. responses to different challenges would shape perceptions of the United States in the region and around the world for a generation. The interactions between Congress and the executive branch examined in this report may similarly serve as reference points and provide lessons for practitioners going forward.

Selected Case Studies

The following case studies explore selected U.S. policy interventions in selected country contexts during the decade from 2011 through 2020. The case studies focus on particularly illustrative examples of congressional engagement and highlight the use by some in Congress or by Congress as an institution of specific tools to shape U.S. foreign policy. The case studies do not cover the events of this period exhaustively, and do not address all uses of the selected tools. They also may not address other important events, interventions, initiatives, and policy debates that occurred in these contexts during this period.

Tunisia: Transition Assistance and Oversight[27]

In January 2011, a popular uprising in Tunisia that had begun the month before led to the ouster of longtime authoritarian leader President Zine el Abidine Ben Ali. Tunisian demonstrators' example sparked a wave of protests and political contestation across the Arab world. Tunisians held elections in October 2011 to select a national constituent assembly tasked with forming a government, legislating during the transitional period, and drafting and approving a new constitution. The assembly's mandate stretched from one year into three, as an Islamist-secularist political coalition faced growing social tensions and deep disagreements over economic policy. A political crisis nearly derailed the transition after two secularist politicians were assassinated, allegedly by Islamist militants, in 2013—coinciding with a military seizure of power from an Islamist-led elected government in Egypt nearby. A quartet of Tunisian civil society and trade union organizations ultimately mediated an agreement among political stakeholders that resulted in the adoption of a new constitution in early 2014 and national elections later that year—for which the mediators were awarded the Nobel Peace Prize.[28]

[26] Total estimate includes the $49.2 billion cost of Operation Inherent Resolve as reported by the DOD Comptroller through September 30, 2020, and the aggregate $18.677 billion in humanitarian assistance provided through March 2021 related to crises in Syria ($12.204 billion, FY2012-FY2020), Iraq ($2.989 billion FY2014-FY2021), and Yemen ($3.437 billion, FY2015-FY2021) as reported in USAID Complex Emergency Fact Sheets.

[27] Prepared by Specialist in African Affairs Alexis Arieff.

[28] Norwegian Nobel Committee, The Nobel Peace Prize for 2015: National Dialogue Quartet, October 10, 2015.

Despite these advances toward democratic governance, Tunisia's economy suffered and living standards declined due to a combination of domestic and international factors, including an economic crisis in the European Union, Tunisia's top trade and foreign investment partner. The conflict in neighboring Libya and recruitment of thousands of Tunisians into Islamist extremist groups at home and abroad (namely, Libya and Syria) grew into acute national security challenges, fueling tensions between Islamist and secularist political factions and undermining consensus around the need to reform the opaque and once-repressive state security apparatus.

U.S. reactions to the 2010-2011 protests in Tunisia were initially muted. Once President Ben Ali was ousted on January 14, 2011, however, the Obama Administration and many Members of Congress expressed strong support for Tunisia's political transition, directly engaged with Tunisian officials, and expanded U.S. foreign assistance. In his State of the Union address on January 25, 2011, President Obama praised the "desire to be free in Tunisia, where the will of the people proved more powerful than the writ of a dictator," asserting, "The United States of America stands with the people of Tunisia, and supports the democratic aspirations of all people."[29] Prominent Tunisian politicians involved in steering the transition, for their part, praised U.S. support for democracy in Tunisia and welcomed U.S. aid.[30]

A violent assault by Islamist militants on the U.S. Embassy compound and American school in Tunis in September 2012 appeared to prompt a temporary cooling of relations. It occurred days after the deadly attack on U.S. facilities in Benghazi, Libya, and amid multiple other violent incidents targeting U.S. diplomatic facilities in the region. The events prompted the State Department temporarily to order the departure of all nonemergency U.S. government personnel from Tunisia.[31] U.S. officials called on Tunisia to bring the "masterminds" of the attack to justice, and subsequently criticized the Tunisian government's investigations and prosecutions as insufficient.[32] Tunisia's 2013 political crisis also likely constrained high-level engagement, as Tunisian leaders focused on internal issues.

Relations appeared to warm again after the appointment of a new, technocratic government in early 2014 (pursuant to the quartet-mediated accord), and expanded further in 2015, after the first elections under the new constitution. U.S. officials continued to engage with Tunisian counterparts at a high level for the remainder of the decade, with an increased focus on counterterrorism cooperation amid the rise of the Islamic State. The Trump Administration repeatedly proposed to decrease bilateral aid to Tunisia, consistent with its global foreign aid proposals, but Congress did not enact the proposed cuts, as discussed below.

This case study focuses on the period from 2011 to 2014, when U.S. officials sought to use foreign assistance tools to respond to fast-moving developments in Tunisia (alongside other countries affected by the Arab Spring) amid stark divides in Congress regarding the value and scale of U.S. foreign assistance writ large (see "Revisiting Resources: Appropriations and the 'Arab Spring,'" above).

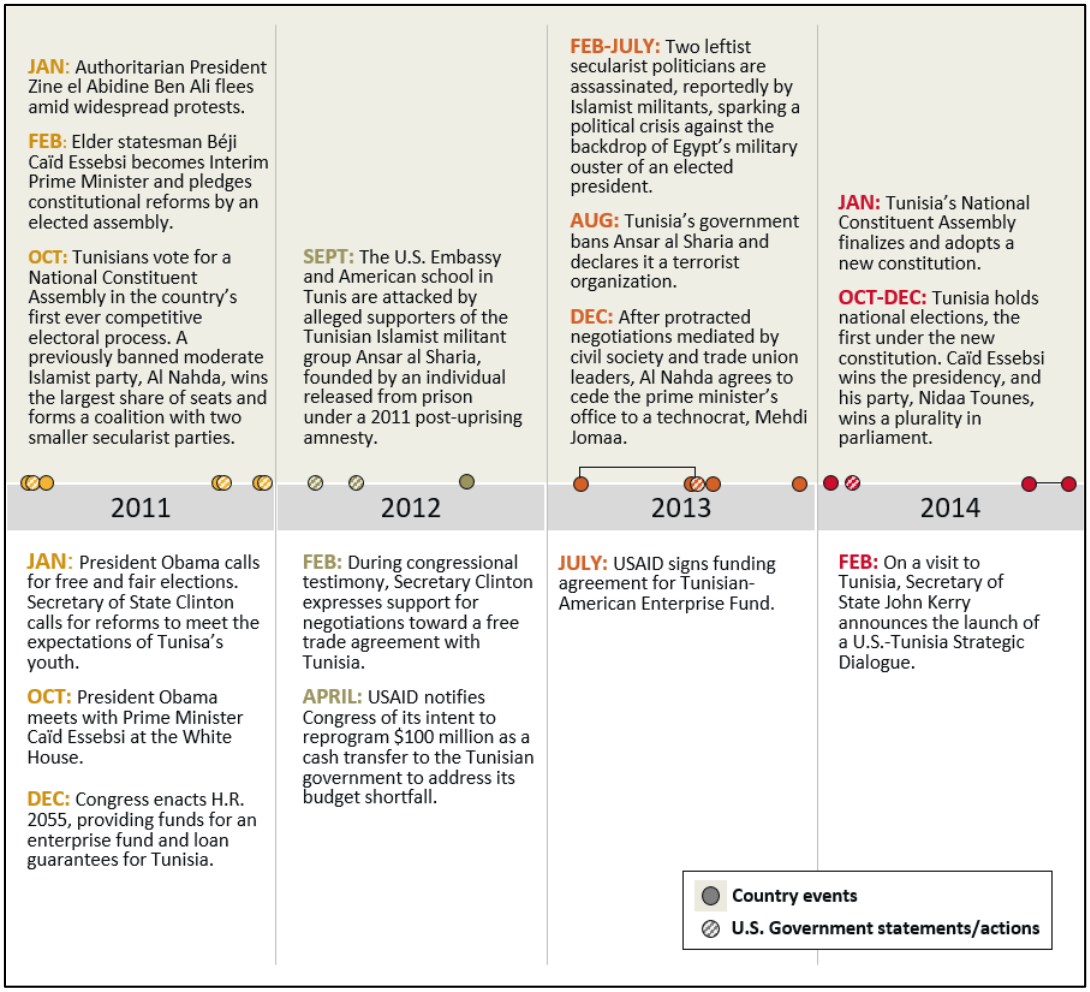
[29] NARA, Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2011, Book 1 (Washington, DC: GPO, 2014), Address Before a Joint Session of the Congress on the State of the Union, January 25, 2011, p. 56.

[30] See, e.g., Robin Wright, "Tunisia: Interview with Sheikh Rachid Ghannouchi," Wilson Center, November 2, 2012; David Ottaway, "Inside Tunisia's Power Struggle," *The Cairo Review*, Spring 2017.

[31] U.S. Department of State, Bureau of Consular Affairs, "Travel Warning: Tunisia," October 19, 2012.

[32] U.S. Embassy Tunis, "Message from the American Ambassador Jacob Walles," October 14, 2012; and "Media Note from the U.S. Embassy in Tunis," May 29, 2013.

Figure 2. Timeline: Selected Events in Tunisia's Uprising and Transition and U.S. Responses, 2011-2014



Sources: Prepared by CRS using media reports and U.S. government statements.

Congress and Tunisia's Transition

Congress' influence on U.S. policy during Tunisia's transitional period was particularly evident in the areas of U.S. aid and security cooperation, which reflected shared executive-legislative objectives within several overarching constraints. Foreign assistance and security cooperation funds allocated for Tunisia during the three fiscal years preceding the 2011 uprising (FY2008-FY2010) totaled $67 million.[33] In contrast, allocations during the next three fiscal years (FY2011-FY2013) totaled $510 million, more than seven times as much.[34] U.S. programs focused on

[33] Includes funds appropriated to the State Department and USAID for bilateral foreign assistance, as reported in annual budget request documents, as well as Defense Department "global train and equip" funds notified to Congress and confirmed in subsequent communications with CRS.

[34] Figures provided to CRS by the State Department. Includes funds appropriated to the State Department and USAID for bilateral foreign assistance for Tunisia, along with global and regional funds and reprogrammed funds, as well as Defense Department "global train and equip" funds. Humanitarian aid targeted at Libyan refugees is excluded.

strengthening Tunisia's civil society actors, encouraging economic stabilization and liberalization, building counterterrorism capacity, and encouraging security sector reforms.

Many Members voiced strong support for Tunisia's nascent democracy and national security, and a number of them traveled to Tunisia to meet with transitional leaders,[35] but for the most part, the increased aid allocations were not contingent on Congress appropriating new funds specifically for Tunisia. The 2010-2011 protests, Ben Ali's ouster, and the constituent assembly elections unfolded after the Obama Administration had programmed much of its FY2011 bilateral aid budget and finalized its budget proposals for FY2012, and in the context of congressional attention to cutting some federal spending. In late 2012, some Members of Congress—including Members of the House and Senate Appropriations Committees—threatened to withhold U.S. aid for Tunisia if the government did not turn over a suspect in the Benghazi attacks, but the Tunisian government did not do so and aid largely continued.[36]

Starting with the FY2012 SFOPS appropriations act (Division I, Section 7041(b), , signed into law on December 23, 2011), Congress provided funds, and allowed the allocation of previously appropriated funds, for sovereign loan guarantees for Tunisia and the establishment of a new Tunisian-American Enterprise Fund, or TAEF. (Through FY2014, the United States provided $79 million for the cost of two loan guarantees for Tunisia, and $60 million for the TAEF.[37] Further loan guarantees and additional financing for the TAEF were provided after the scope of this case study.) Bills establishing an enterprise fund for Tunisia had first been introduced in the Senate (112th Congress, S. 618) and House (112th Congress, H.R. 2237) in March and June 2011, respectively; neither was enacted.

Most early U.S. transition-related aid, however, involved the Obama Administration either allocating funds appropriated for global or regional (versus country-specific) programs, or reprogramming funds initially intended for other countries and/or purposes. Congressional committees of jurisdiction reviewed and approved executive branch notifications of such spending and reprogramming plans. Funds appropriated in global accounts that were directed toward Tunisia, with congressional review, included, for example, a surge in funding managed by the Middle East Partnership Initiative (MEPI), which supported civil society strengthening and other programs. A notable example of reprogrammed funds, also subject to congressional review, was the provision of a $100 million cash transfer in 2012 to help Tunisia's government meet its debt payments to international financial institutions.[38]

Congress also encouraged expanded U.S.-Tunisia security assistance and cooperation during the period under discussion. Congress appropriated increased State Department-administered bilateral Foreign Military Financing (FMF) and International Narcotics Control and Law Enforcement (INCLE) assistance for Tunisia, and the Defense Department increased

[35] See, e.g., Reuters, "Senators McCain and Lieberman in Tunisia," February 22, 2011; International Republican Institute, "IRI Hosts [House Democracy Partnership] Congressional Delegation for Meetings with Tunisian Political Leaders," September 29, 2011; *Honolulu Civil Beat*, "Inouye Meets with Tunisia Leaders," January 6, 2012; Senator Ed Markey, "Markey, Pelosi, Congressional Delegation Arrive in Tunisia and Meet with High-Ranking Government Officials," March 15, 2012; *Foreign Policy*, "Corker in Tunisia to Witness Fall of Government," February 19, 2013.

[36] See, e.g., *Foreign Policy*, "Graham threatens Tunisia over U.S. access to Benghazi suspect," October 31, 2012; and Representative Frank Wolf, "Stop Foreign Aid to Tunisia," *Congressional Record*, p. H612, December 12, 2012. The suspect in question, Ali Ani al Harzi, subsequently was released from detention in Tunisia and was killed in a U.S. airstrike in Iraq in 2015. (See Thomas Joscelyn, "Why Was a Key Benghazi Suspect Free?" *The Weekly Standard*, June 25, 2015.)

[37] Data provided to CRS by the U.S. Department of State, Office of Foreign Assistance, January 2015.

[38] "U.S. to give $100 million to boost Tunisia finances: Clinton," Reuters, March 29, 2012.

counterterrorism assistance for Tunisia under its global train and equip program, subject to congressional notification and review.[39] The Obama Administration also selected Tunisia as a focus country for its interagency Security Governance Initiative (SGI), established in 2014 with funds appropriated in annual SFOPS appropriations legislation to global and regional accounts. The Senate Armed Services Committee report accompanying S. 1253, the Senate version of the FY2012 National Defense Authorization Act, affirmed that "expanded military assistance and cooperation with the Tunisian Armed Forces is an important component of a comprehensive U.S. policy to support the people and Government of Tunisia in its transition to democracy" (S.Rept. 112-26, issued June 22, 2011).

In 2013, after Congress had declined to enact the Obama Administration's MENA-IF proposal (see Revisiting Resources: Appropriations and the "Arab Spring" above), the State Department indicated that its FY2014 budget request reflected a "normalization" of aid proposals for Tunisia, after a prior reliance on reprogrammed funds to meet "urgent" needs.[40] The Administration secured congressional support for further increases in bilateral aid in the wake of Tunisia's 2014 democratic elections. Starting in the FY2016 SFOPS appropriations act Congress began allocating bilateral economic and security aid for Tunisia above a specified amount ($141.9 million under Division K, Section 7041(i), P.L. 114-113, signed into law on December 18, 2015), which had the practical effect of ensuring aid funding for Tunisia in the context of competing economic and security aid priorities. (Congress subsequently increased the foreign assistance floor for Tunisia in FY2017, and again in FY2019 and FY2020, in the context of Trump Administration proposals to decrease aid, and also provided new authorities and funds to the State Department and DOD to assist Tunisia with responding to the Islamic State and securing its border with Libya.)

Observations

The timing of Tunisia's uprising and political transition coincided with debates within Congress—and between Congress and the executive branch—over the size of the federal budget, the scale of U.S. foreign aid, and U.S. policy toward MENA countries affected by unrest. The 2012 Benghazi attack and similar attacks in Tunis, along with political turmoil and paralysis in Tunisia in 2013, further complicated U.S.-Tunisia relations, despite efforts on both sides to promote close ties. By that point, escalating conflicts in Libya, Yemen, and Syria were receiving U.S. officials' attention and had tempered their enthusiasm about the power of events in Tunisia to positively reshape state-society relations in other authoritarian states.

In seeking to foster democracy and economic stability in Tunisia and the wider region, Members of Congress engaged directly with Tunisian leaders, oversaw increases in U.S. security cooperation, and adapted some foreign assistance tools (e.g., enterprise funds) previously used in Eastern Europe prior to the break-up of the Soviet Union.[41] At the same time, congressional interest in providing large-scale, flexible assistance to Tunisia and other Arab states in political transition proved limited, in part due to aforementioned stated skepticism of broad spending authorities proposed by the Obama Administration, which might have limited Congress's ability to oversee and allocate funds specifically (see "Revisiting Resources: Appropriations and the

[39] At the time, this program was authorized under §1206 of P.L. 109-163, as amended.

[40] Statement of Acting Assistant Secretary of State for Near Eastern Affairs Elizabeth Jones in U.S. Congress, House Committee on Foreign Affairs, Subcommittee on the Middle East and North Africa, *The Middle East and North Africa FY2014 Budget: Priorities and Challenges*, hearing, 113th Cong., 1st sess., May 22, 2013, H. Hrg. 113-41 (Washington, DC: GPO, 2013).

[41] In November 1989, Congress enacted the Support for East European Democracy Act (P.L. 101-179) defining enterprise funds and authorizing appropriations for such funds for Poland and Hungary.

"Arab Spring""). Furthermore, Tunisia did not draw as much attention or financial support as countries considered key national security partners, such as Egypt and Jordan (see below).

Today, Tunisia remains the sole country that experienced a change in government as a result of the 2011 MENA region uprisings to have made a durable transition to multiparty democracy. Its constitution enshrines individual liberties and states that Tunisia "is a civil state based on citizenship, the will of the people, and the supremacy of law." Tunisia's example of peaceful democratic change arguably remains potent throughout the region; possibly helping to fuel ongoing demands for more responsive and accountable governance in Algeria, Iraq, and Lebanon in recent years, for example.

At the same time, worsening economic hardships in Tunisia, along with public corruption and ongoing security challenges, have fueled growing discontent and a rejection of mainstream post-transition political leaders. The resulting election in 2019 of political outsiders and politicians who express open nostalgia for the Ben Ali era has made it increasingly difficult for Tunisian leaders to form durable governing coalitions or muster majority support for reforms. Tunisia's 2014 constitution and planned political decentralization also have yet to be fully implemented. Protests surged anew in early 2021, underscoring the fragility of Tunisia's gains.

Libya: Military Intervention and its Aftermath[42]

The 112th Congress devoted considerable attention to the outbreak of unrest and conflict in Libya in February 2011, amid a broader wave of uprisings and state repression in other countries in the MENA region. Some U.S. policymakers were optimistic about the potential for activism to deliver greater political pluralism and respect for individual rights in the MENA region, but others had doubts. Libya's authoritarian leader Muammar al Qadhafi responded to resurgent internal challengers with force, and, unlike counterparts in Tunisia and Egypt, was not constrained by domestic institutions or international scorn. As events unfolded, Members of Congress sought to influence executive branch decisions and provide oversight of U.S. responses to the crisis, including President Obama's reimposition of U.S. sanctions on Libya, the U.S. military's March 2011 intervention to protect Libyan civilians, subsequent support of the North Atlantic Treaty Organization's (NATO) and coalition military operations in the country, and U.S. recognition and material support of select Libyan opposition figures and forces.

Members of Congress debated the advisability, goals, scope, and costs of U.S. assistance to the Libyan opposition and U.S. military intervention in Libya, questioned the President's authority to order U.S. military operations in Libya absent explicit congressional approval, and sought information from the executive branch concerning U.S. policy and planning for post-conflict scenarios. Congress did not enact an explicit authorization for the use of military force in Libya during the 2011 conflict, but a majority of Members also voted to reject legislative proposals that sought to force President Obama to end U.S. military operations immediately or condition the availability of defense funds.

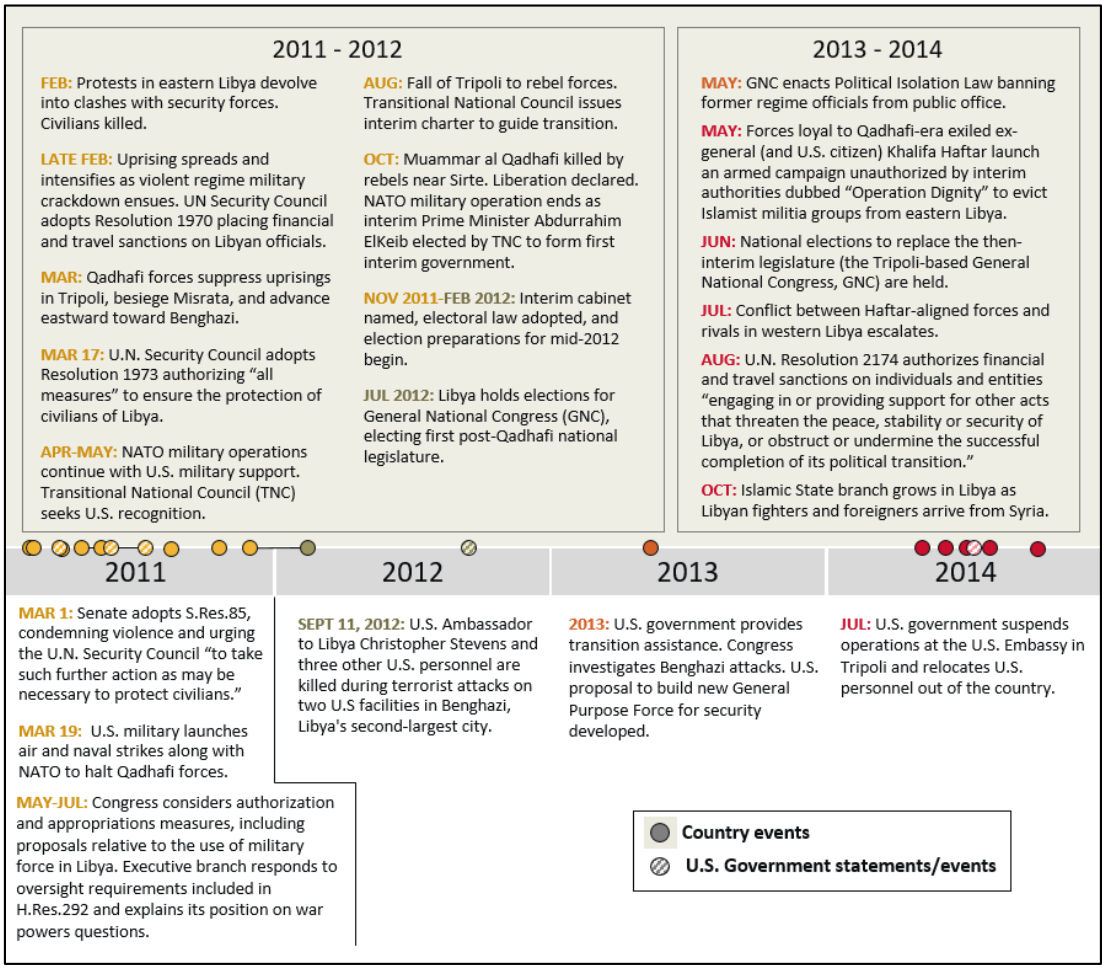
The aftermath of Qadhafi's death in October 2011 proved chaotic, with infighting among Libyans and foreign intervention resuming after an initial period of calm. Following terrorist attacks on two U.S. facilities in Benghazi Libya in September 2012, Congress conducted eight investigations into the attacks, including the investigation by the House Select Committee on Events Surrounding the 2012 Terrorist Attack in Benghazi. The 2014 rise of an Islamic State affiliate in Libya, and the outbreak in 2019 of conflict in Libya have further reshaped public and congressional perspectives on U.S. decisions taken in 2011. More broadly, the 2011 U.S.

[42] Prepared by Specialist in Middle Eastern Affairs Christopher Blanchard.

intervention in Libya and its results continue to influence debates at over war powers, the protection of civilians, post-conflict stabilization, and military intervention as a foreign policy tool.

This case study focuses on 2011, when Members of Congress and U.S. officials debated U.S. military intervention in Libya and Congress used various policy tools to shape U.S. policy.

Figure 3. Timeline: Selected Events in Libya and U.S. Responses, 2011-2014



Source: Prepared by CRS using media reports and U.S. government statements.

Congress and Conflict in Libya

Prior to 2011, Congress had engaged with the George W. Bush and Barack Obama Administrations to provide for a gradual and conditional reestablishment of U.S.-Libyan relations after decades of confrontation with Qadhafi. U.S.-Libyan rapprochement remained a work in progress at the end of 2010. The Obama Administration had engaged senior members of Qadhafi's government and entered into initial agreements to expand U.S.-Libya security cooperation.[43] The Libyan government's use of force against civilians in February 2011 derailed

[43] Secretary of State Hillary Rodham Clinton, Remarks with Libyan National Security Adviser Dr. Mutassim Qadhafi before their Meeting, April 21, 2009; and Remarks by U.S. Ambassador to Libya Gene A. Cretz at the Carnegie

the renewed relationship. Expressing concern about violence against peaceful protesters, President Obama and Secretary of State Clinton called for Qadhafi to step down and the President reimposed U.S. economic sanctions on Libyan officials and entities through a new executive order (E.O. 13566).[44] In addition, the United Nations (U.N.) Security Council via Resolution 1970 required its member states to impose sanctions on Libya, including an arms embargo, travel ban, and asset freeze.[45]

On March 1, 2011, the Senate adopted a resolution (S.Res. 85, 112th Congress) by unanimous consent urging "the United Nations Security Council to take such further action as may be necessary to protect civilians in Libya from attack, including the possible imposition of a no-fly zone over Libyan territory." The resolution did not explicitly authorize the use of U.S. military force, and, as a simple resolution passed by only one chamber, was not legally binding.

Qadhafi's continued military operations against Libyans and his threats to advance on the opposition-held city of Benghazi prompted the U.N. Security Council to act. On March 17, 2011, it enacted Resolution 1973, authorizing member states "to take all necessary measures ... to protect civilians and civilian populated areas under threat of attack."[46]

In a March 18, 2011, address, President Obama said the United States would not deploy ground troops into Libya and would not "use force to go beyond a well-defined goal—specifically, the protection of civilians in Libya."[47] After issuing an ultimatum to Qadhafi, President Obama, on March 19, ordered U.S. armed forces to begin strikes against military targets in Libya for the purpose of protecting civilians and enabling U.S. allies to impose a no-fly zone the country. The U.S. operation came in the context of French and British government advocacy to the Obama Administration for military intervention in Libya. The Obama Administration did not seek specific congressional authorization for the use of military force in Libya, and Congress was in recess when the initial U.S. strikes, organized as Operation Odyssey Dawn, began.

In a March 21, 2011, letter to Congress, President Obama stated that U.S. strikes in Libya would "be limited in their nature, duration, and scope."[48] On March 23, Speaker of the House John Boehner wrote to President Obama raising questions about U.S. strategy, operations, and projected costs and expressing regret that, in his view, President Obama had not adequately consulted with congressional leaders prior to the decision to order U.S. military operations.[49] On

Endowment for International Peace, "U.S.–Libyan Relations: The Second Year of Normalization," June 4, 2010.

[44] Executive Office of the President, "Executive Order 13566 of February 25, 2011: Blocking Property and Prohibiting Certain Transactions Related to Libya," 76 *Federal Register* 11315, March 2, 2011. In a February 26, 2011 readout of President Obama's call with Germany's Chancellor Angela Merkel, the White House said "the President stated that when a leader's only means of staying in power is to use mass violence against his own people, he has lost the legitimacy to rule and needs to do what is right for his country by leaving now." The same day, Secretary Clinton more directly stated, "Moammar Qadhafi has lost the confidence of his people and he should go without further bloodshed and violence." See White House Office of the Press Secretary, Readout of President Obama's Call with Chancellor Angela Merkel of Germany, February 26, 2011; and, Secretary of State Hillary Rodham Clinton, Holding the Qadhafi Government Accountable, Press Statement, Washington, DC, February 26, 2011.

[45] U.N. Document S/RES/1970 (2011), Resolution 1970, February 26, 2011.

[46] U.N. Document S/RES/1973 (2011), Resolution 1973, March 17, 2011.

[47] NARA, Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2011, Book 1 (Washington, DC: GPO, 2014), Remarks on the Situation in Libya, March 18, 2011, pp. 246-8.

[48] NARA, Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2011, Book 1 (Washington, DC: GPO, 2014), Letter to Congressional Leaders Reporting on the Commencement of Military Operations against Libya, March 21, 2011, pp. 280-1.

[49] Speaker of the House John A. Boehner, Letter to President Barack Obama Regarding Military Operations in Libya, March 23, 2011.

March 28, President Obama again addressed the nation. He announced that on March 30, NATO would assume command of coalition operations to enforce Resolution 1973 and that U.S. armed forces would then take a supporting role under NATO's Operation Unified Protector.[50]

Various legislative proposals in 2011 subsequently sought to require the President to seek explicit authorization for U.S. military deployment in Libya, to require the submission of certain defense and diplomatic oversight materials, to direct an end to U.S. operations, or to place conditions on the use of U.S. forces and/or appropriated funds in relation to the conflict. Others sought to authorize the continued use of U.S. armed forces in support of NATO operations, exclusive of the potential use of ground troops.

- In an April debate focused on Libya, the Senate voted against an amendment that would have stated the sense of the Senate that the President's war powers, in general, are limited.[51]
- In May and July, the House voted to adopt amendments that would have prohibited the use of FY2012 defense funds for ground combat operations in Libya unless their purpose was "limited solely to rescuing members of the United States Armed Forces from imminent danger."[52] These ultimately were not enacted into law. U.S. military involvement ended before action on the FY2012 appropriation was complete. The conference report on the FY2012 Defense Appropriations Act (H.Rept. 112-331 noted the change in power in Libya and the conclusion of U.S. operations, but stated "the conferees insist that when determining that military engagements are necessary, the President is subject to the terms of the War Powers Resolution [P.L. 93-148]."

On June 3, the House adopted H.Res. 292 (112th Congress), which found that "the President has not sought, and Congress has not provided, authorization for the introduction or continued involvement of the United States Armed Forces in Libya." The resolution directed the Obama Administration to provide documents on its consultation with Congress and a report "describing in detail United States security interests and objectives, and the activities of United States Armed Forces, in Libya since March 19, 2011." The Administration submitted the report on June 15, 2011.[53] A similar Senate resolution sought information and a strategy from the Administration (S.Res. 148, 112th Congress) but was not considered further.

- In June, the House rejected a bill (H.R. 2278, 112th Congress) that would have prohibited the use of appropriated funds for military operations in Libya, with exceptions for search and rescue; intelligence, surveillance, and reconnaissance;

[50] NARA, Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2011, Book 1 (Washington, DC: GPO, 2014), Address to the Nation on the Situation in Libya, March 28, 2011, pp. 306-311.

[51] On April 5, 2011, the Senate voted on a motion by Senator Rand Paul to commit a pending bill (S. 493) to the Committee on Foreign Relations, with instructions to report back forthwith with an amendment stating the sense of the Senate that "the President does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation." The debate focused on the operation in Libya, and the Senate tabled the motion. See Senator Reid motion to table Senator Paul motion to commit S. 493, Adopted by recorded vote: 90-10, in Senate debate, *Congressional Record*, vol. 157, no. 48 (April 5, 2011), pp. S2110-S2111.

[52] Representative Conyers Amendment number 61 to H.R. 1540, Adopted by recorded vote: 416-5, Roll no. 366, May 26, 2011, debated in *Congressional Record*, vol. 157, no. 73-Part II (May 25, 2011), pp. H3673-H3674; and, Representative Conyers Amendment to H.R. 2219, adopted by voice vote, in House debate, *Congressional Record*, vol. 157, no. 100 (July 7, 2011), pp. H4737–H4738.

[53] U.S. Department of State, *Overview of United States Activities in Libya*, Report to Congress, June 15, 2011.

aerial refueling; and operational planning.[54] The House also rejected a series of other resolutions seeking to direct the removal of U.S. armed forces from Libya or, alternatively, to explicitly authorize continuing U.S. participation in NATO's Operation Unified Protector.[55]

Also in June, the Senate Foreign Relations Committee debated and reported a proposed authorization for the use of military force in Libya (S.J.Res. 20, 112th Congress), but the measure was not taken up on the Senate floor.[56] Committee Members discussed the Obama Administration's views on the President's war powers as they related to Libya in a June 28 hearing with the State Department Legal Advisor.[57]

Debate between Congress and the Obama Administration about congressional authorization and the cost of U.S. military operations in Libya diminished as developments in Libya made a sustained U.S. military campaign less likely. Libyan rebels isolated Qadhafi's remaining strongholds in western Libya in August 2011, and thereafter U.S. participation in NATO operations became more limited in scope and intensity. U.S. military involvement in Libya in support of allied operations continued until October 2011, when Qadhafi's death at the hands of rebel militiamen brought an ostensible end to the uprising. The cost of the 2011 U.S. military operations in Libya was estimated between $1 billion and $2 billion.[58] No U.S. military personnel were killed.

Members of Congress welcomed the announcement of Libya's liberation and the formation of an interim cabinet, while expressing concern about security in the country, weapons proliferation, and the prospects for a smooth political transition—including implications for U.S. financial resources. Securing stockpiles of Libyan conventional and chemical weapons emerged as an issue of congressional focus. In the National Defense Authorization Act for 2012, Congress directed the President to "develop and implement, and from time to time update ... a comprehensive strategy to reduce and mitigate the threat posed to United States citizens and citizens of allies of the United States from man-portable air-defense systems that were in Libya as of March 19, 2011."[59] As noted above, Congress did not enact House-endorsed limits on the use of defense funds for military operations in Libya, but did reassert congressional views about the validity of the War Powers Resolution (P.L. 93-148) in the conference report on the FY2012 Defense Appropriations Act. In the FY2012 foreign aid appropriations measure, Congress also directed that up to $20

[54] "Limiting Use of Funds for Armed Forces in Libya," House debate, *Congressional Record*, vol. 157, part 92 (2011), pp. H4550-H4564. Failed by recorded vote: 180-238 (Roll no. 494), June 24, 2011.

[55] H.Con.Res. 51 would have directed the President to remove U.S. forces from Libya pursuant to section 5(c) of the War Powers Resolution (50 U.S.C. 1544(c)). It failed on passage by a vote of 148-265 (Roll no. 412), June 3, 2011. H.J.Res. 68 would have authorized the President for one year from passage "to continue the limited use of the United States Armed Forces in Libya, in support of United States national security policy interests, as part of the NATO mission to enforce United Nations Security Council Resolution 1973 (2011)." It failed on passage by a vote of 123-295 (Roll no. 493), June 24, 2011.

[56] For a record of the committee's consideration, see S.Rept. 112-27.

[57] U.S. Congress, Senate Committee on Foreign Relations, *Libya and War Powers*, hearing, 112th Cong., 1st sess., June 28, 2011, S. Hrg. 112–89 (Washington, DC: GPO, 2011).

[58] Remarks of Vice President Joseph R. Biden, State of the Union, CNN, October 23, 2011. President Obama later estimated that the U.S. operations had cost $1 billion. See Jeffrey Goldberg, "The Obama Doctrine," *The Atlantic*, April 2016.

[59] Section 1243 of P.L. 112-81, December 31, 2011. A House subcommittee held a hearing on the topic of securing weaponry in the aftermath of regime change in July 2012. U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Terrorism, Nonproliferation, and Trade, *When Regimes Fall: The Challenge of Securing Lethal Weapons*, hearing, 112th Cong., 2nd sess., July 19, 2012, H. Hrg. 112-163., (Washington, DC: GPO, 2012).

million should be made available for transition support in Libya, but directed that the funds be made available to the extent possible with matching Libyan contributions and prohibited non-loan based assistance for infrastructure projects.[60]

Observations

The military intervention in Libya motivated the President and Members of Congress to articulate their views and rationales about its relative necessity, advisability, and likely effects. It also prompted them to consider their views on the relative authorities of the President and Congress to initiate military operations for civilian protection purposes and sustain military operations in support of partners for more than the 60-day period envisioned by the War Powers Resolution (P.L. 93-148).[61] President Obama in 2011 asserted his authority to initiate military operations that were limited in nature, duration, and scope. His Administration proposed a four-part test for use in defining whether or not military operations constitute "hostilities" under the War Powers Resolution.[62]

Congress considered measures that would variously have provided or withdrawn authorization and/or funding for U.S. military action, but congressional majorities declined to direct an immediate end to U.S. military operations or to authorize them expressly. U.S. operations ended before newly appropriated funds may have become necessary to sustain the activities. Via public statements, media interviews, and legislative proposals, Members stated a range of views about the President's war powers and Congress' proper role and responsibilities with regard to presidentially initiated military operations.

The ambiguity of developments in Libya and the unfamiliarity of U.S. officials and Members of Congress with emerging Libyan protagonists may have contributed to differences of opinion in Washington over U.S. policy toward the unrest. Obama Administration officials directly and publicly acknowledged their uncertainty about what could follow Qadhafi and predicted that the United States would have a limited ability to influence outcomes in Libya should Qadhafi's government fall. Some Members recommended that the Administration extend official recognition to Libyan opposition members, while others asked about the role of Islamists in the anti-Qadhafi uprising and the potential for extremists to exploit the situation.

In early March 2011, the White House set up a special team of officials to consider potential outcomes in Libya.[63] On March 10, Director of National Intelligence (DNI) James Clapper discussed various scenarios in testimony before the Senate Armed Services Committee. Among the identified scenarios were that post-Qadhafi Libya could see a "reversion to the pre-Qadhafi, pre-king history of Libya, in which there were three semiautonomous mini-states" or end up dominated by autonomous armed groups like contemporary Somalia.[64] On March 31, Secretary of Defense Robert Gates said in testimony before the Senate Armed Services Committee

[60] Section 7041(f) of Division I, P.L. 112-74, December 23, 2011.

[61] See CRS Report R42699, *The War Powers Resolution: Concepts and Practice*, by Matthew C. Weed.

[62] Testimony of State Department Legal Advisor Harold Hongju Koh in U.S. Congress, Senate Committee on Foreign Relations, *Libya and War Powers*, hearing, 112th Cong., 1st sess., June 28, 2011, S. Hrg. 112–89 (Washington, DC: GPO, 2011). See also, Harold Hongju Koh, "Address: The War Powers and Humanitarian Intervention," *Houston Law Review*, 53:4, 2016, pp. 971-1033.

[63] Interviews with senior Administration officials cited in Christopher Chivvis, *Toppling Qaddafi: Libya and the Limits of Liberal Intervention*, (Cambridge, UK: Cambridge University Press, 2013), p. 162.

[64] Testimony of Director of National Intelligence James Clapper in U.S. Congress, Senate Committee on Armed Services, *The Current and Future Worldwide Threats to the National Security of the United States*, hearing, 112th

> I think one of the challenges that we're all going to face when Qadhafi falls is, as you suggest, 'What comes later?' I think we shouldn't exaggerate our ability to influence that outcome. The tribes will have a big influence, whether the military splits or if the military turns on Qadhafi. There are a number of different alternative outcomes here, only one of which is some sort of proto-democracy that moves toward a protection of rights and so on. So, I think we have to be realistic about that.[65]

Challenges that arose during the period of U.S. reengagement with Qadhafi foretold difficulties that would plague U.S. efforts during the post-2011 transition. Qadhafi's hobbling of national bureaucracies had hollowed out the state's ability to deliver services, his manipulation of subnational groups exacerbated local, regional, and tribal tensions, and his personalization and corruption of national security forces left few credible, capable partners for restoring order. In 2016, President Obama acknowledged that these factors meant "our ability to have any kind of structure there that we could interact with and start training and start providing resources broke down very quickly."[66] President Obama also then expressed disappointment that U.S. partners in Europe had not done more to help stabilize Libya after Qadhafi's fall, saying, "I had more faith in the Europeans, given Libya's proximity, being invested in the follow-up."[67]

During the 2011 U.S. intervention, Congress actively questioned Administration officials about their working assumptions about what a post-Qadhafi Libya might look like and sought details about U.S. plans and preparations for securing U.S. interests vis-a-vis Libya under various scenarios. Following Qadhafi's death, Congress did not hold a hearing specifically about Libya until after the terrorist attacks on U.S. facilities in Benghazi in September 2012, which shifted the thrust of congressional engagement. As noted above, Congress conducted eight investigations into the Benghazi attacks, including that by a House Select Committee.

Libya-related proposals introduced in the second session of the 112th Congress (2012) sought to ensure that Libya's transitional leaders cooperated with investigations of past terrorism cases dating from the Qadhafi era, pay related compensation claims in full, or reimburse the United States for the cost of the 2011 military operations.[68] The domestic political fallout of the Benghazi attacks in the United States and intensifying competition for influence among Libyan factions and their foreign supporters further limited U.S. engagement after September 2012. Whereas others in the region and U.S. policymakers looked at Tunisia as a contested but successful transition case, Libya offered a cautionary example of perils that could follow regime change.

Libya and Demonstration Effects

Some Members of Congress and Obama Administration officials stated that one important consideration in their responses to the Libya crisis was the demonstration effect that proposed courses of action might have on parallel crises in other regional countries and the reputational effects that U.S. responses might have globally. Initial U.S.

Cong., 1st sess., March 10, 2011, S. Hrg. 112-159 (Washington, DC: GPO, 2011).

[65] Testimony of Secretary of Defense Robert Gates, in U.S. Congress, Senate Committee on Armed Services, *Operation Odyssey Dawn and the Situation In Libya*, hearing, 112th Cong., 1st sess., March 31, 2011, S. Hrg. 112-162 (Washington, DC: GPO, 2011).

[66] Jeffrey Goldberg, "The Obama Doctrine," *The Atlantic*, April 2016. In his January 2021 confirmation hearing, Secretary of State Antony Blinken similarly said "we didn't fully appreciate the fact that one of the things Qaddafi had done over the years was to make sure that there was no possible rival to his power. And as a result, there was no effective bureaucracy, no effective administration in Libya with which to work when he was gone. That made things much more challenging than I think we understood." *Bloomberg Government Transcripts*, "Senate Foreign Relations Committee hearing on the Nomination of Antony Blinken to be Secretary of State," January 20, 2021.

[67] Jeffrey Goldberg, "The Obama Doctrine," *The Atlantic*, April 2016.

[68] See 112th Congress, S. 1520, H.R. 3725, and H.Con.Res. 75.

statements about violence in Libya grouped the country with others experiencing unrest during the "Arab Spring" and called on all governments to avoid violence against civilians. Libyan leaders' use of deadly military force against protestors and insurgents alike soon differentiated the Libyan situation, and U.S. leaders faced questions about how they would respond. Some Members argued that U.S. action or inaction could each contribute to the creation of standards by which others would judge the United States and on which others (including U.S. adversaries and other governments facing unrest) would base future assumptions. In calling for U.S. intervention in Libya, Senator John McCain stated his view that U.S. nonintervention would serve as

> a dangerous counter-example to the revolutions in Egypt and Tunisia. It would signal to rulers across the region that the best way to maintain power in the face of peaceful demands for justice is through swift and merciless violence. ... Perhaps the greater concern for us all should be what it would mean for America's credibility and moral standing if a tyrant were allowed to massacre Arabs and Muslims in Libya and we watched it happen.[69]

President Obama made a similar argument in his March 18, 2011 statement on Libya suggesting that if Qadhafi were left unchecked to commit atrocities, "The democratic values that we stand for would be overrun. Moreover, the words of the international community would be rendered hollow."

At the same time, others in Congress aimed to reduce the duration and cost of U.S. military entanglements, citing the wars in Iraq and Afghanistan. Representative John Conyers, principal sponsor of two amendments adopted by the House to restrict the use of defense funding for ground operations in Libya argued,

> The time has come for Congress to once again exercise its constitutional authority to place boundaries on the use of our military forces overseas and clearly state that this conflict in Libya will not escalate into an expensive occupation that could strain our resources and harm our national security interests.[70]

The limited, coalition-based U.S. military operation in Libya—arguably designed with potential domestic constraints in mind—suggested a conditional U.S. willingness to use some types of military force to protect civilians as part of a coalition under an international mandate (manifest in U.N. Security Council Resolution 1973). Those conditions would prove elusive in other cases, such as Syria, where Russia and China actively blocked consensus in Security Council bodies or vetoed resolutions, at times citing the example of Libya. U.S. domestic debate over the 2011 Libya intervention and U.S. policy in its immediate wake also may have suggested a limited U.S. willingness to take on new, unilateral, and/or long-term foreign policy commitments.

Separately, prior to 2011, some in Congress believed that Qadhafi's decisions to renounce terrorism and divest of his weapons of mass destruction programs could serve as a positive example to others who the United States hoped would make similar decisions. Qadhafi's use of force against Libya civilians in 2011 raised questions about the wisdom of U.S. reengagement, and his commitment to disarmament later was shown to have been incomplete.[71] Observers have continued to discuss what the reimposition of U.S. sanctions and military intervention against Qadhafi has meant for the applicability of the so-called Libya model of 'reengagement for disarmament' to other cases.[72]

After the Benghazi attacks, Congress continued to appropriate funds for transition assistance, but conditioned the availability of those funds on certification of Libyan cooperation with the U.S. Benghazi investigation. Congress did not act to disapprove the Obama Administration's January 2014 proposal to assist Libya in creating a General Purpose Force (a component of an envisaged

[69] Statement of Senator John McCain, in U.S. Congress, Senate Committee on Armed Services, *The Current and Future Worldwide Threats to the National Security of the United States*, hearing, 112th Cong., 1st sess., March 10, 2011. S. Hrg. 112-159, (Washington, DC: GPO, 2011). See also Senator McCain colloquy with Senator Joseph Lieberman, in Senate, *Congressional Record* ,vol. 157, no. 38 (March 14, 2011), pp. S1579-S1584.

[70] Representative John Conyers, in House, *Congressional Record*, vol. 157, no. 73-Part II (May 25, 2011), p. H3674.

[71] "Despite Libya's apparently unprecedented cooperation—including a voluntary renunciation of WMD [weapons of mass destruction], revelations of previously undeclared facilities, and delivery of substantial amounts of equipment and materials—it was still able to conceal a stockpile of CW [chemical weapons] and delivery vehicles." Nathan E. Busch and Joseph F. Pilat, "Disarming Libya? A reassessment after the Arab Spring," *International Affairs* (Royal Institute of International Affairs) Vol. 89, No. 2 (March 2013), pp. 451-475.

[72] See, for example, Uri Friedman, "The Word That Derailed the Trump-Kim Summit, *The Atlantic*, May 24, 2018.

reformed national military) to improve security, but, later that year, the reemergence of civil conflict among Libyans brought an end to those plans and led to the departure of all U.S. diplomatic personnel from the country.[73]

The 2014 conflict polarized Libyans and paralyzed Libya's transition, and subsequent U.S. efforts focused on supporting U.N.-sponsored negotiations among Libyans and their foreign patrons. Islamic State supporters took advantage of Libya's disorder to establish an affiliate branch of the group in the country in 2014 and in 2015 seized the central city of Sirte. Western Libyan militia forces recaptured it in 2016 with limited U.S. military intervention under the auspices of Operation Odyssey Lightning. The Trump Administration lowered the profile of U.S. diplomacy toward Libya, and intervention by other foreign actors in Libya increased after 2017. Renewed conflict in 2019 and 2020 followed the eastern Libya-based Libyan National Army movement's attempt to seize power from internationally recognized Government of National Accord. A U.N.-brokered ceasefire was in place at the end of 2020, but foreign forces and mercenaries remained present.

Egypt: Aid Conditionality and Human Rights[74]

Over the course of the decade from 2011 through 2020, the fundamental elements of U.S. policy toward Egypt—the Arab world's most populous country and largest historical recipient of U.S. assistance—stayed remarkably constant. On balance, U.S. policy remained focused on sustaining U.S.-Egyptian military-to-military ties while advocating for respect of democratic principles and human rights in Egypt's newly tumultuous domestic politics. As Egypt transitioned from the resignation of President Hosni Mubarak in 2011 to the election of Mohamed Morsi as Egypt's first democratically elected president in 2012, and then to Morsi's subsequent ouster by current President Abdel Fattah al Sisi in 2013, U.S. officials and lawmakers debated how best to support or pressure the Egyptian government during swings from autocracy to limited democracy and back to authoritarianism.

In response to political changes in Egypt from 2011 through 2016, the Obama Administration altered U.S. foreign aid to Egypt, and strains increased in U.S.-Egyptian relations.[75] From 2017 through 2020, some bilateral tensions diminished as President Trump sought to improve ties with President Sisi. Nevertheless, President Trump only partially restored some of the foreign aid benefits removed during President Obama's tenure, and President Trump took some additional steps to cut military aid to Egypt.

This case study focuses on the role Congress played during this pivotal decade in U.S.-Egyptian relations. Historically, Congress had placed certain conditions on economic aid to Egypt prior to 2011.[76] After Egypt's 2011 uprising and initial change of government, Congress added (and has maintained) various certification and reporting requirements that aim to ensure that Egypt is sustaining its strategic relationship with the United States and upholding its peace treaty with

[73] U.S. Defense Security Cooperation Agency Transmittal No. 13-74, January 22, 2014. U.S. engagement with Libyan counterparts continued via a Libya External Office established within the U.S. Embassy in Tunis, Tunisia.

[74] Prepared by Specialist in Middle Eastern Affairs Jeremy Sharp and Research Assistant Sarah Collins.

[75] For background, see CRS Report RL33003, *Egypt: Background and U.S. Relations*, by Jeremy M. Sharp.

[76] From the late 1990s through FY2005, Congress specified that economic aid (ESF cash transfer) would be provided "with the understanding that Egypt will undertake significant economic reforms" beyond those previously undertaken. Beginning in the FY2006 appropriations act (P.L. 109-102), Congress changed the phrasing of this condition to include "significant economic *and political* reforms" (emphasis added). Beginning in FY2008 and thereafter through FY2010, Congress changed the condition phrasing to "significant economic and *democratic* reforms." For FY2010, Congress also allocated "up to" $20 million for democracy, human rights and governance programs, and "not less than" $35 million for education programs. See Division F, Title III, *Economic Support Fund*, P.L. 111-117.

Israel. Lawmakers also have conditioned, and in some cases withheld, U.S. military aid to Egypt on executive branch certifications to the Committees on Appropriations that the Egyptian government is taking steps toward democratic governance and supporting human rights.

In imposing these democracy and human rights certification requirements via successive appropriations measures, Congress also has allowed the executive branch to waive most of them on national security grounds, which successive Administrations largely have done. Due to the scope and complexity of U.S. assistance to Egypt and the course of Egypt's post-2011 political changes, related provisions often reflected consideration of various contingencies and possible outcomes. Through legislative provisions, Congress created mechanisms for additional required consultation between the executive branch and Congress, principally though the Committees on Appropriations.

This case study documents selected examples of aid conditionality on U.S. foreign assistance to Egypt from 2011 to 2020. It primarily focuses on conditions related to Egypt's ties to the United States and Israel and its progress, or lack thereof, in advancing democracy and human rights. It does not cover all such provisions exhaustively. Other instances of aid conditions pertaining to Egypt's treatment of individual U.S. citizens or Egypt's policies in the Sinai Peninsula are discussed in other CRS products.[77]

Mubarak's Resignation and Military Rule: 2011-2012

As protests mounted in Egypt in early 2011, President Obama pressed President Mubarak to provide for an orderly transition to greater democracy, without explicitly calling for his immediate resignation.[78] When Mubarak stepped down on February 11 and a council of military commanders announced an interim government, President Obama stated, "The people of Egypt have spoken, their voices have been heard, and Egypt will never be the same… But this is not the end of Egypt's transition. It's a beginning."[79] In the months following Mubarak's resignation, the Obama Administration focused on developing contacts with new political forces, working with the ruling military to ensure a smooth transition to an elected civilian-led government, and offering support to stabilize the economy. Starting in early 2011, the Administration and Members of Congress debated the appropriate types, scope, and scale of U.S. transition assistance.

As with Tunisia, the President and Congress found common support for the use of enterprise funds, which are U.S. government-funded entities whose purpose is to promote the development and strengthening of a private sector in a foreign country by directly investing in its local firms. In May 2011, President Obama laid out his Administration's initial response to the MENA uprisings by remarking that U.S. officials were "working with Congress to create enterprise funds to invest in Tunisia and Egypt. And these will be modeled on funds that supported the transitions in Eastern Europe after the fall of the Berlin Wall."[80] As noted above ("Tunisia: Transition Assistance and Oversight"), in December 2011, Congress drew on a late Cold War precedent to authorize the establishment of enterprise funds in Tunisia and Egypt in the FY2012 SFOPS appropriations act (Division I, Section 7041(b), P.L. 112-74, see textbox).

[77] e.g. CRS Insight IN11216, *Egypt: Death of American Citizen and Congressional Response*, by Jeremy M. Sharp.

[78] NARA, Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2011, Book 1 (Washington, DC: GPO, 2014), Remarks on the Situation in Egypt, February 1, 2011, pp. 69-70.

[79] NARA, Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2011, Book 1 (Washington, DC: GPO, 2014), Remarks on the Situation in Egypt, February 11, 2011, pp. 103-104.

[80] NARA, Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2011, Book 1 (Washington, DC: GPO, 2014), Remarks at the Department of State, May 19, 2011, pp. 552-60.

The Egyptian-American Enterprise Fund

The Egyptian-American Enterprise Fund (EAEF) was established by grant agreement with USAID on March 23, 2013. After seven years in operation, it generally has been considered a modest success in boosting Egypt's private sector, particularly in the financial and technology sectors. According to USAID, the EAEF produced an annual return of 17.5% and has helped create 5,000 new full-time jobs, attracted several hundred million dollars in foreign direct investment, and seeded some of the top private equity funds in Egypt.[81]

At the same time, lawmakers also enacted new restrictions on aid to Egypt that have carried forward to today. The same 2012 SFOPS appropriations act (Section 7041 of Division I, P.L. 112-74) specified that no funds could be made available to Egypt until the Secretary of State certified that Egypt was meeting its obligations under the 1979 Egypt-Israel Peace Treaty (due to concerns that a future democratically elected Egyptian government might abrogate the treaty). It further specified that no military funds could be provided until the Administration certified that the government of Egypt was supporting a transition to civilian rule, including by holding free and fair elections and by implementing policies to protect freedom of expression, association, and religion, and due process of law. It permitted the Secretary of State to waive these requirements by reporting to Congress with a "detailed justification" that doing so was "in the national security interest of the United States."

The 2012 appropriations act also eliminated the early disbursal of FMF funds for Egypt, and since then, the conditions imposed on FMF obligations for Egypt have varied relative to political conditions in Egypt and corresponding congressional priorities. Appropriations provisions have sought to link aid to transition benchmarks and human rights conditions, while also providing for continuity in U.S.-Egyptian strategic ties and military cooperation. (See "President Sisi: 2014-Present" below).[82]

The popular uprising in Egypt unleashed a wave of pent-up anti-Americanism due to the decades-old U.S. relationship with the former Mubarak regime. Even as longstanding U.S.-Egyptian defense cooperation continued during the 16-month rule of the interim military government that followed Mubarak, some Egyptian leaders and politicians demonstrated and encouraged anti-American sentiment. During this time, the Egyptian military pushed back against U.S. support for a competitive, transparent electoral process.[83] After reasserting power in 2013, the military moved

[81] USAID, "Activity Fact Sheet: Egyptian-American Enterprise Fund, available at https://www.usaid.gov/egypt/economic-growth-and-trade/egyptian-american-enterprise-fund.

[82] Between FY2001 and FY2011, Congress granted Egypt early disbursement of FMF funds (within 30 days of the enactment of appropriations legislation) to an interest bearing account at the Federal Reserve Bank of New York. Egypt could then use any interest accrued after the rapid aid disbursement to purchase U.S.-origin equipment. In FY2012, Congress began to condition FMF obligations, requiring the Administration to certify certain conditions had been met before releasing FMF funds, thereby effectively eliminating their automatic early disbursal (Section 7041(a) of Division I, P.L. 112-74). Most recently, the FY2021 appropriations act allowed for FMF funds for Egypt to be transferred to an interest bearing account at the Federal Reserve Bank of New York "following consultation with the Committees on Appropriations" (Division K, Section 7041(a)(3)(A), P.L. 116-260). The act further stated, "the uses of any interest earned on such funds shall be subject to the regular notification procedures of the Committees on Appropriations."

[83] Prior to 2011, U.S. funding for democracy promotion activities and good governance had been a source of acrimony between the United States and Egypt. Using the appropriations process, Congress has mandated that "democracy and governance activities shall not be subject to the prior approval by the government of any foreign country." Originally referred to as the Brownback amendment, this legislative language began in reference to Egypt (Division D, Title II, *Economic Support Fund*, P.L. 108-447), and was expanded in FY2008 to include "any foreign country." (Division J, Sec. 634(o), P.L. 110-161).

to arrest American employees (as well as Egyptian and other foreign nationals) of U.S.-based and foreign democracy promotion organizations.[84]

The Morsi Presidency: 2012-2013

In Egypt's first post-Mubarak presidential election (May-June 2012), Mohamed Morsi—a leading figure in the Muslim Brotherhood—became that nation's first democratically elected president. Obama Administration officials cautiously engaged the new Egyptian government following the election. As Morsi engaged in an increasingly open power struggle with military commanders and struggled to respond to a surge in domestic terrorist attacks, Administration officials attempted to balance U.S. interests in maintaining close ties to the Egyptian military with the desire to acknowledge the legitimacy and authority of Egypt's newly elected civilian leaders.

In Congress, there was hesitancy amongst some lawmakers to embrace the Morsi presidency for a variety of reasons, including skepticism over the democratic bona fides of the Muslim Brotherhood; concern over whether Morsi would adhere to the 1979 Israel-Egyptian peace treaty; and doubt over whether Morsi would crackdown on terrorist groups in Egypt. As a result, some Members attempted to restrict U.S. foreign aid and arms sales to Egypt. For example, between 2012 and 2013, Lockheed Martin had been scheduled to deliver 20 F-16 jet fighters (valued at an estimated $2.5 billion) to Egypt under a sale notified to Congress in 2009 and contracted in 2010.[85] When the State Department notified the planned sale of these F-16 fighters to Egypt in 2009, Congress did not object. However, with Morsi in power, some lawmakers in 2013 proposed prohibiting the United States from delivering F-16s to Egypt, and maintained their objections following Morsi's ouster.[86] Ultimately, related legislative proposals were not enacted and the aircraft were delivered by the end of 2015.

On September 28, 2012, the Obama Administration notified Congress of its intent to provide a $450 million cash transfer to Egypt. The notification was issued weeks after a violent gathering outside the U.S. Embassy in Cairo in which a mob breached the Embassy walls and replaced the U.S. flag with a black flag associated with Islamist extremist movements. Some in Congress expressed outrage at the incident and questioned the provision of U.S. foreign assistance to Egypt.[87]

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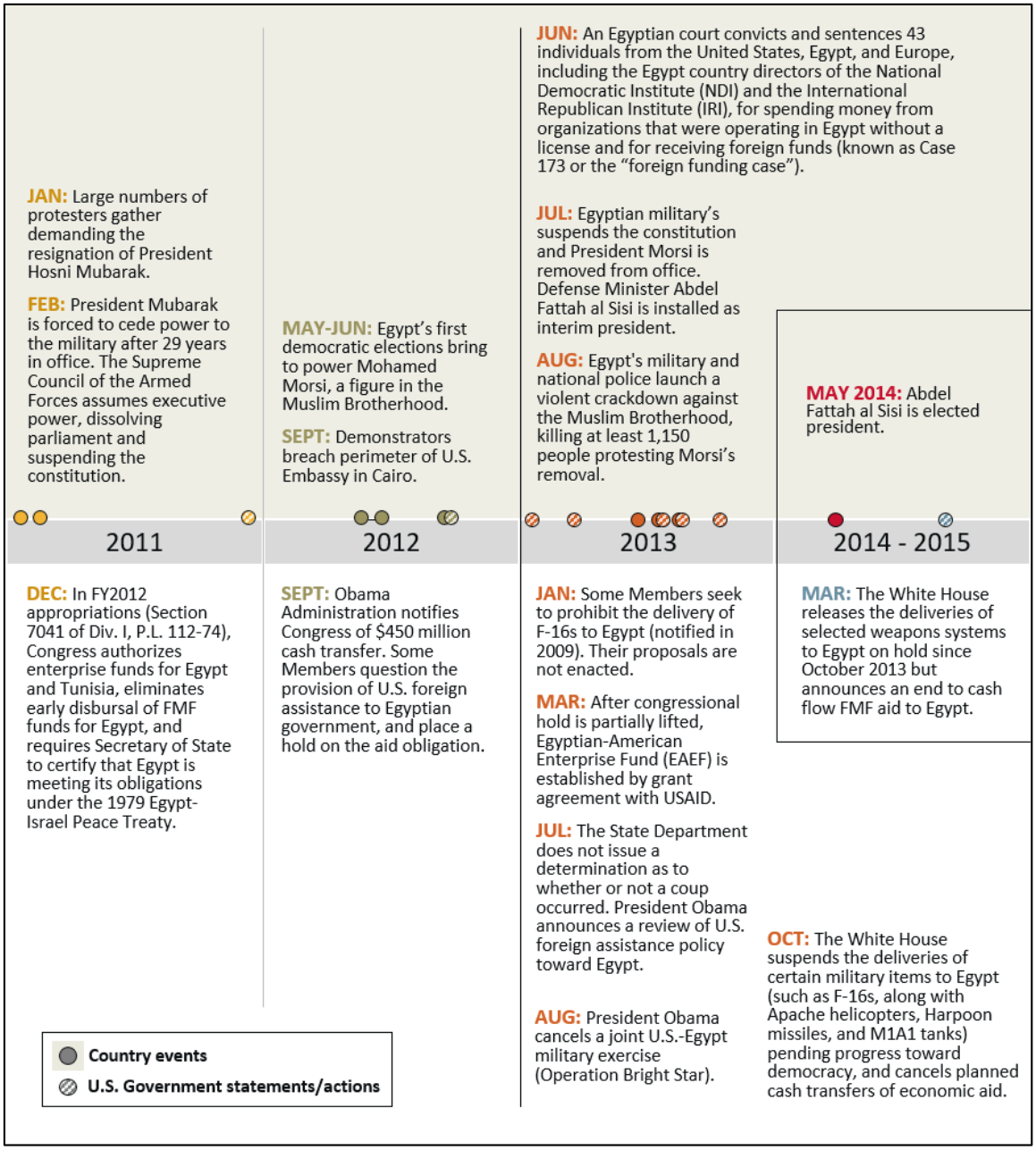
[84] From FY2014 to FY2019, Congress mandated in annual appropriations legislation that the Secretary of State shall withhold an amount of ESF to Egypt determined to be equivalent to that expended by the United States Government for bail, and by nongovernmental organizations for legal and court fees, associated with democracy-related trials in Egypt until the Secretary certifies that Egypt has dismissed the convictions issued by the Cairo Criminal Court on June 4, 2013. In 2013, an Egyptian court convicted and sentenced 43 individuals from the United States, Egypt, and Europe, including the Egypt country directors of the National Democratic Institute (NDI) and the International Republican Institute (IRI), for spending money from organizations that were operating in Egypt without a license and for receiving foreign funds (known as Case 173 or the "foreign funding case"). More than five years later, the 43 defendants in Case 173 were acquitted in a retrial.

[85] U.S. Defense Security Cooperation Agency Transmittal No. 09-34, October 9, 2009. Since 1980, under the Peace Vector Foreign Military Sales Program, Egypt has acquired over 220 F-16s. It is the fourth largest operator of the F-16 after the United States, Israel, and Turkey.

[86] For example, see 113th Congress, S.Amdt. 9 to H.R. 325, the No Budget, No Pay Act of 2013. On January 31, 2013, the Senate tabled the amendment. See Leahy motion to table S.Amdt. 9, Adopted by recorded vote: 79-19 (Roll. no. 9), in Senate, *Congressional Record*, vol. 159, no. 14 (January 31, 2013), debate pp. S424-S425, vote pp. S427-S428.

[87] See e.g. Representative Jeff Fortenberry, "The Storming of Our Embassies: An Attack Against America," in House of Representatives, *Congressional Record*, Vol. 158, No. 122 (September 12, 2012), p. H5869; Representative Ted Poe, "Time to Rethink our Foreign Aid," in House of Representatives, *Congressional Record*, Vol. 158, No. 128 (September 20, 2012), H6158-9; and, Senator Marco Rubio, "The Middle East," *Congressional Record*, Vol. 158, No. 128 (September 20, 2012), S6488-6490

Figure 4. Timeline: Selected Events in Egypt and U.S. Responses



Source: Prepared by CRS using media reports and U.S. government statements.

Representative Kay Granger, chair of the House Appropriations Subcommittee on State and Foreign Operations, placed a hold[88] on the $450 million cash transfer, blocking its disbursement,

[88] On holds, which in practice may allow the leadership of congressional committees of jurisdiction to delay or block funds that have already been appropriated, see CRS In Focus IF11515, U.S. Foreign Assistance: Budget Development and Execution, by Nick M. Brown. Formally, the relevant legal provisions pertaining to aid after appropriation only require the Administration to notify relevant committees, but do not offer authority for the committees to block the obligation of funds. Informally, the executive branch and committees of jurisdiction have arrangements for managing legislators' objections raised during required notification review periods. Executive branch officials have consistently

stating, "This proposal comes to Congress at a point when the U.S.-Egypt relationship has never been under more scrutiny, and rightly so. I am not convinced of the urgent need for this assistance and I cannot support it at this time."[89] House Foreign Affairs Committee Chair Ileana Ros-Lehtinen also placed a hold on the aid.[90] The holds remained in place until lawmakers lifted them on the first tranche of $190 million only, allowing U.S. budget support to Egypt in March 2013.[91] The Obama Administration placed the remaining $260 million under review and in October announced that it would not proceed.[92]

President Sisi: 2014-Present

On July 3, 2013, the Egyptian military suspended the constitution and ousted President Morsi. These events led U.S. policymakers to engage in activities to preserve strategic aspects of the U.S.-Egypt relationship and to express displeasure at the change in Egypt's government.

Some lawmakers sought to protect aid to Egypt by amending appropriations language that could have prohibited U.S. funding. Section 7008 of the annual SFOPS appropriations act[93] prohibits foreign assistance to a country whose elected head of government is deposed by military coup d'état or decree.[94] The provision does not impose a timeline on the executive branch determination of whether or not a coup has occurred, and the State Department did not issue one with respect to Egypt. In the FY2014 SFOPS appropriations act, Congress enacted language that made funds available for Egypt, subject to certain conditions, "notwithstanding any other provision of law restricting assistance for Egypt." Congress since has maintained that notwithstanding language in annual SFOPS measures, in effect exempting Egypt from restrictions that could have accompanied a coup determination.[95]

Congress has otherwise conditioned the obligation of all assistance to Egypt since FY2012 by requiring certification by the Secretary of State that Egypt is "sustaining the strategic relationship with the United States" and is "meeting its obligations under the 1979 Egypt-Israel Peace Treaty."[96] From FY2014 onward, Congress has not provided a waiver for these overarching requirements.

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maintained the position that standard provisions on foreign assistance obligations impose "notification and wait" requirements and that congressional objections to obligation notifications do not legally bind the executive branch.

[89] Reuters, "U.S. plan for emergency Egypt aid hits roadblock," September 28, 2012.

[90] Josh Rogin, "Ros-Lehtinen rejects Obama's plan to send $450 million to Egypt—in Spanish," *Foreign Policy*, October 2, 2012.

[91] Emily Cadei, "Obama Push to Aid Egypt Remains Stalled in Congress," *CQ Roll Call*, November 13, 2012; and Reuters, "U.S. to give Egypt budget aid after assurance on IMF: Kerry," March 3, 2013.

[92] "U.S. withholding of aid to Egypt military includes hundreds of millions of dollars," Reuters, October 9, 2013; and, U.S. Government Accountability Office, *Egypt: U.S. Government Should Examine Options for Using Unobligated Funds and Evaluating Security Assistance Programs*, GAO-15-259, February 2015.

[93] In 2013, the relevant legislation had been Division I, P.L. 112-74; 125 Stat. 1195.

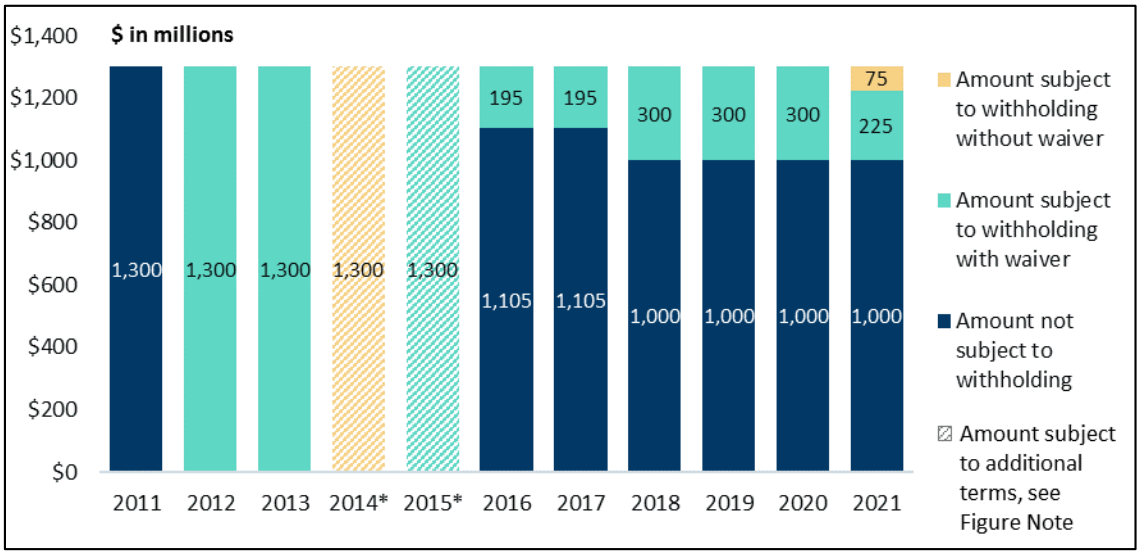
[94] For background, see CRS In Focus IF11267, *Coup-Related Restrictions in U.S. Foreign Aid Appropriations*, by Alexis Arieff, Marian L. Lawson, and Susan G. Chesser.

[95] As of 2020, in annual State and Foreign operations (SFOPs) legislation, Congress made an additional exception to the "notwithstanding" clause in the SFOPS subsection on Egypt (currently, Division K, Sec. 7041(a), P.L. 116-260): Section 620M of the Foreign Assistance Act of 1961, as amended (known as the "Leahy Law," pertaining to human rights vetting for recipients of U.S. security assistance).

[96] Previously, Congress had required these certifications in the FY2012 SFOPS appropriations act but provided a waiver. By reference, they applied to FY2013 appropriations under the terms of P.L. 113-6, the Consolidated and Further Continuing Appropriations Act, 2013.

Figure 5. Egypt: Withholding Conditions on U.S. Military Assistance Allocations

in millions of current dollars



Source: Prepared by CRS based on Foreign Military Financing (FMF) allocations and terms from annual SFOPS appropriations acts, FY2011-FY2021.

Note: In FY2014, Congress did not provide a waiver for certification requirements, but allowed for the obligation of tranches of aid for defined purposes and at defined rates if the executive branch could not make certain democracy and human rights-related certifications. For FY2015, Congress again linked aid tranches and rates to certain democracy and human rights-related certifications, but provided a waiver. From FY2012 through FY2021, Congress conditioned all U.S. assistance to Egypt by requiring the executive branch to certify that Egypt was meeting its commitments under the 1979 Egypt-Israel Peace Treaty and sustaining its strategic relationship with the United States. From FY2014 onward, Congress did not provide a waiver for these certifications.

Other conditions and waiver provisions have varied over time (**Figure 5**). In some years, Congress has further conditioned the obligation aid for Egypt by applying certification requirements to distinct tranches of aid: in FY2014, for example, the Secretary of State was required to certify to the Committees on Appropriations prior to obligation of one tranche that Egypt had held a constitutional referendum and was taking steps to support a democratic transition. Prior to obligation of a second tranche, Congress required certification that Egypt had held parliamentary and presidential elections, and had a new elected government that was taking steps to govern democratically.[97]

The Obama Administration also took several steps to express U.S. displeasure with Morsi's ouster. President Obama announced a comprehensive review of U.S. foreign assistance policy toward Egypt,[98] canceled a joint U.S.-Egypt military exercise (Operation Bright Star), suspended

[97] Congress did not provide a waiver for these conditions, but took steps to allow for the continuation of some aid under some circumstances. Congress provided that if the certifications could not be made, then FMF obligations were to "be made available at the minimum rate necessary to continue existing contracts ... except that defense articles and services from such contracts" were not to be delivered until the certification requirements were met. Congress applied parallel requirements on any use of prior-year FMF and International Military Education and Training (IMET) funds that remained available. Congress exempted funds that were to be used for counterterrorism, border security, and nonproliferation programs in Egypt, and for development activities in the Sinai. Congress applied a similar tranche and minimum rate necessary framework in FY2015, requiring certification of different criteria, and providing a waiver.

[98] NARA, Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2013, Book 2 (Washington, DC: GPO, 2019), Statement on the Situation in Egypt, July 3, 2013, pp 802-3.

the deliveries of certain military items to Egypt (such as F-16s, along with Apache helicopters, Harpoon missiles, and M1A1 tanks) pending progress toward democracy, and cancelled planned cash transfers of economic aid.[99] Ultimately, however, the Obama Administration accepted the Egyptian military's overthrow of a democratically elected president as a *fait accompli* and attempted to redefine certain components of the U.S.-Egyptian relationship.[100]

By the spring of 2015, as terrorist attacks against Egypt continued amid the global rise of the Islamic State, some lawmakers called on the Administration to end its weapons export suspension.[101] The Obama Administration responded with a change in U.S. policy. On March 31, 2015, the White House announced it would allow the deliveries of select weapons systems to Egypt that had been on hold since October 2013, and pledged to continue seeking $1.3 billion in annual military aid from Congress.

However, the White House simultaneously announced that future military assistance to Egypt would be largely reformulated by ending cash flow financing.[102] Section 23 of the Arms Export Control Act (AECA, 22 U.S.C. §2763)[103] authorizes the President to finance the "procurement of defense articles, defense services, and design and construction services by friendly foreign countries and international organizations, on such terms and conditions as he may determine consistent with the requirements of this section." Successive Administrations have used this authority to permit Israel and Egypt to set aside almost all FMF funds for current year payments only, rather than set aside the amount needed to meet the full cost of multi-year purchases.[104]

During 2020, the FY2021 SFOPS appropriations act (Division K, Section 7041, P.L. 116-260), provided a total of $1.42 billion for Egypt in bilateral foreign assistance. As in previous fiscal years (**Figure 5**), the act conditions U.S. foreign assistance to Egypt by withholding some FMF funds from obligation ($225 million out of $1.3 billion total) until the Secretary of State certifies that the Government of Egypt is taking steps to, among other things, strengthen the rule of law, democratic institutions, and human rights in Egypt. The Secretary may waive this certification requirement on national security grounds. The act also includes a condition that withholds $75 million in FMF until the Secretary of State determines that the Government of Egypt is making clear and consistent progress in releasing political prisoners and providing detainees with due process of law. This condition is new in the FY2021 act, and affords no national security waiver.

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[99] U.S. Department of State, "U.S. Assistance to Egypt," Press Statement, October 9, 2013.

[100] President Obama said, "going forward, the United States will maintain a constructive relationship with the Interim Government that promotes core interests like the Camp David Accords and counterterrorism. We'll continue support in areas like education that directly benefit the Egyptian people. But we have not proceeded with the delivery of certain military systems, and our support will depend upon Egypt's progress in pursuing a more democratic path." U.S. President (Obama), "Remarks to the United Nations General Assembly in New York City," Daily Compilation of Presidential Documents, 2013 DCPD-201300655, September 24, 2013, pp. 6-7.

[101] In February 2015, House SFOPS Appropriations Subcommittee Chairwoman Kay Granger wrote to President Obama stating that "They [the Egyptians] need these planes and other weapons immediately to continue the fight against ISIL and other terrorists threatening Egypt's security, but your Administration has refused to use the authority Congress provided you in law to provide Egypt these weapons."

[102] For more information, see out of print CRS Report R44060, *Ending Cash Flow Financing to Egypt: Issues for Congress*, by Jeremy M. Sharp, available to congressional requesters from the author.

[103] Section 23(g)(1) of the AECA requires congressional notification of Letters of Offer and Acceptance (LOAs), amendments, and commercial contracts for $100 million or greater that are partially or totally funded with cash flow financing.

[104] In the past, other countries such as Greece, Portugal, and Turkey have been granted the benefit of cash flow financing but only for specific purchases, such as F-16 aircraft. See, U.S. General Accounting Office (GAO), *Military Sales, Cash Flow Financing*, GAO/NSIAD-94-102R, February 8, 1994.

Observations

While Congress has continued to appropriate over a billion dollars annually in military and economic aid to Egypt, the conditions it has placed on the executive branch's obligation of such assistance have grown significantly since 2011. Even while the Trump Administration sought improved ties with the Sisi government, Congress did not restore the Egyptian military's ability to benefit from cash flow financing. Moreover, President Trump reduced the FY2017 FMF obligation to Egypt by $65.7 million, citing "Egypt's ongoing relationship with the Democratic People's Republic of Korea, lack of progress on the 2013 convictions of U.S. and Egyptian nongovernmental organization (NGO) workers [the aforementioned employees of democracy promotion organizations], and the enactment of a restrictive NGO law that will likely complicate ongoing and future U.S. assistance to the country."[105]

Throughout all three periods of Egypt's delicate political transition, Members ultimately sought to preserve traditional avenues of U.S.-Egyptian defense cooperation by continuing to provide Egypt's military with $1.3 billion annually in FMF and through a combination of "notwithstanding" exceptions and national security waiver authorities. These provisions have provided the executive branch discretion to bypass most congressionally enacted restrictions on the obligation of appropriated funds. The FY2021 restriction on $75 million without a waiver may indicate some shift in congressional views, but is not unprecedented.[106]

Within this broadly consistent approach, lawmakers' reactions to U.S.-Egypt policy have differed in response to changes in Egypt's leadership. During Morsi's presidency, some Members attempted to restrict economic and defense cooperation out of concern that Morsi's leadership threatened democratization efforts and was empowering extremists. During Sisi's tenure, others have supported comparable constraints on U.S. assistance out of concern that the new Egyptian government's practices pose risks to "the rule of law, democratic institutions, and human rights in Egypt."[107] How Congress might in the future balance these impulses with other U.S. strategic concerns remains to be seen, though Congress has not returned to the comparatively permissive appropriations language that applied to U.S. aid to Egypt before 2011.

Syria and Iraq: Security Assistance in Complex Conflicts[108]

In 2013, the Islamic State of Iraq, then an Al Qaeda affiliate, announced that it was merging with the Syria-based Al Nusra Front to form the Islamic State of Iraq and Al Sham (ISIS/ISIL, after 2014 known as the Islamic State, IS).[109] The Islamic State went on to seize vast stretches of territory across Iraq and Syria, which it used as a base to launch attacks throughout the region and beyond and to which it attracted tens of thousands of global volunteers. The threat posed by the group prompted the Obama Administration in 2014 to propose and Congress to authorize two novel security assistance programs to combat it.

[105] Department of State Congressional Notification Transmittal, January 23, 2018.

[106] Congress also did not provide the executive branch with the authority to issue a waiver of certain restrictions on assistance to Egypt in Section 7041(a) of Division K, P.L. 113-76, the FY2014 Consolidated Appropriations Act.

[107] Sec. 7041(a)(3)(i) of Division G, P.L. 116-94.

[108] Prepared by Specialist in Middle Eastern Affairs Christopher Blanchard, Analyst in Middle Eastern Affairs Carla Humud, and Research Assistant Sarah Collins.

[109] Having fought under the name "the Islamic State of Iraq," since 2006, the group in 2013 renamed itself "the Islamic State of Iraq and the Levant (ISIS/ISIL)," and in 2014 began referring to itself simply as "the Islamic State" (IS).

The Syria and Iraq train and equip programs sought to strengthen local forces to combat the Islamic State in different ways. The Syria program initially sought to recruit, train, and equip new non-state forces but later evolved into a training and assistance program for vetted existing armed groups, with which U.S. armed forces sometimes conducted partnered operations. The Iraq program worked largely with preexisting state and sub-state security forces, some of which participated in joint operations with the United States. Guiding both programs were executive and congressional judgments that U.S. armed forces could not unilaterally establish durable security in the region at a sustainable cost when balanced against other global commitments, and that local actors should be supported to enable them to assume primary responsibility for defeating the Islamic State and maintaining stability.[110]

The train and equip programs helped to break the Islamic State's grip on Syria and Iraq with minimal involvement by U.S. ground forces, relative to past operations in Iraq and Afghanistan. Local forces' ground operations, backed at times by U.S. and coalition air strikes and other measures, ended the Islamic State's control of territory in both countries by March 2019.

Security assistance from the United States and other foreign governments also contributed to observable changes in the balance of power and relationships among regional actors in ways that may have lasting effects on U.S. national security and foreign policy interests. Namely, external funding, weaponry, and training empowered emergent armed groups in Syria and made some preexisting security forces in Iraq more formidable and effective.

Members of Congress considered the content, terms, cost, and duration of each program before and during their execution. As operations against remnants of the Islamic State have continued, U.S. debates have focused on the future of the train and equip efforts and on the prospects for transitions toward a smaller U.S. footprint. Congress also has enacted appropriations and authorization provisions encouraging ongoing cooperation to shift from the train and equip framework toward more standard security cooperation arrangements. Both these trends echo elements of policy discussions about military drawdown and aid transition in Iraq during 2010 and 2011. Experience in training and equipping partner forces in Iraq, Afghanistan, and other countries informed the programs' development and authorization. Lessons learned during executive branch implementation and congressional authorization and oversight of the Syria and Iraq train and equip programs may inform future debates about partnership operations in other complex conflict settings.

This case study focuses on the creation and evolution of unique train and equip authorities for Syrians and Iraqis during the period from 2014 through 2020. It discusses, but does not recount or analyze in full, previous political and security developments in both countries. It also does not document comprehensively U.S. policy debates over withdrawal from Iraq in 2011 or possible intervention in the conflict in Syria, including debate in Congress over authorizing aid to Syrian opposition fighters or the use of military force in response to Syrian government chemical weapons use during the Obama and Trump Administrations.

[110] Testimony of Chairman of the Joint Chiefs of Staff General Martin Dempsey, in U.S. Congress, Senate Committee on Armed Services, *United States Strategy and Military Operations to Counter the Islamic State in Iraq and the Levant and United States Policy Toward Iraq and Syria*, hearings, 114th Cong., 1st sess., July 7, 2015, S. Hrg. 114–342 (Washington, DC: GPO, 2016). CENTCOM Commander General Lloyd Austin argued in September 2015 that, "it is important that the people in the country and in the region take ownership and work to put in place lasting solutions. If we don't do that, we will be back in another 2 or 3 years." Ibid.

Training and Equipping Partners in Syria and Iraq

In 2014, at the Obama Administration's request, Congress authorized and funded two distinct train and equip programs for vetted Syrians and Iraqi security forces to counter the Islamic State.

- **Syria.** Congress conditionally authorized, through 2016, the Department of Defense to provide overt, lethal aid to Syrians for several select purposes (Section 1209 of the FY2015 National Defense Authorization Act [NDAA], P.L. 113-291, as amended).[111] These purposes initially included supporting U.S. efforts to combat the Islamic State and other terrorist organizations in Syria and "promoting the conditions for a negotiated settlement to Syria's civil war." Conditions placed on the authority included vetting of trainees and partners and congressional approval of funding obligations. The authority's purposes and terms reflected issues raised in previous debate in Congress over possibly providing lethal U.S. assistance to Syria's opposition groups in their struggle against the government of Bashar al Asad,
- **Iraq.** Congress conditionally authorized the Department of Defense, through 2016, to train and equip "military and other security forces of or associated with the Government of Iraq, including Kurdish and tribal security forces or other local security forces, with a national security mission" for select purposes (Section 1236 of the FY2015 NDAA, P.L. 113-291, as amended). Those purposes were defined as "defending Iraq, its people, allies, and partner nations" from the Islamic State and its supporters and "securing the territory of Iraq." Conditions placed on the authority included vetting of trainees and cost-sharing requirements.

The Syria Train and Equip Program

As conflict in Syria intensified during 2012 and 2013, executive branch officials and Members of Congress debated how, if at all, to provide support to the Syrian opposition, as well as possible responses to the Asad government's indiscriminate attacks and repeated use of chemical weapons against civilians.[112] The designation (since 1979) of Syria's government as a state sponsor of terrorism, along with other factors, legally restricted the Obama Administration's ability to provide non-humanitarian foreign assistance inside the country.[113] First using narrow existing authorities that enabled the President to bypass certain legislative restrictions in certain

[111] For a detailed discussion of the conditions placed on the original authority, see out of print CRS Report R43727, *Train and Equip Program for Syria: Authorities, Funding, and Issues for Congress*, by Christopher M. Blanchard and Amy Belasco, available to congressional requesters from the author.

[112] President Obama called for Syrian President Bashar Al Asad's departure from power in August 2011. For background on unrest and conflict in Syria, see CRS In Focus IF11080, *Syria Conflict Overview: 2011-2021*, by Carla E. Humud and CRS Report RL33487, *Armed Conflict in Syria: Overview and U.S. Response*, coordinated by Carla E. Humud. The White House relayed U.S. intelligence community findings on chemical weapons use in Syria in June 2013. See The White House, Office of the Press Secretary, Statement by Deputy National Security Advisor for Strategic Communications Ben Rhodes on Syrian Chemical Weapons Use, June 13, 2013. Following chemical weapons attacks by Syrian government forces killed an estimated 1,400 civilians near Damascus in August 2013, President Obama submitted a proposed authorization for the use of military force to Congress. Congress debated the proposal and the Senate Foreign Relations Committee reported an amended version for consideration (113th Congress, S.J.Res. 21). President Obama withdrew the request after Syria agreed to a joint U.S.-Russian proposal to join the Chemical Weapons Convention, dispose of its declared chemical weapons stockpiles (completed in 2016) and destroy declared production facilities (completed in 2018).

[113] See CRS Report R43835, *State Sponsors of Acts of International Terrorism—Legislative Parameters: In Brief*, by Dianne E. Rennack.

circumstances, and later with explicit congressional authorization, the Obama Administration established and expanded U.S. foreign assistance programs for opposition-held communities in Syria and began providing nonlethal assistance to select armed opposition groups.

The Administration, in consultation with Congress, provided foreign assistance to Syrian communities and nonlethal assistance to select armed opposition groups through early 2013 under authorities that allow the use of funds for aid notwithstanding other provisions of law that would prohibit such aid. These included an unanticipated contingency authority provided by Section 451 of the Foreign Assistance Act of 1961, as amended (FAA) and Section 614 of the FAA, which allows the President to provide up to $50 million in a country pursuant to a finding that it is important to the security interests of the United States. Beginning in the FY2014 SFOPS Appropriations Act (Division K, Sec. 7041(i), P.L. 113-76), Congress provided specific authorities for U.S. assistance in Syria, making ESF monies available "notwithstanding any other provision of law" for select nonlethal purposes inside Syria. Through FY2018, Congress expanded the list of approved purposes and made more accounts eligible as sources for such assistance. From FY2019 onward, Congress reduced the number of specified purposes and narrowed aid authority in appropriations acts.

Congress considered alternative approaches to U.S. engagement in Syria, but lacked sufficient agreement regarding a broader Syria strategy to pass legislation. Various legislative initiatives signaled support among some in Congress for greater U.S. involvement in Syria at the time, including lethal support to armed opposition groups. Others initiatives reflected enduring congressional concerns about war powers, extremism, intervention costs, responsibility for imposed regime change, and possible unintended consequences.[114]

To some degree, the latter concerns reflected congressional-executive branch frictions dating from the Libya intervention (see "Congress and Conflict in Libya"). Congressional attention focused largely on the course and implications of the Syrian conflict writ large, with the need to combat terrorist groups active in Syria as one among many congressional concerns. Members of Congress requested and received U.S. military advice about the potential scope and implications of a lethal assistance program.[115] The Department of Defense refrained from overtly arming and training Syrian opposition fighters, amid a lack of consensus among Representatives and Senators about the purpose, terms, and attendant risks of such support.[116] For example, U.S. military

[114] In May 2013, the Senate Foreign Relations Committee endorsed S. 960, the Syria Transition Support Act of 2013, which would have, among other things, authorized the President, notwithstanding any other provision of law restricting assistance to Syria, to provide assistance, including defense articles, defense services, and training to vetted opposition forces. (See S.Rept. 113-79). The bill was not enacted into law. See also 113th Congress, H.R. 1327, the Free Syria Act of 2013. In June 2013, the House of Representatives passed its version of the FY2014 NDAA (113th Congress, H.R. 1960), Section 1251 of which would have expressed the sense of Congress that "the President should fully consider, and the Department of Defense should conduct prudent planning for, the provision of lethal aid and relevant operational training to vetted Syrian opposition forces, including an analysis of the risks of the provision of such aid and training." The House rejected an amendment that would have removed Section 1251 from the bill (Gibson Amendment number 36, failed by recorded vote: 123-301 (Roll no. 234)). The conference version of the bill adopted in December 2013 (P.L. 113-66) did not contain the House language.

[115] In July 2013, Senate Armed Services Committee (SASC) Chairman Carl Levin and Ranking Member John McCain requested that Chairman of the Joint Chiefs of Staff (CJCS) General Martin Dempsey provide his "assessment of the costs, benefits, and risks associated with training and arming vetted elements of the Syrian opposition." Dempsey's reply outlined a potential scalable, nonlethal program to "Train, Advise, and Assist the Opposition" estimated at $500 million per year initially. See Letter from Senators Levin and McCain to General Martin Dempsey, Chairman of the Joint Chiefs of Staff, July 18, 2013, and Dempsey's response, July 19, 2013.

[116] Press reports suggested that Members of Congress differed over reported plans for covert U.S. aid to armed groups in Syria. See Tim Starks and Emily Cadei, "Divided over Arming Syrian Rebels, Congress Declines to Block Obama's Plan," *CQ*, July 23, 2013. In June 2013, National Security Council spokesman Ben Rhodes said that President Obama

leaders warned Congress that plans to equip armed groups in Syria could result in the loss of U.S.-supplied equipment to extremists, an outcome which later occurred with nonlethal and lethal aid.[117]

While U.S. policy debates unfolded, the Islamic State group and other armed Islamist extremists in Syria were growing stronger, and other threats in Syria demanded U.S. attention. An August 2013 chemical weapons attack by Syrian government forces prompted vigorous debate in Congress over possible authorization of U.S. military intervention, but Congress did not act to authorize the use of force. By late 2013, Obama Administration officials were warning Congress that the Islamic State group was benefitting from a "permissive operating environment" in Iraq and "sanctuary across the porous border in Syria."[118] The Administration revisited its approach to Syria during the spring of 2014, as some Senators called in March 2014 for a shift in U.S. policy that would "break the stalemate on the ground" and "change the balance of power."[119]

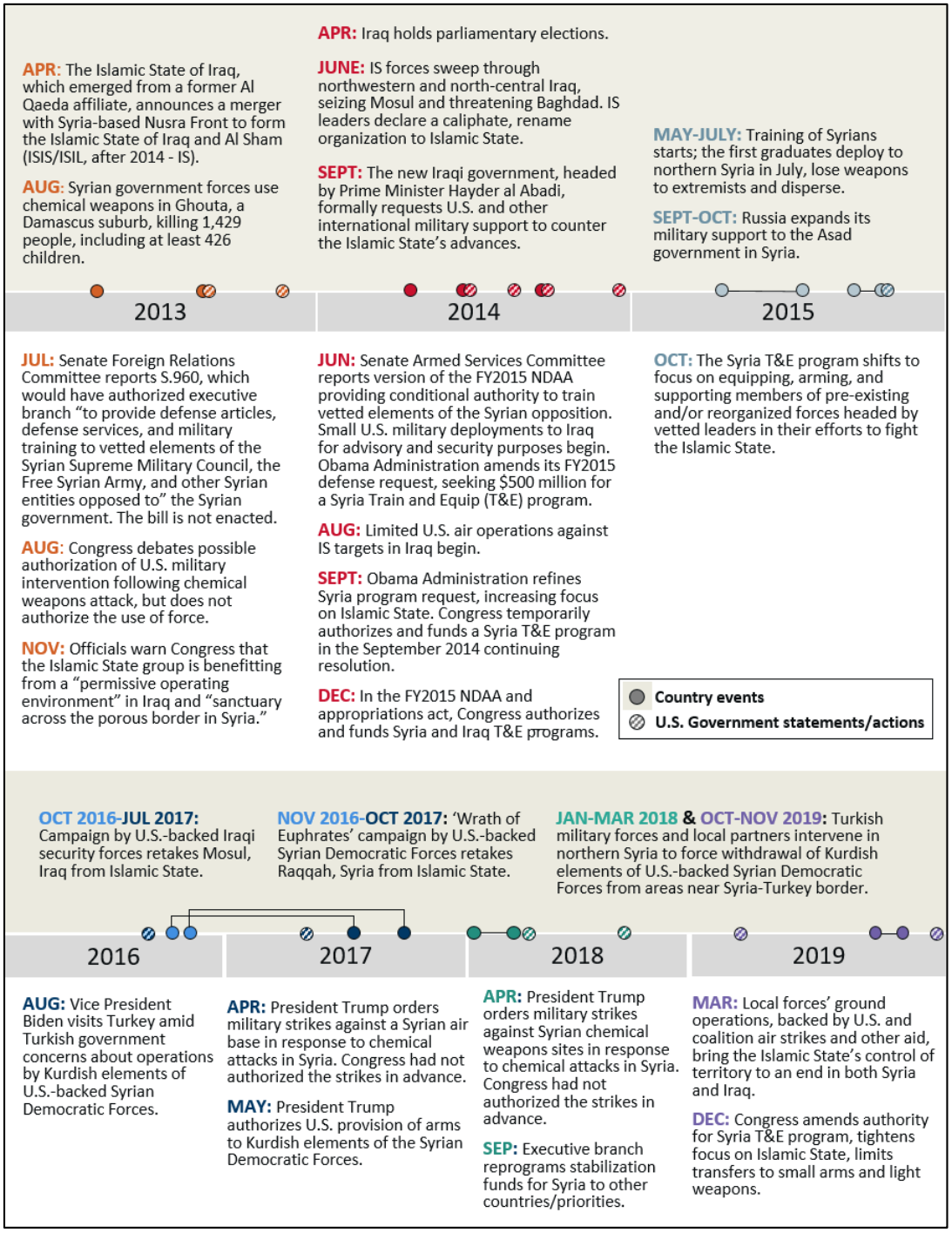
had "authorized the expansion of our assistance to the Supreme Military Council (SMC)" in an effort "aimed at strengthening the effectiveness of the SMC, and helping to coordinate the provision of assistance by the United States and other partners and allies. ... These efforts will increase going forward." In September 2013, Secretary of Defense Chuck Hagel told the Senate Foreign Relations Committee that the Obama Administration was providing lethal assistance to Syrian rebels under covert action authorities. Testimony of Secretary of Defense Chuck Hagel, in U.S. Congress, Senate Committee of Foreign Relations, *The Authorization of Use of Force in Syria*, hearing, 113th Cong., 1st sess., September 3, 2013, S. Hrg. 113–479 (Washington, DC: GPO, 2014).

[117] In correspondence with SASC leaders, CJCS Gen. Martin Dempsey in July 2013 stated his view that an assistance program for Syrian armed groups would entail related risks including "extremists gaining access to additional capabilities, retaliatory crossborder attacks, and insider attacks or inadvertent association with war crimes due to vetting difficulties." Dempsey letter to Sens. Levin and McCain, July 19, 2013. In December 2013, extremists seized nonlethal U.S.-supplied equipment from a Syrian opposition force warehouse, leading the State Department to suspend its transfer program and then shift to providing support "directly to vetted unit commanders in the field rather than first warehousing equipment for later distribution." Responses of Assistant Secretary of State for Near Eastern Affairs Ambassador Anne Patterson to Questions Submitted by Senator Robert Menendez in U.S. Congress, Senate Committee on Foreign Relations, *Syria After Geneva: Next Steps for U.S. Policy*, hearing, 113th Cong., 2nd sess., March 26, 2014, S.Hrg. 113-629, (Washington, DC: GPO, 2015).

[118] Testimony of Hon. Brett H. McGurk, in U.S. Congress, House Committee on Foreign Affairs, Subcommittee on the Middle East and North Africa, *U.S. Foreign Policy Toward Iraq*, hearing, 113th Cong., 1st sess., November 13, 2013, H.Hrg. 113-83 (Washington, DC: GPO, 2014).

[119] Letter from Senators Robert Menendez, Bob Corker, Carl Levin, James Inhofe, Tim Kaine, John McCain, Christopher Coons, Lindsey Graham, and Angus King Jr. to President Barack Obama, March 14, 2014.

Figure 6. Timeline: Selected Developments and U.S. Actions in Syria and Iraq



Source: Prepared by CRS using media reports and U.S. government statements.

Note: NDAA = National Defense Authorization Act.

Events in Iraq then motivated changes in U.S. policy toward both countries. Iraqi Prime Minister Nouri al Maliki's coalition won Iraq's national election on April 30, 2014, amid U.S. concerns about his continued leadership. In June 2014, Islamic State forces swept through northwestern and north-central Iraq, seizing Iraq's third-largest city, Mosul, and threatening its capital,

Baghdad. The fall of Mosul and the cascading failure of Iraq's military forces in the face of IS advances presented U.S. decision makers with a crisis scenario. Iraqi forces appeared unable to stem the IS assault and had lost control of large quantities of weapons, including some U.S.-origin small arms and military vehicles.[120] IS fighters enjoyed sanctuary in Syria and now controlled large areas of northern Iraq. Iraqi leaders did not formally request international military intervention, but U.S. (and, separately, Iranian) support helped Iraqi forces regroup. Small U.S. military deployments to Iraq for advisory and security purposes began in June 2014. Limited U.S. air operations against Islamic State targets in Iraq began in August 2014, with some congressional scrutiny.

Consensus among Members of Congress and between Congress and the Obama Administration over U.S. engagement in Syria and Iraq remained elusive. Congress debated several proposals to prohibit or condition U.S. military assistance in the context of considering the FY2015 NDAA and Department of Defense Appropriations Act. On June 2, 2014, the Senate Armed Services Committee reported its version of the FY2015 NDAA, 113th Congress, S. 2410, which would have provided a conditional authority to train vetted elements of the Syrian opposition. The bill would have authorized assistance for the purposes of defending Syrians from attacks by the Syrian government and protecting the United States, its friends and allies, and the Syrian people from threats posed by terrorists in Syria. In a June 26, 2014, amendment to its FY2015 defense appropriations request, the Administration requested $500 million for "a proposed authority to train and equip vetted elements of the Syrian armed opposition."[121]

The Obama Administration's views of the proposed Syria program and its overall role in U.S. policy in Syria evolved in mid-2014, in parallel to growing concerns about the Islamic State threat. In September, the Administration again revised its request to Congress for train and equip authority to include aid for the purposes of, among other things, "defending the Syrian people from attacks by the Islamic State of Iraq and the Levant and the Syrian regime, facilitating the provision of essential services, and stabilizing territory controlled by the opposition."[122]

In Congress, Members' differences over the proposed Syria training program led House leaders to structure consideration of the initial program authorization as a standalone roll call vote on an amendment offered by House Armed Services Committee Chairman Howard P. "Buck"

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[120] In April 2015, Conflict Armaments Research found that "A number of weapons that IS forces used in Kobane [Syria] originate in Iraqi military stockpiles. The procurement and/or capture by IS forces of this materiel helped fuel its siege of Kobane." The group's report noted that this included U.S. origin weaponry. Similarly, a December 2015 Amnesty International report concluded that, at the time, "the bulk of the arms and ammunition currently in the possession of IS has been seized from or has leaked out of Iraqi military stocks." The group's report noted that this included U.S. origin weaponry. See CAR, *Islamic State Weapons in Kobane: Analysis of Weapons and Ammunition Captured from Islamic State Forces in Kobane*, London, April 2015; and, Amnesty International, *Taking Stock: The Arming of Islamic State*, December 2015. A DOD spokesperson told the press in 2016 that, "the U.S. military does not have a means to track equipment that has been taken from the Government of Iraq by ISIL," Commander Elissa Smith quoted in Max Rosenthal, "The Pentagon Has No Clue How Many Weapons It Has Lost to ISIS," *Mother Jones*, January 22, 2016.

[121] The Administration sought the funds "to help defend the Syrian people, stabilize areas under opposition control and facilitate the provision of essential services, counter terrorist threats, and promote conditions for a negotiated settlement," as part of a $1 billion "Syria Regional Stabilization Initiative" under a proposed Counterterrorism Partnerships Fund. Over the following months, defense officials negotiated with Congress over train and equip authorities for the program. See Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DOD Fiscal Year 2015 Budget Amendment, Overview—Overseas Contingency Operations, June 2014.

[122] Executive branch communication to Congress provided to CRS by congressional defense committee staff.

McKeon.[123] The Syria program was authorized and funded first in the September 2014 continuing resolution (P.L. 113-164). After the new Iraqi government formally requested U.S. and other international military support in September, U.S. strikes spread to Syria. The Obama Administration in November further amended its FY2015 defense requests to Congress, seeking authority and funds for a train and equip program for Iraq (see "The Iraq Train and Equip Program" below).[124] Congress authorized and funded the Syria and Iraq programs for the remainder of FY2015 through the FY2015 NDAA (P.L. 113-291) and omnibus appropriations act (P.L. 113-235), both enacted in late 2014, and training began for Syrians in regional countries in early 2015.

As originally designed and implemented, the Syria program sought to recruit, vet, train, and equip thousands of Syrians for a "New Syrian Force."[125] However, U.S. military leaders informed Congress that the program got off to "a slow start,"[126] and by July 2015, the program had approximately 60 graduates, dozens of whom soon were deployed into northern Syria.[127] Local Islamist extremist groups quickly disrupted these U.S. trainees' operations, leading to the loss of some U.S.-provided ammunition and equipment.[128] The program's limited results and Russia's September 2015 expansion of its military presence in support of Syria's government contributed to the Obama Administration's decision to alter the program, in consultation with Congress.

In October 2015, the Obama Administration announced plans to revamp the train and equip effort in Syria. These plans would shift its focus away from creating wholly new units outside of Syria and toward "equipping and enabling … a select group of vetted leaders and their units" who were already present and active inside Syria.[129] Thereafter, the program focused on equipping, arming, and supporting members of preexisting and/or reorganized forces headed by vetted leaders in their efforts to fight the Islamic State organization. U.S. training, advice, and air strike support supplemented equipment and weaponry supplied to select forces through the program. Obama Administration officials subsequently described the redesigned program as "transactional"[130] and

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[123] On the McKeon Amendment, the House voted in the affirmative 273-156, with three not voting (Roll no 507). See consideration of H.Amdt 1141 to H.J.Res 124 in House of Representatives, Congressional Record, vol. 160, no. 133 (September 17, 2014), pp. H7637-H7662.

[124] Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense Fiscal Year 2015 Budget Amendment, Overview—Overseas Contingency Operations Budget Amendment, November 2014.

[125] Testimony of Secretary of Defense Chuck Hagel in U.S. Congress, Senate Committee on Armed Services, *U.S. Policy Towards Iraq and Syria and the Threat Posed by the Islamic State of Iraq and the Levant (ISIL)*, hearings, 113th Cong., 2nd sess., September 16, 2014, S. Hrg. 113-589 (Washington, DC: GPO, 2015); and, Julian Barnes and Adam Entous, "U.S. to Give Some Syria Rebels Ability to Call Airstrikes," *Wall Street Journal*, February 17, 2015.

[126] Testimony of U.S. Central Command (CENTCOM) Commander General Lloyd Austin, in U.S. Congress, Senate Committee on Armed Services, *United States Strategy and Military Operations to Counter the Islamic State in Iraq and the Levant and United States Policy Toward Iraq and Syria*, hearings, 114th Cong., 1st sess., September 16, 2015, S. Hrg. 114–342 (Washington, DC: GPO, 2016).

[127] Testimony of Secretary of Defense Ashton Carter in U.S. Congress, Senate Committee on Armed Services, *United States Strategy and Military Operations to Counter the Islamic State in Iraq and the Levant and United States Policy Toward Iraq and Syria*, hearings, 114th Cong., 1st sess., July 7, 2015, S. Hrg. 114–342 (Washington, DC: GPO, 2016).

[128] U.S. CENTCOM Press Release, "Reports of New Syrian Force Equipment Being Provided to Al Nusra Front," September 28, 2015. In December 2017, Conflict Armaments Research (CAR) reported that "supplies of materiel into the Syrian conflict from foreign parties—notably the United States and Saudi Arabia—have indirectly allowed IS to obtain substantial quantities of anti-armour ammunition." CAR did not allege or document that the U.S. origin weaponry in its report was derived specifically from the DOD train and equip program. See CAR, *Weapons of the Islamic State*, London, December 2017.

[129] U.S. Department of Defense, Press Secretary Peter Cook, "Statement on Syria," October 9, 2015.

[130] In describing the introduction of additional U.S. forces to Syria in April 2016, Department of Defense Press

performance-based, with partner forces receiving U.S. support as opportunities presented themselves, relative to their effectiveness and the alignment of their actions with U.S. interests.

The redesigned program's primary beneficiaries through 2020 were a Kurdish-Arab coalition active in northern Syria known as the Syrian Democratic Forces (SDF) and a force active in southeast Syria known as the Revolutionary Commando Army (*Jaysh al Maghawir al Thawra*, at times referred to by the United States as the "New Syrian Army" or NSA).[131] From 2015 onward, U.S. special operations personnel deployed to northern and southeastern Syria to organize, train, equip, advise, and support these groups in operations against the Islamic State, to include assistance with coordinating air strikes and artillery fire. U.S. support to the SDF, and particularly to its ethnically Kurdish People's Protection Units (YPG) elements, proved effective in enabling the SDF against IS forces. The Obama Administration refrained from arming YPG-affiliated forces, but in 2017, the Trump Administration decided to provide weaponry in support of the SDF assault on IS-held Raqqah, Syria. From 2015 onward, U.S. aid to the SDF prompted repeated protests from the government of neighboring Turkey and, eventually, forceful Turkish responses and confrontations with the United States. Related strains on U.S.-Turkish relations continued even after the Trump Administration later moved to reduce some U.S. support to the SDF and reposition U.S. forces amid Turkish incursions (see textbox below).

Turkey and U.S. Assistance to Kurdish Elements of the Syrian Democratic Forces

Cognizant of Turkish concerns about Syrian Kurdish YPG ties to the Turkey-based Kurdistan Workers Party (PKK), a U.S.-designated Foreign Terrorist Organization, Obama Administration officials asserted through 2016 that the United States provided arms and ammunition only to ethnically Arab (as opposed to Kurdish) elements of the SDF. U.S. armed forces coordinated with Kurdish SDF elements in operations against IS-held areas during 2016, including in areas west of the Euphrates River in spite of Turkish objections. In a bid to assuage Turkish concerns, Vice President Joseph Biden travelled to Turkey for consultations with Turkish President Erdogan in August 2016 and stated that further U.S. support to the SDF would be contingent on U.S.-backed YPG elements withdrawing east of the river. Nevertheless, during Biden's 2016 visit, the Turkish military and its Syrian partner forces launched an offensive (Operation Euphrates Shield) in northwestern Syria against IS fighters and the YPG. YPG forces announced a withdrawal from Manbij and other towns west of the Euphrates River in November 2016, but YPG "advisers" remained in Manbij and the surrounding area.

Over Turkish objections, the Trump Administration in May 2017 initiated transfers of weapons to Kurdish YPG elements of the SDF in support of U.S.-backed operations against the Islamic State-held Syrian city of Raqqa. A U.S. military officer stated at the time that the "divestiture of equipment to the SDF" would be "limited and metered and for specific objectives."[132] U.S. officials committed to accounting for provided weaponry and engaging Turkish counterparts transparently. Turkish concerns persisted, however, and Turkish forces again intervened in northern Syria with Syrian Arab partner forces in 2018 (Operation Olive Branch) and 2019 (Operation Peace Spring). Through these operations, Turkey established control over territories inside north-west and north-central Syria, respectively, adjacent to the Turkish border. U.S. armed forces withdrew from north-central Syria ahead of Turkey's October 2019 military intervention, leading some in Congress to accuse the Trump Administration of abandoning the United States' Syrian Kurdish partners.[133]

Secretary Peter Cook said "this will be ... transactional. Those forces that perform well will get additional U.S. support, and these particular U.S. forces will be in the business of trying to identify who those people are." U.S. Department of Defense, Briefing by Press Secretary Peter Cook, April 25, 2016.

[131] In addition to oversight reporting to Congress, the executive branch reported on the evolution of the Syria and Iraq train and equip programs through responses to regular inquiries from the congressionally mandated Lead Inspector General for Overseas Contingency Operations reports on Operation Inherent Resolve pursuant to sections 2, 4, and 8L of the Inspector General Act of 1978 [P.L. 95-452, as amended].

[132] U.S. Department of Defense, Briefing by Spokesman of the Combined Joint Task Force—Operation Inherent Resolve, U.S. Army Colonel Ryan Dillon, June 1, 2017.

[133] See U.S. Congress, House Committee on Foreign Affairs, *The Betrayal of Our Syrian Kurdish Partners: How Will American Foreign Policy and Leadership Recover?*, hearing, 116th Congress, 1st sess., October 23, 2019, H.Hrg 116-72

The Iraq Train and Equip Program

In 2011, the United States withdrew the last of its military forces from Iraq, concluding an eight-year military campaign (Operation Iraqi Freedom/Operation New Dawn) that toppled the government of Iraqi President Saddam Hussein and worked with Iraqi partners in an attempt to stabilize the country. After previously deciding to withdraw combat forces, U.S. military planners had considered keeping a residual force in Iraq to support Iraqi security forces in their efforts to counter ongoing threats from insurgent groups, including the Al Qaeda offshoot group known as the Islamic State of Iraq. However, U.S.-Iraqi disagreement over terms for a continued U.S. military presence contributed to President Obama's October 2011 decision to withdraw all U.S. forces by the end of that year.[134]

U.S. and Iraqi counterinsurgency operations had weakened the Islamic State of Iraq group significantly by the time of the U.S. withdrawal, but the group's remnants exploited the emergence of conflict in neighboring Syria and political instability in Iraq to regain strength. The Obama Administration warned Congress and the public in 2013 that the Islamic State posed a growing threat to Iraq and the wider region. Iraqi Prime Minister Nouri al Maliki's October-November 2013 visit to Washington focused on potential U.S. intelligence support and military sales to help combat IS advances. U.S. transfers to Iraq of newly purchased missiles and unmanned aerial vehicles followed, but senior Administration officials stated that the United States and Iraq were not then considering deployments of U.S. military trainers or armed U.S. drones to help secure Iraq.[135]

In early 2014, the Islamic State exploited Iraqi security forces' weaknesses and sectarian tensions between the national government and some Iraqi Sunnis to launch sustained campaigns against the Iraqi cities of Fallujah and Ramadi. To help the Iraqi government "counter the spillover effect from the Syrian crisis," the Obama Administration acted to "accelerate shipments of [Iraqi-purchased] military equipment to Iraqi forces" and initiated new training for Iraqi special forces in Jordan.[136] Iraq held a national election on April 30, 2014, and appeared set to grant Prime

(Washington, DC: GPO, 2020).

[134] In February 2009, President Obama outlined his Administration's plan for how the war in Iraq would "end," with U.S. combat operations concluding by August 2010, to be followed by a transition "to supporting the Iraqi Government and its security forces as they take the absolute lead in securing their country." NARA, Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2009, Book 1, (Washington, DC: GPO, 2010), Remarks on Military Operations in Iraq at Camp Lejeune, North Carolina, February 27, 2009, pp. 158-163. The transition from combat to partner support operations occurred as planned in September 2010, under Operation New Dawn. Negotiations over a residual advisory mission remained unresolved as unrest swept the Middle East during 2011. U.S. military officials had considered several options for a residual mission and, as late as September 2011, assumed some residual force would remain to support Iraqi partners. The withdrawal of U.S. military forces increased the costs of planned civilian security assistance efforts, and State Department development programs for Iraqi police personnel also were scaled back. See Special Inspector General for Iraq Reconstruction, Quarterly Report to Congress, October 30, 2012, pp. 30-34.

[135] In October 2013, a senior Administration official said, "I would not anticipate U.S. trainers going back into Iraqi soil. That's not something that we are talking about. That's not something the Iraqis are asking for, nor is it something that I think they particularly need right now." U.S. Department of State, Special Briefing by Senior Administration Official on Iraqi Prime Minister Maliki's Visit to Washington and the U.S.-Iraq Bilateral Relationship Under the Strategic Framework Agreement, Washington, DC, October 30, 2013. In December 2013, a National Security Council spokesperson said, "We have not received a formal request for U.S.-operated armed drones operating over Iraq, nor are we planning to divert armed I.S.R. [intelligence, surveillance, and reconnaissance] over Iraq." See, Michael R. Gordon and Eric Schmitt, "U.S. Sends Arms to Aid Iraq Fight With Extremists," *New York Times*, December 25, 2013.

[136] Testimony of Assistant Secretary of State for Near Eastern Affairs Anne Patterson, in U.S. Congress, Senate Committee on Foreign Relations, *Syria After Geneva: Next Steps for U.S. Policy*, hearings, 113th Cong., 2nd sess., March 26, 2014, S.Hrg. 113-629, (Washington, DC: GPO, 2014).

Minister Maliki another term in office, but June 2014 IS forces advanced through northwestern and north-central Iraq and seized Mosul.

The IS threat complicated Iraqi and U.S. leaders' attempts to manage an already challenging post-withdrawal relationship. Iraqi leaders, including Prime Minister Maliki and others with ties to Iran, were reluctant to invite U.S. and other foreign military forces back into Iraq. On the U.S. side, the Obama Administration was hesitant to reintroduce U.S. armed forces for costly combat operations or to operate in Iraq in a manner that could be construed as contrary to Iraqi sovereignty. U.S. officials also saw Maliki as having contributed to sectarian tensions and sought his replacement along with guarantees that Iraq would extend legal protections to U.S. armed forces deployed in the country. U.S. officials ultimately agreed to allow U.S. forces to operate in Iraq based on an exchange of diplomatic notes establishing the same protections for U.S. forces that had applied during the earlier U.S. presence.

Maliki's replacement as Prime Minister by Hayder al Abadi in August 2014 led to Iraq formally requesting international military intervention and assistance via the United Nations Security Council. Soon after, Congress provided authority and funds for U.S. train and equip efforts in Iraq. Events in Iraq that motivated the Iraqi government to request support and the United States to establish the program occurred late in the legislative session. There were not competing proposals considered as separate measures by committees of jurisdiction. Rather, Members and staff of these committees consulted with executive branch counterparts and negotiated with others in Congress privately to develop the authorization and appropriations provisions for the Iraq program. As with Syria, Members sought to minimize risks that U.S. assistance in Iraq would benefit U.S. adversaries, including Sunni extremists and Iran-aligned Iraqis.

U.S. support to Iraq flowed to national military and counterterrorism forces as well as to sub-state security forces. These sub-state security forces included the Kurdistan Regional Government's (KRG) Ministry of Peshmerga forces and locally organized forces with national security missions in Sunni Arab and other areas. Congress debated how best to facilitate the transfer of assistance to willing, capable partners while managing the sovereignty concerns that could arise if U.S. assistance flowed to sub-state actors directly rather than with the approval and participation of the national government. In 2015, Congress conditionally authorized direct U.S. support to sub-state partners in Iraq, but required the President to first report to Congress if Iraqi government actions had made such direct aid necessary (see "Program Objectives and Relationship to Other U.S. Goals" below).[137]

U.S. officials continued to emphasize that the program was being executed in consultation with the Iraqi national government. Amid amplified calls from some in Iraq for the departure of U.S. and other international forces, Congress in 2019 amended the Iraq program authority to clarify that program activities could "only be exercised in consultation with the Government of Iraq" (Section 1221(c) of P.L. 116-92). At the end of 2020, U.S. train and equip activities had shifted to high level advising and U.S. force levels in Iraq were being reduced. U.S. officials assessed that Iraq's security forces were increasingly capable of maintaining gains made against the Islamic State, but cautioned that the group's remnants remained dangerous.

[137] A simple majority in the Senate supported an amendment to the FY2016 NDAA that would have authorized the President to "to export defense articles, defense services, and related training directly to the Kurdistan Regional Government military and security forces," and stated that the President "should provide notification to the Government of Iraq, when practicable, not later than 15 days before" such transfers. See consideration of Senators McCain and Ernst S.Amdt. 1549 in Senate debate, Congressional Record, vol. 161, no. 96 (June 16, 2015), pp. S4185-S4194. The amendment did not receive the required 60 votes for adoption.

Observations

Members of Congress have debated the Syria and Iraq train and equip programs from the programs' inception. The programs' authorities and appropriations have evolved in line with congressional and executive prerogatives and concerns. Congress has acted annually to impose and amend limits on each program's content, scope, and duration. It has established and revised various mechanisms for committees of jurisdiction to monitor implementation. Congress has extended authorities for the programs almost exclusively in one-year intervals. At times, it has placed conditions on appropriated funds for various purposes, such as mandating the submission of oversight reporting or ensuring that partners contribute to defray program costs.

Elements of authorizing and appropriations language have reflected topics of congressional debate and concern. Changes in several topical areas over time illustrate evolutions in the programs and congressional priorities. The analysis below considers these areas more fully.

Program Objectives and Relationship to Other U.S. Goals

U.S. objectives in Syria and Iraq extended beyond the immediate security concerns the train and equip programs were designed to address. In Syria, U.S. policymakers balanced the anti-IS objectives of train and equip efforts with wider concerns about the outcome of Syria's civil war and relationships with other countries such as Turkey, Iran, and Russia. President Obama had called on Asad to step down in 2011, and regional states, including Turkey provided support to anti-Asad groups, but Iran and Russia came to Asad's defense.

Congress did not fully resolve differences among Members over the appropriate purposes of U.S. sentence assistance. In authorizing defense support to vetted Syrians, including opposition members, Congress did not include the Obama Administration's requested explicit reference to protecting Syrians from their government.[138] Instead Congress authorized military aid for "securing territory controlled by the Syrian opposition" and retained the euphemistic phrase "promoting the conditions for a negotiated settlement to end the conflict in Syria" as one authorized purpose for the program. Department of Defense training, support, and equipment transfers nevertheless concentrated almost exclusively on counter-IS objectives.

Congress ultimately removed references to the Syrian opposition, opposition-held territory, and promoting a settlement to the Syria conflict from the train and equip authorization in the FY2020 NDAA (Sec. 1222 of P.L. 116-92, for comparison, see **Table 1**). Congress substituted purposes more directly focused on the challenges posed by remnants of the Islamic State and Al Qaeda in Syria, and issues related to the detention and repatriation of foreign terrorist fighters. That act also restricted (subject to a national security waiver) the types of weapons that could be transferred to vetted Syrian groups and individuals under the authority to "small arms or light weapons," in light of Turkey's concerns about U.S. provision of weaponry to Syrian Kurdish forces. Following statements by President Trump connecting U.S. armed forces' presence in Syria to protection of local oil resources from remaining IS forces, the FY2021 NDAA (Sec. 1222(c) of P.L. 116-283)

[138] In September 2014, the Obama Administration requested that Congress authorize the Secretary of Defense "with the concurrence of the Secretary of State, to provide assistance, including the provision of defense articles and defense services, to appropriately vetted elements of the Syrian opposition and other appropriately vetted Syrian groups or individuals for the following purposes: (1) Defending the Syrian people from attacks by the Islamic State of Iraq and the Levant and the Syrian regime, facilitating the provision of essential services, and stabilizing territory controlled by the opposition; (2) Protecting the United States, its friends and allies, and the Syrian people from the threats posed by terrorists in Syria; (3) Promoting the conditions for a negotiated settlement to end the conflict in Syria." Executive branch communication to Congress provided to CRS by congressional defense committee staff.

further required the Secretary of Defense to certify "that no United States military forces are being used or have been used for the extraction, transport, transfer, or sale of oil from Syria."

In Iraq, Congress added reporting requirements and conditions on assistance based on congressional interest in ensuring that Iraq's government was "acting inclusively and not exacerbating ethnic or sectarian grievances or otherwise isolating minority groups." This provision reflected Members intent to see that Kurdish and Sunni sub-state forces in Iraq were not excluded from U.S. security and other assistance efforts channeled through the Iraqi national government. The final version of the FY2016 NDAA (P.L. 114-92) authorized the President to provide support directly to Kurdistan Regional Government (KRG) and Sunni forces if the President first found—after completing a congressionally required analysis—that the Iraqi government had "failed to take substantial action to increase political inclusiveness, address the grievances of ethnic and sectarian minorities, and enhance minority integration in the political and military structures in Iraq." The act also expanded related waiver authorities to enable the potential provision of assistance to sub-state entities notwithstanding eligibility constraints in the Arms Export Control Act and Foreign Assistance Act of 1961, as amended.

Table 1. Changes in Authorized Purposes for U.S. Train and Equip Assistance in Syria

Sec. 1209(a) of Fiscal Year 2015 National Defense Authorization Act (P.L. 113-291, December 2014)	Sec. 1209(a), as amended through April 2021
SEC. 1209. AUTHORITY TO PROVIDE ASSISTANCE TO THE VETTED SYRIAN OPPOSITION	SEC. 1209. AUTHORITY TO PROVIDE ASSISTANCE TO VETTED SYRIAN GROUPS AND INDIVIDUALS.
(a) In General.—The Secretary of Defense is authorized, in coordination with the Secretary of State, to provide assistance, including training, equipment, supplies, stipends, construction of training and associated facilities, and sustainment, to appropriately vetted elements of the Syrian opposition and other appropriately vetted Syrian groups and individuals, through December 31, 2016, for the following purposes:	(a) In General.—The Secretary of Defense is authorized, in coordination with the Secretary of State, to provide assistance, including training, equipment, supplies, stipends, construction and repair of training and associated facilities or other facilities necessary to meet urgent military operational requirements of a temporary nature, and sustainment to appropriately vetted Syrian groups and individuals through December 31, 2021, for the following purposes:
(1) Defending the Syrian people from attacks by the Islamic State of Iraq and the Levant (ISIL), and securing territory controlled by the Syrian opposition	(1) Defending the Syrian people from attacks by the Islamic State of Iraq and Syria.
(2) Protecting the United States, its friends and allies, and the Syrian people from the threats posed by terrorists in Syria	(2) Securing territory formerly controlled by the Islamic State of Iraq and Syria.
(3) Promoting the conditions for a negotiated settlement to end the conflict in Syria.	(3) Protecting the United States and its partners and allies from the threats posed by the Islamic State of Iraq and Syria, al Qaeda, and associated forces in Syria.

Sec. 1209(a) of Fiscal Year 2015 National Defense Authorization Act (P.L. 113-291, December 2014)	Sec. 1209(a), as amended through April 2021
	(4) Providing appropriate support to vetted Syrian groups and individuals to conduct temporary and humane detention and repatriation of Islamic State of Iraq and Syria foreign terrorist fighters in accordance with all laws and obligations related to the conduct of such operations, including, as applicable— (A) the law of armed conflict; (B) internationally recognized human rights; (C) the principle of non-refoulement; (D) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984); and (E) the United Nations Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).

Source: CRS using legislative text from https://www.congress.gov.

U.S. Commitment to Partners and Means of Assistance

Operations by local forces eased potential burdens on the United States and other anti-IS coalition members. However, Members of Congress debated the extent to which the United States should act to defend local partner forces, particularly in cases where the use of force might require U.S. military strikes against Syrian government forces or Syrian government partners such as Iranian or Russian nationals. Tensions between Iraq's national government and the KRG also raised questions about the extent to which the United States might intervene to limit confrontation between them. These questions became relevant in 2017, when KRG officials pursued a controversial referendum on independence and Iraqi forces responded by expelling KRG forces from some disputed areas.

In Syria, debate centered on how, if at all, the U.S. military should prevent or respond to threats to forces receiving U.S. assistance posed by the Syrian government; Russian or Iranian-backed forces; and, later, Turkey. Some Members questioned whether the executive branch had sufficient authorization for uses of force in certain "threat to U.S. partner" scenarios and expressed concern over what second-order effects might result from U.S. strikes against other states' forces or nationals. Other Members of Congress expressed concern that withholding combat support such as protective air strikes could undermine the effectiveness of U.S. train and equip efforts and/or create moral hazard. Congress previously had debated proposals to prevent the Administration from using appropriated funds to transfer certain anti-aircraft missile systems to Syria (see textbox below). In July 2015, Secretary of Defense Ashton Carter told Congress that the Obama Administration had

> concluded that there is sufficient legal authority to provide combat support to Syrian fighters that DOD has vetted, or vetted and trained, who come under attack by Syrian government forces, consistent with the right of U.S. self-defense, if the U.S. action is necessary to effectively address the threat posed by the Islamic State in Iraq and the Levant

> to the United States and Iraq and meets the international law requirements of necessity and proportionality.[139]

The Obama Administration did not publicly circulate the details of its legal reasoning. In November 2015, Congress passed the FY2016 NDAA (Section 1225 of P.L. 114-92), directing the Administration to report to Congress annually on U.S. military support considered necessary "to provide to recipients of assistance" including logistical support, defensive supportive fire, intelligence, and medical support. In August 2016, U.S. aircraft entered Syrian airspace for deterrence purposes in response to Syrian airstrikes against Kurdish fighters in eastern Syria that occurred in "close proximity" to where U.S. personnel were operating.[140] In a series of incidents in May and June 2017, U.S. armed forces carried out defensive strikes against Syrian government forces and their partners deemed to be threatening U.S. forces and U.S. partners in Syria.

Later, some Members expressed concern that the 2019 withdrawal of U.S. forces from areas of the Syria-Turkey border called into question U.S. reliability by leaving U.S.-backed SDF forces vulnerable to advancing Turkey-backed and –advised militia forces.[141] In November 2019, the House passed H.J.Res. 77 (116th Congress), stating that the House "opposes the decision to end certain United States efforts to prevent Turkish military operations against Syrian Kurdish forces in Northeast Syria" and that the "abrupt withdrawal of United States military personnel from certain parts of Northeast Syria is beneficial to adversaries of the United States government, including Syria, Iran, and Russia."

Limits on Man-Portable Air Defense Systems (MANPADS)

Since 2013, Congress had considered some proposals to restrict or govern the use of authorized and appropriated funds for the procurement or transfer of man-portable air defense systems (MANPADS) to partner forces in Syria. Such proposals and enacted provisions have reflected the concerns of some Members of Congress that MANPADS could fall into the hands of hostile parties and threaten civilian aircraft, allied military aircraft, and U.S. military aircraft conducting air strikes against terrorist groups or that were otherwise supporting Syrian or Iraqi partners. The Defense Appropriations Act, 2015 (Division C, Sec. 9016, P.L. 113-235) funded the initial Syria train and equip efforts and stated "none of the funds used pursuant to this authority shall be used for the procurement or transfer of man portable air defense systems." The FY2016 Defense Appropriations Act (Division C, Sec. 9013, P.L. 114-113) prohibited the use of Iraq Train and Equip Fund monies to procure or transfer MANPADS, but limits on Syria that had been adopted in the House version of the defense appropriations bill (H.R. 2685) were not included in the final act.

The FY2017 and FY2018 NDAAs (Sec. 1224 of P.L. 114-328 and Sec. 1227 of P.L. 115-91, respectively) provided that funds available to the Defense Department could not be used to provide MANPADS to vetted Syrian opposition forces until 30 days after the Secretary of Defense and the Secretary of State jointly submitted a report on any decision to do so and the details of any proposed transfers. The FY2017 Department of Defense Appropriations Act (Division C, Sec. 9013, P.L. 115-31) prohibited the use of funds made available by the act for the Counter-ISIL Train and Equip Fund to procure or transfer MANPADS. Each subsequent defense appropriations act[142] has included a version of this provision, with the FY2021 act (Division C, Sec. 9012, P.L. 116-260) expanding the prohibition to encompass the 'Afghanistan Security Forces Fund' account and 'Operations and Maintenance, Defense-wide' account for security cooperation grant programs.

[139] Secretary of Defense Ashton Carter, Response to Question for the Record from Sen. Tim Kaine, in S. Hrg. 114–342, July 7, 2015.

[140] Deputy State Department Spokesperson Mark C. Toner, Press Briefing, Washington, DC, August 23, 2016.

[141] Natasha Turak, "Republican allies blast Trump's decision to hand northern Syria over to Turkey," CNBC, October 7 2019.

[142] See Division C, Section 9012, P.L. 115-141; Division A, Section 9012, P.L. 115-245; and Division A, Section 9012, P.L. 116-93.

Vetting

From the beginning of both programs, Congress enacted specific vetting requirements and program safeguards that sought to ensure that program participants were not violent Islamist extremists, had committed "to promoting the respect for human rights and the rule of law," were not affiliated with the governments of Syria or Iran, and were not transferring or losing weaponry and equipment provided through the new train and equip programs to U.S. adversaries. These measures took the form of definitions of appropriate vetting in authorizing legislation, as well as specific reporting requirements that sought information about violations and vetting outcomes. For the Iraq program, Congress in 2015 additionally required the Administration to provide Congress with "a list of the forces or elements of forces that are restricted from receiving assistance" based on vetting requirements along with any forces for which the Secretary of Defense had exercised congressionally provided national security waivers.[143] For Iraqis excluded from training because of association with Iran, Congress required the submission of information about alleged human rights violations or the extent and types of association with Iran and related Iranian assistance.

Appropriations Mechanisms, Cost Sharing, and Oversight

Unlike with the Iraq program, Congress originally did not appropriate funds for the Syria program in a dedicated account, choosing instead to require the Administration to submit "prior approval" requests to congressional defense committees to reprogram funds on an iterative basis to pay for program activities. Under this system, congressional defense authorization and appropriations committees reviewed DOD requests to transfer monies to DOD Operations and Maintenance (O&M) accounts, creating formal opportunities for post-appropriations input. Funds in related accounts were made available with two-year budget authority, providing DOD with a longer period to request fund allocations and adapt to changing program needs. Beginning in FY2017, Congress authorized and appropriated funds for both programs in a combined Counter-ISIL Train and Equip Fund (CTEF), and set funding allocations for each after reviewing annual DOD budget requests and testimony. From FY2015 through FY2021, Congress allocated nearly $9.5 billion in cumulative combined funds for the train and equip programs in Syria and Iraq (**Table 2**).

Congress took steps to ensure and enable foreign contributions to the train and equip efforts in both countries. Both underlying authorities included provisions allowing the Department of Defense to accept and retain financial and material contributions from foreign third parties. Such contributions for Syria could only be obligated via reprogramming notifications to congressional defense committees. The Iraq authority required the executive branch to certify that Iraqi contributions to the program were equal to 40% of the authorized amount for the fiscal year prior to obligating more than 60% of the appropriated funds. Of the 40%, half were required to be from the government of Iraq. Congress provided a national security waiver for this provision, and in the FY2016 NDAA (Section 1225 of P.L. 114-92) exempted the cost of U.S. support to sub-state groups, including KRG forces, from related calculations.

Because Congress authorized the programs to address an evolving situation with emergent and changing needs, post-appropriations oversight remained an issue of concern to many Members and staff. In FY2015 and FY2016, appropriators required that the Administration provide details on the implementation of the Iraq program and its relation to regional strategy prior to obligating more than 25% of the funds appropriated for the program. Noting Syria program changes in 2015,

[143] Sec. 1223 of P.L. 114-92

Congress declined to make specific funding available for the Syria effort, but stated in an explanatory statement that it would consider additional funding for the program if the Administration submitted "a detailed and clear plan" along with a justification in a reprogramming request. Additional requirements limited the obligation of funds for Iraq until the Administration certified Iraqi and other foreign contributions to the joint counter-IS effort. Appropriations acts from FY2017 onward required the Secretary of Defense to notify the congressional defense committees 15 days in advance of planned obligations for both programs, and, in FY2020 and FY2021, Congress introduced incremental obligation notification requirements for the Syria program, first in 10% increments and later in 25% increments.

Table 2. Train and Equip Allocations (Iraq and Syria) FY2015-FY2021

millions of current U.S. dollars

	Iraq Train and Equip Fund (ITEF)	Counter-ISIS Train and Equip Fund (CTEF)—Iraq Allocation	Global Security Cooperation – Iraq Allocation (10 U.S.C. 333)	Syria Approved Transfers from CTPF	Counter-ISIS Train and Equip Fund (CTEF) – Syria Allocation
FY2015	1,618.0	-	-	568.0	-
FY2016	715.0	-	-	416.0	-
FY2017 CR	290.0		-	-	-
FY2017		919.5	-	-	250.0
FY2018	-	1,269.0	-	-	500.0
FY2019	-	850.0	-	-	300.0
FY2020	-	545.0	100.0	-	300.0
FY2021	-	322.5	322.5	-	200.0
Subtotal	2,623.0	3,906.0	422.5	984.0	1,550.0
Combined Total			**9,485.5**		

Source: Executive branch appropriations requests, reprogramming notifications, and appropriations legislation.

Notes: Actual totals obligated and expended likely differ. Counterterrorism Partnerships Fund = (CTPF). Continuing Resolution = (CR). The authority for the Syria Train and Equip Program required the Department of Defense to submit prior approval notices to transfer funds into various service and department-wide Operations and Maintenance accounts for program activities. Funds listed were approved for transfer by the required congressional defense and appropriations committees during the fiscal years noted.

In parallel, Congress extended and amended the underlying authorities for the programs on an annual basis via successive NDAAs and required classified quarterly progress reports pursuant to Sections 1209(d) and 1236(d) of the FY2015 NDAA (P.L. 113-291, as amended) and to appropriations legislation.[144] In practice, however, the executive branch did not consistently submit required oversight and strategy reporting on a timely basis. In response, the FY2019 NDAA (Sections 1231 and 1233 of P.L. 115-232) limited the availability of funds authorized to

[144] Annual defense appropriations acts from FY2017 through FY2021 required the Secretary of Defense to "provide quarterly reports to the congressional defense committees on the use of funds provided under this heading, including, but not limited to, the number of individuals trained, the nature and scope of support and sustainment provided to each group or individual, the area of operations for each group, and the contributions of other countries, groups, or individuals."

be appropriated by the act for the programs until the submission of previously required reports on U.S. strategy in Syria and Iraq, in addition to requiring other oversight reporting.

Congress also has moved to regularize some assistance provided under the Iraq train and equip authority and require the Defense Department to provide for it from resources made available under the department's global security cooperation authorities (which Congress consolidated and expanded under the FY2017 NDAA, resulting in 10 U.S.C. 333). Since FY2020, Congress has split funding for defense assistance to Iraq between the Counter-ISIS Train and Equip Fund and DOD's global security cooperation account (See **Table 2**).

Yemen: Arms Sales and Security Cooperation[145]

Prior to 2015, Congress appropriated foreign and security assistance in support of executive branch efforts to counter terrorism emanating from Yemen, where an active Al Qaeda regional affiliate has been based.[146] Historically, confrontations between Congress and the executive branch over U.S. policy toward Yemen were rare.[147] In 2014-2015, the *Ansar Allah* movement (also known as the Houthis) seized power from Yemen's interim government, and Saudi Arabia and a coalition of its partners began a military campaign to oust the Houthis.[148] U.S. lawmakers' interest in this conflict has been multifaceted, with legislative efforts addressing a range of U.S. policy tools and priorities in response to alleged abuses by Saudi and coalition forces, Iranian proxy involvement, and a worsening humanitarian crisis.

Congressional engagement has focused in large part on the role of U.S. security cooperation with Saudi Arabia and other partners, to include providing military aid and the Saudi-led coalition's use of U.S.-supplied arms in the conflict. Some Members have been critical of the Saudi-led coalition's errant air strikes that have caused civilian casualties. In response, these Members have sought to minimize U.S. military assistance to coalition military operations in Yemen, which, at times, included providing air-to-air refueling, intelligence support, logistical support, and "military advice."[149] Some Members also have sought to condition, delay, or disapprove foreign military sales or direct commercial sales of various arms, particularly precision-guided air-to–ground munitions (PGMs), to Saudi Arabia and the United Arab Emirates (UAE), Saudi Arabia's primary partner in the coalition intervention.

Many of these same lawmakers also have argued that U.S. support to the Saudi-led coalition makes the United States a party to the armed conflict in the absence of explicit congressional authorization. In 2019, Congress passed a joint resolution (116th Congress, S.J.Res. 7) that would

[145] Prepared by Specialists in Middle Eastern Affairs Jeremy Sharp and Christopher Blanchard and Research Assistant Sarah Collins.

[146] See "Al-Qa'eda in the Arabian Peninsula" under "Foreign Terrorist Organizations," State Department *Country Reports on Terrorism 2019*, June 24, 2020. During this period, the United States military provided more than $370 million in counterterrorism assistance to Yemeni counterparts through security assistance authorities created by Congress.

[147] Prior to this period, the most extensive congressional debate over Yemen policy that had occurred concerned a Carter Administration emergency arms sale to North Yemen in 1979. For background on that episode, see, Appendix F in CRS Report R44984, *Arms Sales in the Middle East: Trends and Analytical Perspectives for U.S. Policy*, coordinated by Clayton Thomas.

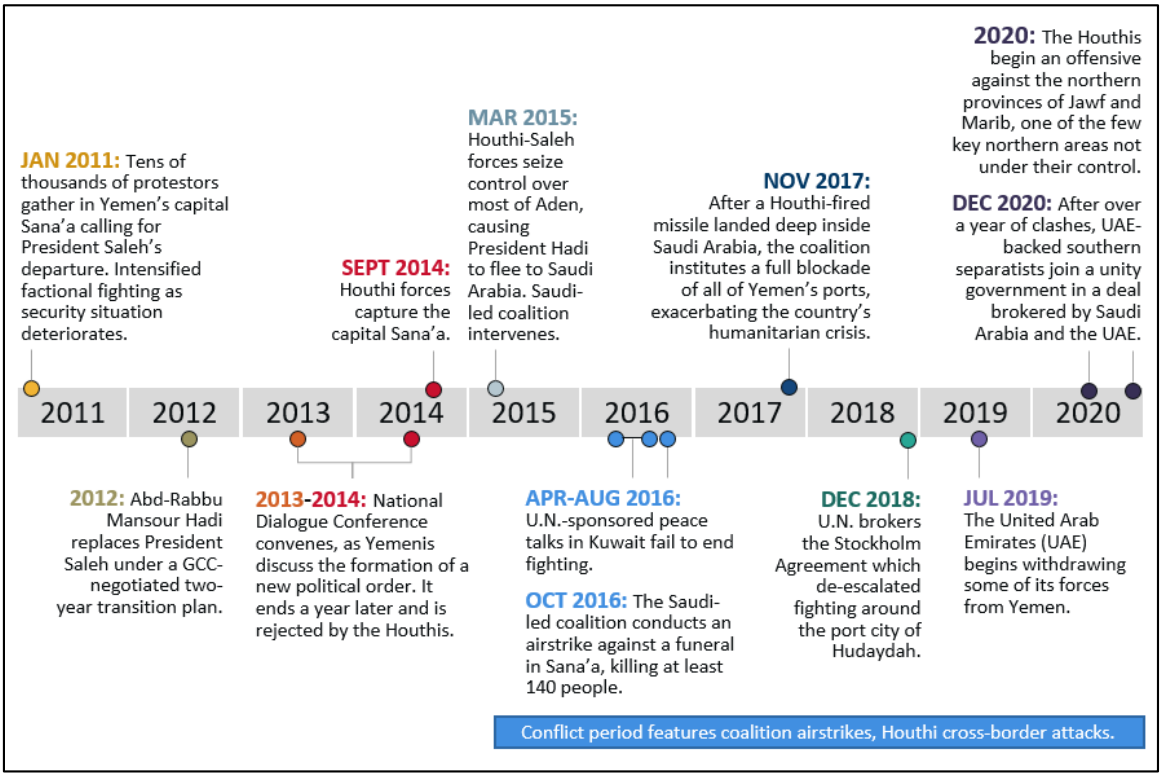
[148] For more detailed discussion of legislative proposals and efforts not described here, see CRS Report R43960, *Yemen: Civil War and Regional Intervention*, by Jeremy M. Sharp and CRS Report R45046, *Congress and the War in Yemen: Oversight and Legislation 2015-2020*, by Jeremy M. Sharp, Christopher M. Blanchard, and Sarah R. Collins.

[149] Letter from Department of Defense Acting General Counsel William Castle to Senators Mitch McConnell and Chuck Schumer, February 27, 2018.

have directed the President to remove U.S. forces from "hostilities in or affecting" Yemen (except for those U.S. forces engaged in counterterrorism operations). President Trump vetoed the resolution, and a vote did not reach the threshold required to override the veto. Much of the congressional debate over war powers centered on definitional disputes between Congress and the President over whether U.S. armed forces were introduced into hostilities in Yemen for the purposes of the War Power Resolution.[150]

At the same time, other Members have supported Saudi-led coalition efforts to counter the Houthis in Yemen. These lawmakers have appeared to view the Yemen conflict through the prism of a broader regional rivalry between Saudi Arabia and Iran, and the U.S. effort to limit Iran's regional influence. Some Members described Iran's support for the Houthi movement as one example of Iran's destructive regional activities. An associated view was that engagement on nuclear issues, resulting in the 2015 nuclear agreement with Iran (Joint Comprehensive Plan of Action or JCPOA), had failed to address this along with the government of Iran's other objectionable activities against its citizens and across the region. The JCPOA is discussed further later in the report. Finally, some lawmakers have viewed the Yemen conflict as another challenge in the U.S.-Saudi relationship, a concern that deepened after the killing of Saudi journalist Jamal Khashoggi by Saudi government personnel in Turkey in October 2018.[151]

Figure 7. Timeline: Selected Events in Yemen's Transition and Conflict



Source: Prepared by CRS using media reports and U.S. government statements.

Notes: The Gulf Cooperation Council (GCC) consists of Saudi Arabia, Kuwait, Bahrain, Qatar, the United Arab Emirates, and Oman.

[150] See CRS Report R42699, *The War Powers Resolution: Concepts and Practice*, by Matthew C. Weed.

[151] See CRS Report RL33533, *Saudi Arabia: Background and U.S. Relations*, by Christopher M. Blanchard.

Congressional Tools for Shaping Partner Behavior in Conflict

U.S. support to the Saudi-led coalition's intervention in Yemen began in 2015, when the Obama Administration announced that the United States would provide "logistical and intelligence support" to the coalition's operations without taking "direct military action." Soon thereafter, a joint U.S.-Saudi planning cell was established to coordinate military and intelligence support for the campaign. U.S. support became less direct in 2016 after the Obama Administration reviewed U.S. policy in response to concerns about coalition operations. The Trump Administration also reviewed U.S. policy in 2017, restored some U.S. arms sales, and extended additional legal and training assistance to improve coalition targeting. Through 2018, United States provided refueling support for Saudi and Emirati aircraft, largely via acquisition and cross-servicing agreements.[152] In addition to the use of U.S.-origin weapons systems, general U.S. maintenance support and training for Saudi and some other coalition member militaries continued pursuant to sales contracts.

Congressional scrutiny of the Saudi-led intervention and U.S. support grew in scope and frequency from 2015 through 2016, as some Members moved from expressing concern about civilian casualties and urging U.S. caution to seeking to delay or prevent the transfer of some U.S. munitions or other weapons systems. The 115th Congress frequently debated the extent and terms of the United States' involvement in the conflict. Lawmakers questioned the degree to which successive Administrations adhered to existing law related to providing security assistance, including sales or transfers of defense goods and defense services, while upholding international human rights standards (e.g., 22 U.S.C. §2754 or 22 U.S.C. §2304). They also enacted new legislation to condition or prohibit the use of U.S. funds for some activities related to Yemen and extend legislative oversight over the executive branch's policy.

The 116th Congress also was active on Yemen matters. By 2018, with previous efforts to limit U.S. involvement in the conflict unsuccessful and congressional opposition to further U.S. involvement having grown, opponents of the war prepared to use different legislative tools to minimize the U.S. contribution to the Saudi-led coalition's war effort. On the other side, the Trump Administration had ramped up its pressure on Iranian support for the Houthis and sought closer ties with the Saudi monarchy. In the spring of 2018, the Trump Administration withdrew from the JCPOA and articulated a new U.S. strategy toward Iran, which it termed the "maximum pressure campaign."[153] As part of this new strategy, the Administration demanded that Iran end its military support for the Houthis and work towards a peaceful political settlement in Yemen. The war simultaneously escalated, as Saudi-led coalition forces surrounded the Houthi-controlled Red Sea port city of Hudaydah, which had served as the entry point for most international humanitarian aid destined for hunger-afflicted northern Yemen.

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[152] In-flight refueling to the militaries of Saudi Arabia and the United Arab Emirates (UAE) was conducted pursuant to the terms of bilateral Acquisition and Cross Servicing Agreements (ACSAs) between the Department of Defense and the respective defense ministries of each country. ACSA agreements are governed by 10 U.S.C. 2341-2350. The agreements provide for reciprocal logistical support under a variety of circumstances, and their underlying statutory authority does not prohibit U.S. support to partner forces engaged in armed conflict. U.S. ACSA agreements with Saudi Arabia and the UAE provide for the transfer of support to third parties with the prior written consent of both the original provider and original recipient. The U.S. agreement with Saudi Arabia was signed in May 2016. The executive branch did not publicly specify under what legal authority or agreement it provided refueling support to Saudi aircraft from March 2015 through May 2016.

[153] U.S. Department of State Michael R. Pompeo, "After the Deal: A New Iran Strategy," Remarks at the Heritage Foundation, Washington, DC, May 21, 2018; and U.S. Department of State, Office of the Spokesperson, "Maximum Pressure Campaign on the Regime in Iran Fact Sheet," April 4, 2019.

By early 2018, critics of U.S. support for the coalition turned to the War Powers Resolution (P.L. 93-148) as a tool for ending U.S. support for the coalition's military intervention (and by extension, for signaling disapproval of the coalition's military tactics). Early in the 115th Congress, the Senate took up S.J.Res. 54 (115th Congress), a joint resolution to direct the removal of U.S. armed forces from hostilities in Yemen. Floor debate on the resolution ensued during spring 2018,[154] and while the resolution was initially tabled, it eventually passed the Senate at the end of the year. It was not voted on in the House. These and subsequent efforts received attention for reasserting the role of Congress in authorizing the use of armed force abroad.[155]

After S.J.Res. 54 had initially been tabled, the Senate Foreign Relations Committee (SFRC) held a hearing on Yemen to explore in greater detail some of the competing points raised during the earlier floor debate.[156] During the hearing, U.S. officials acknowledged that pressure from Congress had informed and supported Administration messaging to the Saudi-led coalition over aspects of the Yemen conflict. Acting Assistant Secretary of State for Near Eastern Affairs David Satterfield told Senator Todd Young and the SFRC:

> Senator, your efforts, the efforts of your colleagues in this body and on this Committee have been exceedingly helpful in allowing the Administration to send a message from whole of government regarding the very specific concerns we have over any limitations, restrictions, constraints on the ability of both humanitarian and commercial goods specifically to include fuel to have unrestricted and expeditious entry into Yemen. And that messaging which comes from us, the Executive Branch, also comes from this body is extremely important.[157]

After the SFRC hearing, committee Members introduced legislation (S.J.Res. 58, 115th Congress) to condition U.S. funding for in-flight refueling operations of Saudi and Saudi-led coalition aircraft based on certifications that the coalition was taking action to reduce the risk of harm to civilians. The committee amended the bill to allow the Secretary of State to waive the conditions for national security purposes with a required explanation and it reported the bill to the Senate. Members of the House and Senate Armed Services Committees ultimately incorporated these provisions into the FY2019 National Defense Authorization Act (Section 1290, P.L. 115-232).[158] Secretary of State Michael Pompeo issued such a certification in September 2018, allowing the use of FY2019 defense funds to support continued in-flight refueling of coalition aircraft, despite some Member criticism that the coalition had not met the act's specified benchmarks for avoiding civilian casualties in Yemen.[159]

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[154] S.J.Res. 54-Motion to Discharge; Senate, Congressional Record, vol. 164, no. 48 (March 20, 2018), pp. S1801-S1813.

[155] Katrina vanden Heuvel, "Congress takes Critical Step toward Reasserting its War-Powers Control," *Washington Post*, December 4, 2018; Lisa Mascaro, "In House's Yemen vote, Congress reasserts war-making powers," Associated Press, February 13, 2019; Robbie Gramer and Amy Mackinnon, "Congress Is Finally Done With the War in Yemen," *Foreign Policy*, April 4, 2019; and Karoun Demirjian, "With vote to end U.S. involvement in Yemen's war, House sets up Trump's second veto," *Washington Post*, April 4, 2019.

[156] U.S. Congress, Senate Committee on Foreign Relations, *U.S. Policy in Yemen*, hearing, 115th Cong., 2nd sess., S. Hrg. 115-778, April 17, 2018 (Washington, DC: GPO, 2020).

[157] Testimony of Acting Assistant Secretary of State for Near Eastern Affairs David Satterfield in S. Hrg. 115-778, April 17, 2018.

[158] Section 1273 of the FY2020 National Defense Authorization Act (P.L. 116-92) codified (for a two-year period) the end of in-flight refueling of Saudi-led coalition aircraft engaged in hostile operations in Yemen.

[159] Secretary of State Michael R. Pompeo, Certification to Congress on Actions of Saudi Arabia and UAE in Yemen Under the NDAA, Press Statement, September 12, 2018.

By November 2018, while Houthi and Saudi-led coalition forces were battling in Hudaydah, many Members of Congress expressed outrage at Saudi Arabia over the murder in Turkey of journalist and U.S. resident Jamal Khashoggi. The twin pressures of a deteriorating humanitarian situation in Yemen and a low point in U.S.-Saudi relations appeared to contribute to the Trump Administration's decision to pressure the coalition to reach a cease-fire in Hudaydah. On November 9, 2018, Secretary of Defense James Mattis announced that the coalition would conduct its own in-flight refueling in support of its operations in Yemen, rather than rely on U.S. capabilities.[160] Additionally, as previously mentioned, the Senate restarted its consideration of S.J.Res. 54 (115th Congress), passing it (56-41) in December 2018 in addition to adopting S.J.Res. 69 (115th Congress), which expressed the sense of the Senate that Saudi Crown Prince Mohammed bin Salman was responsible for Khashoggi's murder. The House did not take up either measure.[161]

In 2019, the 116th Congress continued to press the Administration on its support for the Saudi-led coalition, including after a December 2018 U.N.-negotiated cease-fire around Hudaydah had tempered the worst of the fighting. The House and Senate each passed resolutions "Directing the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress" (H.J.Res. 37, passed 248-177, and S.J.Res. 7, passed 54-46 in the Senate and 247-175-1 in the House). President Trump vetoed S.J.Res. 7 on April 16 and, on May 2, 2019, the resolution did not garner the 67 votes needed to override the veto in the Senate (53-45).[162] The House did not vote on whether to override the veto.

In the House and Senate debates, some Members argued that "the provision of U.S. support that could be used to enable offensive operations against the Houthis runs counter to our objective of ending the civil war and risks exacerbating the suffering of the Yemeni people."[163] Senate Majority Leader Mitch McConnell reiterated the views of opponents of S.J.Res. 7 in referring to what he and others saw as the "false premises" of the joint resolution: "We're not parties to the civil war in Yemen. We're no longer providing air-to-air refueling. More importantly, the measure would make it actually more difficult to prevent the loss of innocent lives."[164] He and other opponents of the resolution argued, for example, that continued provision of U.S. support provided the United States with leverage and access to shape the conduct of Saudi-led operations.

In June 2019, the Trump Administration notified Congress of an $8 billion "emergency" sale to Saudi Arabia, the UAE, and Jordan of PGMs and other major defense equipment—i.e., a Foreign Military Sale that would bypass normal congressional notification and review requirements. In justifying the emergency procedure, the Administration cited a number of threats, asserting that the Iran-backed Houthis had "publicly threatened to increase operations targeting vital military targets in the United Arab Emirates, Saudi Arabia, and Saudi-Led Coalition positions in Yemen."[165] On June 5, 2019, a bipartisan group of seven Senators introduced 22 separate joint

[160] White House, Statement of Administration Policy on S.J.Res. 54, November 28, 2018.

[161] House leaders acted to eliminate a procedural option that could have provided for consideration of the House companion to S.J.Res. 54. See Observations, below.

[162] Senate Rollcall Vote No. 94, May 2, 2019.

[163] Senator Jack Reed in in Senate debate, Directing the Removal of United States Armed Forces from Hostilities in the Republic of Yemen that Have Not Been Authorized by Congress; *Congressional Record*, vol. 165, no. 45 (March 13, 2019), pp. S1834-1835.

[164] Senate Majority Leader Mitch MS.J.Res. 7; Congressional Record, vol. 165, no. 72 (May 2, 2019), pp. S2579. See also, Marianne Levine, "Senate fails to override Trump's veto on Yemen," Politico, May 5, 2019.

[165] U.S. Defense Security Cooperation Agency, Memorandum of Justification for Emergency Arms Transfers and

resolutions of disapproval, one against each proposed sale. The Senate adopted all 22 of the measures. Three measures that focused on proposed sales of air-to-ground munitions were adopted by the House and Senate but vetoed by the President (S.J.Res. 36, S.J.Res. 37, and S.J.Res. 38, 116th Congress). Neither chamber held votes to override the vetoes.

In summer 2019, the UAE unilaterally withdrew most of its forces from Yemen, but remains influential in the country's affairs, including through its relationships with key southern Yemeni actors.[166] The UAE had been Saudi Arabia's primary partner in the coalition's intervention against the Houthis, and insisted its decision had been coordinated with Riyadh and did not represent an abandonment of its commitment to Yemen's security.[167] Although the UAE did not attribute its withdrawal to pressure from Congress, numerous observers asserted that UAE involvement had damaged its reputation in Washington.[168] One supporter of continued UAE intervention noted at the time of the Emiratis' withdrawal that Congress had played a role in driving "this U.S. partner out of the Yemen war with a shaming campaign that focused only on the negatives of UAE involvement."[169] Congressional pressure in 2019 focused not just on the humanitarian impact of the war, but also on reports, denied by the UAE, that the UAE had supplied U.S.-origin materiel to armed groups in Yemen, including some affiliated with Al Qaeda.[170]

After mid-2019, congressional pressure on Yemen waned somewhat due to a number of factors. First, the narrative of the conflict itself shifted. The Saudis explored more diplomatic options and the Houthis shifted to the offensive, launching more attacks by ballistic missiles and unmanned aerial vehicles into Saudi territory while renewing ground operations against the last remnants of the internationally recognized Yemeni government in northern Yemen. Iran's September 2019 attack against Saudi oil processing facilities at Abqaiq and Khurais in eastern Saudi Arabia also recast Saudi Arabia as a victim of Iranian aggression, although the Houthis originally claimed the attack. Finally, the COVID-19 pandemic shifted congressional focus from the conflict toward ameliorating immediate humanitarian concerns in Yemen, which were being exacerbated by Houthi obstruction of humanitarian access.[171]

Observations

Sustained opposition to the Saudi-led coalition's military intervention in Yemen from 2015 to 2020 by many Members did not result in veto-proof majorities for legislation that could have blocked arms sales or directed the Obama or Trump Administrations to end U.S. involvement in the conflict. Congressional opposition, however, arguably generated bipartisan pressure on the Obama and Trump Administrations and partners in the region to change decision-making at key

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Authorizations to the Kingdom of Saudi Arabia, the United Arab Emirates, and the Hashemite Kingdom of Jordan to Deter Iranian Malign Influence, in Arms Sales Notification, Senate, *Congressional Record*, vol. 165, no. 193 (June 4, 2019), pp. S3203-S3209.

[166] Ibrahim Jalal, "The UAE may have withdrawn from Yemen, but its influence remains strong," Middle East Institute, February 25, 2020.

[167] Aziz El Yaakoubi, "UAE troop drawdown in Yemen was agreed with Saudi Arabia: official," Reuters, July 8, 2019.

[168] See, for example, Imad Harb, "Why the United Arab Emirates Is Abandoning Saudi Arabia in Yemen," *Foreign Policy*, August 1, 2019.

[169] Michael Knights, "'Miss Me Yet?' What the UAE Drawdown Means For the United States and UN in Yemen," Fikra Forum, Washington Institute for Near East Policy, July 10, 2019.

[170] Eliza Mackintosh, "UAE 'recklessly' supplying Yemeni militias with foreign arms, Amnesty reports," CNN, February 5, 2019; and, Florence Davey-Attlee and Nima Elbagir, "US sends investigators to UAE and Saudi to probe CNN weapons violations findings," *CNN*, November 26, 2019.

[171] Human Rights Watch, "Deadly Consequences Obstruction of Aid in Yemen during Covid-19," September 14, 2020.

junctures. For example, congressional actions and advocacy may have contributed to the Trump Administration's call in late 2018 for a cease-fire in the battle for Hudaydah and the subsequent Emirati withdrawal from Yemen. By the end of the 115th Congress, Senate votes produced simple majorities in favor of measures with regard to arms sales, oversight, and war powers that could be described as critical or restrictive of U.S. support for Saudi-led coalition operations. Congressional pressure, while not enacted into legislation, placed the onus on the executive branch to use vetoes and make certifications to continue U.S. support and arms sales, and arguably strengthened executive branch leverage with international partners on issues of civilian protection.

However, Congress did not enact alternatives focused on resolving the core or localized conflicts in Yemen contributing to violence and humanitarian suffering. For example, Congress did not authorize the executive branch to intervene directly, or to target militarily Houthis receiving support from Iran. (Congressional reactions to the Trump Administration's designation of the Houthis for U.S. financial sanctions varied.) Congress also did not prohibit all security cooperation—to include all military assistance and/or arms sales—to Saudi Arabia or its coalition partners, possibly in deference to executive branch assertions of U.S. strategic interests.

It remains difficult to identify a locus of congressional consensus about Yemen. Many in the 116th Congress stated that they sought to preserve cooperative U.S.-Saudi relations in broad terms and to express concern about Iranian activities in Yemen, while pressing Gulf partners for expanded humanitarian access and to bring the conflict to a close. Some lawmakers expressed opposition to Saudi Arabia's intervention and U.S. involvement on moral and strategic grounds, citing coalition air strikes and the prospect of famine, mass displacement, and costly regional instability. Others opposed the conflict on strategic grounds, contending that the conflict was creating opportunities for Iran and Sunni Islamist extremist groups to expand their influence and operations in Yemen. Still others, when discussing opposition to continued U.S. support for the intervention, referred to factors not directly related to conditions in Yemen, such as the constitutional mechanisms and legal authorities cited by the executive branch to support the coalition or anger with the Saudi government for its role in the 2018 killing of Khashoggi and other human rights issues.

Congressional consideration of Yemen legislation between 2015 and 2020 also reflected efforts by some Members of Congress to reassert congressional prerogatives toward U.S. foreign policy and to leverage legislative processes to enhance Congress's authority vis-à-vis the executive branch. Bipartisan majorities backed measures to expand oversight of U.S. strategy toward Yemen and of U.S. support to the Saudi-led coalition, and to examine global use of the authorities that enabled some of that support.[172] Meanwhile, proponents of arms sales and war powers proposals used various legislative mechanisms to ensure prompt and/or privileged consideration of their proposals.[173]

[172] Senate Armed Services Committee scrutiny of the executive branch's use of Acquisition and Cross Servicing Agreements to provide U.S. logistical support to Saudi and UAE forces in Yemen led Congress to modify the underlying authorities for such agreements globally. See Section 1271 of P.L. 115-232.

[173] In the Senate, sponsors of measures used provisions of the War Powers Resolution and procedures provided for Senate consideration in the Arms Export Control Act (22 U.S.C. Ch. 39) to force debate and consideration of their proposals. In the House, similar procedures are not available for arms sale measures, and Members instead used Section 7 of the War Powers Resolution to ensure consideration. In December 2017, the House majority prevented the consideration of H.Con.Res. 142, the House companion to S.J.Res. 54, through a rule providing for debate on an unrelated bill. The rule, H.Res. 1176, stated in Section 2 that "The provisions of section 7 of the War Powers Resolution (50 U.S.C. 1546) shall not apply during the remainder of the One Hundred Fifteenth Congress to a concurrent resolution introduced pursuant to section 5 of the War Powers Resolution (50 U.S.C. 1544) with respect to the Republic of Yemen." When the party control of the House changed in the 116th Congress, the House considered and

As of the end of 2020, many experts expected the conflict and humanitarian suffering in Yemen to continue absent long-term international attention and financial assistance to help local actors reach and sustain a political settlement. Congress may grapple with Yemen-related questions about the conduct of U.S. diplomacy, the provision of U.S. security support, and the investment of U.S. assistance and defense funds for years to come.

Jordan: Comprehensive Partnership[174]

In U.S. dealings with countries across the Middle East between 2011 and 2020, Congress often served as a foil to executive branch diplomacy by attempting to condition aid, restrict arms sales, or impose sanctions on foreign entities. However, in the case of Jordan (as with Israel, to a larger extent), Congress often surpassed presidential requests when appropriating foreign assistance and other programs to assist one of the United States' most valued partners in the region.[175]

The U.S. partnership with Jordan is centered on shared interests in advancing peace in the Middle East, including through maintaining Jordan's 1994 peace treaty with Israel, managing instability in places such as Syria and Iraq, and supporting global counterterrorism operations. This partnership became increasingly robust as U.S. troops withdrew from Iraq at the beginning of the decade, and as the threat to Jordan increased due to the Syrian conflict and the emergence of the Islamic State.

Concerns over Jordan's economic and political stability led Congress and successive Administrations to increase foreign aid, including security assistance, and to maintain a U.S. military presence in the country. Jordan also hosts U.S. troops. According to President Trump's June 2020 War Powers Resolution report to Congress, "At the request of the Government of Jordan, approximately 3,145 United States military personnel are deployed to Jordan to support Defeat-ISIS operations, enhance Jordan's security, and promote regional stability."[176]

In the decade spanning 2011 to 2020, annual U.S. foreign assistance appropriated and allocated to Jordan almost doubled (in current dollars) from about $700 million to nearly $1.3 billion (see **Figure 8**). Starting in FY2013, the majority of assistance to Jordan took the form of economic aid for (1) budgetary support (in the form of a cash transfer), (2) development programs, and (3) loan guarantees. The cash transfer portion of U.S. economic assistance to Jordan is the largest amount of bilateral budget support given to any U.S. foreign aid recipient worldwide.[177] U.S. cash assistance is provided to help the kingdom with its foreign debt payments, the effects of Syrian refugees on Jordanian communities, and fuel import costs (Jordan is almost entirely reliant on imports for its domestic energy needs). Through FY2018, Jordan was the third-largest recipient of U.S. foreign aid obligations globally (in both cumulative and annual terms), after Afghanistan and Israel.[178]

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passed a new version of the resolution, H.J.Res. 37.

[174] Prepared by Specialist in Middle Eastern Affairs Jeremy Sharp and Research Assistant Sarah Collins.

[175] The United States has provided economic and military aid to Jordan since 1951 and 1957, respectively. Total bilateral U.S. aid obligated for Jordan by the Departments of State and Defense through FY2018 amounted to approximately $22 billion ($14 billion in economic aid and $8 billion in military aid) in current dollars. USAID, *U.S. Overseas Loans and Grants: Obligations and Loan Authorizations, July 1, 1945–September 30, 2018*.

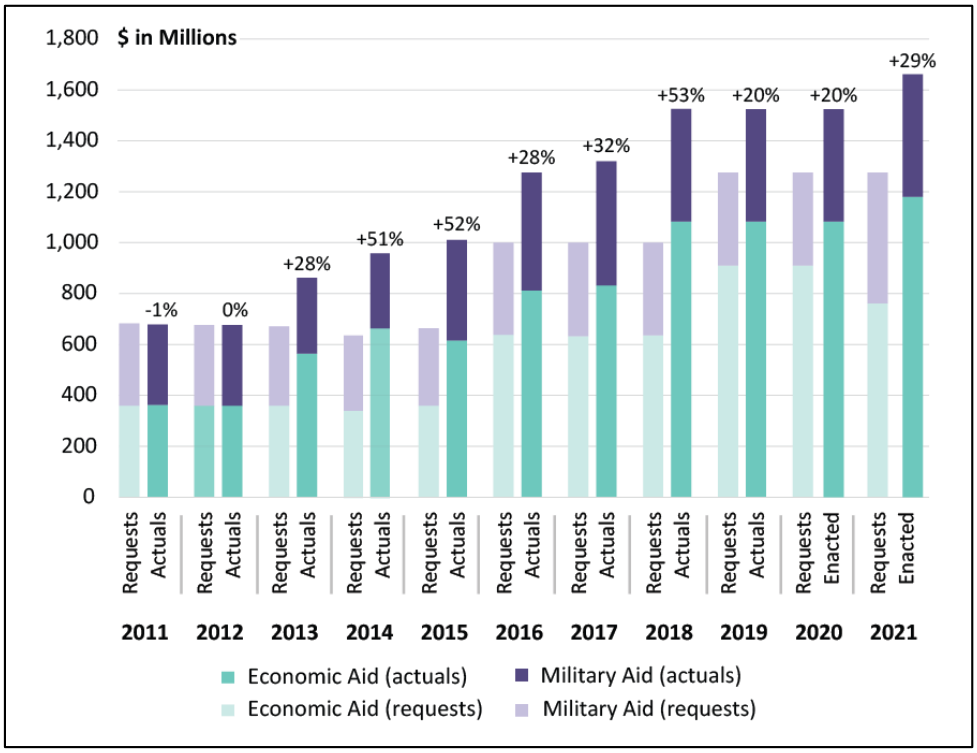
[176] U.S. President (Trump), "Letter to Congressional Leaders on the Global Deployment of United States Combat-Equipped Armed Forces," Daily Compilation of Presidential Documents, 2020 DCPD-202000435, June 9, 2020.

[177] Other budget support aid recipients include the Marshall Islands, Micronesia, and Palau.

[178] Per USAID's U.S. Overseas Loans and Grants (Greenbook), Jordan has received the third most U.S. foreign aid in cumulative historical obligations and the third highest FY2018 and FY2017 obligations after Israel and Afghanistan.

Figure 8. State Department and USAID Assistance to Jordan, FY2011-FY2021

Executive Branch Requests vs. Actual Allocations in millions of current dollars



Source: CRS Graphic based on annual State Department Congressional Budget Justifications, legislation, and explanatory statements.

Notes: Economic aid from the following accounts: Economic Support Fund (ESF), and Food for Peace Act, Title II (P.L.480). Military aid from the following accounts: Foreign Military Financing (FMF), International Military Education and Training (IMET), International Narcotics Control and Law Enforcement (INCLE), and Nonproliferation, Anti-Terrorism, Demining and Related Programs (NADR).

Successive Administrations have underscored the close partnership between the United States and Jordan through non-binding Memoranda of Understanding (MOU) agreements with the Kingdom to provide both economic and military U.S. foreign assistance, subject to the approval of Congress. At times, Congress has appropriated amounts in excess of levels identified in the memoranda.[179]

- The Bush Administration signed a five-year agreement (FY2009-FY2014) to provide a total of $660 million annually.[180]
- The Obama Administration signed a three-year MOU (FY2015-FY2017) to provide a total of $1 billion annually.[181]

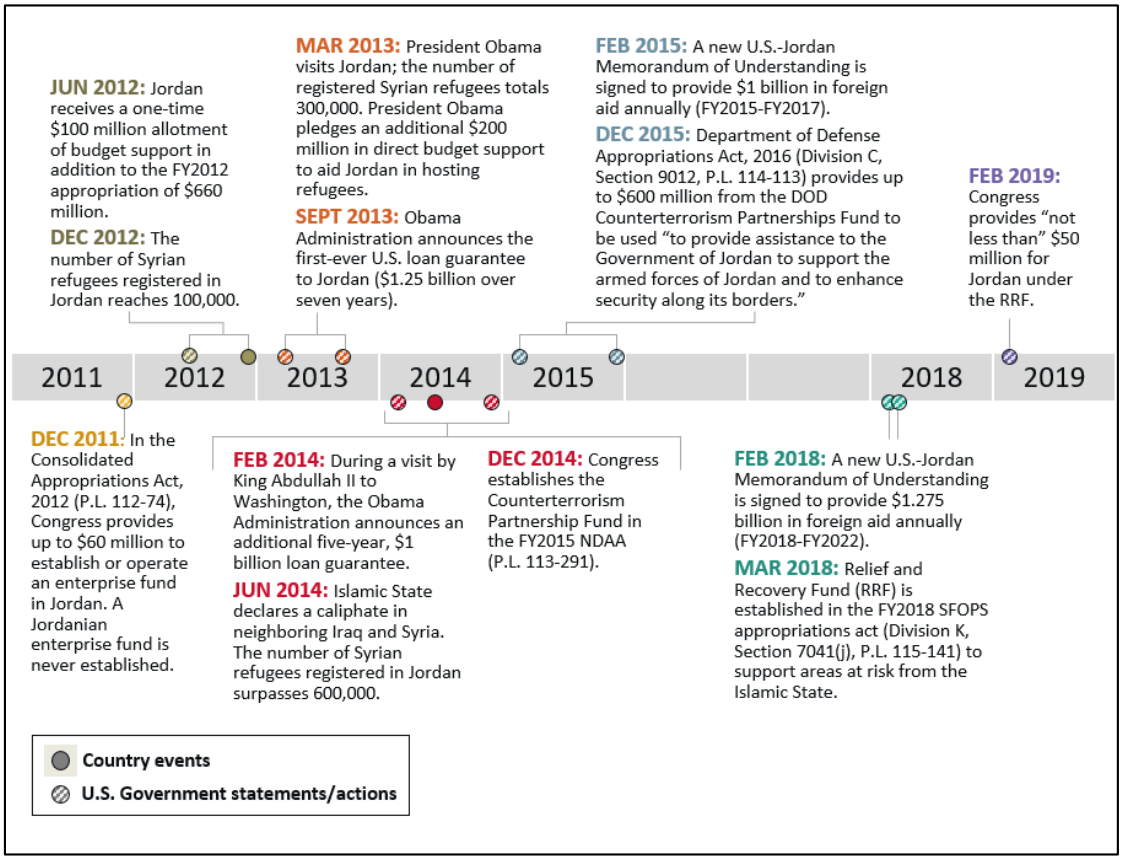
[179] From FY2009-FY2014, Congress provided Jordan with a total of $4.753 billion in total aid, or $1.453 billion ($290.6 million annually) above what the Bush Administration committed to in the five-year MOU.

[180] U.S. Department of State, "The United States and the Hashemite Kingdom of Jordan Sign Memorandum of Understanding on Assistance," Office of the Spokesperson, September 22, 2008.

[181] U.S. Department of State, "The United States and Jordan Sign a Memorandum of Understanding on U.S. Assistance," Office of the Spokesperson, February 3, 2015.

- The Trump Administration signed a five-year MOU (FY2018-FY2022) to provide $1.275 billion annually.[182]

Figure 9. Timeline: Selected Decisions and Events in U.S. Assistance to Jordan



Source: Prepared by CRS using media reports and U.S. government statements.

Notes: NDAA = National Defense Authorization Act, SFOPS = State Department and Foreign Operations.

Congress Expands U.S. Assistance

Growing instability in neighboring Syria, Egypt, and Iraq in the early part of the decade fed a focus in Congress on Jordan's stability. Congress responded primarily through foreign assistance tools, including cash transfers, loan guarantees, humanitarian assistance, reimbursements for military expenses, expedited consideration of defense sales, transfers of excess defense articles (EDA), and contributions to the Counterterrorism Partnership Fund (CTPF).[183] Ultimately, Jordan did not experience the same level of mass unrest as its neighbors or other countries in the region, although the extent to which this can be attributed to U.S. support (versus internal and other factors) may be debated.

[182] U.S. Department of State, "New U.S.-Jordan Memorandum of Understanding on Bilateral Foreign Assistance to Jordan," Office of the Spokesperson, February 14, 2018.

[183] As a designated Major Non-NATO Ally, Jordan is a priority global recipient of EDA. Congress established the global Counterterrorism Partnerships Fund under the FY2015 NDAA (P.L. 113-291) and phased it out two years later, via a reorganization of the Defense Department's global security cooperation authorities in the FY2017 NDAA (P.L. 114-328).

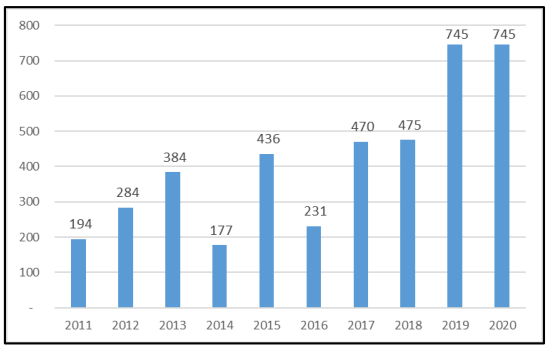
Economic Aid

The FY2012 SFOPS appropriations act (Division I, Titles III and IV, P.L. 112-74) provided a total of $660 million to Jordan, in line with the MOU at the time (which committed to $360 million in ESF and $300 million in FMF). To further support Jordanian macroeconomic stability, the Obama Administration provided $184 million of the $360 million in ESF monies as a cash transfer (notified to Congress on September 13, 2012) for direct budget support. In addition, Jordan received a one-time $100 million allotment of budget support (notified to Congress on July 6, 2012) from ESF designated as Overseas Contingency Operations (OCO).[184] USAID has provided cash transfers to Jordan since 2002. Reflecting Jordan's status as a priority partner in the region and the challenging fiscal conditions Jordan faces, U.S. cash transfers to Jordan have generally increased in value since 2011 (see **Figure 10**).[185] In FY2019 and FY2020, Jordan received $745 million a year in direct U.S. budget support through cash transfers.

Congress also provided funds for loan guarantees for Jordan, as with Tunisia and Egypt (discussed above) via annual foreign aid appropriations measures.[186] In September 2013, the Obama Administration announced that it was providing the first-ever U.S. loan guarantee to Jordan, and USAID notified Congress of its intent to obligate up to $120 million in FY2013 ESF-OCO to support a $1.25 billion, seven-year sovereign loan. In February 2014, during a visit to the United States by King Abdullah II, the Obama Administration announced that it would offer Jordan an additional five-year, $1 billion loan guarantee.

Figure 10. U.S. Cash Transfers to Jordan

Obligated funds since 2011 (millions of dollars)



Source: USAID Foreign Aid Explorer.

Congress also attempted to create an enterprise fund for Jordan—akin to those established for Tunisia and Egypt—to stimulate economic investment in the country. In the FY2012 SFOPS appropriations act (Division I, Section 7041(b), P.L. 112-74), Congress provided that up to $60 million of the ESF funds allocated to Jordan should be available to establish or operate one or more enterprise funds. A Jordanian fund was never established, however.[187] Five years later, the topic of a Jordanian enterprise fund resurfaced in the 115th Congress in the United States-Jordan Defense Cooperation Extension Act (H.R. 2646). The bill, which passed the House, would have required the President to submit a report to Congress assessing the costs and benefits of the U.S.

[184] In the FY2013 full-year continuing appropriations act (Div. F, Title VII, Sec. 1707-1708, P.L. 113-6), Congress specified only Jordan as an additional recipient country for foreign affairs OCO funds. See CRS In Focus IF10143, *Foreign Affairs Overseas Contingency Operations (OCO) Funding: Background and Current Status*, by Emily M. Morgenstern.

[185] CRS analysis of USAID Foreign Aid Explorer data, downloaded December 2020.

[186] "Under a sovereign loan guarantee, the United States government takes on the entire risk associated with a private bank loan to a sovereign country or support for issuance of foreign government bonds. Guarantees allow a country to have access to financing from international capital markets at a rate significantly lower than would be the case without U.S. backing. [...] Loan guarantees have been provided to Tunisia and Jordan in the wake of the "Arab Spring" to foster economic and political reform and, in the latter case, to address economic dislocations stemming from the Syria refugee crisis." CRS In Focus IF10409, *U.S. Foreign Assistance: USAID Loan Guarantees*, by Curt Tarnoff.

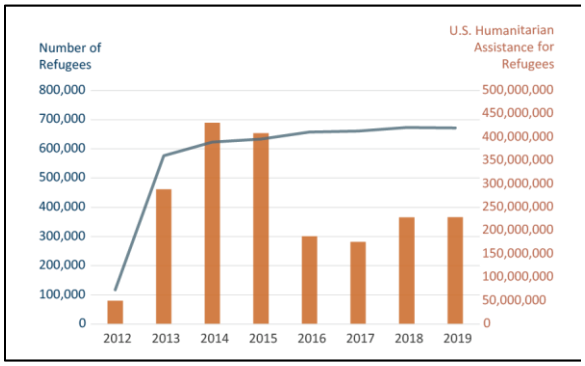
[187] See U.S. Congress, House Committee on Foreign Affairs, Subcommittee on the Middle East and North Africa, *Grading the Egyptian and Tunisian Enterprise Funds*, hearing, 115th Cong., 1st sess., H. Hrg. 115-50, June 21, 2017 (Washington, DC: GPO, 2017).

Development Finance Corporation establishing a Jordan Enterprise Fund. This section appeared in the Senate companion to the House bill introduced in the 116th Congress (S. 28). The House version in the 116th Congress (H.R. 4862) would have required the Chief Executive Officer of the U.S. Development Finance Corporation to "issue a call for proposals pursuing investment funds with a focus on Jordan, whether as a specific country fund or as part of a regional fund with Jordan as a significant focus." These bills in the 116th Congress were not enacted.

Humanitarian Aid and Crisis-Related Relief

As the conflict in Syria worsened, so too did the associated refugee crisis within Jordan. By December 2012, Jordan was hosting over 100,000 registered Syrian refugees. By the time President Obama visited Jordan in March 2013, that number had tripled. During his visit, President Obama pledged to work with Congress to deliver an additional $200 million in direct budget support to Jordan to help it cope with the influx of Syrian refugees. The 2014 SFOPS appropriations act (Division K, P.L. 113-76) provided funding above the Administration's budget request for global Migration and Refugee Assistance (MRA) to "address acute humanitarian needs, particularly the large number of individuals and families who have fled Syria to neighboring countries, such as Jordan, Turkey, and Lebanon." (MRA funds generally are not requested or appropriated on a country-specific basis.) The State Department estimated in 2020 that it had allocated more than $1.5 billion in humanitarian assistance from global accounts for programs in Jordan since FY2012 to meet the needs of Syrian refugees, along with additional budget support to ease related burdens on Jordan.[188]

Figure 11. Syrian Refugees Registered in Jordan and U.S. Humanitarian Aid in Jordan



Source: CRS, using data from UNHCR, "Jordan—Situation Syria Regional Refugee Response," accessed December 16, 2020, and USAID Complex Emergency Fact Sheets.

Beginning in FY2018, Congress provided additional support to Jordan through the Relief and Recovery Fund (RRF), a new foreign assistance vehicle established in the FY2018 SFOPS appropriations act (Division K, Section 7041(j), P.L. 115-141) for aid to "areas liberated from, at risk from, or under the control of, the Islamic State of Iraq and Syria, other terrorist organizations, or violent extremist organizations in the Middle East and Africa." The following year, Congress provided "not less than" $50 million for assistance for Jordan from the RRF in the SFOPS appropriations act (Division F, Section 7071(b)(3), P.L. 116-6).

Security Assistance

By mid-2014, Jordan's security needs had become a congressional focus along with humanitarian concerns: the number of registered Syrian refugees in Jordan had surpassed 600,000—though the Jordanian government estimated over 800,000 additional Syrian refugees were residing in the state unregistered—and the Islamic State had declared its caliphate in Iraq and Syria, both of

[188] Statement of Henry Wooster, Nominee for U.S. Ambassador to the Hashemite Kingdom of Jordan, before the Senate Foreign Relations Committee, May 13, 2020.

which border Jordan. In addition to preexisting U.S. military assistance directed toward enabling the Jordanian military to procure and maintain U.S.-origin conventional weapons systems, Congress also appropriated defense funds to strengthen Jordan's border security.[189] U.S. assistance helped finance the creation of the Jordan Border Security System, an integrated network of guard towers, surveillance cameras, and radar to guard the kingdom's borders with Syria and Iraq.[190]

In September 2014, Representative Ileana Ros-Lehtinen introduced the United States-Jordan Defense Cooperation Act of 2014 (113th Congress, H.R. 5648). The bill proposed to express the "sense of Congress" that expedited consideration of defense sales to Jordan "is fully consistent with the United States security and foreign policy interests and the objectives of world peace and security." The bill sought to amend the Arms Export Control Act (22 U.S.C. Ch. 39) to include Jordan among the countries eligible for certain streamlined defense sales for three years and authorize the State Department to sign a MOU to increase ESF and military cooperation. While the bill did not pass in the 113th Congress, it was reintroduced in the 114th Congress in February 2015, and was signed into law the following year (P.L. 114-123).[191] From 2011 to 2020, the United States provided excess defense articles to Jordan valued at almost $4 billion. These articles included three AH-1 Cobra Helicopters, 45 Mine-Resistant Ambush Protected vehicles (MRAPs), and 150 M577A3 Tracked Command Post Carriers.[192]

In addition to military articles, between FY2015 and FY2020, total DOD security cooperation funding for Jordan amounted to nearly $1 billion.[193] The Department of Defense Appropriations Act, 2016 (Division C, Section 9012, P.L. 114-113) provided that up to $600 million from the DOD Counterterrorism Partnerships Fund could be used "to provide assistance to the Government of Jordan to support the armed forces of Jordan and to enhance security along its borders." The following year, Congress made available at least $500 million for this purpose (Division C, Section 9012, P.L. 115-31).

Observations

U.S. support over the past decade sought to help Jordan address serious vulnerabilities, both internal and external. Congressional appropriations have contributed to Jordan's debt service, supported Jordan's ability to weather pressures from the Syrian refugee crisis, and improved its military and border security capabilities. Successive Congresses and Administrations have shared a commitment to maintaining robust U.S. assistance to the kingdom.

Jordan's small size and lack of domestic natural resources have made it dependent on aid from various Western and Arab sources. As of 2020, the economic and social challenges caused by the COVID-19 pandemic posed new threats to the stability of the kingdom, as the gross domestic product growth rate shrank, public debt soared, and public sector salaries stagnated. Having

[189] The Department of Defense Appropriations Act, 2014 (Division C of P.L. 113-76) provided up to $1.3 billion that could be used "to reimburse the government of Jordan, in such amounts as the Secretary of Defense may determine, to maintain the ability of the Jordanian armed forces to maintain security along the border between Jordan and Syria."

[190] Jeremy Binnie, "Jordan Planning Border Security Upgrade," *Jane's Defence Weekly*, April 17, 2019.

[191] On February 4, 2015, a day after meeting with King Abdullah II, Members of the Senate Armed Services Committee issued a letter to the Administration seeking to expedite bilateral and third-party arms sales of U.S.-origin weaponry to Jordan and to approve technology transfers that would enable the Kingdom to more effectively wage war against the Islamic State. Available at https://www.armed-services.senate.gov/press-releases/senate-armed-services-committee-members-call-for-urgent-support-to-jordan-in-fight-against-isil

[192] Defense Security Cooperation Agency, EDA DataBase Tool, accessed December 2020.

[193] DOD notifications to Congress on 10 U.S.C. 333 programs.

expanded U.S. assistance to Jordan over the last several years, Congress may reexamine prevailing patterns of U.S. assistance and debate whether Jordan's finances and economy are on a sustainable path.

The Palestinians: Changes to U.S. Foreign Assistance[194]

From 2011 through 2020, Congress took several actions affecting U.S. aid to the Palestinians in the West Bank and Gaza Strip. In the early part of the decade, congressional actions largely continued those taken in previous decades. These efforts aimed at dissuading certain Palestinian actions, while ultimately allowing most aid requested by the executive branch to flow as a means to bolster and influence Palestinian leaders willing to interact with Israel. Later in the decade, with fewer prospects for Israeli-Palestinian diplomacy or Palestinian domestic reform, Congress enacted additional legislation aimed at deterring Palestinian financial support for terrorism, and at removing obstacles to U.S. legal action against Palestinian entities for past terrorist acts.

Core Purposes of Aid and How Early-Decade Developments Affected Priorities

Since the beginning of the peace process between Israel and the Palestine Liberation Organization (PLO) in the 1990s, U.S. bilateral aid to the Palestinians in the West Bank and Gaza Strip supported U.S. efforts to incline the newly established Palestinian Authority (PA) toward better governance and economic development, and away from violence against Israel. Accordingly, Congress attached a number of conditions on aid to the Palestinians. Also, when congressional leaders interpreted Palestinian actions as significantly opposed to U.S. or Israeli interests, some would place holds on various types of aid.[195]

In 2007, the George W. Bush Administration and Congress boosted U.S. aid to the Palestinians as part of an effort to weaken the Sunni Islamist group Hamas (a U.S.-designated terrorist organization) while bolstering PLO Chairman and PA President Mahmoud Abbas and the politically independent, reform-minded PA Prime Minister Salam Fayyad. This effort came after events in June 2007 that led to a split in Palestinian governance: Hamas forcibly seized control of Gaza while PA President Abbas—the head of Hamas's rival faction Fatah—assumed complete control over the West Bank. U.S. aid included non-lethal security assistance to help rebuild and train PA security forces in the West Bank to be more professional, legally accountable, and cooperative with Israel than their predecessor forces. These predecessors largely hailed from the era before the peace process that featured guerrilla warfare against Israel and deep factional loyalty to late PLO leader Yasser Arafat. U.S. aid also included humanitarian and development assistance to Palestinian civilians in the West Bank and Gaza.

The Obama Administration generally continued the Bush Administration's approach. However, when Abbas took unilateral steps in 2011 and 2012 to enhance Palestinians' status at the United Nations and various U.N. organizations, as part of a larger PLO/PA effort to increase international recognition of Palestinian statehood,[196] some Members of Congress in committee leadership positions placed informal holds on U.S. economic aid for the West Bank and Gaza. The holds temporarily delayed the delivery of assistance.[197] Congress also added conditions to annual foreign operations appropriations legislation designed to deter future PLO/PA moves at international bodies such as the U.N. and the International Criminal Court.

Developments such as the resignation of PA Prime Minister Fayyad in 2013 and the collapse of a new round of Israeli-Palestinian negotiations in 2014 diminished prospects for Palestinian domestic reform and the peace process. With it becoming harder to point to positive political outcomes stemming from U.S. aid, maintaining aid may have become less of a priority for both the Administration and Congress. In this context, new congressional concerns about PLO/PA practices rendered U.S. aid to the Palestinians more vulnerable.

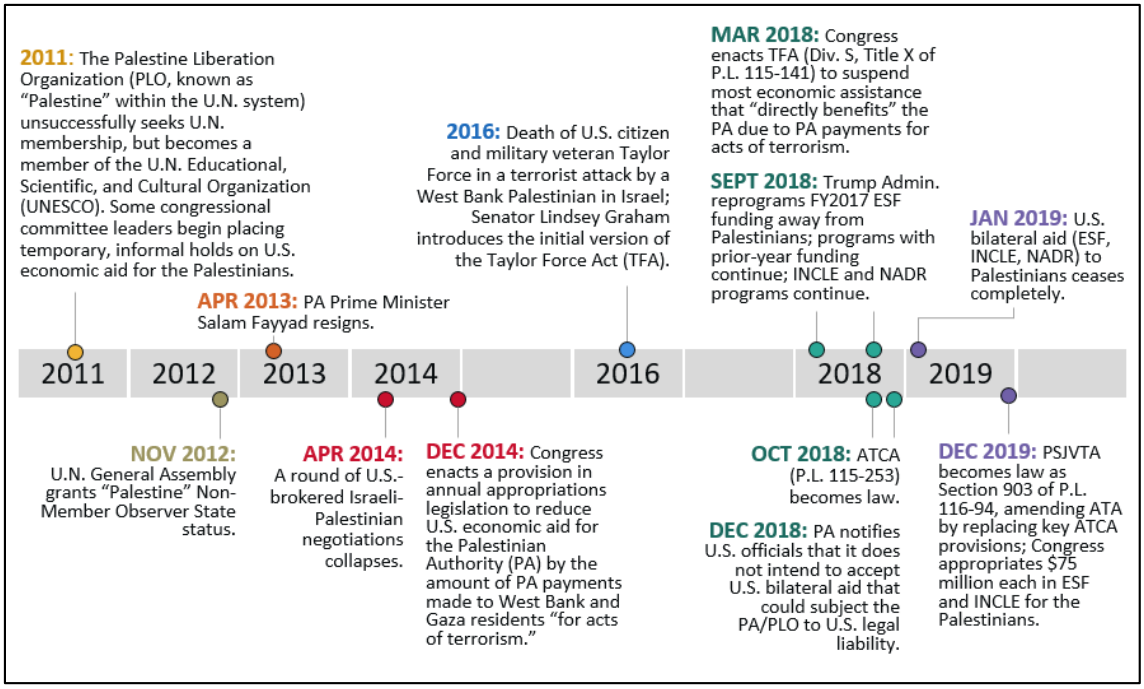
[194] Prepared by Specialist in Middle Eastern Affairs Jim Zanotti. For more information, see CRS Report RS22967, *U.S. Foreign Aid to the Palestinians*, by Jim Zanotti; and CRS Report R46274, *The Palestinians and Amendments to the Anti-Terrorism Act: U.S. Aid and Personal Jurisdiction*, by Jim Zanotti and Jennifer K. Elsea.

[195] For more information, see CRS Report RS22967, *U.S. Foreign Aid to the Palestinians*, by Jim Zanotti.

[196] CRS Report RL34074, *The Palestinians: Background and U.S. Relations*, by Jim Zanotti.

[197] Sara Sorcher, "Clinton Overrules Republican Lawmaker's Hold on Palestinian Aid," *National Journal*, April 11, 2012. On congressional holds, see footnote 83.

Figure 12. Timeline: Selected Events Regarding U.S. Aid to the Palestinians



Sources: Prepared by CRS using media reports, Congress.gov, and U.N. and government statements.

Note: ESF = Economic Support Fund, INCLE = International Narcotics Control and Law Enforcement, NADR = Nonproliferation, Anti-Terrorism, De-mining and Related Programs; ATCA = Anti-Terrorism Clarification Act; PSJVTA = Promoting Security and Justice for Victims of Terrorism Act of 2019; and ATA = 1992 Anti-Terrorism Act.

Two laws signed in 2018 have had major effects on U.S. aid to the Palestinians. The Taylor Force Act (TFA, Division S, Title X of P.L. 115-141) significantly reduced economic aid, and then the Anti-Terrorism Clarification Act (ATCA, P.L. 115-253) led to the complete suspension of all bilateral aid. Before the end of the decade, Congress modified ATCA in a way that raised the possibility of resuming some types of aid to the Palestinians.

Congress and Ending Aid

Beginning in 2014, Congress apparently became more willing to curtail aid, perhaps because of a perception that aid to that point had not improved the prospects for Israeli-Palestinian diplomacy and Palestinian domestic reform. Legislation to that effect started in annual foreign operations appropriations legislation, and then became codified in standing law (with TFA and ATCA). Later, a 2019 law opened the door to a partial resumption of aid.

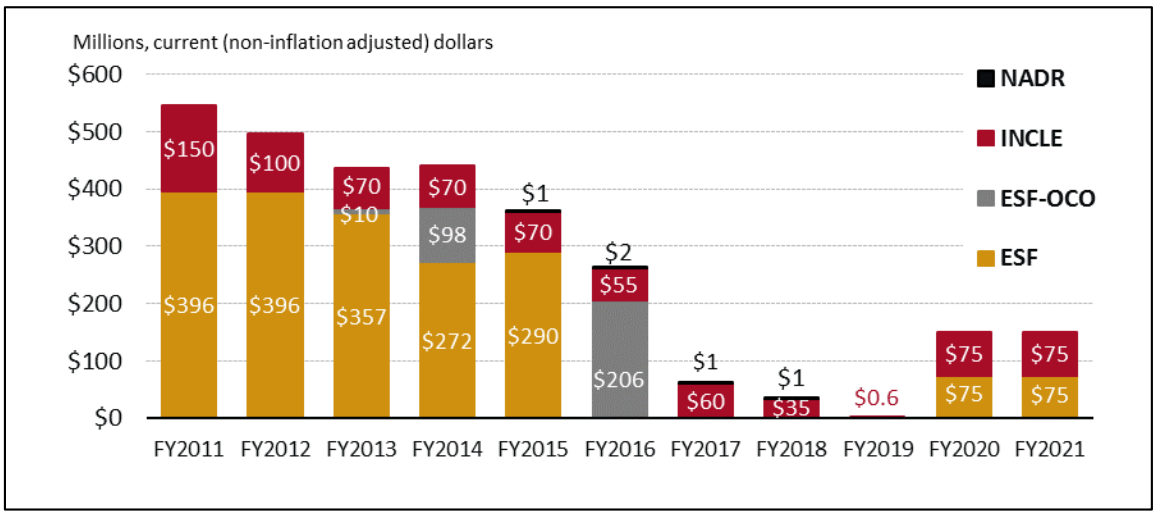
Responding to PA Payments for Acts of Terrorism: Aid Reductions

Around the mid-2010s, Congress began focusing on concerns that U.S. aid could be seen as indirectly supporting terrorism. These concerns were raised because of evidence that certain PLO/PA welfare payments arguably provide incentives for acts of terrorism (See textbox, "Palestinian Payments for 'Martyrs' and Prisoners," below).

For FY2015, Congress added a provision in annual foreign operations appropriations legislation requiring that the Administration make a dollar-for-dollar reduction of Economic Support Fund (ESF) aid for the PA in relation to PA payments "for acts of terrorism by individuals who are

imprisoned after being fairly tried and convicted for acts of terrorism and by individuals who died committing acts of terrorism." (P.L. 113-235). The provision was initially proposed in a slightly different form by the House Appropriations Subcommittee on State, Foreign Operations, and Related Programs in the version of the bill it reported for FY2015 (113th Congress, H.R. 5013). As a result of this provision, which was carried over for subsequent years, ESF aid levels decreased (see **Figure 13**).

Figure 13. U.S. Bilateral Assistance to the Palestinians since FY2011



Source: U.S. Department of State and USAID, adapted by CRS.

Notes: All amounts are approximate. Congress appropriated the noted amounts for FY2020 and FY2021, and some FY2020 funds have been obligated. NADR = Nonproliferation, Anti-terrorism, Demining, and Related Programs, INCLE = International Narcotics Control and Law Enforcement, ESF = Economic Support Fund, OCO = Overseas Contingency Operations.

Palestinian Payments for "Martyrs" and Prisoners

The Palestinian practice of compensating families who lose a member (combatant or civilian) in connection with Israeli-Palestinian violence reportedly dates back to the 1960s.[198] Palestinian payments on behalf of prisoners or decedents in their current form apparently "became standardized during the second *intifada* [uprising] of 2000 to 2005."[199] Various PA laws and decrees since 2004 have established parameters for payments.[200] U.S. lawmakers and executive branch officials have condemned the practice to the extent it might incentivize violence, focusing particular criticism on an apparent tiered structure that provides higher levels of compensation for prisoners who receive longer sentences.[201]

[198] Neri Zilber, "An Israel 'Conspiracy Theory' That Proved True—but Also More Complicated," *The Atlantic*, April 27, 2018.

[199] Eli Lake, "The Palestinian incentive program for killing Jews," *Bloomberg*, July 11, 2016.

[200] Yossi Kuperwasser, "Incentivizing Terrorism: Palestinian Authority Allocations to Terrorists and their Families," Jerusalem Center for Public Affairs; Testimony of Yigal Carmon, President of Middle East Media Research Institute, in U.S. Congress, House Committee on Foreign Affairs, Subcommittee on the Middle East and North Africa, *Financially Rewarding Terrorism in the West Bank*, hearing, 114th Cong., 2nd sess., July 6, 2016, H. Hrg. 114-201 (Washington, DC: GPO, 2016).

[201] See, e.g., Senator Corker, Opening Statement, in U.S. Congress, Senate Committee on Foreign Relations, *Consideration of the Taylor Force Act*, hearing, 115th Cong., 1st sess., July 12, 2017, S. Hrg. 115-70 (Washington, DC: GPO, 2019); Joel Gehrke, "House passes bill that could cut off Palestinian Authority funding due to aid of terrorists' families," *Washington Examiner*, December 5, 2017. For an analysis arguing that these PLO/PA payments are not the primary drivers of violence against Israel, see Shibley Telhami, "Why the discourse about Palestinian payments to

Taylor Force Act: Suspending Economic Aid Directly Benefitting the PA

Starting in 2016, some Members of Congress proposed measures that would go beyond the dollar-for-dollar reduction in economic aid for the Palestinians to a more comprehensive suspension of that aid. Because money is fungible, and U.S. aid had regularly helped to defray PA debts, critics asserted that any aid directly benefitting the PA could indirectly support PA payments for acts of terrorism.[202] The 2016 stabbing death of Taylor Force—a U.S. citizen and military veteran who was visiting Israel as a part of a graduate study program—in a terrorist attack by a Palestinian from the West Bank prompted Senator Lindsey Graham to introduce the initial version of the Taylor Force Act (TFA, S. 3414) in September 2016.[203]

Members of Congress considered TFA for much of the 115th Congress, with Representative Doug Lamborn introducing a House version (H.R. 1164) in February 2017.[204] In June 14, 2017, testimony before the House Foreign Affairs Committee, Secretary of State Rex Tillerson said of the PA payments, "Attaching payments as recognition of violence or murders is something the American people could never accept or understand."[205] In a July 12, 2017, Senate Foreign Relations Committee hearing at which Senator Graham offered a statement in support of TFA, Committee Chairman Bob Corker shared suggestions for amending the legislation:

> The way the Graham bill was first crafted, it cut off all ESF payments, and then gave a national security waiver. So there has been some concern that what you would really do is do nothing, because the likelihood is an administration would use the waiver. So you end up actually doing nothing to push back against this issue.
>
> So we have talked with Senator Graham about … separating the two. Payments that go directly to the Palestinian Authority, we would cut off, period, without any waiver. The payments that actually go to the Palestinian people, the humanitarian aid and those kinds of things, those would continue.

The final version of TFA incorporated additional suggestions from other Members of Congress and Trump Administration officials to provide specific exceptions permitting U.S. aid to flow in connection with certain health care and wastewater programs.[206] Rather than as a stand-alone bill,[207] TFA was enacted as part of the annual SFOPS appropriations bill for FY2018 (Division S, Title X, P.L. 115-141).

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prisoners' families is distorted and misleading," Brookings Institution, December 7, 2020.

[202] See, e.g., Elliott Abrams, "Stop Supporting Palestinian Terror," *National Review*, April 17, 2017.

[203] Emma Dumain, "Couple find mission in son's tragic death Graham bill honors Taylor Force, a veteran slain by Palestinian terrorist," *Charleston Post and Courier*, September 27, 2016.

[204] Representative Lamborn previously introduced a version of TFA in the House (H.R. 6389) during the 114th Congress in November 2016.

[205] Testimony of Secretary of State Rex Tillerson, in U.S. Congress, House Committee on Foreign Affairs, *The FY2018 Foreign Affairs Budget*, hearing, 115th Cong., 1st sess., H. Hrg 115-61, June 14, 2017 (Washington, DC: GPO, 2017).

[206] Bryant Harris, "House advances diluted bill cutting Palestinian aid," *Al-Monitor*, November 15, 2017; "Greenblatt pushed Congress to water down Taylor Force Act," *Jewish Insider*, November 13, 2017.

[207] Natalie Johnson, "Senate Democrats Prevent Stand-Alone Vote for Taylor Force Act," *Washington Free Beacon*, March 22, 2018.

ATCA: Linking U.S. Aid with Personal Jurisdiction in Terrorism-Related Lawsuits

In the wake of a U.S. federal appeals court decision in 2016 holding that lawsuits brought against the PLO and PA in connection with past terrorist acts failed for lack of personal jurisdiction, Senator Chuck Grassley introduced the Anti-Terrorism Clarification Act (S. 2946, 115th Congress) in May 2018. The bill was referred to the Senate Judiciary Committee, and the *Congressional Record* reflects no substantive debate on the bill.[208] The Senate Judiciary Committee amended and reported ATCA in July 2018, with few modifications. As amended by the Committee, it passed the Senate by voice vote in August, passed the House by unanimous consent in September, and President Trump signed it into law in October 2018 (P.L. 115-253).

ATCA amended the 1992 Anti-Terrorism Act (ATA, at 18 U.S.C. § 2334) by, among other things, stating that a defendant consented to personal jurisdiction in U.S. federal court for lawsuits related to international terrorism if the defendant accepted U.S. foreign aid from any of the following three accounts after the law had been in effect for 120 days:

- Economic Support Fund (ESF);
- International Narcotics Control and Law Enforcement (INCLE); or
- Nonproliferation, Anti-terrorism, Demining, and Related Programs (NADR).

Although ATCA's terms do not specifically cite the PLO/PA, U.S. bilateral aid to the Palestinians has traditionally flowed from the three designated accounts. Senator Grassley also described ATCA as a response to Palestinian leaders' actions.[209]

In December 2018, PA Prime Minister Rami Hamdallah wrote to Secretary of State Michael Pompeo that the PA would not accept aid that, pursuant to ATCA, subjected it to U.S. federal court jurisdiction.[210] Consequently, all U.S. bilateral aid to the Palestinians ended on January 31, 2019—just before ATCA's main provisions were set to take effect.[211]

Some sources suggested that the Trump Administration and Congress belatedly realized ATCA's possible impact, and subsequently began considering how to reduce or reverse some of its consequences.[212] Even though the Administration had drastically reduced U.S. aid to the Palestinians in 2018 before ATCA's enactment (affecting ESF from FY2017 on—see **Figure 13**), these reductions had not affected aid for the PA security forces (from the INCLE account) or existing economic aid projects using prior-year (pre-FY2017) ESF funding until ATCA's main provisions took effect.

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[208] The bill was not referred to the Senate committees that have jurisdiction over authorizing and appropriating foreign assistance. In the House, the bill was taken from the Speaker's table and considered by unanimous consent.

[209] Office of Senator Chuck Grassley, "Judiciary Committee Advances Plan to Restore Access to Justice for U.S. Victims of Terrorism," Press Statement, October 17, 2019.

[210] Letter accessible at Shalom Lipner, "US pressure on the Palestinians must not come at the cost of security," atlanticcouncil.org, January 25, 2019.

[211] Yolande Knell, "US stops all aid to Palestinians in West Bank and Gaza," *BBC News*, February 1, 2019.

[212] Matthew Lee, "In a twist, Trump fights to keep some Palestinian aid alive," *Associated Press*, November 30, 2018; Scott R. Anderson, "Congress Has (Less Than) 60 Days to Save Israeli-Palestinian Security Cooperation," *Lawfare Blog*, December 7, 2018.

Amending ATCA to De-link Aid and Personal Jurisdiction

After ATCA's enactment, the Trump Administration reportedly favored amending ATCA to allow PA security assistance to continue because of the priority U.S. officials have placed on Israel-PA security cooperation, which many in Israel also have highly valued.[213] In July 2019, Senator James Lankford introduced the Promoting Security and Justice for Victims of Terrorism Act of 2019 (PSJVTA, S. 2132, 116th Congress). The Senate Judiciary Committee reported an amended version of the bill in October 2019. In an October 29, 2019, hearing before the House Foreign Affairs Subcommittee on the Middle East, North Africa, and International Terrorism, Assistant Secretary of State for Near Eastern Affairs David Schenker said that the Administration was willing to "engage with Congress on every level" to consider ways to revisit or "fix" ATCA to allow the resumption of certain types of aid to Palestinians.

In December 2019, Congress enacted the amended version of PSJVTA as Division J, Section 903, of the Further Consolidated Appropriations Act, 2020 (P.L. 116-94). PSJVTA changes the legal framework of ATA by replacing certain provisions in ATCA that triggered consent to personal jurisdiction for terrorism-related offenses.[214] These changes include eliminating ATCA's provision triggering consent when a defendant accepts U.S. foreign aid. By partly reversing ATCA with respect to the acceptance of aid, PSJVTA could facilitate the resumption of various types of aid. PSJVTA has conditions that are reasonably likely to trigger PLO/PA consent to personal jurisdiction, subject to the question of constitutionality.[215]

Apparently signifying that Congress expected PSJVTA to allow for the resumption of U.S. aid to the Palestinians, the conference report for P.L. 116-94 provided the following directives for FY2020 (see **Figure 13**):[216]

- $75 million in INCLE for security assistance in the West Bank for the PA;
- $75 million in ESF for the "humanitarian and development needs of the Palestinian people in the West Bank and Gaza."

In late 2020, Congress appropriated the same amounts for FY2021, as stated in the explanatory statement for P.L. 116-260.[217]

In April 2021, the Biden Administration obligated the $75 million in FY2020 ESF for the Palestinian people and $40 million in prior-year INCLE for PA security and justice sector assistance.[218]

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[213] Ibid.

[214] 18 U.S.C. § 2334(e)(5) (as added).

[215] For more information, see CRS Report R46274, *The Palestinians and Amendments to the Anti-Terrorism Act: U.S. Aid and Personal Jurisdiction*, by Jim Zanotti and Jennifer K. Elsea.

[216] Text of conference report available at https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/HR%201865%20-%20Division%20G%20-%20SFOPs%20SOM%20FY20.pdf.

[217] Explanatory statement available in Congressional Record, 116th Congress, 2nd Session, Vol. 166, No. 218–Book IV, December 21, 2020, at H8791.

[218] State Department, Secretary of State Antony J. Blinken, The United States Restores Assistance for the Palestinians, April 7, 2021; U.S. Agency for International Development FY2021 Congressional Notification #143, March 26, 2021 (available to congressional staff upon request from CRS); State Department Congressional Notification Transmittal Letter 21-085, April 2, 2021 (available to congressional staff upon request from CRS). In addition to providing bilateral aid for the West Bank and Gaza, the Biden Administration also announced it would provide $10 million in peacebuilding programs and $150 million in contributions to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). In March, the State Department spokesperson had separately announced $15 million in humanitarian assistance to the West Bank and Gaza for Coronavirus Disease 2019 (COVID-19) response efforts and

Observations

Congress continues to assess the effects of the legislation discussed above and its implications for U.S. policy regarding aid to the Palestinians. Among the issues that remain under consideration are:

- **TFA's Uncertain Impact.** The effects of TFA to date have been difficult to discern because the Trump Administration reduced economic aid to the Palestinians a few months after TFA's enactment, for reasons that extended beyond TFA's focus on PA payments "for acts of terrorism."
- **Informal vs. Formal Interventions.** Congress might evaluate the benefits and drawbacks of informal and flexible measures (such as congressional holds and executive-legislative branch consultations) and compare them with those associated with specific legislative conditions on aid.
- **Key Factors Affecting Future U.S. Aid Decisions.** These could include Palestinian responsiveness to U.S. demands (such as on PA welfare payments for acts of terrorism), prospects for stability and reform in the West Bank and Gaza, the roles of other international actors and organizations in the Israeli-Palestinian arena, urgent humanitarian or development needs, and other U.S. foreign and domestic policy priorities. Relevant considerations may include the Abraham Accords reached between Israel and the governments of several Arab states.[219]

PSJVTA removed the acceptance of U.S. bilateral aid as a trigger of PLO/PA consent to personal jurisdiction for terrorism-related lawsuits, thus allowing for resumption of the aid that was suspended in January 2019 under ATCA. As mentioned above, in April 2021 the Biden Administration resumed some ESF aid for the Palestinian people, along with INCLE aid for the PA security forces and justice sector. Future congressional aid appropriations could depend on how bilateral relations evolve. The Trump Administration's reduction of U.S. aid for the Palestinians in 2018 (mentioned above) was largely an effort—unsuccessful at the time—to pressure the PLO/PA into making political concessions.

Additionally, under its terms, TFA would preclude any ESF deemed to directly benefit the PA unless the PA stops making welfare payments "for acts of terrorism." The prospect of ending these payments may encounter strong domestic opposition among Palestinians. However, media reports from late 2020 suggested that the PA might be considering changes to the payments—if it can make them domestically palatable—in hopes of removing obstacles to U.S. aid.[220]

Iran: Sanctions, the JCPOA, and 'Maximum Pressure'[221]

Sanctions have been a significant component of U.S. Iran policy since Iran's 1979 Islamic Revolution that toppled the Shah of Iran, a U.S. partner. Successive Administrations and

emergency food assistance. For additional context, see CRS Report RL34074, *The Palestinians: Background and U.S. Relations*, by Jim Zanotti.

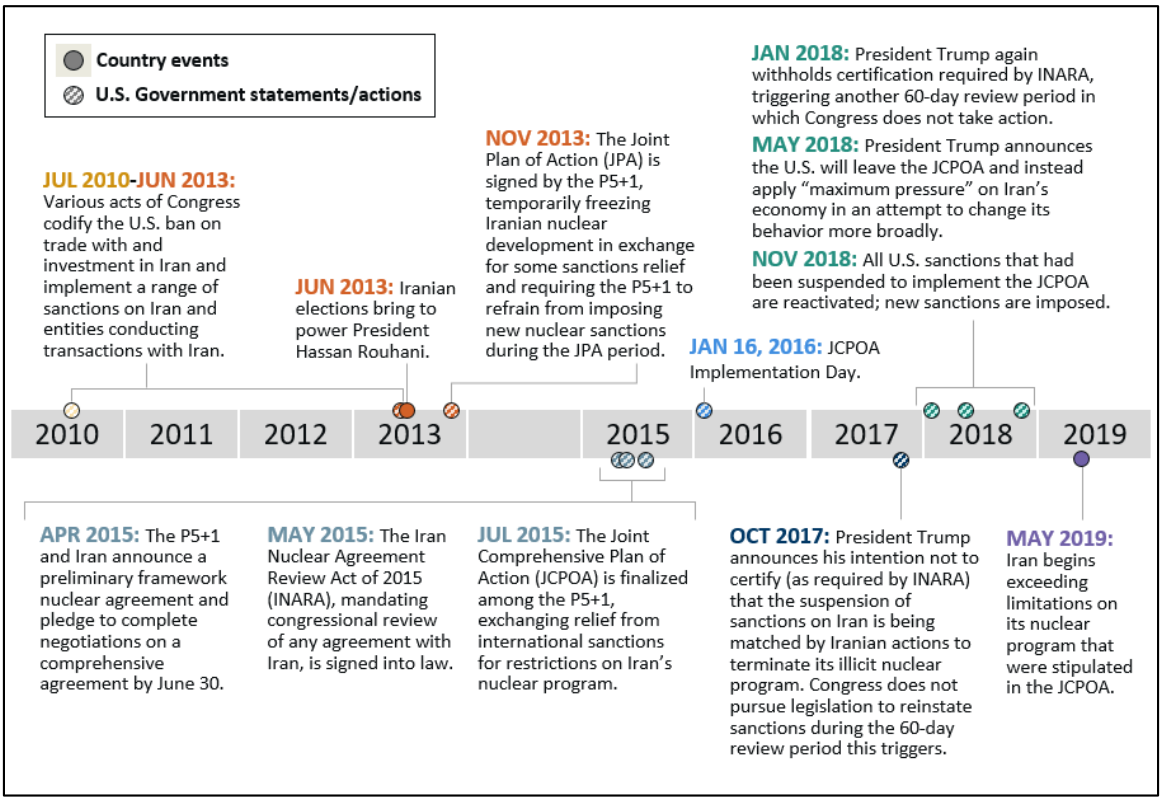
[219] See CRS Report R44245, *Israel: May 2021 Violence, Other Background, and U.S. Relations in Brief*, by Jim Zanotti.

[220] Adam Rasgon and David M. Halbfinger, "Seeking Restart with Biden, Palestinians Eye End to Prisoner Payments," *New York Times*, November 19, 2020.

[221] Prepared by Specialist in Middle Eastern Affairs Kenneth Katzman, Analyst in Middle Eastern Affairs Clayton Thomas, and Research Assistant Sarah Collins. For more information, see CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

Congresses have used economic sanctions to address the Iranian government's support for terrorism and regional armed factions, its poor human rights record, its weapons and missile development and acquisition, and its development of a nuclear program. In the 1980s and 1990s, U.S. sanctions were intended to compel Iran to cease supporting groups that conducted acts of terrorism and to limit Iran's strategic power in the Middle East.[222] After the mid-2000s, U.S. and international sanctions focused largely on trying to persuade Iran to agree to limit its advancing nuclear program. Congress played a central role in enacting sanctions related to Iran's nuclear program and in overseeing (and challenging) the Obama Administration's subsequent efforts to lift some of those sanctions as part of multilateral negotiations to secure limits on Iran's nuclear activities.

Figure 14. Timeline: Selected Developments in U.S. Iran Policy



Source: Prepared by CRS using media reports and U.S. government statements.

Notes: P5+1 = United States, Russia, China, France, the United Kingdom, and Germany.

Obama Administration. Multilateral negotiations that began in 2006 and the imposition of modest multilateral and United Nations sanctions did not appear to be slowing the advance of Iran's nuclear program. In response, Congress passed major Iran-related sanctions legislation (see **Table 3**). Most of the U.S. sanctions from 2010 to 2015 were secondary sanctions—essentially denying U.S. market access to foreign firms that transact with major sectors of the Iranian economy, including banking, energy, and shipping. The Administration issued several Executive Orders under which it designated specific individuals and entities to implement and supplement the provisions of these laws.

[222] See e.g. The Iran-Iraq Arms Non-Proliferation Act of 1992 (Title XVI of P.L. 102-484), The Iran and Libya Sanctions Act of 1996 (), The Iran, North Korea, and Syria Non-Proliferation Act ("INKSNA,").

The U.S. and international sanctions regime of 2010-2015 is widely credited with influencing Iran's decision to enter into a 2015 multilateral agreement that put limits on its nuclear program—the Joint Comprehensive Plan of Action (JCPOA). The JCPOA, which was finalized on July 14, 2015, by Iran, the United States, and five other countries (Russia, China, the United Kingdom, France, and Germany, or the P5+1), exchanged relief from international sanctions for restrictions on Iran's nuclear program. The Obama Administration called the JCPOA a significant diplomatic achievement that would accomplish the core U.S. national security goal of preventing Iran from obtaining a nuclear weapon "without resorting to war."[223] In accordance with the JCPOA, the Obama Administration, along with the U.N. and the European Union, eased nuclear-related sanctions. Remaining in place were U.S. sanctions on direct trade with Iran and on Iran's international terrorist activities, its support for regional armed factions, its human rights abuses, and on its efforts to acquire missile and advanced conventional weapons technology.

Trump Administration. The Trump Administration asserted that the JCPOA did not address the broad range of Iran's objectionable behaviors and that JCPOA-mandated limitations on Iranian nuclear activities did not justify the sanctions relief provided. In May 2018, the Trump Administration announced that the United States would exit the JCPOA and would instead apply "maximum pressure" on Iran's economy in an attempt to change its behavior more broadly. The Administration's focus centered on enforcement and imposition of comprehensive economic sanctions on Iran. All U.S. sanctions that had been suspended to implement the JCPOA were reactivated as of November 5, 2018. The Trump Administration also imposed new U.S. sanctions beyond those in place prior to the JCPOA.[224] In May 2019, Iran began exceeding limitations on its nuclear program that were stipulated in the JCPOA.

Congress and U.S. Sanctions Policy

Executive and Legislative Branch Roles on Sanctions.[225] The use of economic sanctions as a foreign policy or national security tool is one shared by the legislative and executive branches (see **Appendix**). In the collection of laws that are the statutory basis for the U.S. economic sanctions regime on Iran, the President retains, in varying degrees, the authority to tighten and relax restrictions. Using the authorities granted to the President under the National Emergencies Act (NEA) and the International Emergency Economic Powers Act (IEEPA), the President maintains that Iran poses an "unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States…."[226] On March 15, 1995, President Bill Clinton declared that Iran's proliferation activities posed a threat to the United States that constituted a national emergency; this declaration has been renewed annually since 1995, as required by statute, and is the basis for subsequent executive orders that have expanded restrictions on economic relations with Iran.[227]

Pre-Negotiations. In the years preceding JCPOA negotiations, Congress, with Administration support, enacted significant economic sanctions. These sanctions laws, outlined in **Table 3**, had the net effect of inflicting measurable harm on Iran's economy. There has been a consensus

[223] U.S. President (Obama), "Remarks at American University," Daily Compilation of Presidential Documents, 2015 DCPD-201500549, August 5, 2015, p. 10.

[224] See CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

[225] This section was adapted from CRS Report R43311, Iran: U.S. Economic Sanctions and the Authority to Lift Restrictions, by Dianne E. Rennack.

[226] National Emergencies Act, P.L. 94-412; 50 U.S.C. 1601; and, International Emergency Economic Powers Act, P.L. 95-223; 50 U.S.C. 1701(a).

[227] Executive Office of the President, "Executive Order 12957 of March 15, 1995: Prohibiting Certain Transactions With Respect to the Development of Iranian Petroleum Resources," 60 *Federal Register* 14615, March 17, 1995.

among experts that the economic effects—in particular the reduction of Iran's oil exports by more than 60% and the restriction of Iran's access to over $125 billion in foreign exchange assets held abroad—were instrumental in persuading Iranian leaders to negotiate and agree to the terms of the JCPOA. The economic pressure that sanctions placed on Iran and its leaders is analyzed further below.

Congress's Role during Negotiations. During the multilateral negotiations that began in 2013 and culminated in the JCPOA, some Members of Congress sought to support the Obama Administration's attempts to negotiate an accord with Iran, but in general, congressional majorities expressed skepticism about or outright opposition to the Administration's Iran policies. These majorities introduced legislation to reimpose sanctions (either at once or under certain conditions) and mandate congressional review of any agreement reached with Iran. The Administration regularly described Congress as a critical partner whose previous sanctions efforts were instrumental in forcing Iran into negotiations, but warned that additional sanctions legislation could disrupt sensitive diplomacy and violate executive branch prerogatives. At several key junctures, the Administration worked to prevent congressional action, especially in the Senate, where the 60-vote threshold for cloture reduced the number of Members able to block legislation.

Table 3. Sanctions Legislation Pertaining to Iran 2010-2015

Legislation Name	Public Law Number	Final Votes	Target of Sanctions
The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA)	P.L. 111-195, 22 U.S.C. §§8501 et seq.	Conference Report agreed to in the House 408-8 and in the Senate 99-0.	Codifies the U.S. ban on trade with and investment in Iran, first imposed by Executive Order 12959 of May 1995; imposes sanctions on foreign banks that facilitate transactions for Iranian entities.
FY2012 National Defense Authorization Act (NDAA)	Section 1245(d), P.L. 112-81, 22 U.S.C. 8513a	Conference Report agreed to in the House 283-136 and in the Senate 86-13.	Imposes sanctions on banks of countries that do not reduce Iran oil imports.
Iran Threat Reduction and Syria Human Rights Act of 2012 (ITRSHRA)	P.L. 112-158, 22 U.S.C. §§8701 et seq.	Passed in the House 410-11; passed in the Senate with an amendment by voice vote.	Expands sanctions relating to Iran's energy sector; prohibits foreign banks from allowing Iran to withdraw its funds; imposes sanctions relating to Iran's Revolutionary Guard Corps (IRGC) and to human rights violations.
Iran Freedom and Counter-Proliferation Act (IFCA)	Sections 1244-1247, P.L. 112-239, 22 U.S.C. §§8801 et seq.	Conference Report agreed to in the House 315-107 and in the Senate 81-14.	Imposes sanctions on transactions with Iran's energy, shipping, and shipbuilding sectors, and banks that conduct transactions with sanctioned Iranian entities.

Notes: Congress grants to the President the authority to terminate most of the sanctions imposed on Iran in CISADA, ITRSHRA, and IFCA. Before terminating these sanctions, however, the President must certify that the government of Iran has ceased its engagement in the two critical areas of terrorism and weapons, as set forth in Section 401 of CISADA, as amended.

As negotiations with Iran seemed to make progress during 2013-2014, several Members advocated for continued pressure to build on the series of sanctions put in place earlier (see **Table 3**). In July 2013, the House passed the Nuclear Iran Prevention Act of 2013 (H.R. 850, 113th Congress) by a vote of 400-20.[228] H.R. 850 would have limited exceptions for the foreign

[228] House Roll Call Vote Number 427, July 31, 2013.

purchase of Iranian oil to reduce them, in aggregate, by one million barrels a day; the legislation could have effectively cut Iran's oil exports to zero.[229] In response to statements by some Senators indicating that they would also pursue legislation to reduce Iranian oil exports,[230] President Obama and other Administration officials encouraged certain Members to hold off on such action, and the Democratic-controlled Senate Banking Committee reportedly delayed an expected vote on a standalone sanctions package at the Administration's request.[231]

On November 24, 2013, the P5+1 and Iran signed the Joint Plan of Action (JPA), temporarily freezing Iranian nuclear development in exchange for some sanctions relief and requiring the P5+1 to refrain from imposing new nuclear sanctions during the JPA period. President Obama promised to continue working with Congress, but warned "now is not the time to move forward on new sanctions—because doing so would derail this promising first step, alienate us from our allies and risk unraveling the coalition that enabled our sanctions to be enforced in the first place."[232] Still, some Members introduced legislation to do so, such as S. 1881 (113th Congress), the Nuclear Weapon Free Iran Act of 2013, which would have imposed new sanctions but allowed the President to waive them by certifying that Iran was in compliance with its JPA responsibilities and the parties were making progress toward a final settlement.

By early 2014, 59 Senators had signed on as cosponsors to S. 1881, with some arguing that such Members in both chambers were seeking to play the "bad cop" to the Administration's "good cop" in dealing with Iran.[233] Arguably, pressure from President Obama and other key Administration officials, as well as some public opposition, prevented support in the Senate from reaching a veto-proof majority for enactment.[234] A letter from 79 Senators to President Obama on March 28, 2014, expressed the signatories' "hope that nuclear negotiations succeed in preventing Iran from ever developing a nuclear weapon," but asked him to work with Congress in crafting "much more dramatic sanctions" if Iran rejected negotiations.[235]

In light of the scope of congressional opposition to the emerging Iran nuclear deal, the Obama Administration reportedly concluded that it had the authority to waive most Iran sanctions without having to seek a vote in Congress.[236] Many outside experts also assessed that the President has "comprehensive" or "considerable waiver authority to relieve sanctions," making the invocation of those statutory authorities likely the simplest way of providing sanctions relief as part of any agreement.[237] Some congressional sources expressed opposition to unilateral executive branch actions and some Members proposed measures to mandate a congressional vote

[229] Timothy Gardner, "U.S. House passes Iran sanctions bill to slash oil exports," Reuters, July 31, 2013.

[230] Oren Dorell, "Senators pledge to defy White House on Iran sanctions," *USA Today*, October 18, 2013; Timothy Gardner, "U.S. senators seek to cut Iran's oil sales in half-again," Reuters, October 29, 2013.

[231] Patricia Zengerle, "U.S. congressional action on Iran sanctions unlikely this month," Reuters, November 18, 2013.

[232] NARA, Office of the Federal Register, Public Papers of the Presidents of the United States: Barack H. Obama, 2013, Book 2, (Washington, DC: GPO, 2014), Remarks on Iran, November 23, 2013, pp. 1294-5.

[233] Patrick Clawson, "Why are congressional Democrats considering new Iran sanctions?" BBC, January 17, 2014.

[234] Yochi Dreazen and John Hudson, "Pennsylvania Avenue's Cold War," *Foreign Policy*, January 16, 2014; Steve Benen, "Support for new Iran sanctions wanes," MSNBC, January 17, 2014.

[235] Letter from 79 Senators to President Obama, March 18, 2014, available at https://www.foreign.senate.gov/imo/media/doc/3-18-14%20Letter%20to%20POTUS%20Re%20Iran%20Negotiations.pdf.

[236] David Sanger, "Obama Sees an Iran Deal that Could Avoid Congress," *New York Times*, October 19, 2014.

[237] "Iran Nuclear Negotiations Crash Course," Bipartisan Policy Center, Report, November 20, 2014; Kelsey Davenport, Daryl Kimball, and Greg Thielmann, "Solving the Iranian Nuclear Puzzle: Toward a Realistic and Effective Comprehensive Nuclear Agreement," Arms Control Association, Briefing Book, 3rd Edition, June 2014.

on whatever comprehensive agreement was reached.[238] These proposals included S. 2650 (113th Congress), the Iran Nuclear Negotiations Act of 2014, introduced by Senate Foreign Relations Committee Ranking Member Bob Corker and several other Senators in July 2014. S. 2650 would have required formal submission to Congress of the comprehensive agreement for approval or disapproval (under expedited committee and floor procedures), and would have reinstated all waived sanctions unless an agreement was reached and submitted before the P5+1's self-imposed November 2014 deadline. The P5+1 later extended that deadline until June 2015, leading some Members of Congress to express concern about an extension without additional economic pressure.[239]

Congressional opposition to the emerging contours of an agreement was buttressed by vocal public opposition from Israeli Prime Minister Binyamin Netanyahu, who said in a 2015 address to a joint session of Congress, "we've been told that no deal is better than a bad deal. Well, this is a bad deal. It's a very bad deal. We're better off without it."[240] Although hesitant to issue statements that could be interpreted as advising the U.S. Congress or commenting on internal U.S. deliberations, in late 2014, officials from the French, German, and British embassies reportedly met with Members and staff to warn that European Union countries might unilaterally re-engage with Iran if Congress passed new Iran sanctions that resulted in a collapse of the talks.[241] The United Kingdom's Prime Minister David Cameron said in January 2015 that he'd expressed to several Senators his view that "further sanctions or further threat of sanctions at this point won't actually help to bring the talks to a successful conclusion and they could fracture the international unity that there's been, which has been so valuable in presenting a united front to Iran."[242]

At the start of the 114th Congress, Senate Foreign Relations Committee Chairman Bob Corker introduced S. 615, the Iran Nuclear Agreement Review Act of 2015 (INARA), mandating congressional review of any agreement with Iran; President Obama pledged to veto the legislation.[243] On April 2, 2015, the P5+1 and Iran announced a preliminary framework nuclear agreement and pledged to complete negotiations on a comprehensive agreement by June 30. In announcing the agreement, President Obama warned, "If Congress kills this deal—not based on expert analysis, and without offering any reasonable alternative—then it's the United States that will be blamed for the failure of diplomacy. International unity will collapse, and the path to conflict will widen."[244]

As the prospect of an agreement became more realistic, congressional support for review of that agreement grew. An intense White House outreach campaign was not enough to prevent more Senators from becoming cosponsors to INARA. A White House spokesman indicated President Obama would sign the bill, a change attributed by the White House to changes to the measure and

[238] Michael Crowley and Burgess Everett, "Republicans seek to thwart deal," *Politico*, November 11, 2014.

[239] See, for example, Representative Juan Vargas, Statement on Extension of Iran Nuclear Negotiations, November 25, 2014.

[240] "Joint Meeting to Hear an Address by His Excellency Binyamin Netanyahu, Prime Minister of Israel," House of Representatives, *Congressional Record*, vol. 161, No. 36, pp. H1528-H1531, March 3, 2015.

[241] Julian Pecquet, "Europeans Work Congress on Iran," *Al Monitor*, November 14, 2014.

[242] U.S. President (Obama), "The President's News Conference with Prime Minister David Cameron of the United Kingdom," Daily Compilation of Presidential Documents, 2015 DCPD-201500031, January 16, 2015, p. 7.

[243] Letter from Denis McDonough, Assistant to the President and Chief of Staff, to Bob Corker, Chairman of the Senate Foreign Relations Committee, March 15, 2015, available at http://big.assets.huffingtonpost.com/CokerLetter.pdf.

[244] U.S. President (Obama), "Remarks on International Diplomatic Efforts To Prevent Iran From Developing Nuclear Weapons," Daily Compilation of Presidential Documents, 2015 DCPD-201500230, April 2, 2015, p. 4.

by some Senators to the inevitability of a strong vote in favor of it.[245] The bill was approved by the Senate 98-1 and by the House by a vote of 400-25, and signed into law by President Obama on May 22, 2015 (P.L. 114-17).[246]

INARA requires the President to submit to Congress within five days any agreement reached with Iran regarding its nuclear program together with all related materials and annexes; a verification assessment report by the Secretary of State; and a certification regarding the appropriateness of terms and measures to be taken in light of the United States' non-proliferation goals and associated risk to the United States. In addition to receipt of these transmittal documents, INARA provides a congressional review period during which Congress can consider a joint resolution to disapprove the agreement while the President is prohibited from taking certain steps to implement it.[247] The review period is 30 days, except for agreements submitted between July 10, 2015, and September 7, 2015, for which the review period was 60 days. If such a resolution is not enacted into law, the President would be able to exercise waiver authority in various sanctions laws to provide Iran with the agreed sanctions relief.

On July 14, 2015, the P5+1 and Iran signed the Joint Comprehensive Plan of Action (JCPOA), triggering the 60-day congressional review period ending on September 17, 2015.[248] During the 114th Congress, joint resolutions of disapproval were introduced but not passed in each chamber: H.J.Res. 64 in the House, and S.Amdt. 2640 to H.J.Res. 61 in the Senate. The House acted on additional bills, none of which was taken up by the Senate, including H.R. 3461 to approve the deal (voted down 162-269) and H.R. 3460 to deny the President the ability to waive any sanctions laws until January 2017 (passed 247-186).[249] In the Senate, several cloture motions on the disapproval resolution (H.J.Res. 61) were defeated. The review process provided for in INARA ended on September 17, 2015, with no resolution either approving or disapproving the JCPOA being enacted. In the end, congressional majorities opposed the July 2015 accord but were unable to impede its implementation via the use of waiver authority and the revocation of sanctions-related executive orders.

Post-JCPOA. Candidate-for-President Donald Trump expressed an intention to withdraw from the JCPOA. In October 2017, President Trump announced his intention not to certify, as required every 90 days by INARA, that the suspension of sanctions on Iran was "appropriate and proportionate to the specific and verifiable measures taken by Iran with respect to terminating its illicit nuclear program." The withholding of the certification triggered a 60-day period for Congress to consider reinstating sanctions under expedited floor procedures provided by INARA. That period expired on December 15, 2017, but Congress did not pursue any such legislation, as Members sought to find language that "keeps [the Europeans] at the table with us," as Chairman Corker said in December 2017.[250] President Trump withheld the same certification by the subsequent January 13, 2018 deadline, triggering another 60-day window during which Congress again did not take action. On May 8, 2018, President Trump announced that the United States

[245] Jonathan Weisman and Peter Baker, "Obama Yields, Allowing Congress Say on Iran Nuclear Deal," *New York Times*, April 14, 2015; Peter Baker, "Congress's Role in Iran Nuclear Deal Shows Limits of Obama's Power," *New York Times*, April 15, 2015.

[246] Senate Roll Call Vote Number 174, May 7, 2015, and House Roll Call Vote Number 226, May 14, 2015.

[247] Iran Nuclear Agreement Review Act, P.L. 114-17, 129 Stat. 201, codified at 42 U.S.C. §2160e.

[248] The Obama Administration submitted the agreement to Congress on July 19, 2015.

[249] House Roll Call Votes Numbers 193 and 494, September 11, 2015.

[250] Patricia Zengerle, "U.S. Congress to let Iran deadline pass, leave decision to Trump," Reuters, December 12, 2017.

would cease participation in the JCPOA, by refusing to renew previously issued waivers of various sanctions laws.[251]

Even prior to the Trump Administration's decision to withdraw from the JCPOA, the 115th Congress passed or considered several pieces of legislation to impose additional sanctions on Iran (though none related to its nuclear program). Such measures include Countering Iran's Destabilizing Activities Act of 2017 (Title I of P.L. 115-44) as well as measures introduced to impose sanctions on entities providing material support to Iran's ballistic missile program (H.R. 1698), the Islamic Revolutionary Guard Corps (H.R. 5132), and Iranian-backed militias in Iraq (S. 3431). Similar measures were introduced in the 116th Congress; none was enacted.

After November 2018, when all U.S. sanctions waived to implement the JCPOA were reimposed, the Trump Administration continued to impose additional sanctions on Iran through new executive orders as well as the designation of Iranian entities under existing executive orders. These additional sanctions included those on Iran's minerals and metals sectors; on its construction sector; on the assets of Iran's Supreme Leader and his top associates; and on its Central Bank (as a terrorist entity). Some Members of Congress supported these additional sanctions publicly, even calling for greater executive action.[252] The relative lack of congressional action under the Trump Administration likely reflects a convergence of legislative and executive branch policy preferences, as the Trump Administration's "maximum pressure" campaign against Iran obviated the need, or at least urgency, for apparent congressional majorities in support of such efforts to pursue related actions through legislation. Still, Congress did enact certain oversight and reporting requirements from the executive branch, particularly monitoring Iran's reported activities related to military power, international terrorism, terrorism financing, illicit cyber activities, and ballistic missile research and development—areas of alarming behavior not addressed by the JCPOA.[253]

Observations

As noted above, a major issue in analyzing the effect of congressional action is an assessment of the degree to which U.S. sanctions influenced Iranian policy, decisions, and behavior. The following sections summarize some of those assessments.

Nuclear Weapons Program.[254] According to various sources, U.S. and international sanctions complicated Iranian efforts to obtain components and materials for its centrifuge program prior to 2015. For example, the U.N. Security Council Panel of Experts 2011 report stated that "sanctions are constraining Iran's procurement of items related to prohibited nuclear and ballistic missile activity and thus slowing development of these programmes."[255] U.S. officials made similar assertions: National Security Adviser Tom Donilon argued in 2011 that "[s]anctions and export control efforts have made it more difficult and costly for Iran to acquire key materials and equipment for its enrichment program, including items that Iran can't produce itself."[256] However,

[251] U.S. President (Trump), "NSPM–11: National Security Presidential Memorandum on Ceasing United States Participation in the Joint Comprehensive Plan of Action and Taking Additional Action To Counter Iran's Malign Influence and Deny Iran All Paths to a Nuclear Weapon," Daily Compilation of Presidential Documents, 2018 DCPD-201800311, May 8, 2018.

[252] Letter to President Donald J. Trump from Senators Marco Rubio, Tom Cotton, and Ted Cruz, July 2, 2019.

[253] CRS Report R43311, *Iran: U.S. Economic Sanctions and the Authority to Lift Restrictions*, by Dianne E. Rennack.

[254] This material has been adapted from CRS Report RL34544, *Iran's Nuclear Program: Status*, by Paul K. Kerr.

[255] Final Report from Panel of Experts on Iran Established Pursuant to Resolution 1929 (2010), May 1, 2011.

[256] Remarks of Tom Donilon, "Iran and International Pressure: an Assessment of Multilateral Effort to Impede Iran's

the extent to which sanctions slowed Tehran's program is unclear. Donilon also cited "mistakes and difficulties in Iran" as obstacles to the program's progress.

Pursuant to the JCPOA, Iran restricted and/or dismantled various portions of its nuclear program. German Minister of State Niels Annen argued in a February 19, 2019, speech that the JCPOA "effectively prevents Iran from acquiring a nuclear weapon for as long as the agreement stands."[257] In response to the May 2018 U.S. decision to no longer participate in the JCPOA, Iran initiated certain nuclear activities that currently exceed JCPOA-mandated limits. The International Atomic Energy Agency (IAEA) verified these actions beginning in July 2019; Tehran has since increased the number of such activities.[258]

Regional Activities and Terrorism. The imposition, lifting, or reimposition of strict sanctions has arguably had minimal effect on Iran's regional behavior and support for terrorism. Iran intervened extensively in Syria, Iraq, and Yemen during the 2011-2015 period when sanctions had a significant adverse effect on Iran's economy. Iran remained engaged in these regional conflicts after sanctions were eased in 2016, and since U.S. sanctions were reimposed in late 2018.[259] However, Trump Administration officials cited Hezbollah's financial difficulties as evidence that sanctions have harmed Iran's abilities to project power in the region.[260] They noted a decrease in Iran's defense budget during the 2017-2019 period: "[…] when our pressure went into effect we saw a reduction in [Iran's] military spending of nearly 10 percent. Iran's 2019 budget, which was released in March, called for even steeper cuts, including a 28 percent cut to their defense budget and a 17 percent cut for IRGC funding."[261] As of June 2020, the State Department described Iran as "the world's worst state sponsor of terrorism" and said that Iran "used the Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF) to provide support to terrorist organizations."[262]

Missiles. Despite U.S. and EU sanctions on its missile programs, Iran has been able to expand the scale and sophistication of its missile capabilities, as demonstrated by Iran's September 14, 2019, strike on critical Saudi energy infrastructure and Iran's retaliatory attack for the killing of Qasem Soleimani in January 2020. Sanctions—as well as U.N. Security Council Resolution 2231—have since the early 1990s prevented Iran from buying meaningful amounts of major combat systems.[263] The U.N. ban on Iran's weapons importation and exportation expired on October 18, 2020. U.S. intelligence directors have testified that Iran continues to develop its own increasingly advanced naval mines, submarines, and attack craft.[264]

Nuclear Program," The Brookings Institution, November 22, 2011.

[257] "Opening Remarks by Minister of State Niels Annen at the SWP Conference on U.S. Foreign Policy under the Trump Administration," February 19, 2019.

[258] For a list of areas in which Iran is in non-compliance with the JCPOA, see CRS Report R46663, Possible U.S. Return to Iran Nuclear Agreement: Frequently Asked Questions, by Kenneth Katzman et al.

[259] CRS Report R44017, *Iran's Foreign and Defense Policies*, by Kenneth Katzman.

[260] Testimony of Ambassador Brian Hook in U.S. Congress, House Foreign Affairs Committee, Subcommittee on the Middle East, North Africa, and International Terrorism, *Oversight of the Trump Administration's Iran Policy*, hearing, 116th Cong., 1st sess., June 19, 2019, H. Hrg. 116-48 (Washington, DC: GPO, 2019); Liz Sly and Suzan Haidamous, "Sanctions on Iran are Hitting Hezbollah," *Washington Post*, May 19, 2019.

[261] Testimony of Special Representative Brian Hook before the Senate Foreign Relations Committee, 116th Congress, October 16, 2019.

[262] U.S. Department of State, Country Reports on Terrorism, 2019, June 24, 2020.

[263] See CRS In Focus IF11429, *U.N. Ban on Iran Arms Transfers and Sanctions Snapback*, by Kenneth Katzman.

[264] Statement for the Record of Director of National Intelligence Daniel R. Coats, in U.S. Congress, Senate Select Committee on Intelligence, *2019 Worldwide Threat Assessment of the U.S. Intelligence Community*, hearing, 116th

Regime Change. Although no U.S. Administration has publicly asserted that the goal of U.S. sanctions on Iran is to bring about regime change, a key question is whether U.S. sanctions might produce political change in Iran. In late 2017, early 2018, and November 2019, unrest broke out in Iran over economic conditions and government repression. Still, U.S. sanctions were suspended at the time of the unrest in late 2017 and there were few secondary sanctions during the large Green Movement uprising of 2009-2010, suggesting that the connection between sanctions and Iran unrest might be tenuous.[265] Still, some Iranian protesters complain that the country's money is being spent on regional interventions rather than on the domestic economy.[266]

Political Moderation. The relationship between U.S. sanctions and political dynamics in Iran is indirect, but sanctions have not evidently empowered moderates or others more favorably disposed to dialogue with the United States. The Trump Administration's "maximum pressure" campaign arguably undermined President Hassan Rouhani—and bolstered Iranian conservatives who want to maintain the status quo—by illustrating that negotiations with the United States do not produce better relations. Such conservatives overwhelmingly won Iran's February 2020 parliamentary elections. Many of the potentially strong candidates in the June 2021 presidential election apparently are hardliners, to varying degrees.[267]

Economic Effects. There is little dispute that U.S. sanctions imposed during 2011-2015, and since 2018, have taken a substantial toll on Iran's economy. During 2011-2015, global economic sanctions contributed to the shrinking of Iran's economy as its crude oil exports fell by more than 50% and it could not access its foreign exchange assets abroad.[268] Global banks mostly left the Iranian market and hesitated to reenter after the 2016 easing of sanctions. Iran's economy contracted approximately 20%. From 2011-2016, the unemployment rate rose to about 20%, but the JCPOA-related sanctions relief enabled Iran to achieve 7% annual growth during 2016-2018.[269] The IMF reported that Iran's economy declined by about 8% from March 2019 to March 2020, and a further contraction is expected during 2020-2021.[270] The reimposition of U.S. sanctions in 2018 caused the rial's value to plummet from 35,000 to 150,000 to the dollar by November 5, 2018, and, in September 2020, to about 265,000 to the dollar.[271]

Energy Sector Development. Since 2011, there has been little foreign-led development activity at Iran's various oil and gas development sites; many foreign investors have resold their equity stakes to Iranian companies that are generally less technically capable than international firms. The lifting of sanctions in 2016 prompted Iran to try to lure foreign investors back into the sector

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Congress, 1st sess. S.Hrg.116-75, January 29, 2019 (Washington, DC: GPO, 2019).

[265] See Pouya Alimagham, *Contesting the Iranian Revolution: The Green Uprisings*, Cambridge, UK, Cambridge University Press, 2020.

[266] Miriam Berger, "Cash-strapped Iranians are protesting a rise in fuel prices. Here's how economic protests have played out before," *The Washington Post*, November 16, 2019.

[267] Arsalan Shahla and Golnar Motevalli, "Iran's Hardliners Win Election by Large Margin, Mehr Says," *Bloomberg News*, February 23, 2020.

[268] Ian Talley, "Iran, Cut Off From Vital Cash Reserves, Faces Deeper Economic Peril, U.S. Says," *The Wall Street Journal*, December 3, 2019. Iran's crude oil sales fell from 2.5 mbd in 2011 to about 1.1 mbd by 2014. The JCPOA sanctions relief enabled Iran to increase its oil exports to 2011 levels, but the reimposition of U.S. sanctions—including termination of Significant Reduction Exceptions (SREs)—has reduced Iran's oil exports significantly again. See Table 1. Iran Crude Oil Sales in CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

[269] Asa Fitch and Benoit Faucon, "Foreign Investors Flock to Iran as U.S. Firms Watch on the Sidelines," *The Wall Street Journal*, March 27, 2017.

[270] The estimates account for the effects of the COVID-19 pandemic and of U.S. sanctions. The World Bank, *Islamic Republic of Iran economy overview and outlook*, May 1, 2020.

[271] "Iran's rial hits new low against dollar as economy reels," *Reuters*, September 15, 2020.

with more generous investment terms in its "Iran Petroleum Contract."[272] Some new development agreements were signed but major energy firms divested again in response to the U.S. exit from the JCPOA. Sanctions have slowed Iran's efforts to develop a liquefied natural gas (LNG) export business. Iran has expanded several of its refineries and, in 2017, Iranian officials said Iran had become self-sufficient in gasoline.

Human Rights. It is difficult to draw any direct relationship between sanctions and Iran's human rights practices. Human rights reports by the State Department assess that there has been virtually no improvement in Iran's practices in recent years.[273]

Humanitarian Situation. The COVID-19 pandemic has put a spotlight on the extent to which sanctions might be affecting Iran's response to the disease—despite the fact that humanitarian items are exempt from U.S. sanctions. During 2012-2016, and since 2018, sanctions reportedly have limited Iran's ability to import expensive Western-made medicines, such as chemotherapy drugs, because of restrictions on engaging in transactions in which U.S. dollars are used.[274] The State Department has claimed that the Iranian government exaggerates reports of the effects of U.S. sanctions on its medical imports.[275] Other accounts say that Iranians, particularly those with connections to the government, take advantage of shortages by cornering the market for key medicines.[276]

A New Nuclear Agreement. The stated intention of the Trump Administration's "maximum pressure" campaign was to compel Iran to negotiate a revised, and expanded, JCPOA. Specifically, the Trump Administration sought an accord that would limit not only Iran's nuclear program but also its missile program and its regional malign activities. Iran refused to engage in discussions on any kind of new accord, insisting that the United States provide JCPOA sanctions relief as a precondition to talks. No negotiations were held. President Biden has expressed an intention to restore the JCPOA as a "starting point for follow-on negotiations" on other issues of concern.[277]

Conclusion

Events beginning in 2011 set the Middle East and North Africa region on an uncertain path. As of 2021, the region's populations continue to face many of the same challenges that inspired demands for dignity and change. In some countries, chronic insecurity and/or conflict has resulted from the events of 2011 and their aftermath, disrupting the lives of millions and posing security threats to the United States and U.S. partners. In others, authoritarians continue to leverage the specter of unrest and instability to deny human rights and stifle calls for more accountable, representative, and effective government. Sustained military pressure from the United States and regional partners eliminated the Islamic State group's ability to assert broad territorial control by 2019, though U.S. officials caution that the group remains a threat. Israel and some Arab

[272] Thomas Erdbrink, "New Iran Battle Brews over Foreign Oil Titans," *New York Times,* February 1, 2016.

[273] Department of State, *Iran 2019 Human Rights Report,* March 11, 2020.

[274] Golnar Motevalli and Ladane Nasseri, "Trump's Sanctions Are Proving a Bitter Pill for Iran's Sick," *Bloomberg News,* November 20, 2018.

[275] U.S. Department of State, "Iran's Sanction Relief Scam," Office of the Spokesperson, Fact Sheet, April 6, 2020.

[276] Marcus George and Zahra Hosseinian, "Sanctions, government blamed for Iran's drugs shortage," Reuters, December 5, 2012; Mahtab Dehghan, "Insulin Shortage Under Sanctions: Domestic and foreign profiteering, incompetence, and corruption," Zamaneh Media, November 26, 2020.

[277] See CRS Report R46663, *Possible U.S. Return to Iran Nuclear Agreement: Frequently Asked Questions,* by Kenneth Katzman et al..

countries have reached normalization agreements supplemented by U.S. diplomacy and policy decisions, but the likelihood of a transformative Israeli-Palestinian agreement appears low. The United States still faces difficult decisions with regard to Iran's nuclear program and regional policies.

Many Biden Administration officials who previously engaged on various crises and initiatives in the Middle East and North Africa during 2011 and after have opined about experiences gained from these engagements.[278] In some cases, their responses have acknowledged miscalculations and lessons learned, and several have pledged to consult with Congress on foreign policy and national security matters.[279] Reflecting a continued trend from the Obama and Trump Administrations, U.S. national security officials regard the MENA region as having some importance to global security, but competitors such as China and Russia have gained greater prominence in U.S. priorities.[280]

In March 2011, Senate Foreign Relations Committee Chairman John Kerry described the political changes unfolding in the MENA region as "one of the most important transformations in the history of the modern world."[281] Others in Congress expressed similar—if not always optimistic—sentiments about the momentousness of regional events at various points during the following decade. Nevertheless, shared views about the gravity of unfolding change did not always lead Members to shared conclusions about the implications of regional transformation for U.S. interests or what steps, if any, Congress should take independently or to support or constrain related executive branch policies. Advocates for greater U.S. support for regional change or intervention in the region's conflicts often faced opposition from skeptics concerned about the wisdom or sustainability of greater U.S. involvement, particularly in light of competing domestic or other priorities. These dynamics continue to characterize debate in Congress over U.S. policy toward the region.

During the decade discussed in this report, Congress as a whole did not independently design and advance comprehensive transition support efforts or enact new authorizations for military interventions to protect civilians. Some in Congress offered proposals containing elements of eventual executive branch policies[282] and in other cases, such as with the Syria and Iraq training programs or Administration transition support requests, Members worked to modify executive branch proposals to incorporate congressional perspectives and priorities. Congress played a major role in shaping and providing oversight of U.S. negotiations with Iran and altered or conditioned appropriations relative to executive branch requests in cases such as Egypt and Jordan. In some cases, Congress appropriated discrete funds, provided some flexible authorities to meet policy needs, and enacted limited security and foreign assistance authorities with

[278] Secretary of State Antony Blinken served as National Security Adviser to Vice President Joseph Biden. Central Intelligence Agency Director Ambassador William Burns served as Under Secretary of State for Political Affairs from 2008 to 2011 and Deputy Secretary of State from 2011 to 2014. Secretary of Defense Lloyd Austin served as commander, U.S. Forces-Iraq during the U.S. drawdown from September 2010 to December 2011 and subsequently as Commander, U.S. Central Command from March 2013 to March 2016.

[279] See Testimony of Secretary of State-designate Antony Blinken before the Senate Foreign Relations Committee, January 19, 2021; and, Testimony of Secretary of Defense-designate Lloyd Austin before the Senate Armed Services Committee, January 19, 2021.

[280] See President Joseph R. Biden, *Interim National Security Strategic Guidance*, The White House, March 3, 2021.

[281] Statement of Senator John Kerry in U.S. Congress, Senate Committee on Foreign Relations, *National Security and Foreign Policy Priorities in the FY2012 International Affairs Budget*, hearing, 112th Cong., 1st sess., March 2, 2011, S.Hrg.112-361 (Washington, DC: GPO, 2011).

[282] See e.g. in the 112th Congress, S. 1388, the Middle East and North Africa Transition and Development Act.

embedded oversight mechanisms. When Congress acted most independently, it was most often as a foil to the executive branch, such as with regard to Yemen or Iran.

Domestic budget constraints in the wake of the 2008-2009 financial crisis and bipartisan, post-Iraq war wariness of enduring military involvement dampened congressional enthusiasm for expanding direct U.S. engagement. Despite broadly shared concerns about limiting costs, the United States invested more than $85 billion dollars from 2011 to 2020 to support military operations, provide foreign military financing assistance, and alleviate humanitarian suffering in the region.[283] Additional funds were invested in transition support and other security and economic assistance programs in several countries. These investments demonstrate that policies that prioritize multilateral, partnership, and incentive-based approaches to major foreign policy developments may still impose considerable costs on the United States and demand substantial attention from U.S. officials and Congress over time.

The case studies discussed in this report reveal several other dynamics and latent tensions that continue to shape U.S. policy toward the MENA region and influence congressional involvement in the making of U.S. foreign policy more generally. These include the following:

Balancing Flexibility and Oversight in Foreign Policy. Developments in the MENA region from 2011 to 2020 show how emergent crises can disrupt long established assumptions and policy approaches. Such crises, particularly when prolonged and/or interconnected, may challenge Congress and the executive branch to rethink existing bilateral relationships and may prompt reallocation of resources and development of consensus on new and potentially controversial initiatives. Proposed responses to fluid, evolving crises may strain the confines of existing legal authorities, require past constraints to be revisited, and/or involve more rigorous and sustained oversight by Members and congressional staff.

In several of the cases discussed in this report, Members of Congress considered complex questions and tradeoffs. These included how, if at all, to respond to executive branch requests for more flexible authorities and more resources with fewer conditions or allocations while also maintaining congressional oversight over new policies, avoiding over-commitment, and preserving the legislative branch's institutional prerogatives. Mechanisms such as preobligation certification requirements for aid to Egypt and Libya, specifically authorized purposes for assistance in Syria notwithstanding other restrictive provisions of law, statutorily mandated congressional review of any U.S nuclear agreement with Iran, and appropriation of funding to nimble mechanisms such as the Complex Crises Fund provided opportunities for the executive branch to respond to changing developments while maintaining legislative consultation and oversight.

Conditionality and Opportunity in U.S. Foreign Assistance. The binary choice of whether or not to provide foreign or security assistance or to apply sanctions in a given context may not satisfy the various goals and perspectives of Members of Congress and executive branch officials. This is particularly true in crises or during ambiguous, evolving conflicts, transitions, or stabilization scenarios. In Tunisia, Egypt, Libya, Syria, and Iraq, Congress provided for new or ongoing U.S. assistance to local partners engulfed in change and in some cases placed conditions on the obligation of appropriated funds, often with waivers included to allow the executive

[283] Total estimate includes the $49.2 billion cost of Operation Inherent Resolve as reported by the DOD Comptroller through September 30, 2020; $17.9 billion in foreign military financing grant and loan obligations from FY2011 through FY2020 for Bahrain, Egypt, Iraq, Jordan, Lebanon, Libya, Oman, and Yemen as reported by the USAID Foreign Aid Explorer through April 2021; and the aggregate $18.677 billion in humanitarian assistance provided through March 2021 related to crises in Syria ($12.204 billion, FY2012-FY2020), Iraq ($2.989 billion FY2014-FY2021), and Yemen ($3.437 billion, FY2015-FY2021) as reported in USAID Complex Emergency Fact Sheets. Figures are in current dollars.

branch to defer imposed requirements. These legislative constructions allowed Congress to assert its priorities on key issues, while leaving discretion to the executive branch to proceed after making required certifications or reporting.

In some cases, conditionality may have created leverage for U.S. officials to seek changes in foreign partners' behaviors or policies. However, the extent to which legislative conditionality caused changes in partner decision making is not known. The use of conditionality provisions with waivers also provided legislators with a means of transferring responsibility for particularly challenging or controversial assistance or sanctions decisions to the executive branch, and allowed Congress to share responsibility for the foreign policy outcomes of new or continuing patterns of engagement. Arguably, this balance or responsibility may be warranted given the executive branch's advantages with regard to intelligence gathering, the implementation experience of its personnel, and the President's status as the initiator of most U.S. foreign policy efforts.

Security Assistance and U.S. Military Action. Events in the MENA region since 2011 have illustrated a number of factors that may inform congressional consideration of security assistance and U.S. military action in the future. Upheaval in partner countries where the United States had provided conventional and/or counterterrorism assistance such as Egypt, Iraq, and Yemen raised the prospect of U.S.-origin defense articles and U.S.-trained security forces becoming involved in responses to domestic unrest. In states where government arsenals became vulnerable to theft and proliferation such as Libya and Syria, conflict empowered non-state actors in ways that created enduring local security challenges and posed transnational risks to other countries, including U.S. partners and allies. Arms sales to regional partner governments for cooperative self-defense may enable regional countries to prosecute military campaigns at odds with U.S. preferences, such as in Yemen. Partnership with non-state actors for counterterrorism purposes, such as in Syria, may allow the United States to achieve military objectives at lower relative costs, but also may implicate the United States in difficult regional political questions and disrupt relationships with other interested partners.

Congressional Processes and Relations with the Executive Branch. Congress, bound by the institutional constraints and political realities that prevailed during the decade did not often enact stand-alone, binding legislation on foreign policy topics relevant to the MENA region. Key exceptions to this pattern included legislation with respect to Iran and the Palestinian Authority.

Legislative provisions asserting congressional preferences and affecting executive branch policy most often were enacted in appropriations acts or the annual national defense authorization act (NDAA). The drafting of such annually recurring legislation (and its refinement) provides opportunity for the Appropriations and Defense committees to shape foreign policy matters, including opportunity to engage closely in consultation with the executive branch. It also may lead to legislative requirements for specific consultation with a committee based on provisions of the legislation reported from that committee. Other legislation has not occurred so regularly, if at all. Congress has not chosen to pass a foreign relations authorization act analogous to the NDAA since the 1980s. This may lead to Members on certain committees having a more enhanced role in shaping programs as authorized or appropriated.

For institutional and political reasons, the passage of appropriations acts and NDAAs from 2011 through 2020 often occurred late in respective calendar years or into the fiscal years concerned, and long after original budget and authority requests were made. In some cases, regional developments occurring between the date of request and passage of law may have fundamentally changed the context for U.S. policy decisions. This dynamic required agile and often private interactions between executive branch officials and certain committees of jurisdiction in order to

reach consensus on changing priorities and incorporate responsive measures into correspondence, policy statements, and legislation at its final stages.

With respect to the cases considered in this report, the Senate and House committees with primary jurisdiction over foreign policy matters—the House Committee on Foreign Affairs and Senate Committee on Foreign Relations—were consulted on many relevant matters and were identified in some legislation as relevant committees for oversight reporting on many issues. However, legislative processes and enacted provisions nevertheless often gave additional influence to other committees, such as the Appropriations Committees, including subcommittees for Defense and for the State Department and Foreign Operations, and the House and Senate Armed Services Committees.

These committees' additional influence relative to the foreign affairs committees was often manifest in post-appropriations consultation requirements and opportunities to serve as the principal drafters of appropriations language and authorities for programs in controversial areas. On issues such as aid to Egypt and training for non-state partners in Syria, for example, appropriations and defense committees wrote legislative provisions that afforded them exclusive opportunities to consult with executive branch implementers on program implementation.

Less formal and consensus-requiring action by Congress may shape executive branch policy. The prospect or threat of additional congressional scrutiny or indications of the inability or unwillingness of Congress to act also may affect outcomes.

Though the cases highlighted in this report feature instances where individual Members or Congress as a whole took prominent action, Congress in most foreign policy events, including emerging crises, does not take a leading role. Rather, Congress often acts in opposition to or reinforcement of executive branch responses. In other cases where Members perceive a policy vacuum exists, Congress may initiate consideration of proposed responses, but implementation of foreign policy initiatives generally requires executive branch involvement and action. Congress may examine whether the cases discussed in this report suggest that its legislative tools to influence U.S. foreign policy are adequate or require revision.

Lastly, policy concerns and political incentives may lead decisionmakers in Congress and the executive branch to respond to foreign developments. The cases examined in this report suggest that pressing cases of foreign policy concern may persist well beyond the immediate term and evolve interdependently. This may require the legislative and executive branches of government to assess U.S. policy effectiveness, reconcile conflicting proposals, accept shared risks, and revisit assumptions.

Appendix. Congress and Foreign Policy

The Constitution divides foreign policy and other national security powers between the legislative and executive branches of the U.S. government. Both the President and Congress may take initiative in conceiving and shaping U.S. action abroad. Interactions between the branches help determine the direction of U.S. policy and define the resources, constraints, and political dynamics that influence its implementation. U.S. foreign policy making is a complex, iterative process with many inputs. Policies, authorities, and appropriations evolve in response to events abroad and domestic circumstances. In cases where the executive branch takes initiative in policymaking, Congress may embrace and support executive proposals or seek to amend or reverse them. In cases where Members of Congress propose and attempt to advance policies, the President and executive departments may seek to endorse, amend, or oppose them formally and informally, shape them through the legislative process, or use available discretion in carrying them out.

Executive Branch Tools for Making/Shaping Foreign Policy

Diplomacy and Responses to Foreign Events. As chief executive and head of the Foreign Service, the Armed Forces, the intelligence services, and the federal bureaucracy, the President usually responds to foreign events and initiates U.S. foreign policy. Events in foreign countries or actions by a foreign government or other non-state actors often challenge U.S. interests. Congress often supports the President in responses to such events and actions, but may seek to affect a change in policy through its own initiatives.

Proposing Legislative Initiatives. When the executive branch wants to begin a foreign policy program that requires new authorization or appropriations, it accordingly proposes legislative initiatives to Congress. Congressional approval or disapproval may determine the fate of the proposed initiative. Congress may play a more or less active role in the development of related legislation, modifying Administration proposals or developing entirely new legislation of its own.

Negotiation of International Agreements. The power of negotiation gives the executive branch a dominant role in making foreign policy through international agreements. The President must take into account congressional opinion to the extent these agreements must be approved by the Senate or Congress. Congress also influences agreements by placing in legislation instructions and views concerning international agreements, indicating through various means what kind of agreement would be acceptable, and attaching reservations or other conditions when approving an agreement.

Policy Statements. The President also establishes U.S. foreign policy through unilateral statements or joint statements issued with other governments. Sometimes unilateral statements are broad descriptions of American goals and objectives. Joint statements—policy statements made with other countries—are not legally binding international agreements, but they commit the President to a course of action. Congress may support the policy enunciated by the President, attempt to change it, or find a way to participate in the further development of the policy. Whenever implementation of the measures promised by the executive in unilateral or joint statements requires legislation or appropriations, Congress has more agency in deciding whether to support or modify U.S. policy.

Policy Implementation. Congress establishes policy authorities and provides appropriations through legislation, and the Administration continues to shape policy as it interprets and applies various provisions of law. In some cases, congressionally granted authorities such as the emergency economic powers that underlie many U.S. sanctions regimes provide substantial latitude to the President to identify targets for coercive measures.

Independent Action. Presidents may undertake dramatic or sudden foreign policy actions before Congress is fully informed about them. Members of Congress may then be faced with the dilemma of deciding whether to support the action or receive potential criticism for arguably undercutting the President. Members of Congress have often supported the President in such cases, but on occasion Members attempt to halt, amend, or reverse the policy or pass legislation to restrain the President from similar actions in the future.

Legislative Branch Tools for Making/Shaping Foreign Policy

Resolutions. Every year Members of Congress introduce simple or concurrent resolutions stating the sense of the House, Senate, or Congress on foreign policy, and many such resolutions are adopted. Simple and concurrent resolutions also serve as a means of communication from Congress to foreign countries and actors. Sense of the Congress resolutions provide a vehicle for support or advice to the President on foreign policy. Many observers are skeptical about the effectiveness of these sense of the House, Senate, or Congress resolutions. Like Presidential policy statements, they express the policy of a single chamber or branch of government. Their effect is comparatively weaker because Congress does not execute policy and would need to act through other means to implement U.S. policy. Because simple and concurrent resolutions are not legally binding, the executive branch may ignore them when carrying out foreign policy. Nevertheless, such resolutions may play an influential role in foreign policy by launching a new idea or promoting a new policy.

Policy Statements and Public Engagement. Congressional correspondence is another vehicle for Members to state their views, seek information, or make recommendations to the executive branch. Through policy statements, events, and media appearances, Members of Congress may shape public perceptions of foreign policy issues, share information with the public, and influence the political context in which the executive and legislative branches make decisions.

Legislative Directives. Congress sometimes initiates a foreign policy by using legislation to establish a new program, set objectives and guidelines, and designate appropriations to be used in a specified way. Congress may authorize and direct the executive branch to undertake specified actions, defining new foreign policy tools for the executive branch and establishing terms for their use (e.g. sanctions or security assistance). The executive branch influences this kind of policy initiative because Members regularly seek Administration views in the process of formulating legislation, the President must approve legislation unless it is passed over a Presidential veto, and the executive branch implements the legislation. The relative degree of flexibility and discretion in such directives is often a key subject of debate within Congress and between Congress and the executive branch.

Legislative Pressure. Sometimes Congress exerts legislative pressure on the executive branch to encourage it into a new direction in foreign policy. Such legislative pressure might arise through Congress continuing to exhort a policy through various legislative means, or asserting it would pass certain legislation, even though the legislation is not enacted.

Legislative Restrictions/Funding Denials. Congress has been visible in its foreign policy role when it has placed legislation prohibitions or other limitations on the President's freedom of action in foreign affairs. Often these measures have been amendments to legislation authorizing or appropriating funds. The use of funding restrictions or denials by Congress is a classic illustration of the "power of the purse" under the Constitution. Unlike other legislative action by Congress, its use is not subject generally to challenge by the President as an unconstitutional infringement on the President's foreign policy powers. Even so, legislative-executive confrontations have occurred Congress has passed such restrictions despite the opposition of the President.

Informal Advice. Often Members of Congress shape foreign policy by providing advice to the executive branch in informal and/or private settings. Such advice also can be given at meetings between the President and Members where no formal decision-making is contemplated, but where the President may solicit general reactions to prospective policy initiatives.

Policy Oversight. Congress shapes foreign policy through regular oversight of executive branch actions and program implementation. This involves such mechanisms as hearings, investigations, and requests for specific information. In particular, hearings on annual authorizations and appropriations of funds for executive branch agencies active abroad provide an opportunity for committee members to question and influence activities and policies. Hearings and investigations may be on any subject within a committee's jurisdiction and raise questions about policy for public discussion. Reporting requirements may direct the executive branch to provide certain information or provide forward-looking strategies for dealing with specific challenges. Congress also may require that certain international agreements be submitted for review in advance of the date they would be effective.

Author Information

Christopher M. Blanchard, Coordinator
Specialist in Middle Eastern Affairs

Alexis Arieff
Specialist in African Affairs

Carla E. Humud
Analyst in Middle Eastern Affairs

Kenneth Katzman
Specialist in Middle Eastern Affairs

Jeremy M. Sharp
Specialist in Middle Eastern Affairs

Clayton Thomas
Analyst in Middle Eastern Affairs

Jim Zanotti
Specialist in Middle Eastern Affairs

Sarah R. Collins
Research Assistant

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