

The 2010 Elections and U.S.-Russia Relations: A View from Washington

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Although the spotlight in 2009 was on the Obama administration's relationship "reset" with Russia, last year also saw an initiative on U.S.-Russia relations from Washington that went largely unnoticed. It was the announcement in September of the Congressional U.S.-Russia Caucus, chaired by former presidential candidate Dennis Kucinich, a Democratic congressman from Ohio, and Congressman Tom Price, a Republican from Georgia. Echoing the mission statement of the Obama administration's new Bilateral Presidential Commission, the caucus was created "to address issues that are of mutual concern to Russia and the United States and to examine ways to improve friendship, dialogue and international exchange between the two nations."¹

The broad indifference with which the Kucinich and Price initiative was met, and the group's almost total inaction to date, begs an important question: What role does Congress play in U.S.-Russia relations? Moreover, in a year of toughly contested midterm elections, how might Congress's perspective and influence on the U.S.-Russia relationship change after November?

The simple answer is that the president, not Congress, has the lead in making U.S. foreign policy and since the president is not up for reelection this year, we should expect broad continuity in U.S. foreign policy. Under the Constitution, the president is commander in chief of the military and the chief U.S. diplomat, and the executive branch has asserted an increasingly dominant role in all U.S. foreign relations over the past century.

As a practical matter, the president has the ability to deploy resources quickly in response to international challenges and opportunities, and his administration can speak with one voice to support U.S. interests. Congress, on the other hand, is divided between two chambers—the House of Representatives and the Senate—two major parties—Democrats and Republicans—and 535 individual members, who answer to voters in different U.S. states or districts.

Yet Congress does play an important role in U.S. foreign policy, and it is likely to remain involved in matters that are central to the U.S.-Russia relationship after the November elections. First, the Senate has the exclusive constitutional authority to approve treaties signed by the president, including New START, which it must do by a two-thirds supermajority of 67 senators. The Senate also has the exclusive authority to confirm ambassadors and other senior executive branch appointees, such as cabinet secretaries and their deputies.

Second, the House and Senate share the power to approve or reject funding for all federal programs, including the foreign relations and defense budgets. Finally, committees and subcommittees in either chamber may hold hearings and investigate any matter that falls under their broad oversight authority, including the president's conduct of relations with foreign governments.

The 2010 Midterms

So, what is happening this November? On November 2, Americans will vote in a midterm election, so called because it takes place in the middle of the sitting president's four-year term. National elections take place every two years, at which time each of the 435 seats in the House comes up for reelection, as do one-third of Senate seats, each of which is held for a six-year term. Formally, the results of the 2010 midterm elections will not come into force until a new Congress is seated on January 3, 2011, with a "lame-duck" session of the outgoing Congress meeting for a usually short period in November or December to wrap up critical unfinished business.

Most experts see this year's midterms as a chance for Republicans to gain back some of the ground they lost on Capitol Hill in the 2006 and 2008 elections. Typically, the sitting president's party loses seats in a midterm election. Also, given the Democrats' current strength in both chambers (255 seats to 178 seats in the House, and 59 seats to 41 seats in the Senate), they already hold many seats in moderate states and districts that are traditionally highly competitive and thus vulnerable to being retaken by Republicans.

While at least a few dozen seats change hands each election year due to upsets and retirements, there are periodic "wave" elections in which Democrats or Republicans win a large number of seats in one year and change the overall balance of power on Capitol Hill. The last two midterm "waves" were in 1994, when Republicans capitalized on President Clinton's unpopularity and voters' frustration with decades of Democratic control to take both chambers, and 2006, when President Bush's own unpopularity and public anger over the war in Iraq helped the Democrats win back the House and Senate.

According to the latest polls, Americans are frustrated with the continued high level of unemployment nationwide, skyrocketing public debt with the likelihood of tax increases to pay for it, and a political class in Washington they perceive to be overly partisan and out of touch with average citizens' problems. All of this adds up to a strong anti-incumbent sentiment going into the midterm elections, and a good chance Republicans will pick up a significant number of seats, especially in "swing states" like Florida, Ohio, and Pennsylvania.

What we cannot know until after Election Day is just how big Republican gains will be, and whether control of the House, the Senate, or of both chambers, will change hands. We can, however, draw some conclusions about the likely consequences for important issues in the U.S.-Russia relationship depending on the results of the midterm election.

If Democrats Retain Control of the House and Senate...

If Democrats lose no more than 38 seats in the House and no more than nine seats in the Senate, they can hold onto majorities in both chambers. Even if the Democrats lose some seats in the House, where they are most vulnerable, they will have won a limited victory if they defy the direst predictions and maintain control by even a narrow margin.

This result will keep the legislative calendar—the most precious commodity in Congress being the ability to control which issues are discussed, when, and for long—in Democratic hands. It will also likely empower the returning House leadership to convene a longer “lame-duck” session in November and December to try to pass legislation funding the operations of the federal government and deal with Bush-era tax cuts set to expire at the end of this year.

Under a Democratic-control scenario, New START is likely to go to the Senate floor for debate and a vote sooner rather than later. The treaty was approved by the Foreign Relations Committee by a bipartisan margin of fourteen to four (with eleven Democrats and three Republicans supporting it), but a yes vote from 67 senators is still required for passage.

Right now, they are just shy of 67 reliable yes votes, so finding one or two more should not be hard, especially with the help of senior Republican Senator Richard Lugar of Indiana. The Republican leadership has called for a delay until the next Congress to allow the full Senate to consider the treaty, but the Obama administration and Senate Democrats are pushing for a vote before the end of the year.

If Democrats hold all of their Senate seats in November, they can probably find the 67 votes needed to ratify the treaty, and will be justified in calling for a vote during the lame-duck session. If they lose seats, Republicans will make a strong case to delay the vote until the new senators can weigh in and the treaty’s supporters will have to look around for additional Republicans to vote yes. In either case, the treaty is likely to face a close vote and is not likely to be approved by the wide, bipartisan margin enjoyed by past arms control treaties, like START I (93 votes to six votes) in 1992 or SORT (95 votes to 0 votes) in 2002.

A second major priority for U.S.-Russia relations currently before Congress is the “123 agreement” on civilian nuclear cooperation. This agreement will allow U.S. and Russian companies to exchange nuclear technology and materials, conduct joint research and development programs, and bid together on nuclear energy projects in other countries.

This type of agreement—which the United States already has with Australia, South Korea, and nineteen other states—is particularly beneficial because it will enable Russian firms to store and reprocess waste from U.S. reactors, which Congress has traditionally opposed doing anywhere in the United States. The agreement is not a treaty, but rather a waiver of the federal Atomic Energy Act of 1954; federal law only requires that the agreement be submitted for congressional consideration for a period of 90 days of “continuous session.”

Since the Obama administration submitted the agreement on May 10, 2010, the clock has run for 75 days. If Democrats keep control of both chambers, and return with a substantive agenda in November and December, there is a slim chance Congress could be in continuous session for the additional fifteen days necessary. If members do not reach the 90-day mark, however, the entire process resets for the new Congress and the president must resubmit the agreement in January to restart the clock, which would run until late next year.

Although the U.S. Trade Representative, part of the executive branch, is responsible for negotiating Russia's accession to the World Trade Organization (WTO), Congress plays an essential role because the United States is required to adopt permanent normal trade relations with all WTO member states. To do so with Russia, Congress would also have to terminate application of the 1974 Jackson-Vanik amendment to Russia—a step many believe is long overdue since Jackson-Vanik was designed to aid Jewish emigration from the Soviet Union, and Russia today has visa-free travel with Israel.

However, some in Congress believe Jackson-Vanik should be preserved and used to pressure Moscow on human rights more broadly. For this reason, Congress will likely delay serious consideration of the issue until Russia's WTO membership forces a decision.

WTO accession may be one area in which a better showing for Democrats on November 2 is worse for the administration's agenda on U.S.-Russia relations. Democrats traditionally rely on support from labor unions and working-class communities, many in heavily industrial areas that have been hard hit by foreign competition in recent decades.

As a result, Democrats tend to be more skeptical about free trade, and have sought to delay or outright oppose free trade agreements with Colombia, Panama, and South Korea that are now pending before Congress. Because Republicans traditionally derive more support from higher-income voters in professional and management jobs and from international companies that benefit from free trade, they have been more supportive of bilateral trade agreements and are less likely to oppose Russia's WTO accession on economic grounds.

If the 112th Congress Is Divided...

Because each member's seat comes up for reelection every other year, the House is traditionally more susceptible to changes of control than the Senate. This year is no exception. Republicans would need to win 39 seats currently held by Democrats to take control of the House, and the latest public opinion polling shows Democrats trailing Republicans in at least that many districts. Although contests are likely to be close in all of the most competitive districts, Republicans could take the 39 seats they need even if they only win about half of the most competitive races in November. Thus, a Republican takeover of the House looks like a real possibility in 2010.

The Senate is a different story. In total, 37 Senate seats are being contested this year. Of these, nineteen are currently held by Democrats (seven of whom are retiring or were defeated in the primary) and eighteen are held by Republicans (eight of whom are retiring or were defeated in the

primary). To upset the Democrats' commanding majority of 59 seats to 41 seats in the Senate, Republicans would have to add ten seats, winning 28 of the 37 Senate races in November.

Even in a favorable year for Republicans, this would be a tall order. It is more likely that if Republicans perform well, they can take control of the House while substantially reducing the Democratic majority in the Senate.

The last time control of the House and Senate was split between the parties for a full term of Congress was during the 97th–99th Congresses (1981–1987), when President Reagan's Republican allies controlled the Senate and the House was held by Democrats led by Speaker Thomas "Tip" O'Neill from Massachusetts. Although Reagan and O'Neill were famous for knock-down political fights, they had a strong personal rapport and were often able to overcome partisan divisions, especially on U.S. national security, foreign policy, and relations with the then-Soviet Union.

The situation today is very different, with far fewer personal friendships between legislators from opposing parties, and almost no bipartisan cooperation even on urgent national priorities. Instead, bills become bogged down in the Senate, where any member can threaten to filibuster—an indefinite delay that requires 60 votes to overcome—and the parties prefer to exploit gridlock to score political points against each other, rather than negotiate and compromise to pass legislation. This hyper-partisanship is one reason why Congress has failed this year to pass bills authorizing national defense expenditures, appropriating money for critical functions like defense, foreign relations, and energy, or even approving a budget for Fiscal Year 2011, which began on October 1.

If the 112th Congress is split, with Democrats holding on to the Senate and Republicans taking over the House, it could mean delay or reversal for the Obama administration's agenda on U.S.-Russia relations. Because Democrats will have suffered a loss, they will return to the lame-duck session in November or December still formally in control of both chambers, but with a much weaker political mandate to pass legislation, even if they have the votes to do so.

Thus, whether Congress addresses important issues like New START and how long members stay in session before January will depend on how much Democratic leaders are willing to exploit their remaining political capital. While the Senate could stay in session for a longer period of time, it is very unlikely a lame-duck Democratic leadership will be able to keep the House in session for more than a few days before January. This means prospects of reaching 90 days of continuous session for the 123 agreement are low.

If they keep control of the Senate, Democrats may try to push through a vote on New START during the lame-duck session. However, there will be an even stronger push to wait for the new Congress from Republican leaders, who will expect to have more votes in January and a better chance of blocking the treaty altogether. Thus, a vote on New START in November and December will depend on the willingness of the Obama administration and congressional Democrats to engage in a public fight for their foreign policy priorities.

If the treaty is not ratified by January 3, 2011, the path to finding 67 yes votes in the Senate becomes harder, depending on how many seats Republicans gain, and whether new Republican senators

automatically oppose any Obama administration priority or are open to joining the small group of bipartisan national security pragmatists led by Senator Lugar. The answer to that question remains uncertain.

If Republicans Sweep the House and Senate...

A Republican “wave” victory in November is certainly possible, although taking both the House and Senate is unlikely. Still, if Republicans wrest control of Congress from Democrats, the political landscape in Washington and the prospects for important items on the U.S.-Russia agenda will change significantly.

First, the lame-duck session will likely be a short, open-and-shut meeting in November to close out urgent pending business and then hand over the reins to the new leadership. When Republicans return to Washington in January, it will be with a new political mandate and a new legislative agenda, much of which is likely to consist of opposing Obama administration priorities. How aggressive Republicans are in seeking to roll back legislation from the past two years—such as the controversial stimulus and healthcare bills—depends to a large degree on how many of the new Republican members owe their victories to the populist conservative “Tea Party” movement.

Although they are likely to mount strong opposition to the Obama administration across the board, Republicans have not campaigned heavily on foreign policy issues in 2010. The Tea Party insurgency is largely driven by anti-tax social conservatives and veteran Republican leaders are still licking wounds they suffered due to public anger over foreign policy failures during the Bush administration. Therefore, a new Republican legislative agenda is not likely to include much on foreign policy.

With or without an agenda, Republicans will be in the driver’s seats of congressional committees with a key foreign policy role. In the Senate, John McCain of Arizona will take over chairmanship of the Armed Services Committee, and Richard Lugar will take over the Foreign Relations Committee. Lugar is a pragmatist and supports New START ratification. However, McCain is traditionally hawkish on national security issues, was a strong backer of Mikhail Saakashvili in Georgia, and has been highly critical of Prime Minister Vladimir Putin.

In the House, chairmanship of a Republican-majority Foreign Affairs Committee would most likely go to Ileana Ros-Lehtinen of Florida, another national security hawk, who has said, “Responsible nations cannot overlook Russia’s downward spiral towards tyranny and oppression, and must deny Russia membership in the World Trade Organization and all of the other perks which it does not deserve.”² In May, Ros-Lehtinen was also among a handful of representatives who co-sponsored a resolution opposing the 123 agreement because of Russia’s alleged nuclear cooperation with Iran. However, this vote came before Russia supported UN Security Council Resolution 1929, which imposes sanctions on Iran for its nuclear program, and canceled the S-300 missile sale to Tehran.

Since the lame-duck session following a Republican “wave” victory will be short, there will likely be no time for a vote on New START until after January 3, 2011. At that point, the treaty’s prospects

depend on when it is placed on the Senate calendar for debate, and how many additional Republicans Senator Lugar can gather to support it.

Because New START has been so closely associated with the Obama administration's policies of reset and engagement with Russia—making it a tempting political target for newly emboldened Republicans—it is hard to imagine the treaty receiving swift consideration in the Senate. In fact, unless the White House and Democrats offer a new political deal to Republicans—perhaps including further investments in the U.S. nuclear complex—it may be hard to come up with 67 yes votes for the treaty in a Republican-controlled Senate.

Although a short lame-duck session means the clock will reset on the 123 agreement, there is a very good chance it will come into force by the end of 2011 if the Obama administration promptly resubmits it to Congress in January. This is because Congress would have to pass a resolution of disapproval by majority votes in both chambers to block it, and there has been little momentum from Republicans to do so in the current Congress.

Russia's WTO bid could conceivably benefit from a Republican wave victory, if only because Republicans will seek to bring other stalled free trade agreements back to the table. However, congressional debate on permanent normal trade relations with Russia will not be limited to economic arguments. Republicans' skepticism on the Kremlin's human rights and democracy record, and their belief that WTO membership can be leveraged to gain further concessions from Moscow, could outweigh their inclination to favor free trade.

Conclusion

Whichever of the above scenarios comes to pass after November 2, the 112th Congress will have a decidedly different look and feel from the 111th. The groundswell of enthusiasm that swept Barack Obama into the White House and that brought new Democrats to Congress in 2006 and 2008 has lost much of its momentum.

Today, the most talked about political movement—the Tea Party—poses a threat to both major parties. While conservative Tea Partiers tend to attack the White House and the Democratic Congress, their candidates have displaced several experienced, moderate Republican leaders in primary elections in swing states. Since more extreme candidates tend to fare poorly in general elections, where the majority of voters are independent-minded and centrist, the rise of the Tea Party could cost Republicans seats.

Because of the recent high-profile retirements from the House and Senate, 2011 will likely see a large freshman class in both chambers. Foreign policy is not viewed as a politically profitable pursuit for representatives and senators, who must concentrate on delivering jobs and federal dollars to their home states and districts to win reelection. For that reason, foreign relations committee assignments go mostly to a handful of senior members in safe seats, and to new members who lack the seniority to secure more lucrative committee assignments like appropriations, banking, and

finance. Expect to see many new faces on both the House and Senate Foreign Relations committees in 2011.

Dennis Kucinich and Tom Price, co-chairs of the Congressional U.S.-Russia Caucus, are all but guaranteed reelection on November 2, so it appears their initiative will live on, even if it continues to make little difference in the U.S.-Russia relationship. But for the Obama administration's U.S.-Russia priorities, the midterm elections could deliver major changes.

If Democrats maintain their hold on both chambers, key agenda items—such as New START, the 123 agreement, and WTO accession—are likely to move ahead relatively quickly. But if Republicans retake the House or, less likely, sweep both chambers, these White House priorities will face almost certain delay and even possible defeat in the new Congress.

U.S. politics can often feel like American football—a violent spectator sport in which a few superstars win fame and fortune, but most participants just get by, hoping to avoid crippling injuries or having their private blunders splashed across the tabloid pages. Yet it is with good reason that many great Americans have served in Congress—men like Thomas Jefferson, Abraham Lincoln, and Harry Truman. It is a place where the righteous and talented can do great amounts of good, and where bright careers can be launched to the most dizzying heights.

Those who care about the future of U.S.-Russia cooperation should remember that for all of its many shortcomings, Congress is where the will of the American people connects most directly with high affairs of state. If you make the effort, it is almost always possible to find an open door and an open ear on Capitol Hill.

Notes

¹ Kucinich, Price Form Bipartisan Congressional Russia Caucus, War Is a Crime.org, Press Release, September 23, 2009, <http://warisacrime.org/node/46285>.

² “Ros-Lehtinen Condemns Putin Threat against Democracy Protestors,” House Foreign Affairs Committee, Committee News, August 31, 2010, http://republicans.foreignaffairs.house.gov/press_display.asp?id=1593.

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