Preemptive and Preventive Operations

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Outline

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Abstract

The U.S. should reserve the right to use deep operations in the form of preemptive and preventive operations to defend our national interests even if the act meets with the disapproval of United Nations member states. Many members of the United Nations firmly believe that any and all members must request permission and receive a consensus of votes to conduct any attack against a sovereign state. Many states also feel that preemptive and preventive operations are counter productive to world order. Through this document we will discuss what each type of operation represents, and we will present past uses in which the outcome demonstrated the ability of the United States to protect not only its interests, but also its citizens abroad and here at home. The United States even though not always seeking approval of the United Nations or her allies has and will continue to exhaust all diplomatic means prior to any operation against a sovereign nation. We will also discuss the negative affects of different unilateral operations to allow the reader to form an educated decision as to the information presented. We feel that at the conclusion of this paper we will have justified the unilateral use of deep operations in the form of preemptive and preventive operations to support our way of life.
Preemptive and Preventive Operations

After the terrorists attacked the Pentagon and World Trade Centers on September 11, 2001, the United States government began reshaping its National Military and Security Strategies to identify and strengthen its vulnerabilities to international terrorists and weapons of mass destruction (WMD) in the form of asymmetric attacks. The distinction between preemptive and preventive warfare is not always clear and the lines may blur at times. Preemptive operations are used as an effort to prevent or counter a perceived intimidating offensive or attack, or to gain a tactical advantage in an impending war. Preemptive operations are commonly confused with the term preventive operations. A preemptive military attack will mitigate an impending strike by an adversary. I hope it’s understood, that the idea of preemptive operations is not new. The Old Testament of the Bible defines violence as a means to enforce justice and this is not substantively different than current day use in the international arena.


President Bush believes that we cannot afford to wait until we are attacked. In today's circumstances, Americans must be ready to take "preemptive action" to defend our lives and liberties.

Preventive operations are operations launched in expectation of a potential loss of security or tactical advantage. The label is intended to distinguish it from preemptive operations, or preventative self-defense. Preventive operations are only claimed to prevent an imaginary attack if this occurs in the future; for example, an operation launched to prevent an adversary acquiring more powerful weapons. In intercontinental law, preventive operations have no recognized status as distinct from a war of aggression.
Authoritative scholars generally argue that preventive war is a useful and essential tool in a time when our enemies use terror campaigns and weapons of mass destruction as weapons of choice, and that international law order, and national sovereignty are more important factors such as preventing genocide or energizing demoralized peoples.

Consequently, conventional perception now holds that the Bush administration is adopting a policy of precautionary operations and preemption, because it has learned that avoidance can fail with appalling consequences and the cost may be elevated if the United States allows enemies to punch first. The situation is too one-dimensional; because the organization’s new policy is mostly designed for reactive utilization and is unlikely to be fully implemented. Domestic institutions and political affairs create diverse and realistic constraints.

The authority of preemption as a national approach revolves around the primary issues of integrity and validity. “Traditionally global law which predates the United Nations Charter Chapter VII, Article 51, has extensive self-defense away from a definite attack to a pending threat”(Sofaer, 2003). Habitually, the elements of necessity and proportionality; there ought to be no other means to resolve the circumstances and the use of force does not exceed what is logical conditions, nevertheless, are not easily recognized. Present day terminology of “preventive self-defense” often arises in scrutiny of preemptive actions.

International terrorism and weapons of mass destruction have made the use of preemptive operations both problematic and necessary to defend the homeland. Contemporary asymmetric warfare is quite different from that envisioned by customary international law and the Just War Theory. Previously, acts of hostility taken place on a huge, predictable scale with expected procedures, allowing persecuted parties the time and knowledge to prepare for war. Considering the nature of domestic terrorism and weapons of mass destruction, the peculiarity flanked by
actual and looming attacks becomes clear, in the case of a chemical or biological attack. It may take some time to determine that these weapons have been used as examples of the awful and disastrous consequences surface.

An encouraging view of proximity could eradicate any acceptable self-defense measures. These new threats are a determining factor between being a justifiable or an unlawful first strike, is not an issue of imminent attack, but one of sufficient threat. In the case of a terrorist attack, if the United States cannot prevent or deter the acquisition of weapons of mass destruction, preemptive force must be used.

There can be little argument that in certain situations, particularly in regard to international terrorism and weapons of mass destruction, preemption must remain a viable option. The evolution of modern weapons and nature of terrorism heighten the need for anticipatory self-defense. With the availability and portability of various types of weapons of mass destruction, there is a very real possibility of more terrorist actions inside United States borders.

The UN Charter came into force in 1945. The first is Article 2 of the Charter, which states that “all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the purposes of the UN.” This is, or was meant to be, the heart of the Charter, which you will recall, was intended “to save future generations from the scourge of war.” Only two exceptions are allowed to this prohibition against the threat or use of force by one nation against another. Article 42 permits the Security Council to “take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security” once it has determined that a threat to the peace, breach
of the peace or act of aggression has occurred, and that measures not involving the use of force would be, or have proved to be inadequate to maintain or restore international peace and security (Ludwigs, 2003).

**Supporting Actions of United States Policy**

We have discussed the differences of preemptive and preventive operations and the present United States policy on employment. We need to look at past examples of the use and the authority to act to determine the effectiveness of these operations. During almost every presidency, the necessity to use either preemptive or preventive operations has been necessary to defend our way of life and interests. The colonies used these types of operations both prior to and during the Revolutionary War. At the time many supporters of England saw this as our demise but it eventually led to our victory over England now we are a free nation. We used airborne forces during the D-Day invasion of World War II they were dropped behind German lines to disrupt enemy supply lines and to engage German reinforcements to allow for the successful landing at Normandy. During the Cold War with Russia the threat of both preemptive and preventive nuclear strikes kept the Russians at bay and eventually led to the collapse of Communism in the former Soviet Union. As the threat of the Soviet Union faded many other threat states have attempted to fill the void and if left unchecked will prove to be not only a threat to the United States but a threat to the world and democracy as a whole.

We will look at two of these past examples in detail that will demonstrate not only the capability but the necessity for the United States to employ a preemptive operation to defend one, the world and the second, our own region with direct influence on United States security.

The first operation was to force a state of aggression to withdraw from occupied territory, but to also eliminate any ability of this nation to project acts of aggression outside of its territory.
We will see how the United Nations reacted to the Iraq invasion of Kuwait, resolutions leading to war, and coalition support. These were all successes for the United States, and each necessary to ensure stability, and a favorable United States’ position in the region. These deep operations were in support of Operation Desert Shield and preceded Operation Desert Storm. The intent of these operations was to eliminate command and control of Iraqi forces and to effectively deny the ability to oppose any ground attack by coalition forces.

On August 2, 1990, Iraq conducted a large scale invasion of Kuwait. Saddam Hussein, the President of Iraq, justified the aggression, stating that Kuwait was violating Iraq’s national borders to secure oil. He also accused Kuwait of over producing oil to drive down the oil prices which were vital to Iraq’s national interest. In demonstration of his resolve, Saddam Hussein annexed Kuwait and announced that it was the nineteenth province of Iraq. The Iraq invasion of Kuwait demonstrated to the United States and the United Nations that Saddam Hussein was a very dangerous dictator and that he was willing to violate any international laws to achieve his goals.

Originally, the United States stated it would not get involved in the security issues of the region, and that with the support and mediation of the Arab States would allow the two countries to work out their issues. Once Iraq invaded Kuwait, a long time partner of the United States, this forced the United States to readdress its stance. Prior to conducting a military invasion the United States as a member of the United Nations Security Council began pressing for economic sanctions against Iraq. Many of the neighboring Arab States, feeling threatened by Iraq supported all sanctions and United States’ involvement in forcing Saddam Hussein out of Kuwait. The United States in response to the Iraq invasion and in support of the United Nations Resolution began assembling a coalition that numbered twenty-eight other countries. Once the
coalition was formed the troop build up began. The United States fearing Saddam Hussein would attack before the buildup was complete, used the press to confuse Saddam. The press reported that the United States was conducting a preventive strike along the western shore of Kuwait behind Saddam’s defenses. It reported of large scale operations with thousands of United States Marines. Saddam believing this report to be true; arrayed his forces for the western invasion that never came. The United States and its coalition now having its forces in place began its air campaign. These preemptive strikes were designed to eliminate Iraqi resolve and to soften the Iraqi defenses for the ground invasion. “On January 17, 1991, the U.N. allied coalition of 28 countries, led by the United States, launched aerial attacks on Baghdad in Operation Desert Storm, popularly known as the Gulf War” (Marine Corp Institute). The first action of the coalition was to use its fighters to engage all Iraqi fighter aircraft able to launch. The coalition also used surface to surface missiles to destroy communication centers and early warning systems. Bombers were used to destroy Iraqi airfields and parked aircraft preventing any further Iraqi air threat giving the coalition air superiority. While this was going on the coalition was also using long range bombers to target supply lines, major supply routes, and troop concentrations. The United States infiltrated Special Forces detachments deep into Iraq to conduct special reconnaissance missions. These teams would identify enemy communication sites, re-supply convoys, and armor in defilade. The teams would then use target guided ordinance to destroy the targets. Small elements of rangers were also used to locate and target SCUD missile sites. These deep operations proved to be extremely successful during the air campaign phase of the operation. The coalition dropped over 140,000 pounds of ordinance during the six week phase of the operation.
The resulting success of these preemptive strikes in support of a military operation resulted in over 100,000 Iraqi soldiers killed. The campaign led to the destruction of the world’s fourth largest army. The Iraqi infrastructure was destroyed along with the country’s refinery capability disrupting all services. “On February 24, 1991, the United States led ground forces entered Iraq with the intent of liberating Kuwait” (Marine Corp Institute). The effectiveness of the preemptive strikes was clearly seen as Iraqi Soldiers surrendered by the thousands. The carpet bombings by the B-52s totally decimated the Iraqi will to fight. The ground forces met with little or no resistance and were barley able to keep up with the retreating Iraqi Forces. On February 28, 1991, without moving on Saddam Hussein or the Iraqi capitol of Bagdad the United States led coalition initiated a cessation of hostilities and three months later presented Saddam Hussein with an opportunity to accept the terms of a permanent cease-fire with strict conditions. Under the provisions of the United Nations resolution Saddam Hussein still continued to rule the country as the head of government. The United Nations formed a special commission to oversee and inspect weapons facilities within Iraq to remove Iraq’s capability to manufacture weapons of mass destruction, any stock piles of weapons of mass destruction, and any equipment capable of delivering these weapons. Iraq agreed to return all property and prisoners of war taken from Kuwait. The resolution also insisted that Iraq pay all international debts, compensate all neighboring countries for war damages, and openly commit to stop supporting terrorism.

The key success and political gain for the United States was that we had almost unanimous United Nations support. Although we sought to completely remove Saddam Hussein the United States President understood the key importance of the support in the region agreed to the cease fire at the insistence of the Arab members of the coalition.
We will now look at another example that required the United States to use a preventive operation to protect its citizens and national interests closer to home. These are the following activities in Panama that caused tensions between the countries of Panama and the United States and ultimately led to a unilateral invasion in 1989.

On 15 December 1989, the National Assembly of Panama declared that a state of war existed with the U.S. and adopted measures to confront foreign aggression. In the days that followed, United States Service Members and their dependents were harassed (Cole, 1995).

The following day, LT Robert Paz, an American Marine in civilian clothes, was killed by members of the Panamanian Defense Forces (PDF) while moving from his home to the base. The regime's extreme and unreasonable suspicion made daily existence unsafe for United States military personnel and other United States nationals.

The United States and the Government of Panama were in diplomatic tension for a year. President George H. W. Bush stated the reasons for the Invasion of Panama were to safeguard the lives of United States citizens in Panama. In his statement, Bush claimed that Noriega, Panama’s President, had declared that a state of war existed against the United States and that he threatened the lives of the approximately 35,000 Americans living there (Cole, 1995).

There were also frequent confrontations involving United States and the Panamanian Defense Forces. He also claimed the right to defend the right of the people of Panama to maintain a democratic state, and their right to free elections, and their inalienable human rights. Earlier in 1989, Noriega had thrown out the results of different presidential elections when the results favored candidates that opposed him. The United States also must combat drug trafficking.
Under the presidency of Manuel Noriega, Panama became the key location for money laundering and also the main transfer point for drugs being transported by air and sea to Europe and the United States. United States Agencies identified and confirmed that Noriega was directly assisting the cartels with storing and moving the drugs thru his country. Finally, the United States was responsible to safeguard the integrity of the Torrijos-Carter Treaty. The United States Congress and House of Representatives agreed with the President that the actions of Noriega threatened the neutrality of the Panama Canal and those United States Personnel assigned in the canal region, and it was not only the right but the necessity of the United States under the treaty to intercede with the necessary means to protect all concerned.

Noriega claimed the economic sanctions placed by the United States were harsh and did not meet the conditions set forth in the Torrijos-Carter Treaty. Since the mid-1960s, Noriega had connections with the CIA, but was completely unreliable as he would work for any organization that was in his best interest at the time. At any time, Noriega was involved in various illegal activities, whether it was various activities involved in the drug trade, or providing classified information on the United States military presence to Cuba. Noriega was never elected but established himself as the president when he became the Deputy Commander of the Panamanian National Guards. Under the Torrijos-Carter Treaty, Panama would hold free elections, but the self appointed dictator of Panama would not allow this to happen without affecting the outcomes of the supposed free elections.

After numerous unsuccessful political and diplomatic attempts, the President of United States turned to a preventive operation to remove Noriega from power and to protect the vital national interests of the Panama Canal, and to prevent further danger to the Americans in the region.
This preventive operation began on December 20, 1989. Operation Just Cause, originally known as Operation Blue Spoon, was the biggest individual emergency operation after the end of World War II. The United States started the invasion by conducting airborne operations against strategic installations. The 82nd Airborne Division and 75th Ranger Regiment were tasked with securing the airport in Panama City. The United States Special Forces already positioned in Panama, was initially tasked with securing various Panamanian Defense Force (PDF) outposts, and to secure main supply routes (MSR) to prevent re-enforcements and the escape of Noriega by ground routes. The United States Navy SEALs received the mission of securing or destroying Noriega’s yacht and securing his private airfield to destroy Noriega’s private jet to prevent his escape by air or sea. The United States Forces also captured and destroyed Panamanian Command Centers throughout the country. Later, paramilitary units of Noriega loyalists called, "Batallones de la Dignidad" began to strike back at the United States Forces. As the United States military forces began to outnumber the Panamanian Forces the United States forces took control of the situation and slowly began to take control of the canal area. The inevitable defeat led Noriega to seek asylum in the Vatican’s diplomatic headquarters in Panama City. The United States had issued a million dollar reward for his capture but Noriega realizing his predicament surrendered to United States Military Forces on January 3, 1990. He was taken into custody by United States Marshalls and transported to the United States for trial. During this preventive operation, the United States suffered 18 killed in action (KIA) and 325 wounded in action (WIA). Panama suffered 314 military causalities, 3,000 to 4,000 civilian casualties and 468 detained.

As with all undertakings by the United States this operation met with mixed international reaction.
The Organization of American States (OAS) charter, the United States being a signature member, prohibits any member state from invading another member state for any reason. The Organization Security Council drafted a resolution disapproving of the invasion of Panama by the United States. It called for withdrawal of the American troops. Several days later, a resolution from France, the United Kingdom, and the United States, the three permanent members on the United Nations Security Council, declared that the United States had the right to self-defense for its citizens who lived in the Panama Canal Zone. Later, the United Nations General Assembly voted to denounce the invasion because it was a violation of international law.

The Washington Post reported on the rulings of the Office of Legal Counsel, issued shortly before the invasion. One ruling limited "posse comitatus", which prohibits the Federal government from using the military as police within the territorial boundaries of the United States this ruling stated, the military could be used as police abroad, for example, in Panama, to enforce a federal court warrant against Noriega (Cole, 1995).

Following the invasion, most Latin American Countries perceived the United States as expanding its own economic benefits at the cost of democratic values. They perceived the operation as a facade to conceal other intentions such as the reinstatement of a government partial to the United States and its interests. The canal was supposed to be turned over to Panama by the Torrijos-Carter Treaty in 1999. In the year 2000, the Panama Canal and all military bases were fully turned over to Panama.

With Noriega in United States custody, the final phase of the operation known as Operation Promote Liberty was launched. The purpose of this phase was the American and Panamanian effort to rebuild commerce, gain the support of Panamanian Citizens for governmental reforms, and the most important aspect was to restructure the PDF into three
independent organizations; local law enforcement, a defense force, and a customs unit. In December 1989, The United States deployed members of the civil affairs to Panama and by mid January 1990, there were close to 200 members sent to implement the civil military operations needed to restore a democratic government in Panama. United States Southern Command requested United States Special Operations Command assign more Special Operations Forces in the form of Special Forces, Psychological Operations, and Civil Affairs to assist in reestablishing police forces and civil control, promoting stability, and helping to establish of the new appointed government. This would allow for the establishment of democratic elections in the coming months.

From 26 December 1989 to 3 January 1990, United States Civil Affairs and Special Forces Detachments helped distribute 1,660 tons of food, mostly "Meals Ready to Eat", and 218 tons of DOD medical supplies. They also organized a camp at Balboa for nearly five thousand persons displaced by the fighting (Cole, 1995).

The United States set out to establish a few initiatives for Promote Liberty. First, the Panamanian Government needed to deploy a law enforcement body to accompany United States Forces on the streets to establish order and undertake joint patrols. Second, they needed to establish a court/magistrate/judicial system. Finally, they needed to re-open and modify the old jails and prisons.

This discussion has been focused on the United States Policy and stance on the use of preemptive and preventive operations to defend our country. However these operations are not exclusively used by the United States to protect her interests but have also been used against the United States in past events that led us to defend our nation. The Spanish used a preemptive operation when they attacked and sank the USS Maine in Havana Harbor, this led to the battle
Preemptive and Preventive

The lack of resolving threats with diplomatic relations has led the United States down a dark path with minimal allies. The majority of the world has cursed and turned-face towards the policies of the United States due to some of the most unstable events of our times. Since the attacks of September 11, 2001, the United States has changed its military strategy of how to deal with rouge states. “The National Military Strategy establishes three supporting military objectives: to shelter the United States against external attacks and aggression; prevent conflict and surprise attack; and prevail against adversaries.” (National Military Strategy of the United States, 2004, p 8). However, the same theories that secure United States interests have left the rest of the world questioning the intentions of our leaders.

While military action is justifiable when attacks are imminent, the lack of a “smoking gun”, has led to opposing views of the United States by United Nations members States. Four years after the war began in Iraq, the disapproval with the United States and its policies have
intensified rather than faded. The opinion of the United States in Germany and France is at least as negative now as it was before the first Soldier crossed the line of departure in Iraq. The perception of American capitalistic ways remains widespread throughout Europe and Muslim nations and the war in Iraq and Afghanistan has truly tested the boundaries of friendships throughout the world.

Since the invasion of Iraq, the United Nation members have questioned the vast amount of information that United States Secretary of State, Colin Powell presented as evidence to support the preemptive strike and ground invasion of Iraq. The inability of locating weapons of mass destruction within Iraq has ruined the credibility of our leaders and eventually caused many United States citizens to question the government of their own nation. The burning desire to make a former enemy pay for the actions on September 11, 2001, blinded the entire nation. Our leaders should have closely scrutinized the use of preemptive action. Looking back at the situation within Iraq, a stringent diplomatic approach with other United Nations members could have been the best possible answer to the question of weapons of mass destruction within Iraq.

In 1983, Grenada, a little known country by most of the citizens of the United States came under increasing tension within their own country. On October 13, 1983, Deputy Prime Minister Bernard Coard, a Communist hard liner with ties to Cuba, ousted the Prime Minister Maurice Bishop. Six days later, Prime Minister Bishop was found murdered along with his inner circle. Weighing in, President Reagan deemed this action as a direct threat to United States interests in the Caribbean and to the over 800 plus medical students located on the small island. On October 25, 1983, the United States launched “Operation Urgent Fury”, invading the small island of Grenada with over 5,000 troops. Even though the invasion was successful in the eyes of the Reagan administration, the rest of the world viewed the invasion as a threat to anyone that
opposed the United States. At the United Nations, the Security Council voted to condemn the invasion, with the United States casting the only opposing vote. Strong criticism from allies of the United States followed, to include Great Britain. “It was the British, however, in view of the past and present relationship with Grenada and their ‘Special Relationship’ with the United States, who felt rebuffed in the whole affair.” (Burrowes, 1988, p91). The relationship of Margaret Thatcher and President Reagan was strong before and after the invasion, but the opinion of this action was questioned not only by Thatcher but the majority of the European allies.

In October 1962, thirteen of the longest days in United States history and had the rest of the world on edge. The Cuban missile crisis demonstrated the inability of two countries to utilize proper diplomatic relations to solve problems and possibly led to the entire world’s demise. The use of preemptive nuclear action was never so close to becoming a tragic truth. President John F. Kennedy’s bold initiatives stopped the Russian Premier, Nikita S. Khrushchev, from placing nuclear missiles inside Cuba, only 90 miles south of the Florida coastline. United States actions prior to this put Russia in the defensive mode. The United States had already placed nuclear missiles inside Turkey, approximately 150 miles from the Russian border. Since Russia was at a disadvantage, placing missiles in Cuba was their only conceivable preventative action they thought they had.

During the long 13 days ahead President Kennedy’s military advisors and members of congress insisted on preemptive air strikes to deter the assembly and prevent Russia to have an active nuclear weapons inside Cuba. Instead, the President utilized a blockade of military warships to prevent the passing of Russian cargo ships carrying nuclear missiles into Cuba. In the next days to come, the issue of preemptive invasion of Cuba arose with minimal support
from the President. Through the U2 spy plane being shot down over Cuba and the US battleship firing an illumination round over a Russian cargo ship, cooler heads prevailed. The leaders of the strongest countries in the world finally decided that world extermination wasn’t worth the price of missiles in Cuba or Turkey. Through those stressful 13 days, Russia decided that it wasn’t worth the price of world terror to leave missiles in Cuba, and the United States secretly decided to dismantle the missiles placed in Turkey to begin the first international nuclear arms treaties established between the United States and Russia. Even after the United States slammed the United Nations for not getting involved early enough, it was the American United Nations Ambassador, Adlai Stevenson, who stood up to the Russian delegate and the rest of the world to tell the absolute truth about the situation in Cuba. With this, he won the support of the United Nations and the rest of the world. Looking back over 40 years ago, this has to be the one of the greatest uses of diplomacy through the United Nations to quell the imminent use of nuclear preemptive strike by the two great superpowers during the Cold War.

Reviewing past United States military preemptive and preventative attacks, the end didn’t always justify the means. During recent events, the loss of international support has isolated the United States and our closest allies from many member states within the United Nations. The view of our Muslim partners has also taken a sharp downward turn since the quagmire in Iraq has begun. The United States will have to review its international strategy policies to regain its world political power, win back allies, and save face within the United Nations community. Our own people within our country have seriously questioned our own intentions. The lack of information, the unknowing public, and distrust of our own political leaders has let this country grow into a severely divided nation over the use of preemptive and preventative military action.

Conclusion
In conclusion, the United States has demonstrated since its beginning as a colony of Great Britain its resolve to use preemptive and preventive operations in support of its people and security. This was apparent with the Boston Tea Party. Since that time on many occasions we have used just means to defend our constitution, and people when necessary.

It is important that no matter how many treaties are signed and how many organizations that we join, the United States must maintain its stance. That stance is to make the unilateral decision to protect its security without permission or approval of any government body but the one here at home.

We have discussed what preventive and preemptive operations are, and what the international agreement on the use is. We have also established the United States and the present administration’s stance in the aftermath of the terrorist attacks within the borders of our country. We have looked at and discussed in detail two past operations that have supported the argument of maintaining the right as a nation to conduct these operations. We looked at one with which we worked through and with the United Nations, that operation ended with international approval but did not eliminate the problem as was intended and we were forced to re address the situation 10 years later. We discussed the second operation that at the time was met with resistance by the Latin American states but because we worked unilaterally and without complete concern for international approval, we were effective in securing and stabilizing the region with lasting positive effects for democracy.

Finally, we looked at and addressed the repercussions of certain operations and the political damage it causes throughout the world. Although immediate responses may be negative we must look at the lasting affects of these operations on the security and interests of the United
States and its citizens. In most if not all cases the lasting affects have benefited far better than the short term issues and resistance that required our response.

Therefore it is demonstrated that the positives out way the negatives and that it may not always be the first action or the most favorable at the time, the United States should maintain the ability to determine when and how to use either a preemptive or preventive operation. We should also maintain a strong stance to use these capabilities as deterrence to future attacks against our nation.
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