The Role of Congress in the Decisionmaking Process Regarding the Use of Force: The Cold War and Beyond

Thomas Greven
*Western Michigan University*

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THE ROLE OF CONGRESS IN THE DECISIONMAKING PROCESS REGARDING THE USE OF FORCE:
THE COLD WAR AND BEYOND

by

Thomas Greven

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Thomas Greven
THE ROLE OF CONGRESS IN THE DECISIONMAKING PROCESS REGARDING THE USE OF FORCE: THE COLD WAR AND BEYOND

Thomas Greven, M.A.
Western Michigan University, 1994

Employing Alexander George's method of structured, focused comparison of cases, this study identifies patterns of Congressional action when the use of American armed forces was at stake. Common explanations for the reluctance of Congress in assuming its constitutional role in the initiation of armed conflicts stress concerns over political costs of a Congressional involvement, namely the so called rally-effect, and existing policy consensuses.

Operating with a set of variables: the military operation, party control, the President's behavior toward Congress, and public opinion, which are applied to three case studies: the Dien Bien Phu crisis in 1954, the airstrikes against Libya in 1986, and the Persian Gulf War in 1990 and 1991, the study finds that the President's behavior towards Congress determined the impact of other factors. Cooperative behavior of the President enabled Congresspersons to become active, to make themselves heard in the decisionmaking process. Non-cooperative behavior magnified the rally-effect and the effects of policy consensuses.

The findings are used to show deficiencies of theories of Congressional action and of the liberal approach to international relations.
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CHAPTER I

INTRODUCTION

The Research Problem and Its Relevance

The Cold War and Beyond

The end of the Cold War has caused Americans to reappraise their global posture. For a considerable time now, the world’s leading power has been debating its role in a post Cold War world. Among the principal uncertainties for American foreign policy is the question "when is it appropriate to use military force?" Moreover, the normative and analytical dimensions of this problem impact on, and therefore require a reexamination of those American political institutions primarily concerned with authorizing the use of force.

The study presented here examines the role of Congress in decisionmaking processes when American military force was employed following the end of the Second World War. It includes cases from the Cold War and after. Three reasons mainly account for this research focus. First, although many scholars have commented on the failure of Congress to play a decisive role in foreign policy in general and in warmaking in particular, a comprehensive theory on this matter has not yet been developed (see Chapter IV). Second, examining the role of the legislature in instances where the use of military force is at stake may help to clarify and refine the liberal
approach to international relations theory (see below). Third, in the light of the ongoing debate on redefining American foreign policy, the study has a normative component: how can effective mechanisms of control over executive decisionmakers concerning the use of military force be established? The participation of democratically elected legislators in these decisions is one of the key factors in this.

Debates in International Relations Theory

In mainstream international relations theory (IR theory), three major approaches can be distinguished: Realism/Neorealism, Institutionalism, and Liberalism. Radical approaches, which are not discussed here, include imperialism theory, world systems theory, and Dependencia. Scherrer (1994) presents a discussion of more recent radical international relations theory (post-structural, feminist, neo-Gramscian). In political terms realism is mainly connected with Realpolitik-conceptions, and liberalism with Idealism (Joas, 1994). Institutionalism shares realist assumptions but also the idealist belief in cooperation.

Liberal IR theory is based on Kantian and Wilsonian thought and stresses the influence of domestic, societal factors on states’ behavior in international politics (Doyle, 1986; Kant, 1957; Russett, 1990; Wilson, 1965). It challenges dominant realist/neorealist (Carr, 1939; Mearsheimer, 1990; Morgenthau, 1948; Waltz 1979) as well as more recent institutionalist (Axelrod & Keohane, 1985; Keohane, 1984; Stein, 1982) theoretical approaches, both of which treat differences in domestic society and state structure as rather negligible for the explanation of state action in the internation-
al sphere. Institutionalism is often termed "neoliberal". This is problematic because it focuses on institutionalists' conclusions about the possibility of peace and cooperation, which are similar to liberal ones, instead of stressing their theoretical assumptions, which are mainly realist (Moravcsik, 1992). Recent liberal theory centers around the question: To what extent do domestic conditions determine a state's belligerence (Bueno de Mesquita & Lalman, 1992; Doyle, 1983; Doyle, 1986; Moravcsik, 1992; Russett 1990)? Whereas neorealisists see international conflict as inevitable because of the anarchical international system, and institutionalists think that regimes and international institutions can overcome the non-cooperative consequences of anarchy, liberals argue that the sources of international conflict lie mainly in the domestic societies. One of their core arguments is that states only decide to wage war when the mass of people who will bear its costs are excluded from these decisions. Thus, if decisionmakers are constrained by an elected legislature and if they rely on public approval, they will be reluctant to initiate wars because this could produce political costs for them. The liberal approach to IR theory thus implies that democracies are more peaceful than authoritarian states, since they possess such characteristics.

Empirical studies show that societal factors are important for a state's conflict behavior (James, 1988; James & Oneal, 1991; Ostrom & Job, 1986; Stoll, 1984). Also, democracies have rarely fought each other, a phenomenon that is unique with them (Levy, 1988; Maoz & Russett, 1993; Parker, 1994; Rummel, 1983; Russett, 1990). The peaceful behavior among democracies, however, cannot be explained by
the costs-argument of liberal theory, but rather by the notion of extended democratic norms of behavior to interstate relations, a recent addition to liberal theory (Maoz & Russett, 1993).

Nevertheless, the huge body of empirical work on democracy and war clearly demonstrates that overall democracies are not more peaceful than non-democracies (Chan, 1984; Maoz & Abdolali, 1989; Small & Singer, 1976; Weede, 1984). They initiate wars and warlike actions not less frequently than authoritarian states. Democratic structure apparently has an impact, but this impact is not as simple and clear cut as liberal theory suggests. Possibly -and hopefully- the liberal argument still bears some weight but needs to be supplemented by other factors; or, the assumed constraints are only effective under certain conditions. An examination of domestic foreign policy decisionmaking processes will help to identify the flaws of the legislative constraints argument.

It should be noted that democratic rule also provides the public and its representatives with possibilities to put pressure on the executive to use force. Since the liberal argument is based on the importance of domestic factors for state behavior it has to take this into account. As we shall see, however, in the period examined here no such case occurred.

The Case of the United States Congress

To examine the U.S. Congress in the post-World-War-II period serves the purposes outlined above for several reasons: First, the use of force was at stake in
a substantial number of cases. Second, the American political system is characterized by a strong legislative branch. The logic of costs and constraints should apply. Third, since the Second World War, Congress in most cases has not played an influential restraining role despite its formal authority and power (see chapter IV). Factors other than formal weakness might have played a role.

Organization of the Study

Three research tasks are particularly important for this study: (1) identification of patterns of Congressional behavior, (2) explanation of these patterns, and (3) discussion of the results in the theoretical context of domestic constraints on democratic executives.

The method most appropriate to pursue these tasks is structured, focused comparison of cases, as set forth and described by Alexander George (1979). A case study design is very helpful when the primary goal is development and refinement rather than testing of a theory. While case studies fail to provide exact statistical correlations between certain variables, they give information about which variables ought to be considered.

Because the method of structured, focused comparison serves as a guideline for my study, it will be outlined in Chapter II. Subsequently, a discussion of the war powers provisions of the American Constitution, the War Powers Resolution, and the various positions on these will help define the class of events to be examined here and suggest three types of cases (Chapter III). Chapter IV examines existing lines of
description and explanation of presidential dominance in warmaking, and draws from these arguments the aspects that this study will focus on. In Chapter V, the framework for analysis is developed, consisting of a set of controlled variables and a set of assumed relationships between these. Also, the cases to be examined here are selected in the light of these analytical considerations. Following are the actual case studies (Chapter VI) and a comparative analysis (Chapter VII).

There are mainly two sources of limitations to the relevance of the present study: First, legislative constraints are only one part of the liberal argument. Future work has to concentrate on the effect of public opinion, the reliance of democratic leaders on public approval, and the role of the media. Second, the variance in the cases examined does not encompass the diversity of cases in the period after the Second World War. Thus, some arguments could not be discussed sufficiently to come to final conclusions.
Alexander L. George (1979) attempts to integrate history's focus on the particularities of a specific case and the generalizations of political science. He argues that research following a historical, comparative method can identify the variables and conditions that account for the variety of history. His method can be characterized as an inductive approach to theory development. The emphasis is on controlled comparison of a few cases as opposed to statistical comparison of a representative sample. Instead of examining many cases but few variables, George proposes to examine many variables but only a few cases. However, he does not propose ideographic case studies. General variables have to be employed for both description and explanation, and the class of events or phenomena that is to be examined has to be defined. The cases selected from this class have to be treated selectively. George proposes to focus on relevant aspects, i.e., to control a number of variables that are considered important in the light of the theory.

George suggests the following steps in the development and conduct of a controlled comparison of cases:

Five tasks have to be performed in phase one, the development of the research design.

Task one is to specify the research problem, to define properly the class of
events that is to be described and explained, to identify one or more existing theories that have been or can be used in solving the problem, and to focus on those aspects of the existing theory that are to be refined.

Task two is the specification of the conditions and variables that will be controlled. The framework of the study will be completed by identifying the dependent variable and the independent variables and by stating which variables will be held constant and which will be allowed to vary across the cases to be compared.

Task three is the selection of appropriate cases, i.e., cases that fit the specifications made in task one and two.

Task four is to outline ways in which the variance in the dependent variable and independent variables can be best described.

Task five is to specify the data requirements for the conduct of the cases studies. Basically, this means to formulate the general questions to be asked of each of the cases.

Phase two is the undertaking of the actual case studies. First, the outcome of the dependent variable is established by applying the historical method, and then described. Second, historical explanations are developed by using the framework that was designed earlier. If this framework cannot capture the richness of the historical case, it has to be redesigned and the case studies have to be redone. George emphasizes that the objective is to establish plausibility by causal imputation rather than to find statistical correlations. Alternative explanations are considered. Any one causal interpretation gains plausibility if it is consistent with the data and the available
generalizations.

In Phase three the researcher draws theoretical implications from the results of the cases studies. The explanations for the outcomes, i.e., the variability of the dependent variable, serve to assess, refine, and/or elaborate (but not test) the initial theory.

George’s outline of his research strategy provides the general guidelines of how to conduct comparative case studies for theory development. His method can serve to assess and refine consistent sets of generalizations, maybe even single hypotheses, as well as full-fledged theories.
CHAPTER III

CONGRESS AND WAR POWERS: THE CLASS OF EVENTS

The Constitutional Setting

The Constitution of the United States gives Congress the power to "raise and support armies ...; to provide and maintain a navy" and, most important here, "to declare war, grant letters of marque and reprisal" (U.S. Constitution, article I, section 8). According to Wormuth & Firmage (1989) the latter provision indicates that Congress was given the power to initiate low-scale conflict as well as full-scale war. The President is "commander in chief of the army and navy" (U.S Constitution, article II, section 2). In other words, the President may not declare war, whereas Congress has no power to command U.S. Armed Forces. At the Philadelphia Convention, Madison and Gerry made their motion to replace the original phrase "power to make war" by "power to declare war". This was not intended to give the power to make war to the President, but to clarify that the President has the power to repel sudden attacks as well as the power to conduct wars once they are Congressionally authorized, and this was well understood at the time (Farrand, 1991, p. 318; Henkin, 1987). Thus, it is generally agreed upon that if the U.S. is attacked, the President has the right, even the duty, to command the defensive military actions that he deems necessary without prior Congressional authorization. But apart from that the power
to initiate hostilities is contested.

Presidentialist, Congressionalist, and
Shared-Power Interpretations

Following Katzmann (1990) one can distinguish three positions in respect to American war powers, that is, how the key terms "commander-in-chief" and "power to declare war" are interpreted. The three positions are: presidentialist, Congressionalist, and shared-power.

Presidentialists (Emerson, 1975; Jeffrey, 1988; Moore, 1969; Rostow, 1972; Sofaer, 1989; Turner, 1991) tend to define Congress's power "to declare war" as merely formal, while they follow a broad interpretation of the commander-in-chief clause: they regard it as a grant of power to the President to deploy and use U.S. Armed Forces in any way short of full-scale war.

Congressionalists (Adler, 1988; Ely, 1993; Koh, 1988a; Koh, 1988b; Lofgren, 1972; Rourke, 1993; Smyrl, 1988; Wormuth & Firmage, 1989) see the power to initiate war and warlike actions as solely vested in the legislative branch. The commander-in-chief clause is defined narrowly: it does not give the President any independent political authority (unless the U.S. is attacked), but merely describes the President's position once the U.S. is engaged in war after an advance Congressional authorization.

Shared-power advocates (Fisher, 1991a; Fisher, 1991b; Henkin, 1987; Katzmann, 1990; Keynes, 1982; Revel, 1981; Sterling-Conner, 1981) stress what they see as the intention of the framers of the Constitution to provide for joint action of the
President and Congress. While they strongly reject the presidentialist assertion of the Congressional power to declare war as a mere formality, they also think that the President’s position as commander-in-chief implies some power concerning whether and when to engage in armed conflict. In their perspective the actual distribution of constitutionally granted influence in a certain case depends on the dynamics of both situational factors and the behavior of the two branches.

The division into these three positions can be found in the debates of the War Powers Resolution (1973; Deering, 1991). This joint resolution has three core elements: consultation, reporting, and Congressional action. Section 3 calls for presidential consultation with Congress "in every possible instance" before the President introduces armed forces in combat or situations where combat must be expected. Section 4 establishes the requirement of presidential reporting to Congress within 48 hours, whenever troops have been engaged in combat (sec. 4(a)(1)), have been deployed to a foreign nation (sec. 4(a)(2)), or when stationed forces in a foreign nation have been substantially enlarged (sec. 4(a)(3)). Concerning Congressional action, section 5(b) is of special importance: whenever the President has to submit a report under section 4(a)(1), he has sixty days, or, if he deems necessary, ninety days to terminate the operation. If Congress does not authorize the operation during that period with a majority of both houses, the President has to end the operation. The constitutionality of section 5(c), stating that Congress can, at any time, stop unauthorized military operations by concurrent resolution (not subject to a presidential veto), has become questionable after the Supreme Court’s INS v. Chadha decision.
The Supreme Court declared unconstitutional Congress' practice to delegate legislative authority to the executive while keeping for itself the right to interfere with the executive's actions under that authority by concurrent resolution.

The War Powers Resolution (WPR) has neither provided a clarification of the distribution of the war powers, nor has it changed the pattern of presidential dominance in decisions about when to engage in armed conflict (see chapter IV). The flaws of the consultation requirement, the lack of definitions of "consultation", "in every possible instance", as well as "introduction to hostilities", enable the President to circumvent consultation or to just notify Congressional leaders of decisions already made. In terms of reporting, presidential compliance has been somewhat better, but the submitted reports most often do not cite subsection (a)(1) of section 4 which would start the sixty-days clock of section 5(b). Instances of required presidential reporting from 1974 to 1991 and presidential compliance with this requirement are listed in Appendix A.

Proponents of all three positions described above are dissatisfied with the WPR, but differ over what they are criticizing. presidentialists see it as an unwise, even unconstitutional Congressional attempt to interfere with the President's war powers and they want to see it repealed (Emerson, 1975; Turner, 1983; Turner, 1991). Congressionalists are especially concerned about the fact that the WPR gives the President the power to conduct unauthorized wars for sixty to ninety days and they want to strengthen it (Ely, 1993; Schlesinger, 1973). Shared-power advocates do not see the WPR as unbalanced, but would like to reform and modify it to make it a
better basis for joint action of the branches (Fisher, 1991a; Fisher, 1991b; Henkin, 1987, pp. 300-01; Katzmann, 1990). Among the very few positive judgements of the WPR are Franklin (1987) and Sullivan (1987). While being disappointed with its effect, the main drafter of the War Powers Resolution, former Senator Jacob Javits, could not see fundamental flaws in it either (1985).

An evaluation of the three positions is tempting here but would be inappropriate at this point. The balance of power between the positions changes over time, thus their dynamics have to be evaluated for every case. If these considerations are ignored, the study would become a historical. The distribution of constitutional war powers and the actual potentialities of the Congress and the President to use these powers can nevertheless serve to distinguish three types of cases. This is noted below.

Types of Cases

Since WWII, the U.S. has had large parts of its armed forces stationed abroad. The international responsibilities assumed through alliances have increased tremendously. Consequently, U.S. military operations and deployments have been frequent and worldwide in scope. Assessing all these operations is practically impossible. In order to define the class of events for this study - operations where an actual use of military force in combat took place or was at least likely to take place - some guidelines have to be set forth. Having developed them, lists of cases provided by other scholars can be used to identify cases that fit the definition. Appendix B
provides information on existing lists and gives the list developed for this study.

Under the Constitution of the United States Congress has the sole responsibility to raise, fund the armed forces, and declare war. The President, on the other hand, is the commander-in-chief of the U.S. Armed forces, therefore, he can deploy troops in peacetime as well as during war, and he can conduct wars, when they are Congressionally authorized. Furthermore, he has the authority to repel sudden attacks without the approval of Congress. Today, most experts accept the power of the President to defend U.S. territory, as well as its armed forces, citizens, and their property. The War Powers Resolution states that, acting on his own authority, the President may only introduce military forces into combat, or into situations where combat must be expected, if either a declaration of war, a statutory authorization, or a situation of national emergency exists. The latter can be created by an attack on the United States, its territories or possessions, or its armed forces (section 2(c)). The rescue of U.S. citizens was not included. Since these provisions are placed in the "Purpose and Policy" section, most legal scholars regard them as non-binding (Ely, 1993, p. 117; Smyrl, 1988, p. 26; but see Rourke, 1993, p. 112).

In sum, the President may only put U.S. Armed Forces into combat if Congress has authorized him to do so, or to immediately reply to an attack.

In practice, however, the President has more power when engaging in armed conflict. He clearly can enlarge his influence in decisions concerning the engagement in war by abusing his authority as commander-in-chief. The most striking way to do so is the deployment of troops for political or military purposes that risks their
imminent involvement in combat. Combat may then occur as a consequence of such action, but it does not have to. In such cases, the legal situation is more difficult than in those where the President deploys troops in order to immediately engage them in acts of war. The distinction between the rightful exertion of the President’s responsibilities as commander-in-chief and the provocation of or incremental introduction to war, can be difficult.

Three types of cases examined here shall be distinguished. Type I cases are those where the executive branch planned but did not carry out a deployment of U.S. Armed Forces that would have constituted a type II or type III case. Type II cases are those where U.S. Armed Forces were deployed in a way that risked their immediate involvement in acts of war. They are called type IIa when combat actions followed, and type IIb when they did not. Type III cases involve deliberate engagements of U.S. Armed Forces in acts of war against territory, armed forces, possessions, or citizens of another state.

The examination of type I cases could provide insights into the questions of whether members of Congress in any way were involved and whether manifestations or expectations of Congressional objection played a role in the administration’s decision not to use armed forces. One qualification has to be made: type I cases by definition only include those cases where planning occurred at a high administrative level, i.e., including a final negative decision by the President. Determining type I cases is especially difficult since almost all action in such cases takes place at the planning level within the administration, and hence is difficult to observe. Therefore,
the compilation of type-I cases in this study is hardly complete. The list of cases of all three types is given in Appendix B.

The crucial point concerning the type-II cases is not actual combat but the presidential decision to put troops in harm’s way.

It should be noted that the definition of type-III cases implies that four types of military operations are excluded from this study: (1) routine activities (e.g. maneuvers), (2) use of armed forces in pure non-conflict situations (e.g. disaster relief), (3) use of armed forces within the U.S., (4) covert actions. While the exclusion of (1) through (3) is self-explanatory, the exclusion of covert actions requires explanation. The use of force by non-regular troops and in the engagement in covert acts of war are indeed a very important way for the Executive branch to circumvent Congress. The inclusion of such cases, however, would considerably enlarge the scope of this project.
CHAPTER IV

CONGRESS AND WAR POWERS: DESCRIPTIONS AND EXPLANATIONS

The Rise of Presidential Warmaking

Historians and legal scholars have emphasized Congressional responsibility in the commission of U.S. forces to war and warlike actions. Nevertheless, the President's power to order American troops into combat has steadily grown (Cox, 1984; Eagleton, 1974; Javits, 1973; Schlesinger, 1973). Congress, however, has not always permitted the President to operate without constraints, and there are periods where a strong and dominant President was followed by Congressional assertiveness. As Arthur Schlesinger noted, "nearly every President who extended the reach of the White House provoked a reaction toward a more restrictive theory of the Presidency, even if the reaction never quite cut presidential power back to its earlier level" (Schlesinger, 1973, p. 68). Although this process can be observed in American history, in particular regarding the use of the war powers, it has been less visible since World War II (Cox, 1984; Dodd, 1979; Schlesinger, 1973, pp. 68-99). In the words of Louis Fisher, "the pendulum stopped swinging" (Fisher, 1991a, p. 199). President Franklin D. Roosevelt acquired an exceptionally strong and powerful domestic position during the 1930s, and World War II enabled him to extend the power of the presidency in foreign and military affairs. The Cold War did the same for the Truman
administration (Eagleton, 1974; Fisher, 1991a; Kegley & Wittkopf, 1987; Rourke, 1983; Shull, 1991; Wildavsky, 1966). Observers of the American political scene have come to the conclusion that the U.S. has more and more been involved in presidential wars, i.e., wars and warlike actions where U.S. engagement was initiated by the President without any Congressional authorization. Arthur Schlesinger (1973) called the period up to the end of the Vietnam War the "Imperial Presidency". Cecil Crabb and Pat Holt (1992) have distinguished four post-World War II stages of Congress' foreign policy role: (1) bipartisanship immediately after World War II; (2) the era of the imperial presidency during the Johnson and Nixon administrations in the course of the Vietnam War; (3) the period of a more assertive Congress in the 1970s; and (4) the resurgence of presidential power, beginning with the Reagan years.

In sum, except for some conservatives who have complained about Congressional dominance and the growing interference of Congress with presidential war powers since the end of the Vietnam war (Jeffrey, 1988; Sofaer, 1989; Weinberger, 1989), most analysts agree that the post-WWII period has been an era of presidential dominance and Congressional deference.

This widely held observation of presidential dominance will be confirmed in the cases chosen for the empirical part of this study. In light of the power constitutionally granted to Congress to declare war (see Chapter III), the fact that its actual role in the decisionmaking processes regarding the use of force is very small demands explanation. Several interpretations of this paradox have been given by students of the subject. They will be discussed below.
Explanations of Presidential Dominance

Structural Advantages of the President

The President is in a better position to play an active role in foreign affairs than Congress for a number of reasons. The shift in emphasis from diplomacy to the military, and the establishment of an elaborated national security apparatus that followed the National Security Act of 1947 provided the President with extraordinary powers. In 1950, the National Security Council’s policy paper NSC-68, which was based on a report by the State and Defense departments, successfully advocated a large-scale military buildup, and thus gave the President the means necessary to use his power (Ambrose, 1993, pp. 110-112). The executive branch, although consisting of large and sometimes diverse bureaucratic bodies, is still less fragmented than Congress. The President has superior access to information. Furthermore, he is automatically seen as the key political leader of the country which gives him vast possibilities to influence both Congress and public opinion. Finally, his position is even stronger with regard to engagements in military operations, since he is commander-in-chief of the United States Armed Forces. In sum, active national security-policy-making is a presidential and not a Congressional domain. Congress, however, has the capabilities to exert influence on the President’s decisions. For one, it can play an important reactive role, restraining the President in decisions about whether to get involved in armed conflict. Yet the pattern of presidential dominance in these decisions after World War II suggests that this seldom happened.
As demonstrated above, a lack of constitutionally granted powers cannot account for Congress’ acquiescence. While for single members of Congress the defense of the legislature’s war powers against a powerful President is extremely difficult, especially since the Judicial Branch has declined to interfere on grounds of the ripeness and political questions doctrines (see below), Congress as an institution has the power to play an important role in decisions about when to engage in war. Consequently, scholars who have tried to explain presidential dominance have concentrated on the lack of Congressional will to restrain the President. While Congress may be capable of restraining the executive, and has tried to do so several times (Bricker-Amendment, War Powers Resolution), many members of Congress have strong inclinations not to do so, especially in times of crisis.

Most researchers agree on the lack-of-will argument but differ about how to explain Congress’ reluctance. Basically two types of motives are described in the literature: (1) policy-motives and (2) political-motives. Before these are discussed, a short note on two additional factors might be appropriate.

Partisanship is not often mentioned by students of the Cold War, indicating the strength of the overshadowing bipartisan consensus. This variable will nonetheless be controlled in this study for two reasons. First, although partisanship is less influential in presidential political systems than in parliamentary systems, it is the most reliable predictor of voting behavior even in the United States (Kingdon, 1989). Second, although the Cold War period was characterized by strong degrees of bipartisanship, this was neither true for the pre-Cold War era nor will it necessarily
be a characteristic of the post-Cold War situation. On the contrary, the partisan factor might now become very important.

A second factor can possibly play an important role. If a military operation ordered by the President is executed before Congress can act, the center of attention should shift to the after-the-fact action of Congress. Does Congress react negatively if its constitutional powers have been ignored or minimized? Assuming that the success and costs of the operation will play an important role in determining Congressional after-the-fact action, this question is very much related to the political-motives argument as shown below.

**Policy-Motives**

From the perspective of policy-motives, members of Congress do not restrain the President when they support his goals and means. The premise of this argument is that most members of Congress are more interested in actual policy outcomes than in constitutional questions. Consequently, even if they have some reservations with regard to presidential warmaking, they will back the President’s policy in the expectation it will prove successful. Accordingly, if there is strong general policy consensus in foreign policy, Congress will support it and go along when the President decides to use military force in pursuit of that policy. In the Cold-War period such a policy consensus existed: the American population and its policymakers shared a position of anti-communism that included the willingness to fight what was seen as the spread of international communism. A number of researchers state that this
consensus kept Congress from playing a more independent role during that time (Kegley & Wittkopf, 1987; Rourke, 1993). Others do not analyze Congress in particular but stress the overall importance of the anti-communism factor for U.S. military interventions (Tilemma, 1973). While anti-communism is seen as the central factor that made Congress reluctant to cut down presidential warmaking, other factors can play that role, too. The widespread concern with state-sponsored international terrorism in the 1980s is a good example. Exploiting such concerns, Presidents can dominate decisions about when to engage in armed conflict.

**Political-Motives**

The second thread of arguments in the literature points to political-related motives of Congress persons. From this perspective, members of Congress refuse to object to presidential use of military force, because doing so would create political costs for them, or, at least, would not be politically beneficial. Especially when a military operation is already under way, Congress persons consider it politically unwise to oppose the President even if they are not initially supportive.

Three factors are mentioned in the literature as being responsible for this: (1) members of Congress act in accordance of an expected or actual rally-around-the-flag effect (Brands, 1987, p. 622; Rourke, 1983, pp. 208-10; Stoll, 1987), (2) they are reluctant to assume responsibility for the operation, (3) the President exerts a "symbolic supremacy ... over Congress" (Denton & Hahn, 1986, p. 127). The rally effect means that often the use of military force gives the President a short-term boost
in his public approval (Brody & Shapiro, 1973; Lee, 1977; Mueller, 1973). Speaking out against the President on that matter and at that time would be highly unpopular with the voters. It should be noted here that the rally-effect usually only holds for some weeks. Still, this should be enough time for the President to make the crucial decisions without Congressional objections. More important, however, is that the rally-effect is positively correlated with the expectation of military success and/or low costs (in terms of financial costs and human casualties). Therefore, this first argument for the political-based explanation also recognizes that if a military operation fails or becomes significantly more expensive than projected, the President’s position weakens and Congressional criticism can arise.

The second factor is closely related to the first: taking steps to stop a presidential deployment of armed forces in combat circumstances requires the acceptance of great responsibilities in the realm of national security. Many researchers argue that most Congresspersons are reluctant to assume these responsibilities and prefer the easier way of giving the President discretionary powers (Eagleton, 1974, p. 204; Ely, 1993; Javits, 1985, p. 137; Koh, 1988b, p. 132; Rourke, 1993, p. 143). Especially when U.S. troops are already engaged in combat, opposing the commander-in-chief could be seen as unpatriotic. While the rally-effect usually fades away soon, especially if the military operation is less successful than expected, the more general responsibility-factor may have a longer term impact.

The third factor magnifies the first two. The President gets much more attention by the media than Congress, especially in foreign and security policy. He
can thus heavily influence the perception of a foreign policy crisis that will be carried through by the mass media. In a recent study, the President is even called the "Interpreter in Chief" (Bostdorff, 1994, p. 4). His symbolic supremacy enables him to portray his actions in a crisis as bold and decisive steps that serve the United States' national interests. This enhances the rally effect and increases the responsibilities that would have to be assumed by members of Congress if they choose to oppose the President.

Implications

The policy-based and political-based, as well as the partisan-based explanations all contradict the idea of democratic constraints. The policy argument implies that the cost-constraints logic does not apply: if there can be a broad policy consensus among legislators and the public favoring engagements in certain wars or warlike actions, the liberal assumption that people are principally opposing them is problematic. If valid, the policy-based argument would suggest that the idea of political constraints caused by the anticipation of the social costs of wars is either fundamentally wrong, or can be overshadowed by the consensus provided by policy-related factors such as anticommunism.

The political-motive argument uses a rationale of political costs that turns the liberal argument upside down. It implies that for legislators political costs are not produced by supporting engagements in war, but by opposing them. If this argument bears much weight, it would suggest that a cost-based explanation is promising, but
that the liberal reasoning about costs is at best incomplete, since other cost-related factors play a more central role.

The liberal argument implies that legislatures will exert their constitutionally granted powers in decisions to use force by institutional action. The partisan-motive contradicts this notion since it suggests that majorities are more important to predict the legislature's actions then institutional interests.

The explanations elaborated here are not competitive but compatible, at least to some extent. Both policy-motives and political-motives can operate at the same time. Also, while the argument of democratic constraints caused by the social costs of war might come into operation when obvious and significant costs are created by a full-scale war, the other factors mentioned can be more important for small-scale and/or short-term armed conflict.
CHAPTER V

ANALYTICAL FRAMEWORK

Dependent and Independent Variables

The Dependent Variable: Congressional Behavior

The dependent variable here is Congressional behavior in cases where a U.S. military operation, as defined below, was planned and/or conducted. The House of Representatives and Senate have to be looked at separately.

Four types of possible Congressional action will be distinguished: (1) initiation: trying to make the President use the armed forces; (2) support: actively supporting the President in his use of the armed forces; (3) restraint: trying to limit or stop the President’s use of the armed forces; and (4) review: supportive or critical action after completion of the military operation.

For each type of Congressional action three different stages shall be distinguished: (1) passive: no action of either House or Senate; (2) partial: committees and/or Congressional leaders are active; and (3) full: either one or both houses vote on a resolution or statute.

The potential influence of a passive Congress is very difficult to assess: while Congress does not act, the possibility for it to act might still influence the President’s decision.
Congressional leaders in terms of this study are the President pro tempore of the Senate, the Speaker of the House, Majority and Minority Leaders of both houses, and the Chairmen and Ranking Members of the Foreign Relations/Affairs and Armed Services Committees. These members of Congress have the position and/or the expertise in foreign policy to be able to influence the President, their colleagues and the public. Legislation concerning war powers is usually referred to the Senate Foreign Relations Committee and the House Foreign Affairs Committee, and committee-level Congressional action with regard to foreign crises often takes place in these committees, making them most important and prominent here. The Armed Services Committees are of special importance when U.S. armed forces are involved. Since covert actions have been excluded from this study, Chairmen and Ranking Members of the Intelligence Committees are not defined as Congressional leaders here. The extraordinary influence of individual Congresspersons and Senators in certain periods or situations will, however, be recognized in the case studies.

**The Independent Variables**

Four independent variables will be controlled: (1) the military operation, (2) party control of the House and Senate, (3) the President’s behavior toward Congress, and (4) public opinion.

As elaborated in Chapter III, several kinds of military operations are excluded from this study. Consequently, the term military operation is used in what follows exclusively for military actions which constitute type I, type II or type III cases, as
defined above. The decisionmaking of a military operation can roughly be divided in three subsequent phases: (1) initiation: the consideration of a military operation, the determination of its goals, and the decision to start it; (2) conduct: the execution of the initiated military operation, and its continuation and/or modification; (3) termination: the political decision to end the operation and the execution of that decision.

The duration of a military operation and its intensity, i.e., the quantity of troops and material involved, must be considered separately. The former is of special importance since the political-motive argument predicts that Congressional behavior is influenced by it.

The success of a military operation, defined as its outcome compared to the expectations stated by the executive prior to it, is crucial for the assessment of the political-motive argument. If a military operation fails or is in danger of failure, the political incentives to support the President become smaller for Congresspersons and may even be replaced by incentives to criticize the administration. Unfulfilled military goals, a high number of casualties, and an unexpected long duration all reduce the success of an operation considerably.

The variable of party control in the House and Senate is important to determine the effect of partisanship as elaborated in chapter IV. For the Senate, the cloture-margin may also be important.

With regard to the President's behavior toward Congress, cooperative and non-cooperative Presidents will be distinguished, dependent on how much they
thought Congress should be participating in decisions about the use of military force. This variable serves to find out if Congress becomes more supportive, as suggested by Ely (1993), or merely more active, hence possibly more restraining, when the President is cooperative and vice versa.

Public opinion favoring or disapproving of a military operation will be measured with polls (if existent) and analysis of mass media coverage for the different phases of the operation. This variable serves to determine a potential rally-effect.

Other Considerations

As elaborated above (Chapter IV), the President is better able to play an active role in decisions about military operations, whereas Congress can exert its influence reactively. Therefore, Congressional actions initiating military operations are rather unlikely. The question of whether Congress supports or restrains military operations initiated by the President can thus be seen as a test of the policy-based and political-based explanations set forth in Chapter IV.

The policy-motive argument suggests that, given a policy-consensus of the executive and a large majority of legislators, Congress will constantly support the President. The political-motive perspective, on the other hand, suggests that, because of the rally-effect, Congress is more supportive during the initiation and early conduct phases than during other phases.

The political-motive argument predicts that the success or failure of a military operation is of great importance for Congressional behavior. The logic of political
costs and benefits is more strongly related to military success than policy consider-
ations are.

At the same time, however, the political-motive argument also states that legisla­tors want to avoid the responsibility for military operations and their consequences. Therefore, while Congresspersons will cease to support the President once a military operation is in danger of failing, they are still reluctant to effectively restrain him. Rather, Congressional disapproval will be shown through symbolic actions. Symbolic actions do not disprove the political explanation, they are in accordance with it. Conversely, the policy-motives argument implies that when a policy consensus is missing or breaking up, Congress will significantly, and not only symbolically, restrain the President.

The Selection of Cases

For an optimal selection of cases, all of the following seven criteria should be taken into consideration: (1) at least one case of each type (I, IIa, IIb, III); (2) at least one pre-Vietnam/War Powers Resolution case, at least one post-Vietnam/WPR, and at least one post-Cold War; (3) at least one successful, and at least one unsuccessful military operation; (4) at least one of each of the possible combinations of short, long, intense, and low-scale military operations; (5) at least one case involving a cooperative President and one involving a non-cooperative President; (6) at least one military operation with clear anti-communist or anti-terrorist objectives, and at least one clearly non-anti-communist or non-anti-terrorist operation; and (7) at least one
military operation in each decade.

For practical reasons the selection of cases in this study had to be based on only a part of this set of criteria, namely on (1), (2), (5), and (6). The greatest shortcoming of the selection presented in Table 1 is the fact that neither an unsuccessful nor a long operation were included. This will be done in later elaborations of this research project.

Table 1

Selected Cases

<table>
<thead>
<tr>
<th>Case</th>
<th>Type</th>
<th>Pres.</th>
<th>Era</th>
<th>Military Operation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indochina, 1954</td>
<td>I/IIb</td>
<td>Coop.</td>
<td>Pre-WPR</td>
<td>minor, no casualties</td>
</tr>
<tr>
<td>Libiya, 1986</td>
<td>III</td>
<td>non-coop.</td>
<td>Post-WPR</td>
<td>successful, short/low scale, few casualties</td>
</tr>
<tr>
<td>Persian Gulf, 1990-91</td>
<td>IIb/III</td>
<td>non-coop.</td>
<td>Post-CW</td>
<td>successful, short/intense, few casualties</td>
</tr>
</tbody>
</table>
CHAPTER VI

CASE STUDIES

Structure

Every case study will be presented following the exact same structure: (a) the conflict situation, (b) the decisionmaking process in the executive, (c) the military operation, (d) the intervening variables, (e) Congressional action, and (f) analytical summary.

Part (a) of every case study is essentially a general introduction, however, the focus is on the role of the United States. Part (b) describes how the executive reached its decision. One additional objective of this part is to determine if the President has to be classified as cooperative or as non-cooperative. Part (c) gives information about the military operation, its length, intensity, and costs. Part (d) covers the two remaining intervening variables, partisan control of Congress and public opinion. Part (e) gives a detailed description of Congressional action related to the crisis. It serves to classify Congressional behavior. Finally, part (f) puts the empirical findings in the perspective of the analytical framework.

Chapter VII provides a comparative analysis of the cases in light of the theoretical considerations elaborated above.
After World War II the French reaffirmed their control of Indochina (Vietnam, Laos, Cambodia) but soon met increasing resistance by the nationalist Viet Minh who challenged French colonial rule. France was in a disastrous economic condition and had to rely on outside help, mainly from the United States. Yet while the containment policy of the Truman administration provided the framework for American support, the United States cautiously avoided any direct intervention. Individual isolationists, mostly Republicans, even tried to attach non-intervention provisions to the Mutual Assistance Act of 1953 (Burke & Greenstein, 1989, p. 11).

While the U.S. administration was certainly not sympathetic to the allegedly communist Viet Minh, it did not want to be considered colonialist. This was especially true for Congress which promoted Indochinese independence strongly. When the military situation worsened for the French in late 1953, however, Congress appropriated an additional $385 million of military aid on grounds of a vague French agreement to steps towards granting Indochina independence (Burke & Greenstein, 1989).

In early 1954, the new French commander, General Henri Navarre, was compelled to wage a decisive battle at Dien Bien Phu, a fortress near the Laotian border in the north. But even before the elite French units could complete fortifying the garrison, the Viet Minh attacked with great force. Within a few weeks, the French
were trapped. France subsequently agreed to put the Indochinese question on the agenda of the already scheduled Geneva conference, a move to which the United States was vigorously opposed (Billings-Yun, 1988).

In the first months of 1954, the United States stepped up its material support, eventually paying more than 80% of the French stationment costs. The Eisenhower administration considered military intervention, especially in February and March 1954, but except for 200 U.S. Air Force technicians no American soldiers set their feet on Vietnamese ground. Various interpretations have been offered to explain American non-intervention. An early explanation was that the Congressional leadership, meeting secretly with Secretary of State John Foster Dulles on April 3, 1954, prevented intervention (Roberts, 1954). Later, it was asserted that Eisenhower had not wanted intervention, then, that Dulles had not wanted it (Billings-Yun, 1988; Herring & Immerman, 1984; Marks, 1990). Any viable explanation, however, has to consider the roles of the intransigent French as well as the reluctant British.

Dien Bien Phu fell on May 7 but the crisis did not end for the United States until a settlement was reached at Geneva.

The Decisionmaking Process in the Executive

There are two contending lines of thought about the Eisenhower presidency in general and about his relations which Congress in particular. Earlier studies tend to treat Eisenhower as a weak President (Adams, 1961; Capitanchik, 1969; Donovan, 1956; Robinson, 1966). They argued that he did not truly want the job but rather
considered it his duty. Consequently, he left many decisions to his advisers, or even to Congress. A well known statement is that he was "passing the buck." In the 1980s, when more documents of the Eisenhower period became available, a basic revisionism took place. Greenstein (1982) argues that Eisenhower only gave the impression of a fatherly and friendly leader who wanted the best for all but who was not interested in the details. In reality, he had great concern about the specifics of policies and personally made decisions that he considered important (Ambrose, 1990; Anderson, 1991; Arnold, 1991; Brands, 1988; Burk, 1986; Cook, 1981; Divine, 1981; Lee, 1981; Pach, 1991; Stassen, 1990; Wykes, 1982).

In regard to decisions to use force Eisenhower has to be considered cooperative with Congress, especially in comparison with other post World War II Presidents. He frequently met with the Congressional leadership and briefed the Republican leaders on a regular basis. Specifically, his view of the constitutional war powers was different from his predecessor, Harry S. Truman, because he did not regard his power as commander-in-chief as including the power to commit American troops to combat (Muskie, 1986). Throughout the crisis, Eisenhower and Dulles emphasized several times that Congress would have to be in on any military intervention in Indochina (Burke & Greenstein, 1989).

Indochina was considered strategically important in the global struggle against communism because, according to the so-called domino theory that came into use at that time, losing this region to communist forces would only be the beginning of the spread of communism over all of Asia. The National Security Council (NSC) and
special planning committees separately began to consider the policy options. Eisenhower insisted on not excluding any option, so that even nuclear bombing was contemplated at one time. Eventually, three options evolved: (1) unilateral American airstrikes; (2) unilateral American military action, including ground forces; and (3) military action from several nations, including the U.S. (Burke & Greenstein, 1989).

The Special Committee headed by Undersecretary of State Bedell Smith, reviewed French requests for aircraft and 400 technicians at a meeting on January 29. It recommended to deploy the aircraft and 200 technicians, provided the personnel would not be exposed to combat. Eisenhower immediately approved the recommendation (Burke & Greenstein, 1989, p. 38). 200 U.S. Air Force technicians and aircraft were deployed the same day but the administration did not announce the action until February 6. None of the Armed Services or Foreign Relations Committees had been involved in the decisionmaking process, and several members of Congress protested with speeches and public statements (Burke & Greenstein, 1989, p. 38; Scribner, 1980, p. 211). On February 8, Eisenhower met with Republican Congressional leaders to explain the deployment. In reaction to the leaders’ initial opposition he promised that the soldiers would be removed by June 15, and possibly replaced by civilians. At a news conference on February 10, Eisenhower emphasized his own opposition to an American involvement in Indochina (Burke & Greenstein, 1989, p. 39).

In the following weeks the administration concentrated its planning efforts on the option of unilateral airstrikes. At least twice the French government informally requested American airstrikes to save Dien Bien Phu. In collaboration with American
military advisers in Saigon, French strategists even developed a plan called "Operation Vulture" which was supported by Joint Chiefs of Staff Chairman Admiral Arthur Radford. Eisenhower did consider the idea of a unilateral airstrike, in fact, on April 1 he even considered a covert airstrike. His private statement to two editors that the U.S. might have to use air power and then would "deny it forever", shows that he was clearly contemplating deceiving Congress and the American public (Anderson, 1991, p. 30; Burke & Greenstein, 1989, p. 49). In the end, Eisenhower's skepticism regarding the military benefit of airstrikes prevailed. As the situation in Dien Bien Phu worsened, airstrikes became even less promising.

Following orders by Eisenhower, Chief of Naval Operations Admiral Robert Carney ordered the Pacific-based U.S. 7th Fleet on alert on March 18 and readied it to defend Dien Bien Phu within twelve hours' notice. Without letting even the French know its purpose, the fleet was dispatched to the Gulf of Tonkin (Billings-Yun, 1988, pp. 43-44). Reconnaissance air units studied Chinese air fields and the conditions of northern Vietnam communist strongholds. The administration did not inform either Congress or the British, French, and Vietnamese governments (Billings-Yun, 1988, p. 90).

Subsequently, the administration and particularly Dulles shifted their attention to the option of multinational military action. The fact that Congress became involved in the decisionmaking process in late March and early April to such a great extent has led students of the Dien Bien Phu crisis to believe that Congress actually prevented military intervention (Roberts, 1954).
This view probably developed because on March 29, at the regular weekly briefing of Republican leaders, Eisenhower announced the possible necessity of military intervention within 48 hours, which was exactly the time necessary to start an air strike. The President said he would inform Congressional leaders (Anderson, 1991, p. 29; Burke & Greenstein, 1989, pp. 47-48). The reason for this announcement is not fully clear. It might have been a tactical move to give Congress a sense of urgency and emergency before the secret meeting between Dulles, Radford and bipartisan Congressional leaders scheduled for April 3, 1954.

However, a plan for so called "United Action" had been developed earlier, and was outlined in Dulles' speech to the Overseas Press Club on March 29. "United Action" was to include Great Britain, France, local nations, and possibly other partners as well (Burke & Greenstein, 1989). Also, a resolution had been drafted which was not to be presented to the Congressional leadership at once because Eisenhower had advised Dulles "to develop first the thinking of Congressional leaders" (Burke & Greenstein, 1989, p. 50). The draft resolution was a basically a blank check authorization:

The President of the United States ... hereby is authorized, in the event he determines that such action is required to protect and defend the safety and security of the United States, to employ the Naval and Air Forces of the United States to assist the forces which are resisting aggression in Southeast Asia, to prevent the extension of that aggression, and to protect and defend the safety and security of the United States. This Resolution shall not derogate from the authority of the Congress to declare war and shall terminate on June 30, 1955, or prior thereto if the Congress by concurrent resolution shall so determine. (U.S. Department of State, 1983, pp. 1211-1212)
The fact that the resolution was not presented to Congress demonstrates that the administration was insecure about the amount of support it could get. At that point, Eisenhower, Dulles, and Admiral Radford had basically decided against any unilateral action and agreed on an intervention plan with strict conditions (Adams, 1961, p. 122). Yet the tactical move to not present the draft resolution was probably meant to keep all options open. This objective was not achieved since the secret meeting ended with a tacit agreement on certain conditions for intervention: it would have to be a multinational effort, and Vietnam would have to be granted independence.

On April 4, Eisenhower met with the inner circle of his advisers at the White House to discuss the "United Action" strategy. An agreement was reached to intervene under certain conditions. Although Congressional approval was not specifically mentioned, the agreement in fact met Congressional conditions (Anderson, 1991, p. 32; Burke & Greenstein, 1989, pp. 67-68). Billings-Yun (1988, p. 100) has a different reading of this incident. She argues that Eisenhower agreed with the conditions imposed by the Congressional leadership and on April 4 for the first time added his own set of preconditions, namely that the coalition would have to include local forces, that an understanding with France should be achieved, and that advance approval of Congress was necessary.

The administration increased its efforts to build Congressional support by letting Capitol Hill know about increased Chinese involvement in the conflict (Burke & Greenstein, 1989, pp. 68-69) and Dulles tried to commit England and France to the
"United Action" plan. France answered with pressure and indicated its willingness to accept any agreement in Geneva unless the United States would intervene with airstrikes (Billings-Yun, 1988, pp. 105-107). Eisenhower said to Dulles that "in the absence of some kind of arrangement" with Congress such move would be impossible (Burke & Greenstein, 1989, pp. 68-69) and thus Dulles cabled to American ambassador in Paris, Douglas Dillon, accordingly. Dulles, however, again stated that the U.S. was prepared to do everything short of belligerency (Billings-Yun, 1989, p. 108).

France answered on April 6 that it would settle for a loan of B-29 bombers maintained by U.S. personnel but flown by French pilots. The administration held an NSC emergency meeting on April 6 reacting to the French request as well as to a study of the Planning Board that had recommended unilateral intervention, and to an intense debate in the U.S. Senate. Eisenhower said that there was no possibility of U.S. unilateral intervention. "Even if we tried such a course, we would have to take it to Congress and fight for it like dogs, with very little hope of success" (Burke & Greenstein, 1989, pp. 70-71). He also added a new precondition for intervention: "We would have to be invited in by the Vietnamese" (Billings-Yun, 1989, pp. 109-111). On April 8, Admiral Carney cabled the Pacific Fleet to call off reconnaissance program and to leave the Gulf of Tonkin.

On April 16, Vice President Richard Nixon proposed in an off-the-record remark, that seemed to be, however, a prepared statement, that the U.S. should dispatch ground forces if French would withdraw from Indochina. He said, "If to
avoid further Communist expansion in Asia and Indochina, we must take the risk now by putting our boys in, I think the Executive has to take the politically unpopular decision and do it" (Ambrose, 1993, p. 137). Voices of protest were immediately raised in Congress. More significant was that Dulles' efforts to gather support for "United Action" were undermined by Nixon's comment. Especially the British government was angered (Billings-Yun, 1988, pp. 130-131).

The April 21 announcement of airlifts of French troops to Dien Bien Phu and the deployment of twenty-five Corsair fighter bombers from the aircraft carrier Saipan to the French forces in Indochina did nothing to rebuild Congressional support. On the contrary, there was again protest from Capitol Hill.

At a regular meeting of Eisenhower with Republican Congressional leaders on April 26 the President explained the failure of the "United Action" plan on grounds of British and French opposition (Adams, 1961, pp. 123-124). Eisenhower assured the leaders that the U.S. had tried a concerted approach but "neither the French nor the British had risen to the occasion" (Burke & Greenstein, 1989, p. 82).

Shortly before and in the weeks after the fall of Dien Bien Phu on May 7, Congressional leaders became more open to the question of intervention. The insistence on participation of Great Britain, whose unwillingness to enter the war is probably the best explanation for the failure of the U.S. to act, was less strict. The election of a new French government committed to a negotiated solution, and the eventual settlement at Geneva ended the crisis.
The Military Operation

Neither the airstrikes, the main option considered in the administration, nor any other offensive operation was conducted. None of the three military operations that were conducted by U.S. personnel during the Dien Bien Phu crisis (the deployment of technicians, the deployment of the Pacific fleet, and the airlifts of French troops) involved American armed forces in combat. The operations were short, successful, and no casualties were suffered. Yet none of the operations was Congressionally authorized, indeed, there had been no Congressional involvement in the decisionmaking processes. While the deployment of technicians and the show of force by the Pacific Fleet did not risk American involvement in combat, the airlifts to Dien Bien Phu did.

Intervening Variables

After the deployment of the Air Force technicians in February the media exposed a wide mixture of views. A review of press reactions by the State Department on February 15 did not interpret the media’s reaction as a clear restraint (Burke & Greenstein, 1989, pp. 65-66).

Public opinion polls showed early on that Americans were not prepared to accept an intervention so soon after Korea (Donovan, 1956, p. 267). A Gallup poll in the first week of May, 1954, found only 22% support of an intervention, but 68% opposition, and 10% with no opinion. However, this was mostly due to the fact that the question was phrased in terms of unilateral intervention. An unpublished State
Department poll on multilateral intervention conducted May 19-22, 1954, showed 69% support, 23% opposition, and 8% with no opinion. Here only 21% said they would approve of a unilateral intervention (Burke & Greenstein, 1989, pp. 112-113).

At the time of the crisis the Republicans had slim majorities in Congress (eleven votes in the House and only one vote in the Senate). According to Scribner (1980, p. 207) the Republicans were unfamiliar with the majority positions and thus not necessarily backing the President. In addition, many Republicans were isolationists who did not support Eisenhower’s foreign and military policy anyway (Anderson, 1991, p. 19; Capitanchik, 1969, p. 37). Thus the President had to rely on liberal internationalist Democrats which resulted in the substantial participation of Democrats in meetings with the administration and probably can explain in part Eisenhower’s fairly cooperative behavior towards Congress.

**Congressional Action**

Before and throughout the crisis Congress appropriated aid to the French forces in Indochina on an increasing scale. The hearings conducted at these occasions focused on the French progress of granting independence to the so called Associated States.

After the deployment of the Air Force technicians an argument developed between Congress and Eisenhower. The President claimed that he had informed Congressional leaders. Senator John C. Stennis (D-MS), a member of the Armed Services Committee, wrote a letter to Secretary of Defense Wilson and also held a
speech in which he emphasized the danger of a quagmire. "A decision must soon be
made as to how far we shall go .... As always, when we send one group, we shall
have to send another to protect the first and we shall thus be fully involved in a short
time" (Burke & Greenstein, 1989, p. 38).

Although Stennis’ concerns were shared by his Democratic colleagues in the
Armed Services Committee he did not express a consensual view. Republican leaders
expressed approval and so did Senator Mike Mansfield (D-MT) (Burke & Greenstein,
1989, p. 39). The Senate Majority Whip and Chairman of the Armed Services
Committee, Leverett Saltonstall (R-MA), led the initial opposition to the deployment.
Eisenhower promised to have them withdrawn by mid-June, and thus won the leaders’
promise to support him on the Hill. Within days, the protests in Congress and the
1023-1025). On the Senate floor Saltonstall and Senate Majority Leader William F.
Knowland (R-CA) then expressed agreement with the administration’s action (Burke
& Greenstein, 1989, p. 40).

According to Burke & Greenstein (1989, p. 47), Dulles talked to Republican
and Democratic leaders about his United Action speech at the end of March. A
telephone conversation between Dulles and Knowland took place on March 30, after
the "United Action" speech. Knowland congratulated Dulles on his tough stand
(Billings-Yun, 1988, p. 64). The fact that the Senate debated "United Action" on the
floor that same day indicates that the Congressional leaders present at the secret
meeting on April 3 knew about its existence and content. But Senator Stennis asked,
"Exactly what is meant by 'United Action' and what is the necessity or the case for it?" No one answered.

The secret emergency meeting between eight Congressional leaders and Dulles at the State Department on April 3 did not clarify Stennis' question but it gave Congress the possibility to make itself heard.

Present were Senators Knowland, Eugene D. Millikin (R-CO), the Senate Minority Leader Lyndon B. Johnson (D-TX), Richard B. Russell (D-GA), Earle C. Clements (D-KY), and the Speaker of the House, Joseph W. Martin (R-MA), as well as the Minority Whip, John W. McCormack (D-MA) and Representative J. Percy Priest (D-TN).

The leaders were unanimous in their rejection of a unilateral approach, "We want no more Koreas with the United States furnishing 90% of the manpower." Dulles replied that no use of land forces was contemplated. The leaders answered that once the flag was committed, land forces would inevitably follow and insisted on a multilateral effort (Burke & Greenstein, 1989, p. 51).

The fact that the Congressmen felt that they would have been asked for a blank check if they had not made their opposition clear influenced the information that Congressman McCormack leaked to the journalist Chalmer Roberts (Anderson, 1991, p. 31). The early standard interpretation of U.S. non-intervention stemmed from the article that Roberts (1954) wrote: "The day we didn't go to war."

In a floor debate on April 6, the Senate reinforced the conditions imposed by the Congressional leadership three days earlier. Speeches complained about lack of
information (Cassata, 1986, p. 154) but indicated concern for Indochina and possible bipartisan support for "United Action" (Burke & Greenstein, 1989, p. 74).

Senator John F. Kennedy (D-MA), the initiator and main speaker of the debate, said that in order to enlist the loyalties of the Indochinese, independence had to be granted; otherwise United Action would certainly end up as a unilateral American action. In summing up past administration's misstatements Kennedy said:

Every year we are given three sets of assurances: first that the independence of the Associated States is complete; second, that the independence of the Associated States will soon be completed under steps 'now' being undertaken; and third, that military victory for the French Union forces in Indochina is assured, or is just around the corner, or lies two years off. (Billings-Yun, 1988, p. 118)

Kennedy was then seconded by Knowland, who had initially voiced support for unilateral intervention, but now spoke against it except in the event of a Chinese intervention, Warren Magnuson (D-WA), Stuart Symington (D-MO), Clinton Anderson (D-NM), and Everett Dirksen (R-IL). Even Stennis acknowledged that under certain conditions Congress would vote to support "United Action". Henry Jackson (D-WA) emphasized that the country has to be told that the U.S. cannot let Indochina "fall into Communist hands" (Burke & Greenstein, 1989, p. 74).

Senator Mansfield, who had led a study mission on Indochina in 1953 that had concluded that American aid should not involve the commitment of combat forces, demanded to know what was meant by "United Action": 'When we refer to 'united action' we do not know what the Secretary of State is speaking about, except as we read by the press reports this morning to the effect that the Government has asked for conferences with Great Britain, Australia, and New Zealand. Is this to be the extent
of 'united action'?" After a prearranged question to Kennedy, the Senator from Massachusetts answered that "United Action" was an indication that the U.S. would take the ultimate step. Mansfield then asked, And what is that? Kennedy answered, It is war (Billings-Yun, 1988, p. 66).

While "the Senate stressed its reluctance to order American forces into a colonial war or to take any action except as part of a coalition," many Senators seemed, however, to be ready to compromise the demand for decolonization (Billings-Yun, 1988, p. 118). Statements both by Stennis and Kennedy indicated that minimal decrees for real independence would suffice (Billings-Yun, 1988, p. 118).

A speech by Senator Mansfield on April 14 entitled "Last chance for Indochina" (Burke & Greenstein, 1989, p. 76) indicated further support for the administration although it again stressed the need for Indochinese independence. Hubert Humphrey (D-MN), Kennedy, and Knowland voiced agreement with Mansfield (Burke & Greenstein, 1989, p. 76).

Nixon's statement on April 16, however, quickly eroded that support. Dulles' coalition in Congress literally collapsed (Billings-Yun, 1988, pp. 133-134). Even Knowland immediately joined the opposition and led a Senate demand that Eisenhower come to Capitol Hill to make full revelation of any secret plans for invading Indochina. House Majority Leader Charles Halleck (R-IN) told Eisenhower at the next legislative leaders' meeting that Nixon's remarks had hurt the administration's relations with Congress and urged that there may be no more talk on unilateral intervention.
Senator Edwin Johnson (D-CO) stated, "I am against sending American GI's into the mud and muck of Indochina on a blood-letting spree to perpetuate colonialism and white man's exploitation in Asia." Senators Hubert Humphrey (D-MN) and Wayne Morse (Ind.-OR) called for consultation with Congress by the administration. Senator Saltonstall rose to the administration's defense, indicating that Nixon's statement did not represent the administration's policy which remained unchanged (Burke & Greenstein, 1989, pp. 76-77; Gibbons, 1986, pp. 209-210).

After the announcement of airlifts the fragility of the administration's coalition showed again. Senator Stennis uttered that this was "another step closer to war" (Burke & Greenstein, 1989, p. 78).

Yet the erosion of domestic support only added to the diplomatic defeats that Dulles suffered in his attempts to build "United Action". On April 26, when the Geneva conference begun, Eisenhower met with the Republican Congressional leadership to explain the failure of "United Action" (Adams, 1961, pp. 123-124). The isolationist Senator Millikin suggested to return to the "Fortress America" but Eisenhower, being a strong advocate of NATO, repudiated this immediately (Billings-Yun, 1988, p. 147).

Later that day Undersecretary of State Bedell Smith discussed the Indochinese problem with members of the Senate and House Far Eastern subcommittees and was surprised that the passage of a resolution authorizing the use of air and naval forces, with or without British participation, was openly considered (Billings-Yun, 1988, pp. 147-148; Burke & Greenstein, 1989, pp. 82-83).
On May 5, Dulles briefed Congressional leaders who showed agreement with the administration’s actions (Burke & Greenstein, 1989, p. 88; U.S. Department of State, 1983, pp. 1471-77). The administration had decided against intervention in Dien Bien Phu because the conditions had not been met and the situation was not favorable (Billings-Yun, 1988, p. 154).

After the fall of Dien Bien Phu two days later, Dulles told members of the House Foreign Affairs Committee in executive session on May 11 and members of the Senate Foreign Relations Committee on May 12 that the administration would try to create a situation in Southeast Asia where the domino principle would not occur (Billings-Yun, 1988, p. 156). However, Dulles said that if the administration’s conditions, namely that it had to be a coalition effort and that France would have to grant Indochina independence, were met, Eisenhower would seek Congressional approval of an intervention. The Congressmen reacted positively (Burke & Greenstein, 1989, p. 91). On May 11, the requirement of British participation had been dropped at a White House meeting (Burke & Greenstein, 1989, p. 90).

The suddenly open attitude of Congress to the question of intervention was symbolized by Senator Mansfield’s non-adverse reaction in a meeting with a Southeast Asia specialist of the State Department on May 12 when even the possibility of using American ground forces was mentioned (Burke & Greenstein, 1989, p. 91).

After the Mendes-France government took over in France on June 17 and committed itself to a quick settlement of the Indochinese crisis, the Eisenhower
administration requested one billion dollars in military and economic assistance to Indochina for the next fiscal year. Congress overwhelmingly approved. However, Senator William Fulbright’s (D-AR) remark that he was reluctant to intervene as long as Indochina was a colony still found widespread agreement.

In the politics of a mid-term election Democratic spokesmen criticized the government of being ready to countenance a Communist takeover in Asia. But since they had opposed unilateral intervention earlier, their criticisms were limited. Senator John Sherman Cooper (R-KY) pointed out, "My friends on the other side of the aisle cannot have it both ways" (Burke & Greenstein, 1989, p. 94).

Dulles expected a partition of Vietnam. When Congressional leaders were briefed on the situation in Geneva, where the U.S. was not an active participant, on June 23, Senator Knowland said, "we now have a Far Eastern Munich" (Burke/Greenstein 1989: 94). Eisenhower rejected this notion by emphasizing that the Indochinese situation was simply the acceptance of a military fact (Billings-Yun, 1988, p. 157).

**Analytical Summary**

The decisionmaking process in the Dien Bien Phu crisis is a type I case because the planned operations were not conducted and thus the initiation phase was not completed. A minor exception was the airlift of French troops.

The case study confirms the classification of President Eisenhower as cooperative. Congress had opportunities to act. The Congressional leadership was involved in the decisionmaking process almost on a regular basis. Although the
Eisenhower administration engaged in some purely tactical behavior toward Congress and acted unilaterally in some instances (deployment of technicians, deployment of Pacific Fleet, airlifts), there is no indication that an attack conducted by regular U.S. troops would have been ordered without Congressional approval. Eisenhower, however, contemplated a covert airstrike operation.

Public opinion polls showed a reluctance to become involved in Asia so soon after the Korea experience. Eisenhower did not attempt to mobilize public support and thus it is not known how the American people, and Congress for that matter, would have reacted to strong anticommmunist rhetoric.

Congress was partially active. The leadership frequently met with Eisenhower, committees conducted hearings, and the matter was debated in the Senate but not voted on. Contrary to the assumption of Ely (1993), Eisenhower's fairly cooperative behavior did not provide him with a supportive Congress. Although the impact of the conditions that the Congressional leadership imposed on a military intervention is not fully clear, Congress's actions can be classified as partially restraining.

After the fall of Dien Bien Phu, members of Congress became more open to intervention. At no point, however, did Congress come close to initiating an offensive military action. There was no significant post-hoc evaluation of the crisis.

Libya, 1986

The Conflict Situation

Tensions between the U.S. and Libya had existed for at least six years before

In August 1981, U.S. Navy jets shot down two Libyan fighters over the Gulf of Sidra. The American pilots stressed that the Libyans had fired first. Libya had been claiming a 120-mile zone off shore the Gulf of Sidra, whereas the U.S. (as well as the Soviet Union) only accepted the 12-mile zone in accordance with international law. In subsequent years the U.S. conducted a number of so-called Gulf-of-Sidra exercises by moving ships and planes into the territorial sea claimed by Libya. Washington also imposed economic sanctions on Libya and repeatedly accused the regime of Colonel Qaddafi of supporting terrorist actions. After terrorists conducted attacks on the Rome and Vienna airports in December 1985, the U.S. claimed Libya had aided them ("Six Hostile Years," 1986).

On March 24, 1986, U.S. Navy planes were fired upon by Libyan forces. In response, they attacked two Libyan patrol boats in the Gulf of Sidra. U.S. forces also attacked Libyan radar and land-based batteries. President Reagan reported these incidents to the Speaker of the House and the Senate President pro tempore. The report, however, was only submitted "in accordance with my desire that Congress be informed on this matter," and did not mention the War Powers Resolution (U.S. Congress 99-2. House, 1986a).

On April 5, 1986, a bomb exploded in a West Berlin discotheque, injuring 230
people and killing a Turkish woman and an American soldier. U.S. officials said they had clear evidence from intelligence sources that Libya was responsible for the attack (Boyd, 1986).

During the following days the tension increased with President Reagan calling Qaddafi the "mad dog of the Middle East" and Qaddafi threatening that if the U.S. attacked Libya, suicide commandos would strike against U.S. nuclear bases in Europe ("Six Hostile Years," 1986; "U.S./Libya Chronology," 1986).

The Decisionmaking Process in the Executive

On April 7, the Ambassador to West Germany, Richard Burt, pointed out that there was clear evidence for a Libyan involvement in the terrorist bombing of the West Berlin discotheque of April 5 (Boyd, 1986). White House officials said Burt was right, but criticized him for speaking publicly about the matter at that point (Goshko, 1986).

A plan by the Joint Chiefs of Staff (JCS) for surgical strikes against targets in Libya was approved by President Reagan shortly after Burt's statement (Boyd, 1986). The existence of a plan for "retaliatory strikes" was made public as early as on April 7 (Kempe, 1986). On the subsequent days there was open discussion in the mass media about the high likelihood of a military operation against Libya. On April 10 and 11, journalists of NBC reported, the question was not if the U.S. would strike but when (Boyd, 1986).

According to officials, the air strike had been in planning for months; after the
discotheque bombing the Pentagon only updated these plans. Officials also disclosed that the JCS had started drawing up target lists right after the terrorist attacks on the Rome and Vienna airports in December 1985. Libya was accused by the United States of harboring the terrorist group, Abu Nidal, that had conducted these attacks (Wilson & Hoffman, 1986).

Once the basic decision was made, Pentagon planners wanted to conduct the raid as quickly as possible in order to keep secrecy, whereas the CIA asked for more time to get its agents in Libya out of harm's way ("Reagan’s Raiders," 1986).

From April 11 to April 14, the U.S. Ambassador to the U.N., Vernom Walters, was sent to visit U.S. European allies to get their support for the air raid. The French, West German, Italian, and Spanish governments, however, did not approve it. Only Great Britain backed the United States. The U.S. decision for the air strikes, however, had already been made (Boyd, 1986).

The specifics of the operation were decided very late. In the meantime, according to the administration, more evidence was sought on Libyan involvement in the terrorist attack in Berlin. On Sunday, April 13, Vice President Bush, National Security Adviser John Pointdexter, and other senior White House advisers discussed the plan. For a low-level night attack that would cause a minimum of American losses and civilian casualties in the target area, the land-based F-111 bombers were needed. The carrier-based A-6 planes could have been used as well, but there were not enough of them available. Therefore, the military planners decided to use the F-111s that were stationed in Great Britain (Boyd, 1986).
On Monday, April 14, at 4 p.m. (EST), when the planes were already in the air, but before the bombing started, the White House called in Congressional leaders and informed them about the plan (see detailed description under Congressional Action). The Soviet charge d'affaires in Washington also was informed of the action while it was in progress (Wilson & Hoffman, 1986).

The Military Operation

On April 14, 1986, eighteen U.S. F-111 bombers took off from a British air base and skirted France and Spain, both of whom had denied the U.S. the use of their air space. The jets were refueled on U.S. tankers on the way several times.

Striking in two waves, the F-111s bombed a naval base, Colonel Qaddafi's headquarters, and a military airfield in Tripoli on April 15 at 2 a.m. Libyan time (that is, April 14, 7 p.m. Eastern time). They were supported by carrier-based fighters that attacked and disabled Libyan radar sites with missiles. At the same time, U.S. carrier aircraft hit barracks and an airfield in and near the Libyan port of Benghazi. According to Pentagon officials, thirty-three Air Force and Navy planes participated in the ground attacks on Libya. Altogether, some one-hundred U.S. planes had taken to the air in the course of the strike ("100 U.S. Planes," 1986).

Estimates about the number of Libyan casualties in the air raid ranged from thirty-seven ("A New Kind," 1986) to over one-hundred ("Libyans Denounce U.S.," 1986), some of whom were civilians. In one residential area, damage was done to a few buildings, the French embassy among them. U.S. officials pointed out that the
"collateral damage" could have been caused by the unsuccessful firing of Libyan's own missiles. This explanation, however, was rejected by military experts as highly unlikely, or even impossible for technical reasons (Mohr, 1986).

The U.S. lost one F-111, manned by two Air Force officers. Soviet officials claimed that three U.S. planes had been downed and another two damaged. White House Spokesmen repudiated this assertion (Eaton, 1986).

The President officially reported the air strikes to the Speaker of the House on April 16. Pointing out that "these strikes were conducted in the exercise of our right of self-defense under Article 51 of the United Nations Charter", the President provided the report "consistent with the War Powers Resolution" and "pursuant to my authority ... as Commander in Chief of United States Armed Forces" (U.S. Congress 99-2. House, 1986b).

Intervening Variables

At the time of the raid, there was a Democratic majority in the House of Representatives but a Republican majority in the Senate.

Both the available polls and the statements in the mass media indicate that the public favored military action against Libya highly. Before the raids no poll specifically asked about possible airstrikes. The Gallup Poll (March 26 and 27, 1986), however, asked a question related to the issue at hand. Although 43% thought the U.S. maneuvers in March had been an attempt to provoke a Libyan attack, 75% said subsequent attacks on Libyan ships and military sites had been justified
Immediately after the attack several polls showed that U.S. public opinion approved of the air strike: (a) Yankelovitch/Clancy, Shulman: 71% approval ("Hitting the Source," 1986, p. 26); (b) Gallup: 71% approval; 62% say Reagan made wise use of military force. ("Getting Rid of Kaddafi," 1986, p. 22); (c) ABC-News (April 24): 76% approval; majorities among all population groups (that is, also among Democrats, women, African-Americans); and the general approval rating of President Reagan went up to 70% (Sussman, 1986).

According to its own statement, the White House press office received a very high number of calls from American citizens in the days after the strike, about 80% of whom were supportive of President Reagan's decision (Howe, 1986).

NBC News got to know of the air raid on Monday, April 14, at 3 p.m. Eastern time, that is, before Congressional leaders were briefed. It kept it quiet ("NBC News," 1986). By and large, the media tended to avoid criticism. But the more or less favorable media coverage cannot explain the strong Congressional support for the President, because many of the statements of Congresspersons were made before the press covered the raids.

**Congressional Action**

Eight members of Congress (from both parties and both Houses), none of whom a Congressional leader as defined in this study, sent a letter to the President on April 11. They noted the growing number of statements of the administration about the imminence of military action against Libya and urged the President to "consult [with Congress] fully and substantively, not in a pro forma manner" (U.S. Congress 99-2. House. Committee on Foreign Affairs, 1986, pp. 281-283). The members of Congress were Senators Mark Hatfield (R-OR) and Charles McC. Mathias (R-MD), and Representatives Howard Berman (D-CA), Don Edwards (D-CA), Jim Leach (R-IA), Matthew McHugh (D-NY), John F. Seiberling (D-OH), and Morris K. Udall (D-AR). Senator Richard Lugar (R-IN), Chairman of the Foreign Relations Committee, sent a letter to the Secretary of State, also calling for consultation (Lugar, 1988).

The following members of Congress were present at the White House briefing on April 14, 1986, 4 p.m. (EST): Senators Robert Dole (R-KS), Majority Leader, Robert C. Byrd (D-WV), Minority Leader, Strom Thurmond (R-SC), President Pro Tempore, Richard G. Lugar, Clairborne Pell (D-RI), Ranking Minority Member of the Foreign Relations Committee, Sam Nunn (D-GA), Ranking Minority Member of the Armed Services Committee; Representatives Robert H. Michel (R-IL), Minority Leader, Dante B. Fascell (D-FL), Chairman of the Foreign Affairs Committee, William S. Broomfield (R-MI), Ranking Minority Member of the Foreign Affairs Committee, Les Aspin (D-WI), Chairman of the Armed Services Committee, and William L. Dickinson (R-AL), Ranking Minority Member of the Armed Services
Committee.

Senator Barry Goldwater (R-AR), Chairman of the Armed Services Committee and Representatives Thomas P. O’Neill (D-MA), Speaker, Jim Wright (D-TX), Majority Leader, Thomas S. Foley (D-WA), Majority Whip were unable to attend but were personally briefed by officials of the Executive branch.

The meeting started about three hours before the raids were executed over Libya, when the planes had already been in the air for more than an hour. The session took two hours. The administration was represented by President Reagan, Vice President Bush, Secretary of State Shultz, Defense Secretary Weinberger, CIA Director Casey, JCS Chairman Crowe, and National Security Adviser John Poindexter. Reagan left after one hour. Poindexter presented the evidence that linked Libya to the Berlin discotheque bombing. No serious objections were raised by Congressmen. Some, like House Minority Leader Robert Michel (R-IL), however, complained later that the termination of the operation had not been a real choice anymore ("Hitting the Source," 1986). One participant said, the present members of Congress were informed in a "matter-of-fact manner" (Boyd, 1986).

Immediately after the Attack several Congresspersons made public statements. The Republican Senators were mostly in favor of the President’s actions but some critical voices were heard as well. Senator Robert Dole (R-KS) said that the President had done what the American public had wanted him to do, and that the operation had been the appropriate response to the terrorist attack in Berlin (Fritz & Tumulty, 1986). Senator Richard Lugar emphasized that the President had had the right to act as he
did, and that the action had been within international law, which allows proportionate self-defense. The operation, however, set no precedent for similar situations. Lugar emphasized that there should be more and earlier consultation with Congressional leaders and that it was arguable whether the White House briefing had been sufficient to comply with the WPR (Fritz & Tumulty, 1986; Donosky & Collis, 1986; Roberts, 1986a). Senator John Warner (R-VA), a member of the Armed Services Committee, uttered "grave concerns" about pursuing military operations without support from American allies (Roberts, 1986a). Senator Lowell Weicker (R-CT) even found "no difference to what Qaddafi had done" as compared to what the U.S. had done, and said "I don't want the U.S. at that level". He was afraid that the administration's policy would lead to a series of similar confrontations with Nicaragua and Angola (Roberts, 1986a). Senator Dan Quale (R-IN) expressed undivided support: "President Reagan made a brave, balanced and bold decision to retaliate in the defense of freedom against the onslaught of a hostile totalitarian regime" (Roberts, 1986a).

By and large, Democratic Senators were equally supportive. Senator Robert Byrd (D-WV) expressed concern that the action will set a precedent. He argued that there had been no compliance with the WPR because no consultation but merely notification had taken place. Senator Sam Nunn (D-GA) supported the President, but said he should have preferred an economic embargo, which had been rejected by the U.S. allies. He was critical, however, that there was not enough consultation with Congress (Fritz & Tumulty, 1986; Roberts, 1986a). Senator Patrick Leahy (D-VT), Ranking Member of the Select Committee on Intelligence said that there was
irrefutable proof for Libya's involvement in the Berlin discotheque bombing. He explained the tendency in Congress to stay behind the President by saying "You can't send out mixed signals to the rest of the world" (Roberts, 1986a). Senator Edward Kennedy (D-MA) emphasized the same point when he said, "All Americans should stand with the commander in chief at this moment" (Walsh & Dewar, 1986).

As in the Senate, support in the House of Representatives was bipartisan. Opposition was also voiced on both sides of the aisle. Minority Leader Michel supported the President's decision, but was afraid of escalation. He said Congress should have been involved in the decisionmaking process earlier (Roberts, 1986a; Walsh & Dewar, 1986). Representative William Dickinson (R-AL), Ranking Member of the Armed Services Committee, supported the President by stating that the procedure was in accordance with the WPR (Roberts, 1986b).

The Speaker Thomas O'Neill (D-MA) did not issue a statement on April 15 but indicated his support of the President's action one day later (Roberts, 1986a). Representative Dante Fascell (D-FL) declared the action unconstitutional. It constituted a "broad arrogation of power by the President" and a precedent that will stay with the country for a long time. Although he supported the raids as an act of self-defense, he warned of the circumvention of "constitutional requirement that only the Congress can take the country into war" (Fritz & Tumulty, 1986; Roberts, 1986b). Fascell suggested that the President should ask for a Congressional resolution supporting future actions against terrorism (Roberts, 1986b). Representative Robert Torricelli (D-NJ), a member of the Foreign Affairs Committee, who is known as a
liberal Democrat, considered the raids an appropriate response and said that no division will be found on this point in either House (Walsh & Dewar, 1986). Representative Don Edwards (D-CA), the Chairman of the Subcommittee on Civil and Constitutional Rights, wrote in the op-ed page of the New York Times on April 23 that the bombings were an unconstitutional usurpation of warmaking power by the President. He conceded that they had been popular with the public and thought they might even be effective in stopping future terrorist attacks (Edwards, 1986).

Congress took action on the committee and floor levels during the following days and weeks. On April 17, Representatives Joe L. Barton (R-TX), Duncan Hunter (R-CA), and Bob Livingston (R-LA) introduced H.R.4611 ("Anti-Terrorism Act") in the House. The bill was referred to the Foreign Affairs and Judiciary Committees. Senators Dole and Jeremiah Denton (R-AL) introduced the same bill to the Senate as S.2335. The Anti-Terrorism Act would have given the President the power to "undertake actions to protect United States persons against terrorists and terrorist activity through the use of all such antiterrorism and counterterrorism measures as he deems necessary" (U.S. Congress 99-2. House. Committee on Foreign Affairs, 1986, pp. 218-222). In these cases the Act would have superseded the War Powers Resolution, nullifying both its consultation and its durational limit provisions and extending the time within which the President has to report to Congress from 48 hours to 10 days. Neither bill was approved in committee.

April 17 was also the day when H.RES. 424 was submitted by Representatives Ike Skelton (D-MO), John Rowland (R-CT), and 230 cosponsors. This House
Resolution was "to express the gratitude of the American people for the assistance provided by the Government and people of the United Kingdom during defensive operations carried out against Libya on April 14, 1986" (U.S. Congress 99-2. House, 1986c). It was referred to the Committee on Foreign Affairs, which approved it. Chairman Fascell, who had been critical of the air raids, surprisingly urged its adoption.


On May 8, Senators Robert C. Byrd (D-WV), Alan Cranston (D-CA), Daniel K. Inouye (D-HI), Clairborne Pell (D-RI), and Thomas Eagleton (D-MO), introduced S.J.RES. 340, which was referred to the Committee on Foreign Relations. The bill was to amend section 3 of the War Powers Resolution by establishing a permanent body for consultation with Congress. This body would have been composed of the Speaker of the House and President pro tempore of the Senate, the Majority and Minority Leaders of both chambers, and the Chairmen and Ranking Minority Members of the Armed Services, Foreign Relations/Affairs, and Intelligence Committees of both Houses (U.S. Congress. House. Committee on Foreign Affairs, 1986, pp. 216-217). The bill died in committee.
Analytical Summary

The airstrike operation against Libya is a type III case. President Reagan ordered military actions by United States armed forces that, in terms of international law, constituted acts of war.

During the initiation phase Congress was almost totally excluded from the decisionmaking process. This confirms the classification of President Reagan as non-cooperative.

The support for retaliatory action expressed in public opinion polls and by the media provided the basis for a possible rally effect.

Although Congress was ignored by the President, Congress would have had time to become active because plans for a retaliatory action had become apparent at least a week before the actual operation. Individual members of Congress indeed became active, as indicated by the two letters to Reagan. These actions are not sufficient to classify Congress’s behavior as partially restraining in this initiation phase. Congress as an institution remained passive, and so did the leadership as a whole.

When the briefing to inform the Congressional leadership about the airstrikes took place the military operation was already under way. At that point restraint was not an option anymore.

Since the airstrike operation was very short, Congressional action during the conduct phase was impossible. Thus, only post-hoc evaluation remained as a viable option for Congress. Besides individual statements, there was only one critical
motion, S.J.R. 340, which was introduced by the Senate Democrats to improve the consultation provisions of the WPR. Other post-hoc actions, the resolution to express gratitude to Great Britain and the proposed Anti-terrorism bill, were supportive of the President. Thus, in the post-hoc phase Congress displayed fully supportive but also partially restraining action, the restraint being partisan.


The Conflict Situation

Before the beginning of the Gulf crisis 1990-91, tensions between Iraq and Kuwait had existed for many years. After the partition facilitated by Great Britain Iraq insisted that Kuwait was an integral part of Iraq.

When Saddam Hussein came to power in 1979 he at first kept amicable relations with the Gulf states because he needed their support in the war against Iran. Saddam’s hegemonic aspirations were, however, frustrated. Iraq’s economic situation deteriorated because of the long war, and it became more dependent on oil export revenues than ever. In the months preceding the invasion Iraq expressed serious and at least partly valid complaints about Kuwaiti oil policies. Kuwait kept the price low because it no longer depended on oil, and was more interested in its stock investments which would have suffered from higher oil prices. Saddam even accused Kuwait of having stolen oil during the Iran-Iraq war by using drilling on an angle into Iraqi territory. In July 1990, Saddam forcefully demanded that Kuwait must obey the OPEC oil quotas it had agreed to and that it also accept border changes. Because of
old claims, Iraq was specifically interested in readjusting the border in the Rumalia sector where oil fields crossed the border, and with regard to the Warba and Bubiyan Islands. Only two weeks later, after talks with the intransigent Emirs had failed, Iraq invaded and then occupied Kuwait on August 2, 1990 (Brune, 1993, pp. 30-37).

The United States initially reacted modestly to the invasion. President George Bush then consulted with British Prime Minister Margaret Thatcher and decided to deploy troops, first and foremost to defend Saudi Arabia but later to develop the capacity for offensive action. During the months following the invasion, American diplomacy also master-minded a coalition of thirty-eight countries, and found support for its actions in the United Nations and even in the Soviet Union.

The United Nations Security Council authorized its member states to use force if the Iraqi forces did not leave Kuwait by January 15, 1991. One day after this deadline passed, the allied troops led by the United States began air raids on Iraqi troops, infrastructure, and weapons plants. The ground offensive began on February 24 and lasted 100 hours. Bush offered and, after Iraq's acceptance, ordered an immediate cease fire on February 28. Hussein remained in control, and Iraq remained intact. In the aftermath of the crisis, American troops were ordered into Iraq to protect Kurds and Shiites who felt encouraged by Bush's statement to the effect that Iraqis should themselves dispose of Saddam Hussein. Some American troops also stayed in Kuwait to help in dealing with the devastation of the war.
After the Iranian Revolution in 1979 and particularly during the Iran-Iraq War, the U.S. had tilted towards Iraq and given it considerable support, regarding it as a moderate state that could counterbalance the fundamentalists in Iran. In October 1989 President George Bush issued an executive order to continue the attempts to build good relations with Iraq. Accordingly, the White House's first reaction to the invasion was rather moderate. There were no discussions of a U.S. military response. However, Bush ordered a freeze of all Iraqi assets in the U.S. and a termination of all trade. Neither the joint statement by Secretary of State James Baker and Soviet Foreign Minister Eduard Shevardnadze nor the first statements and actions by the U.N. Security Council and NATO indicated any plans for an intervention or other military initiatives (Brune, 1993, pp. 52-56).

The initial reaction corresponds with the pre-invasion remark the U.S. ambassador to Iraq, April Glaspie, made to Saddam on July 25, "We have no opinion on the Arab-Arab conflicts, like your border disagreement with Kuwait" (Smith, 1991, p. 56), and with Assistant Secretary of State John H. Kelly's statement in hearings of the Middle East Subcommittee of the House Foreign Affairs Committee on July 31, 1990. Asked by Chairman Lee Hamilton (D-IN) if it was correct to say that the U.S. did not have a treaty commitment which would obligate it to engage U.S. forces there, Kelly had answered: "That is correct" (Smith, 1991, pp. 59-60).

Before he left for Aspen, Colorado, where he had a speaking engagement, Bush stated at a press conference on August 2, "We're not discussing intervention.
I'm not contemplating such action” (Smith, 1991, p. 64). King Hussein of Jordan spoke to Saddam on the same day and was assured that Iraq would withdraw soon. King Hussein then informed Bush. Bush agreed not to threaten Saddam for forty-eight hours. After the meeting with British Prime Minister Margaret Thatcher, who also spoke in Aspen, Bush broke that agreement. Thatcher had encouraged him to take a tough stand (Brune, 1993, p. 55).

At a joint press conference at Aspen, still on August 2, 1990, Bush then said that he did not rule any options out. According to the Washington Post, this reopened the door to a U.S. military operation. Bush urged the international community to condemn the "naked aggression" and ensure that Iraqi forces leave Kuwait (Smith, 1991, pp. 66-67).

On the morning of August 3, 1990, Bush made clear his determination to intervene at a meeting of the National Security Council (NSC). The NSC accepted the policy change without a discussion of policy alternatives. Bush had only talked with National Security Adviser Brent Scowcroft beforehand, who had recommended a vigorous response to this threat to vital U.S. interests (Smith, 1991, pp. 68-69). At a meeting in the afternoon of the same day the NSC primarily discussed the problem of not having many U.S. troops in the Middle East. Bush had already instructed Secretary of Defense Dick Cheney and the Chairman of the Joint Chiefs of Staff (JSC), Colin Powell, to lobby Saudi Arabia, a long-time ally of the U.S., to accept American troops. Simultaneously, the administration started a press campaign emphasizing the threat to Saudi Arabia, which, however, neither the CIA nor the
Defense Intelligence Agency (DIA) believed probable at the time. The U.S. also pressed for a resolution of the Arab League condemning the invasion, which was passed on Saturday, August 4 (Smith, 1991, pp. 75-79).

At a NSC meeting at Camp David on August 4, military options for the defense of Saudi Arabia were discussed. Secretary of State James Baker was not enthusiastic about the prospect of troop deployments, but concurred. Powell and General Norman Schwarzkopf, the commander of Central Command, which dealt with the Middle East but was headquartered in Florida, demanded clear objectives and stressed that force, if it had to be used, must be used decisively. The administration did not have a single senior expert on the Middle East, thus there was no discussion of the wisdom of the policy, only of how to accomplish it. Schwarzkopf made clear that ground forces would be needed (Smith, 1991, pp. 80-85; Woodward, 1991, p. 251).

When Bush arrived from Camp David on August 5, no progress with King Fahd of Saudi Arabia or other Arab leaders, except for the Egyptian President Hossi Mubarak, had been made. Iraq had begun its announced withdrawal but there were signs that an Iraqi-controlled puppet regime would stay in Kuwait. Bush told reporters: "This will not stand-this aggression against Kuwait" (Smith, 1991, p. 89). Again, Bush made an important policy decision without any consultation or debate.

After Cheney met with King Fahd on August 6, the latter finally agreed to ask for U.S. help. Cheney had presented him a quasi-ultimatum: the U.S. would defend but not liberate Saudi Arabia. On August 6, Bush met with Thatcher in the White
House. The mood was euphoric when Cheney called from Saudi Arabia and when the news came that the U.N. Security Council had passed a resolution to impose economic sanctions on Iraq. On the same day Saddam sent a message to Bush explaining his position on Kuwait, and emphasizing that he had no plans with regard to Saudi Arabia. It was decided not to answer him (Smith, 1991, pp. 91-94).

Two days later, in the televised announcement of his decision to intervene, President Bush was at best inaccurate about the facts. He implied an immediate Iraqi threat to Saudi Arabia and an urgent request from King Fahd. He said the mission of the troops was "wholly defensive" and called it "Desert Shield" (Brune, 1993, p. 57). At the following press conference he said, "A line has been drawn in the sand" (Smith, 1991, p. 99). The media did not ask Bush if the deployments served other purposes, namely to amass leverage to force Saddam out of Kuwait.

Bush enjoyed public and Congressional support for his decision. However, the actual size of the deployment was revealed in the next days, and this only because Army General Carl Vuono leaked the real number of 250,000 to the Associated Press. The White House had initially spoken of 50,000 (Smith, 1991, pp. 104-105).

A letter that Bush wrote to the Speaker of the House Tom Foley (D-WA) and to Senate President Pro Tempore, Robert Byrd (D-WV) on August 9, served to report the deployment "consistent with the War Powers Resolution" but did not trigger the sixty/ninety days provision. He told Congressional leaders that he did not think hostilities were imminent and no reference was made to possible offensive action (Collier, 1994, p. 28).
During the following days, Bush worked to bring the alliance in line. He was successful in Turkey and also in most member states of the Arab League which, except for the PLO and Libya, voted to send troops (Smith, 1991, p. 128).

On vacation in Kennebunkport, Bush ordered the Navy to enforce the U.N. sanctions on August 12. He acted on his own authority and thus again made an important policy decision alone. On August 18, U.S. ships fired warning shots at Iraqi tankers (Smith, 1991, pp. 130-131). Five days later Bush for the first time publicly acknowledged that offensive action was an option. He told reporters, "I don't rule in or out the use of force" (Smith, 1991, p. 138). Individual members of Congress reacted with cautioning appeals.

On August 28, the President briefed key members of Congress to the effect that he was trying to persuade Saddam to withdraw. Bush assumed that overwhelming force would convince Saddam that he would not stand a chance. The members indicated support for this policy.

Two days later the Bush administration rejected an offer by the Iraqi Foreign Minister, Tariq Aziz, to release the hostages against an American pledge not to attack Iraq. Baker told the House Foreign Affairs Committee on September 4 that the administration rejected the idea of giving Saddam a face-saving exit (Smith, 1991, pp. 144-149). A week later, after the international coalition was solidified, Bush addressed a televised joint session of House and Senate and repeated the objectives he had stated on August 8: unconditional withdrawal, the restoration of Kuwaiti government, stability of the Persian Gulf, and the protection of U.S. citizens. He said,
"We will not let this aggression stand," but did not mention specific military actions (Smith, 1991, p. 158).

On September 21, Bush again met with key members of Congress. This time he laid out a number of events that could trigger a war. Although the participants were more critical than at any prior meeting both House and Senate afterwards passed resolutions supporting the President's actions thus far. They did not endorse use of force, but indicated support for "continued action by the President ... to deter Iraqi aggression and to protect American lives and vital interests" (Collier, 1994, p. 28; Smith, 1991, p. 161).

On October 3, Saddam addressed his troops in Kuwait and emphasized that he was not willing to compromise or give up Kuwait, which he called Iraq's nine-teenth province. Bush, who had expressed his hope in a diplomatic solution just before Saddam's remark, intensified his attempt to build the coalition against Iraq. Because of the growing tensions, Bush came under increased pressure from Congress for greater consultation. Cheney, however, dismissed the concerns on October 3, "I have to say it was an advantage that Congress was out of town" when the initial deployment to the Gulf took place (Smith, 1991, p. 172).

When Bush asked for an offensive option, the military (Powell and Schwarzkopf), although reluctant, followed suit, but in order to avoid the piecemeal escalation of the Vietnam War they demanded a doubling of troops and material (Woodward, 1991, p. 310).

On October 24, Bush and Cheney decided to use force if Iraq would not leave
Kuwait. Neither the President’s decision or authority was questioned within the administration (Smith, 1991, p. 195). Later on the same day, the Congressional leadership was briefed again. It was not revealed that Bush was contemplating specific offensive actions. Instead, Cheney went public the following day, announcing reinforcements to "provide a credible option for potential offensive action" (Smith, 1991, pp. 196-197). Very likely the rationale was that if public was supportive Congress would have no choice.

Bush was convinced that he had the authority to take the nation into war and made a statement to this effect on October 29. One day later, Bush was pressed by the Congressional leadership not to take offensive action without approval. The President stated that he was willing to consult with Congress but declined to commit himself to seeking advance approval (Smith, 1991, p. 198).

On October 31, Bush signed the presidential order to double the forces of Central Command. Initially, there was no public announcement, and Congress was not notified (Woodward, 1991, pp. 311-319); only the allies were informed by Baker who worked to lay out groundwork for a U.N. Security Council resolution authorizing the use of force (Smith, 1991, p. 199).

On November 8, two days after the Congressional elections, and with high approval ratings for himself and his policy in the Middle East, Bush announced the decision to reinforce the Central Command. But even then the number of troops was understated at first in order to get the public to accept the reinforcements in principle. At this news conference Bush did not mention that the decision had been made
earlier. The chairmen of the two Armed Services Committees, Les Aspin (D-WI) and Sam Nunn (D-GA), had been informed one hour before the conference by Cheney (Smith, 1991, pp. 201-202). At the time, Congress was not in session, and the new Congress would not commence until January. Nevertheless, several members uttered severe criticisms which Bush tried to head off by meeting with two dozen Congressional leaders on November 14. After Bush assured them that the administration's policy had not changed, Congress again concurred but still insisted on the necessity of Congressional approval of any offensive action. Bush afterwards decided that a U.N. resolution offered the best solution to question of Congressional authorization (Smith, 1991, p. 207). An anonymous White House official said to the NYT on November 20, "Those guys on the Hill aren't going to vote against a war if the U.N. has already voted for it" (Smith, 1991, p. 212).

Bush's rationale worked. Although Nunn began hearings on U.S. policy in the Gulf that centered on giving sanctions more time, once the U.N. Security Council went on record on November 29, authorizing the use of force by January 15, 1991, Congressional opposition was almost broken. U.N. Resolution 678 left the enforcement to the member states, exactly as Bush had wished (Smith, 1991, pp. 216-217).

Bush's November 30 announcement of Baker's peace mission to Baghdad then fully disarmed Congressional criticism. In the administration everyone was taken by surprise except for Baker and Scowcroft. Baker, however, had no mandate to negotiate, and thus the mission was probably meant to win back domestic support, as it did. Very likely Saddam Hussein thought that Bush had shown a weakness (Smith,
Bush's relations with Congress improved, although his request for a blank check resolution was denied at a meeting with Congressional leaders on November 30. Because of the U.N. resolution, the administration worried even less about its authority to order U.S. forces into combat. Time magazine reported private statements of Bush to this effect (Smith, 1991, p. 222).

On December 29, after the end of Nunn's hearings and with the disappearance of Congressional criticisms, Bush authorized Powell to prepare for the attack that would begin January 17, 1991, 3am. Congress had not been consulted and there were no plans to obtain Congressional authorization. Accordingly, at a meeting in the White House on January 1, Bush emphasized his resolve to go ahead without Congress to Baker, Cheney, Powell, Scowcroft, and White House Chief of Staff John Sununu. He said, "If I have to go [to war], it's not going to matter to me if there isn't one Congressman who supports this, or what happens to public opinion" (Smith, 1991, p. 237). No one objected, the only discussion was how to deal with Congress tactically. Bush agreed to send Baker to Geneva to meet Aziz on January 9, but no progress was anticipated because there would be no negotiations (Smith, 1991, p. 238).

At a January 3 meeting with the Congressional leadership Bush again tried to obtain a broad endorsement for his policies. The leaders again declined. Congress decided not to adjourn (which was usually done directly after the new Congress convened in early January) and to go on record with regard to offensive actions. The
administration reacted to this Congressional assertiveness with increased attempts to get a favorable outcome, i.e., a resolution authorizing the use of force. Bush immediately began to call House and Senate Republicans and personally formulated a letter requesting Congressional endorsement of the U.N. resolution which he sent to Speaker Foley, Senate Majority Leader George Mitchell (D-ME), Senate Minority Leader Robert Dole (R-KS), and House Minority Leader Robert Michel (R-IL) (Smith, 1991, pp. 241-244). Still, Bush asked his advisers for legal opinions on the question of whether he could he start the war without Congressional approval. His advisers thought he could, but noted the possibility that Congress could cut the funds (Woodward, 1991, pp. 357-358).

After the Baker-Aziz talks failed, Baker flew on to Fahd to ask for permission to launch attack (Smith, 1991, p. 244).

After 3 days of debate, Congress authorized the President to use force according to the U.N. Resolution 678 on January 13. Bush signed the resolution into law on the next day but used the opportunity to restate his view of the constitutional issue:

As I made clear to Congressional leaders at the outset, my request for Congressional support did not, and my signing of this resolution does not, constitute any changed in the long standing positions of the executive branch on either the President's constitutional authority to use the Armed Forces to defend vital U.S. interests or the constitutionality of the War Powers Resolution. (Smith, 1991, p. 249)

A last briefing for Congressional leaders before the beginning of the attack took place on January 14. War seemed inevitable. Bush did not reveal that the initial order to commence hostilities on January 16 (U.S. Eastern time) had been given

The Military Operation

On August 8, the first fighter planes and troops arrived at Saudi bases (Brune, 1993, p. 15). Over the course of the next months, more than 540,000 U.S. and over 200,000 allied troops were deployed to Saudi Arabia. No combat occurred during that time, except for the actions taken by the U.S. Navy to enforce the U.N. sanctions against Iraq.

Before "Desert Storm" started it was believed that the Iraqi forces were very strong and that because of their well entrenched position possibly about 100,000 allied soldiers would die in the first days of a ground war (Brune, 1993, pp. 94-95). When Congress debated the authorization of the use of force, it was aware of these high pre-war casualty expectations.

On January 17, 1991, 2:40 A.M. Iraqi time, the allied air attack began with massive airstrikes and missile attacks on Iraq and the Iraqi troops in Kuwait. Iraq retaliated by firing its Scud missiles against Israel in order to provoke it to become involved in the war. Saddam hoped that the Arab states would then leave the coalition. The U.S. administration applied diplomacy and deployed Patriot missiles to ensure that Israel would not retaliate. Iraq also set fire to Kuwaiti oil wells, which caused serious ecological damages. But Saddam Hussein refrained from using chemical weapons, at least on a broad scale.

After the air attack had devastated Iraqi forces and infrastructure for thirty-
eight days, the allied forces started their ground attack on February 24. With surprising ease the allied forces drove back the Iraqi troops, taking thousands of prisoners. The ground war lasted only 100 hours. A cease fire was declared by President Bush on February 28. Iraq accepted the United Nations' cease fire terms on April 5 (Brune, 1993, pp. 105-120).

The United States suffered 148 combat deaths, 458 combat wounded, and 120 non-combat deaths. 35 deaths and 72 wounded were caused by "friendly fire". The Iraqi casualties are under dispute: as many as 100,000 Iraqi soldiers may have died, and 300,000 were likely wounded (Brune, 1993, pp. 121-122; Smith, 1991, p. 9).

**Intervening Variables**

Throughout the conflict there were Democratic majorities in both the House of Representatives and the Senate.

After the decision to defend Saudi Arabia was made in early August, support for the President, as indicated by opinion polls, was overwhelming. His personal rating went up from 55% before the invasion of Kuwait to 76% by mid-August (Smith, 1991, p. 162). A Washington Post-ABC News poll showed that 74% supported Bush's decision. 60% even thought that ultimately the U.S. and Iraq would be at war. When asked, however, if the U.S. should invade Iraq, 68% said no, and only 27% said yes (Smith, 1991, p. 103). These figures indicate that Bush's televised speech on August 8 and the media campaign had led the public to expect an Iraqi attack on Saudi Arabia.
The public, however, was not ready for intervention in August and September. Yet according to Washington Post-ABC News polls the percentage of those favoring invasion of Iraq rose from 38% on August 8 to 48% by September 9. By January, 1991, more than two thirds approved of offensive action (Smith, 1991, p. 162). A majority favoring offensive action if sanctions failed was revealed for the first time in a November 6 Washington Post-ABC News Poll. At that time the American people were not informed about the decision to double the troops in the Gulf. 70% believed that the U.S. would be involved in a war. While two thirds said that Bush should get Congressional permission, a plurality said they would support the President if there was not enough time for him to do so. 65% approved of Bush's overall handling of the crisis (Brune, 1993, p. 94, Smith, 1991, pp. 200-201).

According to Gallup Polls, the shift to a majority for attacking Iraq occurred later. The November 15-18 poll showed 39% favoring a U.S. invasion to drive the Iraqis out of Kuwait. Only after the U.N. resolution 678, a December 2 poll showed that support rose to just over 50%. After that date, support stayed above 50% except for the December 13-16 polls, when Hussein released the hostages. Opposition dropped from 50% after the November 15-18 poll and then stayed at 40% (Brune, 1993, pp. 75-76).

Throughout the crisis there was an increasingly intense public debate on the streets, in the op-ed pages of the national press, and in national television and radio, with protests coming both from the left and from the right.

Early protests had no significant effect since, as shown above, the general
public supported economic sanctions and the defense of Saudi Arabia (Brune, 1993, p. 78). After November 8, however, outspoken protest grew steadily and took various forms, such as rallies, protest marches, and public discussions (Brune, 1991, pp. 78-79). There was considerable open support as well, manifested, among other things, by the thousands of flags that were flown on American homes.

Intellectual protest came from the left and right. On the right Patrick Buchanan, representing isolationist views questioned American interests in the region, and the libertarian Cato Institute noted that the size of the deployment portended offensive operations (Smith, 1991, p. 139). On the left, it was notably the outspoken critic of U.S. foreign policy, Noam Chomsky, who attacked the government for having supported Saddam Hussein before his invasion of Kuwait (Brune, 1993, pp. 78-85).

It is difficult to assess the impact of such criticism. Bush had to pay more attention to isolationist Republicans than to the left intellectuals. But the degree to which he personalized the conflict leads to the assumption that he was not too concerned about the protests.

The major newspapers and the television media essentially backed the President in all his policy decisions (Brune, 1993, p. 88). Immediately after the invasion, when military intervention was not yet an issue within the administration, the media debated mostly economic sanctions. But just as Congress swung behind Bush when he announced his decision to react militarily to the crisis by deploying troops for the defense of Saudi Arabia, so did the media. During the crisis, the administration followed a policy of minimal candor, and the media failed to ask the
kind of questions that could have challenged this policy. On two occasions the actual size of deployments was revealed only because the military insisted on it. Bennet (1991, p. 367) noted that journalists rely on politicians who criticize other politicians and that unfortunately few in Congress (or the administration, for that matter) had the courage to do this during the Gulf crisis (Bennet, 1991, pp. 355-367).

**Congressional Action**

Capitol Hill's initial reaction to the Iraqi invasion of Kuwait was similar to Bush's. Senator Nunn told reporters on August 2, "I don't think we have a military obligation at this moment." He said the U.S. should concentrate on diplomacy (Smith, 1991, p. 18).

But just as the National Security Council and the media, Congress immediately accepted the decision to defend Saudi Arabia. The three leaders who had been briefed (but not consulted) prior to Bush's announcement supported the President. House Speaker Foley stated, "Democrats and Republicans, House and Senate...are very strongly of the opinion that the President had to act" (Smith, 1991, p. 102). Senate Majority Leader Mitchell said that all Americans would support the President's decision to deploy troops, and Senate Minority Leader Dole stated that Bush was doing the right thing by demanding Iraqi retreat. At this time House and Senate had already adjourned and most members were organizing their campaigns. Support was not as clear among members of Congress who had not been briefed. Some expressed concern over the seemingly open-ended commitment. Nunn, who was running for
reelection, said that a limited engagement would be backed by Congress and that he hoped it could be confined. Senator Alan Cranston (D-CA), the majority whip, reminded Americans of the Vietnam experience. Representative Lee Hamilton (D-IN), the chairman of the House subcommittee on the Middle East, emphasized the need for diplomacy. Representative Patricia Schroeder (D-Colorado) said that sanctions should be given a chance and that she preferred this to be a U.N. rather than a U.S. action. She said, "This is going to be very costly in blood for anyone on the ground in Saudi Arabia" (Smith, 1991, pp. 102-103).

After Bush sent the letter that served as a report under the War Powers Resolution, Senate aides told the Washington Post that Congress would probably regard it as adequate. And indeed, the only note of caution came from Senator Clairborne Pell (D-RI), Chairman of the Senate Foreign Relations Committee, who emphasized that Bush must obtain formal Congressional approval in the event of hostilities. "This is the law," the Senator said (Smith, 1991, p. 109).

The bipartisan mood of support for the defense of Saudi Arabia remained stable over the following months. Smith (1991, p. 121) noted that including Congress in the decisionmaking during the early stages of the operation would have made no difference since it was fully supportive.

However, following the announcement of a possible offensive use of force on August 18, opposition on the right and left emerged. Senator Tom Harkin (D-IA) asked why it was the U.S. that always had to act (alone) in crisis situations. Senator Daniel Patrick Moynihan (D-NY) stated that U.N. sanctions should be given a chance.
Senator John McCain (R-AZ) warned, "If you get involved in a major ground war in the Saudi desert, I think support will erode significantly. Nor should it be supported. We cannot even contemplate, in my view, trading American blood for Iraqi blood" (Smith, 1991, p. 140). When Bush ordered the first fifty thousand reservists to active duty on August 21, Senator Terry Sanford (D-NC) expressed the first clear opposition to the President's policy: "We have accomplished our mission," i.e., the defense of Saudi Arabia. "I would not risk a single life to restore the Kuwaiti royal family or the throne" (Smith, 1991, p. 140).

Bush regained Congressional support by claiming that the massing of troops was meant to persuade Saddam to withdraw. After the August 28 briefing Tom Foley said that no reservations were expressed. House democratic whip William Gray (D-PA) also indicated support, "provided we do not get into a protected struggle with loss of life and no prospect for victory" (Smith, 1991, p. 143). The question of the War Powers Resolution was not raised. Most Congressional questions at that point focused on the costs of the deployment. Bush reacted to these concerns by announcing a plan of allied assistance on August 30 (Smith, 1991, pp. 143-144).

At a September 21 meeting with key members of Congress Bush outlined scenarios that could lead to war. Afterwards, Les Aspin commented that the administration was "looking more favorably on an early war option" (Smith, 1991, p. 160) and Senator William Cohen (R-ME), the Vice Chairman of the Senate Select Committee on Intelligence, indicated that the possible erosion of domestic support might be a driving factor. "On their way out of the White House, one senator turned
to several colleagues and asked, 'Is this the briefing that's pointed to later as the one where they said: We told the Congressional leaders there's going to be shooting?' His colleagues agreed that it was" (Smith, 1991, p. 160).

Despite this outlook both the House and the Senate passed resolutions at the end of September that endorsed the administration's actions thus far. In the Senate only Mark Hatfield (R-OR), Bob Kerrey (D-NE), and Edward Kennedy (D-MA) voted against the resolution (Smith, 1991, p. 172).

The tensions grew considerably after Saddam declared his resolve not to compromise. With the prospect of war becoming more real, Senator Mark Hatfield introduced legislation on October 5 that would require the President to invoke the WPR or seek specific Congressional approval before sending U.S. troops into combat. Although the measure was sharply debated, no action was taken (Smith, 1991, pp. 172-173).

On October 17, Baker testified before the Senate Foreign Relations Committee. The Senators expressed concern about a unilateral initiation of hostilities by the administration. Chairman Pell even showed Baker a newspaper with headline "Schewardnadze promises to consult parliament." Baker refuted the criticism by saying that the President was ready to consult with Congressional leadership but as commander-in-chief did not need advance approval for the use of force. The Senators immediately objected, led by Paul Sarbanes (D-MD). Yet Baker repeated his opinion to the House Foreign Affairs Committee on the following day (Smith, 1991, pp. 193-194).
After the public announcement of reinforcements on October 25, the Congressional leadership was stunned because Cheney had not informed them in a briefing the day before (Smith, 1991, p. 196). Yet neither chamber took action, not even when Bush declined to promise to seek Congressional approval for the initiation of hostilities on October 30. Afterwards, Senator Cohen noted that there obviously was a difference in opinion about who had the power to start hostilities (Smith, 1991, p. 198).

With the leadership inactive the Congressional rank and file tried to reassert Congress’s position. On November 20, Representative Ron Dellums (D-CA) and fifty-three members of Congress, supported by eleven of nation’s most respected legal scholars, sued President Bush in order to restrain him from initiating hostilities without Congressional approval. Eventually, the district court dismissed the suit on the basis of ripeness, i.e. the notion that since it was not a majority of Congress that had sued there had been no constitutional impasse. Judge Harold Greene, however, also dismissed the administration’s arguments that the issue was a non-disputable political question (Collier, 1994, pp. 29-30).

When the decision to double the troops in the Gulf was announced on November 8, the reactions on Capitol Hill were more critical of the administration than ever before during the crisis. William Broomfield (R-MI), the Ranking Minority Member of the House Foreign Affairs Committee, said:

While the President has taken great pains to consult with the Soviets, the Syrians, the Egyptians, the Saudis, the French, the Germans, the British, and many others at the United Nations, his administration has
failed adequately to consult with the American Congress. (Smith, 1991, p. 204)

Senator Pell criticized Bush for acting unilaterally and repeated that the President had no authority to initiate hostilities without clear expression of Congressional support (Smith, 1991, p. 204).

On November 11, the Congressional Democrats finally began questioning the buildup. Nunn said on CBS's "Face the Nation" that sanctions should be given more time. He asked what American interests justified a military intervention. Mitchell emphasized on ABC that only Congress had the right to initiate hostilities. Les Aspin, although supporting the deployment, agreed. A joint statement by Foley and House Majority Leader Richard Gephardt (D-MO) read, "We urge the President to explain fully to the American people the strategy and aims that underlie his decision to dispatch additional forces to the region" (Smith, 1991, pp. 204-205). On November 12 Senator Moynihan criticized Bush's unilateral action on ABC, "It's as if that great armed force which was created to fight the Cold War is at the President's own disposal for any diversion he may wish, no matter what it costs" (Smith, 1991, p. 206). One day later the Senate Democrats then announced joint hearings by the Foreign Relations and Armed Services Committees. A joint statement by Mitchell, Pell, and Nunn read, "The President owes the American people the fullest possible explanation of what our military mission is in that region" (Smith, 1991, pp. 206-207).

Bush again had no difficulty reassuring Congressional leaders. After a meeting on November 14, Foley said Bush had informed the leadership that the defensive policy had not changed and that sanctions were not written off. Bush, however,
remained intransigent regarding his commander-in-chief powers (Smith, 1991, p. 207).

On November 27, the Senate hearings on U.S. policy in the Gulf began. Nunn questioned whether military action was wise at his time (Smith, 1991, p. 213). A day later, Admiral William S. Crowe and General David C. Jones, both former Chairmen of the JCS, advocated giving sanctions more time (Brune, 1993, p. 89).

Perhaps trying to take the edge off the Congressional criticism Bush announced Baker’s mission to Geneva to meet Tariq Aziz. Capitol Hill reacted enthusiastically to this opportunity for diplomacy to work. A November 30 meeting with Congressional leadership went very well until the President asked for a blank check resolution. Foley insisted, "If you decide to go to war, you’ll have to come to Congress," and Mitchell concurred (Smith, 1991, p. 220).

On December 3, Cheney and Powell went before Nunn’s committee. Powell explained that the doctrine of invincible force required the massive deployments. Cheney restated the position that the President could initiate hostilities without advance Congressional approval. With its strongest reaction thus far the House Democratic Caucus passed a resolution on the next day with a 177-37 margin, declaring that Bush should not initiate hostilities without advance authorization (Smith, 1991, pp. 226-227).

Yet when Baker testified on December 5, he only repeated the notion of unilateral executive authority to commit U.S. armed forces to combat. Again, Senator Sarbanes sharply criticized the administration’s rushing the nation into war. Bob Kerrey (D-NE) stated, "As important as it is for us not to restrict the President’s
ability to threaten the use of force, it is equally important for Congress to represent the country’s hesitancy about using that force” (Smith, 1991, p. 228). Nunn restated his point about possible future support for military action but questioned whether it was wise at this time (Smith, 1991, pp. 227-228).

Mitchell and Foley agreed to keep the new 102nd Congress in session after it convened on January 3 (usually it recessed immediately after this). The leadership was unsure whether Congress should go on record before the U.N. deadline for Saddam’s withdrawal expired. Mitchell said he believed Bush was just threatening war to avoid it and that he would not need Congressional approval for this policy. Through the absence of sustained Congressional criticism after the Senate hearings were completed and the suit led by Dellums was dismissed, the balance of public opinion shifted toward the administration (Smith, 1991, p. 231).

On January 3, Bush again tried to get an endorsement from the Congressional leadership. The Senate Democrats (Mitchell and Nunn), however, were determined to prevent Bush from going to war without Congressional authorization. Kerrey and Sanford were against war altogether, and even Bob Dole uttered reservation. Baker’s mission to Geneva again forestalled Congressional opposition. Lee Hamilton said that this was a new chapter. Bush still did not get an endorsement of his policies without a "messy debate". In the afternoon, Mitchell urged that no resolutions on the crisis should be discussed or passed until January 23 (Smith, 1991, p. 240). It should be kept in mind that nobody in Congress knew about the decision to start war on January 16.
On the following day Mitchell was pressured to put the Gulf crisis on the agenda for January 10. Even Dole supported the move. On this occasion, Senator Tom Harkin (D-IA) gave a remarkable speech which reflected very well the dynamics of initiating hostilities. He said that a resolution was necessary because Congress had to take a position under the Constitution to exert its constitutional mandate. He was aware that many in Congress in previous times had been glad to shift that responsibility to the President. It was crucial to act before "the bullets start flying" since then a different dynamic would take place, namely a tendency to rally around the flag (Sifry & Cerf, 1991, pp. 260-264).

Two days later, Foley indicated that the House would also debate and vote on the issue before the U.N. deadline expired. On ABC, Foley said he thought the House would narrowly support Bush. Personally he opposed an authorization (Smith, 1991, pp. 240-241).

When the Congressional debate began on January 10 two separate resolutions were introduced in both House and Senate. In the House, Gephardt and Hamilton proposed to stay with sanctions. So did Nunn and Mitchell in the Senate, including, however, an explicit reference to the exclusive authority of Congress to declare war. The administration’s measure, which authorized the President "to use United States Armed Forces pursuant to United Nations Security Council Resolution 678" (Smith, 1991, p. 245) to liberate Kuwait, was introduced in the House by Stephen Solarz (D-NY), the Chairman of the House Foreign Affairs Committee Dante Fascell (D-FL) and Minority Leader Robert Michel, and in the Senate by John Warner (R-VA), Ranking
Minority Member in the Senate Armed Services Committee. The resolution provided explicit statutory authorization as required by the War Powers Resolution. As Fascell put it, it was a "practical equivalent of a declaration of war" (Smith, 1991, p. 245).

In the debate Nunn focused on two arguments. First, he said the interests that were at stake were not vital enough, and second, sanctions could work. Senator Paul Wellstone (D-MN) then placed a more emotional appeal in favor of sanctions (Brune, 1993, p. 96). Senator Orrin Hatch (R-UT) argued that Congressional unity would maximize pressure on Saddam, thus making war unnecessary. Robert Michel, as well as many others, used the Hitler-Munich analogy and the alleged atrocities of Iraqis in Kuwait to justify the use of force (Brune, 1993, pp. 97-98).

On behalf of the administration, the Committee for Peace and Security in the Gulf, a bipartisan coalition including Stephen Solarz, a Democratic Representative from New York, tried to outnumber the strong faction behind Sam Nunn. The Committee not only proposed the liberation of Kuwait but also the destruction of Iraq's military and industrial power (Brune, 1993, p. 88; Sifry & Cerf, 1991, pp. 269-283). The American Israel Public Affairs Committee and defense contractors also backed the President, in the end, however, most members voted their conscience. Even the Jewish members were divided.

The opposition did not principally question whether force should be used, this matter had been settled by Nunn earlier, but concentrated on the timing. Kennedy emphasized the "lack of any rational necessity for waging" the war at that time (Smith, 1991, p. 246).
Partisan connotations were few. Moynihan accused Bush of moving secretly "to create the ongoing permanent Orwellian crisis," and Dole countered that some of the Democrat’s strategy appears to be to "get George Bush out of the White House" rather than Saddam out of Kuwait (Smith, 1991, p. 247).

On January 12, the count in the House was 183-250 against the Gephardt-Hamilton resolution, and 250-183 for the authorization of the use of force. Eighty-three Democrats and only three Republicans crossed party lines. In the Senate where each name was called to cast the vote, a rare procedure, Nunn’s measure was defeated 46-53 and the administration won with 52-47. Two Republican senators, Hatfield (OR) and Grassley (IA), voted against the President and ten Democrats voted in favor. There was no celebration after the vote (Smith, 1991, pp. 244-248), which was the closest margin of support for a war since the declaration of war against England in 1812. The difference was that in 1991 the opponents ceased to criticize the administration after their defeat, and backed the President (Brune, 1993, pp. 98-99).

The televised debate had lasted three days. In the House 223 of 435 members spoke. For the first time in anyone’s memory Congress had actually debated the authorization of the use of force (Brune, 1993, p. 95). A Congressional aide said later, explaining why so many members had wanted to speak, that the vote was the most difficult one to cast for a Congressperson. It had not been the most difficult decision, he said, on the contrary, most members decided without difficulty, but the members knew that actually casting it was a potential career-killer, either way (Drew, 1991, pp. 189-192).
After the vote, the mood on Capitol Hill was very anxious. Nobody wanted to talk about the coming war, but nobody wanted to do business as usual either (Drew, 1991, p. 193).

A meeting with Bush on January 14 convinced the Congressional leadership that war was inevitable. Dole said afterwards that there was no hope coming from Saddam Hussein. Michel said that the tone had been somber. Nunn summed the mood up, "It's time for America to stand together" (Smith, 1991, pp. 249-250).

After the end of the war Representative Henry Gonzalez (D-TX), who had vigorously opposed the Gulf war charged President Bush with ignoring the War Powers Resolution and with bribing allies to get the necessary votes in the Security Council. Gonzalez, a populist freely swinging between Republicans and Democrats called for a resolution to impeach George Bush (Conroy, 1991). In the context of the so called Iraqgate scandal, Gonzalez also accused the administration of knowing that Iraq had diverted loans. In the same context, and in light of the successful war, many members of Congress tried to dissociate themselves from any past votes that could appear soft on Saddam Hussein (Weeks, 1991).

**Analytical Summary**

Operation "Desert Shield" was a type IIb case. American armed forces were deployed in such a manner that an attack on them was possible. Indeed, they were deployed because such an attack was expected. Operation "Desert Storm" was a Congressionally authorized initiation of hostilities ordered by the President and thus
a type III case.

In his relations with Congress President Bush was primarily concerned with tactics, i.e. how to circumvent meaningful participation by Congress in the decision-making process. He repeatedly did not inform Congress of decisions that he had already made. This confirms the classification of Bush as non-cooperative.

The public broadly supported the deployment of U.S. armed forces to defend Saudi Arabia. The offensive option found majority support as well but was also vigorously opposed by a strong minority. The country was strongly divided about the issue. Since troops had been unilaterally deployed and thus were already there when the first polls were conducted, a rally effect might have been present from the beginning.

Given that more than five months passed by from the initial deployment of troops to the initiation of hostilities, Congress had sufficient time to act. The information advantage of the President and his non-cooperative behavior, however, imposed considerable limitations on the Congress’s judgement. Prior to the decision to go on record before the U.N. deadline expired Congress was partially active. Individual members made statements, committees conducted hearings, and a lawsuit against George Bush was brought forward. As for the Congressional leadership there is a pattern alternating between being rather restraining and rather supportive depending upon the President’s tactical moves.

The vote to authorize the President to use force constitutes a fully supportive Congress, especially given the fact that even the initially opposing members indicated
their support after the vote was taken. It has to be noted, however, that both the
decision to vote at all and the support were reluctant.

Post-hoc evaluation focused on the U.S. policy toward Iraq preceding the
invasion of Kuwait.
CHAPTER VII

COMPARATIVE ANALYSIS AND CONCLUSIONS

Explanatory Power of Policy-based, Political-based, and Partisan-based Arguments

What factors account for the different outcomes of the dependent variable, Congressional behavior in the decisionmaking processes regarding the use of force in the three cases discussed above? How do the policy-based, political-based, and partisan-based arguments relate to each other and to the independent variables introduced in chapter V? Where are the thresholds between the explanatory power of the different arguments?

Again, the policy-based argument stresses that a policy-consensus between Congress and the President can overshadow Congresspersons' concerns about the costs of a war or warlike action. The political-based argument states that Congresspersons are reluctant to oppose the President in his decision about the initiation of a war or warlike action because they fear the political costs that can be involved: opposition endangers reelection because the public and fellow Congresspersons rally behind the President in times of crisis (it is probably well known on Capitol Hill that those who opposed the Gulf of Tonkin Resolution in 1964 were not reelected). In addition, the political-based argument assumes that Congresspersons want to avoid the responsibilities involved in national security decisions. The political-based argument is short-
term and strongly related to success. Opposition will likely be symbolic. The policy-based argument is long-term but if the basic consensus deteriorates, opposition will be fundamental. The partisan-based argument is the most clear-cut and long-term. It simply assumes that members of the President's party will generally back him.

The Indochina case demonstrates both the relevance of the political-based argument and of the importance of the President's behavior, especially in the initiation phase.

The political-based motive can explain the partial Congressional restraint in so far as there was not yet a political cost to be feared from not supporting the President: the public shared Congress's skeptical view on intervention and the fresh memory of the Korean war. In addition, because the operation was still in its planning stage there was not yet a rally-effect. Perhaps most importantly, the President never clearly asked for an authorization to use force. If Eisenhower had wanted authorization to intervene and would have employed anticommunist rhetoric, if he would even have constructed a situation where American soldiers were at risk, public opinion and Congressional action might have been different. It is not clear from the historical evidence if Eisenhower was cooperative with Congress because he believed in the constitutional importance of consultation and Congressional participation, or because he wanted to divide the responsibility for perhaps "losing Indochina to communism." The fact of the matter is that the Congressional leadership did get a chance to express their opinions on intervention. Eisenhower then had to take the conditions imposed on him by Congress into consideration.
The policy-motive cannot explain the Congress's partially restraining action because large majorities of both chambers, all important committees, and the public shared the administration’s anticommunist consensus and could thus be expected to generally support the administration’s policy even if it aimed for intervention. The partisan-based argument cannot explain the restraining action either. The President’s Republican party had slim majorities in both chambers but the skeptical view on intervention, especially unilateral intervention, was bipartisan.

The Libya-case also shows the relevance of the political-based explanation and of the President’s behavior, in this instance for a non-restraining Congress. The Libya-operation is a model case for the rally effect. The airstrikes were supported by a large majority of Americans and gave President Reagan a boost in his general approval rating. As indicated by the statements by Senators Leahy and Kennedy, members of Congress rallied around the flag. While the tendency of not wanting to be accountable was present among legislators, as manifested by the proposed Anti-Terrorism Act, the operation was too short to provide full evidence for this aspect of the political-based argument. It was known to Congress that an operation was planned; thus Congress, at least the leadership, had a chance to act but in this case the President was non-cooperative and clearly did not want Congress’s participation in the decisionmaking. To force participation in the planning stage of the airstrikes would have required overcoming a strong resistance on the part of the President. Despite the strength of the political-based argument and the non-cooperative behavior of the President, some aspects of the Libya-case point toward a policy-based explanation.
The concern about international terrorism, the belief that Qaddafi’s regime supported it, and the conviction that the U.S. had to do something about this situation were common among the legislators and the public. Some members, however, showed disapproval of the administration’s means in dealing with the situation because they feared a spiral of violence. The fact that even these members in the end voiced their support for the operation again indicates the importance of the political-based factors.

The Persian Gulf-case shows a strong policy concurrence of both public and Congress for the administration’s early policy of deploying troops for the defense of Saudi Arabia. Even after the country became sharply divided about the means to achieve Saddam Hussein’s withdrawal, the relevance of the policy-based argument for Congress’s lack of restraint remains high. Following Nunn’s leadership, the opposition concentrated on the timing of the military operation not on its justification and rationality in principle. The second type of restraint that was displayed by Congress, the insistence that the President would have to request Congressional authorization, also affected more the procedure than the substance of the initiation of hostilities. For some members, the insistence on Congressional authorization was essentially a delaying tactic. Nevertheless, the evidence does not support the assumption that there were many critics who principally opposed the war but deliberately chose this emphasis on a procedural requirement.

Again, as in the two previous cases, the political-based argument can very well account for the lack of substantial restraint, at least prior to the vote on authorizing the use of force. With a majority of the American people behind the President’s
policy, there was little incentive for members of Congress to oppose the policy of achieving an offensive option by continuous reinforcements. The President also disguised decisions, delayed disclosure of the number of troops deployed and their purpose, and used announcements of diplomatic efforts to manipulate both the public and Congress. Only the high pre-operation estimates of the costs could have offset this dynamic, yet they did not. And since the costs of the operation and the number of U.S. casualties were lower than expected, there was no strong incentive for post-hoc criticism. In fact, critics tried to dissociate themselves from their objections to a seemingly successful operation.

It has to be emphasized, however, that despite the consensus on policy-objectives (forcing Saddam out of Kuwait) and despite the indications for a rally-effect, the vote on authorizing the President to use force was close. This possibly reflects the sharp division in the public on the issue, but it also suggests that the length of the debate decreases the relevance of the political-based argument. An elaborate debate gives Congress the opportunity to consider the costs and benefits of a proposed military operation. It gives opponents time to communicate their points of view and the evidence supporting it to the public. In the Persian Gulf-case, the eventual narrow support for immediate authorization to use force would then indicate the strength of the policy-based argument. However, the vote also showed the relevance of the partisan-based argument. Republicans voted almost unanimously for the President. Still, considerable numbers of Democrats crossed party lines to make support bipartisan. The fact that, prior to the vote, support and opposition was voiced
from both sides of the aisle (even Senate Majority Leader Robert Dole criticized Bush at various points) suggests that the vote was more partisan than the issue was.

Implications for a Theory of Congressional Action in the Decisionmaking Processes Regarding the Use of Force

Although political-based arguments cannot, on their own, fully account for Congress's action in the decisionmaking processes regarding the use of force, the emphasis on the rally-effect that characterizes most of the literature on the subject is justified. Policy-factors, which can plausibly be assumed as a constant rather than a variable, at least for the period of the Cold War, do play an important role; yet the evidence of the three cases suggests that Congress is more concerned with direct political costs than with the substance of policy.

The question where the threshold between the explanatory power of the two arguments is cannot be fully answered here. The case studies suggest two points: First, the longer the debate prior to the military operation is, the less relevant political factors become. When Congress has the time to consider the costs of a military action, the available alternatives, and, most importantly, when Congress can make itself heard in the decisionmaking process, a deliberate decision independent from assumed or existing rally-effects is more likely than in a pressured crisis situation. An interesting empirical question in this regard is whether Senators are more independent of political factors and thus more active than Representatives. Second, both policy-based and political-based factors can partly be offset by cooperative
behavior of the President. If the President consults with Congress or Congressional leaders in a meaningful way, Congress will become more active.

A theory of Congressional action has to take into account that both policy-based and political-based factors are very much overshadowed by the behavior of the President. His ability to shape the debate in the public and in Congress, to withhold or disclose information, and to open or close a window of opportunity for Congress to act cannot be underestimated.

Implications for Liberal International Relations Theory

The analysis of the relevance of the policy-based, political-based, and partisan-based arguments for Congressional action in the decisionmaking processes regarding the use of force in the cases discussed here suggests fundamental weaknesses of liberal international relations theory. Congress indeed follows a logic of costs, but of the political costs that could be caused by opposing the President. Also, the independent judgement of Congress is subject to the superior access of information and the superior possibility of communicating views and shaping opinions by the President. The greater restraining potential of a democratically elected legislature notwithstanding, the institutional power of Congress thus is seriously impaired by factors that are not inherently characteristics of democracies but rather of government in general.

At least two qualifying points can be made against this conclusion. First, by adhering to the logic of political costs, Congress essentially reflects the preferences of the public and thus fulfills its role in the political process. The focus should then
be on the relationship between the President and the public. Second, since the study
does not include an unsuccessful and/or long and costly military operation, it cannot
draw conclusions about Congressional behavior in these types of cases. However, in
any case liberal theory primarily makes assumptions about the initiation of wars and
warlike actions and says little about their termination or about post-hoc actions.

Given the indications that Congress does not assume a strong restraining role
in the initiation of hostilities, perhaps liberal theory has to be reformulated:
Democracies are not less likely than non-democracies to initiate war or warlike
actions. Nevertheless, their internal structure can serve as a check against unsuccessful,
long, costly, and unpopular military operations. Given the dynamics of executive-
legislative relations, the legislature is dependent on the executive’s cooperation if it
is to have the chance to consider an operation early enough to take the cost-factors
into account and/or to debate the rationality of the operation and its possible
consequences.

Normative Implications

The prospect of either abandoning liberal theory or modifying it in the fashion
outlined above is not satisfactory from a normative point of view. As democrats we
want democracies to be different from authoritarian states. Neither might nor success
nor low costs should make right. Yet, democracies have fought unjust wars in
pursuance of their own interests, as the cold war has demonstrated repeatedly.
Nothing indicates that this will be different in the future.
Liberal theory in its existing form might not accurately describe and explain democratic warmaking but it still can serve as a prescriptive theory, as it was perhaps principally meant in the first place. What, then, follows from the liberal prescription for the political institutions of the United States in the realm of warmaking?

If Congress is to play a more important and more restraining role in the decisionmaking processes regarding the use of force, it is primarily its will to use the authority at hand that needs to be strengthened. Congress’s legal authority is already superior to that of other legislatures and does not have to be increased. Enhancing the resolve of an institution to use its authority (and to assume the responsibility attached to it) is not an easy task. The policy-based and political-based factors, which, on the part of Congress, mainly account for the lack of Congressional restraint, cannot be modified. The factor of presidential behavior toward Congress is thus likely to be the focal point of any reform. Since the President’s behavior cannot be influenced directly, this brings back the notion of enhancing Congress’s legal authority.

The latest major attempt to compel the President to a more cooperative behavior, the War Powers Resolution, has not been very successful. But at least it has been a reminder of Congress’s authority, and of the responsibility attached to it, both for the President and for Congress itself. Although strengthening the WPR would not necessarily increase Congress’s will to enforce it, the institutional will required to strengthen it would at least suggest a short-term enhancement of Congressional will. In addition, detailed legislation tends to improve Congress’s position in executive-
legislative relations. Violations of specific points of a detailed law can be criticized and acted upon easier than violations of a broad and unclear constitutional provision, like the power to declare war.
APPENDICES
Appendix A

Cases Subject to the War Powers Resolution
Cases of Required Reporting under the War Powers Resolution 1973-1991

What follows are the instances where the President was obliged to submit a report to Congress under the War Powers Resolution. The criteria for this compilation is whether the incident clearly fell under either section 4(a)(1), 4(a)(2), or 4(a)(3).

<table>
<thead>
<tr>
<th>Year</th>
<th>Location</th>
<th>Event</th>
<th>Report to Congress</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>Danang</td>
<td>Evacuation of U.S. and Vietnamese personnel</td>
<td>sec 4(a)(2)</td>
</tr>
<tr>
<td>1975</td>
<td>Cambodia</td>
<td>Evacuation of U.S. citizens</td>
<td>sec 4(a)(2)</td>
</tr>
<tr>
<td>1975</td>
<td>Vietnam</td>
<td>Evacuation of U.S. citizens</td>
<td>sec 4</td>
</tr>
<tr>
<td>1975</td>
<td>Cambod. Sea</td>
<td>Rescue of the crew of the S.S. Mayaguez</td>
<td>sec 4(a)(1)</td>
</tr>
<tr>
<td>1980</td>
<td>Iran</td>
<td>Attempt to rescue hostages</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1981</td>
<td>Libya</td>
<td>Downing of two Libyan jets</td>
<td>no report</td>
</tr>
<tr>
<td>1982</td>
<td>Sinai</td>
<td>Participation in Multi-national Force (MNF)</td>
<td>sec 4(a)(2)</td>
</tr>
<tr>
<td>1982</td>
<td>Lebanon</td>
<td>Particip. in MNF: withdrawal of PLO forces</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1982</td>
<td>Lebanon</td>
<td>Particip. in MNF: restoration of government</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1983</td>
<td>Chad</td>
<td>Deployment of AWACS and ground forces</td>
<td>sec 4</td>
</tr>
<tr>
<td>1983</td>
<td>Lebanon</td>
<td>Two Marines killed</td>
<td>sec 4</td>
</tr>
<tr>
<td>Year</td>
<td>Location</td>
<td>Action</td>
<td>Statute/Citation</td>
</tr>
<tr>
<td>------</td>
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<tr>
<td>1983</td>
<td>Grenada</td>
<td>Intervention with Army and Marines</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1986</td>
<td>Libya</td>
<td>Skirmish with Libyan ships in the Gulf of Sidra</td>
<td>no statute cited</td>
</tr>
<tr>
<td>1986</td>
<td>Libya</td>
<td>Air strikes against Libya</td>
<td>no statute cited</td>
</tr>
<tr>
<td>1987</td>
<td>Pers. Gulf</td>
<td>Firing on Iranian landing craft</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1987</td>
<td>Pers. Gulf</td>
<td>Skirmish with Iranian vessels</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1987</td>
<td>Pers. Gulf</td>
<td>Destruction of Iranian armed platform</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1988</td>
<td>Pers. Gulf</td>
<td>Sinking of Iranian vessels</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1988</td>
<td>Pers. Gulf</td>
<td>Downing of Iranian civil airliner</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1988</td>
<td>Pers. Gulf</td>
<td>Skirmish with Iranian ships</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1989</td>
<td>Mediterr.</td>
<td>Downing of two Libyan fighters</td>
<td>no report</td>
</tr>
<tr>
<td>1989</td>
<td>Panama</td>
<td>Intervention to arrest M. Noriega</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1989</td>
<td>Philippines</td>
<td>Milit. support for Aquino-government</td>
<td>no report</td>
</tr>
<tr>
<td>1990</td>
<td>Liberia</td>
<td>Reinforcement of troops</td>
<td>no statute cited</td>
</tr>
<tr>
<td>1990</td>
<td>S. Arabia</td>
<td>Deployment of forces after Iraqui invasion in Kuwait</td>
<td>no sec cited</td>
</tr>
<tr>
<td>1990</td>
<td>S. Arabia</td>
<td>Continuation of buildup</td>
<td>no statute cited</td>
</tr>
</tbody>
</table>
### Cases 1973 - 1991 for which the Reporting Requirement is controversial

For the following cases the obligation for the President to report under the War Powers Resolution is questionable. Thus, they are separated from the cases above.

<table>
<thead>
<tr>
<th>Year</th>
<th>Location</th>
<th>Event</th>
<th>Report to Congress</th>
</tr>
</thead>
<tbody>
<tr>
<td>1974</td>
<td>Cyprus</td>
<td>Evacuation of U.S. and foreign citizens</td>
<td>no report</td>
</tr>
<tr>
<td>1974</td>
<td>Cambodia</td>
<td>Resupply of forces</td>
<td>no report</td>
</tr>
<tr>
<td>1974</td>
<td>Cambodia</td>
<td>Reconnaissance</td>
<td>no report</td>
</tr>
<tr>
<td>1975</td>
<td></td>
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</tr>
<tr>
<td>1976</td>
<td>Lebanon</td>
<td>Evacuation of U.S. and foreign citizens</td>
<td>no report</td>
</tr>
<tr>
<td>1976</td>
<td>Korea</td>
<td>Reinforcement after &quot;tree-cutting incident&quot;</td>
<td>no report</td>
</tr>
<tr>
<td>1978</td>
<td>Zaire</td>
<td>Airlift for French and Belgian troops</td>
<td>no report</td>
</tr>
<tr>
<td>1981</td>
<td>El Salvador</td>
<td>Deployment of military advisers</td>
<td>no report</td>
</tr>
<tr>
<td>1983</td>
<td>Egypt</td>
<td>Deployment of AWACS</td>
<td>no report</td>
</tr>
<tr>
<td>1983</td>
<td>Honduras</td>
<td>Military exercises (until 1988/89)</td>
<td>no report</td>
</tr>
<tr>
<td>1984</td>
<td>Pers. Gulf</td>
<td>Logistical support of Saudi Arabian downing of Iranian fighters</td>
<td>no report</td>
</tr>
<tr>
<td>1985</td>
<td>Egypt/ Sicily</td>
<td>Enforcement of landing of Egypt airliner</td>
<td>no report</td>
</tr>
<tr>
<td>Year</td>
<td>Location</td>
<td>Description</td>
<td>Result</td>
</tr>
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</tr>
<tr>
<td>1986</td>
<td>Bolivia</td>
<td>Deployment of aircraft and Army personnel for anti-drug assistance</td>
<td>no report</td>
</tr>
<tr>
<td>1988</td>
<td>Panama</td>
<td>Enlargement of troops</td>
<td>no report</td>
</tr>
<tr>
<td>1989</td>
<td>Panama</td>
<td>Enlargement of troops</td>
<td>no report</td>
</tr>
<tr>
<td>1989</td>
<td>Colombia/ Bolivia/ Peru</td>
<td>Sending of military advisers for &quot;War on Drugs&quot;</td>
<td>no report</td>
</tr>
<tr>
<td>1991</td>
<td>Zaire</td>
<td>Airlift for Belgian and French troops</td>
<td>no report</td>
</tr>
</tbody>
</table>

Appendix B


Three lists of cases were used to identify these cases: (1) a list compiled by the Congressional Research Service (Collier, 1993): "Instances of Use of United States Armed Forces Abroad 1798-1993". It covers uses of force "in situations of conflict or potential conflict to protect U.S. citizens or promote U.S. interests" (Collier, 1993, p. 1); (2) a list compiled by researchers of the Brookings Institution: Instances of use of U.S. armed forces "without significant violence to underscore verbal and diplomatic expressions of American foreign policy (Blechman & Kaplan, 1978, p. 11), and (3) volume I of "Crises in the Twentieth Century", the Handbook of International Crises (Brecher, 1988) that covers the period from 1929 to 1979. It measures U.S. activity in 278 crises on the following scale: political, economic, covert; semi-military (aid or advisors, show of force), military. The cases with semi-military and military activity were singled out, and subjected to further review. Cases of pure material support were eliminated. For the selection of type I cases Quigley (1992), Rourke (1983), Rourke (1993), and Tillema (1973) were very helpful.

Type I Cases:

1) Greece, 1946-49.

2) Philippines, 1946-54.

3) Indochina, 1954.


5) Bay of Pigs, 1961 (overt military operation was considered).
6) Cyprus, 1963-64.

7) Congo, 1964

8) Six Day War, 1967 (planning of participation in international naval blockade).

**Type II cases (IIa: combat followed; IIb: no combat followed):**

1) Germany, 1948 (IIb) (U.S. airlift to West Berlin, which was blockaded by the Soviet Union).

2) Taiwan Straits 1, 1954-55 (IIb) (evacuation of Tawainese/Chinese nationalist troops from the Tachen Islands).

3) Taiwan Straits 2, 1958 (IIb) (Seventh Fleet was deployed in combat area).

4) Cuba/Central America, 1959 (naval mission and ground task force to protect U.S. citizens).

5) Laos, 1961 (IIb) (uniformed military advisers).

6) Laos/Thailand, 1962 (IIb) (deployment of Seventh Fleet in combat area, deployment of ground forces to Laotian border).

7) Panama, 1964 (IIa) (U.S. forces ordered to secure Canal Zone against anti-American demonstrators were attacked and opened fire, killing 26 and wounding 100).


9) Congo, 1967 (IIb) (airlifts).

10) Korea, 1976 (IIb) (Tree-Cutting incident).


12) El Salvador 1981 (unclear) (uniformed advisers in combat)

13) Sinai, 1981-82 (IIb) (deployment of observers, military personnel, and equipment to the Multinational Force that monitored Israel’s withdrawal from Sinai).

15) Lebanon, 1983 (IIa) (marines helped restoring a Phalange-led government; U.S. shelled Syrian and Druse positions after being attacked).

16) Chad, 1983 (unclear) (AWACS and fighter planes assisted government in fighting of revolt).

17) Honduras, 1983-89 (unclear) (War exercises by U.S. armed forces close to the Nicaraguan border; advisers and non-armed logistical support).

18) Persian Gulf, 1987-88 (IIa) (buildup of naval forces; several skirmishes with Iranian forces; escorting of reflagged Kuwaiti tankers in 1987).

19) Philippines, 1989 (IIb) (combat air patrols to help Aquino government against coup).

20) Persian Gulf, 1990 (IIb) ("Desert Shield").

Type III Cases:

1) Korea, 1950-53.

2) Lebanon, 1958.

3) Indonesia, 1958 (U.S. Air Force pilots participated in bombing of positions of Sukarno government to assist rebels in civil war).


5) Cuba, 1962 (Cuban missiles Crisis).


10) Cambodia, 1975 (rescue of USS Mayaguez).

11) Iran, 1980 (Hostages-crisis).

13) Libya, 1986 (Air Strikes).


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