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Congress, the President,

and U.S. Decisions to Use Military Force
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Abstract

Although the U.S. Constitution ascribes the power to authorize the initiation of armed conflict to Congress, a pattern of presidential dominance in the decisions about the use of force has evolved in the last half-century. Repeatedly, troops were engaged in acts of war without congressional authorization, often even without any substantial congressional participation in the decision-making process. There is a striking discrepancy between the possible and the actual role of Congress in this regard. This paper presents theoretical arguments to explain this discrepancy and substantiates them with five comparative case studies from different post-World War II periods.

Structural advantages of the Presidency have contributed to presidential dominance, but they are insufficient to explain it. Often, Congress did not want to act and preferred to give the President discretionary power. This congressional self-restraint has been driven by both policy motivations and political motivations. During most of the Cold War era, a general consensus existed on containment policy. Members of Congress did not object to presidential interventions to fight the alleged spreading of communism, because they viewed supporting this policy as more important than defending their institutional prerogatives. Many cases of the post-World War II era show that members of Congress also have political reasons for their caution. Engagements of troops in a situation of crisis usually leads to the well-known rally-'round-the-flag effect, giving the President a short-term boost in public approval. Speaking up against the President at this point would create political costs for legislators. In addition, defining the course of action when armed conflict is at stake, is politically risky. It implies assuming responsibility for possible failure. Members of Congress are tempted to avoid this responsibility by leaving all the decisions to the President.

If Presidents do not want congressional participation, they can often exploit these phenomena (and regularly have done so) by acting unilaterally and creating a fait accompli. Once troops are deployed to a region of crisis or even engaged in warfare, it becomes extremely difficult for lawmakers to raise concerns. This only changes when military success is lacking and public support wanes. This dynamic is of crucial importance for the observed patterns of presidential and congressional behavior.
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Abbreviations

Amb. Ambassador
AP Associated Press
Art. Article
cf. confer
Chic. Tribune Chicago Tribune
CIA Central Intelligence Agency
CQWR Congressional Quarterly, Weekly Report
CRS Congressional Research Service
DIA Defense Intelligence Agency
EST Eastern Standard Time
F.2d Federal Reporter
F.Supp. Federal Supplement
Gen. General
H.Doc. House Document
H.Res. House Resolution
HASC House Committee on Armed Services
HFAC House Committee on Foreign Affairs
JCS Joint Chiefs of Staff
LA Times Los Angeles Times
MNF Multi-National Force
NATO North Atlantic Treaty Organization
no. number
NSC National Security Council
NY Times New York Times
OPEC Organization of Petroleum Exporting Countries
P.L. Public Law
Rep. Representative
S.Con.Res. Senate Concurrent Resolution
S.J.Res. Senate Joint Resolution
SASC Senate Committee on Armed Services
SEATO South East Asia Treaty Organization
Sec. Section
Secr. Secretary
Sen. Senator
SFRC Senate Committee on Foreign Relations
SZ Stiiddeutsche Zeitung
TIAS United States Treaties and Other International Agreements
U.N. United Nations
U.S. United States
vol. volume
Wash. Post Washington Post
WPR War Powers Resolution
WS Journal Wall Street Journal
1. Introduction: Congress, the President, and the Use of Force

The end of the Cold War has caused U.S. 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. One of the principal uncertainties for U.S. foreign policy is: in what situations and for what purpose is it appropriate to use military force? Since policy issues are heavily influenced by political processes, one question immediately raised here is: who decides about the use of force in the American political system, that is, Congress or the President? Legal arguments about the constitutional distribution of war powers form the basis for the actual patterns of that distribution. Historical developments and political circumstances also shape these patterns. Here, as often, a look back to history helps to better understand the situation as it is today.

This study looks at the role Congress has played in decision-making processes regarding the use of U.S. military force since the end of World War II. We will show factors that continue to shape the behavior of the two branches, as well as other factors, whose importance has shrunk with the end of the Cold War. Focusing on patterns of behavior of decision-makers, we will try to reveal motivationally and structurally based restraints legislators face in the exertion of their constitutionally granted war powers. By analyzing and comparing a number of cases from several periods of the post-World-War II era we will substantiate our hypotheses. We shall start by delineating our research question as well as scope and limits of this study.

1.1. Congressional Prerogatives and the Pattern of Presidential War-Making

The term "war powers" stands for the competences of maintaining military forces, raising funds for them, authorizing their engagement in armed conflict, and commanding the conduct of such warfare. The war powers are split between Congress and the President. Their exact distribution is controversial, especially with regard to the most crucial one: the power to authorize engagements in armed conflict. Most experts agree, at least, that originally this power was given to Congress (Lofgren 1972; Henkin 1987; Adler 1988; Koh 1988a; Wormuth/Firmage 1989; Ely 1993; Rourke 1993; Fisher 1995). The congressional power "to declare war" (U.S. Const., Art. I, Sec. 8) implies that engagements in acts of war require authorization by Congress, whereas the President as "commander in chief of the army and navy" (ibid., Art. II, Sec. 2) may conduct congressionally authorized wars and independently repel sudden attacks. The President has a defense power, but offensive military action requires the advance approval of both Houses of Congress. While there were presidential violations from early on, this understanding was accepted for most of U.S. history (Javits 1973; Schlesinger 1973; Eagleton 1974; Sosaer 1976; Cox 1984). Only in the last few decades some researchers have claimed that the power to make war is a presidential prerogative (Moore 1969; Monaghan 1970; Jeffrey 1988; Turner 1991). The presidentialist position is subject to substantial criticism. Most scholars agree that it does not stand a close examination (cf. Levitan 1946; Henkin 1972: 27; Wormuth 1972; Lofgren 1973; Schlesinger 1973; Adler 1988; Wormuth/Firmage 1989: 135-51; Fisher 1995: 57-61).

Others have developed a more sophisticated theory. Applying Justice Jackson's dictum from Youngstown Sheet & Tube v. Sawyer (343 U.S. (1952)) to the war powers, they see the amount of presidential powers as dynamic, depending on how much the President can rely on congressional support. In "absence of either a congressional grant or denial of authority (...) there is a zone of twilight in which he and Congress may have concurrent authority, or in which the situation is uncertain" (ibid.: 579). These scholars see a shared-power situation with the need for joint action of the branches (Reveley 1981; Keynes 1982; Katzmann 1990; Fisher 1991a; Fisher 1991b). Shared-power advocates also rightfully stress that the distinction made by the framers between defensive and offensive war has become inadequate for many of today's situations. In addition, the establishment of a standing army, the availability of nuclear weapons and the country's global military presence in the post-World War II era naturally have strengthened the commander-in-chief -- even if that position does not grant power to commence war by itself. Keeping in mind the courts' reluctance in the last decades to help Congress in defending its war powers¹, we can conclude that the shared-power

position certainly is the more accurate description of today's actual situation than the congressionalist one. There is neither space nor need for us to discuss whether it is a better interpretation of the Constitution. Despite some differences on other points, both positions in principle ascribe the power to authorize the use of military force to Congress. The legislature may have to become active to exert its war powers, but in any case, it is entitled by the Constitution to actively participate in decisions about the use of force.

Neither the passage of the 1973 War Powers Resolution, nor U.S. participation in multilateral military arrangements have altered this. The WPR (P.L. 93-148; 77 Stat. 555 (1973)) was drafted and enacted at the end of the Vietnam War, in order to provide clarification of the distribution of war powers and to correct the presidential dominance that had evolved. Its Purpose and Policy Section (Sec. 2) stipulates that the President may engage troops in hostilities only pursuant to a declaration of war, an equivalent statutory authorization or in case of an attack on U.S. territory, possessions or armed forces. The WPR calls for presidential consultation with Congress prior to military operations where involvement in hostilities is imminent (Sec. 3), it requires the President to report to Congress engagements in combat as well as critical deployments of troops within 48 hours (Sec. 4), and it requests the termination of an engagement in warfare by the President, if Congress has refused to authorize it within sixty to ninety days after its initiation (Sec. 5(b)). Presidents have violated the consultation and reporting provisions of the WPR many times (cf. Blechman 1990: 171-78; Collier 1994a), and Congress only invoked Sec. 5(b) a single time, in the 1983 Lebanon case. Even then, Congress took action not earlier than fourteen months after President Reagan's troop deployment (cf. Blechman 1990: 180-84). The joint resolution has not fulfilled the hopes of its drafters. At the same time, of course, it has not taken away the power of legislators to restrain a bellicose President, if they only want to -- despite the limited ninety-days-war-making power the law implicitly leaves to the President.

In terms of military action taken under auspices of the U.N., the legal setting is clear. Art. 43 of the U.N. Charter stipulates that agreements members undertake to make armed forces available to the Security Council are "subject to ratification by the signatory states in accordance with their respective constitutional processes." The implementing U.S. legislation of the U.N. Charter, the U.N. Participation Act of 1945 (P.L. 79-264; 59 Stat. 621 (1945)), also underscores the requirement of advance approval by both houses of Congress for any deployment of U.S. combatant forces. In practice, an agreement with the U.N. does not exist, the President has not authority to make U.S. forces available to the Security Council without congressional authorization (cf. Collier 1993b: 5-6; Fisher 1995: 79-84). Congressional war powers have not been curbed by U.S. membership in military alliances either. In some of them, like NATO, the attack on one signatory is regarded as an attack on all, but this does not extend the President's defense power to situations where a U.S. ally was attacked, but not the U.S. itself. Provisions stipulating that each signatory decides how to respond in accordance with domestic constitutional processes secure that congressional competences be recognized. In the case of the North Atlantic Treaty, for instance, Art. 11 contains such a provision (63 Stat. 2241 (1949); TIAS No. 1964). The U.S. membership in various alliances has not removed the legislative power to participate in decisions about the use of force (cf. Glennon 1986; Fisher 1995: 92-97).

Yet when we look at the period since the end of World War II, we find a pattern of presidential war-making, with Congress playing only a modest role in the decisions. The President's position in decisions about the use of force had grown steadily in U.S. history, in line with the overall enlargement of presidential power. Still, a phase of congressional assertiveness had always followed one of presidential dominance, in order to cut back the reach of the Presidency at least to some extent (Schlesinger 1973: 68; cf. also Javits 1973; Eagleton 1974; Cox 1984). However, after World War II, during which President Franklin D. Roosevelt had acquired an exceptionally strong position in foreign and military affairs, "the pendulum stopped swinging" (Fisher 1991a: 199). Beginning with the Truman administration's unauthorized engagement in the Korean War 1950, there has been a prevailing presidential dominance (Eagleton 1974; Rourke 1983; Kegley/Wittkopf 1987: 443-48; Wilzewski 1994). The relationship between Congress and the President concerning foreign policy in general, and with regard to the war powers in particular, also fluctuated during that time. Crabb

2 While expressing the understanding the WPR is based upon, Sec. 2 is not legally binding (Smyrl 1988: 26; Ely 1993: 117).
3 The Rio Treaty of 1947 contains a similar provision, whereas the language used in the Southeast Asia Treaty of 1954 (SEATO) is somewhat weaker (cf. Fisher 1995: 93).
and Holt, for instance, roughly distinguish four different periods during the Cold War era: bipartisanship after World War II, the imperial presidency up to the end of the Vietnam War, congressional assertiveness in the 1970s, and the resurgence of the presidency, beginning with the Reagan years (Crabb/Holt 1992: 262-64). Others have especially stressed that at the end of the Vietnam War the consensus on U.S. foreign policy broke, leading to a more assertive Congress and a sometimes more conflictual relationship between the President and Congress with regard to the use of force (Bierling 1993). But despite these fluctuations, in general there has been a puzzling discrepancy between the possibilities to exert influence and to restrain the President, that are legally granted to Congress, and the role the legislative branch has actually played. To explain this discrepancy is the goal of this paper.

1.2. Approach and Scope of the Study

Given these preliminary remarks, we can now state the premises and the research question of our study more clearly, and outline its structure and scope. We started from the observation that in the post-World War II era, the actively exerted congressional influence on decisions about the use of force has normally been modest, sometimes negligible. Our second premise is that this is something to wonder about. Congress could play a more central role, since it possesses the constitutional power to authorize engagements of armed forces in acts of war. In addition, Congress has the power of the purse, it appropriates the funds for these forces. Nevertheless, congressional participation and restraint of the executive branch have been weaker and less frequent than one could expect. When we are talking about restraint, the question is not necessarily why Congress did not oppose the President more frequently, but why it often did not participate in the decision-making processes. Opposing presidential policy is one way of participation, one that can substantially restrain the President. But even without opposition on substance matters, it can have an important impact when the legislative branch has to be informed, consulted and asked for statutory authorization before troops are engaged in combat. Hence, the restraint of the President can be of a policy as well as of an institutional nature. The former depends on legislators' political opinions, the latter is foreseen by the Constitution. Both have usually been modest at best in instances since the end of World War II.

Our central research question, therefore, is: why has Congress rarely made full use of its war powers in post-World War II decisions about U.S. involvement in warfare; why could these decisions become and remain a presidential domain? We will offer an explanation of this puzzling fact and substantiate it with comparative case studies from several periods of the post-World War II era. We used the method of structured, focused comparison of cases (George 1979) to refine our initial theoretical arguments, and now we can present the empirical findings in light of the more fully developed and comprehensive explanation.

In short, this explanation contains four main points: (1) The structural advantages of the President over Congress cannot fully account for the extent of presidential dominance and congressional passivity. (2) Beginning with the Cold War, there has been a congressional self-restraint in the use of the legislative branch's war powers. The modest role of Congress has been due to a lack of will rather than a lack of means. (3) This self-restraint has been based on strong incentives for legislators not to oppose a President attempting to deploy troops to combat and not to insist on their constitutional prerogatives. (4) Presidents have often exploited these incentives to aggrandize their power. Only by acknowledging the dynamic of congressional acquiescence and non-cooperative presidential behavior, we can come to a satisfactory explanation of the patterns observed.

We will review the existing attempts to answer the question posed above in chapter 2.1. This will lead to a more detailed delineation of our own position in chapter 2.2, before we will present the criteria used to select cases for empirical examination in chapter 2.3. The description and analysis of the five cases selected will be the central part of this paper (chapter 3), followed by a concluding comparative analysis (chapter 4).

At this point, we should make two clarifications. The first is in regard to the seemingly ambitious scope of this study. Correctly identifying and explaining presidential and congressional behavior over the course of several decades is an almost impossible task, especially with the space limits we are facing here. Nevertheless we intentionally focus on a longer time period, since our goal is to identify and explain general patterns
of behavior. The sufficient analysis of any single case will always require a closer and historically better informed look than can be accounted for here. We do not claim to have a complete and perfect explanation of the congressional and presidential behavior of the last half-century with regard to the use of force. Still, our study will help to enhance the general understanding of congressional and presidential action and its motives concerning the exertion of war powers. Secondly, we restrict ourselves to a relatively narrow analysis of motives and constraints for lawmakers. One could take a broader look at crucial historical developments such as the establishment of containment policy and the landmark change to globalism. One could also analyze links between military policy and economic interests. We focus on something different here, but our study does not contradict such broader approaches. Instead, it can very well complement them.

2. Explaining Presidential Dominance and Congressional Passivity

2.1. Existing Explanatory Attempts

When explaining presidential dominance over Congress in U.S. foreign policy, researchers frequently point to the President's structural advantages. These advantages are sometimes used to explain the presidential dominance in the more narrow area of war-making as well. 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 NSC's policy paper 68 successfully advocated a large-scale military buildup, and thus gave the President the necessary means to use these powers (Ambrose 1993: 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. As commander-in-chief, he has great discretionary powers concerning the use of the U.S. Armed Forces. Furthermore, the President is seen as the key political leader of the country, which gives him vast possibilities to influence both Congress and public opinion. Denton/Hahn (1986: 127) write that the President exerts a "symbolic supremacy (...) over Congress." He can 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: 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.

Yet, while these structural advantages make active national security-policy-making a presidential rather than a congressional domain, Congress is not without its powers in this area. As elaborated above, it has the constitutional powers to force its participation in decisions about whether to get involved in armed conflict, about the scope of the U.S. engagement, and whether and when to terminate it. Yet the pattern of presidential dominance in these decisions after World War II suggests that this seldom happened.

Consequently, scholars have concentrated on congressional passivity to find explanations for this pattern. Brands (1987: 622), Rourke (1983: 208-10), and Stoll (1987) state that members of Congress often act in anticipation of an expected, or because of an actual rally-'round-the-flag effect. The rally effect means that often the use of military force gives the President a short-term boost in his public approval (Mueller 1973; Lee 1977; Brody/Shapiro 1989). Congresspersons and Senators are reluctant to oppose the President in crisis situations because speaking out against the President on that matter and at that time would be highly unpopular with the voters. In this context, Smyrl (1988: 137-38) stresses the importance of military success. Congressional criticism, or the forceful expression of the will to participate in the decision-making, is unlikely as long as a military operation is successful and thus popular. On the other hand, sustained lack of success weakens the President, causes dissatisfaction with the voters and invites congressional criticism.

Kegley/Wittkopf (1987: 458) and Rourke (1993: 143) stress a more long-term factor. They state that Congress did not restrain the President because there was widespread support for the goals and means of his policy. During the Cold War, the containment consensus among the American population and its policymakers included the willingness to go along when the President decided to use military force to fight what was seen as the spread of international communism. Tilemama (1973) does not focus on Congress in particular, but he also stresses the central importance of anti-communism for U.S. military interventions.
Some scholars have pointed to another long-term factor that can explain congressional passivity. Decisions in the realm of national security require the acceptance of great responsibilities, especially when it comes to decisions about the use of force. Many researchers argue that most members of Congress are reluctant to assume these responsibilities and prefer the easier way of giving the President discretionary powers (Blechman 1990: 193-94; Eagleton 1974: 204; Ely 1993; Javits 1985: 137; Koh 1988b: 132; Rourke 1993: 143). Blechman (1990:184) writes: "The political and institutional pressures bearing on most members of Congress typically caused them to wish to avoid any involvement" in decisions to use force.

2.2. Motivations for Congressional Passivity

As we have seen, most scholars agree that in the post-World War II period, Congress has rarely attempted to play a central role in decisions about the use of U.S. Armed Forces. They also stress that the structural advantages of the President are insufficient to explain this phenomenon. Members of Congress could have been more assertive in many instances, if they had only wanted to. Often, there was a congressional self-restraint, a lack of will to assume more than limited responsibility with regard to the use of military force, and a lack of will to exert more than limited restraint on a war-making President. Chapter 2.1. has also revealed that many scholars have tried to delineate the motivations for this congressional caution. We will base our theoretical explanation on these existing arguments, but we think they could be arranged in a more coherent way, and we will try to do so.

The main incentives for legislators not to restrain a bellicose President fall into two groups, which we call policy motives and political motives. Policy motives are present when members of Congress abstain from restraining a war-making President because they support the goals of his policy. They may be unhappy with the President usurping congressional war powers, but they think that assuring the desired policy outcome is of greater importance. The assumption here is that in concrete cases legislators are more interested in policy outcomes than in constitutional questions. Consequently, even if they have some reservations with regard to presidential war-making in general, they find it more important to back the particular policy of the President. If the President can rely on a stable general foreign policy consensus among political elites, Congress will usually go along with the President when he wishes to use military force. The model case here is the concurrence with containment policy during most of the Cold War period. The perception that communism was spreading in the world and that the U.S. should fight this expansion, was widely shared. If the President could convince Congress that his use of force served this goal, he could reduce congressional willingness to oppose him and to insist on decision-making processes in accordance with the Constitution. There can also be other kinds of a foreign policy consensus, such as the widespread concern with state-sponsored international terrorism in the 1980s.

Political motives mean that members of Congress refuse to object to presidential use of force, since that would create political costs for them. They do not have to agree with the policy goals of the President, but they think it would not be politically advisable to be more assertive. Many scholars, as we have seen above, point to two different types of political motives. The first one relates to the rally-round-the-flag effect. When the President has deployed troops to combat or to a region of crisis, members of Congress observe or anticipate a rally effect among the voters. Depending on public approval themselves, they decide not to raise policy concerns they may have and not to insist on congressional prerogatives the President may have violated. Instead, they stand behind the President - they rally around the flag, too. Usually, such a rally effect only holds for a couple of weeks, but it gives the President sufficient time to make the crucial decisions without congressional objections. When the strong rally effect is gone, the patriotic feelings that were responsible for it, can still have an impact. There can be a strong impetus for legislators to "support our boys in the field", even in the course of a long-term military operation. But there is also a negative side of the rally effect. The rally is strongly correlated to military success as well to the expectation of it. A military operation that fails, that causes many casualties among U.S. soldiers, or that lasts significantly longer than expected without achieving its goals, becomes unpopular with the American people quickly. This will weaken a President's position and encourage congressional criticism.
The second type of political motives is even more fundamental. Deciding about the use of force implies accepting enormous responsibilities, as does forcing the President to stop an ongoing military operation. Assuming such responsibilities requires a lot of courage. Often, members of Congress prefer to choose the easier way of giving the President a free hand. The commander-in-chief would get most of the credit for a successful military operation anyway. Such operations, as well as attempts to solve a crisis without using force, can also fail. Legislators simply prefer to have the President be held accountable for such an outcome rather than being blamed for it themselves. Contrary to the rally effect, the responsibility factor does not fade away after a short time. If a military operation becomes unpopular, for instance due to a lack of success, this factor continues to restrain members of Congress. Typically, then, the legislative branch will express its discontent with symbolic actions, up to the passing of non-binding resolutions. By symbolic policy we mean steps that indicate congressional disapproval but fall short of forcing the President to change his policy. Symbolic action can be intended to send a warning signal to the President; thus, it can have a real impact. Often, it is taken because Congress wants to be held accountable neither for an unsuccessful military operation nor for a policy change that might also lead to failure.

These are the two main political factors to influence congressional behavior. Partisanship can be a third one. Legislators of the President's party know that he can be a crucial campaigner for his party. Hence, they want him to be seen as a strong and successful national leader, supported by the political elites of the country. Members of the other party can often expect political benefits from a weak President. Thus, members of Congress may also have a political interest in supporting or criticizing the President, dependent on their party affiliation. At the same time, resolving a foreign policy crisis is usually seen as in the "national interest." Using such situations for party politics is not well-received by the public. This limits the scope of political costs and opportunities caused by partisanship.

We argue that both types of motives, policy- and politically-based, have played a role in the last decades. The policy factor was very important in the first years of the Cold War, up to the Vietnam War. The establishment of the containment consensus was a key precondition for the evolving presidential dominance. When a policy consensus becomes shaky or even breaks, such as at the end of the Vietnam War or after the end of the Cold War, presidential war-making can become more difficult. But there are still the political motives. They are especially important. A theory based on policy motives predicts that, when the President can rely on a general policy consensus, Congress will be supportive of the President. Fluctuations in congressional behavior -- euphoric at first and increasingly critical with growing duration, or at first skeptical but then supporting the President when everything works out -- or symbolic action without real restraint of the President can hardly be explained with such a theory. We will demonstrate that such fluctuations can often be observed and that a theory based on political factors explains them well.

Legislators will hesitate to assume substantial responsibility in situations of crisis, and they will act in accordance with the rally effect often present after bold action of the President. When the President easily achieves his goals by using military force, they will refrain from criticizing him, and many will support the apparently wise presidential decision. When the decision of the President leads to difficulties, such as a high number of casualties, a much longer duration than was expected or no achievement of the military goals, critical voices will become louder. In such situations, partisanship can come into play: Congresspersons and Senators of the President's party are interested in the President saving his face, whereas members of the other party see a chance to benefit politically from blaming the administration for an increasingly unpopular military operation. It will be especially them who raise concerns. Still, Congress will be hesitant to take the responsibility for handling the crisis. The legislative branch will use a lot of symbolic action to express its dissatisfaction with presidential policy. Strong restraints of the President, such as the passage of appropriate legislation, that force a significant policy change, will only occur in extreme situations.

Arguments referring to policy or political motives do not contradict each other, and they should both be recognized. We have distinguished between two types of motivations, but they are just ideal types. In reality, both of them will usually be present simultaneously. Often, they interact. Strong anti-communism, for instance, also has political repercussions. members of Congress may think that using military force to contain communist movements is sound policy, but they will also support the President because they do not want to be seen as "soft on communism."
So far, we have concentrated on congressional behavior, but it is important to recognize the dynamic of presidential and congressional activity. We argue that the President can use and even exploit the factors that keep Congress from becoming assertive. In many cases he can create a fait accompli. When troops are deployed or when they are even already engaged in combat actions, political costs for Congress will be especially high. No member of Congress likes to be accused of undermining the position of the troops in the field and acting against the national interest. Thus, it is often politically advisable for the President not to actively seek congressional approval in advance but to circumvent Congress. Some scholars argue being more cooperative towards Congress would not make much difference for the President, since he would get what he wants anyway (Ely 1993). We contest this view. From a political standpoint, the President will do better by being only cooperative enough to prevent upsetting Congress but not encouraging congressional participation before the crucial decisions have already been made. The less time Congress is given to act, the more the situation looks like a crisis that calls for quick and decisive action, the higher the political costs that follow from restraining the President. Of course, the President cannot always determine how much time Congress will be given, but often his (un-)willingness to involve the legislature has a big impact.

The President may also be able to make use of widely held policy views, if present. For instance, during the Cold War it helped the President if he could portray a desired military operation as necessary to fight the spread of communism. In such cases, structural advantages of the Presidency go hand in hand with policy and political motives of members of Congress. The President can use his strong position to shape the public's perception of a specific situation, activating an existing policy consensus. This, in turn, increases the political costs of opposing the President.

2.3. The Class of Events and Selection of Cases

We are interested in political decision-making with regard to three different types of cases. First, there are deliberate engagements of U.S. Armed Forces in acts of war against territory, armed forces, possessions or citizens of another state, ordered by the President. For practical purposes, we call them type-I cases. Our definition excludes routine activities (e.g. maneuvers) and the use of armed forces in non-conflict situations (e.g. disaster relief). It also excludes the use of force in covert actions. Questions regarding covert actions and war powers are related, but the two things should not be mixed up. Covert actions are beyond the scope of this study, even those with a possible participation of regular troops.4

Another group of cases is also not covered by the above definition but should be included in our analysis. These are those deployments of U.S. Armed Forces, ordered by the President, that risked their immediate involvement in acts of war. They constitute our type-II cases. Actual combat may follow (IIa) or not (Iib). Their inclusion is very important. Often the engagement of troops in warfare is an indirect consequence of their deployment to a certain region, even if such an engagement was not overtly intended in the first place. As commander-in-chief, the President is relatively free in deploying military forces in peacetime, but he can abuse this power by putting troops in harm's way. The crucial political decision in such cases is that of deploying troops to a region of crisis, regardless of whether combat actually follows or not. The legal situation is difficult here, since there is not necessarily a congressional prerogative to authorize the troop deployment. If the legislative branch is willing to assume responsibility, however, the political imperative remains to insist on its participation in the decision-making process.

Type-III cases, finally, could be called non-cases: engagements of U.S. Armed Forces in a way that constituted a type-I or -II case were planned of considered by the administration, including a final negative decision by the President. A political decision-making process about the use of troops did take place, and it is worthwhile to study the role Congress played in such processes. For practical purposes, we will use the term "military operation" for type-I and -II cases. Type-III cases are planned military operations.

The type-I and -II cases since 1945 are listed in the appendix, followed by an enumeration of some type-III cases. From these cases we have selected five for the empirical analysis. We have conducted a structured

4 Examples for such cases can be found in Prouty 1973 and Quigley 1992.
comparison of these cases (George 1979). In addition to the type of the case, we have used historical period, success, duration, and presidential willingness to cooperate as criteria for this selection.

Obviously, the relationship between Congress and the President concerning foreign policy in general and the war powers in particular was not always the same during the post-World War II era. If our findings should not only be valid for some very specific periods, we should cover several significant historical periods. Based on the differentiation by Crabb and Holt mentioned in chapter 1.1., we make a very rough distinction of five of these periods: (1) the time after the World War with the establishment of containment policy (Truman/Eisenhower); (2) the "Imperial Presidency" up to the end of the Vietnam War (Kennedy/Johnson/Nixon); (3) congressional assertiveness in the 1970s (Nixon/Ford/Carter); (4) the resurgence of the presidency in the 1980s (Reagan/Bush); and (5) the ongoing post-Cold War period (Bush/Clinton). We have conducted case analyses from every period. There is no case that completely falls in the period of congressional assertiveness, but the final stages of the Vietnam War, a case we have included, constitutes the beginning of this period.

Whether a military operation is considered as successful or not, has a huge impact on the political costs legislators face when they try to restrain a war-making President. The success of a military operation itself shapes the behavior of Congress and the President only in its course and aftermath. Expectations about the success of a projected operation can have an impact at its outset. Military success is difficult to measure in some cases. There is no need, however, to come up with a sophisticated and precise social scientific scale of military success. Including military operations that were clearly successful as well as some that were clearly unsuccessful will suffice for our purpose of selecting appropriate cases.

The duration of a military operation is also relevant for the political-costs factor. With growing duration, the rally effect wanes, and it becomes more difficult to maintain the public support for a military operation. Again, it is unnecessary to measure this variable exactly. We will simply confront cases with a military operation exceeding several months with others that were completed quickly.

Finally, we have argued that the attitude the President displays towards Congress is especially important. We argue that in many cases, the President can exploit the phenomenon of political costs for lawmakers by acting unilaterally and non-cooperatively. Hence, we have included cases where the President encouraged congressional participation in a decision as well as cases where the President did not actively cooperate with Congress.

The five cases we have selected are given in the table below, along with the variables used as criteria.

**TABLE: CASES SELECTED FOR EMPIRICAL ANALYSIS**

<table>
<thead>
<tr>
<th>Period</th>
<th>Type</th>
<th>Duration</th>
<th>Success</th>
<th>Pres. Cooperative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indochina, 1954</td>
<td>post-World War II</td>
<td>III</td>
<td>-</td>
<td>yes</td>
</tr>
<tr>
<td>Vietnam, 1964-73</td>
<td>Imperial Presidency</td>
<td>I</td>
<td>no</td>
<td>long, yes/ no</td>
</tr>
<tr>
<td>Libya, 1986</td>
<td>President resurgent</td>
<td>I</td>
<td>yes</td>
<td>short</td>
</tr>
<tr>
<td>Pers. Gulf, 1990-91</td>
<td>post-Cold War</td>
<td>IIb / I</td>
<td>yes</td>
<td>long/ short, no</td>
</tr>
<tr>
<td>Somalia, 1992-95</td>
<td>post-Cold War</td>
<td>IIa</td>
<td>no</td>
<td>long, yes</td>
</tr>
</tbody>
</table>

This selection also secures the inclusion of cases with large-scale military operations, as well as a small-scale intervention like the air strikes on Libya. As indicated above, the classification is a very rough one. Its only purpose is to make sure that we actually do control for the variables we consider as crucial. It cannot replace an in-depth analysis of every case. This will be done in the next chapter.

3. The Cases

3.1. Indochina, 1954: Dien Bien Phu

After World War II, France tried to reaffirm its control of Indochina (Vietnam, Laos, Cambodia) but met strong resistance by the nationalist Viet Minh. The U.S., acting within the containment framework, provided massive support but cautiously avoided any direct intervention. In Congress, isolationists even tried to
attach non-intervention provisions to the Mutual Assistance Act of 1953. Others opposed intervention from an anti-colonialist point of view. Still, when the situation deteriorated in late 1953, Congress appropriated $38.5 million of military aid on grounds of a vague French agreement to steps towards Indochinese independence (Burke/Greenstein 1989: 11). At the time of the crisis the Republicans had slim majorities in Congress (eleven votes in the House and one in the Senate).

In early 1954, French units were trapped at Dien Bien Phu, a fortress near the Laotian border in the north, and engaged in a crucial battle. In the U.S., the NSC and special planning committees began to consider the policy options. Even nuclear bombing was contemplated at one time. On January 29, the Special Committee reviewed French requests for aircraft and 400 technicians. President Dwight D. Eisenhower approved the committee's recommendation to deploy the aircraft and 200 technicians, provided the personnel would not be exposed to combat (ibid.: 38). The deployment was not announced until February 6. No congressional committee had been involved in the decision-making process, and several members publicly protested (Scribner 1980: 211). Sen. John C. Stennis (D-MS), a member of the SASC, wrote a letter to Defense Secr. Wilson and held a speech emphasizing the danger of a quagmire. Democrats in the SASC shared his concerns, but most Republican leaders supported the administration's actions, as did the influential Sen. Mike Mansfield (D-MT) (Burke/Greenstein 1989: 39). On February 8, Eisenhower met with Republican leaders. Reacting to opposition to the deployment led by the Senate Majority Whip and Chairman of the SASC, Leverett Saltonstall (R-MA), he promised that the soldiers would be removed by June 15, thus winning the leaders' promise to support him on the Hill. The protests stopped (Billings-Yun 1988: 26).

The administration then concentrated its planning efforts on the option of unilateral air strikes. The French government, attempting to engage the U.S. militarily while keeping control of Indochina policy, repeatedly made informal requests for American air strikes to save Dien Bien Phu. In collaboration with American military advisors in Saigon, French strategists developed a plan called "Operation Vulture," which was supported by JCS Chairman Admiral Arthur Radford.

On March 18, the Pacific-based 7th Fleet was dispatched to the Gulf of Tonkin, alerted and readied to defend Dien Bien Phu within twelve hours notice (Billings-Yun 1988: 43-44). Reconnaissance air units studied Chinese air fields and the conditions of northern Vietnam communist strongholds. The administration did inform neither Congress nor the British, French, and Vietnamese governments (ibid.: 90). 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 the leaders (Anderson 1991: 29; Burke/Greenstein 1989: 47-48). This announcement might have been a tactical move to give Congress a sense of urgency and emergency before a secret meeting between Secr. of State John Foster Dulles, Radford and bipartisan congressional leaders scheduled for April 3, where the administration planned to present a blank check resolution.5

In a speech on March 29, Dulles outlined a plan for so-called "United Action," which included the participation of Great Britain, France and local nations (ibid.: 47). On the next day, Senate Majority Leader William F. Knowland (R-CA) congratulated Dulles. The Senate debated "United Action" on the floor that same day, with considerable difficulty to define its substance (Billings-Yun 1988: 64). At that time, Eisenhower was still considering a unilateral air strike. In fact, on April 1 he even considered a covert air strike (Anderson 1991: 30). In the end, his skepticism regarding the military usefulness of air strikes prevailed.

Since no decisions had been made, Congress had the opportunity to make itself heard at the secret meeting between eight bipartisan congressional leaders and Dulles at the State Department. The leaders, with a fresh memory of the Korean war, unanimously rejected a unilateral approach. Dulles stressed that no use of land forces was contemplated, but the leaders answered that once the flag was committed, land forces would inevitably follow. They insisted on a multilateral effort. Dulles did not present the draft resolution.

5 "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: 1211-1212)
because Eisenhower had told him "to develop first the thinking of congressional leaders" (Burke/Greenstein 1989: 50-31). The meeting ended with a tacit agreement on conditions for intervention: it would have to be a multinational effort, and Vietnam would have to be granted independence. In fact, Eisenhower, Dulles, and Admiral Radford had basically decided against unilateral action prior to the meeting (Adams 1961: 122). Still, the leadership's clear opposition to unilateral action surprised the administration. The information Rep. John W. McCormack (D-MA) leaked to the journalist Chalmer Roberts resulted in the article "The Day We Didn't Go to War" (Roberts 1954), which in turn provided the basis for the early standard interpretation of U.S. non-intervention, i.e., that Congress had prevented war (Anderson 1991: 31).

On April 4, Eisenhower discussed the "United Action" strategy with his advisers. An agreement was reached to intervene under certain conditions (ibid.: 32). Dulles increased his efforts to build congressional support for the strategy (Burke/Greenstein 1989: 68-69), and tried to commit England and France. France reacted by threatening to accept any agreement at the Geneva peace talks unless the U.S. would intervene with air strikes (Billings-Yun 1989: 103-108). On April 6, France asked for a loan of B-29 bombers maintained by U.S. personnel but flown by French pilots. The administration held a 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 Senate. Eisenhower said that there was no possibility of 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: 70-71). He also added a new condition for intervention: "We would have to be invited in by the Vietnamese" (Billings-Yun 1989: 109-111). On April 8, the Pacific Fleet called off the reconnaissance program and left the Gulf of Tonkin.

In the floor debate mentioned above, the Senate reinforced the conditions imposed by the leadership three days earlier, but also indicated a possible bipartisan support for "United Action" (Burke/Greenstein 1989: 74; Cassata 1986: 154). 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. Other Senators agreed. The Senate expressed its reluctance to order American forces into a colonial war or to take any unilateral action, but many Senators seemed to be ready to compromise the demand for decolonization (Billings-Yun 1988: 118).

When Vice President Richard Nixon proposed on April 16 that the U.S. should dispatch ground forces if the French would withdraw from Indochina, congressional support eroded (Billings-Yun 1988: 133-134). Even Knowland 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 be no more talk on unilateral intervention (Burke/Greenstein 1989: 76-77; Gibbons, 1986: 209-210). Nixon's comment also undermined Dulles' diplomatic efforts to gather support for "United Action" (Billings-Yun 1988: 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. Stennis said this was "another step closer to war" (Burke/Greenstein 1989: 78). Yet the erosion of domestic support only added to the diplomatic defeats that Dulles was suffering. On April 26, when the Geneva conference began, Eisenhower met with the Republican leadership to explain the failure of "United Action" on grounds of British and French opposition (Adams 1961: 123-124). 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: 147-148; Burke/Greenstein 1989: 82-83). The public, however, remained skeptical. A Gallup poll in the first week of May, 1954, found only 22% support of a unilateral intervention, but 68% opposition, and 10% with no opinion (ibid.: 112-113).

6 The airlifts of French troops to Dien Bien Phu risked combat involvement of regular U.S. troops. Thus, in the terms of our study, this section of the Dien Bien Phu crisis would constitute a type-IIb case. We do not elaborate on this because of our focus on the decision-making process regarding offensive action.
On May 5, Dulles informed congressional leaders that the administration had decided against intervening in Dien Bien Phu since the conditions had not been met and the situation was unfavorable (Billings-Yun 1988: 154). After the fall of Dien Bien Phu two days later, Dulles told members of the HFAC in executive session on May 11, and members of the SFRC on May 12 that if the administration's conditions were met, namely that it would be a coalition effort (the requirement of British participation had been dropped) and that France would grant Indochina independence, Eisenhower would seek congressional authorization to intervene. The legislators reacted positively (Burke/Greenstein 1989: 91). An unpublished State Department poll on multilateral intervention conducted on May 19-22, showed 69% support, 23% opposition, and 8% with no opinion. 21% said they would approve of a unilateral intervention (ibid.: 112-113).

After the new Mendes-France government in France had committed itself to a quick settlement of the Indochinese crisis on June 17, the Eisenhower administration requested one billion dollars in military and economic assistance to Indochina for the next fiscal year. Congress overwhelmingly approved. However, Sen. William Fulbright's (D-AR) remark that he was reluctant to intervene as long as Indochina was a colony, still found widespread support. When congressional leaders were briefed on the negotiations in Geneva, where the U.S. was not an active participant, on June 23, Knowland said, "we now have a Far Eastern Munich" (ibid.: 94). Eisenhower rejected this notion by emphasizing that the partition of Vietnam was simply the acceptance of a military fact (Billings-Yun 1988: 157).

The Dien Bien Phu crisis is a type III case because neither the air strikes, the main option considered by the administration, nor any other offensive operation, were conducted. Although the Eisenhower administration engaged in some tactical behavior toward Congress, there is no indication that offensive actions conducted by regular U.S. troops would have been ordered without congressional authorization. President Eisenhower was fairly cooperative. The congressional leadership was given ample opportunities to act. They frequently met with Eisenhower, congressional committees conducted hearings, and the crisis was debated in the Senate. Although the impact of the conditions the congressional leadership imposed on a military intervention is not fully clear, Congress's actions constitute a partial restraint of the administration.

Public opinion polls showed a reluctance to become involved in Asia so soon after the Korea experience, at least unilaterally (Donovan 1956: 267). Eisenhower did not attempt to mobilize public support and thus we cannot know how the American people and Congress would have reacted to strong anti-communist rhetoric. 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 offensive military action. There was no significant post-hoc evaluation of the crisis.

3.2. Vietnam, 1964-73

The Vietnam case study differs from the other studies in an important respect. Instead of covering the whole conflict we have selected two periods that best reflect its dynamics.

After the French had left the divided Vietnam following the Geneva accords in 1954, the United States provided the nationalist but feudal Diem regime in South Vietnam with financial assistance, and boosted its military strength with thousands of American advisers. Yet, American support, motivated by the goal of containing global communism, could not significantly reduce the internal weaknesses of all subsequent South Vietnamese governments. We will examine the passage of the Gulf of Tonkin Resolution and the beginning of the continued bombing of North Vietnam in 1964/65, as well as the final phase from March 1969 to August 1973, which began with the extension of the war into Cambodia.

Gulf of Tonkin to Danang Deployment

As early as February 1964, it was suggested to President Lyndon B. Johnson to seek a congressional resolution on Vietnam in order to have a free hand and to remove the issue from the presidential campaign, where Johnson would face the hawkish Barry Goldwater (Karnow 1991: 373). An early draft resolution included dollar limits (Pentagon Papers 1971: 287) but William Bundy, Assistant Secr. of State for Far
Eastern Affairs, advised Johnson to seek a blank check resolution similar to the Formosa Resolution of 1955 (Karnow 1991: 375). Johnson decided to wait until after the election (ibid.: 376-77), even though Goldwater and congressional Republicans were urging him to take a stronger stand on Vietnam (Gibbons 1986: 278-279). The Gulf of Tonkin incidents changed Johnson’s course of action.

It has never been clarified beyond reasonable doubt what happened in the Gulf of Tonkin on August 2 and 4, 1964. On August 2, the U.S.S. Maddox was attacked by North Vietnamese torpedo boats off the North Vietnamese coast in the Gulf of Tonkin. Defense Secr. Robert McNamara told members of Congress that the Maddox had been on a routine patrol in international waters, and that the attacks had been unpro- voked. In fact, the Maddox had been gathering intelligence on a so called DE SOTO patrol, which were conducted frequently. Its mission had coincided with South Vietnamese 34-A raids on coastal areas of North Vietnam. 34-A raids were basically under U.S. control, and were supported by American advisers. Johnson decided against immediate retaliation, but ordered the U.S.S. Turner Joy into the Gulf to join the Maddox. He briefed Senate Republican Leader Everett Dirksen (R-IL), Sen. Richard B. Russell (D-GA), and Sen. Hubert Humphrey (D-MN) who voiced support. At a secret meeting on August 3, members of the SFRC and SASC and the leadership were briefed (among them Sen. J. William Fulbright (D-AR), Chairman of the SFRC, Senate Majority Leader Mike Mansfield (D-MT), and Sen. Wayne Morse (D-OR)). According to a New York Times account, the coincidence with the South Vietnamese operations was revealed. Still, Secr. of State Dean Rusk and McNamara said the attack was entirely unprovoked (ibid.: 282, 286-287, 312).

On August 3, while another 34-A raid was staged, the U.S. destroyers learnt from an intercepted radio message that North Vietnam considered their patrol to be involved in the raids (ibid.: 288). The U.S. vessels, cruising sixty miles off the North Vietnamese coast, reported an attack on August 4, the evidence of which was soon considered shaky. Although Johnson later revealed that he had not been sure (Berman 1982: 33), he did not wait for details and ordered to bomb North Vietnamese patrol boat facilities. Then he met with sixteen congressional leaders to announce the attack and the retaliation, and to present a draft resolution. Johnson said he did not think a resolution was necessary but it would be better to have it, in order to present a united front. Only Mansfield expressed opposition of the course of action, and suggested to take the matter to the U.N. House Republican Leader Charles A. Halleck (IN) questioned the urgency of the issue but thought the resolution would pass overwhelmingly. When Johnson individually asked every legislator present to state their position on the resolution, all expressed support. (Gibbons 1986: 294-295). The final draft of the resolution ("all necessary measures to repel any armed attacks against the forces of the United States and to prevent further aggression") was consensus (Wolf 1973: 128-132).

On August 5, Morse, informed about the U.S.-led covert war by a Pentagon official, called the resolution a "predated declaration of war" and said the U.S. had violated the Geneva accord just as clearly as North Vietnam. A colleague privately told him: "Hell, Wayne, you can’t get in a fight with the President at a time when the flags are waving and we’re about to go to a national convention" (Gibbons 1986: 304). On the same day, the leaders of the SFRC, SASC and HFAC decided to have hearings the next day, report the resolution, call it up, have a quick debate and pass it unchanged. Fulbright, who had been closely consulted by Johnson, was to get the liberals on board and to move the resolution through Congress (ibid.: 304-305).

On August 6, the first formal congressional debate on Vietnam started with HFAC hearings and joint hearings of the SFRC and SASC (ibid.; Herring 1986: 123). McNamara reiterated, U.S. destroyers had been attacked on a "routine patrol in international waters" (Fisher 1995: 117; for complete hearings cf. Galloway 1970). The members supported the resolution, hawkish Sen. Strom Thurmond (R-SC) even pressed for more action. Morse asked about the relationship between the patrols and 34-A raids, but did not press further when McNamara denied any connection. Reportedly, Johnson had asked him to support his campaign. Neither Fulbright, Russell, nor Mansfield asked questions. The committee reported the resolution by a 31-1 margin. The HFAC voted 29-20 (Gibbons 1986: 307-308, 310-15). On August 7, the House debated under a suspension of the rules, which limits debate and amendments, and, after only 40 minutes debate, passed the resolution unanimously (416-0). Both Halleck and Majority Leader Carl Albert (D-OH) had strongly endorsed it. Again, some criticism was voiced by hawks, such as Melvin Laird (R-WI) and Minority Leader Gerald Ford (R-MI). Only Bruce Alger (R-TX) raised doubts about the abdication of congressional responsibility in declaring war, but in the end he voted for the resolution for reasons of unity (ibid.: 308-309).
During the ten hours of debate on August 6 and 7, the Senate leadership commended Johnson, and many more expressed their support. Frank Church (D-ID) said "there is a time to question the route of the flag, and there is time to rally around it." There was little discussion of the resolution's substance because the leadership was determined to assure quick passage. Yet, Fulbright's answers to the substantive questions were clear: the deployment of combat troops was possible under the resolution. When Gaylord Nelson (D-WI) wanted to limit the resolution's authority, Fulbright, who wanted a quick passage to support Johnson against Goldwater, pointed to its third section (termination of authority by concurrent resolution). George McGovern (D-SD) asked about the relationship between the patrols and the 34-A raids, and was assured that they were unconnected. Fulbright emphasized the psychological effect the resolution would have upon North Vietnam. The isolated Morse was last to speak. He called the resolution a "historic mistake", and a circumvention of the Constitution (ibid.: 316-329). The Senate passed the resolution 98-2, with only Morse and Ernest Gruening (D-AL) dissenting. On August 10, Johnson signed the resolution into law. During the crisis, 85% of the public stood behind the administration (Karnow 1991: 390).

On August 11, William Bundy recommended intensive military pressure against North Vietnam. Johnson, though, campaigning with the pledge "we seek no wider war," decided against offensive military operations. The DE SOTO missions and the covert raids were suspended temporarily, and the U.S. even did not retaliate for a November 1 attack on a U.S. air base at Bien Hoa (ibid.: 393). Only after the election, on December 1, despite warnings from the intelligence community that bombings would not have a decisive impact on the situation in the South, Johnson authorized bombing raids against infiltration routes in Laos, a part of Phase 1 of a plan that had been developed earlier. But again, Johnson did not authorize reprisal strikes against North Vietnam, and the U.S. did not retaliate for the Christmas Eve bombing of the Brinks Hotel in Saigon.

Congress was not consulted anymore in 1964. William Bundy argued in a November 5 memorandum that the executive did not need additional authority. After the December 1 decision, Fulbright, Russell, Sen. Bourke Hickenlooper (R-IA), Sen. Leverett Saltonstall (R-MA); and Reps. George Mahon (D-TX), and Ford were briefed, but the adjourned Congress as a whole was not informed. On December 3, the U.S. Ambassador to South Vietnam, Taylor testified before an executive session of the SFRC but did not reveal the decision. When Fulbright and others said that they would not vote to send hundreds of thousands of ground troops, Taylor indicated that the U.S. could attack by air. Although Fulbright was skeptical neither he nor the committee took any further action, except for Mansfield who sent a memorandum to Johnson, recommending to avoid a military confrontation, and to negotiate (Gibbons 1986: 372, 376-379).

Around the turn of the year, Congress and the public, while generally supportive, grew increasingly frustrated with the lack of success in Vietnam. An AP poll among Senators from January 6, 1965, had thirty-one of sixty-three responding in support of a negotiated settlement after improving the bargaining position. Ten favored immediate negotiations, and three even were for an immediate withdrawal. Eight favored using U.S. forces, while eleven favored continuing the ongoing policy of strengthening South Vietnam. Sens. Church and McGovern started to speak out against the U.S. involvement more openly (Gibbons 1986: 394-395). On January 7, 1965, the SFRC informally met with a number of U.S. officials from South Vietnam assembled by Vice President Humphrey. The committee got the sense that the situation was deteriorating, and that the war was "political" and could not be won with weapons and dollars. A day later, Rusk and William Bundy were asked by the committee about the current plans for action towards North Vietnam. The committee generally opposed an extension of the war, and made clear that they wanted to be consulted beforehand, with enough time to consider. Rusk evaded the question (ibid.: 398-401). Johnson was troubled by the increasing uneasiness in the public, in Congress, and in the media with his handling of Vietnam. When even Sen. Russell indicated that he wanted to "reevaluate our position" in Vietnam, Johnson decided to retaliate "immediately following the occurrence of a spectacular enemy action" (Karnow 1991: 426).

In early February, a DE SOTO patrol that explicitly was to provoke an attack which in turn could serve as justification for retaliation was cancelled because of the visit of the Soviet Premier to Hanoi (Gibbons 1989: 51-52). On February 7, the Vietcong staged an attack against an American base at Pleiku. The NSC immediately met at the White House, with Mansfield and Speaker John W. McCormack (D-MA)
present. Mansfield and Humphrey were the only ones opposed to the retaliation, ordered by Johnson (FLAMING DART I) (Karnow 429). When the NSC met again, with Mansfield, McCormack, and Ford present, McNamara reported the U.S. air strikes. Mansfield suggested to involve the U.N. or the Geneva powers but Johnson declined (Gibbons 1989: 60-63). At an NSC meeting on February 8, the congressional leadership, this time including Dirksen, was briefed on the weekly bombings of North Vietnam. Johnson stated that the congressional resolution plus the legal power of the presidency gave him sufficient authority for the concept of graduated pressure. There were no comments or questions about the further course of action, but Mansfield sent a memorandum to Johnson, arguing against the enlargement of the conflict (ibid: 69). After the meeting, Johnson cabled Ambassador Taylor that he had decided to order Phase II (sustained repraisal) of the plan conceived in 1964 (ibid.: 65-67). This was the decision to wage war on North Vietnam, and thus McNamara asked the JCS to detail a plan for "continuing action," (ibid.: 83).

On the next day, Bundy testified before the SFRC Subcommittee on Far Eastern Affairs. When asked by Frank Carlson (R-KS) whether there had been a policy decision to expand the war if the situation continued to deteriorate, Bundy did not reveal Johnson's decision (ibid.: 70). Few members of Congress publicly commented on the Pleiku attack and the U.S. reaction. While the general mood was supportive, there was some uneasiness about the increased military involvement. Rep. John Lindsay (R-NY) warned that what was now known as military support would become a "naked U.S. war" (ibid.: 70-71). The 1,500 telegrams to the White House on the matter were 12 to 1 against the government's retaliatory action (ibid.).

On February 10, the Vietcong attacked a U.S. base at Qui Nhon. The NSC met, this time without any member of Congress. Johnson approved retaliatory action (FLAMING DART II). It was decided not to publicly disclose the decision to start sustained repraisal (ibid.: 77-78). Johnson then met privately with nine members (among them Mansfield, Fulbright, McCormack, and one Republican, the Senate Minority Whip Thomas H. Kuchel, CA). There are no detailed notes of the meeting but since the members were asked to keep secrecy they were probably briefed about Phase II (ibid.: 79-81). Gallup and Harris polls after the retaliation (10 Feb.) showed a rally-round-the-flag effect, although a strong 35% opted in favor of negotiating and getting out. Non-published parts of Harris polls revealed the ambiguity of public support: 69% felt that fighting in Vietnam was not very important, and 75% favored the U.S. asking for negotiations. Still, 48% supported sending a large number of American troops to help save South Vietnam (ibid.: 72-77).

On February 13, Johnson approved part of the plan the JCS had proposed two days earlier (a limited bombing schedule, 34-A raids, and DE SOTO patrols). There was still no public announcement (ibid.: 85-86). The sustained repraisal air strikes had to be postponed repeatedly because of the unstable political situation in South Vietnam, where the Khanh government was ousted by Quat (ibid.: 112). Thus, the first ROLLING THUNDER air strikes were not carried out until March 2. There had been no meaningful consultation with Congress (ibid.: 115). Polls before and after the repraisal bombings showed a rally-effect. In November 1964 and February 1965, Louis Harris polls, paid by the administration, had found 48% favoring sending combat troops, and 40% opposed. After the bombings, 83% were thinking it more right than wrong to bomb North Vietnam. A Gallup poll (15 Feb.) also showed overwhelming support for the reprisals. Johnson's rating went up to 69%, with 60% approving of his handling of Vietnam (Altschuler 1990: 42).

Almost immediately after the beginning of the bombing war, discussions began on whether to introduce ground troops. On February 22, General Westmoreland requested two Marine battalion landing teams to protect the Danang air base. The troops would not take part in offensive operations. Although Amb. Taylor argued that a deployment would convince the South Vietnamese government that the U.S. would lead the war for them, Johnson approved on February 26. When the Marines landed on March 8-9, there was no public reaction from Congress, which had not been consulted (Gibbons 1989: 119-126). There merely had been a number of briefings, with considerable desinformation. The Pentagon had said the deployment would answer a request of the South Vietnamese government, but the latter had not even been informed (Karnow 1991: 432). The deployment was described as short-term, thus neither Congress nor the press really took it seriously. Soon, however, Westmoreland requested and received more troops (ibid.: 436).

Rather than consulting Congress on the deployment of ground troops, Johnson had been trying to build support for the bombing program, which was opposed by many Senate Democrats. Johnson staged a leadership meeting on February 10, and ten meetings in February and early March, to which the entire
Congress was invited in groups. He courted Dirksen, now preferring him to the critical Mansfield. The administration encouraged resolutions of support, such as statements by the joint Senate-House Republican leadership and by the House Democratic Steering Committee (Gibbons 1989: 127-130).

In February and March, the Senate engaged in "the first conscious launching of what (...) we had come to call the Vietnam debate," as one of its initiators phrased it (ibid.: 131-132). Most Senators backed the President, employing the domino theory and the rhetoric of "supporting our boys in the field." The only outspoken critics were Church, Morse, and Gruening. Mansfield remained moderate and ended up commending Johnson. The Danang deployment ended the debate. On February 24, twenty-seven House members came out in support of administration policy, but about the same number of Representatives asked for HFAC hearings about the increasing involvement, which was denied. Here, as frequently, pro-administration forces used House rules and procedures to deny the opposition a forum to speak (Gibbons 1989: 131-140). Still, public criticism of Johnson’s Vietnam policy did not cease, but it came mainly from hawks: Quayle polls showed 59% disapproval of Vietnam policy in March, while South Carolina polls from the end of March had 95% against withdrawal, and 83% in favor of stepping up military effort (Altschuler 1990).

Cambodia

When President Richard Nixon took office in January 1969, the American commitment in Vietnam had just peaked at a troop strength of 540,000, and Johnson had ended all bombing in late 1968. Nixon wanted to shift the burden of human costs to the allies (Nixon-Doctrine), and the term "Vietnamization" was coined for the policy of replacing U.S. forces by South Vietnamese troops. Part of the policy was what Nixon called the Madman theory. He wanted to credibly threaten to bomb North Vietnam without restrictions, even with nuclear weapons. Thus, the bombing campaign was soon resumed and extended.

Prince Sihanouk of Cambodia attempted to restore good relations with the U.S., which he had lost after consenting to Vietcong and North Vietnamese use of Cambodian territory. In January 1968, he had authorized the U.S. to pursue Vietcong on Cambodian soil but Johnson had not wanted to expand the war (Karnow 1991: 605). Nixon, facing an increasingly impatient public and Congress, ordered to begin the secret bombing of Cambodia (both the Ho Chi Minh Trail and Communist sanctuaries) on March 18, 1969. Although the bombing operation originally was planned as a short-term retaliatory action, it actually went on continuously for fourteen months (ibid.: 606) and quite constant even afterwards, until stopped in August 1973 (Ely 1990: 910). A few sympathetic members of Congress were briefed but Congress as a whole was not informed. A NY Times correspondent revealed the bombings in May 1969, which fueled the growing opposition to the war (Karnow 1991: 607).

In September 1969, Sen. Charles Goodell (R-NY) proposed legislation to bring home all U.S. troops by the end of 1970. Within three weeks, ten similar bills were introduced, among others by Sens. Mark Hatfield (R-OR), Church, Claiborne Pell (D-RI), and Jacob Javits (R-NY) (Karnow 613). The resolutions got nowhere but clearly signified that a growing number of legislators was challenging the President's policy fundamentally. Nixon managed to get the public on his side. After troop withdrawals and a reduction in draft calls, the approval of his handling of Vietnam reached 71% in October 1969 (ibid.). He reacted to the continuing peace demonstrations by asking for the support of the "silent majority." The response was overwhelmingly favorable, not even the disclosure of the Mylai massacre could break the support. A bipartisan majority in Congress registered approval of the President's Vietnam strategy (ibid.: 615). Yet with a total of 40,000 U.S. soldiers dead at the end of Nixon's first year, and no success in sight, opposition could only be muted temporarily (ibid.: 616). Facing congressional opposition and massive antiwar demonstrations, Nixon started to withdraw larger numbers of U.S. troops. Yet, he also decided to intervene in Cambodia.

After Prince Sihanouk's tilt toward the U.S., North Vietnam had started to support the Khmer Rouge, the Cambodian Communist movement. On March 18, 1970, Sihanouk was ousted by his Prime Minister Lon Nol, a strong anti-communist. While there is no evidence to support the allegation that the CIA had encouraged Lon Nol, Nixon had secretly decided to aid Lon Nol, without asking, consulting or informing him, not even before the ouster. By that time, South Vietnamese troops and their American advisers, a combined allied force of 20,000 men, supported by American aircraft, had already covertly crossed the
border. On April 30, 1970, Nixon announced on TV that American and South Vietnamese troops had begun attacking Communist sanctuaries in Cambodia (Karnow 624). The public reacted favorably. The operation, with a peak American engagement of 32,000 troops, was a temporary success. But again antiwar protests erupted, resulting in the killing of four Kent State students by National guardsmen (ibid.: 621, 625-626).

The administration had neither consulted nor informed Congress before the so-called "Cambodian Incursion". Only Sen. John Stennis (D-MS), Chairman of the SASC, had been briefed (Ely 1990: 902). In reaction, Sens. Church and John Sherman Cooper (R-KY) drafted legislation to forbid American combat troops to enter Cambodia, which almost passed the Senate (Karnow 1991: 623, 626). On May 8, 1970, Nixon surprisingly announced that the U.S. troops would be removed by June 30, 1970 (Ely 1990: 902). Despite the implementation of this decision, the modified Cooper-Church Amendment barring American ground troops from entering Cambodia and Laos passed and became law in January 1971 (ibid.; Karnow 1991: 644).

On September 1, 1970, the Senate narrowly (55-39) defeated a bill sponsored by McGovern and Hatfield to bring home the U.S. troops by December 31, 1971 (Ely 1990: 907, Karnow 1991: 641). Perhaps reacting to this, on October 7, 1970, Nixon unveiled a peace plan, indicating flexibility on the mutual withdrawal scheme that had been the key obstacle to negotiations. Congress passed a resolution of approval, which even McGovern, Hatfield, and Fulbright supported (ibid.: 642), but no diplomatic progress was made, mainly because the move was ambiguous and mostly meant for domestic purposes.

At the end of the year, congressional hearings revealed the connections between the DE SOTO patrols and the 34-A raids, and the bombing contingency plans. Still, the resulting repeal of the Tonkin Gulf Resolution (12 Jan 1971) was of no effect. Fulbright, who had led the hearings, ended up voting against the repeal, after his own version that invoked the concurrent resolution provision of the Tonkin Gulf Resolution, had been defeated in the House. Instead, Robert Dole's version of the repeal provision was employed. The repeal was passed in a package with the Cooper-Church amendment, which would not have been needed if the repeal had meant full withdrawal of authorization to conduct war in Indochina. The context made it clear that the repeal meant nothing: Congress continued to appropriate funds for military activities in Southeast Asia, and voted to extend the draft (Ely 1990: 906-907).

The public grew more and more impatient. In March 1971, public support for Nixon was at a low to date with 50%. Only 34% approved of his conduct of the war, and 51% were convinced the conflict was morally wrong (Karnow 1991: 647). After the first test of Vietnemization, the invasion of Laos by South Vietnamese troops with American air support had failed in early 1971 (ibid.: 644), a first sign of opposition to the war came from the House, which had been more supportive of the administration than the Senate. In April, the Democratic whip, Thomas P. "Tip" O'Neill (MA), along with a group of colleagues, urged repatriation of all U.S. troops by the end of the year. On June 22, Mansfield prevailed to pass a similar non-binding resolution in the Senate (ibid.: 647). A week earlier, however, on 16 June 1971, the Senate had again defeated the McGovern-Hatfield Amendment which ordered withdrawal by December 31, 1971, by 55-42. The House defeated it 237-147 (Ely 1990: 907).

By early 1972 the troop strength had been continuously reduced, American battle deaths were down to fewer than ten a week, and Kissinger had started secret talks with North Vietnam. Still, the bombing of North Vietnam and Cambodia continued. It even was increased in response to nationwide Communist attacks on March 30, 1972 (Karnow 1991: 655, 658). Refreshing the madman theory, and despite Kissinger's diplomatic attempts, Nixon decided to start bombing the area around Hanoi and Haiphong, which had been banned before, over the weekend starting May 5. On May 8, Nixon further decided to mine Haiphong harbor and to intensify the bombing of North Vietnam, in order to improve Kissinger's position at the negotiating table (ibid.: 660). While the public backed Nixon's actions strongly (Nixon's approval rate went up to nearly 60%, (ibid.: 661)), an amendment was making headway on Capitol Hill that prescribed total U.S. troop withdrawal from Vietnam, contingent only on the release of U.S. POWs. It passed the Senate on July 24. Kissinger later remarked that the Communists merely had to wait until "Congress voted us out of the war" (ibid.).

Kissinger and his North Vietnamese counterpart reached an agreement in October, but, in light of the resistance of the South Vietnamese government, Nixon delayed (ibid.: 662, 666). More restrictions on bombing were lifted, as the JCS had requested so often. The most concentrated air offensive of the war began in December, after Nixon's landslide reelection. There was almost no public response because most
ground troops had come home. Congress was on recess, but the Democrats indicated that they were planning to end the war. When the peace agreement was formally signed on 27 January 1973, it scarcely differed from the October draft. The bombing campaign had been superfluous. Still, the bombing of Cambodia went on, since it was not included in the agreement (ibid.: 667, 669, 671).

After the last American combat troops had left Vietnam in late March 1973 (Ely 1990: 908), and the last known POWs were released on April 1, Congress began to disengage the U.S. completely, undermining Nixon's promise to the South Vietnamese to intervene in case of violations of the peace accord. On June 4, 1973, the Senate passed a resolution sponsored by Clifford Case (R-NJ) and Church to block funds for all U.S. military activities in Indochina, and the House endorsed it (Karnow 1991: 670-71). House and Senate also agreed on an amendment sponsored by Sen. Thomas Eagleton (D-MO) to cut off all funds for the bombing in Cambodia. Nixon vetoed the bill, and Congress could not override it, the House being 35 votes short. On initiative of Fulbright, a modified version of the amendment, which cut off bombing of Cambodia on and after August 15, 1973, was attached to another bill. The Senate passed it 64-26, and the House 266-75, with Eagleton voting against it (Ely 1990: 914-16). On July 1, Nixon signed the bill into law (ibid.: 917).

On July 16, 1973, the SASC began hearings on the secret bombing of Cambodia, which fueled the mood for impeachment, that was widespread after the Watergate revelations (Karnow 1991: 607). On August 14, the bombing of Cambodia was stopped in accordance with the modified Eagleton Amendment; after this date the U.S. could no longer intervene militarily to assist South Vietnam. On November 7, the congressional resurgence peaked with the passage of the War Powers Resolution over Nixon's veto.

The U.S. engagement in Vietnam was a long and unsuccessful type-I military operation. The fairly cooperative Johnson, who was keen on securing domestic support, only committed the U.S. into open warfare after he had obtained congressional authorization. While the Gulf of Tonkin incidents were highly dubious, there is no clear evidence of deceit. Rather, the administration, by a policy of minimum candor and some misinformation, seized the opportunity to get a blank check from Congress. While for the beginning of the bombing campaign and the introduction of the first combat troops no additional authorization was sought, Johnson later enlisted further explicit congressional endorsement through appropriation bills (Fisher 1995: 118-119). Congressional support remained high, despite the conversion of some important figures like Sen. Fulbright to critics. Only when frustration about the lack of success and the high numbers of casualties became steady, Congress started to substantially question presidential policy. The first limitation on military activities was imposed in 1971: the Cooper-Church amendment prohibited U.S. troops to enter Laos and Cambodia. Active U.S. participation in the war dragged on for another four years. Only then, at a time when all U.S. combat forces had been withdrawn, Congress voted to stop all bombing.

3.3. Libya, 1986: Air Strikes

When U.S. Armed Forces bombed sites in Tripoli and Benghazi in April 1986, tensions between the U.S. and Libya had existed for at least six years (cf. LA Times, 16 Apr 1986: 5; NY Times, 20 Apr 1986: 1): As early as in February 1980, the U.S. closed its embassy in Tripoli, after Libyan citizens had set fire to it. In May 1981, the U.S. accused the Libyan diplomatic mission in Washington, D.C. of supporting international terrorism, and ordered Libya to close it. In August 1981, U.S. Navy jets shot down two Libyan fighters over the Gulf of Sidra, stressing the Libyans had fired first. Since 1973, Libya had claimed a 120-mile zone off shore the Gulf of Sidra, whereas the U.S. and most other countries 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 airplanes into the international sea territory claimed by Libya. It also imposed economic sanctions on Libya and repeatedly accused Colonel Qaddafi of sponsoring terrorist actions, such as the terrorist attacks on the Rome and Vienna airports in December 1985. Congressional activity took place on the committee level only. In February 1986, a subcommittee of the Senate Committee on the Judiciary held hearings on Libya's role in supporting terrorism, and on possible U.S. countermeasures (United States 1986b). The use of military force against Libya was not an issue there.
On March 24, Libyan forces fired at U.S. Navy planes, which in turn 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, but made no reference to the WPR in his report (H.Doc. 99-188). Most members of Congress voiced their support, except for HFAC Chairman Dante Fascell (D-FL) and SASC ranking member Sam Nunn (D-GA), who criticized the lack of prior consultation with Congress (CQWR, 29 Mar 1986: 699).

By spring 1986, the Security Planning Group of the NSC had repeatedly discussed how to respond to state-sponsored terrorist attacks (Weinberger 1990: 188). According to officials of the Reagan administration, the JCS had started drawing up target lists for a U.S. military operation against Libya right after the attacks on the Rome and Vienna airports (Wash. Post, 15 Apr 1986: 1). On April 5, 1986, a bomb exploded in a West Berlin discotheque, injuring 230 people and killing a civilian and an American soldier. On subsequent days, U.S. officials accused Libya of being responsible for the attack. On April 7, the Ambassador to West Germany, Richard Burt, pointed out that there was clear evidence for Libyan involvement in the terrorist bombing of the West Berlin discotheque (NY Times, 15 Apr 1986: 11). White House officials said Burt was right, but criticized him for speaking publicly about the matter at that time (Wash. Post, 8 Apr 1986: 21).

The discotheque bombing set the incident for updating plans for air raids against sites in Libya, that had existed for months, but the specifics were decided just a few days before the actual operation. Reagan approved the plan of the JCS shortly after Amb. Burt's statement (NY Times, 15 Apr 1986: 11). Pentagon planners then wanted to strike as soon as possible, in order to keep secrecy, whereas the CIA reportedly asked for more time to get its agents in Libya out of harm's way (Newsweek, 28 Apr 1986: 26-29). That a plan existed was made public as early as April 7 (cf. WS Journal, 8 Apr 1986: 2). On the following days there was open talk in the media about the high likelihood of military action against Libya (cf. the compilation in United States 1986a: 211). On April 9, President Reagan publicly announced his intention to act militarily, if the link between Libya and the terrorists could be confirmed (NY Times, 10 Apr 1986: 1). Nevertheless, Congress remained passive. Except for letters by a bipartisan group of eight legislators to the President (United States 1986a: 281-82) and by SFRC Chairman Richard Lugar (R-IN), to the Secr. of State (Lugar 1986: 47), both calling for consultation with Congress, no congressional action took place prior to the military operation.

From April 11 to 14, U.N. Amb. Vernom Walters was sent to the European allies to ask for their support of an air raid. The French, West German, Italian, and Spanish governments, however, did not approve it. Solely Great Britain backed the U.S. The Reagan administration wanted to conduct a low-level night attack that was likely to lead to the lowest number of own and civilian casualties. For that purpose, the carrier-based Navy planes placed in the Mediterranean were inappropriate. Land-based F-111 bombers were needed. Therefore, the military planners decided to use F-111 stationed in Great Britain. Since France and Spain had denied the U.S. the use of their air space, the planes would have to skirt these two countries and be refueled several times on their way to Libya.

On April 14, 4 p.m. (EST), when the planes were already in the air, the White House called in about a dozen congressional leaders and informed them about the operation. The two-hour meeting started three hours before the raids over Libya were executed. For the administration, President Reagan, Vice President Bush, Secr. of State Shultz, Defense Secr. Weinberger, CIA Director Casey, JCS Chairman Crowe, and National Security Adviser Poindexter were present (ibid.: 47-48). Reagan soon handed over to Poindexter, who laid down the alleged evidence that would link Libya to the Berlin discotheque bombing. None of the legislators raised any serious objections. However, some of them, like House Minority Leader Robert Michel (R-IL), later complained that at this point it would have been impossible for them to stop the action anyway (Time, 28 Apr 1986: 16-27). One participant said the present members of Congress had been informed in a "matter-of-fact manner" (NY Times, 15 Apr 1986: 11).

Eighteen F-111 bombers started the raids, striking in two waves, on April, 15 2 a.m. local time (that is, on April 14, 7 p.m. EST). Supported by carrier-based fighters that attacked and disabled Libyan radar sites with missiles, they bombed a naval base, barracks containing Col. Qaddafi's headquarters, and a military airfield in Tripoli. At the same time, U.S. carrier aircraft hit barracks and an airfield in and near the Libyan port of Benghazi. The actual air raids took about ten minutes. Estimates of the number of Libyan casualties of the air strikes ranged from thirty-seven (Newsweek 28 Apr 1986: 16-17) to over one hundred (LA Times, 18
Apr 1986: 2), some of whom were civilians. In a residential area, a few buildings were damaged, including the French embassy. U.S. officials pointed out that missiles unsuccessfully fired by the Libyans could have caused the "collateral damage." Military experts, however, viewed this as technically impossible (NY Times, 17 Apr 1986: 28). The U.S. lost one F-111, manned by two Air Force officers. The President reported the air strikes to Congress on April 16. Stressing the "right of self-defense under Article 51 of the United Nations Charter", he provided the report "consistent with the War Powers Resolution" and "pursuant to my authority (...) as Commander in Chief of United States Armed Forces" (H.Doc. 99-201).

The response of the U.S. public to the air strikes was extremely positive. Several polls, taken on the following days, indicated approval rates of the raid ranging from 71% to 76%, with majorities even among Democrats, women, and African Americans, groups often critical of military operations. President Reagan's overall approval rating reached 70% (Newsweek, 28 Apr 1986: 22; Time, 28 Apr 1986: 16-27; Wash. Post, 30 Apr 1986: 4). Public statements issued by members of Congress during those days showed that Congress was also very supportive of President Reagan's decision (cf. LA Times, 15 Apr 1986: 1; NY Times, 15 Apr 1986: 10; Wash. Post, 15 Apr 1986: 21, NY Times, 16 Apr 1986: 17; CQWR, 19 Apr 1986: 839). Except for HFAC Chairman Fasell, every congressional leader who spoke to the press indicated his support of the military operation, and only very few legislators displayed a general disapproval of it. There was, however, a general disappointment with the way the administration circumvented substantial consultation with Congress, which was especially expressed by Democrats. On the other hand, the released statements indicate that overall Democrats were not more critical of President Reagan's decision than Republicans.

In the following weeks, several congressional initiatives took place as a response to the air strikes. On April 17, Republicans introduced an anti-terrorism bill in the House (H.R. 4611) and the Senate (S. 2335), to give 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" (United States 1986a: 218-22). In these cases the Act would have superseded the WPR, nullifying both its consultation and its durational-limit provisions, and extending the time within which the President would have to report to Congress from 48 hours to 10 days. Both bills died in committee. The House approved H.Res. 424, which thanked the British government and people for their assistance. On April 29, May 1 and 15, the Subcommittee on Arms Control, International Security and Science of the HFAC held "Hearings on War Powers, Libya, and State-Sponsored Terrorism". A number of legal experts as well as members of Congress testified (cf. United States 1986a: 5-205). Finally, on May 8, a group of Democrat Senators proposed to amend sec. 3 of the WPR by establishing a permanent congressional body for presidential consultation with Congress (ibid.: 216-17). The bill (S.J.Res. 340) died in committee.

The air strikes were a short and successful type-I military operation, ordered by a non-cooperative President, who faced a passive Congress. Congress was almost totally excluded from the decision-making. Plans for a retaliatory military operation, however, had become apparent at least one week in advance. Thus, Congress had time to become active on the matter, but it chose not to do so. At the time of the briefing of congressional leaders, the military operation was already under way. It was probably impossible for the legislators present to exert influence anymore. Thus, post-hoc evaluation was the viable option remaining for Congress. Here, the only critical motion was the bill aimed at improving the consultation provisions of the WPR. All other congressional actions indicated support of President Reagan's decision.

As a presidential decision to unilaterally engage in an act of war, the air strike case confirms the descriptive premises of this study. The administration's claim that the operation had been an act of self-defense in accordance with Art. 51 of the U.N. Charter is at least questionable (cf. the statement by Archibald Cox in United States 1986a). It was no repel of a sudden attack, and no defense of U.S. territory, property, armed forces, or citizens. Yet Congress stayed passive, and then, in light of the apparent success of the operation and its popularity with the American public, displayed support of the President's decision. The incident is a model case for the rally effect, both among the population, as well as in Congress itself. Even liberal Democrats like Sen. Edward Kennedy (D-MA) made statements like "all Americans should stand with the commander in chief at this moment" (Wash. Post, 15 Apr 1986: 21). The President, in turn, masterfully used the two factors that often enable him to usurp congressional war powers: by successfully stressing that the raid as a bold strike against international terrorism, he was able to activate a broad policy con-
sensus among legislators and the public. In addition, and maybe even more importantly, the decision to start the military operation without asking for congressional authorization first, led to a strong rally-'round-the-flag effect, shaping the reaction of Congress. Opposing the President at this point would have imposed political costs on lawmakers that appeared too high to bear for most of them.


Ever since Great Britain had facilitated their partition, tensions had existed between Iraq and Kuwait, because Iraq insisted on Kuwait being a part of Iraq. After coming to power in 1979, Saddam Hussein at first kept amicable relations with the Gulf states, since he needed their support in the war against Iran. When Saddam's hegemonic aspirations were frustrated and Iraq's economic situation deteriorated, it became more dependent on oil export revenues than ever. In July 1990, Saddam demanded that Kuwait must obey the OPEC oil quotas it had agreed to and that it also accept border changes. Only two weeks later, after talks with the Emirs had failed, Iraq invaded and occupied Kuwait on August 2, 1990 (Brune 1993: 30-37).

After the Iranian Revolution of 1979 and during the Iran-Iraq War, the U.S. had given Iraq considerable support, regarding it as a moderate state that could counterbalance the fundamentalists in Iran. In October 1989, President George Bush had issued an executive order to continue the attempts of building 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. Bush merely ordered a freeze of all Iraqi assets in the U.S. and a termination of all trade. Neither a joint statement by Secr. 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 (ibid.: 52-56). This corresponds with the pre-invasion remark the U.S. ambassador to Iraq, April Glaspie, made to Saddam on July 25, that the U.S. had no opinion on Iraq's border disagreement with Kuwait (Smith, 1991: 56), and with Assistant Secr. of State John H. Kelly's statement in hearings of the Middle East Subcommittee of the HFAC on July 31, 1990, that no treaty would oblige the U.S. to engage U.S. forces there (ibid.: 59-60).

Informed by King Hussein of Jordan that Iraq would withdraw soon, Bush agreed not to threaten Saddam for forty-eight hours. Before a meeting with British Prime Minister Margaret Thatcher in Aspen, CO on August 2, he stated, "we're not discussing intervention." (ibid.: 64). Apparently, Thatcher encouraged him to take a tough stand, since afterwards he stressed not to rule any options out. (Brune 1993: 55). Bush urged the international community to condemn the "naked aggression" and ensure that Iraqi forces leave Kuwait (Smith 1991: 66-67). On the next morning, at an NSC meeting, he underscored his determination to intervene. The NSC accepted the policy change without discussion (ibid.: 68-69). Bush instructed Defense Secr. Richard Cheney and the Chairman of the JCS, Colin Powell, to lobby Saudi Arabia to accept American troops. Simultaneously, the administration started a press campaign emphasizing the threat to Saudi Arabia, which, however, neither the CIA nor the DIA believed probable at the time (ibid.: 75-79).

Capitol Hill's initial reaction to the Iraqi invasion of Kuwait was similar to Bush's. Sen. Sam Nunn (D-GA), Chairman of the SASC, told reporters on August 2, the U.S. had no military obligation and should concentrate on diplomacy (Smith, 1991: 18). But just as the NSC, Congress immediately accepted the decision to defend Saudi Arabia. House Speaker Tom Foley (D-WA), Senate Majority Leader George Mitchell (D-ME), and Senate Minority Leader Robert Dole (R-KS) had been briefed prior to Bush's announcement, and supported the President. At this time House and Senate had already adjourned and most members were organizing their campaigns. Some members expressed concern about the seemingly open-ended commitment. Nunn, who was running for reelection, said that a limited engagement would be backed by Congress. Sen. Alan Cranston (D-CA), the majority whip, reminded Americans of the Vietnam experience. Rep. Lee Hamilton (D-IN), the Chairman of the House Subcommittee on the Middle East, emphasized the need for diplomacy. Rep. Patricia Schroeder (D-CO) said that sanctions should be given a chance and that she preferred this to be a U.N. rather than a U.S. action (ibid.: 102-103).

At a NSC meeting at Camp David on August 4, Powell and Gen. Norman Schwarzkopf demanded clear objectives and stressed that force, if to be used, would have to be used decisively. Schwarzkopf made clear
that ground forces would be needed (Woodward 1991: 251). Yet, no progress with King Fahd of Saudi Arabia or other Arab leaders, except for the Egyptian President Hosni 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: 89). After a meeting with Cheney on August 6, King Fahd finally agreed to ask for U.S. help. On the same day, the U.N. Security Council passed a resolution to impose economic sanctions on Iraq (ibid.: 91-94). Two days later, in a televised announcement of his decision to intervene, Bush 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: 57). The administration first spoke of 50,000 troops, but an Army Gen. soon leaked the real number of 250,000 to AP (Smith 1991: 104-105). In early August, support of the President was overwhelming. His personal rating went up from 55% before the invasion of Kuwait to 76% by mid-August (ibid.: 162). A Washington Post-ABC News poll showed that 74% supported Bush's decision to defend Saudi Arabia. 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 (ibid.: 103). Apparently, Bush's televised speech and the media campaign had led the public to expect an Iraqi attack on Saudi Arabia.

On August 8, the first fighter planes and troops arrived at Saudi bases (Brune 1993: 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. On August 9, Bush reported the deployment to Congress, "consistent with the War Powers Resolution," without citing Sec. 4(8)(a), the section that triggers the sixty/ninety days provision. Bush told congressional leaders that he did not think hostilities were imminent, and no reference was made to possible offensive action (Collier 1994a: 28). The only note of caution from Congress came from Sen. Claiborne Pell (D-RI), Chairman of the SFRC, who emphasized that Bush must obtain formal congressional approval in the event of hostilities. "This is the law," Pell said (Smith 1991: 109).

During the following days, Bush made progress on bringing the alliance in line. On August 12, he ordered the Navy to enforce the U.N. sanctions. Congress did not react. On August 18, U.S. ships fired warning shots at Iraqi tankers. Five days later Bush for the first time publicly acknowledged that offensive action was an option (ibid: 138). Individual members of Congress, like Sen. Tom Harkin (D-IA), Patrick Moynihan (D-NY) and John McCain (R-AZ), reacted with cautioning appeals (ibid: 140). When Bush ordered the first fifty thousand reservists to active duty on August 21, Sen. 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" (ibid.). On August 28, the President briefed key members of Congress about the attempts to persuade Saddam to withdraw by employing overwhelming force. The members supported this policy. The question of invoking the WPR 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 (ibid.: 143-144).

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 HFAC on September 4, the administration rejected the idea of giving Saddam a face-saving exit (ibid.: 144-149). A week later, 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 the Kuwaiti government, stability of the Persian Gulf, and the protection of U.S. citizens. He did not mention specific military actions (ibid.: 158).

At a meeting on September 21, the congressional leadership was critical when Bush laid out a number of events that could trigger a war (ibid.: 160). Nevertheless, in the following days both Houses passed resolutions which indicated support of the administration, albeit without endorsing the use of force (Collier 1994a: 28; Smith 1991: 161). In the Senate only Mark Hatfield (R-OR), Bob Kerrey (D-NE), and Edward Kennedy (D-MA) dissented (ibid.: 172). The public was not ready for intervention in August and September, but the percentage of those favoring invasion of Iraq rose from 38% on August 8 to 48% by September 9, according to Washington Post-ABC News polls.

In early October, because of growing tensions, Bush came under increased pressure from Congress for greater consultation. 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. The
measure was sharply debated, but no action was taken (ibid.: 172-173). In a testimony before the SFRC on October 17, Secr. of State Baker said the President was ready to consult with the congressional leadership but as commander-in-chief did not need advance approval for the use of force. Paul Sarbanes (D-MD) and other Senators objected. Yet Baker repeated his opinion to the HFAC on the following day (ibid.: 193-194).

On October 24, Bush and Cheney decided to use force if Iraq would not leave Kuwait. Later on the same day, the administration again briefed congressional leaders, without revealing that they were contemplating offensive action. On the following day, though, Cheney publicly announced reinforcements to "provide a credible option for potential offensive action" (ibid.: 195-197). The congressional leadership was stunned. Yet neither House nor Senate acted. On October 30, the leaders urged Bush not to order offensive operations without approval. Bush stated that he was willing to consult with Congress but declined to seek advance approval. Sen. Cohen noted there obviously was a difference in opinion about who had the power to start hostilities (ibid.: 198). Yet, Congress did not act, possibly because the members were preoccupied with the upcoming elections. On October 31, Bush signed the order to double the forces of Central Command, as Powell and Schwarzkopf had demanded. Initially, there was no public announcement, and Congress was not notified (Woodward, 1991: 310-319); only the allies were informed by Baker, who was preparing for a U.N. Security Council resolution authorizing the use of force (Smith 1991: 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 reinforcement of Central Command. Nunn and Les Aspin (D-WI), Chairman of the HASC, had been informed one hour before the press conference (Smith 1991: 201-202). At the time, Congress was not in session, and the new Congress would not commence until January. Nevertheless, several members made critical statements. William Broomfield (R-MI), ranking member of the HFAC, criticized the lack of consultation with Congress (ibid.: 204). Sen. Pell repeated, the President had no authority to initiate hostilities without clear expression of congressional support (ibid.). On November 11, the Democrats finally began questioning the buildup. Nunn, Mitchell, and Moynihan criticized Bush on various TV shows. Joint statements by Foley and House Majority Leader Richard Gephardt (D-MO), and by Mitchell, Pell, and Nunn urged the President to explain to the American people the objectives of the military operation in the Gulf. The Senate Democrats announced joint hearings by the Foreign Relations and Armed Services Committees (ibid.: 204-207). Bush again had no difficulty reassuring the leadership. After a meeting with two dozen congressional leaders on November 14, Foley said Bush had informed them that the defensive policy had not changed and that sanctions were not written off. Bush, however, remained intransigent regarding his commander-in-chief powers, while Congress still insisted on the necessity of congressional approval of any offensive action. Bush then decided that a U.N. resolution offered the best solution to the question of congressional authorization (ibid.: 207).

With the leadership inactive, the congressional rank and file tried to reassert Congress's position. On November 20, Rep. Ron Dellums (D-CA) and fifty-three members of Congress, sued Bush in order to keep him from initiating hostilities without congressional approval. The District Court eventually dismissed the suit on the basis of lack of ripeness for decision, i.e. the notion that no constitutional impasse existed since Congress had not used its institutional powers, but it also rejected the administration's arguments that the issue was a non-disputable political question (Collier 1994a: 29-30).

On November 27, Senate hearings on U.S. policy in the Gulf began. Nunn doubted the wisdom of military action at his time. Admiral William S. Crowe and Gen. David C. Jones, both former JCS Chairmen, said sanctions should be given more time (Brune 1993: 89). But Bush's rationale worked. When on November 29 the U.N. Security Council, had authorized the use of force by January 15, 1991 (Res. 678), congressional opposition was almost broken (Smith 1991: 216-217). Bush's announcement of Baker's peace mission to Baghdad then fully disarmed congressional criticism. Since Baker had no mandate to negotiate, the mission was probably mostly meant to win back domestic support and take the edge of congressional criticism. Bush's relations with Congress improved, although his request for a blank check resolution was denied at a meeting on November 30. Foley insisted, "if you decide to go to war, you'll have to come to Congress," and Mitchell concurred (ibid.: 218-220). On December 3, Cheney and Powell went before Nunn's committee. Cheney restated the position that the President could initiate hostilities without advance 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. Yet when Baker
testified on December 5, he only repeated Cheney's point. Again, Sarbanes, Nunn, and Kerrey sharply criticized the administration for rushing the nation into war (Smith, 1991: 226-228).

Mitchell and Foley agreed to keep the new, 102nd Congress in session after its convention on January 3 (usually it immediately recesses). The leadership was not sure whether Congress should go on record before the U.N. deadline for Saddam's withdrawal expired. Mitchell believed Bush was just threatening war to avoid it and that he would not need approval for this policy. Meanwhile, maybe fostered by the absence of sustained congressional criticism, public opinion had shifted toward the administration. A majority favoring offensive action if sanctions failed was revealed for the first time in a Washington Post-ABC News Poll of November 6. At that time the American people were not informed about the decision to double the troops in the Gulf. 70% believed the U.S. would be involved in a war. While two thirds said Bush should seek 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: 94; Smith 1991: 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%. 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 the general public supported economic sanctions and the defense of Saudi Arabia. After November 8, however, outspoken protest grew steadily (Brune, 1991: 75-79). There was considerable open support as well, manifested, among other things, by the thousands of flags flown on American homes.

On December 29, after the end of Nunn's hearings, Bush authorized Powell to prepare for the attack that would begin on January 17, 1991, 3 a.m. 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, 1991, Bush emphasized his resolve to go ahead without Congress. It was discussed 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: 237-238). At a January 3 meeting with the congressional leadership, Bush again failed to obtain a broad endorsement for his policies. Mitchell and Nunn were determined to prevent Bush from going to war without congressional authorization. Kerrey and Sanford were against war altogether, and even Dole expressed reservations. Congress decided to go on record. 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 Foley, Mitchell, Dole, and House Minority Leader Robert Michel (R-IL) (ibid.: 241-244). Still, Bush asked his advisers for legal opinions on the question of whether he could start the war without congressional approval. His advisers thought he could, but noted that Congress could cut the funds (Woodward 1991: 357-358).

Baker's mission to Geneva forestalled congressional opposition. Mitchell urged that no resolutions on the crisis should be discussed or passed until January 23, but was pressed to put the Gulf crisis on the agenda for January 10. Even Dole supported the move. On this occasion, Harkin commented on 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: 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, being opposed himself, said he expected the House to narrowly support Bush (Smith 1991: 240-241).

When the debate began on January 10, two 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, a reference to the exclusive authority of Congress to declare war. The administration's measure, which was to authorize the President "to use United States Armed Forces pursuant to United Nations Security Council Resolution 678" (ibid.: 245) to liberate Kuwait, was introduced in the House by Stephen Solarz (D-NY), HFAC Chairman Dante Fascell (D-FL) and Michel, and in the Senate by John
Warner (R-VA), Ranking Member in the SASC. The resolution provided explicit statutory authorization as required by the WPR. As Fascc put it, it was a "practical equivalent of a declaration of war" (ibid.). 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. Sen. Orrin Hatch (R-UT) argued that congressional unity would maximize pressure on Saddam, making war unnecessary. Many legislators used the Hitler-Munich analogy and the alleged atrocities of Iraqis in Kuwait to justify the use of force (Brune; 1993: 96-98). Others, like Kennedy, did not principally argue against force either, but questioned the timing (Smith 1991: 246).

On 12 January, 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 had crossed party lines. In the Senate Nunn's measure was defeated 46-53, and the administration won with 52-47. Two Republican senators, Hatfield and Charles E. Grassley (IA), voted against the President and ten Democrats voted in favor. There was no celebration after the vote, 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: 98-99). The televised debate had lasted three days. In the House 223 of 435 members had spoken (ibid.: 95). Explaining why so many members had wanted to speak, a congressional aide said later, that the vote was the most difficult one to cast for a member of Congress. 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: 189-192). Bush signed the resolution into law on the next day but used the opportunity to restate his view of the constitutional issues, namely his authority "to use the Armed Forces to defend vital U.S. interests" (Smith 1991: 249).

After the failure of the Baker-Aziz talks, Baker flew on to King Fahd to ask for permission of launching an attack. On January 14, at the last briefing for congressional leaders before the beginning of the attack, Bush did not reveal that the initial order to commence hostilities on January 16 (EST) had been given already. Nunn summed up the mood: "It's time for America to stand together" (ibid.: 244, 249-250, 255). On January 17, 2:40 A.M. Iraqi time, the allied air attack began with massive air strikes and missile attacks on Iraq and the Iraqi troops in Kuwait. 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. The ground war lasted only 100 hours. A cease-fire was declared by President Bush on February 28. Iraq accepted the U.N.'s cease fire terms on April 5 (Brune 1993: 105-120). The U.S. 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 (ibid.: 121-122; Smith 1991: 9).

After the end of the successful war, many members of Congress tried to dissociate themselves from any past votes that could appear soft on Saddam Hussein (Newsweek 20 May 1991: 10). Most legislators now commended President Bush for his leadership. Only the populist Rep. Henry Gonzalez (D-TX) charged Bush with ignoring the WPR and with bribing allies to get the necessary votes in the Security Council, and called for a resolution to impeach George Bush (Conroy 1991). In the context of the so called Iragate scandal, Gonzalez also accused the administration of tolerating Iraq's past diversion of U.S. loans to buy arms. Gonzalez' charges did not have an effect.

Operation "Desert Shield" was a type IIb case. U.S. Armed Forces were deployed in 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. It was a short and successful type-I military operation with few U.S. casualties. The public broadly supported the deployment of U.S. forces to defend Saudi Arabia. The offensive option also found sufficient support, but it was also vigorously opposed by a strong minority. The country was deeply divided over the issue. President Bush consistently tried to avoid any meaningful congressional participation in the decision-making process. He did not consult with Congress, and repeatedly even decided not to inform it of decisions already taken. He was determined to launch "Desert Storm" even without congressional authorization.

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 judgment. Prior to the debate about the decision to go on record with regard to authorizing the use of force, Congress was only partially active. Individual members made statements, committees conducted hearings, and a lawsuit against George Bush was brought forward. The congressional leadership consistently emphasized that offensive actions would require congressional authorization. With its vote to authorize the President to use force, Congress backed the President. At the same time, Congress attempted to exert institutional restraint, and the support was far from being unanimous. There was little post-hoc evaluation of the crisis, with the main focus on the U.S. policy toward Iraq preceding the invasion of Kuwait.


The Somali dictator Mohammad Siad Barre, who had ruled the country for 22 years, was driven from power in January 1991. Barre had acquired massive amounts of weapons from the Soviet Union and, starting in 1978, from the U.S. During 1991, Somalia disintegrated into several heavily armed warring factions, organized mainly among clan lines. The civil war coincided with a prolonged drought, eventually leading to the collapse of the food distribution. By mid-1992, about 30 percent of the Somali population were facing starvation. About a quarter million people had already died.

The U.N., while noticing the critical situation, at first took only modest action: plans to deploy 3,500 security guards to Somalia (Res. 751, April 24, 1992), faced substantial opposition of Somali faction leaders. At least an agreement could be reached to let in 500 U.N. troops, and on August 28, Security Council Resolution 775 authorized the increase in the strength of UNOSOM (U.N. Information Notes 1994: 100).

In the U.S., however, mass media and legislators, like Sens. Nancy Kassebaum (R-KS), Paul Simon (D-IL), or members of the House Select Committee on Hunger, called for a stronger engagement in Somalia to protect food shipments (CQWR, 25 Jul 1992: 2185). On August 3, the Senate approved S.Con.Res. 132, asking the President to urge the U.N. "to deploy a sufficient number of security guards" (CQWR, 8 Aug 1992: 2383), and a week later the House passed an identical resolution, H.Con.Res. 370. When the Bush administration, which had previously viewed the deployment of troops as premature as long as there was no cease-fire in Somalia (CQWR, 25 Jul 1992: 2185), announced plans on September 16, to position four ships with 2,100 Marines near the Somali shore to support an airlift of U.N. peacekeepers, some legislators criticized the U.S. action as insufficient (CQWR, 19 Sep 1992: 2835). On November 25, then, President George Bush, made another step and, without public notice, offered U.N. Secr. General Boutros Boutrous-Ghali the deployment of a large U.S. force to pacify Somalia (CQWR, 5 Dec 1992: 3762). A few days later the U.N. Security Council could adopt Resolution 794, authorizing the use of all force needed for the resumption of the relief efforts. It implicitly secured a U.S. command of the troops to be deployed, a condition on which the U.S. had insisted (ibid.), but it was up to the U.N. Security Council to decide when to terminate the operation (U.N. Information Notes 1994: 103). Operation Restore Hope could begin.

The so-called United Task Force consisted of up to 10,000 Army troops and 16,000 Marines, the first of whom landed near Mogadishu on December 9. Reaching its upper limit of 26,000 troops in late January 1993, by March the U.S. deployment had been cut back to about 10,000. Operation Restore Hope lasted till May 4, 1993, when the U.S. handed the responsibility over to the U.N. again. Congress first displayed full support of the President's decision. In December, virtually all lawmakers issuing statements commended Bush, as did President-elect Bill Clinton (cf. CQWR, 5 Dec 1992: 3759-62, 3766).

On December 10, President Bush, "consistent with the War Powers Resolution", reported the troop deployments to Congress. Bush stressed he had taken into account the views expressed in H.Con.Res. 370 and S.Con.Res. 132, and underscored that no involvement in hostilities was intended (CQWR, 12 Dec 1992: 3807-08). Members of the HFAC raised questions about the long-term development and the possible termination of the operation already in December (CQWR, 19 Dec 1992: 3890), and the prospective HFAC Chairman Lee Hamilton (D-IN) promised action by the new Congress in 1993, to provide statutory authorization of it (CQWR, 5 Dec 1992: 3760). At first, however, only the Senate made a step in this direction. S.J.Res 45, the "Somalia troop authorization", sponsored by a bipartisan group, was to authorize the President to use all
means necessary to implement U.N. Security Council Resolution 794. It set no time limit but urged the President to consult with the U.N. Secr. General to arrange a follow-on U.N. peacekeeping force (Wash. Post, 5 Feb 1993: 10). The bill was adopted on February 4 and sent to the House, which took no action on it before April 22, when the HFAC Subcommittee on Africa approved an amended S.J.Res. 45: a one-year deadline for U.S. participation in the follow-on U.N. operation UNOSOM II was added. Republicans had wanted a more limited authorization, including a six-month deadline. Rep. Dan Burton (R-IN) even called the resolution a "Gulf of Tonkin for Somalia" (CQWR, 24 Apr 1993: 1033). The full HFAC approved the amended bill on May 5. The House passed it on May 25 (243-179), the vote falling along party lines. It was then sent back to the Senate, which, in turn, did not act on it anymore.

In the meantime, the U.N. had prepared for taking over the responsibility of the operation again. Security Council Resolution 814, adopted on March 26, laid out the objectives of UNOSOM II: help in the provision of relief efforts, assistance in restoration of peace and order as well as political reconciliation; it also stressed the importance of disarmament in Somalia (Copson 1993: 5-6). Thus, the resolution recognized that the operation had never been a pure food relief effort, since there were continuing hostilities between the forces of different clan leaders. It also allowed for a further step from humanitarian assistance to nation-building in Somalia. On May 4, Operation Restore Hope came to an end. The remaining 3,000 U.S. combat supply troops, now part of UNOSOM II, reported through the deputy commander, a U.S. officer.


While the Clinton administration had planned to focus on domestic issues, the Somalia crisis had now become of major concern. Clinton kept Congress updated with reports on June 10 and July 1. HFAC Chairman Hamilton endorsed the operations against Aidid (CQWR, 19 Jun 1993: 1590), but Sen. Jesse Helms (R-NC) and Rep. Benjamin Gilman (R-NY), ranking members of the SFRC/HFAC, stressed in a letter to the State Department, the hostilities of June 5 had triggered the sixty-days clock of the WPR, and that congressional authorization or the pullout of the U.S. forces were required. The State Department contested their position (Collier 1994a: 35). Bills introduced by Rep. Brown (D-OH) and Rep. Mica (R-FL), both urging the withdrawal of the troops as early as possible, died in committee (Copson 1993: 15).

Violence continued in Somalia, as a remote-controlled bomb killed four U.S. soldiers on August 8, seven Nigerian troops were shot on September 5, allegedly by forces associated with Aidid, and a helicopter with three U.S. soldiers was downed on September 25. Accordingly, congressional criticism of the U.S. engagement grew. On September 9, the Senate adopted (90-7) an amendment by Sen. Robert Byrd (D-WV) to the defense authorization bill, obliging the President to declare objectives and duration of the Somalia operation in a report to Congress by October 15, and to seek congressional authorization for its continuation by November 15 (Copson 1993: 8). Three weeks later, the House adopted (406-26) a similar amendment to its defense authorization bill. When in a failed attempt to catch key aides of Aidid on October 3 and 4, eighteen U.S. Rangers were killed, seventy-eight wounded, and one American captured, voices on the Hill calling for an instant removal or at least for clearer objectives, became even louder. In a letter to the President, 142 House Republicans urged the removal of all U.S. soldiers (CQWR, 9 Oct 1993: 2750). Others, like Hamilton or Sen. Richard Lugar (R-IN), however, warned against a hasty withdrawal (Wash Post, 5 Oct 1993: 25). President Clinton ordered a reinforcement of 600 troops, but stressed the goal was to prepare for withdrawing all U.S. forces as soon as possible (ibid.: 1). Secr. of State Warren Christopher and Secr. of Defense Les Aspin were facing substantial criticism at a briefing of some 200 members of Congress on Somalia on October 5 (Wash. Post, 6 Oct 1993: 1). Still, Senate Minority Leader Robert Dole (R-KS) calmed down his colleagues by reminding them of the American held hostage, and SASC Chairman Sam Nunn (D-
GA) delayed the debate on the defense appropriations bill, which contained an amendment by Sen. Byrd, that was to cut off funds for the troops by December 31 (CQWR, 9 Oct 1993: 2750). The Senate leadership was willing to give the administration some time to review and redesign their Somalia policy. On October 7, the President consulted with congressional leaders (Wash. Post, 7 Oct 1993: 37). During the following days, a group of Senators around the Majority and the Minority Leader tried to head off Sen. Byrd's amendment, an amendment apparently enjoying considerable support among Senators (NY Times, 12 Oct 1993: 1).

By now, public opinion had become very unfavorable of the U.S. engagement. According to a Gallup poll of October 5, 52 percent of the Americans viewed the deployment of troops to Somalia as a mistake, 43 percent wanted prompt and another 26 percent gradual withdrawal (USA Today, 6 Oct 1993: 2). Still, when President Clinton announced the new policy of the administration: temporary reinforcements (1,700 Army troops, 3,600 Marines offshore) in preparation for a withdrawal by March 31, 1994 (CQWR, 9 Oct 1993: 2750), 56 percent did approve it, according to another poll from October 10 (USA Today, 12 Oct 1993: 5).

The situation in Somalia eased somewhat, when Aaid declared a unilateral cessation of hostilities against UNOSOM II on October 9; the U.S. forces suspended their offensive operations four days later (Copson 1993: 1-2). On October 14, Aaid also released the captured U.S. soldier. Reportedly, at that time the U.S. had informally retreated from its goal to arrest Aaid, seeking a truce with the Somali warlord (NY Times, 14 Oct 1993: 1). On the Hill, confrontation was also averted. Obeying the non-binding resolutions adopted by the Senate (9 Sep) and the House (28 Sep), Clinton submitted a lengthy report to Congress, reiterating the points he had made on October 7. Byrd was now willing to include in his proposal February 1 as a withdrawal date (Wash. Post, 14 Oct 1993: 1). The Senate further watered it down, and on October 15, it adopted (76-23) an amendment to the Defense Department Appropriations Act that stipulated to cut off all funds for U.S. military operations in Somalia by March 31, 1994, unless Congress grants further spending authority. It also endorsed the President's policy, limited military operations to the protection of U.S. personnel and bases and to direct support of the relief efforts, and required U.S. troops in Somalia to be under command and control of a U.S. officer (Copson 1993: 8). An amendment by John McCain (R-AZ) and others, requesting a prompt withdrawal, was defeated (61-38) (CQWR, 16 Oct 1993: 2823).

On October 19, the President ordered the withdrawal of 750 Army Rangers, which had been used in the attempts to capture Aaid. Also, a State Department official announced before the SFRC the termination of U.S. efforts to seize the General (Wash. Post, 20 Oct 1993: 1). Still, Congress kept its critical mode. The House sent a warning signal to the President on November 9 by approving (224-203) H.Con.Res. 170, introduced by Gilman, which requested a pullout by January 31, 1994. All but three Republicans voted for the measure. Several lawmakers, however, indicated they had done so because it was non-binding. Accordingly, the House also adopted an amendment by Hamilton to include March 31, 1994 as the deadline, and the next day it approved the conference report on the Defense Department Appropriation Act, with the March 31 deadline (CQWR, 13 Nov 1993: 3139). Still, the Byrd amendment, which became law when the President signed the bill on November 11 (P.L. 103-139, Sec. 8151), marked the first time after the Vietnam War that both Houses of Congress had voted to cut off funds for an ongoing overseas military operation.

The U.N. Security Council renewed the mandate of UNOSOM II on November 18, 1993 (Resolution 886) and on February 4, 1994 (Resolution 897) (U.N. Information Notes 1994: 115-120). The U.S., however, made steady preparations for the withdrawal of their forces. By March 21, 1994, most of the U.S. troops had left the country (CQWR, 26 Mar 1994: 750-54). Congress appropriated funds for the few remaining military personnel until September 30, 1994, but not thereafter (P.L. 103-335, Sec. 8135). UNOSOM II continued for another year, but still it could not facilitate any solution to the problems in Somalia. When in the first week of March 1995, 2,000 U.S. Marines, along with 300 Italian soldiers, landed on the shores of Mogadishu, in order to secure the final withdrawal of all forces under the auspices of the U.N. (NZ, 1 Mar 1995: 1), they completed an operation that had cost the life of thirty-six U.S. and 121 U.N. soldiers from other countries, and they left behind a conflict as unresolved as it had been more than two years earlier.

The U.S. engagement in Somalia was a long and unsuccessful type-IIa military operation. Both Bush and Clinton were influenced by Congress and displayed a fairly cooperative behavior toward the legislature. Clinton repeatedly consulted with legislators and obeyed congressional requests. At the same time, both Presidents did not actively seek statutory authorization of the operation, and they acted without obtaining it.
Congress was not involved in the change from a troop deployment to secure food shipments to a military engagement aimed at catching a Somali warlord. Congress at first encouraged and even urged the President to deploy troops. It supported the operation but was slow to authorize it. While some critical voices were raised on the Hill from early on, congressional criticism only became substantial, when the military success was lacking, the number of casualties grew, and public support in the U.S. began to deteriorate. In the fall 1993, criticism turned into strong congressional restraint of the President. For the first time since the end of the Vietnam War, Congress used its most effective tool, the power of the purse, to cut off funds for an ongoing military operation. Many Republicans were much more critical of Clinton's policy than Democrats.

4. Comparative Analysis and Conclusions

In accordance with most observers, we have argued that Congress has only played a minor role in decisions on the use of U.S. Armed Forces after the end of World War II. Our case studies support this proposition. Only in one of the five cases analyzed there was substantial restraint in the early phases of the decision-making process. During the Dien Bien Phu crisis of 1954, the congressional leadership expressed firm opposition to unilateral actions of U.S. armed forces. This restraint, however, was not as strong as assumed in early studies. First, the opposition was only directed against unilateral intervention. While Congress did not endorse multilateral intervention, it did not speak up against it either. The failure of "United Action" was not caused by congressional opposition but by international factors, namely British and French unwillingness to participate in such "United Action." Second, nothing points to the assumption that the Eisenhower administration had wanted war. They were as reluctant to engage U.S. Armed Forces in Indochina as Congress. In another case, the Libya air strikes, there was no congressional restraint at all. In the three remaining cases (Vietnam, Persian Gulf, Somalia), restraint was almost completely lacking during the early phases of decision-making. Congress did participate in the early decision-making processes of the Vietnam War and of Operation Restore Hope, but this did not amount to procedural restraint, let alone restraint on substance matters. In the Vietnam case, Congress was asked to delegate broad authority to President Johnson and promptly and almost unanimously agreed to do so. In the Somalia case, Congress had even urged the President to intervene. The presidential decision to deploy troops to Somalia, then, was made without any consultation or other participation of Congress. The legislature played a role neither in the decision leading to Operation Desert Shield, nor in the preparation for Desert Storm. Both in the Vietnam War and in Somalia, congressional restraint, symbolic at first, then substantial, materialized in the later periods of the conflicts following growing dissatisfaction with the course of events. In the later phases of the Persian Gulf crisis, first the leadership, then a strong rank and file faction, and finally the whole Congress expressed procedural restraint by going on record with regard to offensive actions. A strong minority of Congress that preferred to stay with the U.N. imposed sanctions tried to substantially prevent the President from using force at that time.

Employing the set of ideal-type factors that we have outlined in chapter 2.2, we will now explain congressional behavior in the cases analyzed, both in chronological order as well as in a comparative fashion.

We have argued that the presence of certain policy- and politics-related factors keep Congress from restraining the President. The constraint in the Dien Bien Phu crisis does not contradict this argument. The conditions limited the impact of both policy and political-costs factors. The policy consensus on the importance of actively containing communism was weakened by the fresh memories of the Korea experience and by anti-colonialism. One year after the Korean War there were many reservations among members of Congress as well as in the public at least about unilateral intervention. Many legislators were even against intervening at all in support of a colonial power. With Congress appropriating billions of dollars to support the French in Indochina, anti-colonialism obviously was not strong enough to seriously offset the containment consensus; still, it did have an impact. Political costs, in our view the central factor to explain congressional inaction, could not come into full effect, because there was no substantial number of U.S. troops "in the field." Bold action of the President, that could have created a rally-effect was also lacking. Legislators did not have to fear reproaches of being unpatriotic for setting conditions on intervention.
President Eisenhower's cooperative behavior substantially enhanced the congressional willingness to act. It gave Congress ample time to express its concerns, and it prevented political-costs factors from having a strong impact on Congress. The position taken by Congress after the fall of Dien Bien Phu, however, was influenced by the logic of political costs. Especially Republicans, who had blamed Democrats for "losing China to communism," were now facing similar accusations themselves with respect to Indochina. Hence, they became more favorable of (multilateral) intervention. Republican majorities in both Houses of Congress did not guarantee Eisenhower congressional support. Many Republicans were isolationists; Eisenhower had to rely on liberal internationalist Democrats (Anderson 1991: 19; Capitanich 1969: 37). This may have added to his willingness to cooperate with Congress. The President's willingness to cooperate, however, did not lead to a supportive Congress. In line with our theoretical considerations, it enhanced the opportunities for Congress to restrain the President.

Ten years after the U.S. "did not go to war" in Indochina, Congress passed the Gulf of Tonkin Resolution, delegating to the President the power to decide when to wage war on North Vietnam. There was a clear rally-effect immediately after the President's retaliatory action, but the near unanimous passage of the resolution was mainly an expression of the broad policy consensus. Also, Johnson did not have to put pressure on Congress at this point, except perhaps for individual dissidents like Morse. (Later Johnson repeatedly threatened to withhold favors to silence critics.) This is not to say that political motives did not play a role at all. Even critical Democrats had an incentive to support the resolution because they wanted to express loyalty with Johnson in his stand with the hawkish presidential candidate Barry Goldwater. Some members of Congress may also have acted in anticipation of political costs. The two only dissidents, Morse and Gruening, were not re-elected in 1968.

Frustration with the lack of success led to first signs of congressional and public dissatisfaction around the turn of year 1964/65. Still, Congress remained supportive. The President also benefited from rally-effects following decisive action after Vietcong attacks. There was no congressional restraint after the decision to start continued bombing of North Vietnam, and the introduction of the first ground troops in March 1965. On the contrary, when Johnson carefully tried to secure support for his Vietnam policy in May 1965 by explicitly requesting appropriations "for military activities in Southeast Asia" in a supplementary bill rather than as part of an omnibus defense bill, Congress overwhelmingly passed the measure (408-7; 88-3). Johnson had stressed that voting for the bill meant support of his policy. A few members stated for the record that they were not indicating with their vote their approval of an escalation of the war. This is a clear case of responsibility avoidance, just as the later tactics of members of Congress, who voted for appropriations and extensions of the draft, commenting that their votes did not constitute support of the administration but of "our boys in the field" (Ely 1993: 898, 900; Fisher 1995: 118-119).

When Nixon took office, Congress and the public first granted him a bonus despite the general mood of frustration with the course of the war. Already in September 1969, however, members of Congress introduced legislation to return the U.S. troops at a fixed date. Nixon had opened the door for these symbolic actions by starting to bring back increasing numbers of U.S. troops. Nixon-doctrine and Vietnamization-policy indicated that the containment consensus was partially shattered. The American people's willingness to sacrifice American blood in the pursuit of anti-communist goals had decreased. The goals themselves, however, were seen as legitimate as before. Policy factors can only explain in part why congressional restraint turned from symbolic to substantial in 1970/71 (passage of the Cooper-Church amendment). The logic of political costs is much clearer on this point. There is a strong correlation between growing duration and the lack of military success on the one hand, and the timing and increasing magnitude of the actions taken by Congress to restrain the President on the other. It is equally obvious that until very late, Congress, while becoming more and more critical, was not willing to step up and enforce a real policy change. Legislators expressed dissatisfaction with presidential policy but continued to support it. Congress wanted the President to handle Vietnam policy, and it did not want to be blamed for it. Only when the balance of political costs tipped to the side where hanging on to an unsuccessful presidential policy was potentially more costly than opposing the President (Watergate), members of Congress finally used their strongest tool of restraint: they cut funding. Vietnam is a model case for congressional avoidance of political costs.

The air strikes case is also much in line with our arguments. The raids were no repel of an attack, and no defense of U.S. territory, property, armed forces, or citizens. The claim of the administration that the
operation was an act of self-defense in accordance with Art. 51. of the U.N. Charter is highly questionable (cf. the statement of Archibald Cox in United States 1986a). The planning of the air strikes on Libya had been known publicly for about a week prior to the action. Yet, although Congress had both the time and a reason to act, it remained passive. Most members supported President Reagan's anti-terrorism policy. With regard to Reagan's strategy, there are striking differences to Eisenhower's handling of the Dien Bien Phu crisis: by successfully stressing that the raid was a bold strike against international terrorism, Reagan was able to activate broad policy support among legislators and the public. More importantly, the decision to start the military operation without asking for advance congressional authorization led to a strong rally effect, which shaped the reaction of Congress. In light of the apparent success of the operation and its popularity with the American public, Congress displayed support of the President's decision. Opposing the President at this point would have imposed political costs on lawmakers that appeared too high for most of them. Even liberal Democrats like Sen. Edward Kennedy (D-MA) made statements like: "All Americans should stand with the commander in chief at this moment" (Wash. Post, 15 Apr 1986: 21).

The Persian Gulf crisis was the first major test for congressional-executive relations on decisions to use force after the end of the Cold War. The broad policy consensus was gone, and so it surprised many observers how readily Congress accepted President Bush's decision to deploy large numbers of U.S. troops to defend Saudi Arabia. Not even the implicit contradiction between Bush's rationale in sending the troops to Saudi Arabia and the language of his report to Congress alarmed the legislators: Bush had argued that Iraq was about to invade Saudi Arabia, and that the troops were needed to deter such an attack, but in his report he stated that hostilities were not imminent. The latter position was of course taken to prevent any notion that the sixty-days clock of the WPR had been triggered by the deployment. The lack of restraint during the build-up of American forces in Saudi Arabia later enabled the President to capitalize on the deployment's own dynamic. By avoiding responsibility in the early phases of the crisis, Congress maneuvered itself in a position, where it would be facing reproaches of being unpatriotic for calling back the substantial number of U.S. troops that had already been stationed. This dynamic of political costs was strong enough to prevent most members from acting even when Bush first indicated the possibility of offensive action in late August of 1990. Yet, the fact that there was a congressional debate and a vote, shows the other side of the coin. The Bush administration had repeatedly argued the President would not need advance authorization, and Bush did not ask for it. Still, the congressional leadership rejected both Bush's repeated demand for a blank check resolution, and the notion of sufficient presidential war powers. They insisted on playing a part in the decision-making regarding the use of force in the Persian Gulf. Three reasons can account for this determination. First, what was at hand was no minor military operation, it was a full-scale war. The leadership knew that Congress had to insist on its role - or give it up completely by giving the President yet another precedent of unilateral action, this time even without any communist threat. Second, the procedural as well as substantial concerns could be expressed because there was no imminent crisis the President could capitalize on, and not much of a rally effect. There was ample time for members and the public to develop and express an informed opinion. Third, perhaps as a consequence of this, the public was divided on the issue. Later, of course, the military success of the operation united almost all members in approval.

In the case of the Somalia operation, political costs again played a major role. While the operation, which was mainly driven by humanitarian intentions, did not create a typical rally-round-the-flag situation, the strong influence of military success and public support on congressional behavior is obvious. Faced with TV-images of starving children, and with a public apparently favorable of U.S. involvement, lawmakers at first strongly urged the President to deploy troops to Somalia. This supportive mood calmed down with growing duration of the operation, but substantial congressional restraint only evolved after the unexpected killings of U.S. soldiers and the following turn in public opinion. It had been politically beneficial to speak out in favor of heroic efforts to secure food shipments to starving people. Associating oneself with a long-lasting unsuccessful and unpopular military operation, however, was not politically advisable for members of Congress anymore. In comparison to cases of the Cold War period, the role of partisanship was somewhat bigger in the Somalia operation. For Republicans, the incentives to criticize the operation were even stronger, since that enabled them to criticize President Clinton. A general bipartisan consensus to minimize the scope of partisanship did not exist anymore. In sum, the Somalia case may be untypical for the strong
influence Congress had on the decision-making process, but it is perfectly in line with our political-cost argument to explain congressional behavior.

We see that our theoretical arguments have strong explanatory power for all five cases. Of course, not every factor is present to the same extent in every case. These factors require certain conditions to come into full operation. Vietnam and Somalia clearly show the correlation of military success and congressional acquiescence or support. In these two cases, Congress finally moved up to substantially restrain the President, but only after much symbolic action and after public dissatisfaction had become very strong. The difficulties of restraining the President when troops are in the field already, is exemplified by congressional behavior with regard to Vietnam, Persian Gulf and Somalia. The Libya air strikes illustrate more the short-term political costs caused by a rally-round-the-flag effect. The rally effect also repeatedly played a role in the Vietnam case. In the Dien Bien Phu case, finally, congressional restraint could be stronger than usual because of a lack of most of the political factors that normally hamper legislators.

The existence of a policy consensus serves more as a background variable, but it is also important. In Vietnam, the President for a long time could still gather support of an increasingly unsuccessful war, because Congress strongly supported containment. Also, the conviction, something had to be done against terrorism and that Saudi Arabia must be protected against an Iraqi attack, secured congressional backing of the President in the Libya and Persian Gulf cases. It has been one of our main intentions to show that because of the logic of political costs, Presidents in many instances can also get congressional support (or at least: prevent congressional opposition) without a clear and genuine policy concurrence. Not surprisingly, it is even easier to gain when such policy concurrence is present. This has implications for the post-Cold War period. As long as a new consensus on goals and appropriate means of U.S. foreign policy is not in sight, support of the use of force has to be won on a case-by-case basis. This leaves more room for partisanship on Capitol Hill, and it leaves more room for congressional restraint of the President in general.

Finally, our findings confirm our argument about presidential behavior toward Congress. The cooperative President Eisenhower faced much more congressional restraint than President Reagan, who ordered to bomb sites in Libya without any substantial consultation with Congress. President Bush received congressional support, although he had clearly demonstrated his determination to commence war without the approval of Congress. Certainly, support was far from being unanimous, but the margins could have been much closer still, or even reversed, without half a million U.S. troops already being deployed to the Persian Gulf region. This is not to say that congressional support always increases with presidential non-cooperation. While President Clinton's more cooperative attitude toward Congress did not secure congressional support, it certainly contributed to the legislators' willingness to give him some time in the Fall 1993 for overhauling his Somalia policy. Repeated consultations with Congress also helped President Johnson to secure domestic support of the Vietnam War. Especially in longer conflicts, Presidents may wish to display some cooperation with Congress, in order to prevent upsetting the legislative branch. At the same time, when they act unilaterally and decisively instead of asking Congress for advance approval, Presidents can often create a situation where Congress is then politically forced to go along later.

On a final note, we should stress that recently Congress has become somewhat more assertive. We have seen that in both post-Cold War cases we have analyzed, Persian Gulf and Somalia, there was congressional restraint. In 1993 and 1994, Congress passed several war powers restrictions, binding and non-binding ones (cf. Collier 1994b). The recent 104th Congress continues on this path. The breakup of the Cold-War foreign policy consensus, overall growing partisanship on Capitol Hill, and an administration not primarily concerned with foreign policy issues all foster this development. Whether it will actually lead to a Congress assuming more responsibility with regard to the war powers, or whether the impediments outlined in this paper will prevail, will have to be analyzed in future studies.

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8 On February 16, 1995, the House passed (241-181) H.R. 7, the National Security Revitalization Act, a bill that would curb the President's authority to place troops under foreign command (CQWR, 18 Feb 95: 535-8). As of fall 1995, the Senate has added several amendments to this bill (CQWR, 25 Mar 95: 878-9), but not voted on it yet.
Appendix: U.S. Military Operations since 1946

For our case list, we examined three compilations of cases (Blechman/Kaplan 1978; Brecher 1988, Collier 1993a). Additional sources were used to confirm questionable cases.

**Type-I cases:** deliberate engagements of U.S. Armed Forces in acts of war against territory, armed forces, possessions, or citizens of another state, ordered by the President.

**Type-II cases:** deployments of U.S. Armed Forces, ordered by the President, in a way that risked their immediate involvement in acts of war, regardless of whether combat actions actually followed (IIa) or not (IIb).

1) Germany, 1948 (IIb): airlifts to blockaded West Berlin.
2) Korea, 1950-53 (I)
3) Taiwan Straits, 1954-55 (IIb): assistance to Nationalist China in war against PR China; evacuation of Taiwanese troops from Tachen Islands.
4) Taiwan Straits, 1958 (IIb): deployment of Seventh Fleet to combat area.
5) Lebanon, 1958 (I)
8) Laos/Thailand, 1962 (IIb): after Pathet-Lao attack, deployment of Seventh Fleet to combat area and of ground forces to Laotian border.
10) Panama, 1964 (IIa): armed forces ordered to secure Canal zone against anti-American demonstrators were attacked and opened fire, killing 26 people.
12) Laos, 1964-73 (I)
13) Vietnam, 1964-73 (I)
14) Dominican Republic, 1965 (I)
16) Cambodia, 1969-73 (I)
18) Korea, 1976 (IIb): tree-cutting incident: reinforcements to South Korea, troops on alert, and practice bombing raids near border after killing of two U.S. soldiers by North Korean troops in DMZ.
22) Egypt, 1981-82 (IIb): deployment of military personnel to MNF monitoring Israel's withdrawal from Sinai.
24) Lebanon, 1983 (IIa): deployment of Marines to help restoring a Phalange-led government; shelling of Syrian and Druse positions after being attacked.
26) Grenada, 1983 (I)
27) Honduras/Nicaragua, 1983-89 (II): war exercises close to Nicaraguan border; mining of Nicaraguan ports.
30) Philippines, 1989 (IIb): combat air patrols to assist Aquino government against coup.
31) Panama, 1989 (I): support of (failed) coup against government; blocking of roads by U.S. troops.
32) Panama, 1989 (I): invasion to oust and catch General Noriega.
35) Somalia, 1992-95 (IIa)
36) Iraq, 1993 (I): cruise missile attack on Baghdad
37) Bosnia, since 1993 (I) participation in NATO air strikes.
38) Haiti, 1994 (IIb)

For the identification of type-III cases, Tilemma (1973), Rourke 1983), Quigley (1992), and Rourke (1993) were especially helpful. No claim is made, however, that this list is complete.

Type-III cases: instances where the engagement of U.S. Armed Forces in acts of war was planned or at least considered by the administration, including a final negative decision by the President.

1) Greece, 1946-49: military and economic assistance to Greek government in civil war; overt military intervention was considered (Tilemma 1973: 134-36).
2) Philippines, 1946-54: military intervention to assist in fighting of Huk rebels was considered (ibid.: 136-37).
5) Cuba, 1961: overt military operation at Bay of Pigs was considered.
8) Middle East, 1967: planning of participation in international naval blockade (ibid.: 113, 164).
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