

U.S. National Security Strategy

(September 2002)

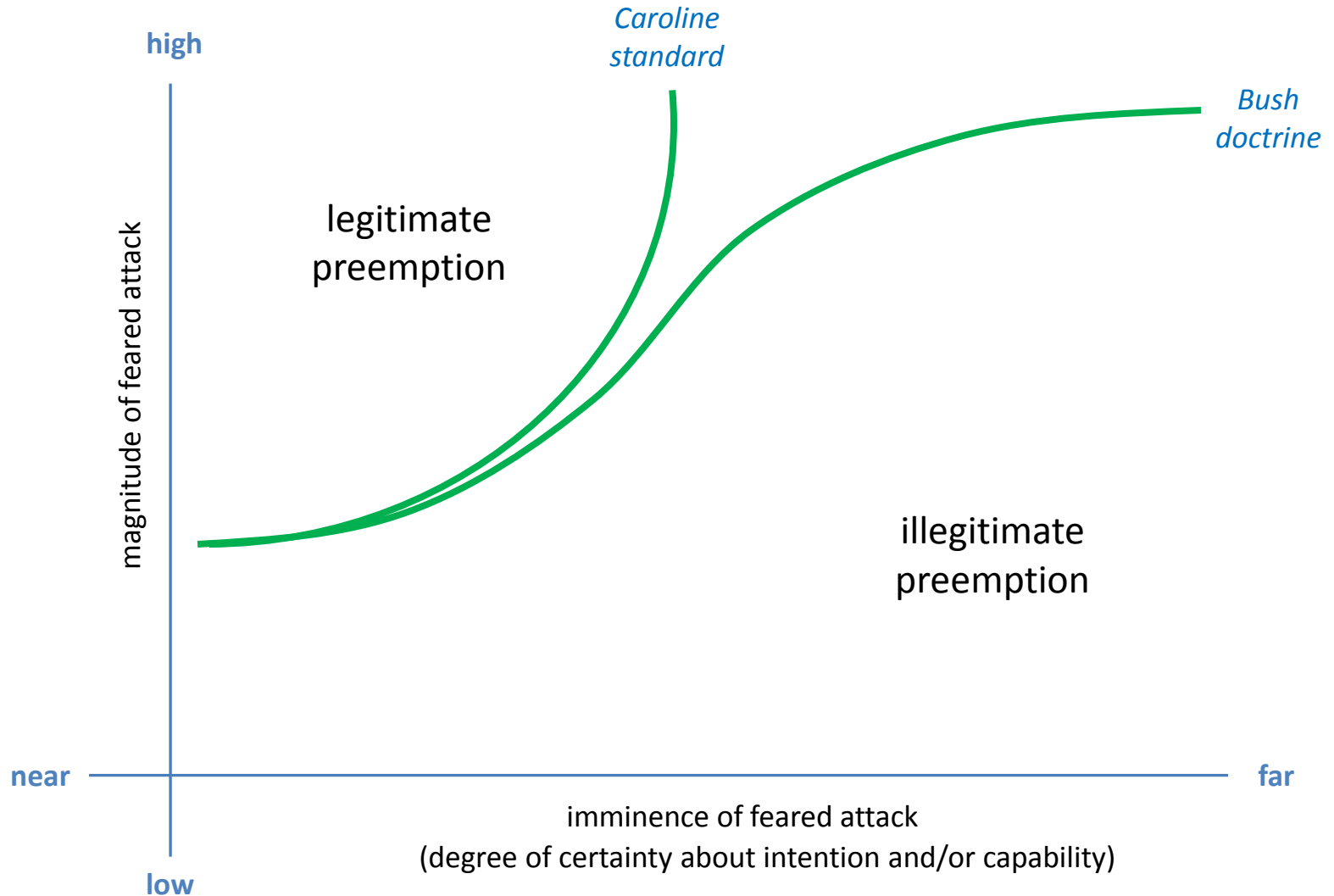
We must be prepared to stop rogue states and their terrorist clients *before they are able to threaten or use weapons of mass destruction* against the United States and our allies and friends. Our response must take full advantage of strengthened alliances, the establishment of new partnerships with former adversaries, *innovation in the use of military forces*, modern technologies, including the development of an effective missile defense system, and increased emphasis on intelligence collection and analysis.

Given the goals of rogue states and terrorists, the United States can no longer solely rely on a reactive posture as we have in the past. The *inability to deter* a potential attacker, the *immediacy of today's threats*, and the *magnitude of potential harm* that could be caused by our adversaries' choice of weapons, do not permit that option. We cannot let our enemies strike first.

For centuries, international law recognized that *nations need not suffer an attack before they can lawfully take action to defend themselves* against forces that present an imminent danger of attack. Legal scholars and international jurists often conditioned the legitimacy of preemption on the *existence of imminent threat*—most often a visible mobilization of armies, navies, and air forces preparing to attack. We must *adapt the concept of imminent threat* to the capabilities and objectives of today’s adversaries.... [T]hey rely on acts of terror and, potentially, the use of weapons of mass destruction—weapons that can be easily concealed, delivered covertly, and used without warning.

The United States has long maintained the option of preemptive actions to counter a *sufficient threat* to our national security. The greater the threat, the greater the risk of inaction—and the more compelling the case for taking *anticipatory action* to defend ourselves, *even if uncertainty remains as to the time and place of the enemy’s attack*.

Legitimacy of Preemptive Military Attacks



UN High-Level Panel on Threats, Challenges and Change

(A More Secure World: Our Shared Responsibility, 2004)

A threatened State, according to long established international law, can take military action as long as the threatened attack is imminent, no other means would deflect it and the action is proportionate. The problem arises where the threat in question is not imminent but still claimed to be real: for example the acquisition, with allegedly hostile intent, of nuclear weaponsmaking capability.

Can a State, without going to the Security Council, claim in these circumstances the right to act, in anticipatory self-defence, not just pre-emptively (against an imminent or proximate threat) but preventively (against a non-imminent or non-proximate one)?

Those who say “yes” argue that the potential harm from some threats (e.g., terrorists armed with a nuclear weapon) is so great that one simply cannot risk waiting until they become imminent, and that less harm may be done (e.g., avoiding a nuclear exchange or radioactive fallout from a reactor destruction) by acting earlier.

The short answer is that if there are good arguments for preventive military action, with good evidence to support them, they should be put to the Security Council, which can authorize such action if it chooses to. If it does not so choose, there will be, by definition, time to pursue other strategies, including persuasion, negotiation, deterrence and containment - and to visit again the military option.

For those impatient with such a response, the answer must be that, in a world full of perceived potential threats, the risk to the global order and the norm of non-intervention on which it continues to be based is simply too great for the legality of unilateral preventive action, as distinct from collectively endorsed action, to be accepted. Allowing one to so act is to allow all.