

109TH CONGRESS
1ST SESSION

H. RES. 82

Disavowing the doctrine of preemption.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2005

Ms. LEE (for herself, Mr. McDERMOTT, Mrs. JONES of Ohio, Ms. WOOLSEY, Mr. SERRANO, Mr. KUCINICH, Mr. GEORGE MILLER of California, Mr. STARK, Ms. KILPATRICK of Michigan, Mr. PAYNE, Mr. HOLT, and Ms. WATERS) submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Disavowing the doctrine of preemption.

Whereas President Bush has declared in a variety of documents and fora that the United States has the right to unilaterally exercise military action, including preemptive nuclear strikes, against nations that have not attacked the United States, creating what has been termed the “doctrine of preemption”;

Whereas the doctrine of preemption contemplates initiating warfare against a nation that might not pose an imminent threat of harm to the United States and far exceeds the commonly understood view, set out in the Charter of the United Nations and recognized in international and United States law, that nations enjoy the right of self-

defense, and that such self-defense might include undertaking military action to prevent an imminent attack;

Whereas the doctrine of preemption represents a radical departure from the official position of the United States since the adoption of the Charter of the United Nations;

Whereas the doctrine of preemption threatens to set a dangerous precedent that might then be cited by other countries, including other nuclear powers, to justify preemptive military action against perceived threats;

Whereas United States policy has long recognized the value to our national security of advancing the respect for and adherence to the international rule of law;

Whereas actions that diminish the international consensus on normative legal behavior and leave open the prospect that nations will readily resort to military force outside of those normative boundaries increase international instability and undercut the national security interests of the United States;

Whereas the doctrine of preemption contradicts the Charter of the United Nations to which the United States is a signatory, which, as a result of its ratification by the United States, is incorporated into United States law, and which reads, in part, “All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations” (Article 2, section 4);

Whereas the Charter of the United Nations, while disallowing preventive war, does not preclude military actions of self-defense, reading in part, “Nothing in the present Charter

shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security” (Article 51); and

Whereas under the United States Constitution, the President, as Commander in Chief, possesses the authority to use military force to protect the United States from attack or imminent attack: Now, therefore, be it

1 *Resolved*, That—

2 (1) it is the sense of the House of Representa-
3 tives that the United States possesses the inherent
4 right to defend itself against imminent or actual at-
5 tack, as codified in the Charter of the United Na-
6 tions and embodied in the traditions of international
7 law, but that right does not extend to undertaking
8 military action in the absence of such an imminent
9 or actual attack; and

10 (2) the House of Representatives disavows the
11 doctrine of preemption because it poses a threat to
12 international law and to the national security inter-
13 ests of the United States.

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