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NSS CP Text

Text: The President should mandate and amendment be made to the National Security Strategy including a statement that adopting a policy

NSS CP 1NC Shell

The CP competes, it is only a recommended action not legally binding

Sharon L. Caudle, “National security strategies: security from what, for whom, and by what means.” <http://www.astrid-online.it/Sicurezza-/Studi--ric/Caudle_Journal-of-Homeland-security_06_2009.pdf>. 2009

Third, it is unclear who is to ensure that implementation occurs and there is accountability for results. The national strategies are not legal documents with mandates and sanctions. Their goals and actions cut across levels of government and sectors, and involve a large number of organizations and entities, including international and nongovernmental, each with their own priorities – planned or mandated. The authority and capacity of public and private organizations to direct, implement, and be held accountable for the strategies varies: Who is in charge? Who should be? Who should pay? Under what authority? With what partners? In the United States’ system of government and arrangement of public and private spheres, no one central entity or process has “control” of implementation, accountability, oversight, and coordination. Cornish (2008) might argue, however, that a national strategy should not be a policy blueprint to replace senior leadership experience and judgment. Moreover, a national strategy clearly means cross-governmental action that could run counter to departmental independence.

A NSS will effectively mold the instruments of American foreign policy

Lawrence Korb, Sean Duggan, and Laura Conley. “Preparing for the National Security Threats of the 21st Century.” <http://www.americanprogress.org/issues/2009/11/pdf/integrating_security.pdf>. 11-01-09

President Barack Obama and his administration face a national security landscape that is greatly different from the one the United States confronted at the end of the previous cen- tury. Fragile states, weak governments, extremist non-state actors, hostile nuclear armed regimes, dynamic rising powers, and economic and environmental threats are but some of the most serious challenges facing the new administration. The complex and intercon- nected nature of these threats means that pursuing U.S. national security objectives will require a strong investment in diplomatic development, homeland security, and intelli- gence skills to complement our military strength. The Obama administration understands the need to integrate and coordinate all instru- ments of American foreign policy to confront these threats. What’s more, the administra- tion has begun to lay the groundwork for this unified effort through strategic planning in three key executive agencies. The first of these efforts is Secretary of State Hillary Clinton’s initiative to create a strategic planning guidance for the State Department, the so called Quadrennial Diplomacy and Development Review, or QDDR. The second is the formula- tion of the administration’s 2010 Quadrennial Defense Review, or QDR, a document that defines our military’s force structure and thus shapes its upcoming budget plans. Finally, the Department of Homeland Security is undertaking a similar quadrennial review, the QHSR, to determine how the agency can best execute its responsibilities. Yet these studies depend on a larger strategic vehicle, the National Security Strategy, or NSS, a document meant to establish a comprehensive foundation for overall U.S. national security policy and provide guidance for specific tactical documents. As retired Marine General Anthony Zinni, the former head of U.S. Central Command, notes, this National Security Strategy document will be “the follow-up to the initial speeches and communi- cation and it will be the authority for our own government structure, all the way down because from the strategy cascades the actions and the organization and the allocation of resources to make that [strategy] happen.”1 Congress mandates that every administration issue a yearly NSS, with the first report released within five months of taking office.2 The Obama administration has clearly missed that deadline. As a result, these tactical planning documents will be coming together over the next several months without a unified strategy to inform them. It would be a grave mistake for the administration to delay too long in issuing this important guidance.

Intrinsic Perms Illegitimate: 2NC

THEY’RE UNFAIR

1. **Ground-** Nullify all neg positions because the perm can solve any links: “perm, do your politics DA”

AND

1. **Predictable Limits-** Unpredictable because the advocates actions aren’t bounded by the resolution

AND

1. **Not grounded in the literature**- Don’t require solvency advocates, meaning there is no evidentiary check

AND

1. **Justifies intrinsic counterperms**, reducing debate to a war of non-resolutional advocacies and ensuring that the last speaker wins

AND

**Competitive Equity-** Exacerbates already large structural advantages of going aff

THEY’RE UNEDUCATIONAL

1. Discourage aff clash and research because they will simply use theory to nullify our args

AND

1. Discourage neg clash and research because there is no advantage to researching in-depth strats that can be gutted by bad perms

AND

Encourage argument irresponsibility by allow affs to cut and run

AND

1. Shift focus from the resolution, meaning we don’t learn about it

Severance Perms Illegitimate: 2NC

THEY’RE UNFAIR

1. Allows aff to nullify key elements of negative strategy by neutralizing 1NC link and competition arguments

AND

1. Shifts nullify all negative pre-tourney and pre-round prep

AND

1. Exacerbate already enormous structural advantages of the affirmative

AND

1. Allow the aff to be a moving target, making it impossible for the negative to compete

AND

1. Aren’t reciprocal because we cannot sever out of parts of our counterplan text—justifies that we do this, potentially nullifying the 2AC

THEY’RE UNEDUCATIONAL

Encourage argument irresponsibility by allowing affs to cut and run

AND

1. Discourages clash because affs can duck arguments instead of engaging with them

AND

1. Discourages in-depth aff research because they can use theory to get out of any neg position

A2 “Agent Counterplans Bad”: 2NC

NEXT, they say agent counterplans are bad. At the top:

\_\_\_ (1) THEY’RE FAIR

They test the desirability of the agent chosen in the plan

AND

1. The aff is able to choose what part of the debate they will defend by spec’ing an agent in the 1AC

AND

1. Their reciprocal because the aff is able specify implementation in the plan

AND

1. They level the playing field against the structural biases of going aff by increasing neg strategic options

\_\_\_ (2) THEY’RE EDUCATIONAL

1. Real policymakers consider who should do the plan just as much as what should be done

AND

1. They encourage in-depth research and clash over the policy implementation literature

AND

1. They encourage debaters to find the best policy option

\_\_\_ (3) DEFENSE

1. Literature checks abuse: we are bound by the burden of producing solvency ev from the lit, making the counterplan predictable

AND

1. Competition checks abuse: their ability to perm ensures that the counterplan is germane to the plan

AND

C. Judge Discretion Checks: some agent counterplans are good—you should evaluate abuse in the context of this around and argument instead of enforcing a ban

A2 “Counterplan is Artificially Competitive”: 2NC

NEXT, they say that the counterplan is artificially competitive. Group it:

\_\_\_ (1) **Not True**: we have a link to our net benefit independent of the counterplan based upon multi-branch, as proven by our shell ev

\_\_\_ (2) **Perms check** because any legitimate one would capture an artificial net benefit

\_\_\_ (3) **Best Policy**: Our job is to find the best policy—if we find a competitive option superior to the aff, you vote neg

\_\_\_ (4) **Competitive Equity:** Structural advantages of going affirmative justify neg use of counterplans

\_\_\_ (5) **Judge Discretion Checks:** some counterplans are good—you should evaluate abuse in the context of this around and argument instead of enforcing a ban

A2 “Counterplan Isn’t Textually Competitive”: 2NC

NEXT, they say textual competition. At the top:

\_\_\_ (1) IT’S UNFAIR

1. It invites abuse counterplans like e-prime every round, where the neg can just change the plan’s verb tense

AND

1. It destroys ground reciprocity because the aff’s offense is implementation, but there is no comparable neg ground that cannot be claimed by plan wording

AND

 C. It nullifies all counterplans except exclusion PICs, even the “not plan” counterplan

AND

1. It skews the evidentiary burden because policy lit focuses on method of implementation instead of the wording of proposals

\_\_\_ (2) IT’S UNEDUCATIONAL

1. It reduces debate to semantics, where we waste time on theory debates instead of substantive issues

AND

1. It’s not real world because it doesn’t test the desirability of the plan

AND

1. It conflates the distinction between form and meaning: the sentences “We should take everyone and “We should take just Bob” are not textually exclusive but their meaning is contradictory, proving their theory absurd

\_\_\_ (3) LOGICAL COMPETITION IS GOOD

1. It’s educational and real world because it tests the implications of policies rather than their rhetorical form and it encourages in-depth thought experiments to determine competition

AND

It’s fair because it protects neg ground while checking against counterplans that compete by removing definite articles

A2 “XO is Normal Means”: 2NC

1. NOT IN THE PLAN TEXT—IF THEY FAIL TO SPECIFY THAT THE

PLAN GOES THROUGH THE EXECUTIVE IN THE PLAN, THERE IS ZERO OFFENSIVE REASON THEY SHOULD BE ABLE TO CLAIM THIS OPTION NOW

2. NORMAL MEANS IS CONGRESS—ITS EMPIRICALLY PROVEN

WITH FOREIGN POLICY ACTIONS

3. 2AC CLARIFICATIONS ARE ILLEGIT

A. CREATES A MOVING TARGET—WE CANNOT PIN THEM

DOWN ON WHAT THE PLAN DOES AND WHO ENACTS IT, CRUSHING OUR GROUND BECAUSE IT ALLOWS THEM TO SPIKE OUT OF OR DODGE OUR DISADS

B. 1NC STRATEGY SKEW—THE ENTIRETY OF THE 1NC IS

PREMISED ON THE PLAN TEXT AND THE AGENT IS A HUGE FACTOR IN OUR STRATEGY—ALLOWING THEM TO SHIFT IS UNFAIR AND DESTROYS PREDICTABILITY. VOTE NEG TO PRESERVE FAIRNESS AND GROUND

XOs Solve: Broad Policy Changes (2/5)

EXECUTIVE ORDERS ARE EMPIRICALLY USED TO ENACT BROAD POLICY CHANGES

Kevin M. Stack, Assistant Professor, Law, Benjamin N. Cardozo School of Law, Yeshiva University, “The Statutory President,” IOWA LAW REVIEW v. 90, January 2005, p. 541.

Scope of Use. Presidents have asserted power unilaterally through presidential orders since the time of the Founding. In 1793, Washington issued the Neutrality Proclamation, which proclaimed the neutrality of the United States in the conflict between Britain and France, without statutory authority to do so. Marbury v. Madison itself arose from a challenge to the validity of an order from President Jefferson to his Secretary of State, James Madison, to withhold William Marbury's judicial commission. Executive and other presidential orders have been the source of a wide range of significant moments in national life. Executive orders or proclamations declared the emancipation of slaves in confederate states, the suspension of the writ of habeas corpus during the Civil War, the internment of the Japanese-Americans during World War II, the desegregation of the military, the establishment of the government's security classification system, and the imposition of centralized executive review of agency regulations. Presidential orders are clearly a significant source of law and policy.

EXECUTIVE ORDERS CAN BE USED TO ACCOMPLISH MOST POLICY GOALS

Kenneth R. Mayer, Associate Professor, Political Science, University of Wisconsin-Madison, “Executive Orders and Presidential Power,” JOURNAL OF POLITICS v. 61 n. 2, May 1999, p. 445+.

Executive orders are important to presidents, and their use reflects much more than simple administrative routines or random noise. Presidents use them to make substantive policy, exercise emergency powers, strengthen their control over executive branch agencies and administrative processes, emphasize important symbolic stances, and maintain their electoral and governing coalitions. Their use varies in predictable ways in accordance with substantive changes in political context.

ORDERS USED TO IMPLEMENT IMPORTANT POLICIES, FORCE OTHER BRANCHES TO RESPOND

Kevin M. Stack, Assistant Professor, Law, Benjamin N. Cardozo School of Law, Yeshiva University, “The Statutory President,” IOWA LAW REVIEW v. 90, January 2005, p. 541.

Modern presidents have used presidential orders to initiate many of their most important policies. The president may issue or repeal prior presidential orders on his own initiative, and in almost all cases, may do so without having to satisfy any procedural requirements. Moreover, with appropriate constitutional or statutory authorization, these orders may have the force and effect of law. As a result, presidential orders often leave other institutions, such as Congress, administrative agencies and the courts, as well as the public in the position of responding to or implementing the policy and law they embody.

XOs Solve: Broad Policy Changes (3/5)

PRESIDENT CAN USE ARTICLE ONE POWERS TO DO PRETTY MUCH ANYTHING--CONSTITUTION IS AMBIGUOUS ENOUGH THAT IT GIVES BROAD LATITUDE

William G. Howell, Harvard University, “Unilateral Powers: A Brief Overview,” PRESIDENTIAL STUDIES QUARTERLY v. 35 n. 3, September 2005, p. 417+**.**

To advance their policy agenda, presidents have two options. They can submit proposals to Congress and hope that its members faithfully shepherd bills into laws; or they can exercise their unilateral powers—issuing such directives as executive orders, executive agreements, proclamations, national security directives, or memoranda—and thereby create policies that assume the weight of law without the formal endorsement of a sitting Congress. To pursue a unilateral strategy, of course, presidents must be able to justify their actions on some blend of statutory, treaty, or constitutional powers; and when they cannot, their only recourse is legislation. But given the ambiguity of Article II powers and the massive corpus of law that presidents can draw upon, as well as the well-documented travails of the legislative process, the appeal of unilateral powers is readily apparent.

PRESIDENTS HAVE USED EXECUTIVE ORDERS TO DO PRETTY MUCH EVERYTHING, INCLUDING CREATING THE PEACE CORPS

William G. Howell, Harvard University, “Unilateral Powers: A Brief Overview,” PRESIDENTIAL STUDIES QUARTERLY v. 35 n. 3, September 2005, p. 417+**.**

Nor are Bush and Clinton unique in this respect. Throughout the modern era, presidents have used their powers of unilateral action to intervene in a whole host of policy arenas. Examples abound: by creating the Fair Employment Practices Committee (and its subsequent incarnations) and desegregating the military in the 1940s and 1950s, presidents defined federal government involvement in civil rights decades before the 1964 and 1965 Civil Rights Acts; from the Peace Corps to the Bureau of Alcohol, Tobacco, and Firearms to the National Security Agency to the Food Safety and Inspection Service, presidents unilaterally have created some of the most important administrative agencies in the modern era; with Reagan's executive order 12291 being the most striking example, presidents have issued a long string of directives aimed at improving their oversight of the federal bureaucracy; without any prior congressional authorization of support, recent presidents have launched military strikes against Grenada, Libya, Lebanon, Panama, Haiti, Bosnia, and Somalia. A defining feature of presidential power during the modern era, one might well argue, is a propensity, and a capacity, to go it alone.

XOs Solve: Broad Policy Changes (4/5)

BUSH PROVES THAT EXECUTIVE ORDERS CAN BE USED TO IMPLEMENT BOLD INITIATIVES

William G. Howell, Harvard University, “Unilateral Powers: A Brief Overview,” PRESIDENTIAL STUDIES QUARTERLY v. 35 n. 3, September 2005, p. 417+**.**

The image of presidents striking out on their own to conduct a war on terrorism or revamp civil rights policies or reconstruct the federal bureaucracy contrasts sharply with scholarly literatures that equate executive power with persuasion and, consequently, place presidents at the fringes of the lawmaking process. Conducting a secretive war on terrorism, dismantling international treaties brokered by previous administrations, and performing end runs around some of the most important environmental laws enacted during the past half-century, Bush has not stood idly by while committee chairs debated whether to introduce legislation on his behalf. Instead, in each instance he has seized the initiative, he has acted boldly (some would say irresponsibly, or even unconstitutionally), and then he has dared his political adversaries to counter. Having issued a directive, Bush sought not so much to invigorate Congress's support as to neutralize its criticism. An inept and enervated opponent, rather than a cooperative and eager ally, seemed to contribute most to this president's powers of unilateral action.

PRESIDENTS EMPIRICALLY USE EXECUTIVE ORDERS TO ACHIEVE A NUMBER OF POLICY GOALS

William G. Howell, Harvard University, “Unilateral Powers: A Brief Overview,” PRESIDENTIAL STUDIES QUARTERLY v. 35 n. 3, September 2005, p. 417+**.**

The standard conception of the presidency is that the office is constrained by the separation of powers and general weakness of the chief executive's formal powers. Yet presidents have, throughout U.S. history, used their executive authority to make policy on their own without interference from either Congress or the courts. This article investigates how presidents have used one particular unilateral tool --the executive order. An executive order is a presidential directive that requires or authorizes some action within the executive branch. Presidents have used executive orders to establish policy, reorganize executive branch agencies, alter administrative and regulatory processes, affect how legislation is interpreted and implemented, and take whatever action is permitted within the boundaries of their constitutional or statutory authority.[1]

XOs Solve: Broad Policy Changes (5/5)

PRESIDENTS ARE ABLE TO EXACT SUBSTANTIAL AUTHORITY AND MAKE SIGNIFICANT POLICY CHANGES VIA EXECUTIVE ORDERS

Kenneth R. Mayer, Associate Professor, Political Science, University of Wisconsin-Madison, “Executive Orders and Presidential Power,” JOURNAL OF POLITICS v. 61 n. 2, May 1999, p. 445+.

The president's power to make policy through executive orders has grown along with, and has reinforced, the expansion of executive branch responsibilities. Some of this authority has been delegated to the president by Congress, but presidents have also simply assumed unilateral policymaking powers, especially in national security and foreign policy matters (Koh 1990; Fisher 1995). The expansion of the executive branch and the institutionalization of the presidency has provided the president with increased power over policy implementation and administrative procedures. One proponent of this "Administrative Presidency" thesis is Moe (1985,1993,1995; see also Nathan 1983; Durant 1992), who argues that presidents have a substantial reservoir of authority that allows them to make many substantive decisions on their own. Even within the narrower confines of their executive authority, presidents can make significant policy choices. "They can organize and direct the presidency as they see fit, create public agencies, reorganize them, move them around, coordinate them, impose rules on their behavior, put their own people in top positions, and otherwise place their structural stamp on the executive branch" (Moe 1993, 366).

XO Solve: Superior

A: EXECUTIVE POLICY SUPERIOR TO LEGISLATION: [5 REASONS] 1. FASTER 2. BETTER INFORMATION 3. PUBLIC DEMAND 4. WEAK INTEREST GROUPS 5. CONGRESSIONAL RELUCTANCE

Paul Peterson, Professor, Government, Harvard University, THE PRESIDENT, THE CONGRESS, AND THE MAKING OF FOREIGN POLICY, 1994, p. 14-15.

The distinction between foreign and domestic issues has long been noticed. Two decades ago, in a classic essay written under the fetching title “the two presidencies,” the political scientist Aaron Wildavsky ([1966]1991) argued that modern presidencies were fraternal – but hardly identical – twins. The one – the domestic policy president – was subject to the debate, pressure politics and congressional infighting that is a concomitant of the ordinary workings of democratic processes. The other – the foreign policy president – enjoyed an independent, respect, and prestige that enabled him to manage the external relations of the country quite autonomously. Wildavsky identified several factors that differentiated domestic from foreign policy. 1. Since foreign policy questions often require “fast action”, they are more appropriate for executive than legislative decision making. 2. Presidents have vast “formal powers to commit resources in foreign affairs,” and they have “far greater ability than anyone else to obtain information on developments abroad.” 3. Since voters know little about foreign policy issues, they “expect the president to act in foreign affairs and reward him with their confidence”. 4. On foreign policy questions, “the interest group structure is weak, unstable, and thin.” 5. Members of Congress follow a “self-denying ordinance. They do not think it is their job to determine the nation’s defense policies.” Wildavsky’s analysis was not so much an original statement as a summary of a more generally held scholarly perception. Robert Dahl had put forth much the same argument more than a decade earlier: “In foreign policy the president proposes, the congress disposes”, Dahl wrote, adding that: “in a very large number of highly important decisions about foreign policy, the Congress does not even have the opportunity to dispose.” (1964, 58). Samuel Huntington similarly concluded that “strategic programs are determined in the executive rather than the Congress.” “Just as power to legislate strategic programs was at one time, at least in theory, shared by President and Congress, so it is now, very much in practice, shared by the President and a variety of agencies within the executive branch. (1961, 146, 127-28). Richard Fenno’s views were a little different: “Foreign Affairs members…help make policy in an environment strongly dominated by the President… [They} have been hard put to develop any strategic posture than one calling for responsiveness to executive branch expectations” (1973, 213-3).

B: EXECUTIVE ORDERS SAVE POLITICAL CAPITAL BY AVOIDING AND PREEMPTING CONGRESSIONAL OPPOSITION

Joel **Fleishman**, Professor, Law & Policy Sciences, Duke University, LAW & CONTEMPORARY PROBLEMS, Summer 19**76**, p. 38.

Several related factors, in particular, make executive orders especially attractive policymaking tools for a President. First is speed. Even if a President is reasonably confident of securing desired legislation from congress, he must wait for congressional deliberations to run their course. Invariably, he can achieve far faster, if not immediate, results by issuing an executive order. Moreover, when a President acts through an order, he avoids having to subject his policy to public scrutiny and debate. Second is flexibility. Executive orders have the force of law. Yet they differ from congressional legislation in that a President can alter any executive order simply with the stroke of his pen-merely by issuing another executive order. As noted earlier, Presidents have developed the system of classifying national security documents in precisely this manner. Finally, executive orders allow the President, not only to evade hardened congressional opposition, but also to preempt potential or growing opposition-to throw Congress off balance, to reduce its ability to formulate a powerful opposing position.

XOs Solve: Fast

EXECUTIVE ORDERS ARE EFFECTIVE BECAUSE THEY ARE QUICK AND CONVENIENT

Phillip J. **Cooper**, Professor, Portland State University, BY THE ORDER OF THE PRESIDENT: THE USE AND ABUSE OF EXECUTIVE DIRECT ACTION, 20**02**, p. 58.

Executive orders are often used because they are quick, convenient, and relatively easy mechanisms for moving significant policy initiatives. Though it is certainly true that executive orders are employed for symbolic purposes, enough has been said by now to demonstrate that they are also used for serious policymaking or to lay the basis for important actions to be taken by executive branch agencies under the authority of the orders. Unfortunately, as is true of legislation, it is not always possible to know from the title of orders which are significant and which are not, particularly since presidents will often use an existing order as a base for action and then change it in ways that make it far more significant than its predecessors.

EXECUTIVES CAN MOVE MUCH MORE QUICKLY THAN CAN OTHER BRANCHES

Kenneth R. **Mayer**, political science professor, University of Wisconsin-Madison, WITH THE STROKE OF A PEN: EXECUTIVE ORDERS AND PRESIDENTIAL POWER, 20**01**, p. 26.

The second presidential advantage in the institutional setting is the ability to act first, leaving it up to other institutions to reverse what presidents have done. Whether presidents have effective plenary executive authority or not (an open question), there is no doubt that they can take action faster and more efficiently than either Congress of the courts. Congress as a collective organization takes definitive action through the legislative process, which is cumbersome, difficult to navigate, and characterized by multiple veto points. Even when Congress can create and sustain majorities at the subcommittee, committee, floor, and conference stages, the president can use the veto power to raise the bar from a simple majority to a two-thirds majority necessary to enact legislation over the president’s objection. The president, at the same time, “has a trump card of great consequence in his struggle against Congress for control of government. He can act unilaterally in many matters of structure.” The president, in effect, can often make the first move in these disputes, forcing Congress to take positive action to undo what the president has created. Similarly, the judiciary can overturn executive actions (as it did in rejecting Clinton’s 1995 replacement worker executive order), but must wait for controversies to come to it, and definitive resolution can take years. Moreover, even after the judicial decision, enforcement is a matter for the president.”

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XOs Solve: Congress Accepts/No Rollback

POLITICAL CONCERNS LIMIT ABILITY OF CONGRESS TO CHALLENGE EXECUTIVE ORDERS

Kenneth **Mayer**, University of Wisconsin-Madison, “Who Should Decide Foreign Policy?” Talk of the Nation, NATIONAL PUBLIC RADIO, April 28, 20**03**, npg.

Prof. MAYER: Well, there's no question that Congress has the constitutional powers to take the president on. If you look at the powers that the Constitution grants to Congress in Article I with regard to foreign affairs, it's actually a pretty extensive list. Congress raises armies and navies and provides for their regulation. They regulate foreign commerce. They have the power to declare war. And so I think some people have a misconception that it's Congress' duty to step back and let the president do whatever he wants and that they don't have the authority to actually force some of those issues. They do. The problem is that as a practical matter, it's much more difficult for Congress to muster the kind of institutional majorities that it takes to make those kinds of decisions. And when you add a natural political reluctance to attack or to confront a president who's a popular president in the middle of a war, that's a very delicate political situation. And for people like Daschle and Gephardt, a lot of people come down hard on them for actually questioning the president. And I think that's probably a little misguided. They certainly have a right and maybe even an obligation to serve as the loyal opposition. But one of the things that members of Congress are, if anything else, very carefully tuned in to the political ramifications of what they do. And they are picking their fights and choosing their words very carefully because it's very easy to see how they could just get overwhelmed by public criticism and wind up in a much worse spot.

CONGRESSIONAL CHALLENGES OFTEN END UP STRENGTHENING THE PRESIDENT

Kenneth **Mayer**, University of Wisconsin-Madison, “Who Should Decide Foreign Policy?” Talk of the Nation, NATIONAL PUBLIC RADIO, April 28, 20**03**, npg.

And other times one of the problems that Congress faces--and this has happened on at least two or three separate occasions--is that in those times when Congress has tried to step in and legislate restrictions on ambiguous presidential authority--this happened with attempts to restrict the president's ability to engage in covert activities, an effort in the late 1970s to restrict the president's ability to use decades-old--it was actually a law from 1917 that allowed the president to create various emergencies. In effect what these attempts did is actually courts took notice and said, 'Aha! Congress has stepped in to try to limit the president's ability,' but what that did is it gave notice that Congress actually recognized that the president had this power. So even in those instances where Congress has tried to limit presidential authority, at times that actually has wound up strengthening the president because he is then able to point to the statutory authority for things that prior to that act didn't exist. And so, you know, Congress is not going to win many of these fights.

XOs Solve: No Rollback

1. FIAT TAKES OUT THE LINK – OTHERWISE THE PLAN WOULD BE STRUCK DOWN AS WELL.

2. IT’S NEVER HAPPEN - PRESIDENT HAS UNCHALLENGEABLE AUTHORITY – CONGRESS WON’T AND CAN’T ROLLBACK THE CP, THE COURT WILL REFUSE TO HEAR THE CASE AND WILL RULE IN THE PRESIDENT’S FAVOR IF IT DOES HEAR THE CASE

Harold Hongju **Koh**, former Assistant Secretary of State for democracy, human rights and labor. Professor of International law and director, Orville H. Schell Jr., Center for International Human Rights, THE NATIONAL SECURITY CONSTITUTION: SHARING POWR AFTER THE IRAN-CONTRA AFFAIRS, 19**90**, p. 148-149.

The broader lesson that emerges from this study of executive initiative, congressional acquiescence, and judicial tolerance in the post-Vietnam era is that under virtually every scenario the president wins. If the executive branch possesses statutory or constitutional authority to act and Congress acquiesces, the president wins. If Congress does not acquiesce in the president's act, but lacks the political will either to cut off appropriations or to pass an objecting statute and override a veto, the president again wins. If a member of Congress or a private individual sues to challenge the president's action, the judiciary will likely refuse to hear that challenge on the ground that the plaintiff lacks standing; the defendant is immune; the question is political, not ripe, or moot; or that relief is inappropriate. Even if the plaintiffs somehow surmount each of these obstacles and persuade the courts to hear their challenge on the merits, the courts will usually rule in the president's favor. In sum, whatever the scenario, the bottom line stays the same. The president almost always seems to win in foreign affairs. One need not be a cynic to recognize that this doctrinal tangle has afforded presidential judgment extraordinary insulation from external scrutiny. Thus, it should not surprise us when an institutional presidency so rarely held accountable for its acts stops trying to keep account. During the Iran-contra affair, several interrogators expressed disbelief that the president's subordinates thought they could get away with what they were doing.But their arrogance was not born of ignorance, but of habit. National Security Council secretary Fawn Hall's suggestion that "sometimes you have to go above the written law" was not a new thought.Ten years earlier, an unchastened Richard Nixon told an interviewer, "When the President does it, that means that it is not illegal. "

3. IF IT HAPPENS THE EXECUTIVE WILL ALWAYS WIN – PROVES THE COUNTERPLAN WILL BE UPHELD BY THE COURTS AND CONGRESS WILL ACQUIESCE TO IT.

H.K. **Koh**, Associate Professor, Law, Yale University, “Why the President (Almost) Always Wins in Foreign Affairs,” YALE LAW JOURNAL, 19**97**, p. 1255+ LN.

Why does the President almost always seem to win in foreign affairs? The reasons may be grouped under three headings, which not coincidentally, mirror general institutional characteristics of the executive, legislative, and judicial branches, respectively. First, and most obviously, the President has won because the executive branch has taken the initiative in foreign affairs, and has often done so by construing laws designed to constrain his actions as authorizing them. Second, the President has won because Congress has usually complied with or acquiesced in what he has done, because of legislative myopia, inadequate drafting, ineffective legislative tools, or sheer lack of political will. Third, the President has won because the federal courts have usually tolerated his acts, either by refusing to hear challenges to those acts, or by hearing those challenges and then affirming his authority on the merits. This simple three-part combination of executive initiative, congressional acquiescence, and judicial tolerance explains why the President almost invariably wins in foreign affairs.A. Executive Initiative What drives the executive branch to take the initiative in foreign affairs? Most critics of the Iran-Contra Affair have offered no explanation, simply assuming that the President's men were foolish, misguided, or evil. However true this explanation might be, two institutional explanations -- based on domestic constitutional structure and international regime change -- plausibly supplement it. The simple yet sensible domestic explanation, offered by Charles Black, attributes executive seizure of the initiative in foreign affairs to the structure of the Constitution. Although article I gives Congress almost all of the enumerated powers over foreign affairs, and article II gives the President almost none of them, Congress is poorly structured for initiative and leadership, because of "its dispersed territoriality of power-bases and . . . its bicamerality." The Presidency, in contrast, is ideally structured for the receipt and exercise of power:

XOs Percieved

EXECUTIVE ORDERS ARE PUBLISHED, ENSURES THAT THE PRESIDENT IS HELD PUBLICLY ACCOUNTABLE

Robert **Bedell**, Deputy and Acting General Counsel, OMB, Testimony before House Subcommittee on Legislative and Budget Process, FEDERAL DOCUMENT CLEARING HOUSE CONGRESSIONAL TESTIMONY, October 27, 19**99**, npg.

From a public policy perspective, Executive Orders have one salient advantage over these other, less formal and invisible means of communication; they are published in the Federal Register, so that both the Congress and the public can understand what the President has done and can hold him accountable for his actions. The Committee also should understand the severe limitation that Executive Orders have from the point of view of the President and his senior staff.

PUBLIC INCREASINGLY AWARE OF EXECUTIVE ORDERS

Porter **Goss**, U.S. Representative, Testimony before House Subcommittee on Legislative and Budget Process, FEDERAL NEWS SERVICE, October 27, 19**99**, npg.

Additionally, a by-product of modern technology appears to have been greater public awareness of and interest in the unilateral actions taken by the executive. Today we have cable television, talk radio, and the internet as means to provide unprecedented access to a wealth of information for the average citizen with an interest. I have found in recent years that and of the people I represent in southwest florida are contacting me to discuss concerns with executive orders.

Solvency – Fixes Budget Problems

NSS allows decisions outside of the budget

Sandra I. Erwin. National Defense (NDIA). “Five Key Questions About the Defense Budget” August 2010. http://www.nationaldefensemagazine.org/archive/2010/August/Pages/FiveKeyQuestionsAbouttheDefenseBudget.aspx

Yes, but with some caveats. First, it has to prioritize its goals, says Krepinevich. For decades analysts have talked about a gaping mismatch between the nation’s military strategy — which calls for being prepared for any form of conflict and to be forward deployed around the world — and the resources available to sustain it. Even if the Iraq and Afghanistan wars ended today, the “over-commitment” problem would not be solved. The U.S. military strategy still requires forces to be available and ready to deploy anywhere in the world. Such level of engagement and readiness requires huge resources, and thus the argument about whether the current strategy is under-resourced. Strategy is defined as “how a state’s resources are best employed to achieve the ends it seeks,” Krepinevich says. “Strategy necessarily involves setting priorities and taking risks. This is because no state, however powerful relative to other states, has ever had sufficient resources to eliminate all risks to its security and well being,” he says. If the United States faces a decline in resources, it has to reduce the objectives to be achieved or accept greater risk that they may not be accomplished. “There is an opportunity here, if the Obama administration is willing to seize it,” he says. “It involves exploring all available options for diverting the country from its path toward a declining military posture. … Similar to the approach pursued by Great Britain a century ago, this would involve providing clear guidance as to how the United States might expand its circle of willing and capable allies, how it might identify, create and leverage sources of advantage and how they would be employed to address the most pressing challenges to the nation’s security. Such a strategy would set clear priorities and make hard choices,” he says. “It would identify areas where the United States would have to scale back or divest itself of commitments.” The Obama administration’s recently unveiled national security strategy, which analysts have derided as a PR document and a wish list, makes no such choices.

Solvency – NSS is the Resolution

The strategy is to make America more competitive

Counsel on Foreign Relations,“National Security Strategy, 2010.” 05-27-2010 http://www.cfr.org/publication/22232/national\_security\_strategy\_2010.html

“Our national security strategy is, therefore, focused on renewing American leadership so that we can more effectively advance our interests in the 21st century. We will do so by building upon the sources of our strength at home, while shaping an international order that can meet the challenges of our time. This strategy recognizes the fundamental connection between our national security, our national competitiveness, resilience, and moral example. And it reaffirms America’s commitment to pursue our interests through an international system in which all nations have certain rights and responsibilities."

Solvency – Solves WTO

Obama’s NSS solves

Waleed Aly, ABC. “Obama's National Security Strategy” 06-01-2010. http://www.abc.net.au/unleashed/stories/s2914175.htm

Sometimes words are given their meaning by the identity of the person using them. This must be borne in mind when reading president Obama's new National Security Strategy, released late last week. "The United States must reserve the right to act unilaterally," says the document, in a line that could easily have come from Obama's predecessor. But it is folly to suggest, as several commentators have, that Obama's approach is merely Bush's *redux*. When Obama speaks of unilateral action you believe he means it as a last resort. Bush sounded like he was claiming a licence to wage any old war he could, which he did. Whatever overlap may exist between the positions of Obama and Bush, it is clear that they view the nature of America's national security threats in fundamentally different ways. Obama's strategy document officially bids farewell to the War on Terror: "This is not a global war against a tactic - terrorism - or a religion - Islam" we are told. Instead, "we are at war with a specific network, al-Qaeda, and its terrorist affiliates". Even that is a little simplistic - global terrorism is a far more decentralised, diffused and disconnected phenomenon than al-Qaeda & co - but even so the difference is not merely one of linguistic nuance. It is paradigmatic.

Solvency – NSS Key to Government

The NSS is the most important agenda setting document for the rest of the government – it will shape resulting policy

Peter Feaver, Foreign Policy. “Holding out for the National Security Strategy” 01-20-2010. http://shadow.foreignpolicy.com/posts/2010/01/20/holding\_out\_for\_the\_national\_security\_strategy

I am looking forward to reading President Obama's National Security Strategy (NSS), which should be released early this year. The NSS is the authoritative account of the president's grand strategy -- how he sees the challenges and opportunities confronting the United States in the world today and what he intends to do about it. It is important in ways that my FP colleague, Steve Walt, seems not to understand. The NSS is an invaluable window into the thinking of the president; even if early drafts are developed by lower-ranking staff, the president and senior-most presidential aides will scrub it closely, more closely than any other governmental white paper. Because it is not a speech, it can cover terrain and develop the "theory of the case" that no one would inflict upon a listening audience. Precisely because it is a public document, it must authentically reflect the administration's world-view; it is not a fortune cookie prediction of what the administration will do in any particular setting, but it is an authoritative statement of the principles that guide the president. The NSS is one of the most important communications tools the president has and, perhaps surprisingly, one of the most important audiences for it is the rest of government. The NSS will tell the vast governmental establishment responsible for implementing the president's vision just exactly what the president's vision is.

Solvency – NSS Causes Change

NSS priorities are effectively translated into on the ground changes

Nicholas J. Armstrong. “The Next U.S. National Security Strategy: A Normative and Public Management Approach.” 09-18-2008. http://insct.syr.edu/events&lectures/events/2008/advice\_to\_the\_new\_administration/Working%20Paper%20Series/Papers/INSCT\_08-001\_Armstrong\_The%20Next%20U.S.%20National%20Security%20Strategy.pdf

 Setting priorities is critical to effective strategy in all organizations (public, private, not-for-profit) and it is simply good practice in government at all levels. NSS objectives and priorities will serve the dual purpose of signaling transparent intent to Congress, the American people and the international community, as well as a planning tool for the national security establishment. Subordinate agencies (DOD, DHS, and Intelligence Community) will be better able to ‘nest’ their corresponding strategies, plans and resources with national objectives as well as collaboratively integrate their policies to achieve the requisite inter-governmental approach to national security. The nine strategic issues leave stakeholders guessing as to their relative priority. The next NSS should instead be translated into measurable, prioritized objectives through a systematic and collaborative review process led by the National Security Council. · Establish a formal inter-governmental process

Solvency – NSS Shapes Policy

It’s the keystone document shaping security policy

Colonel Patrick C. Malackowski “IMPROVING THE UNITED STATES NATIONAL SECURITY STRATEGY: AN INFORMED PUBLIC.” 03-18-2005. http://www.strategicstudiesinstitute.army.mil/pdffiles/ksil39.pdf

Given this strategic context and model, the National Security Strategy (NSS) of the United States of America communicates the President’s and this nation’s grand strategy developed from our national purpose along with the associate ways, means and ends. By design, the NSS should also provide the President’s vision and priority of the international issues of vital interest to the United States.2 The NSS is the keystone document from which the cabinet, the interagency department directors and our senior military leaders draft their policies, directives and strategies that must accomplish the vision conveyed in this strategy.

Solvency – NSS Solves Millitary

An Obama NSS would effectively shape the military bureaucracy it sets the baseline for all structural decisions

Josh Rogin “Experts call on Obama to put forth new National Security Strategy.” 10-27-2009. http://thecable.foreignpolicy.com/posts/2009/10/27/experts\_call\_on\_obama\_to\_put\_forth\_new\_national\_security\_strategy

One of the key recommendations put forth is that President Obama should issue a revision of the U.S. National Security Strategy to recognize the changing international landscape. The official National Security Strategy of the United States has not been updated since 2006. Voices throughout the national-security community in Washington have been calling for such a move for some time, as a foundation on which to base all of the other structural decisions and as a baseline for settling disputes. "The president should articulate his vision for the NSS of the United States now," wrote the Strategic Studies Institute's Robert Dorff in an opinion article last month, "That train needs to be moving now or it will never leave the station." "The president should seriously consider bucking the common wisdom and tackling the national security agenda head-on, even if simultaneously with his ambitious domestic agenda," said Dorff, "Absent bold and early presidential leadership, change in national security policy and strategy is unlikely, and organizational reform impossible."

Solvency – Pentagon

The pentagon will base their strategic decisions on the NSS

Jim Talent and Mackenzie Eaglen “Planning for the Future: How and Why to Salvage the Pentagon's Quadrennial Defense Review.” 01-04-2010. http://www.heritage.org/Research/Reports/2010/01/Planning-for-the-Future-How-and-Why-to-Salvage-the-Pentagons-Quadrennial-Defense-Review

The National Security Strategy, the guiding foreign policy vision developed by the White House, is an essential, mandatory precursor to the Pentagon strategy review. The National Security Strategy is a broad strategy document issued periodically by the executive branch for Congress. In the NSS, the President identifies America's major national security priorities and broadly outlines how the Administration plans to address them. The legislative basis[23] for the document should be amended to require the executive branch to produce the NSS no later than six months into each new Administration, around the end of June. Importantly, Congress must enforce the requirement that the NSS precede the QDR by at least several months to allow time for a rigorous debate on the President's foreign policy and defense agenda and on the roles that it ascribes to the nation's military.

Solvency – People Follow

People Listen to NSS

Global Zero. “Amb. Richard Burt discusses the Global Zero Action Plan on Slate.com” 08-21-2009 http://www.globalzero.org/en/amb-richard-burt-discusses-global-zero-action-plan-slatecom

If Obama really wants to change minds, to change behavior in the nuclear establishment, he will need to take the following steps: First, he should issue a "Presidential Policy Directive" on the National Security Strategy of the United States, a directive that requires the secretary of defense and the chairman of the Joint Chiefs of Staff to, as the Federation of American Scientists has recommended, " 'translate' the presidential guidance into detailed force requirements, deployment, and requirements for strike plans that the Services, Unified Commands, and individual Combatant Commanders implement." In addition, while he's dreaming of Zero in an unspecified future, there are two specific de-alerting steps he can take immediately and unilaterally that will reduce the likelihood of accidental nuclear war. I laid them out in this column during the presidential primaries last year. Obama needs to let the nuclear establishment know who's boss. He's got to kick some bureaucratic butt in the Pentagon. Zero may be an impossible dream, but we'll never know unless Obama gets the Pentagon to take it seriously now. A dream deferred is a dream denied.

Solvency – Congress

Congress will support presidential foreign policy initiatives as long as there consulted

Lee H. Hamilton “Foreign Policy Consultation between the President and Congress” 10-14-1999. http://www.centeroncongress.org/speeches/foreign\_policy\_consultation\_between\_the\_president\_and\_congress.php

That kind of failure is to be anticipated in our system of government. Congress has a responsibility to challenge executive branch proposals with which it disagrees. Good consultation will not, and should not, always be correlated with congressional support. But more often than not, good consultation will help an administration gain greater backing in Congress. It will almost always strengthen policy. The power of the presidency is such that the President will usually be given the initiative on foreign policy matters. When the President keeps Congress involved in the policymaking process, and consults sufficiently, his chances for success with Congress increase.

NSS Perceived Internationally

NSS goals will be perceived internationally

Don M. Snider.“THE NATIONAL SECURITY STRATEGY: DOCUMENTING STRATEGIC VISION” 03-15-1995 http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB332.pdf

First, the central, external purpose of the report beyond the executive branch is to communicate strategic vision to Congress, and thus legitimize a rationale for resources. The stated intent of the Goldwater-Nichols legislation is broadly accepted as valid for effective political discourse on issues affecting the nation's security--the Congress and the Executive need a common understanding of the strategic environment and the administration's intent as a starting point for future dialogue. That said, however, it is understood that in the adversarial environment that prevails, this report can only provide a beginning point for the dialogue necessary to reach such a "common" understanding. The second purpose is to communicate the same vision to a number of other quite different constituencies. Many of these are foreign, and extensive distributions through the United States Information Agency have proven most effective at communicating changing U.S. intentions to the governments of many nations not on our summit agendas.

AT Perm

The permutation doesn’t solve the net benefit

A. Relevancy: The permutation doesn’t appease Congress – it will be seen as just an attempted cheerleading session for the already passed plan

John Lewis Gaddis, “Did President Bush Have to Submit a National Security Strategy Report to Congress?” 11-04-2002 http://hnn.us/articles/1085.html

The National Security Strategy (NSS) report was born out of the Goldwater-Nichols Act of 1986, the fourth major post-World War II reorganization of the U.S. Defense Department. It is one of more than 2,000 reports that federal departments, agencies, commissions, and bureaus must submit to Congress each year. In requiring a wide-ranging, yet detailed annual report, the 99th Congress that passed Goldwater-Nichols hoped to remedy what it considered a major shortfall of Cold War era executive branches-the inability to formulate and communicate concrete mid- and long-term national security strategy. "Few in the Congress at that time doubted that there existed a grand strategy," Don Snider, a political scientist at the U.S. Military Academy, has noted. "What they doubted, or disagreed with, was its focus in terms of values, interests, and objectives; its coherence in terms of relating means to ends; its integration in terms of the elements of power; and its time horizon." Requiring the report was also a way for Congress to ensure greater civilian control over the military and its planning, a major political theme of the Goldwater-Nichols Act.