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**The Practice of Pre-emptive and Preventive Wars: What is the Custom?**

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**Abstract**

Debates about the legality of pre-emptive and preventive wars became urgent and vigorous after the attacks of September 11, 2001 and the subsequent United States national security doctrine which embraced pre-emptive and preventive war. This article contributes to these debates by assessing the frequency with which states engage in pre-emptive and preventive wars. International law is formed by both statute and custom, and this is the first article to assess the custom of states with regard to pre-emptive and preventive war. Using databases that cover the seventy-nine major interstate wars from 1816 to 1997, I find that states engage in pre-emptive and preventive wars between 19 and 33 percent of the time, with revisionist wars comprising the rest. The best estimate is that 29 percent of major interstate wars are pre-emptive and/or preventive.

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## Introduction

The attacks of September 11, 2001 resulted in the “Global War on Terrorism.” To fight this war, the Bush administration embraced preventive and pre-emptive war as official doctrine in its subsequent 2002 and 2006 “National Security Strategies of the United States.”<sup>1</sup> With new urgency, scholars of international law have had to grapple with the possibility that weapons of mass destruction (WMD) terrorism or war with state possessors of WMD had changed previously accepted conventions regarding the legality of war. Traditionally, all but the clearest, most urgent, and most necessary pre-emptive wars were considered illegal. How did the gravity and ambiguity of the newly apparent threats change the landscape for scholars and practitioners of international law? We do not yet know, nor may we ever because international law is often so contested. Nonetheless, the Bush administration’s policy shift and the implications of dealing with WMD proliferation and WMD terrorism ignited debates about wisdom and legality of pre-emptive and preventive wars among scholars of international relations and international law, pundits, and policy makers.<sup>2</sup>

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<sup>1</sup> “The National Security Strategy of the United States of America,” March 2006, p. 38, available via: <<http://www.whitehouse.gov/nsc/nss/2006/nss2006.pdf>> and “The National Security Strategy of the United States of America,” September 2002, p. 15, available via: <<http://www.whitehouse.gov/nsc/nss.pdf>>.

<sup>2</sup> Alan M. Dershowitz, *Preemption: A Knife that Cuts Both Ways* (New York, NY: W.W. Norton, 2006); Betty Glad and Chris J. Dolan, eds., *Striking First: The Preventive War Doctrine and the Reshaping of U.S. Foreign Policy* (New York, NY: Palgrave Macmillan, 2004); G. John Ikenberry, “America’s Imperial Ambition,” *Foreign Affairs* (September/October 2002) available

One element that has been lacking in debates among scholars of international law (and in every other domain) is empirical analysis of state custom concerning pre-emptive and preventive wars. This is a significant gap because international law is formed not just by the treaties and statutes signed and ratified by states, but also by custom – what states actually do. To address this gap, I use databases developed by international relations scholars to measure how often states have actually engaged in pre-emptive and preventive wars over time.

The history of preventive and pre-emptive war suggests that states have often resorted to these forms of war. Of the seventy-nine major interstate wars since the Napoleonic Wars, 19 percent to 33 percent have been pre-emptive and preventive, depending on the coding rules. The best estimate is 29 percent. Moreover, the rate at which states engage in pre-emptive and preventive war has been increasing since the Napoleonic Wars. From 1815 to 1900, between 15 percent and 18 percent of the major interstate wars were pre-emptive and/or preventive. After 1945, between 30 percent and 39 percent of these wars were pre-emptive and/or preventive. Despite the headlines which seem to make pre-emptive and preventive wars a recent and urgent necessity to some, and a source of concern or dismay to others, the war on terror can not explain the recurrence of pre-emptive and preventive wars over almost two hundred years.

As an international relations scholar who is not a lawyer, I will not try to interpret the meaning of my findings for international law. If 29 percent of wars are pre-emptive and preventive wars, does this help or hurt the cause of those who would prefer to outlaw pre-emptive and preventive war? It is up to experts on customary international law sort out what, if

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via: <<http://www.foreignaffairs.org/>>; and Frederick W. Kagan, “War Sooner Rather Than Later: Delay Can Sometimes Be Immoral,” *The Weekly Standard*, Vol. 8, No. 24 (March 3, 2003) available via: <<http://www.weeklystandard.com>>.

any, thresholds have been crossed and whether crossing those thresholds is important.

I will say that the problem of WMD proliferation and terrorism will likely only get worse. When a nuclear weapons expert visited Notre Dame, he said that the scientists who built the first atomic bomb were Noble-level physicists. Now, he would fail any graduate student who could not design a nuclear bomb, if he were a teacher. The same dispersion and bar-lowering of knowledge will occur for bio-weapon engineering. Bio-weapons can be deadlier, and may end up being easier to build. The biggest hurdle in building a nuclear bomb is obtaining fissile materials, not designing the bomb. What materials need to be gathered once bio-materials can be synthesized in the laboratory? Over the following decades, we will be entering a novel and dangerous security environment. What does this mean for international law? For domestic law?

This article proceeds as follows. The first part briefly summarizes and contrasts the two main sources of international law: statutory law and customary law. Custom may lead to statute, and even when it does not, custom informs debates about international law. To the extent that custom plays a role in international law, it underscores the need for empirical analysis of the trends in pre-emptive and preventive war. Despite all the debates about pre-emptive and preventive war, no study calculates its frequency relative to other types (revisionist) of major interstate wars – a vital part of custom, if not the definition of custom itself.

In the second part, I explain my methodology and in particular why I code wars as pre-emptive and preventive. I show how it is possible to use the data in large- $N$  databases to analyze the historical frequency of pre-emptive and preventive war-making. The databases distinguish revisionist from status quo states. Any war by a status quo power against a revisionist is almost necessarily a pre-emptive or preventive war and can be coded as such.

In the third part, I present the findings of my work, summarized above. I go as far as

established databases will take me, and leave it to the reader to decide how far that is. However, additional analysis extends the analysis, and reinforces the soundness of the coding rule presented in the previous paragraph. For example, initiators of pre-emptive and preventive wars have less than half the aggregate power of the states they attack. This implies a level of desperation because when revisionists attack they have a two to one or greater power ratio compared to their victims. I also compare the win rates for initiators of pre-emptive and preventive wars compared to revisionist wars, and I show trends in the frequency of pre-emptive and preventive wars.

The conclusion summarizes the findings of the quantitative research and suggests areas for future research.

### **International Law: Anarchy, Statute, and Custom**

The reason that international law is so difficult to interpret and to enforce compared to domestic law is that states exist in an anarchical environment where each state has to fend for its own security. States will not abide by the law if their existence is threatened and if nothing will enforce the law. Anarchy means that, between nations, custom often diverges from statute – especially in the realm of security. For example, if my analysis is correct, at least 70 percent of the world’s major interstate wars between 1816 and 1997 would be considered illegal by today’s standards. This is because they were wars by revisionists which aimed to overturn the status quo, not legal wars of pre-emptive self-defense, and not perhaps-justifiable wars of preventive self-defense.

This divergence means that there are two sources of international law: statute and practice (or custom). Having two sources greatly complicates the formulation and interpretation

of international law.

To explain, domestic environments have hierarchical systems of law enforcement, and they have police forces and other mechanisms to enforce the law. In contrast, anarchy means there is no cop on the beat in world politics. Instead, anarchy creates a self-help world where the only protection derives not from what is assured states from some hierarchical system, but instead from what security they can create for themselves through their militaries, alliances, and foreign policies.<sup>3</sup> States generally have to be wary of their neighbors and other potential threats. In response to threats, states build militaries for self-defense. They may also build militaries planning for conquest, but this only reinforces the anarchic nature of world politics. In sum, anarchy and the relative lack of enforcement in international relations means that international law has less influence in constraining behavior than domestic law. This is especially true with war and security issues when the stakes are supremely high. By statute, the United Nations Charter in particular, war is illegal. If the Charter held great sway, we would not see the quantity

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<sup>3</sup> For more see Robert Jervis, "Cooperation Under the Security Dilemma," *World Politics*, Vol. 30, No. 2. (Jan., 1978), pp. 167-214; John J. Mearsheimer, *The Tragedy of Great Power Politics* (New York, NY: Norton, 2001); and Kenneth N. Waltz, *Theory of International Politics* (New York, NY: Random House, 1979). In international relations scholarship, anarchy is a term of art, simply denoting a lack of hierarchy. It does not automatically denote mayhem and violence. Many debates between international relations scholars turn on how violent anarchy is, and on the prospects of mitigating anarchy through institutions, rules, and norms. On this score, there is something of a continuum between offensive realists, defensive realists, institutionalists, and constructivists, moving in order from most pessimistic to most optimistic and defined in terms of prospects for taming war.

of wars, threats of war, and arms races that are evident today. International law has more traction in economic issues, but that is not the concern of this article.<sup>4</sup>

Because international law is relatively weak in security affairs, international lawyers also look to practice, or custom, to help decide what is legal. The main idea is that if enough states do something often enough, this custom denotes some level of legitimacy or legality (with obvious exceptions such as genocide excluded). In essence, then, anarchy in international relations has produced two sources of international law: statute and custom. This is because statute is not sufficiently constraining without hierarchy and enforcement. Instead, practice, custom, and the precedents created by behavior have also come to inform international law.

*International Law: Empirical Scholarship on Custom*

If international law frequently relies on custom, how well have scholars of international law assessed custom? The answer is: not very well, although the situation is improving. In 1993, Gordon argued that empirical research “remains to this day the most neglected and ridiculously undervalued as well as the most potentially fruitful branch of legal studies”<sup>5</sup>

Murphy views this lacuna cynically:

Unfortunately, in reading the literature one cannot help but feel that international lawyers are often coming to this issue with firm predispositions as to whether [pre-emptive force] should or should not be legal and then molding their

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<sup>4</sup> Charles Lipson, "International Cooperation in Economic and Security Affairs," *World Politics*, Vol. 37, No. 1. (October, 1984), pp. 1-23.

<sup>5</sup> See Robert W. Gordon, "Lawyers, Scholars, and the "Middle Ground," *Michigan Law Review*, Vol. 91 (August 1993), p. 2085. See also Peter H. Schuck, "Why Don't Law Professors Do More Empirical Research?," *Journal of Legal Education*, Vol. 39, No. 3 (1989), pp. 323-336.

interpretation of state practice to fit their predispositions.<sup>6</sup>

Part of the dearth in applying empirical social science to the study of law is the isolation of the study of international law, usually within law schools, from the study of international relations, usually within departments of political science. Of course, disciplines are often deaf to each other, but as Slaughter Burley stated in 1993, this situation is regrettable because:

if social science has any validity at all, the postulates developed by political scientists concerning patterns and regularities in state behavior must afford a foundation and framework for legal efforts to regulate that behavior. For instance, if it could be reliably shown that a great-power condominium was the best guarantee of international peace, then international law and organization should accommodate and support an arrangement that confers special privileges on a group of great powers. On the other hand, if the prospects for peace hang on some other set of state characteristics, then international security organizations and norms designed to regulate the use of force should be reshaped accordingly. From the political science side, if law--whether international, transnational or purely domestic-- does push the behavior of states toward outcomes other than those predicted by power and the pursuit of national interest, then political scientists must revise their models to take account of legal variables.<sup>7</sup>

Five years later, however, Slaughter, Tulumello, and Wood noted that the gap was narrowing between international law and international relations scholars in political science.<sup>8</sup> In 2005, Hathaway wrote that the “schism in scholarship and teaching between students of law and

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<sup>6</sup> Sean D. Murphy, “The Doctrine of Preemptive Self-Defense,” *Villanova Law Review*, Vol.50 (2005), p. 720 (part of a symposium: Brave New World: U.S. Responses to the Rise in International Crime).

<sup>7</sup> Anne-Marie Slaughter Burley, *International Law and International Relations Theory: A Dual Agenda*, *American Journal of International Law*, Vol. 87, No. 2 (April 1993), pp. 205-206.

<sup>8</sup> Anne-Marie Slaughter, Andrew S. Tulumello, and Stepan Wood, “International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship,” *American Journal of International Law*, Vol. 92, No. 3 (July 1998), pp. 367-397.



students of international relations” is “gradually disappearing.”<sup>9</sup> One example of cross-pollenization is an article by Norman and Trachtman which uses rationalist game theory, in this case borrowed from political science, to assess the relationship between customary international law and compliance.<sup>10</sup> Although communications between these disciplines is improving, the use of large-*N* analyses to help understand international law remains rare. That said, another study by Ryan Schildkraut also uses large-*N* databases to assess the frequency of pre-emptive and preventive behavior in disputes and crises, though not in large interstate wars.<sup>11</sup>

### **Definitions, Databases, Methodology, and Assumptions for Evaluating the**

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<sup>9</sup> Oona A. Hathaway, “Between Power and Principle: An Integrated Theory of International Law,” *University of Chicago Law Review*, Vol. 72 (May 2005), p. 476.

<sup>10</sup> George Norman and Joel P. Trachtman, “The Customary International Law Game,” *American Journal of International Law*, Vol. 99, No. 3 (July 2005), pp. 541-580.

<sup>11</sup> Ryan Schildkraut, Comment, “Where There Are Good Arms, There Must Be Good Laws: An Empirical Assessment of Customary International Law Regarding Preemptive Force,” *Minnesota Journal of International Law*, Vol.16 (forthcoming Nov. 2006). Schildkraut, a former undergraduate student of mine at the University of Notre Dame, is now a law student at the University of Minnesota Law School, with his J.D. expected in 2007. His analysis focuses only on MID disputes, not COW wars. The strength of my article is that it offers insights for those interested in major interstate wars, arguably a salient issue in debates about pre-emptive and preventive wars. In addition to assessing pre-emptive and preventive behavior during crises and disputes, which are more numerous than large interstate wars, he also covers more of the relevant international law literature. Schildkraut would be happy to provide a copy of his paper on request, as would I. My email is above, and his is: schil131@umn.edu.

## Practice of Pre-emptive and Preventive War

### *Definitions*

According to the US Department of Defense, a pre-emptive war is “an attack initiated on the basis of incontrovertible evidence that an enemy attack is imminent.” In contrast, a preventive war is “a war initiated in the belief that military conflict, while not imminent, is inevitable, and that to delay would involve greater risk.”<sup>12</sup> International relations scholars generally agree on the definition of pre-emptive war, but their definition of preventive war is broader and includes not just an attack in anticipation of an eventual conflict, but also attacks to prevent an unfavorable shift in the balance of power.<sup>13</sup> Scholars of international law often use the term “anticipatory self-defense” in place of pre-emption, even though the plain language interpretation of anticipatory self-defense would also seem to include at least some preventive wars.

A major difference between pre-emptive and preventive wars is in the timing or imminence of the threat a pre-emptive or preventive attack is supposed to address. A pre-emptive war is against an immediate threat whereas a preventive war is against a longer-term threat. Unfortunately, the databases do not reveal what kind of threat a status quo initiator was addressing, or the timing of dispute escalation. From the point of view of international law, and the Caroline standards in particular, the timing and imminence issue is crucial in assessing the legality of a pre-emptive and distinguishing it from a preventive war. The Caroline standards also dictate that a pre-emptive war be necessary to be legal, and that it be conducted with

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<sup>12</sup> See the DoD online dictionary at:

<<http://www.dtic.mil/doctrine/jel/doddict/data/p/index.html>>

<sup>13</sup> Copeland, Dale C., *The Origins of Major War* (Ithaca, NY: Cornell University Press, 2000)

damage proportionate to the threat the war intended to address.<sup>14</sup> No known database offers timing data on dispute escalation that would be useful for my purposes, so it is hard to distinguish pre-emptive wars from preventive wars based on imminence. Not being able to code timing is a limitation of this study and this is a ripe area for future teams of data coders.

On the other hand, the databases do suggest – though not definitively – when the Caroline standard of necessity are met. If a status quo power attacks a revisionist, this means that a state that did not want war felt compelled to war. These cases comprise at least 19 percent of the seventy-nine interstate wars since 1815. Thus, the databases may not tell us about the immediacy of threat, but they do tell us something about the extent to which status quo powers felt compelled to take up arms.

### *The Databases*

Three of the primary datasets used by scholars to study the international use of force are the Correlates of War Inter-State War (COW), Militarized Interstate Disputes (MID), and National Material Capabilities (NMC) databases.<sup>15</sup> The COW includes, among its many data, coding of which state/s were the initiators and targets in the seventy-nine major interstate wars from 1816 through 1997. Major wars are defined as having over one thousand battle casualties.

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<sup>14</sup> The Caroline standards set forth the conditions a pre-emptive attack must meet in order to justify its legality: the impending attack to which the state is responding must be imminent, a response by pre-emption must be necessary, and the pre-emptive attack must be proportional. See Mary Ellen O’Connell, “The Myth of Preemptive Self-Defense” American Society of International Law (ASIL) Task Force Paper, August 2002, p. 9, available at: <http://www.asil.org/taskforce/oconnell.pdf>.

<sup>15</sup> All these datasets are available online via: <http://www.correlatesofwar.org/>.

The MID has data on the twenty-three hundred disputes between states that have become militarized. This means it has data on each instance when there is a threat, display, or use of military force by one state directed towards another state. While it includes data on the seventy-nine major wars, its focus is on disputes, not major wars. For this article, I use the MID codings on which states are revisionists and which states are considered initiators for each of COW's major wars. The NMC database offers power scores for each state for each year from 1816 to 2001. It contains data for total population, urban population, iron and steel production, energy consumption, military personnel, and military expenditure, which it then combines to form a Composite Index of National Capability (CINC). These databases have been developed and refined since the 1960s, and while still containing flaws, gaps, or controversial coding decisions, they are the most reliable available. I used versions 3.0, 3.02, and 3.02 of the COW, MID, and NMC databases, respectively.

I was able to do this analysis thanks to previous work with Ryan Schildkraut in which we combined these databases to form the "Is War Rational?" database.<sup>16</sup> Our purpose then was to explore the extent of miscalculation and misperception in decisions for war. We assumed that states started wars intending to win. If initiators did not win, then we assumed that they miscalculated and/or misperceived in deciding for war. We found that initiators won 73 percent of their wars in the 1800s, and only 33 percent after 1945. Schildkraut graduated, but I am continuing to try to figure out what explains this dramatic rise in what I believe to be miscalculation and misperception. Here, though, I apply the Is War Rational? database to the question: how frequently have the seventy-nine major interstate wars since 1816 resulted from

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<sup>16</sup> The Is War Rational? database and resulting analysis are available via:

<http://www.nd.edu/~dlindley/>.

pre-emptive and preventive motivation?

As mentioned above, the three databases code a number of variables. Of primary interest here are the differences between the MID revisionist, the MID initiator (attacking originator in strict MID terms) and the COW initiator. The differences between these offer a way to distinguish between pre-emptive and preventive wars and those motivated by revisionist reasons. The MID Revisionist is "the state or states that sought to overturn the status quo ante." A revisionist is the most dangerous state in the system as it is out to change things, by force if necessary. A status quo power is just that: content, and not dangerous unless provoked. I assume that all non-revisionists are status quo powers. As nine major wars have both sides coded as MID revisionists, and two have no MID revisionists, it would appear that the MID coders have tried to be careful about who is and who is not a revisionist or status quo power. Of course, codings of revisionist or status quo are much harder to determine than codings on populations or geographic proximity to one's allies or targets.

In MID, the Initiator (or "attacking originator," in strict MID language) is "the state that takes the first militarized action." A militarized action is "a single military action involving an explicit threat, display, or use of force by one system member state towards another system member state."<sup>17</sup> In COW, the Initiator is the side that "made the first attack in strength"<sup>18</sup>

Usually, I report data using both the COW and MID initiators, but where I only report

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<sup>17</sup> Daniel M. Jones, Stuart Bremer, and J. David Singer, "Militarized Interstate Disputes, 1816-1992: Rationale, Coding Rules, and Empirical Patterns" *Conflict Management and Peace Science*, Vol. 15, No. 2 (Fall 1996), pp.163, 168, 178.

<sup>18</sup> J. David Singer and Melvin Small, *The Wages of War, 1816 - 1965: A Statistical Handbook* (New York: John Wiley and Sons, 1972), p. 366.

one of them (usually for reasons of presentational clarity), I use the COW initiator. It denotes a more meaningful use of force (a move in strength) compared to a MID initiator (who may only move some troops around or fire a few shots). From a deductive standpoint this is correct as anyone who starts a pre-emptive or preventive war is likely to do so massively. Because they code initiation differently, COW and MID disagree on who the initiators are in twenty-two of the seventy-nine wars. This is not necessarily a flaw, because the utility of one coding rule over another depends on what questions one is asking of the data. It is interesting to note, however, that by strict application of its coding rules, MID indicates that Poland started World War II.

Despite the fact that COW and MID differ on initiators in 28 percent of all major interstate wars, this difference does not matter very much. If one uses which COW initiators are status quo or revisionist to determine pre-emptive and preventive wars (this becomes clearer below), fifteen wars are almost certainly pre-emptive and preventive wars. If one uses MID initiators, the figure only rises to seventeen wars.

### *Methodology and Assumptions*

The question now is: how can these distinctions between revisionist and status quo initiators be used to measure the relative frequency of pre-emptive and preventive wars? To begin, these distinctions create four types of war. A war may be between an initiating revisionist against a defending revisionist, between an initiating revisionist and a defending status quo power, between an initiating status quo power against a defending revisionist, and finally between an initiating status quo power against a defending status quo power. These four possibilities may be depicted in a two-by-two matrix, shown below.

### **Types of Wars**

Adversaries are:	Defending Revisionist	Defending Status Quo Power
Initiating Revisionist	A.	B.
Initiating Status Quo Power	C.	D.

I will now explain why some of these boxes clearly indicate that a war is or is not pre-emptive and/or preventive, and why others are less clear. To begin with box A, it contains wars that *may be* pre-emptive and/or preventive initiating revisionists against defending revisionists,. Even a revisionist may attack fearing an opponent’s attack and not because of its own ambitions. Perhaps its own war plans were not quite ready and it nonetheless felt that it could not wait to get in the first blow. Or the motivations may be mixed: both security and ambition. Or perhaps the attack was straight ambition, not prompted by fears of impending attack or shift in power. In other words, there is no clear logic why wars in this box would or would not be pre-emptive and preventive wars.

Box B contains wars that are clearly *not* pre-emptive and preventive wars. Here, a revisionist state attacks a status quo power. These are wars of aggression for many possible reasons including expansion, political domination, resource control, and so forth.

Box C contains wars that are almost *certainly* pre-emptive and preventive wars. These are wars in which a status quo power attacks a revisionist. In this box, it is safe to assume that a state that did not want war felt compelled to war and that it felt that it would gain a military advantage by striking first. This attacking state may have learned that its adversary had revisionist goals or was about to attack. This previously status quo state, forced to war, then struck first.

Box D contains wars that are *probably* pre-emptive and preventive wars. Why would

one status quo state attack another? This is mysterious, but one of the few logical explanations is that one side came to fear an attack by or dangerous shift in power by the other. Of course, if the MID codings are correct, these wars would have to result from miscalculation and misperception on the part of the attacker which would have had to falsely impute impending attack or other threatening development to the other status quo side.

The next two by two summarizes the above coding decisions, and shows the likelihood that each type of war is or is not a pre-emptive and/or preventive war:

### Coding Rules

Adversaries are:	Defending Revisionist	Defending Status Quo Power
Initiating Revisionist	A. <b>May Be</b> Pre-emptive and/or Preventive	B. <b>Not</b> Pre-emptive and/or Preventive
Initiating Status Quo Power	C. <b>Yes</b> Pre-emptive and/or Preventive	D. <b>Probably</b> Pre-emptive and/or Preventive

The methodology for determining which wars fall into each box is simple. I looked at the data on each war and noted its codings for MID revisionist, MID initiator, and COW Initiator. I then counted how many wars fell into each box in the two by two. All the seventy-nine wars and their respective codings are shown in the appendix, below.

Like all coding rules, these generate anomalies. For example, North Vietnam is coded as a MID revisionist, while the US is the COW initiator. According to the coding rules, this is a pre-emptive and/or preventive war. While the US was indeed trying to prevent communist domination of South Vietnam, I think many analysts might hesitate to code the Vietnam War as pre-emptive or preventive. However, I did not recode any of the wars. I used only the data in the databases. While this may generate anomalies, the risks of recoding are greater. I am wary



of challenging the most well-established and best-researched databases in political science. If I did, someone might think I was trying to cook the books. Also, there is no reason to believe that the anomalies are anything but impartial. For every anomaly that is a false pre-emptive and preventive war, there may be another that is a false revisionist war. Cherry-picking anomalies to recode over-rides this simple logic.

I did further analysis to examine trends in pre-emptive and preventive wars and to assess the relative power of status quo states which initiated wars compared to revisionist initiators. I also compared their relative success rates in winning their wars. All this data was pulled from the Is War Rational? database, itself a product of the COW, MID, and NMC databases. The Is War Rational? database, and the dedicated Microsoft Excel worksheets and charts used in this article are all available on my website, listed above.

### **Findings**

Given my assumptions and coding rules, I find that between 67-65 percent (53-51 cases) of the seventy-nine major interstate wars are *not* pre-emptive and preventive wars. Between 19-22 percent (15-17 cases) of the wars *are clearly* pre-emptive and preventive wars. In this range of scores, the first number results when I use the COW initiator for the initiator. As noted above, this is the score I believe is the best indicator for the purposes of this article. The second number results from using the MID initiator as the initiator. Doing this increases the instances of pre-emptive and preventive war by two cases.

There are nine cases of revisionists attacking revisionists, or 11 percent of all wars. It is possible that these wars are pre-emptive and preventive wars, but deductively there is no sound argument either way. Finally, there are two cases (3 percent) of status quo powers attacking

status quo powers, and these are likely pre-emptive and preventive wars. Box C alone constitutes the bottom limit for the percent of pre-emptive and preventive wars, while adding in boxes A and D creates the upper bound.

Thus, pre-emptive and preventive wars constitute somewhere between 19 percent and 33 percent of the seventy-nine major interstate wars between 1816 and 1997. The following table summarizes these findings:

**Categorization of the seventy-nine Major Interstate Wars since 1815**

	Revisionist	Status Quo Power
Revisionist	A. <b>9 cases; 11%</b> PreEPrev=Maybe	B. <b>53/51 cases; 67-65%</b> PreEPrev=NO
Status Quo Power	C. <b>15/17 cases; 19-22 %</b> PreEPrev=YES	D. <b>2 cases; 3%</b> PreEPrev=Probably

It seems possible, and perhaps likely, that when states feel compelled to launch a pre-emptive and/or preventive war, it is not at a time of their choosing. They are more likely to be at a military disadvantage compared to revisionists who, when waging their wars of choice, can better pick when the power advantages accrue to them, and when they have a greater chance of winning. If these assumptions hold true, one way of checking on the above codings and assumptions about which types of wars are pre-emptive and preventive wars is to see how strong pre-emptive and preventive war initiators are compared to revisionist initiators, and to compare their win rates. If I have coded pre-emptive and preventive initiators correctly, the data should show that these initiators are weaker and lose more often. This is indeed the case.

*Relative Power*

I used the NMC's CINC score to determine the relative power of initiators. To explain

what the numbers below mean, if I show that an initiator had a relative capability of .5 in a war, that means that the initiator had a CINC score indicating that it held 50 percent of the power at the outset of the war, while its opponent also had 50 percent. Recall that a CINC score is a composite of various measures of power from industrial production to military expenditure. If I show .67, that means that the initiator had two-thirds of the power, and the defender one-third. A .75 means that the initiator had three-quarters of the initial power.

In the tightest end of the continuum of possible pre-emptive and preventive wars, there are fifteen instances of COW initiators attacking MID revisionists (box C). The relative capability of these initiators was .452, meaning that they attacked despite having less than 50 percent of the power in the fight. In contrast, in the fifty-three cases where revisionists attacked status quo states, their relative capability averaged .703, or more than two-thirds the power of their targets (box B).

This strongly suggests that at least the narrowest codings for possible pre-emptive and preventive wars is correct. The status quo states that feel compelled to launch pre-emptive and preventive wars are desperate and are considerably weaker than those who launch wars of choice.

What happens when the “maybe” and “probable” pre-emptive and preventive wars are added into the mix? If they also represent pre-emptive and preventive wars, the relative power scores should not change much. If they are really revisionist wars, then this should boost the relative power scores in the pre-emptive and preventive war category. Adding the eleven wars from boxes A and D to the fifteen wars in box C, the relative power for initiators rises slightly to .479, while the relative power for revisionists which attack status quo powers (box B) of course remains the same at .703. Remarkably, if the logic holds that states fight wars of choice when

they are stronger, and pre-emptive and preventive wars tend to be when they are relatively weaker, then almost all the wars in boxes A and D may be pre-emptive and preventive.

If the eleven wars from boxes A and D all represented strong revisionists fighting wars of choice, adding eleven .703 wars to fifteen .452 wars in box C would have yielded an average relative power score of .558. Instead, to get the average of boxes A, C, and D up to .479 from the .452 in box C alone, means adding approximately three .703 wars (revisionist wars) and eight .452 wars (pre-emptive and preventive wars). In other words, it seems likely that 73 percent (or 8 of the 11) of the wars in the “maybe” and “probable” boxes are pre-emptive and preventive wars. It is important to remember that these numbers are suggestive, not definitive. Nonetheless lopsided results carry some weight.

If eight of the eleven wars in the “maybe” and “probable” boxes are pre-emptive and preventive wars and these eight are added to the fifteen wars that are almost certainly pre-emptive and preventive wars, then twenty-three wars of the seventy-nine wars are almost certainly pre-emptive and preventive.

This means that the best estimate for the relative frequency of pre-emptive and preventive wars is that they constitute 29 percent of all wars.

#### *Win Ratios for Revisionist versus Pre-emptive and Preventive Initiators*

Similarly, it seems likely that if pre-emptive and preventive war initiators are forced into war in unfavorable circumstances, then they would lose more often. This is indeed the case, though the results are not so dramatic. In the narrow case of box C only, status quo initiators win 47 percent of the time, while box B revisionist initiators between 66 percent and 57 percent of the time. If one includes boxes A and D as pre-emptive and preventive wars, then the initiators win between 54 percent and 42 percent of the time, and the box B revisionist initiator

win rate remains between 66 percent and 57 percent. I do not know why these results are not as pronounced as those for relative power, but one explanation may be that whichever side strikes first often derives a military advantage. The table below summarizes these results in detail, also showing the percent of wars lost, as well as those which end in stalemate or compromise. These are listed as “other.”

**Win Rates for Different Types of War Initiators**

		COW Outcomes		MID Outcomes	
Win Rate Box C	Win Preemptive / Preventive	7	47%	7	47%
	Lose Preemptive / Preventive	6	40%	5	33%
	Other Preemptive / Preventive	2	13%	3	20%
Win Rate Box B	Win Revisionist	35	66%	30	57%
	Lose Revisionist	14	26%	15	28%
	Other Revisionist	4	8%	8	15%
		COW Outcomes		MID Outcomes	
Win Rate Boxes A, C, D	Win Preemptive / Preventive	14	54%	11	42%
	Lose Preemptive / Preventive	9	35%	7	27%
	Other Preemptive / Preventive	3	12%	8	31%
Win Rate Box B	Win Revisionist	35	66%	30	57%
	Lose Revisionist	14	26%	15	28%
	Other Revisionist	4	8%	8	15%

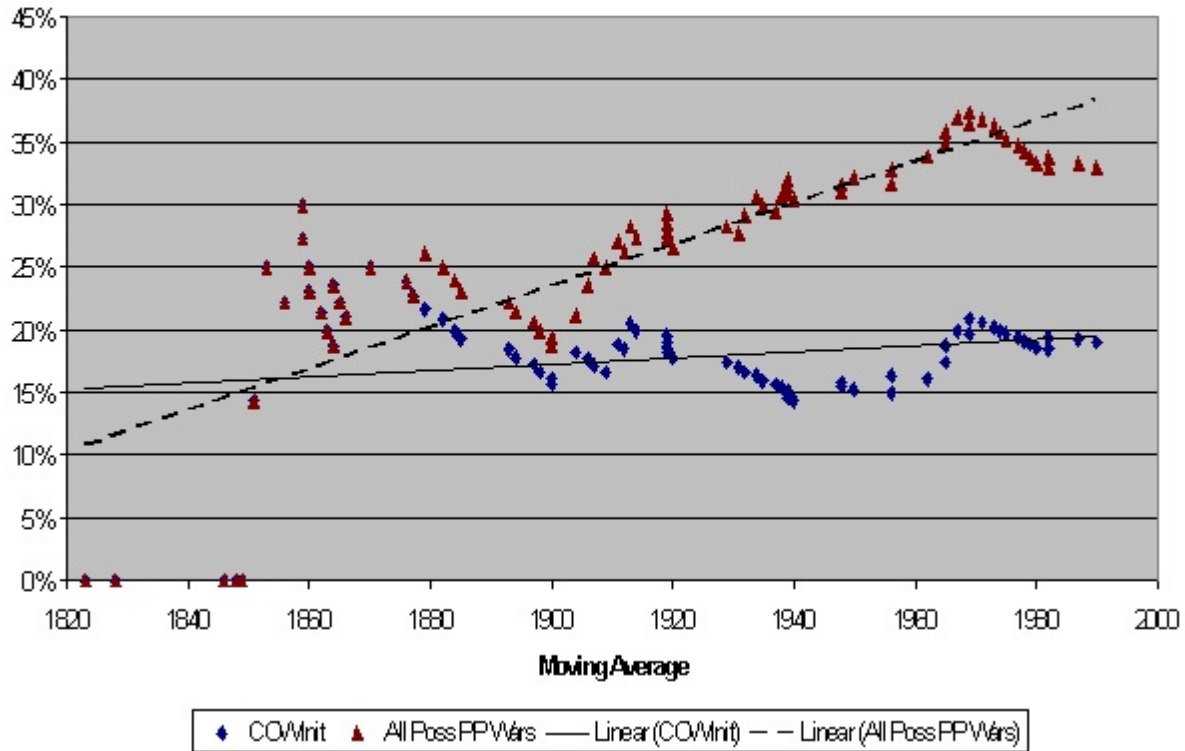
At the risk of adding further coding confusion to this article, I reported here both COW and MID war outcomes. Not only do COW and MID report different initiators in twenty-two of the seventy-nine wars as mentioned, but they also frequently have different codings for outcomes. For example, COW codes clear winners in forty-eight of the seventy-nine wars, while

MID has thirty-nine. There are no clearcut coding rules for outcomes given for either database. Hence, I report what the data indicate using both databases as there is no reason to pick one over the other. In contrast, I used only the fifteen COW initiators rather than the seventeen MID initiators in box C in the win rate and power sections of this analysis because that was more deductively sound, and more conservative.

#### *Trends in Pre-emptive and Preventive Wars*

Finally, I assess whether states are resorting more or less to pre-emptive and preventive wars over time. The following graph shows the moving averages for strictly defined pre-emptive and preventive wars (box C) as well as for the more inclusively defined boxes A, C, D wars. It also shows linear trendlines for these two categories to help discern the pattern over time amidst the fluctuations. Here are the results:

## Pre-emptive and Preventive Wars



To decode the legend, COW Init means COW Initiator versus MID revisionist, when the COW initiator is not also the MID revisionist. These are the fifteen wars in box C. These datapoints show the moving average of this type of war against all wars to that given date, over time. The last datapoint therefore is 15/79 or 19 percent. All Poss PP Wars means all possible pre-emptive and preventive wars which means the combination of the wars in boxes A, C, and D ( $N=26$ ). The last datapoint is 26/79 or 33 percent. The term linear refers to the trendlines calculated by Microsoft Excel. The COWInit and AllPossPPWars overlap completely prior to about 1875, but Excel did not offer a permutations of datapoint markings which made this clearer.

The results are hard to explain. Looking at the most restrictive and certain pre-emptive

and preventive wars (COW Init), the rate by the trendline shows some increase, but the variance over time renders that increase nearly insignificant. The R-squared, which measures how closely the datapoints fit the trendline, is a low .04. (A perfect fit, where each point sits on the line, is 1.0). On the other hand, inclusion of all the possible pre-emptive and preventive wars yields a clear increase in pre-emptive and preventive wars over time. Here the R-squared is a closer fit at .68.

I am not sure what this means. Clearly the frequency of wars in boxes A and D is increasing rapidly. Deductively, I have little reason to believe these wars are or are not pre-emptive and preventive, but the power data suggests 73 percent of these wars are pre-emptive and/or preventive. It is possible that the number of revisionists has been increasing, and because of that, the need for them to attack each other pre-emptively or preventively has also gone up. This is highly speculative, but is certainly area for continued research.

Putting the types of war into time periods seems to clarify these results, and it underscores the increase in pre-emptive and preventive wars. Looking at the strict definition of pre-emptive and preventive war (box C, when a status quo COW initiator attacks a revisionist), 15 percent of the wars from 1816 to 1900 are pre-emptive and preventive wars. From 1946 to 1997, 30 percent of wars have been pre-emptive and preventive. Using all possible pre-emptive and preventive wars (boxes A, C, and D), the percent rises from 18 percent to 39 percent from 1816-1900 to 1946-1997. Per the graph above, though, there is a decline in frequency of “all possible pre-emptive and preventive wars” starting in about 1970. The following table sums up this periodization of war by initiator types.

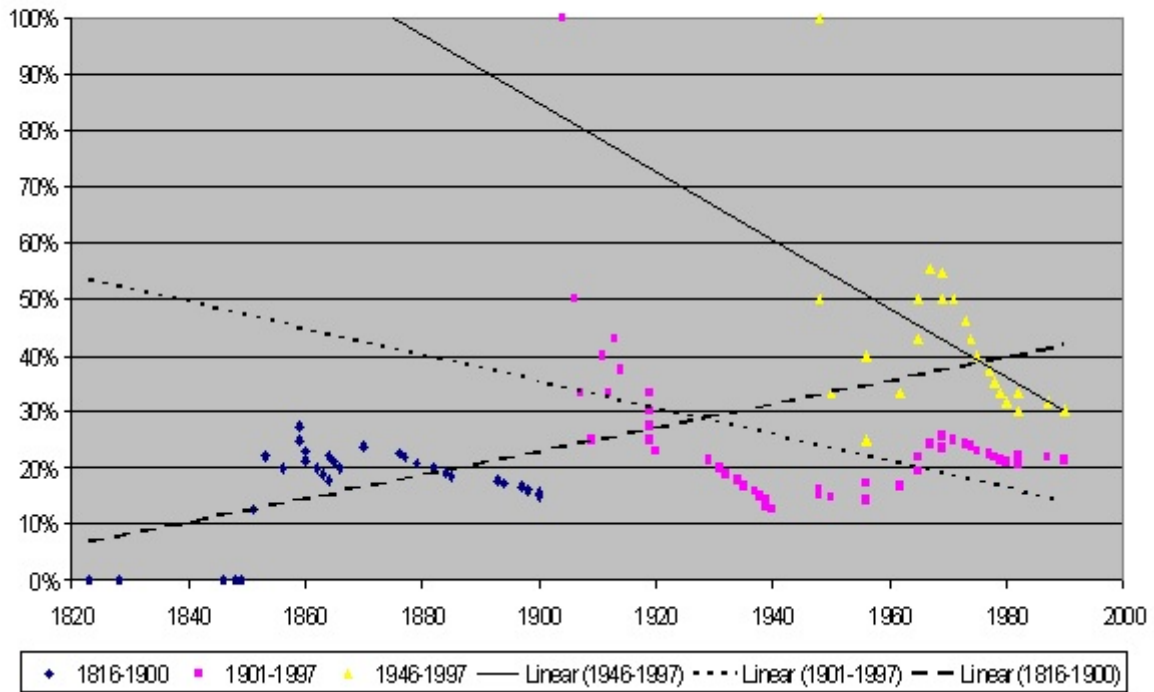
#### **Initiator Types by Period**



	SQ COW Initiator vs. Mid Rev	All Poss PreE/Prev Wars
1816-1900	15%	18%
1901-1997	21%	43%
1946-1997	30%	39%

Looked at this way, it seems like pre-emptive and preventive wars are increasingly even more decisively over time, doubling from the previous century into the post WWII period. A final graph helps to further understand these trends. This helps resolve some puzzles, because the table shows the rate of pre-emptive and preventive wars doubling when looking at status quo COW initiators, but the graph above shows a much flatter trendline. The answer is that by the time the moving average reaches the modern era, the overall trend rate is held down and is stabilized by all the prior wars. Each moving average endpoint on the graph below is one of the numbers in the COW Initiator column in the table above, ie: 15%, 21%, and 30%.

Trends Pre-Emptive and Preventive Wars, in Time Segments

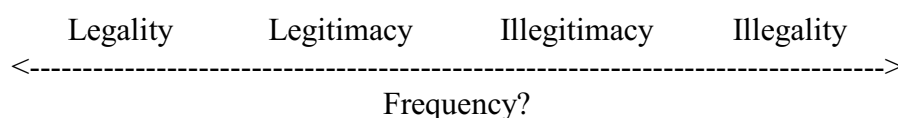


This graph adds some new insights. For example, while the overall rate of pre-emptive and preventive wars is indeed much higher after World War II, the rate declined in the 1946-1997 period by about 50 percent since 1970. This recent decline also brought down the trendline in the longer modern period of 1901-1997. It may not be worth making too much of these trends as the absolute number of pre-emptive and preventive wars is not very big (nor, for that matter, is the number of interstate wars, from a statistical sampling perspective). Looking at the appendix below confirms that there are no large concentrations of pre-emptive and preventive wars.

## Conclusion

I have shown that between 19 and 33 percent of all major interstate wars between 1816 and 1997 were launched for pre-emptive and/or preventive reasons. Power data suggests that the coding rules that led to these findings are correct. They further suggest that the best estimate for the frequency of pre-emptive and preventive war is 29 percent of all major interstate wars. The rate at which pre-emptive and preventive wars occur has been increasing over time, though with a decline since 1970.

What this means for custom is hard to say because there is no magic number at which a certain frequency suggests legitimacy or legality, illegitimacy or illegality.



A further complicating factor is that I have only presented estimates for the frequency of pre-emptive and preventive wars compared to revisionist wars. If pre-emptive and preventive wars are (or are not) deemed frequent compared to revisionist wars, this does not mean they are frequent if war is itself not frequent. Thus, another way to look at these results is that there have been between fifteen and twenty-three pre-emptive and preventive wars in 180 years. Is that frequent? I can not say, but at least now we have an idea of many pre-emptive and preventive wars occurred. I look forward to seeing what scholars of international law will do with these findings.

Political scientists face two tasks as research and database construction moves forward. The first is to incorporate timing codes into the COW and MID databases. This is very hard to do, but would shed light on a number of issues ranging from pre-emptive and preventive wars,

but also to the rapidity of dispute escalation and to the frequency of bolt out of the blue or surprise attack wars. A second project would be to code all the COW wars specifically for whether they were pre-emptive or preventive. This too would be difficult as necessarily arbitrary coding rules would have to separate the two types of war based on the imminence of the impending attack. Not only would the coding rule for timing be arbitrary, but analysis of all seventy-nine wars looking for firm war-launch indicators would be exceptionally difficult. For the time being, I hope this analysis proves useful.

## Appendix 1: The 79 Major Interstate Wars and How They are Coded

War Name	YrBeg	MID rev	COW init	MID init	COW Init NOT MID Rev (Box C; N=15)	MID Init NOT MID Rev (Box C; N=17)	COW Init vs. Rev. or Both/No Rev (Boxes A, C, and D; N=26)
Franco-Spanish	1823	FRN	FRN	FRN	N	N	N
Russo-Turkish	1828	USR	USR	USR	N	N	N
Mexican-American	1846	USA	USA	USA	N	N	N
Austro-Sardinian	1848	ITA	ITA	AUH	N	Y	N
First Schleswig-Holstein	1848	GMY	GMY	GMY	N	N	N
Roman Republic	1849	AUH, FRN, SIC	FRN	AUH	N	N	N
La Plata	1851	ARG	BRA	BRA	Y	Y	Y
Crimean	1853	USR	TUR	USR	Y	N	Y
Anglo-Persian	1856	UKG	UKG	UKG	N	N	N
Italian Unification	1859	ITA	AUH	AUH	Y	Y	Y
Spanish-Moroccan	1859	SPN	SPN	SPN	N	N	N
Italo-Roman	1860	ITA	ITA	ITA	N	N	N
Italo-Sicilian	1860	ITA	ITA	ITA	N	N	N
Franco-Mexican	1862	FRN, SPN, UKG	FRN	FRN, SPN, UKG	N	N	N
Ecuadorian-Columbian	1863	COL	COL	COL	N	N	N
Second Schleswig-Holstein	1864	GMY	GMY	GMY	N	N	N
Lopez	1864	ARG, BRA	PAR	PAR	Y	Y	Y
Spanish-Chilean	1865	SPN	SPN	SPN	N	N	N
Seven Weeks	1866	GMY	GMY	AUH	N	Y	N
Franco-Prussian	1870	GMY	FRN	FRN	Y	Y	Y
First Central American	1876	GUA	GUA	GUA	N	N	N
Russo-Turkish	1877	USR	USR	USR	N	N	N
<b>Pacific</b>	1879	BOL, CHL, PER	CHL	CHL	N	N	Y
Anglo-Egyptian	1882	FRN, UKG	UKG	FRN, UKG	N	N	N
Sino-French	1884	FRN	FRN	CHN	N	Y	N
Second Central American	1885	GUA	GUA	GUA	N	N	N
Franco-Thai	1893	FRN	FRN	FRN	N	N	N
Sino-Japanese	1894	JPN	JPN	JPN	N	N	N
Greco-Turkish	1897	GRC	GRC	GRC	N	N	N
Spanish-American	1898	USA	USA	USA	N	N	N
Boxer Rebellion	1900	JPN, UKG, USR	FRN, JPN, UKG, USA, USR	AUH, FRN, GMY, ITA, JPN, UKG, USA, USR	N	N	N
Sino-Russian	1900	USR	USR	USR	N	N	N
Russo-Japanese	1904	USR	JPN	USR	Y	N	Y
<b>Third Central American</b>	1906	GUA, SAL	GUA	GUA	N	N	Y
<i>Fourth Central American</i>	1907		NIC	HON	N	N	Y
Spanish-Moroccan	1909	SPN	SPN	SPN	N	N	N
Italo-Turkish	1911	TUR	ITA	ITA	Y	Y	Y
First Balkan	1912	BUL, GRC, YUG	YUG	BUL	N	N	N
Second Balkan	1913	GRC, RUM, TUR, YUG	BUL	BUL	Y	Y	Y
World War I	1914	AUH	AUH	AUH	N	N	N

<b>Russo-Polish</b>	1919	POL, USR	USR	USR	N	N	Y
Hungarian-Allies	1919	CZE, FRN, RUM, UKG, YUG	CZE, RUM	FRN, ITA, UKG	N	N	N
Greco-Turkish	1919	GRC	GRC	GRC	N	N	N
Franco-Turkish	1919	FRN	FRN	FRN	N	N	N
Lithuanian-Polish	1920	POL	POL	POL	N	N	N
<i>Sino-Soviet</i>	1929		USR	CHN	N	N	Y
Manchurian	1931	JPN	JPN	JPN	N	N	N
<b>Chaco</b>	1932	BOL, PAR	PAR	PAR	N	N	Y
<b>Saudi-Yemeni</b>	1934	SAU, YAR	SAU	SAU	N	N	Y
Italo-Ethiopian	1935	ITA	ITA	ETH	N	N	N
Sino-Japanese	1937	JPN	JPN	JPN	N	N	N
<b>Changkufeng</b>	1938	JPN, USR	USR	USR	N	N	Y
<b>Nomonhan</b>	1939	JPN, MON, USR	JPN	MON	N	N	Y
World War II	1939	GMY, ITA, JPN	GMY	POL	N	Y	N
Russo-Finnish	1939	USR	USR	USR	N	N	N
Franco-Thai	1940	THI	THI	THI	N	N	N
First Kashmir	1948	PAK	IND	IND	Y	Y	Y
Palestine	1948	EGY, IRQ, JOR, LEB, SYR	EGY, IRQ, JOR, LEB, SYR	EGY, IRQ, JOR, LEB, SYR	N	N	N
<b>Korean</b>	1950	PRK, ROK	PRK	PRK	N	N	Y
Russo-Hungarian	1956	USR	USR	USR	N	N	N
Sinai	1956	EGY	ISR	EGY	Y	N	Y
<b>Assam</b>	1962	CHN, IND	CHN	IND	N	N	Y
Vietnamese	1965	DRV	USA	USA	Y	Y	Y
Second Kashmir	1965	PAK	IND	PAK	Y	N	Y
Six Day	1967	EGY, JOR, SYR	ISR	SYR	Y	N	Y
Israeli-Egyptian	1969	EGY	EGY	ISR	N	Y	N
Football	1969	HON	SAL	SAL	Y	Y	Y
Bangladesh	1971	IND	IND	PAK	N	Y	N
Yom Kippur	1973	EGY, SYR	EGY, SYR	SYR	N	N	N
Turco-Cypriot	1974	TUR	TUR	TUR	N	N	N
Vietnamese-Cambodian	1975	DRV	DRV	DRV	N	N	N
Ethiopian-Somalian	1977	SOM	SOM	SOM	N	N	N
Ugandan-Tanzanian	1978	UGA	UGA	UGA	N	N	N
Sino-Vietnamese	1979	CHN	CHN	CHN	N	N	N
Iran-Iraq	1980	IRQ	IRQ	IRQ	N	N	N
Falklands	1982	ARG	ARG	UKG	N	Y	N
Israel-Syria (Lebanon)	1982	SYR	ISR	SYR	Y	N	Y
Sino-Vietnamese	1987	CHN	CHN	DRV	N	Y	N
Gulf War	1990	IRQ	IRQ	IRQ	N	N	N

Bold=Both Sides = Rev (9)

Ital=No side = Rev (2)

15

17

26