When should states go to war in order to protect themselves? When, that is, are they justified in employing either armed force or other warlike coercive measures, such as blockade and sanctions, for anticipatory self-defense?¹ Must they wait, as international law currently holds, for an “armed attack” to have already taken place or to be so imminent that it is, as customary international law holds, “overwhelming” in its necessity and so “imminent” as to leave “no choice of means” and “no moment for deliberation”?²

The traditional conception of self-defense allowing only for imminent preemptive anticipation of planned attacks is clearly rejected in current U.S. strategic doctrine. Despite attempts to adopt preemptive terminology, President Bush reiterated his and the U.S. government’s

¹I am thus interested in the full range of the spectrum of “war”—the enforcement measures in UN Charter Chapter VII, from compulsory sanctions, through blockades and armed actions by land, sea, and air, to invasion and armed occupation.

²“Armed attack” is the standard in Article 51 of the Charter of the United Nations. Imminence is the standard defined in U.S. Secretary of State Daniel Webster’s famous words in the Caroline case in 1842. See John Bassett Moore, A Digest of International Law, 217 (GPO, 1906), 2:412; and R. Y. Jennings, The Caroline and McLeod Cases, 32 Am. J. Int’l L. 82 (1938).
commitment to a much more preventive anticipation of threats posed by those who share a “murderous ideology.” He declared, on June 28, 2005, at Fort Bragg:

After September the 11th, I made a commitment to the American people: This nation will not wait to be attacked again. We will defend our freedom. We will take the fight to the enemy.

Iraq is the latest battlefield in this war. Many terrorists who kill innocent men, women, and children on the streets of Baghdad are followers of the same murderous ideology that took the lives of our citizens in New York, in Washington, and Pennsylvania. There is only one course of action against them: to defeat them abroad before they attack us at home.3

President Bush is now (winter 2006) focusing on the threat he perceives from Iran. In a recent speech in Salt Lake City to the American Legion convention, he declared: “The world now faces a grave threat from the radical regime in Iran. We know the depth of the suffering that Iran’s sponsorship of terrorists has brought. And we can imagine how much worse it would be if Iran were allowed to acquire nuclear weapons.” After blam-

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ing Iran for supporting Hezbollah violence, supplying the insurgents in Iraq with weapons, and denying basic human rights to its own population, President Bush concluded: “There must be consequences for Iran’s defiance [of the UN Security Council resolution mandating a halt to nuclear fuel reprocessing] and we must not allow Iran to develop a nuclear weapon.”

A few days later, Israeli minister Jacob Edri said that a military strike against Iran, limited to its nuclear facilities, is inevitable before President Bush completes his second term.

In these essays, I will examine the distinction—which the president elides—between acts of preemption in the face of an imminent threat of armed attack and acts of prevention undertaken in order to forestall, for instance, the acquisition of threatening capabilities. This distinction is a question of substantive norms or rules. I will also explore the significance of multilateral authorization by the UN Security Council, which is a question of procedure for authorizing the use of force. Thus these essays will explore the ethics, politics, and law of anticipatory self-defense. I will focus both on what the law is and what states should do.

4 Anne Gearan, Associated Press, “Bush Warns Tehran Anew on Nuclear Weapons Program,” August 31, 2006. But at the same time, Russia, China, and Germany all have ruled out the use of force against Iran, while leaving the door open to other sanctions if Iran fails to halt its enrichment of nuclear fuel. Louis Charbonneau, Reuters, “Germany Says Iran Can’t Be Allowed to Harm U.N.,” September 6, 2006.

5 “Minister nennt Militärschlag gegen Iran unvermeidbar” [Minister calls military strike against Iran unavoidable], Die Welt, September 5, 2006, http://www.welt.de/data/2006/09/05/1024315.html.
In my first essay, I address what I see to be the main problem: both international law, as it is currently formulated, and the Bush Doctrine of prevention are inadequate for today’s global security environment. My true aim, however—given those first judgments—is to propose in my second essay better preventive standards for war and warlike measures short of war that would produce more security for the United States and most other states interested in a law-abiding world.