



# America at Risk

## Memo

### Protect America Month: Providing for the Common Defense in the 21st Century

The Heritage Foundation's Protect America Month is a month-long campaign focusing on the need for increased defense spending in the 21st century. America still faces serious threats in the world and now is not the time to weaken our military through defense budget cuts.

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## A Constitutional Basis for Defense

*The Honorable James Talent*

Those who have not done so recently would benefit from studying what the United States Constitution says about the federal government's responsibility to provide for the common defense. Most Americans had to memorize the preamble to the Constitution when they were children, so they are aware that one of the purposes of the document was to "provide for the common defense." But they are not aware of the extent to which the document shows the Founders' concern for national security.

### Providing for the Common Defense

In brief, the Constitution says three things about the responsibility of the federal government for the national defense.

**National defense is the priority job of the national government.** Article One, Section Eight of the Constitution lists 17 separate powers that are granted to the Congress. Six of those powers deal exclusively with the national defense—far more than any other specific area of governance—and grant the full range of authorities necessary for establishing the defense of the nation as it was then understood. Congress is given specific authority to declare war, raise and support armies, provide for a navy, establish the rules for the operation of American military forces, organize and arm the militias of the states, and specify the conditions for converting the militias into national service.

Article Two establishes the President as the government's chief executive officer. Much of that Article relates to the method for choosing the President and sets forth the general executive powers of his office, such as the appointment and veto powers. The only substantive function of government specifically assigned to the President relates to national security and foreign policy, and the first such responsibility granted him is authority to command the military; he is the "Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States."

**National defense is the only mandatory function of the national government.** Most of the powers granted to Congress are permissive in nature. Congress is given certain authorities but not required by the Constitution to exercise them. For example, Article One, Section Eight gives Congress power to pass a bankruptcy code, but Congress actually did not enact bankruptcy laws until well into the 19th century.

But the Constitution does require the federal government to protect the nation. Article Four, Section Four states that the "United States shall guarantee to every State a republican form of government and shall protect each of them against invasion." In other words, even if the federal government chose to exercise no other power, it must, under the Constitution, provide for the common defense.



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**National defense is exclusively the function of the national government.** Under our Constitution, the states are generally sovereign, which means that the legitimate functions of government not specifically granted to the federal government are reserved to the states. But Article One, Section 10 does specifically prohibit the states, except with the consent of Congress, from keeping troops or warships in time of peace or engaging in war, the only exception being that states may act on their own if actually invaded. (This was necessary because, when the Constitution was written, primitive forms of communication and transportation meant that it could take weeks before Washington was even notified of an invasion.)

The great irony of our time is that the bigger the federal government has become, the less well it has performed its priority function of providing for the national defense. For example, Congress spent \$787 billion in the “stimulus” bill last year, yet not a dime of it was spent on military procurement or modernization—despite the fact that America is in greater danger today than it has been at any time since Communism was threatening Europe in the late 1940s.

## The State of America’s Defenses

The Heritage Foundation has written extensively on the risks facing America and the state of our defenses. Here is a brief summary of the salient facts.

1. America has no strategy for victory in the war on terrorism—we’re not even calling it a war anymore—and the momentum has shifted to the terrorists. The outcome in Afghanistan is in doubt. If the terrorists succeed there, they can reconstitute their safe havens, plan further attacks on the United States, and threaten to gain control of Pakistan’s nuclear arsenal.

The Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, a bipartisan commission with the status of the 9/11 Commission, found unanimously that the terrorists would “more likely than not” develop and use a weapon of mass destruction against a Western city by 2013. The Director of National Intelligence publicly agreed with that assessment.

2. The international regime for controlling nuclear weapons is broken. Pakistan has a substantial and growing nuclear arsenal. Its intelligence organization has been penetrated by the Islamists. Both North Korea and Iran are steadily increasing the range, payload, and accuracy of their ballistic missiles. No one seriously believes that the Iranians will voluntarily stop their nuclear program or that the West (except perhaps the Israelis) will use force to stop them.
3. According to our Pacific commander, China is increasing its military strength far more quickly than our intelligence predicted. The Chinese have already acquired an arsenal of advanced fighters and missiles that threatens to deny the American Navy access to the Taiwan Strait. They are building as many as five submarines per year and have established a modern submarine base on the island of Hainan. They have announced plans to build a variety of the ships necessary to field a blue water capability. By many reports, China has the most far-reaching cyber warfare capability in the world. China is suppressing the native Tibetan culture; supporting genocide in Sudan, oppression in Burma, and repression and political terror in Zimbabwe; and turning a blind eye to nuclear proliferation by North Korea and Iran.
4. The American military is significantly weaker than it was at the end of the Cold War. The Army was cut from 18 divisions to 10 and is short on equipment. The Navy is smaller than it has been since 1916 and continues to shrink. The Air Force is smaller than it has been since Pearl Harbor, and the average age of the Air Force inventory is 23 years. Half of our bombers are considered antiques by FAA standards. There are no plans to replace them. Most of our tankers are equally as old; they will not be replaced, if at all, until the 2030s. The Department of Defense wants to close our most modern cargo aircraft production line and will close our most sophisticated fighter line. The missile defense budget has been cut, and according to most reports, the Obama Administration will cut modernization budgets even further.

As important as it is for the federal government to restrain itself from interfering where it does not belong, it is equally important that the government perform its constitutionally mandated function of providing for the national defense. That is why The Heritage Foundation sponsors Protect America Month each year.

### **Taking Our Stand for Freedom**

Ever since the end of World War II, American power has been the chief deterrent to aggression: the shield under which the tools of diplomacy, trade, and engagement have produced unprecedented progress toward freedom and democracy. But the shield is cracking. America's global influence is being checked and rolled back, and even the homeland is no longer safe from attack.

The situation can still be recovered, but only if our leaders understand their duty, regain their confidence, and reenergize the defense of freedom here and abroad. Otherwise, the developments that we are witnessing almost daily in Korea, Iran, Russia, China, the Persian Gulf, Afghanistan, Africa, and Eastern Europe will be only the leading edge of a terrible storm—the “first foretaste,” as Churchill said after Munich in 1938, “of a bitter cup which will be proffered to us year by year, unless by a supreme recovery of moral health and martial vigor, we arise again and take our stand for freedom as in the olden time.”

—*The Honorable James Talent is Distinguished Fellow in Military Affairs at The Heritage Foundation and served as a U.S. Senator from 2002 to 2007.*



### **PROTECT AMERICA**

The 21st century will be a dangerous place if America fails to protect itself and its allies.

*This product is part of the Protect America Initiative, one of 10 transformational initiatives in our **Leadership for America** campaign.*