
PAPERS

The Proliferation Security Initiative: Partnering Around the World to Stop the Trafficking in Weapons of Mass Destruction

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As Under Secretary Robert Joseph discussed this morning, the Proliferation Security Initiative (PSI) fits into a larger strategy to stop the spread of weapons of mass destruction (WMD), including related materials and their means of delivery. This initiative, which is a muscular enhancement of the capabilities of the United States and partners around the world to counter the proliferation of weapons of mass destruction, has been a key part of the President's agenda. First envisioned in the administration's *Strategy to Combat Weapons of Mass Destruction*,¹ released in late 2002, the PSI was launched several months later in Krakow, Poland,² and has become an important tool in the fight against proliferation.

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PSI: AN OVERVIEW

From its inception, the PSI was envisioned not as a replacement for the various treaties and regimes that make up the non-proliferation baseline, but rather as a new tool to prompt in-depth evaluation of existing authorities and to develop additional ones to handle situations where proliferation-related activities evade existing legal regimes. The President was clear from the outset regarding the active nature of PSI: “When weapons of mass destruction or their components are in transit, we must have the means and authority to seize them. So today I announce a new effort to fight proliferation called the ‘Proliferation Security Initiative.’” The United States and a number of our close allies, including Poland, have begun working on new agreements to search planes and ships carrying suspect cargo and to seize illegal weapons or missile technologies. Over time, we will extend this partnership as broadly as possible to keep the world’s most destructive weapons away from our shores and out of the hands of our common enemies.”³

Since those remarks in May 2003, more than 70 countries have indicated their support for the PSI and have either been active in actual interdiction efforts or in capacity building through participation in, or observation of, land, air, and maritime exercises, or other PSI activities. As former Under Secretary of State John Bolton said: “In developing PSI, our main goal has been a simple one—to create the basis for practical cooperation among states.”⁴ This practical basis for cooperation is primarily found in the *Statement of Interdiction Principles*.⁵

Adopted in Paris in September 2003, the Principles identify the political commitment underpinning the actions states will take to stop proliferation activities across their territories, through their ports and waters, and in their airspace. The Principles commit states to strengthening their operational capabilities and legal authorities in support of interdictions. Indeed, robust application and enforcement of national authorities has been a signature aspect of the PSI's success.

As stated in the PSI Principles: "PSI participants are committed to the . . . interdiction principles to establish a more coordinated and effective basis through which to impede and stop shipments of WMD, delivery systems, and related materials flowing to and from states and non-state actors of proliferation concern, consistent with national legal authorities and relevant international law and frameworks, including the UN Security Council."⁶ Since the adoption of the Principles in 2003, states have been actively engaged in ensuring that the PSI is more than a mere political pledge. While additional international authorities for action are always useful, the PSI is based on the notion that states making robust use of their own national authorities, in partnership with other states through information-sharing and operational coordination and partnership, have broad capacity to respond to proliferation activities. By working in this ad hoc, yet coordinated fashion, states can respond to information about proliferation activity in a more efficient and flexible manner.

The PSI also commits participants to develop national coordination among their own agencies or ministries, tapping into diplomatic, law enforcement, intelligence, and military expertise when developing options for action. Through regular meetings of operational experts, states have identified their own national authorities for action, and ensured that they can be applied broadly and robustly in a rapid manner when information becomes available. These operational experts have also conducted a series of multinational exercises, including table top simulations, and have reached out to key segments of industry—efforts designed to improve national capabilities to undertake interdictions in cooperation with each other.⁷

In the State Department, we have recently taken steps to ensure that we are organized more efficiently to support counterproliferation efforts. Through the creation of the new Counterproliferation Initiatives Office within a newly structured Bureau for International Security and Non-proliferation,⁸ the State Department is ensuring that it is organized to support the President's policies and initiatives with the proper focus and expertise. As Under Secretary Joseph said: "At home, in the United States, we are fine-tuning our ability to carry out diplomacy in today's threat environment by

restructuring and reorganizing the State Department proliferation offices to deal with today's threats and today's realities, such as black markets, front companies, and global terrorist networks, that must be met with a robust and focused response.”⁹

I will discuss three aspects of the work underway in PSI: interdiction and deterrence of proliferators; cutting off of the financing of proliferators; and strengthening of the legal tools to address proliferation. Each of these three elements of our PSI effort is essential to the ability of PSI to remain a robust tool to address proliferation.

INTERDICTING ITEMS OF PROLIFERATION CONCERN AND DETERRING PROLIFERATORS

In May, Secretary of State Condoleezza Rice marked the second anniversary of the PSI by inviting the Washington diplomatic community to the State Department to hear from the United States and three PSI partners—Denmark, Japan, and Singapore—about the steady progress made since the PSI's inception. During her remarks, Secretary Rice laid out the successes of the previous nine months:

“PSI cooperation has continued to yield results. In the last nine months alone, the United States and ten of our PSI partners have quietly cooperated on 11 successful efforts. For example, PSI cooperation stopped the transshipment of material and equipment bound for ballistic missile programs in countries of concern, including Iran. PSI partners, working at times with others, have prevented Iran from procuring goods to support its missile and WMD programs, including its nuclear program. And bilateral PSI cooperation prevented the ballistic missile program in another region from receiving equipment used to produce propellant.”¹⁰

The Danish Ambassador also elaborated on the impact PSI has had on proliferation activity: “PSI is an activity, not an organization. The Danes are not institutional theologians. We judge initiatives on their merits. And we believe PSI is working. The existence of the high-profile international regime ‘with teeth from day one’ has had a significant and instant deterrent effect. For instance, the shipment of missiles has fallen significantly in the lifetime of PSI. This makes PSI truly worth celebrating.”¹¹

While senior officials in all governments look to find statistical ways to measure the success of PSI, this continues to be only a partial snapshot of how the PSI has produced real results. The interdiction of the *BBC China* in October 2003¹² is the best example of the role that PSI can play in our

broader efforts to counter the spread of WMD programs. As the President outlined in his February 2004 speech at the National Defense University, all of the elements for an interdiction were available: U.S. and UK intelligence agencies had penetrated the Khan network; the shipment of advanced centrifuge parts destined for Libya had been tracked from Malaysia to Dubai, where they were loaded on the German vessel, the *BBC China*; once the vessel passed through the Suez Canal bound for Libya, German and Italian authorities—both active PSI participants—cooperated to divert it to an Italian port to off-load the centrifuge parts falsely listed on the manifest as spare parts.¹³

When confronted with this information, the Libyan government voluntarily agreed to end its nuclear and chemical weapons programs, to not pursue biological weapons, and to permit thorough inspections by the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons.¹⁴ The interdiction of the *BBC China* not only prevented the proliferation of centrifuge technology, but also tipped the balance in sensitive negotiations then ongoing with Libya.

Duplicating the Libya experience may not soon be possible. Still, there are important lessons here about how PSI activities can reinforce diplomatic efforts. Even as we engage with the EU-3 to deal with Iran's efforts to acquire nuclear weapons capabilities, work through the Six-Party Talks to end North Korea's nuclear program, and continue bilateral relations with Syria, PSI efforts continue apace against these and other countries of concern to apply pressure and ensure that diplomatic efforts aren't misused as an opportunity to increase WMD capabilities.

As an example, Under Secretary Joseph's recent talks in Central Asia, an important crossroads for proliferation trafficking, secured the commitment of Central Asian governments to participate in PSI. Their public endorsement of the PSI and readiness to cooperate to interdict shipments will force proliferators to consider alternative routes and more costly trafficking schemes or run the risk of interception through that region. Ending WMD-related trafficking altogether may not be an achievable goal. However, each time costs are raised for proliferators, trafficking routes are disrupted, or states and entities of proliferation concern are cut off from their suppliers, PSI efforts have a tangible impact.

CUTTING OFF THE FINANCE OF PROLIFERATION

It is well known that bank robber Willie Sutton, when asked why he robbed banks, replied: "that's where the money is." Over time, this has evolved into the mantra, "follow the money," which is precisely what the

international community is doing in its efforts to curb proliferation. In the United States we are putting in place tools to allow the U.S. government to get at the financiers and enablers of the proliferation trade.

In his address to the National Defense University, President Bush called on PSI states to expand their efforts to use law enforcement and other tools to stop the middlemen—the suppliers and buyers engaged in proliferation trafficking. He called on PSI participants to expand cooperation not only for seizing individual shipments but also to expose proliferation networks like A.Q. Khan's, to shut down facilities, to seize materials, and to freeze assets.¹⁵ This approach was endorsed by PSI participants during subsequent meetings in Lisbon,¹⁶ as well as by the G-8 partners at the 2004 summit hosted by the United States in Sea Island, Georgia.¹⁷

Additionally, in April 2004 the United Nations Security Council adopted Resolution 1540,¹⁸ requiring states to take a number of actions to address the proliferation of weapons of mass destruction. In addition to calling on states to take cooperative actions such as PSI to address the threat posed by weapons of mass destruction, the resolution identified actions states must take to address the financing of proliferation. In paragraphs 2 and 3(d), the resolution explicitly requires states to adopt and enforce laws that prohibit the financing of proliferation efforts by nonstate actors, as well as to take effective measures against and enforce controls on the financing of export and transshipment efforts by proliferators.¹⁹

To address U.S. national security interests and to implement UN Security Council Resolution 1540, President Bush in June 2005 announced Executive Order 13382,²⁰ which provides authority to the Secretaries of State and Treasury²¹ to freeze the assets of U.S. persons (including U.S. citizens; permanent resident aliens; U.S. companies, including foreign subsidiaries; and persons or companies in the United States) engaged in transactions with persons designated under the act either as WMD proliferators or supporters of the designated proliferators. The Secretary of State is authorized under the order to make primary designations of those engaged in proliferation activities. The Secretary of Treasury is authorized to make derivative designations of those support persons already designated under the order. The order also provides for criminal penalties for its willful violation. To date, eight entities engaged in proliferation activities have been designated under the order, including four from Iran, three from North Korea, and one from Syria.

Additionally, the Department of Treasury has exercised its authority under section 311 of the Patriot Act to designate Banco Delta Asia of Macao for its money laundering activities on behalf of the government of North Korea.²² While this action is focused on the Bank's support of North

Korea's illicit financial activities, including currency counterfeiting and smuggling of counterfeit products, there is an important secondary impact on the proliferation activities of the North Korean government, whose resources from illicit activities support its weapons programs. As a result of the section 311 sanctions, U.S. financial institutions are prohibited from directly or indirectly establishing, maintaining, administering, or managing any correspondent account in the United States for, or on behalf of, Banco Delta Asia.²³ This action is having a strong deterrent effect on financial institutions in the region and beyond.

While these actions by the United States are having important impacts on the proliferators designated under the Act, it is crucial that other countries put in place similar tools to address the financing of proliferation. We are working with our partners in Europe, Asia, the Middle East, and elsewhere to determine steps they might take to develop authorities to track and freeze assets. The consensus to act, however, is already established. At the 2005 G-8 Summit hosted by the United Kingdom in Glen Eagles, Scotland, the attending leaders committed to enhanced efforts to combat proliferation through cooperation to identify, track, and freeze relevant financial transactions and assets.²⁴ A new publication by Australian Foreign Minister Downer highlights the Australian approach to the issue:

"The threats now posed by smaller states and potentially even non-state actors, combined with the greater ease of financial transactions due to globalization, require the development of new, innovative approaches. In this context, blocking the flow of funds to individuals and entities involved in illicit trade in WMD-related items has become a further means to disrupt WMD proliferation."²⁵

The next step will be to translate these statements into action, particularly in the world's largest economies. Recognizing that each state has its own legal requirements, there is much that states can do to develop legal authorities through their own national or constitutional procedures. We are working with our allies to encourage further steps to implement this consensus for action.

AUGMENTING THE LEGAL BASIS FOR NATIONAL AND MULTINATIONAL ACTION

PSI is based on the premise that actions by partners will be undertaken consistent with national and international legal authorities.²⁶ The *Statement of Interdiction Principles* also commits states to "review and work

to strengthen their relevant national legal authorities where necessary to accomplish these objectives, and work to strengthen when necessary relevant international law and frameworks in appropriate ways to support these commitments.”²⁷ UN Security Council Resolution 1540, adopted seven months after the *Statement of Interdiction Principles*, is an important step in the efforts to augment legal authorities relating to WMD globally. By mandating that each state put in place effective laws and enforcement authorities to prohibit the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including border controls, and national export and trans-shipment controls,²⁸ UNSCR 1540 has the potential to create a high standard globally of national laws to control the export of sensitive technologies. States that have robust national export control laws will have a stronger basis for taking PSI actions against proliferators.

The United States has been engaged in an effort to secure bilateral agreements to expedite the boarding of merchant ships in international waters. These are modeled after similar agreements in the counternarcotics area. Under the agreements, if a vessel registered in the U.S. or the partner country is suspected of carrying proliferation-related cargo, either one of the parties to this agreement can request the other to confirm the nationality of the ship in question and, if needed, authorize the boarding, search, and possible detention of the vessel and its cargo.²⁹ To date, the United States has secured agreements with many leading flag states, including Panama, Liberia, the Marshall Islands, Cyprus, Croatia, and Belize. Four additional agreements are under active negotiation, with 17 additional agreements at the early stages of negotiation.

Earlier this month in London, an additional and important new tool was negotiated under the auspices of the International Maritime Organization. Specifically, parties to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) approved amendments to the SUA dealing with the proliferation of weapons of mass destruction.³⁰ The SUA Amendments add new offenses criminalizing the use of a ship itself in a manner that causes death, serious injury, or damage, and also the transport of weapons or equipment, including dual use items, that are intended for use in connection with weapons of mass destruction.

Parties to the new SUA Protocols will be required to prosecute persons accused of these criminal activities or extradite such persons to a state where they will stand trial. In addition, the Protocol creates procedures for parties to request from flag states permission to board ships reasonably suspected to have been or soon be involved in the commission of an offense under the

Convention.³¹ These amendments serve as an important indication of the trend in international law to ensure that commercial transportation is not abused to advance WMD-related programs.

While the United States is not pursuing separate agreements relating to air interdiction, we have been working with other PSI participants to evaluate the broad range of authorities that already exist to ensure that national airspace is not abused by proliferators. The 1944 Convention on International Civil Aviation (the Chicago Convention)³² reflects the international legal framework governing civil aviation and, together with its annexes, the International Air Services Transit Agreement (IASTA),³³ and bilateral air services agreements, addresses issues relating to the international operation of civil aircraft. The Chicago Convention recognizes that “every state has complete and exclusive sovereignty over the airspace above its territory.” (Chicago Convention, Article 1.) A solid understanding of these authorities by PSI partners and a willingness to use them to stop WMD and missile-related shipments when they receive information of aircraft carrying such cargoes is an important element of PSI efforts.

CONCLUSION

As Secretary Rice noted at the two year anniversary of the PSI, the stakes are high and continued international cooperation will be essential to the success of PSI: “The dangerous trade in weapons of mass destruction can only be stopped through coordinated and continuous efforts by the international community. The greater the number of countries actively involved in the Proliferation Security Initiative, the safer people everywhere will be. The acquisition of a nuclear, chemical, or biological device by terrorists would mean only one thing: mass murder and devastation on a scale far worse than that of September 11, Beslan, Madrid, Bali, and other attacks of recent memory combined.”³⁴

While we have more than 70 countries now supporting the PSI, there are many more countries that need to become involved, particularly those along key maritime, trucking, and air routes, and that serve as key transshipment hubs or are home to large free-trade zones. A key aspect of cooperation must be to ensure that these commercial centers and corridors remain robust economic centers, while preventing abuse by proliferation traffickers engaged in a more deadly trade. As the President challenged at the outset of PSI, we must continue to extend this partnership as broadly as possible to keep the world’s most destructive weapons away from our shores and out of the hands of our common enemies. ■

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