



BASIC NOTES

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The Proliferation Security Initiative: Three Years On

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Key Points

- The High Level Political Meeting in Warsaw, Poland on 23 June 2006 was the first major gathering of states participating in the Proliferation Security Initiative since June 2004 and enabled participants to assess the state of the PSI three years after its founding.
- The principal outcomes of the Warsaw meeting were that states agreed to (a) strengthen their efforts to interdict financial transactions between proliferators and suppliers, and (b) concentrate on combating the black market networks, illegitimate businesses and front companies involved in global WMD proliferation.
- PSI participants have conducted several interdiction operations since 2003 and as an enforcement mechanism; the Initiative has contributed to controlling the spread of nuclear, chemical and biological material and missile technology whilst reinforcing the global norm against proliferation.
- However, the PSI still suffers from some key political, legal and operational flaws that continue to hinder its legitimacy and viability as an international non-proliferation regime. Specific weaknesses include its lack of global coverage, issues of jurisdiction and the lack of a formal organisational structure.
- In the future, participating states are likely to continue to broaden the remit of the PSI in order to counteract many other aspects of proliferation activity. Increasingly, the PSI is likely to target specific trading routes between states of concern, in particular Iran and North Korea and may extend its range to areas of weak central authority and smuggling routes exploited by non-state actors like terrorist groups, organised crime syndicates and weapons traffickers.

Introduction

BASIC's project on the PSI is supported by the UK Economic and Social Research Council (ESRC). For further details, see the special section on the PSI on the BASIC Web site at:
<http://www.basicint.org/nuclear/counterproliferation/psi.htm>

On the 23 June 2006, participating states in the Proliferation Security Initiative (PSI) – a US-led multilateral partnership aimed at curbing the spread of nuclear, chemical and biological weapons, delivery systems and related materials in the international environment – met in the Polish capital Warsaw to discuss the state of the Initiative three years after its inception. At this High Level Political Meeting (HLPM) participants reaffirmed their strong commitment to the PSI and its Statement of Interdiction Principles (SOP), which serve as the basis for co-operation in various counter-proliferation activities, and agreed to deepen their ongoing efforts to strengthen all aspects of the Initiative.

For the United States, the PSI has served as the centrepiece of the Administration's counter-proliferation strategy, itself one pillar of the 2002 National Strategy to Combat Weapons of Mass Destruction. Undoubtedly, the Initiative is reflective of the Bush Administration's preference for informal 'coalitions of convenience' and the desire for a more dynamic and robust response to the problem of proliferation. Although the United States is ultimately the driving force behind the PSI, in its brief lifespan the Initiative has made a worthwhile contribution to the international non-proliferation regime, despite attracting some harsh criticism. At its core, the PSI represents an important pillar in the architecture of the international non-proliferation regime and together with UN Security Council Resolution 1540 (April 2004) is helping to reinforce global non-proliferation norms.

The HLPM in Poland provided a propitious moment to assess the state of the PSI – see Box 1. This BASIC Note will first examine the major outcomes of the Warsaw meeting and then review the achievements of PSI participating states as well as the political, legal and operational flaws that still hinder the Initiative. Finally, the future direction of the PSI and the potential scenarios in which it may be applied, especially in the cases of Iran and North Korea, are also considered.

Box 1: The state of the PSI three years on

Growth in number of states that support the Initiative and endorse the Statement of Interdiction Principles

Signing of bilateral boarding agreements between the US and flag-of-convenience states:
Belize (August 2005), Croatia (June 2005), Cyprus (July 2005), Liberia (February 2004), Marshall Islands (August 2004), Panama (May 2004)

Support from international organisations – United Nations:
UN Security Council Resolution 1540 (April 2004) and 1673 (April 2006)

Regular Joint Interdiction Exercises/Operational Expert Meetings:
As of June 2006, participant states have conducted a total of 23 Joint Interdiction Exercises

Outcomes of the High Level Political Meeting (Warsaw, Poland 23 June 2006)

The HLPM was the first major political meeting of PSI participants since June 2004 and offered states a forum in which to promote their combined efforts to counteract the spread of weapons of mass destruction (WMD) and related materials, share best practice, enhance joint interdiction capabilities and discuss the future of the Initiative. The meeting organised by Poland's Ministry of Foreign Affairs also provided an opportunity for participating states to review the Initiative's record of success, identify possible improvements in the political, legal or operational spheres and outline new measures and ways forward.

Undoubtedly, the main outcome of the HLPM was the recognition of the need for participants to develop tools to counter the financial mechanisms that support proliferation. Specifically, PSI states agreed that

they should consider how to utilise or strengthen national laws and capabilities 'to identify, track and freeze the assets and transactions of WMD proliferators and their supporters'.¹ In some ways, this policy may come to represent a broadening of the application of the PSI as participants acknowledge that the interdiction of financial transactions between proliferators and suppliers is as important as the detection and seizure of controlled equipment and weapons components. Indeed, combating black market networks, illegitimate businesses and front companies enmeshed in the illicit trade in nuclear, chemical and biological material and missile technology should be a policy and operational priority for the PSI. The success of the A Q Khan network in evading national export controls throughout the 1980s and 1990s has been documented, but it serves to illustrate the need to counteract the supporters and facilitators of proliferation, which constitute a hub of activity across the globe.

In this regard, expanding the number of states and possibly other international state and non-state actors involved in the Initiative is a prerequisite for future success given that no one state can, on its own, effectively control such proliferation networks. Robert Joseph, US Under Secretary for Arms Control, acknowledged this in a speech at the Warsaw meeting in which he encouraged PSI participants to continue their outreach activities in order to attract new partners in regions of the world where the PSI is underrepresented, such as the Asia-Pacific and also in strategic areas that are vital to trading routes, like the Suez Canal. He also argued that as the basis for successful interdiction operations rests firmly on the quality and usability of intelligence, participating states should work more closely with key supplier and transshipment countries in order to identify and restrict the activities of illicit networks like A Q Khan's.²

In summary, the HLPM was an opportunity for PSI participants to 'take stock', enabling those involved to consolidate their actions to date and review success and failures so far. Overall, although participating states agreed to a logical expansion of PSI activities in order to more effectively counter the financiers and facilitators of global proliferation, the meeting did not lead to any major changes in the purpose or direction of the Initiative.

The state of the PSI today

Ultimately, whether the PSI is a success or failure will depend largely on its tangible results: is it making a worthwhile contribution to controlling global WMD proliferation? However, judging the success of the PSI is problematic because participating states have released few details of interdiction operations carried out thus far. It is claimed that such secrecy is necessary to safeguard sensitive intelligence gathered either in the lead up to or during the interdiction of suspicious cargo or shipments. A few early successes – such as the interception of *BBC China* in October 2003, a German-owned vessel carrying centrifugal components bound for Libya, which were subsequently seized – have been documented.³ Since then, US Administration officials cite several successful joint interdiction efforts, e.g. according to Under Secretary Joseph, between April 2005 and April 2006, the United States in concert with PSI participants in Europe, the Middle East and Asia conducted approximately two-dozen interdictions. Specifically, it is claimed that co-operation has prevented the export to Iran of components and dual-use materials related to its missile programme and on another occasion the export of heavy water-related equipment destined for Iran's nuclear programme.⁴

Of course, with so little information available on PSI interdiction, gauging the significance of these operational successes is challenging. Nonetheless, perhaps the Initiative's foremost achievement in its brief existence has been to consolidate interdiction efforts already conducted by states and international organisations, such as NATO-led operations *Active Effort* and *Active Endeavour* in the Mediterranean,⁵ into a more focused and concerted global response to proliferation. The PSI did not introduce the concept or practice of interdiction, but it has contributed to bringing a global focus to previously local, sub-regional and regional operations in the Mediterranean, Red Sea, Gulf of Aden, Arabian Sea and Gulf of Oman. It has also been responsible for co-ordinating these under the aegis of the international non-proliferation regime. Critical to the success so far has been the expansion in the number of states who have pledged political and operational support for the Initiative. From a core group of 11 countries, PSI participants claim that over 75 states now actively support the PSI, with Argentina, Iraq and Georgia as the latest to endorse the SOP. Reports that the Indonesian government is preparing to join the PSI are

particularly noteworthy,⁶ not least because this will expand the Initiative's presence in Southeast Asia, but also because it provides the PSI with greater access to one of the world's critical 'chokepoints' – the Straits of Malacca – through which a quarter of global trade passes each year.⁷

Indeed, increased membership of the PSI reflects the success of continuing outreach activities by participating states, enhances the legitimacy of the Initiative and is a sign of the attractiveness of a dynamic, yet multilateral approach to controlling the spread of WMD materials and missile technology. Most importantly, growing support for the PSI also represents global recognition of the norms of non-proliferation and counter-proliferation in international order, perhaps the higher purpose for which the PSI was designed. In this regard, the PSI has received support from the United Nations – through Security Council Resolutions 1540 and 1673 – and the International Maritime Organisation (IMO), which added the 2005 Protocol to the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention) outlawing in international law the transportation of nuclear, chemical and biological materials. Finally, PSI participants have also been successful in augmenting the means that enable interdiction including the signing of bilateral boarding agreements between the United States and several key 'flag of convenience' states, such as Liberia, Panama, and the organisation of regular Operational Experts Meetings and Joint Interdiction Exercises – see Box 2.

Box 2: Recent Joint Interdiction Exercises

Lead Nation	Dates	Type/Name	
France	June 2006	Air/ground exercise HADES 06	
Turkey	24-26 May 2006	Air-Ground-Maritime exercise ANATOLIAN SUN http://www.eucom.mil/english/FullStory.asp?art=961 http://www.iiss.org/whats-new/iiss-in-the-press/may-2006/34-countries-involved-in-wmd-exercise	
Netherlands	4-6 April 2006	TOP PORT Maritime Interdiction Exercise	
Australia	4-6 April 2006	Air-Ground Interdiction Exercise, PACIFIC PROTECTOR	Link
UK	14-18 November 2005	Maritime-Ground Interdiction Exercise, EXPLORING THEMIS	
Norway	2-7 October 2005	Air interdiction gaming exercise	
Singapore	15-17 August 2005	Maritime-ground interdiction, DEEP SABRE '05 (Singapore)	Link
Spain	7-8 June 2005	Air/ground interdiction, BLUE ACTION 05 (Mediterranean)	
Czech Republic and Poland	1-2 June 2005	Ground interdiction, BOHEMIAN GUARD 05	
Portugal	8-15 April 2005	Maritime/ground interdiction, NINFA 05 (Lisbon)	
US	8-18 November 2004	Maritime interdiction, CHOKEPOINT 04 (Key West, Florida)	Link

Future Exercises:

Sept 2006	Poland-led PSI exercise, Amber Sunrise
Oct 2006	U.S.-hosted PSI exercise, Leading Edge

Yet, despite these achievements, the PSI unquestionably suffers from several weaknesses and has been heavily criticised for some key political, legal and operational failings. Politically, the Initiative has been condemned for its lack of global coverage. Certainly, the number of countries that support the Initiative is steadily increasing, but key states like China, India and South Korea still remain outside the PSI and in strategically important regions like the Arabian Peninsula and the Asia-Pacific, the PSI is underrepresented. In addition, the legitimacy of the PSI as an enforcement mechanism has also been questioned. One reason for this is that the PSI was conceived and implemented outside of the UN system. Numerous demands⁸ have been made to bring the PSI into the UN framework in order to confer international legitimacy on its activities. The secrecy surrounding interdiction operations has also prompted calls to improve the accountability and transparency of the Initiative. However, it is not as though the PSI is a unilateral exercise in counter-proliferation, a significant proportion of the international community has endorsed the Initiative and its approach to the problem of proliferation. Furthermore, it would be difficult to describe the PSI as an illegitimate attempt to deal with proliferation when the United Nations itself has deemed the spread of WMD, their delivery systems and related materials a threat to international security.

In the legal sphere, complex jurisdictional issues restricting the rights of states to board ships or vessels registered to another state in international waters and seize cargo that is believed to be destined for a nuclear, chemical, or biological weapon is a constraint on the activities of the PSI. While UN Security Council Resolution 1540 and the 2005 Protocol to the SUA Convention outlaw the transfer and transportation of nuclear, chemical and biological material, they do not provide states with the legal right to board and search shipping suspected of carrying these materials. In fact, under the 1982 UN Convention on the Law of Sea (UNCLOS) a ship has the right of 'freedom of navigation' and 'innocent passage' through the territorial waters of another state and only the ship's own flag state has legal jurisdiction to board and search the ship, unless of course, the vessel is not correctly registered. On the face of it, this is a significant problem when it comes to interdiction. However, the use of 'flags of convenience' has concentrated ownership of international shipping in the hands of a few states, most notably, Liberia and Panama, with whom the United States has signed bilateral boarding agreements.⁹

Finally, several questions still remain over the operational effectiveness of the PSI. For instance, the process by which air interdiction takes place is unclear, while the feasibility of conducting land interdiction in another state's territory – one who may not be a PSI participant – is also debatable. In addition, suppliers and proliferators can always bypass the threat of interdiction by utilising transport routes through countries unlikely to co-operate with the PSI.

Some critics¹⁰ maintain that the PSI must develop an institutional structure and its own source of funding in order to be considered a viable non-proliferation regime. The lack of a recognised organisational structure, it has been argued, will leave the Initiative vulnerable to changes in national policies or governments that may negatively affect the PSI. Intelligence-gathering, dissemination and analysis, which is key to the success of the PSI, is also likely to suffer in the absence of a formal bureaucracy, because there is no overarching body to ensure standardisation in terms of the quality and objectivity of intelligence. Participants have pledged to share intelligence but are not required to do so. Operational expert meetings (see Box 3) are valuable, but infrequent. Finally, participants are responsible for funding their own efforts in support of the PSI and the lack of an agreed budget may impinge on the operational effectiveness of the PSI.

Box 3: Recent Operational Experts Meetings

Date	Meeting
11-12 April 2006	Experts Meeting, Miami, United States
24-26 November 2005	European Regional Meeting, Hamburg, Germany
14 September 2005	Air Cargo Workshop, Los Angeles, United States
6-7 July 2005	Experts Meeting, Copenhagen, Denmark
21-22 March 2005	Experts Meeting, Omaha, Nebraska, United States
30 November–2 December 2004	Experts Meeting, Sydney, Australia

Future Meetings:

July 2006	Singapore-hosted Operational Experts Group (OEG) Meeting
Sept 2006	UK-hosted Maritime Shipping Workshop

However, in response to these criticisms, it could be argued that even if the PSI did have an institutional structure to manage intelligence collection and analysis it would not guarantee the quality and objectivity of intelligence because the principal source of information would still be the states that participate in the Initiative. Second, given that the success of interdiction operations depends on access to timely, accurate and actionable intelligence provided by participating states, it would perhaps be preferable to deploy additional resources to bolster these national capabilities. At present, the PSI is relatively cheap to administer: the only PSI activities that require funding are meetings, exercises and actual interdictions. Overall, the PSI has had some notable successes both as an enforcement mechanism and as a means of strengthening international norms against proliferation. However, participating states must address some of the Initiative's major shortcomings if it is to increase its legitimacy, credibility and effectiveness in the future.

The future of the Proliferation Security Initiative

As long as the PSI does not have a permanent secretariat to facilitate political and operational decision-making or manage a set budget, the Initiative will always remain vulnerable to the long-term commitment of its participants, especially the United States. Changes in the policies of its proponents and in national governments occur regularly. If counter-proliferation were to become a lower policy priority, it may be to the detriment of an ad-hoc enforcement mechanism like the PSI. However, provided that the spread of WMD, their delivery systems and related materials continues to be deemed a threat to national and international security, then non-proliferation and counter-proliferation strategies are likely remain necessary in order to combat this source of insecurity. Therefore, it is safe to assume that the PSI – in one form or another – does have a future, particularly if it retains the support of the US Administration.

But, although the purpose of the PSI will likely remain as envisioned in the SOP agreed by the original participants in September 2003, the scope and direction of the Initiative may evolve beyond the military aim of deterring, disrupting and preventing the spread of WMD through the interdiction of suspicious cargo. As suppliers and proliferators become more sophisticated in their attempts to evade detection and circumvent national export controls and international non-proliferation measures, the PSI will need to evolve accordingly. At the HLPF it was clear that there is a growing realisation among participating

states that a successful counter-proliferation strategy requires a multi-faceted response, applying many elements of national power (intelligence, law enforcement, diplomatic, economic and military) in unison.¹¹ With the decision to strengthen the capabilities of participating states to interdict the financial transactions of proliferators and to combat the black market and illegitimate businesses involved in global proliferation, the PSI is beginning to reflect this need.

The PSI will continue to target specific state and non-state actors of concern, despite the assertion by PSI participants that the Initiative is not aimed at any one state or entity. Currently, the Iran-North Korea axis is undoubtedly the major source of alarm for the proponents of the PSI as they seek to stifle the development of those states' (alleged in the case of Iran) WMD programmes. The North Korean regime is, for example, a known supplier of missile technology – most notably to Iran and Pakistan – and since the end of the Cold War has relied more than ever on arms sales and narcotics trafficking to raise hard currency.¹² Thus, the interdiction of suspicious cargo to and from North Korea under the PSI is likely to put added pressure on the country's economy and by extension on the stability of the regime itself, a strategy the current US Administration has stepped up since 2000. In fact, close linkages between the Iranian and North Korean missile programmes has made trading routes between the two countries a primary target for the PSI—and US Administration officials claim that they have already interdicted an attempt by Iran to load one of its cargo aircraft on North Korean soil.¹³

By targeting key supplier states like North Korea and now non-state black market networks similar to A Q Khan's, PSI participants are attempting to tackle proliferation at its source. In the long-term, this may prove to be the most effective counter-proliferation strategy because, if implemented correctly, it will prevent WMD, delivery systems and related material from reaching the recipient, which is one of the best methods of controlling global proliferation. (Another would be to reduce the demand for such weapons through conflict prevention measures). However, responding to all forms of proliferant behaviour is an especially tall order notwithstanding the combined intelligence gathering and surveillance capabilities of PSI participants.

There is also a pressing need to respond to potential recipients at the 'front-end' of the proliferation chain, although this is primarily an intelligence and law enforcement exercise rather than an interdiction activity. Yet, this growing need may well shape the range and direction of the PSI to a greater extent in the future.

Finally, an immediate concern held not just by PSI participants but by the wider international community and one that is likely to persist over the next decade is the so-called 'nexus-threat' or linkage between terrorism, WMD proliferation and failed states. The means by which certain 'catastrophic' terrorist groups or networks (those whose goal it is to acquire and use a nuclear, chemical or biological device) may obtain a weapon are already a target for the PSI and will remain so. Consequently, it is likely that PSI participants will expand the scope of their interdiction operations and increasingly target areas of weak central authority, like the tri-border area in Latin America where the borders of Argentina, Brazil and Paraguay intersect, as well as smuggling routes such as the South Caucasus that non-state actors are known to exploit.

In fact, at the recent G8 Summit in St Petersburg, President Bush and the Russian President Vladimir Putin jointly announced a new political initiative aimed at improving the control and protection of nuclear material and nuclear facilities, detecting and suppressing illicit trafficking and denying safe-haven to terrorists or criminal groups seeking to acquire, transfer or use nuclear materials.¹⁴ 'The Global Initiative to Combat Nuclear Terrorism' is similar to the PSI in that it is comprised of a small, informal grouping of states that hold a common objective and are not bound by a treaty or operate under a formal bureaucratic structure. Yet, while counter-proliferation operations under the PSI are targeted at land borders, oceans and sea-lanes and airspace, this new Global Initiative goes beyond interdiction and is designed to detect and secure nuclear materials inside state borders.¹⁵ In any event, while the PSI may not be as far-reaching in its operational goals as the Global Initiative, the PSI is likely to gather added momentum in the next few years and will continue to play a key role in disrupting the activities of proliferators and fostering the international norm against proliferation.

Endnotes

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