

# CRS Report for Congress

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## Proliferation Security Initiative (PSI)

Sharon Squassoni  
Specialist in National Defense  
Foreign Affairs, Defense, and Trade Division

### Summary

The Proliferation Security Initiative (PSI) is now two years old. Initially, 11 nations pledged their cooperation in interdicting shipments of weapons of mass destruction-related (WMD) materials; more than 60 nations now support PSI. Many observers believe PSI's "strengthened political commitment of like-minded states to follow through" is a successful approach to countering proliferation, although details about PSI are sketchy. The 109<sup>th</sup> Congress has introduced five bills supporting PSI. In June 2005, Secretary of State Rice stated that PSI successfully halted 11 incidents of WMD-related transfers since 2004. This report describes the objectives and methods of PSI and the kinds of cooperation conducted and will be updated as needed.

### Background

In the December 2002 National Strategy to Combat Weapons of Mass Destruction (WMD) Proliferation, the Bush Administration highlighted a more activist approach to countering proliferation. While noting that traditional nonproliferation measures such as diplomacy, arms control, threat reduction assistance, and export controls should be enhanced, the strategy placed increasing emphasis on countering proliferation once it has occurred and managing the consequences of WMD use. In particular, interdiction of WMD-related goods gained more prominence. U.S. policy sought to "enhance the capabilities of our military, intelligence, technical, and law enforcement communities to prevent the movement of WMD materials, technology, and expertise to hostile states and terrorist organizations."<sup>1</sup>

President Bush unveiled the Proliferation Security Initiative (PSI) in Krakow, Poland, on May 31, 2003. Deemed "foremost among President Bush's efforts to stop WMD proliferation," PSI appears to be a new channel for interdiction cooperation outside of treaties and multilateral export control regimes.<sup>2</sup> It may informally expand the number

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<sup>1</sup> December 2002 National Strategy to Combat Weapons of Mass Destruction (WMD), p. 2.

<sup>2</sup> John R. Bolton, Under Secretary for Arms Control and International Security, Testimony Before the House International Relations Committee, "The Bush Administration's Nonproliferation (continued...)"

of cooperating countries without expanding membership in export control groups (Nuclear Suppliers' Group, Australia Group, and the Missile Technology Control Regime).

Ten nations initially joined the United States to improve cooperation to interdict shipments (on land, sea, or in the air) of WMD, their delivery systems, and related materials.<sup>3</sup> Six other nations joined subsequently, although Denmark and Turkey did not join as “core members” (see **Table 1** below). According to a State Department official, the one specific function of the core group has been to expand support, but the future of the core group itself is in question.<sup>4</sup>

**Table 1. PSI Founding Members**

North America	Europe	Asia/Pacific
Canada	Denmark (not core)	Australia*
United States*	France*	Japan*
	Germany*	Singapore
	Italy*	
	Netherlands*	
	Norway	
	Poland*	
	Portugal*	
	Russia	
	Spain*	
	Turkey (not core)	
	United Kingdom*	

**Note:** \* Denotes member since 2003.

**Source:** U.S. Department of State.

The Bush Administration often states that more than 60 nations support the initiative, but it is unclear what “support” means. According to information released by the State Department, requirements for support appear to be fairly weak. For example, participating states are *encouraged* to (emphasis added in italics):

- formally commit to and publicly endorse, *if possible*, the Statement of Principles;
- review and provide information on current national legal authorities and *indicate willingness* to strengthen authorities as appropriate;
- identify specific national assets that *might* contribute to PSI efforts;
- provide points of contact for interdiction requests;
- *be willing* to actively participate in PSI interdiction training exercises and actual operations as they arise;

<sup>2</sup> (...continued)

Policy: Successes and Future Challenges,” March 30, 2004.

<sup>3</sup> See [<http://www.state.gov/t/np/rls/fs/32725.htm>] for a State Department fact sheet on PSI.

<sup>4</sup> Susan Burk, former Deputy Assistant Secretary of State for Nonproliferation, June 18, 2004 briefing.

- *be willing* to consider signing relevant agreements or to otherwise establish a concrete basis for cooperation with PSI efforts.<sup>5</sup>

PSI has no international secretariat, no offices in federal agencies established to support it, no database or reports of successes or failures, and no established funding. Many consider the lack of formal mechanisms an advantage and point instead to high-level meetings in Europe, Australia and the United States, the agreement on a set of principles in September 2003 (see Appendix A), and cooperative exercises to test interdiction procedures.<sup>6</sup> Others, however, question the seriousness of the Administration's effort as well as its sustainability, as long as no formal mechanisms are created.<sup>7</sup> The current configuration holds nothing particularly to bind PSI adherents to this cooperative endeavor.

Since its inception, there has been little by which to measure PSI's success. Secretary of State Rice, on the second anniversary of PSI, announced that PSI was responsible for 11 interdictions in the previous nine months.<sup>8</sup> However, it is unclear how this achievement compares with efforts conducted prior to the initiative. Even if PSI has resulted in more interdictions than before, can this be attributed to the success of PSI or an upsurge in proliferation activity?

Nonetheless, many observers believe PSI is a good effort. The 9/11 Commission recommended that the United States seek to expand PSI's membership;<sup>9</sup> the European Union and the G-8 fully endorse PSI;<sup>10</sup> and several proposed bills in the 109<sup>th</sup> Congress have specifically called for expansion of PSI or support for PSI (S.Con.Res. 36, H.Con.Res. 133, S.Con.Res. 40, H.R. 422, H.R. 665).

## **PSI Objectives, Methods, and Targets**

PSI's long-term objective is to "create a web of counterproliferation partnerships through which proliferators will have difficulty carrying out their trade in WMD and missile-related technology."<sup>11</sup> The Bush Administration has emphasized that PSI is an activity, not an organization, which seeks to develop "new means to disrupt WMD trafficking at sea, in the air, and on land."<sup>12</sup> However, very few new means of disruption appear yet to have been developed, although old means may be applied more rigorously.

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<sup>5</sup> See [<http://www.state.gov/t/np/rls/fs/46839.htm>] for Fact Sheet, Bureau of Nonproliferation, "Proliferation Security Initiative Frequently Asked Questions (FAQ)," May 26, 2005.

<sup>6</sup> See [<http://www.state.gov/t/np/c12684.htm>] for a calendar of all PSI activities.

<sup>7</sup> See transcript from Senate Government Affairs Committee, Subcommittee on Budget and International Security hearing on WMD and counterproliferation, June 23, 2004.

<sup>8</sup> See [<http://www.state.gov/secretary/rm/2005/46951.htm>] for the text of Secretary Rice's speech.

<sup>9</sup> *Report of the 9/11 Commission*, p. 381.

<sup>10</sup> See [[http://www.g8.utoronto.ca/summit/2004seaisland/fact\\_mena.html](http://www.g8.utoronto.ca/summit/2004seaisland/fact_mena.html)] for the G-8 2004 action plan on nonproliferation.

<sup>11</sup> Bolton, March 30, 2004 HIRC testimony.

<sup>12</sup> *Ibid.*

Several approaches may help improve interdiction efforts. First, participating states have agreed to review their own relevant national legal authorities to ensure that they can take action. Second, participating states resolve to take action, and to “seriously consider providing consent...to boarding and searching of its own flag vessels by other states.”<sup>13</sup> Third, participating states seek to put in place agreements, such as ship-boarding agreements, with other states in advance, so that no time is lost should interdiction be required. So far, the United States has signed ship-boarding agreements with Liberia, the Marshall Islands, Panama, and Croatia. This arrangement would give Liberia, which currently permits more than 2,000 vessels to sail under its registration around the world, two hours to deny U.S. personnel the right to board a ship. The United States reportedly is consulting with two dozen other countries on similar ship-boarding agreements.<sup>14</sup> A fourth approach is to conduct interdiction exercises. PSI participants reportedly have trained for “maritime interdiction in the Mediterranean, Arabian Sea, and Western Pacific Ocean, all areas that are particularly prone to proliferation trafficking.”<sup>15</sup>

As many describe it, PSI relies on the “broken tail-light scenario”: officials look for all available options to stop suspected transport of WMD or WMD-related items. In practice, cargos can be seized in ports if they violate the host state’s laws, hence the focus on strengthening domestic laws. On the high seas, ships have the rights of freedom of the seas and innocent passage under the Law of the Sea Convention and customary international law. The boarding agreements may allow for boarding, but not necessarily cargo seizure.<sup>16</sup> According to State Department lawyer Todd Buchwald, no authority has been worked out yet to legally seize cargo. In addition, a key gap in the PSI framework is that it applies only to commercial, not government, transportation. Government vehicles (ships, planes, trucks, etc.) cannot legally be interdicted. Thus, the missile shipments picked up by a Pakistani C-130 in the summer of 2002 in North Korea, reported by the New York Times in November 2002, could not be intercepted under PSI.

The October 2003 interdiction of a shipment of uranium centrifuge enrichment parts from Malaysia to Libya illustrates the need for multilateral cooperation. The Malaysian-produced equipment was transported on a German-owned ship, BBC China, leaving Dubai, passing through the Suez Canal. The ship was diverted into the Italian port of Taranto, where it was searched. Passage through the highly-regulated Suez Canal may give authorities an opportunity to delay ships and find a reason to board them.

In an interview in November 2003, then-Secretary Bolton suggested that WMD interdiction would target shipments to rogue states and terrorists that pose the most

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<sup>13</sup> See Appendix A for September 2003 interdiction principles.

<sup>14</sup> Interview with State Department official, April 28, 2004. The following states are listed by the International Transport Workers’ Federation as having flags of convenience: Antigua and Barbuda, Aruba (NL), Bahamas, Barbados, Belize, Bermuda (UK), Burma, Cambodia, Canary Islands (Spain), Cayman Islands (UK), Cook Islands (NZ), Cyprus, German International Ship Register (GIS), Gibraltar (UK), Honduras, Lebanon, Liberia, Luxembourg, Malta, Marshall Islands (US), Mauritius, Netherlands Antilles, Panama, St. Vincent, Sri Lanka, Tuvalu, Vanuatu.

<sup>15</sup> Bolton, March 30, 2004 HIRC testimony.

<sup>16</sup> See CRS Report RL32097, *Weapons of Mass Destruction Counterproliferation: Legal Issues for Ships and Aircraft*.

immediate threat.<sup>17</sup> In the case of rogue states, it may be relatively easy to target shipments to Iran and North Korea and their transshipment points, but targeting terrorist acquisitions may place a serious strain on intelligence gathering.

On February 11, 2004, President Bush proposed expanding PSI to address more than shipments and transfers, including “shutting down facilities, seizing materials, and freezing assets.”<sup>18</sup> Administration officials have not yet elaborated how they plan to implement this expansion. Secretary Bolton has said that the President’s proposal will require “greater cooperation not just among intelligence and military services but in law enforcement as well.”<sup>19</sup> To some observers, it is difficult to imagine how national authorities could shut down facilities, seize materials, and freeze assets, particularly if the material and equipment in question is dual-use (which would normally place the burden on the export destination).

On April 28, 2004, the UN Security Council pass UNSC Resolution 1540, which requires all states “to criminalize proliferation, enact strict export controls and secure all sensitive materials within their borders.”<sup>20</sup> UNSCR 1540 called on states to enforce effective domestic controls over WMD and WMD-related materials in production, use, storage, and transport; to maintain effective border controls; and to develop national export and trans-shipment controls over such items, all of which should help interdiction efforts. The resolution did not, however, provide any enforcement authority, nor did it specifically mention interdiction or PSI.

## Issues for Congress

The 109<sup>th</sup> Congress has introduced five different bills and resolutions that call for strengthening and expanding PSI (S.Con.Res. 36, H.Con.Res. 133, S.Con.Res. 40, H.R. 422, H.R. 665). Geographical expansion is a key issue — particularly how to engage China, which has been negative about PSI. Congress may also consider how intelligence resources are handled. Is intelligence sufficient and are there intelligence-sharing requirements with non-NATO allies? Also, how is PSI coordinated with other federal interdiction-related programs (e.g., export control assistance)? Budgetary costs may be a lesser concern, since PSI costs (for operational exercises and diplomatic meetings) so far have been absorbed within federal agencies’ budgets.<sup>21</sup> One potential complication for congressional oversight of PSI is the absence of a way to measure PSI’s success, relative to past efforts.

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<sup>17</sup> “The Proliferation Security Initiative: An Interview with John Bolton,” *Arms Control Today*, December 2003.

<sup>18</sup> See [<http://www.whitehouse.gov/response/index.html>] for text of President’s speech.

<sup>19</sup> Bolton, March 30, 2004 HIRC testimony.

<sup>20</sup> See [[http://www.un.org/Docs/sc/unsr\\_resolutions04.html](http://www.un.org/Docs/sc/unsr_resolutions04.html)] for text of UNSCR 1540.

<sup>21</sup> “Anti-Proliferation Effort Will Receive No Separate Funding, Personnel,” *Government Executive*, March 15, 2004 [<http://www.GovExec.com>].

## Appendix A: PSI Statement of Interdiction Principles

(abstracted from [<http://www.state.gov/t/np/rls/fs/23764.htm>])

1. Undertake effective measures, either alone or with other states, for state actors of proliferation concern. (“States or non-state actors of proliferation concern” are those countries or entities engaged in proliferation through: (1) efforts to develop or acquire chemical, biological, or nuclear weapons and their delivery systems; or (2) transfer (selling, receiving, or facilitating) WMD, delivery systems, or related materials.)
2. Adopt streamlined procedures for rapid exchange of information on suspected proliferation activity, protecting classified information provided by other states; dedicate appropriate resources to interdiction operations and capabilities; and maximize coordination among participants in interdiction efforts.
3. Review and strengthen their relevant national legal authorities where necessary to accomplish these objectives, and strengthen when necessary relevant international law and frameworks to support these commitments.
4. Support interdiction of cargoes of WMD, their delivery systems, or related materials, to the extent their national legal authorities permit and consistent with their obligations under international law and frameworks, to include
  - a. Not to transport or assist in the transport of any such cargoes to or from states or non-state actors of proliferation concern, and not to allow any persons subject to their jurisdiction to do so.
  - b. At their own initiative, or at the request and good cause shown by another state, to board and search any vessel flying their flag in their internal waters or territorial seas, or areas beyond the territorial seas of any other state, that is reasonably suspected of transporting such cargoes to or from states or non-state actors of proliferation concern, and to seize such cargoes that are identified.
  - c. To seriously consider providing consent under the appropriate circumstances to the boarding and searching of its own flag vessels by other states, and to the seizure of such WMD-related cargoes in such vessels that may be identified by such states.
  - d. To take appropriate actions to (1) stop and/or search in their internal waters, territorial seas, or contiguous zones (when declared) vessels that are reasonably suspected of carrying such cargoes to or from states or non-state actors of proliferation concern and to seize such cargoes that are identified; and (2) to enforce conditions on vessels entering or leaving their ports, internal waters or territorial seas that are reasonably suspected of carrying such cargoes, such as requiring that such vessels be subject to boarding, search, and seizure of such cargoes prior to entry.
  - e. At their own initiative or upon the request of another state, to (a) require aircraft reasonably suspected of carrying such cargoes to or from states or non-state actors of proliferation concern and that are transiting their airspace to land for inspection and seize any such cargoes that are identified; and/or (b) deny aircraft reasonably suspected of carrying such cargoes transit rights through their airspace in advance of such flights.
  - f. If their ports, airfields, or other facilities are used as transshipment points for shipment of such cargoes to or from states or non-state actors of proliferation concern, to inspect vessels, aircraft, or other modes of transport reasonably suspected of carrying such cargoes, and to seize such cargoes that are identified.