



Countering the Spread of
Weapons of Mass Destruction:
the Role of the
Proliferation Security Initiative

A Review of the Work of the
Council for Security Cooperation in the Asia Pacific
International Working Group on
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Countering the Spread of Weapons of Mass Destruction: the Role of the Proliferation Security Initiative

Introduction by Ralph A. Cossa

Countering the spread of weapons of mass destruction (WMD) has always enjoyed a high priority among the nations of East Asia, as it has globally. There is nothing controversial about the idea that such weapons should be kept out of the hands of terrorists or nonstate actors who would be more inclined and not as easily deterred from using them. On this there is widespread agreement globally – witness the unanimous passage of United Nations Security Council Resolution 1540 in April 2004, calling upon all member states “to take cooperative actions to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials.” While aimed at countering WMD proliferation in all its forms, the first two articles specifically highlight the need – indeed the obligation – to keep such weapons out of the hands of “non-state actors.”

The question, therefore, is not *if* WMD proliferation should be halted, but *how*.

At the center of the current debate is the U.S.-initiated Proliferation Security Initiative (PSI), first laid out by President George W. Bush in May 2003 and formalized at a 11-nation meeting (involving Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the UK, and the U.S.) in Madrid in June of that year. The group of “core participants” has since grown to 18, following the addition of Canada, the Czech Republic, Denmark, Norway, Singapore, Turkey, and most recently Russia. Despite this broad-based support – all members of the G-8 are among the core group and over 60 nations have voiced support for the PSI Statement of Principles – many nations worldwide, and especially in Asia, have expressed reservations about the PSI.

In order to better understand the initiative and the reasons why some nations remain apprehensive about its implementation, if not its motives and intentions, the multinational Council for Security Cooperation in the Asia Pacific (CSCAP) examined this on-going effort during a combined meeting of its Confidence and Security Building Measures (CSBM) and Maritime Working Groups in Hanoi in May 2004. This report includes papers and commentaries regarding PSI that were shared at the CSCAP meeting. It does not represent a consensus document or the collective views of either CSCAP or the roughly 100 participants at the combined CSBM and Maritime Working Group meetings. It is meant exclusively to encourage more informed debate on a topic of major security concern to the nations of East Asia.

Background

The PSI is “an activity, not an organization.” It brings together like-minded states into a “coalition of the willing” focused on halting the spread of WMD by sea, ground, and air, although its emphasis to date has been primarily (but not exclusively) on seaborne proliferation. It is not aimed at any specific country but at halting the flow of WMD and,

especially, at keeping WMD out of the hands of terrorists. PSI is “a global initiative with global reach,” under which participants agree “to move quickly on direct, practical measures to impede the trafficking in weapons of mass destruction, missiles, and related items.”

The PSI had first been suggested on May 31, 2003 by President Bush during a speech in Krakow, Poland. On the first anniversary of that speech, the core participants meet in Krakow to celebrate the transformation of the PSI “from a vision into an active network of partnership and practical cooperation.” All told, over 60 countries sent senior representatives to the Krakow meeting, “highlighting the worldwide support of the PSI and its [Sept. 2003] Statement of Interdiction Principles.” The Chairman’s Statement stressed that the PSI “is an important element in responding to the growing challenge posed by the proliferation of Weapons of Mass Destruction. (WMD), their delivery systems, and related materials to or from states and non-state actors worldwide.”

It further stressed that “PSI activities had to be consistent with national and international law and frameworks.” To this end, it highlighted the unanimous adoption, on April 28, 2004, of UNSC Resolution 1540. This resolution grew out of President Bush’s September 2003 challenge to the UN to act more forcefully and effectively against WMD proliferation. He called on all members “to criminalize the proliferation of weapons of mass destruction, to enact strict export controls consistent with international standards, and to secure any and all sensitive materials within their own borders.” The resultant UNSC 1540 was directly linked, at least in Washington’s mind, to the PSI even though Russia and China prevented a direct reference to this U.S. initiative from appearing in the final version. While the resolution does not include penalties for noncompliance, it was adopted under Chapter VII of the UN Charter, which makes it obligatory for all members and thus could allow for eventual sanctions or the use of force against those who flaunt the resolution.

At the May 2004 Krakow meeting Russia formally joined the core group. As noted, Russia, like China, had initially reserved judgement on the PSI, both out of concern for its possible impact on North Korea and over apprehensions that it would encourage U.S. extralegal unilateral military actions. Moscow’s endorsement leaves only China among the UNSC permanent five that is not an active participant. As noted in this volume, Beijing seems to be moderating its own stance against the PSI but does not yet appear ready to enter this “coalition of the willing.”

With Russia’s entry, all G-8 members are now among the PSI’s core participants. Despite continued differences with Washington over Iraq and other issues, the commitment of the G-8 to countering WMD proliferation is clear. At their June 8 summit in Sea Island, Georgia, the G-8 leaders endorsed an Action Plan on Non-Proliferation and agreed on a one-year ban on the transfer of equipment and technology for uranium enrichment and reprocessing. President Bush had been calling for a total ban as part of his broader nonproliferation program. G-8 members also supported the further strengthening of the PSI.

The PSI’s effectiveness – and ability to work effectively within the framework of international law – has been significantly enhanced by bilateral arrangements between the U.S. and both Liberia (February 2004) and Panama (April 2004), which establish procedures

that allow interdiction of vessels flying these national flags. These two agreements alone subject nearly 15 percent of the world's roughly 50,000 large cargo ships to being boarded and inspected on short notice. One area of future focus for the PSI will be to increase the number of such agreements. If all 62 nations represented at the Krakow meeting fully cooperated with the PSI interdict effort, it would allow for the rapid consent for searches of roughly 46 percent of the world's shipping fleet.

PSI in Broader Perspective

The PSI is part of a broader U.S. global effort to contain the spread of weapons of mass destruction and, in particular, to keep such weapons out of the hands of terrorists or potentially hostile state or nonstate actors. Noting that Cold War "weapons of last resort" could become a "first resort" in the hands of terrorists, President Bush stated categorically during a February 2004 speech at the National Defense University in Washington that "America will not permit terrorists and dangerous regimes to threaten us with the world's most deadly weapons." Mr. Bush called for changes in thinking and strategy, not only in America but globally, to deal with this challenge. He promised a more proactive approach toward dealing with WMD threats: "We're determined to confront those threats at the source. We will stop these weapons from being acquired or built. We'll block them from being transferred. We'll prevent them from ever being used." He did not say exactly how this would be done, acknowledging that nations with WMD capabilities "pose different challenges; they require different strategies."

Not surprisingly, he held up the "Libyan Model" as a preferred approach: "Colonel Ghadafi made the right decision, and the world will be safer once his commitment is fulfilled. We expect other regimes to follow his example. Abandoning the pursuit of illegal weapons can lead to better relations with the United States, and other free nations. Continuing to seek those weapons will not bring security or international prestige, but only political isolation, economic hardship, and other unwelcome consequences."

President Bush then announced seven proposals to "strengthen the world's efforts to stop the spread of deadly weapons." First was the expansion of the Proliferation Security Initiative, currently focused on shipments and transfers, to include "direct action against proliferation networks." Second was the need for all nations, "to strengthen the laws and international controls that govern proliferation," an obvious reference to the then-draft UNSC resolution.

Third, President Bush called for a reinvigoration and expansion of the 1991 Nunn-Lugar effort to help find productive employment for former weapons scientists (now including those from Iraq and Libya as well as the former Soviet Union) and to dismantle, destroy, and secure weapons and materials left over from the Soviet, Libyan, or other WMD arsenals. The key, of course, is continued funding, both from the U.S. Congress and from the international community.

Fourth was an expanded effort to "prevent governments from developing nuclear weapons under false pretenses" by closing the current "loophole" in the 30-year old Nuclear

Non-Proliferation Treaty (NPT), which allows states to “cynically manipulate” the NPT by acquiring the material and enrichment/reprocessing infrastructure necessary for manufacturing illegal weapons: “The 40 nations of the Nuclear Suppliers Group should refuse to sell enrichment and reprocessing equipment and technologies to any state that does not already possess full-scale, functioning enrichment and reprocessing plants.”

Stopping new states from acquiring such capabilities is not enough. President Bush argued that the International Atomic Energy Agency (IAEA) “must have all the tools it needs to fulfill its essential mandate.” One such tool is the Additional Protocol, which requires states to declare a broad range of nuclear activities and facilities, and allows the IAEA to inspect those facilities. As a fifth step, President Bush proposed that “by next year, only states that have signed the Additional Protocol be allowed to import equipment for their civilian nuclear programs.”

Sixth, to “ensure that the IAEA is organized to take action when action is required,” he proposed the creation of a special committee of the IAEA Board to “focus intensively on safeguards and verification.” Seventh and finally, President Bush argued that no state under investigation for proliferation violations should be allowed to serve on the IAEA Board of Governors or on the new special committee and that any state currently on the Board that comes under investigation should be suspended.

Only time will tell how much energy and enthusiasm Washington will place behind this new counter-proliferation effort and how much regional and broader international support it will enjoy. But the Bush administration’s efforts to strengthen and reinforce the NPT and IAEA and its attempt to use the UNSC as well as its ad hoc PSI coalition of the willing as vehicles for achieving these goals should be seen as a welcome departure from past tendencies that failed to emphasize or appreciate the value of international regimes.

East Asia PSI Debate Continues

Despite this commitment to a multilateral approach within the framework of existing international law, the political and strategic implications of PSI for Asia continue to be hotly debated, as demonstrated by the give-and-take dialogue apparent at the May 2004 CSCAP meeting in Hanoi. While most participants acknowledged the need for more effective nonproliferation regimes, many expressed suspicions about the PSI’s legality or Washington’s commitment to act strictly in accordance with international law. One participant decried PSI as a violation of the UN Charter and international law, calling it a “device to isolate the DPRK and check its peaceful economic activities.” Another worried whether actions taken in the name of the PSI would always be consistent with freedom of navigation. CSCAP participants also pointed out that U.S. credibility vis-à-vis maritime interdiction would be enhanced if Washington were to formally ratify the 1982 UN Convention on the Law of the Sea.

There was widespread agreement that PSI should be consistent with international law and, in point of fact, all PSI activities to date have been. Reinforcing this point is the PSI Statement of Interdiction Principles which notes that efforts to impede and stop WMD

shipments should be “consistent with national legal authorities and relevant international law and frameworks, including the UN Security Council.”

Despite the continued stress on activities consistent with legal frameworks, Beijing, for one, has expressed some concern regarding this effort, previously noting that “some countries of the world [meaning China] have doubts over the legality and effectiveness of the measure.” Pyongyang has been considerably less subtle in its condemnation on this “international blockade strategy,” claiming that any action directed against North Korea would be a “wanton violation” of its sovereignty and a “prelude to nuclear war.” Beijing is likewise concerned that PSI efforts specifically focused on North Korea could be counterproductive (even though it has stated that China would not allow itself to be a conduit for illegal North Korean shipments).

While PSI core participants have been quick to point out that the PSI is targeted at proliferation *per se* and not at any particular country, a U.S. State Department spokesman has acknowledged that Pyongyang “might find itself affected by this initiative” if it continued to “aggressively proliferate missiles and related technologies.” “Unnamed Pentagon officials” were also quick to point out that the first major PSI exercise, dubbed Pacific Protector and held in the Coral Sea off the coast of Queensland in Sept 2003, was aimed at sending “a sharp signal to North Korea.” This was the first of a series of 10 sea, air, and ground interdiction training exercises that are taking place in 2003-2004.

As the diversity of the dialogue at the Hanoi CSCAP meeting demonstrated, some chose to focus on concerns about extra-legality or unilateralism in discussing the PSI while others point to the need, above and beyond UNSC 1540, to further strengthen or modernize international law. Plainly, the threat and danger posed by WMD proliferation is as great (if not greater) than that posed by piracy, slavery, or drug smuggling, areas where interdiction protocols already exist. Greater efforts by global and regional institutions such as the United Nations or the ASEAN Regional Forum (ARF) to address this issue would alleviate the need for it to be addressed by ad hoc efforts such as the PSI.

In this author’s personal opinion, the PSI provides yet another example where institutionalized multilateral mechanisms are falling short and are thus being bypassed in favor of ad hoc enforcement regimes. While the Statement of Principles cites a UNSC Presidential Statement as part of its legal justification, many see the Initiative as being necessitated by a failure of the UNSC to act: “Regrettably, the United Nations Security Council’s record on defending non-proliferation standards is patchy at best,” asserted Australian Foreign Minister Alexander Downer at the July 2003 Brisbane PSI meeting, building on a familiar theme. In a late June 2003 speech, Downer criticized the UN as “a synonym for an ineffective and unfocussed policy involving internationalism of the lowest common denominator,” thus necessitating the creation of “coalitions of the willing” to deal with specific security threats.

Another somewhat related and equally hotly debated topic at CSCAP and other forums in East Asia has been the U.S.-generated proposal for a Regional Maritime Security Initiative (RMSI), which grew out of congressional testimony by U.S. Pacific Command

Commander Admiral Thomas Fargo in late March 2004. Asian press summaries of Fargo's comments alleged (incorrectly) that he was planning on sending Marines into the Malacca Straits to counter piracy, causing immediate expressions of outrage throughout the region and especially from Indonesia and Malaysia. U.S. spokesmen subsequently described RMSI as a means of assisting regional navies to help them better patrol their own waters against pirates, terrorists, or an unholy alliance between the two. Such clarifications have done little to quell the uproar, however, especially among those who believe that any initiative emanating from the U.S. must somehow be illegal, immoral, unilateral, or all of the above.

It is clear that much more needs to be and will be said on the topic of how best to combat the spread of weapons of mass destruction and how to most effectively keep such weapons out of the hands of those who would be most inclined to use them. We hope that this volume will contribute to this debate and to future discussions, by CSCAP and other forums, on making the Asia Pacific region and world a safer, more secure place.

An Overview of Regional Responses in the Asia-Pacific to the PSI*

Yann-huei Song**

I. Introduction

Proliferation of weapons of mass destruction (WMD), that is, nuclear, biological, and chemical weapons, and their delivery systems constitutes one of the greatest threats to international peace and security. The threat is compounded by the interest of terrorists in acquiring WMD. The danger that WMD may be used by terrorists has increased and taken on greater urgency since the Sept. 11, 2001 terrorist attacks in the United States.

On May 31, 2003, the Proliferation Security Initiative (PSI) was announced by U.S. President George W. Bush in Krakow, Poland. PSI aims to stop the spread of WMD.¹ On June 12, 2003, 11 countries met in Madrid, Spain, and agreed to increase intelligence sharing and to begin training their militaries to intercept shipments that are suspected of carrying WMD and other illegally traded arms.² The 11 PSI participating countries are Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the United Kingdom, and the United States. Five more countries announced their intention to join the PSI in December 2003: Canada, Denmark, Norway, Singapore, and Turkey. In April 2004, the Czech Republic joined the initiative.³ Six PSI training exercises had been held in different parts of the world since the launching of the initiative and more PSI operational activities are foreseen in the near future. As of March 30, 2004, more than 60 countries have signaled that they support the initiative and are ready to cooperate in interdiction efforts.⁴ It was also reported in early April 2004 that NATO members agreed to examine possible ways of support between the organization's Operation Active Endeavour and the PSI.⁵ More importantly, the two permanent members of the UN Security Council, China and the Russian Federation, who originally expressed reservations about the international legality of the

* Originally this paper was delivered at the 3rd Global Forum Taiwan-Japan Dialogue, Tokyo, Japan, October 24, 2003. It has been revised and updated for the CSCAP Maritime Cooperation Working Group and CSBM Working Group Joint Meeting, Hanoi, May 26-27, 2004.

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¹ Remarks by President Bush to the People in Poland, Wawel Royal Castle, Krakow, Poland, May 31, 2003, available at: <http://www.whitehouse.gov/news/releases/2003/05/print/20030531-2.html>

² Sonni Efron and Barbara Demick, "11 nations to discuss revising law to thwart shipments of weapons," *The Seattle Times*, June 12, 2003.

³ "Czechrep Joins Bush's Initiative against Arms Proliferation," *Czech News Agency*, April 8, 2004.

⁴ According to John Bolton, Undersecretary of State for Arms Control and International Security, U.S. Department of State, see "Poland to host meeting to mark launch of U.S.-led WMD seizure plan," *Japan Economic Newswire*, March 30, 2004.

⁵ "Declaration on terrorism issued at the meeting of the North Atlantic Council in Foreign Ministers Session held in Brussels," April 2, 2004.

initiative, have muted their opposition and agreed to engage in more dialogues with the U.S. on the PSI. As reported in February 2004, China now supports the PSI principles and objectives on proliferation prevention.⁶ On April 10, 2004, Russian Deputy Foreign Minister Sergei Kislyak stated that overall the U.S.-led PSI is developing in a direction which is in line with the Russian approach to curtailing the proliferation of WMD.⁷ [Russia officially joined the PSI on May 31, 2004.]

As of May 2004, six PSI meetings had been held in Spain, Australia, France, United Kingdom, the United States, and Portugal. A number of PSI maritime, air, and land interdiction exercises had also been conducted. More PSI training exercises are scheduled to be held during the second half of 2004. In September 2003, the PSI participating countries agreed to a number of interdiction principles for the initiative, which aim 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 nonstate actors of proliferation concerns.⁸

The purposes of this paper are twofold. First, it examines the overall development of the PSI; and second, it studies national responses in the Asia-Pacific region to the U.S.-led initiative. This paper will begin with a background of the development of the idea of PSI. Then, it will explain what the PSI is and summarize recent developments. Then, the positions on the PSI taken by the relevant states in the Asia-Pacific, which include Australia, Canada, China, India, Japan, North Korea, the Russian Federation, South Korea, Taiwan, and selected member states of ASEAN will be addressed.

II. Background on the PSI

There are two major motives behind the Bush administration's launch of the PSI in May 2003. First, there was serious concern over the increasing proliferation of WMD and the determination to take further actions to stop the flow of WMD; second, the frustration that the U.S. government experienced in December 2002 when Spain, alerted by the U.S. intelligence services, seized but later released a shipment of 15 Scud missiles headed from North Korea to Yemen, due to the absence of international legal authority to detain the vessel carrying missiles. It is clear that the escalation of the Korean Peninsula nuclear crisis during the first half of 2003 reinforced the idea of launching the PSI.

In October 2002, the U.S. government accused North Korea of reneging on a 1994 bilateral nuclear freeze accord⁹ by setting up a clandestine program based on enriched uranium. In response, in a joint statement issued on Oct. 26, 2002, President Bush, Japanese Prime Minister Koizumi Junichiro and ROK President Kim Dae-Jung urged North Korea to

⁶ See "China to study Bush's address and PSI, FM spokesman," *Xinhua General News Service*, February 17, 2004 and "Top US official seeks China's support in stopping weapons proliferation," *AFX News*, February 16, 2004.

⁷ Maria Pshenichnikova, "Russia, US continue contacts on Bush-proposed PSI," *TASS*, April 10, 2004.

⁸ Appendix A provides the Statement of Interdiction Principles for the Proliferation Security Initiative.

⁹ That is the Agreed Framework between the United States of America and the Democratic People's Republic of Korea, signed Oct. 21, 1994. The text of the accord is available at: <http://www.ceip.org/files/projects/npp/resources/koreaaf.htm>

give up its nuclear weapons program. Bush, Kim and Koizumi warned North Korea that its relations with the international community now rested on “prompt and visible actions” to dismantle its program to produce highly enriched uranium for nuclear weapons.¹⁰

In early January 2003, at the Trilateral Coordination and Oversight Group (TCOG) meeting, the U.S., Japan and South Korea once again called on North Korea to eliminate its nuclear weapons program, which constitutes a violation of its international commitments. While the three countries reiterated their intention to pursue a peaceful and diplomatic resolution of the issue, they stressed that North Korea’s relations with the entire international community hinged on its taking prompt and verifiable action to completely dismantle its nuclear weapons program and come into full compliance with its international nuclear commitments.¹¹ In response, North Korea, in accordance with Article X of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), notified the International Atomic Energy Agency (IAEA) and the UN Security Council that Pyongyang was withdrawing from the treaty.¹² Before the notice, as a matter of fact, the IAEA’s ability to directly monitor activities at the Yongbyon Nuclear Complex was lost in late December 2002 when North Korea expelled IAEA inspectors who had been monitoring the freeze.¹³ And subsequently in April 2003, North Korea said that it had developed nuclear weapons and was prepared to further develop, produce, test, and/or export these weapons depending on Washington’s responsiveness to Pyongyang’s demands, i.e., signing a legally binding nonaggression pact with North Korea and dropping its “hostile policy” against Pyongyang. The development invited a much stronger response from the U.S. and Japan. On May 23, 2003, President Bush and Prime Minister Koizumi reiterated in Crawford, Texas that they would not tolerate nuclear weapons in North Korea, and once again, demanded a “complete, verifiable, and irreversible” elimination of North Korea’s nuclear weapons program. They also warned Pyongyang that further escalation of the Korean Peninsula nuclear crisis would “require tougher measures” against North Korea. Eight days later, President Bush announced the PSI in Poland.¹⁴

¹⁰ Wang Shubai, Ge Xiangwen and Yan Feng, “Leaders Urge DPRK to Halt Nuke Project,” *People’s Daily*, Oct. 28, 2002.

¹¹ See Joint Statement by the Trilateral Coordination and Oversight Group, Jan. 7, 2003. The text of the statement is available at: <http://www.state.gov/r/pa/prs/2003/16433.htm>

¹² Paragraph 1, Article X of the NPT provides that “[e]ach Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matters of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.” While the provision requires a 90-day notice before withdrawal, North Korea claimed that it was not necessary since Pyongyang already declared its intention to withdraw in 1993. For the text of the Treaty, visit <http://disarmament.un.org/wmd/npt/npttext.html>

¹³ See “North Korea Nuclear Program Overview: History and Status,” available in the Russian Nuclear Non-Proliferation Site at: <http://www.nuclearno.com/text.aso?5084>

¹⁴ For Bush and Koizumi remarks in Crawford, Texas on May 23, 2003, visit <http://www.whitehouse.gov/news/releases/2003/05/print/20030523-4.html>

III. The PSI and Recent Developments

A. What is the PSI?

The PSI is the result of U.S. efforts to form another “coalition of the willing” to combat the proliferation of WMD and their means of delivery. This new international coalition is focused on pre-emptive interdiction, seeking to allow ships, aircraft, and vehicles suspected of carrying WMD-related materials to and from countries of “proliferation concern” (in particular, North Korea and Iran) to be detained and searched as soon as they enter PSI participating country territories, territorial waters, or airspace. As of May 2004, the initiative has 17 participating members – Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the United Kingdom and the U.S., with Canada, Denmark, Norway, Singapore, Turkey and the Czech Republic now also signed up. But it should be noted that PSI is an activity, not an organization.

Under the PSI, participating countries agree to share intelligence, strengthen national law, and coordinate local police forces to stop shipments of dangerous technologies to and from states and nonstate actors of proliferation concern at sea, in the air, and on land. The PSI represents the first time a group of nations has agreed to take actions to enforce the relevant provisions of existing international agreements governing the proliferation of WMD and illegal arms trading. It is believed that the cooperative efforts made under the PSI would increase the pressure on states that actively seek or develop WMD to negotiate a settlement with the international community.

The U.S. is pushing for a wider application of the PSI, attempting to take interdiction actions on the high seas and in international air space. The U.S. is taking the position that it has the authority to begin interdiction on the high seas (including exclusive economic zones) under any of the following circumstances: (1) when ships do not display a nation’s flag, effectively becoming pirate ships that can be seized; (2) when the ships use a “flag of convenience” and the nation chosen for registration gives the U.S. or its allies permission, the ships can be stopped and searched; and (3) the right to self-defence can be exercised when it is believed that the vessels carry WMD material.¹⁵ As stated by U.S. Under Secretary of State John Bolton, the interdiction taken under the PSI is “not only legitimate, it’s necessary self-defense.”¹⁶ While the other 10 original participating countries supported the U.S.-led PSI, they expressed reservations about extending the effort too far.

The international law concerning the proposed actions that are possible under the PSI is unclear. Under the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the state which has granted a ship the right to sail under its flag has the exclusive right to exercise legislative and enforcement jurisdiction over its ships on the high seas.¹⁷ However, the exclusiveness of the flag state’s jurisdiction over its ships on the high sea is not absolute. Under the following exceptions, third states share legislative or enforcement jurisdiction, or both, with the flag state: (1) piracy, including acts of violence on the high seas; (2) unauthorized broadcasting on the high seas; (3) slave trading; (4) drug trafficking; (5) ships

¹⁵ Greg Sheridan, “US ‘free’ to tackle N Korea,” *The Australian*, July 9, 2003.

¹⁶ *Deutsche-Presse Agentur*, July 10, 2003.

¹⁷ See Article 92 of the 1982 UNCLOS.

of uncertain nationality; (6) stateless ships; (7) hot pursuit and constructive presence; (8) major pollution incidents; (9) exceptional measures (e.g., under the right of self-defense); and (10) rights under special treaties.¹⁸ Drug trafficking, hot pursuit and constructive presence, exceptional measures (in particular, under the exercise of the right of self-defense), and rights under special treaties are possible exceptions that allow the PSI participating countries to take actions on the high seas against a foreign vessel suspected of carrying WMD-related material or cargo subject to control under the international non-proliferation and trade regimes.

All of the PSI participating countries except the U.S. are parties to the 1982 UNCLOS.¹⁹ While the U.S. Senate Foreign Relations Committee recommended that the Senate give its advice and consent to accession to the 1982 UNCLOS, there are senators and commentators in the U.S. who assert that the Convention's rules would affect Washington's efforts under the PSI to interdict vessels suspected of engaging in the proliferation of WMD.²⁰ However, the Bush administration is taking the view that becoming a party to the 1982 UNCLOS would strengthen PSI efforts. As John F. Turner, Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs, testified before the Senate Environment Committee on March 23 2004,

PSI's own rules require that PSI activities be consistent with relevant international law and framework, which include the Convention's navigation provisions.

The Statement of Interdiction Principles pursuant to which the PSI operates explicitly specified that interdiction activities under PSI will be undertaken consistent with national legal authorities and relevant international law and frameworks. The relevant international law framework for PSI includes customary international law that is codified in the Law of the Sea Convention.

The Convention provides solid legal bases for taking enforcement action against vessels and aircraft suspected of engaging in proliferation of WMD, e.g., exclusive port and coastal State jurisdiction in internal waters and national airspace; coastal State jurisdiction in the territorial sea and contiguous zone; exclusive flag State jurisdiction over vessels on the high seas (which the flag State may, by agreement, waive in favor of other States); and universal jurisdiction over stateless vessels.²¹

¹⁸ R.R. Churchill and A.V. Lowe, *The Law of the Sea*, 3rd edition (Manchester, UK: Manchester University Press, 1999), pp. 209-220.

¹⁹ As of Jan. 16, 2004, there are 145 parties to the Convention. For the status of the convention, visit: http://www.un.org/Depts/los/convention_agreements/convention_agreements.htm

²⁰ For example, Sen. James Inhofe, Frank Gaffney, president of the Center for Security Policy in Washington, and Peter Leitner, a senior strategic trade adviser in the Office of the Secretary of Defense take the position that accession to the convention would have a negative impact on the PSI.

²¹ See the statement prepared by John F. Turner, Testimony before the Senate Environment and Public Works Committee, Washington, DC., March 23, 2004. Adm. Vern Clark, chief of U.S. Naval Operations, Adm. Michael Mullen, vice chief of Naval Operations, Rear Adm. Willaim Schachte (Ret.), Judge Advocate General Corps, United States Navy, and William Howard Taft IV, legal advisor to the U.S. Department of State take a similar view.

The *Preliminary Report* of the U.S. Commission on Ocean Policy, released on April 20, 2004 for review and comment by the nation's governors and other interested stakeholders, also recommends that the United States accede to the 1982 UNCLOS.²²

B. Existing Precedents

Prior to the formal announcement of the PSI, there existed several cases in which interdiction actions were taken to stop the flow of WMD-related cargoes. On Dec. 9, 2002, based on the information provided by U.S. intelligence and at the request of the U.S., a Spanish warship intercepted the North Korean-owned freighter, *So San*, flying under the Cambodian flag in the Arabian Sea, several hundred miles off the coast of Yemen, as a part of antiterror monitoring actions. Spanish marines boarded the vessel, found 15 Scud missiles in broken condition and around 85 drums of an undetermined chemical, and then handed them over to U.S. command. Admitting that it lacked the authority under international law to detain the vessel, the United States decided to release *So San* and allowed the shipment of Scud missiles to continue to Yemen, after being assured that the missiles would be used for defensive purposes.²³ The interdiction action was considered part of a U.S.-led coalition maritime intercept operation.

In April 2003, alerted by the German government, French authorities ordered a French ship to unload a shipment of German-made aluminium tubes in Egypt, which was believed to be for use in North Korea's nuclear program. The cargo originated from a German company in Hamburg and included 22 metric tons of aluminium tubes, essential in the manufacture of enriched uranium for nuclear weapons. Officially the shipment of the cargo was directed to a Chinese aeronautics company, but German officials believed the Chinese company was a North Korean front.²⁴ In May 2003, at the request of the U.S., the German government intercepted a cargo of 30 tons of sodium cyanide, which can be used in the manufacture of chemical weapons. The U.S. believed that the shipment was bound for North Korea.²⁵

In a parallel effort intended to deprive North Korea of hard currency needed for the purchase of missile and WMD-related material, Australian authorities discovered 50 kilograms of heroin worth \$80 million on a North Korean owned ship on April 20, 2003 after a four-day chase by the Australian navy along the coasts of Victoria and New South Wales.²⁶

²² Recommendation 29-1. The United States should accede to the United Nations Convention on the Law of the Sea. *Preliminary Report* of the U.S. Commission on Ocean Policy, Governors' Draft, April 2004, p. 359. For the report, visit <http://www.oceancommission.gov>

²³ Andrew Ward, "Ship sparks escalation in US-North Korea dispute," *Financial Times*, Dec. 12, 2002, p. 5.; Peter Speigel, James Harding, and Mark Huband, "US releases cargo ship found with 15 Scuds," *Financial Times*, Dec. 12, 2002, p. 1; Barbara Slavin, "U.S. lets Yemen receive missiles," *USA Today*, Dec. 12, 2002; Brian Knowlton, "North Korean ship seized with Scuds," *International Herald Tribune*, Dec. 12, 2002, p. 1 & p.4.

²⁴ "Germany intercepts suspect nuclear-related shipment to N Korea – report," *Agence France Presse*, April 26, 2003; "N. Korean staff in Germany likely involved in 'sensitive goods' acquisition," *Agence France Presse*, May 13, 2003.

²⁵ "Germany intercepts 30 tonnes of suspect chemical bound for N Korea: press," *Agency France Presse*, May 18, 2003.

²⁶ Malcolm Brown, "Masks in Court as 26 Crew Appear," *Sydney Morning Herald*, April 23, 2003, p. 5; Daniel

In early June 2003, the Japanese authorities submitted a ferry line – suspected of trafficking hard currency to North Korea – to aggressive safety inspections and customs examination, resulting in immediate suspension of the service.²⁷ Also in June 2003, Thai police seized 27 kilograms of radioactive cesium in Bangkok that authorities believe may have been intended for use in a “dirty bomb.”²⁸

C. PSI and U.S. Non-Proliferation Policy

At the Kananaskis G-8 Summit, held June 26-27, 2002, President Bush and other G-8 leaders agreed to a new global partnership to stop the spread of WMD and related materials and technology. They also adopted a set of principles to prevent terrorists or those who harbor them from acquiring or developing nuclear, chemical, radiological and biological weapons, missiles, and related materials, equipment and technology.²⁹ The *U.S. National Strategy to Combat Weapons of Mass Destruction*, issued in December 2002, also stressed that “[e]ffective interdiction is a critical part of the U.S. strategy to combat WMD and their delivery means.”³⁰

On May 31, 2003 in remarks to the people of Poland at Wawel Royal Castle, Krakow, President Bush announced the idea of PSI to stop the flow of WMD. He stated in his speech that the U.S. and a number of its close allies “have begun working on new agreements to search planes and ships carrying suspect cargo and to seize illegal weapons or missile technologies.”³¹ The coalition will be intended “as broadly as possible to keep the world’s most destructive weapons away from ... shores and out of the hands of ... common enemies.”³² It was reported that the PSI is a direct U.S. response to the December incident in which the U.S. and Spain seized a North Korean missile shipment for Yemen but had to let it go because no rules under the international law prohibited the shipment.³³ On the day the PSI was announced, leaders at the Evian G-8 Summit pledged to combat the threat of nuclear weapons in North Korea and Iran. They urged North Korea “to visibly, verifiably and irreversibly dismantle any nuclear weapons programs.”³⁴ The leaders also issued a strong statement, stressing that the WMD challenge requires a multifaceted solution. They determined to tackle the threat individually and collectively – working together and with other partners.³⁵

Hoave, “Moran link to drug ship ruled out,” *The Australian*, Aug. 4, 2003, p. 3; Nick Squires, “North Korea link to fresh heroin haul in Australia,” *South China Morning Post*, May 28, 2003, p. 8.

²⁷ David E. Sanger, “Cracking Down on the Terror-Arms Trade,” *The New York Times*, June 15, 2003, p. 4.

²⁸ David E. Sanger, “Evolving U.S. military doctrine: preempting a preemptive war,” *The International Herald Tribune*, June 16, 2003, p. 3.

²⁹ Fact Sheet: G-8 Summit – Preventing the Proliferation of Weapons of Mass Destruction, available at: <http://www.whitehouse.gov/news/releases/2002/26/print/2002627-7.html>

³⁰ *National Strategy to Combat Weapons of Mass Destruction*, Dec. 2002, available at: <http://www.whitehouse.gov/>, p. 2.

³¹ Remarks by President Bush to the People in Poland,” *supra* note 1.

³² *Ibid.*

³³ Nicholas Kravov, “U.S. ask aid barring arms from rogue states,” *The Washington Times*, June 5, 2003, p. A15.

³⁴ U.S. Actions at the G-8 Summit, In Focus: G8 2003, available at: <http://www.whitehouse.gov/news/releases/2003/06/print/20030602-10.html>

³⁵ *Ibid.*

Four days after President Bush outlined the new U.S. policy to combat WMD during his visit to Poland, U.S. Under Secretary for Arms Control and International Security John Bolton further elaborated upon the idea of the PSI. In testimony made before the House International Relations Committee, Bolton stated that the policy goal of the PSI “is to work with other states to develop new means to disrupt the proliferation trade at sea, in the air, and on land.”³⁶ The PSI “envisions partnerships of state working in concert, employing their national capabilities to develop a broad range of legal, diplomatic, economic, military and other tools to interdict threatening shipments of WMD- and missile-related equipments and technologies.”³⁷ The new W.S. nonproliferation policy under the PSI aims ultimately not just to prevent the spread of WMD, but also to eliminate or “roll back” such weapons from rogue states and terrorist groups that already possess them or are close to doing so. Bolton also noted that while principles of nonproliferation of WMD are known and formally accepted by countries in the world, “they are too often ignored and flagrantly violated by determined states that view WMD as integral to their survival and international influence.”³⁸ In addition to diplomatic dialogue, Bolton urged both the U.S. and its allies to be willing to deploy more robust techniques to combat the spread of WMD, which include (1) economic sanctions; (2) interdiction and seizure; and (3) preemptive military force when required.³⁹ The U.S. believes that North Korea’s nuclear weapons ambitions present a serious threat to regional and global security and constitute a major challenge to the international nonproliferation regime. North Korea’s uranium enrichment and plutonium programs and its failure to comply with its IAEA safeguards agreement undermine the nonproliferation regime and are a clear breach of North Korea’s international obligations. Accordingly, the U.S. reiterates that North Korea must “visibly, verifiably, and irreversibly” dismantle its nuclear weapons programs. The possibilities of North Korea’s producing and then exporting fissile material or weapons to other rogue states or terrorists cannot be ignored either.⁴⁰

On June 25, 2003, President Bush, European Council President Konstandinos, and European Commission President Romano Prodi issued a Joint Statement on the Proliferation of Weapons of Mass Destruction in which they agreed that proliferation of WMD and their delivery systems constitutes a grave threat to international peace and security. In order to avert WMD proliferation, they agreed to work together to strengthen the international system of treaties and regimes against the spread of WMD. The agreement reached between the U.S. and the EU implies the development of new regimes and reinforcement of existing regimes. In particular, the two sides agreed, *inter alia*, to strengthen both export control on materials and technologies related to WMD and their delivery systems as well as their enforcement and implementation; to seek new methods to stop the proliferation to and from countries and entities of proliferation concerns; to work together in the framework of the Biological Weapons Convention (BWC) to strengthen national control over pathogenic micro-organisms and toxins and, in the framework of the Chemical Weapons Convention (CWC), to foster the elimination of all chemical weapons; to strengthen identification, control and

³⁶ Statement of John Bolton, Under Secretary for Arms Control and International Security, U.S. Department of State, Committee on House International Relations, June 4, 2003, available in Federal Document Cleaning House Congressional Testimony.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

interdict illegal shipments, including the use of national criminal sanctions against those who contribute to illicit procurement efforts; to cooperate actively to address specific proliferation challenges; to condemn North Korea's nuclear weapons programs and its failure to comply with the IAEA safeguards agreement; and to continue to monitor the spread of WMD and missiles and to exchange information.⁴¹

On Sept. 23, 2003, at the UN General Assembly, President Bush urged the UN Security Council to adopt a resolution that “should call on all members of the UN to criminalize the proliferation of weapons of mass destruction, to enact strict export controls consistent with international standards, and to secure any and all sensitive materials within their own borders.”⁴² On Dec. 18, 2003, the U.S. circulated a draft Security Council resolution, demanding that governments do more to keep nuclear, biological and chemical weapons out of the hands of terrorist groups. But the discussions on the draft resolution were at a “preliminary stage.”⁴³ More recently, in his remarks on WMD proliferation made at the National Defense University, in Washington, D.C. on Feb. 11, 2004, President Bush stated that “[e]very civilized nation has a stake in preventing the spread of weapons of mass destruction.”⁴⁴ He cited the breaking of the Khan network as one major success of the U.S.-led PSI.⁴⁵ In addition, he announced a seven-point proposal to strengthen efforts to stop the spread of WMD:

- expanding the work of the PSI to address more than shipments and transfers;
- calling on nations to strengthen the laws and international controls that govern WMD proliferation;
- expanding efforts to keep weapons from the Cold War and other dangerous materials out of the wrong hands;
- creating a safe, orderly system to field civilian nuclear plants without adding to the danger of weapons proliferation;
- allowing only the states that have signed the Additional Protocol⁴⁶ to import equipment for their civilian nuclear programs;
- creating a special committee of the IAEA Board which will focus intensively on safeguards and verification; and
- prohibiting those states that are under investigation for proliferation violation from serving on the IAEA Board Governors, or the proposed special committee.⁴⁷

⁴¹ Joint Statement on the Proliferation of Weapons of Mass Destruction, available at: <http://www.whitehouse.gov/news/releases/2003/06/print/20030625-17.html>

⁴² Mark Turner, “US drafts UN move to reduce flow of weapons,” *Financial Times* (London, England), Dec. 18, 2003, p. 14.

⁴³ *Ibid.*

⁴⁴ For President Bush's remarks, visit website of the National Defense University at: <http://www.ndu.edu/>.

⁴⁵ Abdul Qadeer Khan is known throughout the world as the father of Pakistan's nuclear weapons program. He led an extensive international network for the proliferation of nuclear technology and know-how. Khan was accused of providing Iran, Libya and North Korea with designs for Pakistan's older centrifuges and designs for more advanced and efficient models.

⁴⁶ The Protocol requires states to declare a broad range of nuclear activities and facilities, and allow the IAEA to inspect those facilities.

⁴⁷ Remarks by the President on Weapons of Mass Destruction Proliferation, Feb. 11, 2004, available at: <http://www.ndu.edu/>

As a follow-up of the president's proposals to combat the spread of WMD, the U.S. continued to press the U.N. Security Council to endorse a draft resolution that would allow the use of force against "entities and individuals" suspected of trying to develop, possess or transfer WMDs.⁴⁸ On March 24, 2004, the U.S. presented a draft resolution to the U.N. Security Council that would require the United Nations' 191 members to "adopt and enforce appropriate effective laws" to prevent "any non-state actor"⁴⁹ from being able to "manufacture, acquire, possess, develop, transport or use nuclear, chemical or biological weapons and their means of delivery."⁵⁰ The proposed resolution would be adopted under Chapter VII of the U.N. Charter, which makes it binding and mandatory for all U.N. member states. On April 28, 2004, the resolution was adopted unanimously.⁵¹ (UN Security Council 1540 available at Appendix B.)

Other measures had also been taken by the U.S. to implement the president's action plan. In February 2004, the U.S. and Liberia, the world's second-biggest shipping registry, reached a deal that would allow U.S. authorities to board the more than 2,000 commercial ships that fly the Liberian flag, in order to search for WMDs. The U.S. wants to sign similar agreement with the 10 largest flag states which account for 70 percent of global maritime trade. As a follow-up of this policy, the U.S. concluded an agreement with Panama in early May 2004 that permits the U.S. to board and search the vessels that are flying its flag on the high seas if the vessels are suspected of transporting WMD.⁵² With the two agreements with Liberia and Panama and the support of the more than 60 governments, the U.S. can now seek rapid consent to board and inspect ships that represent roughly 46 percent of the world's commercial fleet in dead-weight tons.⁵³ The U.S. would also ask nations to deny overflight rights to countries or networks suspected of trafficking WMDs.⁵⁴ To help operationalize the policy that has been set forth in PSI, the U.S. proposed the Regional Maritime Security Initiative (RMSI), which aims to curb both security and criminal threats at sea, including piracy, trafficking, and the use of ships and cargo containers for terrorist purposes or to spread WMDs.⁵⁵

D. Important PSI Activities

There are three levels of substantive activities under the PSI: first, meetings to engage, discuss and agree to goals, methods, technologies, and practices to stop the flow of WMD,

⁴⁸ Haider Rizvi, "Politics-U.N.: U.S. Pushes Plan to Go After Suspected WMDs," Inter Press Service, February 27, 2004.

⁴⁹ For the purpose of the resolution, "non-state actors" are defined as "individual or entity, not acting under the lawful authority of any state in conducting activities."

⁵⁰ Colum Lynch, "U.S. Urges Curb on Arms Traffic; U.N. Is Given Draft Resolution to Ban Transfers to Terrorists," *The Washington Post*, March 25, 2004, p. A20; Judy Aita, "U.S. Seeking U.N. Action to Keep WMD From Terrorists," *The Washington File*, March 24, 2004, available at: <http://usinfo.state.gov>.

⁵¹ Scott McClellan, White House Press Secretary, White House Regular News Briefing, April 28, 2004.

⁵² Judith Miller, "Panama Joins Accord to Stem Ships' Transportation of Illicit Arms," *The New York Times*, May 11, 2004, p. A-11.

⁵³ *Ibid.*

⁵⁴ "US wants nations to deny overflight rights to suspected WMD traffickers," *Agence France Presse*, March 5, 2004.

⁵⁵ Michael Richardson, "New spying techniques for a new threat," *South China Morning Post*, April 16, 2004, p. 15.

their delivery systems, and related materials; second, training exercises to broaden international cooperation and skills in detecting shipments and conducting operations to seize WMD and their delivery vehicles during shipment; and third, actual seizure operations.

1. PSI Meetings

As of May 2004, five PSI plenary meetings had been held in Spain, Australia, France, UK and Portugal. These meetings are intended to enhance the operational capability of participating PSI countries to undertake air, maritime and ground interdictions of WMD, their delivery systems and related materials. On June 12, 2003, the first PSI meeting was held in Madrid, Spain. The 11 participating nations discussed how they can use or change international law to interdict shipments of WMD or their delivery systems. The PSI meeting was the first gathering of the group of “like-minded countries” (Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the UK and the U.S.) to expand international efforts to interdict and obstruct the proliferation of WMD. While some of the participating countries claimed that the initiative does not specifically target any country, it is believed that the PSI is relevant to the participating countries’ concerns about the WMD threat posed by the rogue states, in particular, North Korea and Iran. In addition, as stated by Australian Foreign Minister Alexander Downer, the initiative is not aimed at supplanting the existing system of international treaties and export control regimes.⁵⁶

At the first PSI meeting, the participating countries recognized that new thinking was needed to combat the spread of WMD and their delivery systems. In addition, active as well as practical measures were also to be adopted. Possible actions to be taken under the PSI were discussed, which include, *inter alia*, fast intelligence exchanges on weapons shipments, war games to test strategies and military liaison, going to the UN Security Council if necessary, blocking money transfers for weapons, pressuring suppliers and buyers, denying overflight rights to aircraft carrying contraband and inspecting ships coming to ports.⁵⁷

The second PSI meeting was held at Brisbane, Australia July 9-10, 2003. It addressed two particular practical matters. First, it determined to put in place new arrangements for information sharing among the participating countries to facilitate timely and effective actions against the proliferation of WMD. Second, the meeting adopted a report from the operational experts to commence planning and training for interdiction with governments so authorized.⁵⁸ The 11 participating PSI countries reiterated their strong political support for the initiative and underscored their belief that the PSI is a global initiative with a global reach. They agreed to move quickly on direct, practical measures to impede the trafficking in WMD, missiles, and related materials. They stressed that effective information sharing is critical to interdiction, and therefore agreed to strengthen and improve capabilities for the exchange of information and analysis between the participating countries as a basis for cooperative actions to impede WMD and missile trade. In addition, they recognized the need to further

⁵⁶ Tony Pakinson, “Australia to host world weapons talks,” *The AGE*, June 27, 2003, available at: <http://www.theage.com.au/articles/2003/06/26/1056449367077.html>

⁵⁷ Marian Wilkinson, “US plan to intercept weapons,” *The AGE*, July 5, 2003, available at: <http://www.theage.com.au/articles/2003/07/04/1057179157742.html>

⁵⁸ See Proliferation Security Initiative Meeting Media Conference on Meeting Outcomes, July 10, 2003, Brisbane.

develop and enhance the capabilities of PSI participating countries to conduct actual air, ground, and maritime interdiction operations in partnership against WMD and their delivery systems. Accordingly, they agreed in principle to the concept of a series of interdiction training exercises, utilizing both military and civil assets as appropriate, to take place as soon as practicable. Moreover, the participants agreed on the importance of building a broad and effective partnership of countries prepared to play a part in disrupting and stopping the flow of WMD, missiles, and related items. They also agreed that effective implementation of PSI will require the active involvement of countries around the world. The PSI participants plan to involve all countries that have the will and ability to take actions to address the WMD threat. The importance of involving countries that are major flag, coastal, or transit states, and other countries that are used by proliferators in their WMD and missile trafficking efforts was also recognized at the second PSI meeting. Finally, U.S. efforts to obtain support from other PSI participating countries to take aggressive actions to interdict North Korea ships and planes suspected of carrying banned weapons was rejected at the meeting, mainly due to concern that the actions could push the rogue states, in particular, North Korea and Iran, toward war.⁵⁹

At the second PSI meeting, it was agreed that the third PSI meeting was to be held in early September 2003. In addition, it was agreed to conduct maritime interdiction exercises as early as September as a first step toward a global operation to combat WMD proliferation. On Aug. 18, 2003, the Bush administration announced that the first exercises to be held under the PSI, involving planning for high seas interdictions, were to be conducted in the Coral Sea off the coast of Australia shortly after the six-party disarmament talks were held in Beijing, China on Aug. 27-29, 2003. U.S. State Department spokesman Richard Boucher told reporters that the planned exercises were not aimed solely at North Korea. However, he said, “[i]f North Korea wants to continue to aggressively proliferate missiles and related technologies, it might find itself affected by this initiative.”⁶⁰ *The New York Times* reported that a principal intention of the planned exercises is “to send a sharp signal to North Korea to dismantle its nuclear weapons programs.”⁶¹ It was also reported that North Korea agreed to the six-party talks in Beijing because of pressure from the planned maritime interdiction exercises in September.⁶²

The third PSI meeting was held in Paris Sept. 3-4, 2003.⁶³ Participants affirmed that the PSI was consistent with and a step in the implementation of the UN Security Council

⁵⁹ Chairman Statement, Proliferation Security Initiative, Brisbane Meeting, July 9-10, 2003, available at: <http://www.dfat.gov.au/globalissues/psi/index.html> See also Special Press Summary: Proliferation Security Initiative Meeting, Executive Summary, Virtual Information Center, July 15, 2003; Paul O’Sullivan, Chairman’s Statement: From Proliferation Security Initiative (PSI) meeting in Brisbane on July 9-10, Policy Forum Online 03-37, July 16, 2003 http://www.nautilus.org/fora/security/0336_Sullivan.html

⁶⁰ George Gedda, ‘U.S.: North Korea may be affected by weapons transfer interdiction plan,’ *The Associated Press*, Aug. 18, 2003; Elise Labott, “Navy exercises may upset N. Korea,” *CNN News*, available at: <http://www.cnn.com/2003/WORLD/asiapcf/east/08/18/nkorea.exercises/index.html>

⁶¹ Seo Hyun-jin, “N.K. talks players jostle for position,” *The Korean Herald*, Aug. 20, 2003; Steven R. Weisman, “Naval activity raises heat on N. Korea,” *The New York Times*, Aug. 18, 2003; and James Brooke, “N. Korea lashes out amid growing isolation,” *The New York Times*, Aug. 19, 2003.

⁶² “Naval activity raises heat on N. Korea,” *ibid.*

⁶³ “Baroness Symons Welcomes Outcomes of the Proliferation Security Initiative Meeting in Paris, 3-4 September,” *Hermes Database*, Foreign and Commonwealth Office, Sept. 4, 2003 (LexisNexis on-line News

Presidential statement of Jan. 31, 1992, which states that the proliferation of WMD constitutes a threat to international peace and security, and underlines the need to prevent proliferation. The participants pointed out that the initiative is also in line with the Kananaskis and Evian G-8 Summit declarations as well as a recent EU statement, establishing that more coherent and concerted efforts are needed to prevent the proliferation of WMD, their delivery system and related materials. In addition, they claimed that the PSI is consistent with international law and national legal authorities. At the end of the meeting, the Statement of Interdiction Principles for the Proliferation Security Initiative was announced.⁶⁴ The 11 PSI participating countries committed to the announced interdiction principles to establish a more coordinated and effective basis to impede and stop shipments of WMD, delivery system and related materials. (Statement available at Appendix A.)

The fourth PSI meeting was held in London Oct. 9-10, 2003, and was preceded on Oct. 8, 2003 by an air interception command post exercise (CPX), organized by the UK. The participants agreed that the PSI was a global initiative with an inclusive mission; that successful interdiction of trafficking in WMD, their delivery systems, and related materials requires the widest possible cooperation between states; and that participation in the PSI should be open to any state or international body that accepts the Paris Statement of Interdiction Principles and makes an effective contribution. The participants had an initial exchange of views on a possible Boarding Agreement and agreed that future interdiction exercises should build on the successful exercises that have already taken place, such as the Australian-led maritime interdiction training exercises conducted in the Coral Sea in September 2003. A number of training exercises were also planned that would be conducted in the Mediterranean, the Arabian Sea, and international airports of participating PSI countries.

The U.S. hosted the PSI operational experts meeting in Washington D.C. Dec. 16-17, 2003. In addition to the 11 countries that formed the PSI, Canada, Denmark, Norway, Singapore and Turkey also sent representatives to this meeting, which included briefings from U.S. National Security Advisor Condoleezza Rice and Deputy Defense Secretary Paul Wolfowitz. The participants analyzed and discussed maritime interdiction exercises led by Australia in the Coral Sea and by Spain and France in the Mediterranean, and a “table top” air interdiction exercise in London led by the British. There was discussion of interdiction exercises to be held in the first four to five months of 2004. The participants also discussed issues related to interdiction operations across the spectrum of possibilities as described in the Paris Statement of Interdiction Principles.⁶⁵ However, this meeting made no decisions on legal difficulties in seizing shipments in waters beyond coastal states’ territorial seas and on the high seas.

The fifth PSI meeting took place at Palacio Foz, Lisbon, Portugal March 4-5, 2004. Australia, Canada, France, Germany, Italy, Japan, the Netherlands, Norway, Poland, Portugal,

search, page not available)

⁶⁴ For the statement, visit the website of the White House at: <http://www.whitehouse.gov/news/release/2003/09/print/20030904-11.html>

⁶⁵ David Anthony Denny, “Bolton Says Proliferation Security Initiative Has ‘Twofold Aim’,” U.S. Department of State, International Information Programs, Dec. 18, 2003, available at: <http://usinfo.state.gov/topical/terror/texts/03121822.htm>

Singapore, Spain, the UK and the U.S. were represented. The participating PSI countries reaffirmed their strong determination to respond effectively to the threat of WMDs. They supported the call by President Bush to expand the role of the PSI to not only interdict shipments of WMDs, their delivery systems and related materials, but to cooperate in preventing WMD proliferation facilitators (i.e., individuals, companies, and other entities) from engaging in WMD-related trade. They agreed to begin examining the following key steps taken to enhance cooperation in military and intelligence services and law enforcement and to deter the spread of WMDs:

- identifying national points of contact and internal processes;
- developing and sharing national analyses of key proliferation actors and networks, their financing sources and other support structures; and
- undertaking national action to identify law enforcement authorities and other tools or assets that could be brought to bear against efforts to stop proliferation facilitators.⁶⁶

The participating PSI countries also agreed to focus their outreach efforts particularly on states that have potentially unique contributions to make to interdictions efforts (i.e., flag states, transshipment states, overflight states, transit states, and coastal states). All countries were encouraged to support and become involved in the PSI activities through the following actions:

- Formally commit to and publicly endorse the PSI and its Statement of Interdiction Principles and indicate willingness to take all steps available to support PSI efforts.
- Undertake a review and provide information on current national legal authorities to undertake interdictions at sea, in the air or on land. Indicate willingness to strengthen authorities where appropriate.
- Identify specific national assets that might contribute to PSI efforts (e.g. information sharing, military and/or law enforcement assets).
- Provide points of contact for PSI interdiction requests and other operational activities. Establish appropriate internal government processes to coordinate PSI response efforts.
- Be willing to actively participate in PSI interdiction training exercises and actual operations as opportunities arise.
- Be willing to consider signing relevant agreements (e.g. boarding agreements) or to otherwise establish a concrete basis for cooperation with PSI efforts (e.g. MOU on overflight denial).⁶⁷

The participants also discussed proposed amendments to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) that would criminalize the transport of WMD, their delivery systems and related materials on

⁶⁶ Chairman's Conclusions, Proliferation Security Initiative: Lisbon, 4-5 March 2004, available at: http://www.dfat.gov.au/globalissues/psi/psi_2004_chairman-conclusions.html

⁶⁷ *Ibid.*

commercial vessels at sea. The sixth PSI meeting was held in May 2004, in Krakow, Poland to commemorate the anniversary of the launch of the PSI.

2. PSI Training Exercises

The first PSI training exercise, dubbed Exercise “Pacific Protector”, was conducted in the Coral Sea near the coast of the northeastern Australian state of Queensland Sept. 13, 2003. The maneuvers included personnel and equipment from the United States, Australia, France and Japan.⁶⁸ On Oct. 8, 2003, the UK led a table-top air interception exercise at Lancaster House, London. These two exercises were followed by a Spanish-led maritime interdiction training exercise in the Mediterranean in October 2003, a French-led maritime interdiction training exercise in the Mediterranean in November 2003 and an Italian-led air interdiction training exercise in December the same year.⁶⁹ On Jan. 11-17, 2004, the “Sea Saber 2004” PSI naval exercise was held in the Arabian Sea, which was the fifth and largest in a series of maritime, air, and land interdiction training exercises agreed to by the 16 PSI participating countries in Paris in September 2003.⁷⁰ The U.S., France, Singapore, Spain, Britain, Australia, and Italy contributed operational assets or sent observers to the Sea Saber drill. Denmark, Germany, Japan, the Netherlands, and Turkey participated as observers.⁷¹

The following PSI training exercise were proposed and agreed to at the PSI meeting held in Washington, D.C. Dec. 16-17, 2003:

- Italian-led air interdiction exercise in Mediterranean;
- Italian-led maritime interdiction exercise in Mediterranean;
- German-led customs exercise;
- Polish-led ground interdiction exercise; and
- French-led simulated air interdiction exercise.⁷²

On March 31, 2004, the German-led customs exercise, dubbed “Hawkeye,” was held at Frankfurt international airport. Civil defense officials from Germany, Austria, and Singapore practiced intercepting WMD-related materials.⁷³ On April 19-21, 2004, the first on-land PSI training exercise took place in Wroclaw, southwestern Poland. The exercise focused on customs and border control procedure connected with movements of dangerous chemicals and other substances used for WMDs.⁷⁴

⁶⁸ For a detailed account on the exercise, see Special Press Summary: Exercise ‘Pacific Protector’, prepared by Virtual Information Center, 16 September 2003.

⁶⁹ John E. Carey, “Cooperation to prevent proliferation,” *The Washington Times*, Dec. 28, 2003, p. B05.

⁷⁰ “U.S. Navy admiral says there is ‘real threat’ of terrorists trying to acquire weapons of mass destruction,” *Associate Press Worldstream*, Jan. 16, 2004 (LexisNexis on-line search, page not available).

⁷¹ Adnan Malik, “U.S. and Allies Hold Maritime WMD Drill,” *Associated Press*, posted on Jan. 17, 2004 in CENTREDAILY.com, available at: <http://www.centredaily.com/mld/centredaily/7735746.htm>

⁷² Defense Planning: Proliferation Security Initiative, Australian Diggers, posted on Jan. 15, 2004, available at: <http://www.ausmil.com/modules/news/article.php?storyid=280>

⁷³ “Frankfurt airport drill focuses on preventing transport of nuclear materials,” *Associated Press*, March 31, 2004.

⁷⁴ “Safe Borders exercise in Wroclaw,” *PAP News Wire*, April 21, 2004.

3. Actual Seizure Operations

It was reported that at least three maritime interdictions had been conducted under the PSI as part of an international effort to track and intercept suspected shipments of materials related to WMD.⁷⁵ The most important PSI seizure – uranium enrichment components destined for Libya – occurred in October 2003. The German freighter, en route Dubai, was intercepted and diverted to Taranto in southern Italy shortly after it passed through the Suez Canal in October 2003.⁷⁶ It was reported that the seizure may have helped to convince Libya to renounce its WMD programs in December 2003.⁷⁷ In early February 2004, a Malaysian company, Scomi Precision Engineering Sdn. Bhd. (SCOPE), was accused of supplying centrifuge components for Libya’s uranium-enrichment program. While the Malaysian government denies the country’s involvement in the WMD-related trade, its policy authority is investigating the allegation against SCOPE.⁷⁸ On Feb. 6, 2004, an International Atomic Energy Agency (IAEA) source said that a Japanese company was involved in exporting parts for a centrifuge used for uranium enrichment. At the time of this writing, the IAEA is cooperating closely with the Japanese government to exchange information about the Japanese company involved. The IAEA disclosed that middlemen in five countries from Europe and Asia supplied nuclear technology to Iran and Libya.⁷⁹ On Feb. 15, 2004, the *Washington Post* reported that the nuclear weapons designs obtained by Libya through a Pakistani smuggling network actually originated in China.⁸⁰ On Feb. 17, 2004, China refused to confirm or deny the reports, but stated that the Chinese government is firmly opposed to the proliferation of WMD and supports international nonproliferation efforts.

IV. Asia-Pacific Responses to the PSI

It seems that in only a very short period of time of existence, the PSI has already had more success than the United Nations in controlling WMD, its delivery systems, and related materials. More than 60 countries have already expressed their support for the idea of PSI. The original 11 PSI participating countries have since been joined by Canada, Denmark, Norway, Russia, Singapore, Turkey, and the Czech Republic, and all are offering necessary support. It is likely that more countries will take part in PSI activities or its training exercises in the future. Asia-Pacific responses to the initiative are examined below.

⁷⁵ “At least three interdictions in international anti-WMD effort: official,” *Agence France Presse*, Jan. 15, 2004 (LexisNexis on-line search, page not available).

⁷⁶ Gary Younge, “Uranium kit seizure pushed Libya to come clean,” *The Guardian* (London) – Final Edition, Jan. 2, 2004 (LexisNexis on-line search, page not available).

⁷⁷ Matthew Lee, “US confirms cargo seizure that may have sealed Libyan WMD pledge,” *Agence France Presse*, Dec. 31, 2004 (LexisNexis on-line search, page not available).

⁷⁸ “Malaysia probes alleged Libyan nuclear link,” *Agence France Presse*, Feb. 5, 2004 (LexisNexis on-line search, page not available).

⁷⁹ “IAEA says Japanese company Involved in exporting nuke parts,” *Japan Today*, Feb. 7, 2004, available at <http://www.japantoday.com>.

⁸⁰ “Libya’s nuke weapons designs originated in China: report,” *Japan Economic Newswire*, Feb. 15, 2004 (LexisNexis on-line search, page not available).

A. Republic of Korea

It is clear that South Korea is as deeply concerned as the U.S. in seeing a halt to North Korea's attempts to develop WMD materials and technologies. It is therefore understandable that South Korea expressed support for the idea of the PSI when it was announced by President Bush May 31, 2003. While top U.S. military officials stated at the Eighth International Sea Powers Symposium in early August 2003 that "South Korea should take part in the U.S.-led, global non-proliferation efforts to thwart the spread of chemical, biological and nuclear weapons by intercepting ships,"⁸¹ South Korea is not a member of the PSI group and did not attend PSI meetings. South Korea was also not invited to take part in the PSI maritime interdiction exercises that had been held in 2003 or scheduled to be conducted in 2004.

Three possible reasons can be given to help explain why South Korea has not been asked to join the U.S.-led PSI group. First, given the unique and sensitive political/military relationships between North Korea and South Korea, it would be counterproductive to ask South Korea to be a part of the PSI that is plainly intended to exert pressure on North Korea. Second, there a great concern over any possible conflagration in Northeast Asia, given the fact that North Korea has repeatedly stated that any attempts to stop and search its ships and planes in international waters or international airspace would be viewed as an act of war. Finally, South Korea's participation in the U.S.-led PSI might complicate the six-party disarmament talks. But, according to a U.S. State Department official, it is expected that South Korea will take part in the PSI or the initiative's training exercises in the future.⁸²

B. China

Originally China opposed the PSI. In particular, Beijing opposed the U.S. proposal to intercept ships suspected of carrying WMD-related materials on the high seas. Beijing made it clear that China preferred a diplomatic approach to bring North Korea back to the NPT regime. It believed that the preemptive actions taken under the PSI would create a situation in which conflicts at sea might occur, even leading to possible war between countries in the region. However, Australian Foreign Minister Alexander Downer said in a radio interview that "China mistakenly viewed the PSI as amounting to the imposition of sanctions or a blockade against North Korea."⁸³ At the second PSI meeting, Paul O'Sullivan, head of Australian delegation, said that the next challenge to the PSI is to get the geographically strategic China to join the initiative.⁸⁴ Australian Prime Minister John Howard also said that Beijing could be an asset to the PSI because of China's influence on North Korea.⁸⁵ While

⁸¹ "US calls on ROK to join Interdiction," *Korea Times*, Aug. 6, 2003.

⁸² "16 nations take part in weapons interdiction initiative," *Japan Economic Newswire*, Jan. 15, 2004 (LexisNexis on-line search, page not available).

⁸³ Patrick Goodenough, "China Opposes Pressure on N Korea; Wants Resumption of Talks," *Cybercast News Service*, July 16, 2003, available at: <http://www.cnsnews.com/ForeignBureaus/Archive/200307/FOR20030716a.html>.

⁸⁴ "US diplomat says weapons and drugs shipments require a response," July 11, 2003, available at: http://www.abc.net.au/ra/newstories/RANewsStories_899570.htm.

⁸⁵ "Howard wants China's input on N Korea," available at: <http://www.abc.net.au/news/newsitems/s898567.htm>.

some experts argue that involving major countries such as China and the Russian Federation in the PSI is important if the initiative is to be successful, others take a different view regarding these countries' participation in the PSI. It is argued that a beneficial role played by China in the present impasse between North Korea and the U.S. would be affected if China joined the PSI.⁸⁶

It seems that China's position on the PSI is moving from opposition to lukewarm support. On Dec. 3, 2003, China issued a nonproliferation "white paper", which stated that "[a] developing China needs both an international and a peripheral environment of long-term peace and stability. The proliferation of [weapons of] mass destruction and their means of delivery benefits neither world peace and stability nor China's own security."⁸⁷ A Chinese foreign ministry spokesman said that China would take the proliferation risk into full consideration when exporting sensitive items and technologies. Secretary of State Colin Powell disclosed in November 2003 that China had cooperated with the U.S. to stop some chemicals leaving China for North Korea.⁸⁸ While it seems that China is now moving toward supporting the idea of PSI, it remains reluctant to join the PSI coalition. Beijing still has doubts about the legitimacy, effectiveness, and impact of the methods the PSI members would use. In mid-February 2004, John Bolton, undersecretary of state for arms control, said in Beijing after his talks with the Chinese officials that "[w]e have very good discussions on PSI. We are both opposed to the proliferation of weapons of mass destruction." In addition, he said, "[w]e stand ready to enhance cooperation in such areas as information exchange. China made it clear it understands the concern of PSI participating states."⁸⁹ On Feb. 17, 2004, Chinese foreign ministry spokesman Zhang Qiyue stated that while China agreed with the principles of PSI, it was concerned about the legality and potential consequences of some of its actions, particularly with interceptions.⁹⁰

C. Russian Federation

The Russian Federation was the only member of Group of the Eight (G-8) that had not joined the PSI originally. Originally, Moscow feared that the initiative would allow the U.S. to launch unilateral raids against ships and planes without agreement from international institutions. As stated by a Russian Foreign Ministry official, "[w]e have questions about the initiative's compliance with international legal norms."⁹¹ At the end of January 2004, the U.S. sent Bolton to Moscow to persuade the Russian government to join the initiative, but those efforts failed.⁹² However, Moscow's response to the initiative has changed. In early April, Russian Deputy Foreign Minister Sergei Kislyak told *Itar-Tass* that Russia's approach to

⁸⁶ "How to Handle North Korea," *Sydney Morning Herald*, July 11, 2003, p. 12.

⁸⁷ Michael Richardson, "Between a rogue and a hyperpower," *South China Morning Post*, Dec. 12, 2003, p. 17.

⁸⁸ *Ibid.*

⁸⁹ "Mark Huband and James Kynge, "US calls on China to help curb spread of nuclear arms," *Financial Times* (London, England), February 17, 2004, p. 10.

⁹⁰ "Beijing silent on alleged Chinese nuclear weapons designs found in Libya," *Agence France Presse*, February 17, 2004 (LexisNexis News on-line search, page number not available).

⁹¹ Vladimir Radyuhin, "Pakistan Must Plug N-Leaks," *The Hindu*, January 31, 2004 (LexisNexis News on-line search, page number not available).

⁹² "US fails to get Russia on board in fight against spread of WMD," *Agence France Presse*, January 30, 2004. (LexisNexis News on-line search, page number not available).

curtaining the proliferation of WMD was getting closer to that of the U.S. as set out in President Bush's PSI. On May 31, 2004, Russia finally joined the PSI.

D. Japan

Japan is the first country in East Asia participating in the PSI. Not only has Japan participated actively in the first and second PSI meetings, it also agreed with the Chairman's Statement issued at the end of Brisbane meeting. It was reported that because North Korea is a target of the PSI, the Japanese government planned to lobby its neighbors, in particular China and South Korea, to support the initiative.⁹³ Japan's Coast Guard took part in the first naval exercises – "*Pacific Protector*" conducted under the PSI on Sept. 13, 2003. It also sent observers to participate in the *Sea Saber 2004* exercise held in the Arabian Sea on Jan. 11-17, 2004. In addition, it was reported that Japan is considering enacting a new law to allow maritime interdiction in the waters within its 200 miles of its exclusive economic zone and high seas.

Japan is taking the lead in working with other Asian nations to strengthen export controls and to promote the goals of nonproliferation and disarmament. It has become very active in lobbying its neighbors to support the PSI since October 2003. On Oct. 27, 2003, seven members of APEC⁹⁴ met in Tokyo where they agreed to a basic agreement on export control over WMD materials. The agreement is believed a supplement to the U.S.-led PSI. At the Bangkok summit on Oct. 21, 2003, the leaders of the 21 members of APEC committed to take all essential actions to:

Eliminate the severe and growing danger posed by the proliferation of weapons of mass destruction and their means of delivery by strengthening international non-proliferation regimes, adopting and enforcing effective export controls, and taking other legitimate and appropriate measures against proliferation.⁹⁵

In November 2003, the Asian Senior-level Talks on Non-Proliferation (ASTOP), the first forum for discussion of WMD proliferation prevention in Asia, was held in Tokyo, and the participants reaffirmed their commitments to prevent the flow of WMD, their delivery systems, and related materials.⁹⁶

Japan has also been working very hard in seeking support from the 10 member countries of the Association of Southeast Asia Nations (ASEAN) to help prevent the proliferation of WMD. At the ASEAN-Japan Commemorative Summit, held in Tokyo on Dec. 11-12, 2003, Japanese and ASEAN leaders adopted the Tokyo Declaration for the Dynamic and Enduring Japan-ASEAN Partnership in the New Millennium and the ASEAN-Japan Plan of Action, in which the two sides agreed to "enhance cooperation in the area of disarmament and nonproliferation of weapons of mass destruction and their means of

⁹³ "Japan, others move forward hinder WMD smuggling," *The Asahi Shimbun*, July 18, 2003, available at: <http://asahi.com/english/international/k2003071800205.html>

⁹⁴ Namely: Japan, US, China, South. Korea, Singapore, Thailand, and Hong Kong.

⁹⁵ For the text of the declaration, see http://www.apecsec.org.sg/apec/leaders_declarations/2003.html%20

⁹⁶ "Top officials from 14 nations meet for talks on nuclear weapons scourge," *Agence France Presse*, Nov. 13, 2003 (LexisNexis News on-line search, page number not available).

delivery, and related materials.”⁹⁷ In February 2004, Japan began to dispatch a team of officials from various ministries and agencies to the 10 ASEAN member countries to seek their cooperation in preventing the proliferation of WMD. The team asked ASEAN officials in charge of trade and immigration to beef up their export import inspection systems and strengthen controls on sea traffic. The team also stressed the importance of the PSI and sought the countries’ support.⁹⁸

E. Selected Member States of ASEAN

Singapore is the only member country of ASEAN that takes part in the PSI. In early December 2003, Singapore, together with Canada, Denmark, and Norway, joined the original 11 PSI participating countries. On Jan. 12, 2004, Singapore’s Defense Ministry announced that the country would take part in the *Sea Saber 2004* exercise in the Arabian Sea. According to a statement issued by the ministry, “Singapore supports the PSI and will participate in its activities, in line with Singapore’s overall approach in countering terrorism and WMD proliferation.”⁹⁹ Under a Singapore law that went into effect in January 2003, all traders in Singapore are required to get a permit if they wish to ship or transship goods that can be used to make WMD. In early January 2004 it was reported that Singapore and Japan planned to sign a bilateral agreement to curb the indirect export of equipments and materials that can be used in the making of WMD.¹⁰⁰ Singapore and Japan are also helping Indonesia build a legal system to prevent the flow of WMD materials. In March 2004, according to Foreign Minister S. Jauakumar, Singapore intercepted several shipments linked to WMD, which include ingredients for chemical weapons and materials to build missile warheads and prosecuted several companies for breaking the country’s export control laws.¹⁰¹

Malaysia’s response to the PSI is very different from Singapore’s. It is not likely that Malaysia will join the PSI in the near future. In October 2003, it was reported that five containers allegedly containing centrifuge components were seized from a ship in Italy. The containers bore the seal “SCOPE”, or Scomi Precision Engineering Sdn Bhd, owned by Malaysia Prime Minister Abdullah’s son Kamaluddin. The company admitted manufacturing centrifuge parts for Libya in its nuclear weapons program. Under U.S. pressure, Malaysia agreed to work with the U.S. to prevent material for nuclear weapons programs being shipped through its territory.¹⁰² The U.S. also proposed that Malaysia join the PSI. Malaysia, however, refused. Malaysia also opposed the Regional Maritime Security Initiative (RMSI), a U.S. proposal growing out of the PSI to deploy U.S. marines with high-speed boats to

⁹⁷ For the text of the declaration, see *Japan Economic Newswire*, Dec. 11, 2003 (LexisNexit News on-line search, page number not available).

⁹⁸ “Govt. to urge ASEAN care on WMD,” *The Daily Yomiuri* (Tokyo), Feb. 6, 2004 (LexisNexit News on-line search, page number not available).

⁹⁹ “Singapore Naval Ship Joins U.S.-Led Anti-Proliferation Drill,” *Japan Economic Newswire*, Jan. 12, 2004 (LexisNexit News on-line search, page number not available).

¹⁰⁰ “Singapore, Japan agree to curb WMD material export,” *BBC Worldwide Monitoring*, Jan. 10, 2004 (LexisNexit News on-line search, page number not available).

¹⁰¹ “Support for war in Iraq is in Singapore’s national interest: S. Jayakumar,” *Channel NewsAsia*, March 11, 2004.

¹⁰² “Malaysia pledges to help US over nuclear shipments,” *Agence France Presse*, Jan. 19, 2004.

guard the Strait of Malacca.¹⁰³ Indonesia's position on the PSI is similar to Malaysia's. It also opposed the RMSI.

F. India

India has been asked to cooperate in controlling the proliferation of the WMD and the means to deliver them. Given Pakistan's nuclear proliferation, it would be in India's interest to join the PSI. In addition, with the powerful Indian Navy sitting astride the Indian Ocean sea lanes of communication, joining the initiative would have military and political significance in broadening the base of this nonproliferation coalition. While India has maintained a studied silence since the launching of the PSI in May 2003, it is believed that India is examining the legal implications of the initiative and making an assessment within the larger context of India's non-proliferation policy and its long-standing commitment to preventing the spread of WMDs. As stated by an official from India's Ministry of External Affairs, "[t]here are legal issues, as well as political and diplomatic issues involved" and it is unlikely that "any decision will be taken on this [India's participation in the PSI] in a hurry."¹⁰⁴ However, India's position on the PSI appears to have shifted from a studied silence to a supportive one. India reacted positively to the seven-point proposals announced by President Bush in February 2004 to strengthen the world's efforts to stop the spread of WMD. The proposals include the PSI. New Delhi endorsed the principle of effective nonproliferation and called for consultations with the U.S. on the PSI. During his visit to New Delhi in March 2004, Secretary of State Powell invited India to join the PSI.¹⁰⁵ In early April 2004, senior Indian officials met with U.S. officials in Washington to explore the possibility of Indian participation in the PSI and joining the Nuclear Suppliers Group.¹⁰⁶

G. Australia

Australia is deeply concerned by the threat from WMD proliferation. The PSI is one of the three key areas¹⁰⁷ that Australia actively takes to counter the threat. Australia has been a key supporter of the PSI since its inception and has actively participated in all PSI meetings. Australia hosted and chaired the second PSI meeting, held in Brisbane in July 2003, and led the first PSI maritime training exercise, "Pacific Protector," in the Coral Sea in September 2003.

H. Canada

Canada is not a founding member of the PSI group. It did not participate in any of the PSI training exercises held before December 2003. Reportedly the issue of Canadian

¹⁰³ John Burton and Shawn Donnan, "US plan to guard Strait of Malacca not welcomed," *Financial Times* (USA Edition), April 6, 2004, p. 4.

¹⁰⁴ "Indo-US Proliferation Talks Soon," *The Times of India*, March 30, 2004.

¹⁰⁵ "Indo-US Proliferation Talks Soon," *The Times of India*, March 30, 2004.

¹⁰⁶ Daily Press Summary for April 14, 2004, *Global News Wire*, April 13, 2004.

¹⁰⁷ The three key areas are: the PSI, ballistic missile defense, and practical measures to strengthen the global counter-proliferation architecture. See "The Threat of Proliferation: Global Resolve and Australian Action," speech of Australian Minister for Foreign Affairs Alexander Downer to the Lowy Institute, Sydney, Feb. 23, 2004.

participation in the PSI group has provoked deep divisions in the country's foreign-policy establishment. There are legal experts in Canada who believe the PSI is a violation of international law. A number of Canadian diplomats also worry that the initiative will antagonize North Korea, increase military tension, jeopardize the chances of a peaceful settlement of the nuclear crisis in the Korea Peninsula, and alienate Chinese leaders who play a crucial role in efforts to defuse the North Korean situation. By participating in the initiative, Ottawa loses any chance it had of playing a neutral mediating role in the crisis. In response to these concerns, the Foreign Affairs Department stated that the PSI is "consistent with international law," and "consistent with Canada's long-standing support of non-proliferation, arms control and disarmament objectives, and that the initiative presents an important opportunity to advance Canada's foreign policy goals in the areas of peace and security."¹⁰⁸ In December 2003, Canada announced its intention to join the PSI group. In March 2004, Canada officially joined the initiative and participated in the fifth plenary meeting of the PSI that took place in Lisbon March 4-5, 2004. Canada is considering hosting a PSI operational experts meeting in 2004.

I. Taiwan

Taiwan's participation in the initiative is very limited at this stage. Mainly because of its unique legal status in the international community and sensitive political/military relationships with China, Taiwan was not invited to attend the five PSI plenary and other operational experts meetings. However, given the fact that the PSI is "an activity, not an organization," and is comprised of "core participants" not members, the question of statehood for membership is not an issue. Therefore, in this author's opinion, Taiwan should be allowed to join the core group of the PSI. As pointed out by William Kristol, "there is no reason that Taiwan should not be recognized not only as a participant in PSI, but also in other multilateral discussions, exercises, and operations among democratic countries in Asia."¹⁰⁹ In fact, Taiwan has already cooperated with the U.S. to stop the flow of WMD, its delivery systems, and related materials. On Aug. 7, 2003, on receiving a request by the U.S., actions were taken by Taiwanese authorities intercepted suspected cargo that was to be shipped to North Korea. Taiwan's Kaohsiung port authorities forced the North Korean freighter *Be Gae Hung* to unload a controlled chemical before allowing it to leave for North Korea. Kaohsiung Customs Bureau officials asked to inspect *Be Gae Hung* after being informed by U.S. intelligence authorities that the freighter might be carrying dangerous chemicals (phosphorus pentasulfide) which could be used for rocket fuel. The U.S., which has urged the international community to take more action to prevent trade in WMD, hailed Taiwan's supporting move.¹¹⁰

¹⁰⁸ Geoffrey York, "Canada part of ship-intercept plan," *The Globe and Mail*, Feb. 16, 2004.

¹⁰⁹ Statement of William Kristol, Chairman of the Project for the New American Century, House International Relations Committee, April 21, 2004.

¹¹⁰ "US Praises Taiwan for Seizure of Chemicals aboard North Korean Freighter," *BBC Monitoring International Report*, Aug. 13, 2003; James Brooke, "World Briefing Asia: Taiwan: Suspect Chemical taken from North Korean Freighter," *The New York Times*, Aug. 12, 2003, p. A6; "Taiwan Seizes Chemical Cargo from N Korean Ship," *Channel NewsAsia*, Aug. 13, 2003.

J. North Korea

In response to the PSI, North Korean radio broadcasted a commentary June 19, 2003, stating that “[t]he U.S. imperialists and their following forces should clearly bear in mind that if they provoke us, they will not be able to escape a resolute and merciless retaliation.”¹¹¹ North Korea views the U.S.-led preemptive interdiction actions as a strategy of blockading, “with intention of isolating and crushing” North Korea, which “is a grave violation of sovereignty and a violent infringement of international law for one specific country to blabber about unreasonable pretexts and impose containment and pressure against other countries and to inspect and restrict other countries’ vessels and planes operating in accordance to procedures set by international law.”¹¹² Indeed, since the announcement of the PSI on May 31, 2003, North Korea has repeatedly stated that any interdiction of its vessels or planes would be regarded as an act of war and that it would act accordingly.¹¹³ On Aug. 21, 2003, a North Korean Land and Maritime Transport Ministry spokesman condemned Taiwan for seizing cargo shipments from the North Korean freighter *Be Gae Hung* in early August, one day after the vessel docked at Kaohsiung. The spokesman said that Taiwan’s actions are “a criminal act in wanton violation of international law ... and an intolerable infringement upon the sovereignty of the DPRK.”¹¹⁴ In addition, he accused the U.S. of “plugging its satellites into the collective ‘blockade operation’ against the DPRK.”¹¹⁵ In March 2004, noting that Japan was planning to stage a PSI exercise to intercept the transport of WMDs by inviting member states of ASEAN, Pyongyang reacted strongly and warned Japan of “powerful retaliation” if North Korea’s sovereignty is violated. North Korea considered the exercise an act of following the PSI and a prelude to Japan’s aggressive strategy.¹¹⁶ In response to the angry reaction from North Korea, Japan postponed the planned exercise.¹¹⁷ On April 12, 2004, a commentary entitled “Dangerous attempt for nuclear war” appeared on North Korea’s party daily *Nodong Sinmun*, in which the U.S. was accused of “accelerating, in earnest, preparations for a nuclear war.”¹¹⁸ The commentary also strongly criticized the PSI, charging that the initiative “practically expresses the nuclear war maniacs’ arbitrariness not allowing other countries to possess military deterrent for self-defense so that only they can control the world with nuclear weapons as they please.”¹¹⁹

¹¹¹ “North Korea Radio Commentary Decries U.S. for ‘Blockade’ Manoeuvres,” *BBC Monitoring International Reports*, June 19, 2003.

¹¹² *Ibid*.

¹¹³ Robert T. Grey, Jr., “North Korea up in arms; UN resolutions could help matters,” *The Washington Times*, Aug. 14, 2003, p. A19.

¹¹⁴ “N Korea condemns Taiwan’s cargo seizure as US-led ‘criminal act,’” *Agence France Presse*, August 21, 2003; “North Korea criticized Taiwan, US over search of ship, seizure of cargo,” *BBC Monitoring International Reports*, Aug. 21, 2003.

¹¹⁵ *Ibid*.

¹¹⁶ “North Korea Warns Japan of ‘Power Retaliation,’” *BBC Monitoring International Reports*, March 31, 2004.

¹¹⁷ “Japan Postpones Sea Drills on Stopping WMD Smuggling,” *Asahi News Service*, March 30, 2004.

¹¹⁸ “North Korean paper says US ‘accelerating preparations for nuclear war,’” *BBC Monitoring Asia Pacific – Political*, April 12, 2004.

¹¹⁹ *Ibid*.

V. Concluding Remarks

Given that the proliferation of WMD poses a real and serious threat to peace and security in the Asia-Pacific and beyond, and that the international community has not been very successful in preventing the proliferation of WMD at the state level, the development of a PSI should be considered a worthwhile attempt to help enforce the provisions, principles, norms, or rules of the existing international treaties such as the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Chemical Weapons Convention (CWC), and the Biological Weapons Convention (BWC), and cooperative arrangements such as the Missile Technology Control Regime (MTCR)¹²⁰, the Wassenaar Arrangement¹²¹, the Nuclear Suppliers Group¹²², and the Australia Group¹²³. At the same time, however, other policy options should also be considered to enhance the ability of the international community to stop the proliferation of WMD and illegal arms trading, which could include the adoption of a resolution by the United Nations Security Council to declare certain proliferation countries' WMD programs illegal or submitting a proposal to amend existing international treaties such as the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA).

More countries are likely to join the PSI group or adopt cooperative measures to stop the proliferation of WMD, its delivery systems, and related materials. Japan, for certain, will play an active and important role in seeking cooperation from its neighboring countries, in particular the members of ASEAN. At the same time, North Korea will continue raising its voice against the initiative. It is likely that South Korea will participate in PSI-related activities in 2004, even if it does not join the PSI group directly. While it is unlikely that Taiwan will be invited officially to participate in PSI-related activities, indirect cooperation between Taiwan and participating countries, in particular Japan, Singapore, and the U.S., is quite possible. In fact, it was reported that China is considering the possibility of allowing Taiwan to participate in the regional export control regime by making a flexible arrangement. A key challenge for the region is obtaining cooperation from countries such as Indonesia and Malaysia, and to have China, and India, join the PSI.

¹²⁰ The Missile Technology Control Regime, formed in 1987, is an informal and voluntary association of countries which share the goals of non-proliferation of unmanned delivery systems for WMD, and which seeks to coordinate national export licensing efforts aimed at preventing their proliferation. Now 33 countries have joined the regime. For more information, visit its website, <http://www.mtcr.info/english/>

¹²¹ The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies was established in July 1996 by 33 participating countries on the basis of the Initial Elements. It was established to contribute to regional and international security and stability by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilizing accumulations. For more information, visit: <http://www.wassenaar.org/>

¹²² The Nuclear Suppliers Group is a group of nuclear supplier countries which seeks to contribute to the nonproliferation of nuclear weapons through the implementation of Guidelines for nuclear exports and nuclear-related exports. There are now 40 participating countries in the group. For more information, visit <http://www.nsg-online.org/>

¹²³ The Australia Group is an informal arrangement which aims to allow exporting or transshipping countries to minimize the risk of assisting chemical and biological weapons proliferation. All parties participating in the Australia Group are parties to the Chemical Weapons Convention and the Biological Weapons Convention, and strongly support efforts under those conventions to rid the world of chemical and biological weapons. Now, 34 countries have joined the group. For more information, visit <http://www.australiagroup.net/>

China's Views on PSI

Su Wei, CSCAP China

The proliferation of weapons of mass destruction (WMD) and their means of delivery has been a grave security concern of the international community and a number of international legally binding instruments have been put in place to prohibit and prevent such proliferation. The United Nations Security Council adopted Resolution 1540 (2004) last month, affirming that the proliferation of WMD as well as their means of delivery constitutes a threat to international peace and security. As a consistent and general policy, China strongly opposes such proliferation, strictly abides by its treaty obligations, and supports and participates actively in international efforts to maintain and strengthen global nonproliferation regimes. It is in this context that China reviews and assesses the strategic and political implications of the Proliferation Security Initiative (PSI).

From a positive point of view, the driving force of PSI is to strengthen international cooperation to suppress the illegal proliferation of WMD. China fully understands the well-intended purpose of PSI. China is in favor of measures to strengthen the sharing and exchange of information in the area of nonproliferation and to conduct cooperation in enforcement actions consistent with applicable rules of international law.

But every coin has two sides. From a less positive side, like most members of the international community, China has concerns over the lawfulness and the political implications of some measures envisaged in the PSI, especially those measures apparently in violation of generally recognized rules of international law. For example, the interception on the high seas of carriers suspected of conducting illegal trade in WMD would be in contravention of one of the freedoms of high seas, i.e., the freedom of navigation. According to international law, every state, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas. Such ships, while on the high seas, shall be subject to the exclusive jurisdiction of the flag state and must not be intercepted or seized by other states unless the flag state expressly authorizes. There are exceptions to this rule. In the case of piracy and slave trade, a warship of a state can board any ship to exercise the right of visit and search. But the proliferation of WMD or the illicit trade in weapons is not in any way included in these explicit exceptions. Even in territorial waters, the coastal state would not be able to take forcible measures against foreign flag ships in the exercise of the right of innocent passage.

There is a need to balance the interest in the nonproliferation of WMD with respect for relevant rules of international law. China believes that since the proliferation of WMD has complex causes, nonproliferation efforts should follow the principle of seeking both temporary and permanent solutions by political and diplomatic means through dialogue and consultation. A general improvement in international relations and an atmosphere of mutual trust and confidence would be fundamental in nonproliferation cooperation and to eliminate

* Presented at the joint session of the Maritime Cooperation CSBM Working Group Meeting in Hanoi, Vietnam, June 27, 2004.

any threat posed by the proliferation of WMD. A just and effective international nonproliferation regime should be based on principles of international law, universality, nondiscrimination and democratic decision-making, and without prejudice to the national security of states and the right to peaceful use.

On the Regional Maritime Security Initiative (RMSI), which is a rather new development, I should say that China could well understand the need to ensure the safety of important international straits like the Malacca Strait and save them from potential terrorist attacks. Like other countries in the region, China has a great interest in the security of such straits. China supports any effort made by the coastal states of the straits to take joint or individual actions to counter terrorism. We encourage countries in the region to strengthen their dialogue, consultation, and cooperation to suppress transnational crimes and terrorist activities. Great concerns would arise in case of any outside military intervention with no regard to the interests and sovereignty of the coastal states concerned.

PSI From An Indian Perspective

Premvir Das, CSCAP India

The PSI

The Proliferation Security Initiative launched by the United States in May, 2003, is part of a counter-proliferation strategy covering both the supply and demand sides of global trafficking in weapons of mass destruction (WMD), their delivery systems, and related materials by state and nonstate actors. While the operational procedures to be adopted are still not very clear, from the maritime point of view what is important is that it entails interception at sea of all “suspect” ships irrespective of their flag, by forces of PSI participants, guided by their combined intelligence efforts. The initial 11 members and the subsequent six who have joined the group are all U.S. allies and the majority of them are members of NATO. The U.S. is keen that other important players should join the initiative, India being one of them.

India will support all moves that restrict proliferation of WMD, and its own laws and practices have always been strict in ensuring very tight control over nuclear materials and technology. Although the PSI has not been projected as specifically directed at North Korea, there is a widespread belief that it targets that country and some others, e.g., Iran. India has, itself, seen transactions in nuclear and missile-related technologies among Pakistan, North Korea, and China. In 1999, India seized a shipment of North Korean missile components en route to Pakistan but the ship was apprehended in harbor and not on the high seas. So, it shares the concern on proliferation. However, it has some reservations on the methodology as well as the intentions of the proposed initiative.

Appraising the PSI

First, arbitrary interception of foreign vessels on the high seas conceptually violates the principle of “freedom of the seas.” The circumstances under which international law

permits warships to board foreign merchant vessels in international waters are few and well defined. Clearly, interception of foreign vessels in any other case is tantamount to a belligerent act.

Second, it is not clear who the “states of concern” are and who is to make that determination. In the recent case involving transfer of technology and nuclear materials from Pakistan to Libya, the former has not been held accountable, quite clearly because it is an “ally” in the campaign in Afghanistan. Is this going to set a precedent and nations friendly to the U.S. treated on a different level?

Third, how would the “end use” of a dual-use commodity be determined? Would it be seized straightaway, thus, possibly criminalizing a legitimate transportation? This would allow the more powerful states to pick on vital trade of their “adversaries,” declaring them to be “of concern.” There are also issues of “liability” to be clarified. The contention of some supporting states that UN Security Council resolution 1540, which declares proliferation of WMD to be a threat to international peace and security, implicitly authorizes member-states to take near-military measures to prevent it, including through interception of ships on the high seas, is not based on a correct understanding of facts. Clearly, such acts would be in violation of international law as it presently stands.

Another issue that arises is whether warships or military aircraft would also be subject to “boarding and interception”? What, for example, is to prevent a North Korean warship from transporting missiles or related nuclear materials? If every vessel is to be under investigation, it raises questions of sovereign power. It may be recalled that aircraft of the Pakistan Air Force were used in the delivery of nuclear materials to Libya. And, while the PSI may deter potential proliferators, it would be impossible to stop the movement of small quantities of nuclear materials which may be enough for nonstate actors. In brief, PSI, in its present form, is not only unjustifiable legally, but is also a “quick fix” half-measure that could lead to escalation of threat without any meaningful returns.

We must also look at the shipping patterns of mercantile trade. The 10 largest “flags of convenience” states together encompass about 70 percent of maritime trade. While their vessels may accept interception on the high seas based on bilateral agreements with the U.S., as much as 30 percent of global shipping would remain to be covered.

Other Concerns

After announcement of the PSI in May 2003, three follow-up meetings were held in Madrid in June, in Brisbane in July, and in Paris in September of that year. Interestingly, at the time the U.S. knew that extensive trafficking of nuclear materials and delivery systems was taking place in which Pakistan was playing a central role. Despite this, no effort was made to disclose this or to bring any pressure or sanction to bear upon the defaulting states, notably Pakistan. How can this inaction be reconciled with the urgency of measures now considered necessary to prevent proliferation? Even today, Pakistan’s role has, deliberately, been downplayed when similar action by many other states would have invited severe retribution. The concern over North Korea is understandable but no discussion on the issue

can be complete without discussion of the role of Pakistan. The trafficking of WMD material by Pakistan would not have come to international attention but for revelations made by Libya and Iran to the International Atomic Energy Agency (IAEA). Even after the facts have become known, the U.S. has continued to ignore Pakistan's accountability, categorizing its actions as those of a rogue scientist alone. This creates doubts about the credibility of the PSI.

Finally, the PSI is not an internationally authorized antiproliferation measure. It, therefore, lacks sanctity. Two permanent members of the Security Council have not yet subscribed to it. These are serious deficiencies. India may not like to be party to activities which do not have international legitimacy. It would also want to see a transparent and nondiscriminatory regime. So, many clarifications are needed and India is prepared to discuss them before coming to a final conclusion.

Conclusion

India is not against the spirit of measures that need to be taken to prevent proliferation of WMD. Its concerns on this count are more than many other nations, placed as it is, in the neighborhood of the most blatant trafficking in nuclear materials and technology that has come to light. It is not improbable that some of these have already found their way to nonstate actors. But it will be more useful and viable if the initiative is that of the UN and the "states of concern," present and potential, are identified. There are also questions of international legality of search and interdiction on the high seas to be resolved and, finally, of the manner in which the initiative would be implemented. There are many uncertainties and unknowns in the PSI and India would like them to be resolved before it decides to join the movement.

Views on the Proliferation Security Initiative (PSI) **Guy Wilson Roberts, CSCAP New Zealand**

The Proliferation Security Initiative is a useful addition to the nonproliferation regime under the broad rubric of counter-proliferation, based on the need to take targeted action against a specifically identified threat. It is important that the PSI continues to be based on national bilateral agreements, is within international law, and is exercised with the permission of participating states. Continuing to meet these conditions will allow greater buy-in from states that might be hesitating over perceived implications of the PSI for international law. For example, the New Zealand government has recently expressed its support for the PSI, as "further contributions to stopping the spread of dangerous weapons and material."

(For a press release from the New Zealand government, see:
<http://www.beehive.govt.nz/ViewDocument.cfm?DocumentID=19917>)

The following are some conditions for further consideration, which may reinforce the value of the PSI as a counter-proliferation tool and see it gain broad international support (thus enhancing its effectiveness and legitimacy):

1. Maintain the proportionality of the interdiction responses to the actual threat. This will require a heavy reliance on intelligence, and the ultimate success of the PSI will rest on demonstrating that intelligence can be properly gathered, and quickly assessed, disseminated, verified, and implemented. Appropriate levels of sharing and verification between the U.S. and its PSI partners may prove a challenge.
2. Review international law. Assess whether refinements are required to international law, and how these might be implemented. U.S. ratification of the United Nations Convention on the Law of the Sea (UNCLOS) may be a positive step in demonstrating its commitment to the maritime aspects of international law and working within it.
3. Recognize its limitations. The PSI will not prevent dedicated proliferation by states not willing to participate (i.e., not allowing their ships to be boarded), by nonstate actors who enjoy a measure of state support, nor the land or air transport of personnel and/or technology.
4. See the bigger picture. The PSI should be seen as part of a suite of counter-proliferation and nonproliferation strategies: controlling fissile material; strengthening the International Atomic Energy Agency (IAEA) and getting broad ratification of the additional protocols; resolving conflicts and disputes that contribute to state proliferation motivations; nuclear-weapon states supporting multilateral nuclear disarmament processes that demonstrate their commitment to nuclear disarmament and the devaluing and delegitimizing of nuclear weapons.
5. Resolve some dilemmas. With a network of bilateral agreements, and an intelligence apparatus, there may be cases where interdictions take place (or are envisaged) where the shipment is not strictly “illegal” or even a “direct security threat” – but still represents a transfer that is “objectionable” or “concerning” to the U.S. and others. As such, there may be creeping enforcement to the interdiction of, for example, missile technology or other conventional weapon transfers, which are “legal” and outside the scope of the PSI. How these sorts of shipments are dealt with will have to be resolved. The risk is that a broad approach to interdiction will alienate certain states who will view the PSI as a possible continuation of other discriminatory regimes, perceived to be limiting the transfer of legitimate technology.

Overall, it should be possible to consider these conditions while still retaining the initial goal of the PSI to be a directed and effective tool to be applied in specific cases to prevent the proliferation of weapons of mass destruction.

Proliferation Security Initiative (PSI) – What, What Not, Why, What Next? Lewis Dunn, USCSCAP

What?

The Proliferation Security Initiative (PSI) is operational cooperation among a group of likeminded countries to interdict shipments of proliferation concern under the national authority of its members. Operational cooperation means that the participants work together – not to agree on principles and guidelines but to actually “stop things” in shipment. This is exemplified by exercises being conducted as well as actual operations, e.g., a ship sailing to Libya with centrifuges. The interdiction initiative is mostly focused on maritime areas, but it will be extended to air and land.

About a dozen countries are at the core of this “likeminded group,” with 60 or 70 other countries associated with the PSI in one way or another. For these countries, shipments of proliferation concern range from materials to equipment, from components to other items to be determined over time, or people acting in violation of national laws.

PSI operations are under national authorities; not free-wheeling interdiction, but with the authorization of countries concerned, e.g., operations against their own flag vessels or aircraft, operations against ships transiting a particular PSI member’s waters or airports and airspace, and operations authorized by a nation against its own flag vessels such as the agreement between the U.S. and Liberia.

PSI is only a year old, but it has gathered very considerable momentum and made important contributions to nonproliferation in that short span of time.

What Not?

Most significantly, PSI is not interdiction regardless of international law. It is not simply the U.S. acting on its own. It also is not a new organization, but instead it is a process of cooperation.

PSI is only a single piece in a very large puzzle. A successful nonproliferation strategy will include many other elements in addition to preventing access to the technological wherewithal – from strengthening security by addressing regional concerns to building global norms via the Nuclear Non-Proliferation Treaty. But that is not what PSI has set out to do.

Why?

From the outside, the main motivation behind PSI appears to be recognition of a problem and identification of a cooperative means to deal with it. One part of the problem is the expanding number of countries able to supply materials, components, and technology of use in making nuclear weapons (or biological and chemical weapons). Part of the problem

includes countries with weak sets of export regulations and unproven readiness to enforce those regulations, as well as countries with strong motivations to sell and no restraints.

A new problem is the emergence of “proliferation entrepreneurs,” such as A. Q. Khan, who are capable of providing a virtually soup-to-nuts menu of proliferation delicacies and organizing a global production network to meet consumer demands. There is also the danger of transfers to non-state terrorist groups.

Given these three problems, traditional measures are insufficient. This realization created a consensus that there was a need to go beyond traditional nonproliferation approaches. Since it is no longer possible to rely simply on an ad hoc process of urging specific countries to prevent specific sales, nor sufficient to stand by and do little, then cooperative effort is the alternative.

What Next?

The initiative has three dimensions: within PSI, beyond PSI, and surrounding PSI.

Within the PSI, the direction is to continue to (i) strengthen cooperation among existing members and associated countries; (ii) expand membership and convince other key potential exporters or other major maritime countries to join. (India and China are likely focuses of attention); (iii) seek bilateral agreements with other countries; (iv) strengthen the process of exercises and other operational preparations; and (v) expand the operational milieu from maritime to air and ground operations. Air operations are likely to be more complicated, particularly if these are against an aircraft on the ground. The rigorous set of international legal rules related to air traffic needs to be reexamined in the context of the PSI.

Beyond PSI, let me put forward a personal idea that may prove controversial. Let me do it as a question: are there conditions under which it would be necessary and legitimate to block a shipment even without national authorization (e.g., by the supplier, the shipper, the nation controlling its waters or air space?) of some sort? This might occur in the case of a direct transfer of nuclear weapon usable materials or a weapon.

Clearly, the first resort should be action by the responsible national authority (i.e., the state from which the weapon or materials come), but if that is impossible, direct action by others may be the least bad alternative. Such action should build on the operational cooperation underway in the PSI. But who should act? The U.S. alone? With others? Under what authorization? Does Article 51 of the U.N. Charter, which provides for the right of self defense, provide the right?

I am not saying that the PSI should go down this path, but there is a need to ask, “What if?”

Surrounding PSI, it is important to underscore that PSI is only one initiative – one that occurs within a broader nonproliferation context. There is a need to focus on that broader dimension. It is necessary to work time-urgent regional proliferation challenges such as the

DPRK and Iran. But it is also necessary to look beyond those problems to actions that may be needed to strengthen regional security – lessening undercurrents that could eventually lead to proliferation. Finally, there is a need to strengthen global nonproliferation norms and institutions. Here, it is critical to narrow the gap between the nuclear weapon states and the non-nuclear weapon states in the NPT. Ultimately the legitimacy of PSI's actions to block nuclear proliferation derives in part from a vision of a world moving steadily to reduce the role of nuclear weapons in world affairs, and eventually to eliminate those weapons.

This will be a long process in which realistic success may be defined as the elimination of nuclear weapons as political instruments of power and politics – not the physical elimination of the very last nuclear weapon on earth. More progress can be made now in this area, and doing so is important for the legitimacy of PSI and other nonproliferation efforts.

SELECTED OFFICIAL STATEMENTS ON PSI

Excerpts only

AUSTRALIA

Minister for Foreign Affairs Alexander Downer's Speech

PSI Brisbane Meeting, July 9, 2003

http://www.foreignminister.gov.au/speeches/2003/030709_wmd.html

“Making better use of these tools will help. But the fact is that some states continue to cheat on their obligations or resist joining international regimes. History has shown that there are few barriers - other than technical and financial - to those states determined to develop weapons of mass destruction. There has to be room in our non-proliferation agenda for a greater variety of measures and fresh thinking. For this reason, Australia, while continuing to support and engage in non-proliferation forums, has wholeheartedly joined the Proliferation Security Initiative as an important opportunity to advance the non-proliferation agenda. We are willing to work quickly toward developing new and practical ways to impede the trafficking of WMD-related items and their delivery systems.

“We will need to consider how best we can use existing domestic and international laws to confront this threat. But we should also look at how domestic and international laws could be strengthened to support our efforts to safeguard international security. In a time of high demand and limited resources, a results-oriented approach is what is needed to address this urgent security challenge. We are a small core group of countries for now, but this will work in our favour.

“It will give us the confidence to exchange sensitive information, and intervene quickly and effectively to deal with the continuing WMD threat. As a focused group, we will be better positioned to build a broad and effective partnership with other countries prepared to play a part in impeding traffic in WMD and missiles. Australia is confident that the many countries committed to non-proliferation will want to lend their support to this important initiative.”

CANADA

Canada Department of Foreign Affairs and International Trade

<http://www.dfait-maeci.gc.ca/arms/proliferation-en.asp>

“Canada's participation in the PSI is consistent with Canada's longstanding Non-proliferation, Arms Control and Disarmament (NACD) policy. Canada actively participates in export control regimes, in the Global Partnership Program Against the Spread of Weapons and Materials of Mass Destruction, and has a longstanding commitment to strengthen the global NACD framework, including the Nuclear Non-Proliferation Treaty (NPT), the International Atomic Energy Agency (IAEA) and other international NACD instruments.”

Canada National Defense

http://www.forces.gc.ca/site/Newsroom/view_news_e.asp?id=1329

Backgrounder, The Proliferation Security Initiative

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BG-04.008 - April 7, 2004

Canadian Participation in the PSI

“On December of 2003, Canada was invited to participate in the Operational Expert Working Group (OEWG), a sub-group of the PSI, and was invited to observe or participate in future PSI interdiction exercises. Canada will host the next OEWG meeting in April 2004.

“Most recently, Canadian delegates attended the PSI Plenary meeting on March 4-5 in Lisbon, Portugal. Participants at the Plenary reaffirmed their strong determination to respond effectively to the threat represented by proliferation and trafficking of WMD, their delivery systems and related materials worldwide. Participants also confirmed that the PSI has been successful in raising worldwide awareness of this threat and in fostering international co-operation to stop WMD-related shipments

“Canada’s participation in this initiative highlights our commitment to the protection of Canadians from the threat posed by proliferation of WMD. Furthermore, Canada’s participation provides an important opportunity to advance our non-proliferation, arms control and disarmament (NACD) objectives and multilateral cooperation. Strengthening NACD mechanisms is essential for maintaining Canada’s security and for promoting regional stability and international security.

“Participation in the PSI is also consistent with Canada’s longstanding NACD policy. Canada actively participates in export control groups, in the Global Partnership Program Against the Spread of Weapons and Materials of Mass Destruction, and continues to make a strong contribution to strengthening the Nuclear Non-Proliferation Treaty (NPT), the International Atomic Energy Agency (IAEA) and other international NACD instruments.

“Canada’s participation will also remain fully consistent with our own national authorities and international law. Finally, our participation in the PSI complements a long-standing Canada-U.S. partnership in establishing and strengthening NACD regimes and mechanisms.”

The Role of the Canadian Forces

“In December, Canada was invited to observe or participate in the full range of PSI interdiction exercises.

“The Canadian Forces have the capability to participate in PSI operations. For example, the Canadian Navy has been an active participant in maritime interdiction operations, including the surveillance, interception and boarding of commercial vessels to verify, re-direct or impound their cargoes in support of the enforcement of sanctions mandated by the United Nations Security Council or under national laws. The Canadian fleet has a wide range of practical interdiction experience and is well prepared to make a valuable contribution to potential PSI efforts.

“Most recently, the Navy conducted a large number of boardings during *Operation APOLLO* and the campaign against terrorism in the Arabian Sea and Arabian Gulf. As the campaign developed, Canadian ships led the multinational maritime interdiction effort – tracking,

hailing and, if necessary, boarding merchant vessels transiting the region looking for contraband and violators of UN sanctions. At the same time, our ships were also involved in interdiction operations to stop Al-Qaeda and Taliban members from escaping the region by sea.

“Canada will consider participating in future multinational interdiction exercises conducted under the PSI as the exercises are developed. Canada will also consider participating in operations contributing to PSI goals on a case-by-case basis.”

CHINA

Foreign Ministry Spokeswoman Zhang Qiyue's

Press Conference on February 12, 2004

<http://www.fmprc.gov.cn/eng/xwfw/2510/2511/t65977.htm>

On the afternoon of 12 February 2004, Qiyue held a regular press conference.

Q: Can you make a general comment on President Bush's speech today on the prevention of proliferation of weapons of mass destruction (WMD)? And what is your comment on the issues concerning the Proliferation Security Initiative (PSI), the reform of the International Atomic Energy Agency (IAEA) and DPRK in his statement?

A: I have taken note of the speech made by U.S. President Bush on the issue of proliferation of WMD. China is firmly opposed to the proliferation of WMD and their delivery vehicles, and always stands for stronger international cooperation in this field. China and the U.S. share common interests on this point.

In recent years, China has adopted a series of specific measures to strengthen its export control system, promulgated comprehensive regulations on export control, and improved its overall legal system on the non-proliferation export control. The Chinese side is also ready to take stricter measure to implement those laws and regulations already promulgated, so as to ensure the effectiveness of China's non-proliferation policy.

Since a lot of people are interested in this question, I would like to brief you on some of the specific measures. For example, in recent years, China has begun consultation and exchange with the Nuclear Suppliers Group (NSG), and adopted policies and measures similar to those of the NSG in China's nuclear export control system. China has officially applied for NSG membership, which is an important measure taken by the Chinese side to support international non-proliferation efforts.

In addition, in the past few years, China has also held close consultation and exchange with members of Missile Technology Control Regime (MTCR). In formulating its regulations and list of missile export control, China drew upon a lot from MTCR guidelines and relevant annexes. In May last year, MTCR Chairman sent a letter to Foreign Minister Li Zhaoxing, reaffirming that MTCR members were in principle very interested in China's participation into MTCR. In his letter back to MTCR Chairman, Foreign Minister Li Zhaoxing clearly expressed that China was actively considering its application for MTCR membership. A

Chinese delegation is currently in Paris for the first round of dialogue with MTCR members. All these, as China's non-proliferation efforts, have reflected its willingness to strengthen international cooperation.

On the issue of PSI, China also shows its concern on the possible proliferation of WMD and their delivery vehicles, and supports international non-proliferation efforts. At the same time, we believe that the issue of proliferation shall be resolved through political and diplomatic means within the framework of international laws, and all non-proliferation measures shall contribute to peace, security and stability in the region and the world at large.

On the issue of strengthening IAEA, China supports the fundamental goal of non-proliferation, and is ready to have earnest discussions on relevant proposals.

Foreign Ministry Spokesperson's Press Conference

February 17, 2004

<http://www.fmprc.gov.cn/eng/xwfw/2510/t66681.htm>

Q: Still several follow-up questions on PSI. As I understand, the Chinese side will take more measures to control the export of weapons and relating technologies. Could you be specific about these measures? When meeting and holding talks with Bolton, have Chinese officials made some promises to the U.S. side in this regard?

A: As for PSI, the Chinese and U.S. sides have frankly exchanged views with each other. Both sides oppose the proliferation of WMD and its vehicles and agree to strengthen cooperation in such fields as information exchanges.

The U.S. side said that the PSI was a response by the international community to the proliferation of WMD, its vehicles and related items. Therefore, it hoped to get China's understanding and support.

During the meetings and talks, Foreign Minister Li Zhaoxing and Vice Foreign Minister Zhang Yesui expressed China's understanding for the concern of the PSI participant countries on the proliferation of WMD and its vehicles. The purpose of China's non-proliferation policy is identical with that of the non-proliferation policies of the PSI participants. However, the Chinese side is still concerned about the legal foundation and consequences therefrom of the PSI interception. This is also an issue drawing extensive concern from the international community. The Chinese side stresses the importance of non-proliferation through political and diplomatic means and indicates that since the purpose of non-proliferation is to promote international and regional peace, security and stability, means and measures harmful to peace, security and stability should not be used in non-proliferation.

As for specific propositions and measures on the Chinese side, I have just mentioned that the white paper gives a detailed introduction of measures taken by China. That's to say, China has promulgated comprehensive laws and regulations on comprehensive export control in such fields as nuclear, biological, chemical weapons and missiles.

JAPAN

Speech by H.E. Mr. Masatoshi Abe,
Senior Vice-Minister for Foreign Affairs
Ministry of Foreign Affairs of Japan
On the occasion of Asian Senior-level Talks on Non-proliferation
November 13, 2003

<http://www.mofa.go.jp/policy/un/disarmament/arms/astop/speech0311.html>

“Japan is of the view that every country needs to strengthen its enforcement in all the phases of proliferation, namely, export, transport import and transfer, so as to prevent proliferation. Efforts made by the Asian countries will become more effective by taking this comprehensive approach. I expect this to be the path to the stability and prosperity of the region.

“I would like to touch upon the Proliferation Security Initiative or PSI, as an example of the comprehensive approach for non-proliferation, which is launched by US President George W Bush in May this year. The initiative is to consider individual or collective measures to be taken in order to prevent proliferation of weapons of mass destruction and their delivery means, joined by 11 members including Japan.

“In the third Plenary held in Paris in September, members agreed on Statement of Interdiction Principles, pledging to make individual and collective effort in preventing proliferation. Japan supports this principle and has been making positive contributions. Also, as the only original PSI member from the Asian region, Japan has been seeking for Asian countries’ understanding and cooperation.”

NEW ZEALAND

Minister for Disarmament and Arms Control Marian Hobbs’
Statement on PSI June 1, 2004

<http://www.beehive.govt.nz/ViewDocument.cfm?DocumentID=19917>

“New Zealand is taking further steps to help stop the spread of weapons of mass destruction.

“The government has decided to join the G8 Global Partnership and to support the Proliferation Security Initiative (PSI),” the ministers said. “Both are programmes designed to supplement existing multilateral efforts by taking practical actions against emerging proliferation risks.

“Global security is increasingly under challenge and there’s the risk of weapons of mass destruction falling into the hands of terrorists or states that are not fully complying with international treaties.

“New Zealand has also joined a number of other countries in supporting the Proliferation Security Initiative (PSI) which was launched last year by President Bush to strengthen international cooperation against trafficking in WMD and their delivery systems.

“Foreign Affairs and Defence officials are attending the PSI’s first anniversary meeting in Krakow, Poland, this week to demonstrate New Zealand’s support for the PSI objectives and our interest in contributing to working through the operational and legal issues involved in international interdiction exercises.

“The extent to which New Zealand participates in individual PSI activities will be assessed in the light of how the initiative develops and our national interests. “Regional training exercises are planned over the next 18 months by Australia, Japan and Singapore as members of the PSI core group. We will be looking closely at these and other proposals on a case-by-case basis.

“These further contributions to stopping the spread of dangerous weapons and materials reflect the government’s commitment to bolstering the multilateral disarmament and arms control treaty system.

“New Zealand has a strong record of supporting non-proliferation objectives. Our Nuclear Free Zone Act remains a decisive contribution to the global effort by ensuring that nuclear weapons stay out of this part of the world.

“Additional measures to stop the spread of WMD must be matched by practical progress in disarmament by those states possessing nuclear weapons and renunciation of plans to renew and refine existing arsenals.

“New Zealand will continue to champion the cause for nuclear disarmament as the only real guarantee against the risk that such weapons will spread and one day be used with catastrophic consequences.”

RUSSIA

Ministry of Foreign Affairs of the Russian Federation
Information and Press Department Press Release May 31, 2004

<http://www.in.mid.ru/bl.nsf/062c2f5f5fa065d4c3256def0051fa1e/2e1470910be746b6c3256ea600359aef?OpenDocument>

“Today, on May 31st, Russia joined the group of founding states of the Proliferation Security Initiative (PSI). The Russian delegation is participating in the meeting of the PSI founding countries in Krakow, Poland.

“The threats of WMD proliferation bear a global character and, accordingly, demand a global response. We are convinced that only by collective efforts is it possible to cope with them.

“The principles for the Proliferation Security Initiative, set forth in the founding countries’ Paris Declaration in September 2003, as developed by them in London in October of the same year, correspond to our line in the field of nonproliferation. An international collaborative effort in these questions fits into the framework of United Nations Security Council Resolution 1540, which, inter alia, contains an appeal for cooperation in combating WMD black market operatives.

“We regard the PSI as an addition, not a counter-position to the existing mechanisms in the field of nonproliferation.

“The Russian side intends to make its contribution to implementing the PSI with consideration for the compatibility of the actions with the rules of international law, for their conformance to national legislation and for the commonality of nonproliferation interests with the partners.

“By and large we regard the PSI as a component part of the global strategy for strengthening the international WMD nonproliferation regimes and export controls. We presume that activity under this initiative should not and will not create any obstacles to the lawful economic, scientific and technological cooperation of states.”

SINGAPORE

Singapore’s Ministry of Defence

<http://www.mindef.gov.sg/display.asp?number=1980>

Singapore’s Participation in the Proliferation Security Initiative (PSI)

“Singapore supports PSI as part of our overall effort in countering terrorism and WMD proliferation. The objectives of PSI are consistent with Singapore’s prevailing commitment to prevent the spread of WMD as a necessary measure to enhance international security. Our participation is important given the threat of global terrorism and the dangerous possibility of WMD falling into the hands of terrorists and other undesirable elements. Singapore’s commitment to counter-proliferation efforts includes our subscription to the various international non-proliferation treaties like the Biological Weapons Convention (BWC) since 1975, the Nuclear Non-Proliferation Treaty (NPT) since 1976, and the Chemical Weapons Convention (CWC) since 1997. We were also the first port in Asia to sign the Container Security Initiative (CSI) Declaration of Principles in September 2002. These efforts are complemented by our implementation of a robust export control system since January 2003.

“Singapore first participated in the PSI Operational Experts Meeting held in December last year in Washington D.C. From 11 to 17 January 2004, the Republic of Singapore Navy (RSN)’s Landing Ship Tank RSS Endurance and her crew, who have just completed their mission in support of the reconstruction efforts in Iraq, will participate in a PSI maritime interdiction exercise, code-named Exercise Sea Saber, in the Arabian Sea and Arabian Gulf. A team of three officers from MINDEF and one officer from the Police Coast Guard will also observe the exercise.

“Exercise Sea Saber is the fifth in a series of ten exercises to take place worldwide to improve the sharing of information and to demonstrate the resolve of PSI participants to prevent WMD proliferation. Aside from Singapore, countries with assets participating in Exercise Sea Saber include Australia, Canada, France, Italy, Japan, the Netherlands, Spain, the United Kingdom and the United States. Other PSI participants will be involved as

observers. Singapore will continue to actively take part in future PSI meetings and where possible, in other PSI exercises.”

Appendix A

Proliferation Security Initiative: Statement of Interdiction Principles

The Proliferation Security Initiative (PSI) is a response to the growing challenge posed by the proliferation of weapons of mass destruction (WMD), their delivery systems, and related materials worldwide. The PSI builds on efforts by the international community to prevent proliferation of such items, including existing treaties and regimes. It is consistent with and a step in the implementation of the UN Security Council Presidential Statement of January 1992, which states that the proliferation of all WMD constitutes a threat to international peace and security, and underlines the need for member states of the UN to prevent proliferation. The PSI is also consistent with recent statements of the G8 and the European Union, establishing that more coherent and concerted efforts are needed to prevent the proliferation of WMD, their delivery systems, and related materials. PSI participants are deeply concerned about this threat and of the danger that these items could fall into the hands of terrorists, and are committed to working together to stop the flow of these items to and from states and non-state actors of proliferation concern.

The PSI seeks to involve in some capacity all states that have a stake in nonproliferation and the ability and willingness to take steps to stop the flow of such items at sea, in the air, or on land. The PSI also seeks cooperation from any state whose vessels, flags, ports, territorial waters, airspace, or land might be used for proliferation purposes by states and non-state actors of proliferation concern. The increasingly aggressive efforts by proliferators to stand outside or to circumvent existing nonproliferation norms, and to profit from such trade, requires new and stronger actions by the international community. We look forward to working with all concerned states on measures they are able and willing to take in support of the PSI, as outlined in the following set of “Interdiction Principles.”

Interdiction Principles for the Proliferation Security Initiative

PSI participants are committed to the following 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. They call on all states concerned with this threat to international peace and security to join in similarly committing to:

1. Undertake effective measures, either alone or in concert with other states, for interdicting the transfer or transport of WMD, their delivery systems, and related materials to and from states and non-state actors of proliferation concern. “States or non-state actors of proliferation concern” generally refers to those countries or entities that the PSI participants involved establish should be subject to interdiction activities because they are engaged in proliferation through: (1) efforts to develop or acquire chemical, biological, or nuclear weapons and associated delivery systems; or

2. (2) transfers (either selling, receiving, or facilitating) of WMD, their delivery systems, or related materials.
3. Adopt streamlined procedures for rapid exchange of relevant information concerning suspected proliferation activity, protecting the confidential character of classified information provided by other states as part of this initiative, dedicate appropriate resources and efforts to interdiction operations and capabilities, and maximize coordination among participants in interdiction efforts.
4. 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.
5. Take specific actions in support of interdiction efforts regarding 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 take action 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 and good cause shown by another state, to (a) require aircraft that are 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

Appendix B

UN Security Council Resolution 1540

United Nations
New York City, New York
April 28, 2004

Adopted by the Security Council at its 4956th meeting, on 28 April 2004

The Security Council,

Affirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery,* constitutes a threat to international peace and security,

Reaffirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfill their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Recalling also that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability,

Welcoming efforts in this context by multilateral arrangements which contribute to non-proliferation,

Affirming that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

Gravely concerned by the threat of terrorism and the risk that non-State actors* such as those identified in the United Nations list established and maintained by the Committee established under Security Council resolution 1267 and those to whom resolution 1373 applies, may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery,

Gravely concerned by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials,* which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security,

Recognizing the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security,

Recognizing that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

Recognizing further the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

Encouraging all Member States to implement fully the disarmament treaties and agreements to which they are party,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Determined to facilitate henceforth an effective response to global threats in the area of non-proliferation,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides that* all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

2. *Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

- (a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;
- (b) Develop and maintain appropriate effective physical protection measures;
- (c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;
- (d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

4. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution;

5. *Decides* that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

7. *Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

8. *Calls upon* all States:

- (a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral nonproliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

9. *Calls upon* all States to promote dialogue and cooperation on nonproliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

10. Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

11. *Expresses* its intention to monitor closely the implementation of this resolution and, at the appropriate level, to take further decisions which may be required to this end;

12. *Decides* to remain seized of the matter.

* Definitions for the purpose of this resolution only:

-- Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

-- Non-State actor: individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.

-- Related materials: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery

Appendix C

Remarks by President George W. Bush to the People of Poland Krakow, Poland, May 31, 2003

THE PRESIDENT: My friend, Mr. President. It's really good to be with you again and, of course, the First Lady. Mr. Prime Minister, Your Eminence, distinguished guests, citizens of Poland. I'm honored to be in the city of Krakow, where so many landmarks give witness to Poland's history and Poland's faith.

From this castle, Polish kings ruled for centuries in a tradition of tolerance. Below this hill lies the market square, where Kosciuszko swore loyalty to the first democratic constitution of Europe. And at Wawel Cathedral in 1978, a Polish Cardinal began his journey to a conclave in Rome, and entered history as Pope John Paul II – one of the greatest moral leaders of our time.

In all the tests and hardship Poland has known, the soul of the Polish people has always been strong. Mrs. Bush and I are pleased to make our second visit to this beautiful country, and we bring with us the friendship and the good wishes of the American people.

In Warsaw two years ago, I affirmed the commitment of my country to a united Europe, bound to America by close ties of history, of commerce and of friendship. I said that Europe must finally overturn the bitter legacy of Yalta and remove the false boundaries and spheres of influence that divided this continent for too long.

We have acted on this commitment. Poland, the United States and our allies have agreed to extend NATO eastward and southward, bringing the peace and security of our alliance to the young democracies of Europe.

And as the Atlantic alliance has expanded, it has also been tested. America and European countries have been called to confront the threat of global terror. Each nation has faced difficult decisions about the use of military force to keep the peace. We have seen unity and common purpose. We have also seen debate – some of it healthy, some of it divisive.

I have come to Krakow to state the intentions of my country. The United States is committed to a strong Atlantic alliance, to ensure our security, to advance human freedom and to keep peace in the world. Poland struggled for decades to gain freedom and to fully participate in life in Europe. And soon you will be a member of the European Union.

You also struggled to become a full member of the Atlantic alliance, yet you have not come all this way – through occupations and tyranny and brave uprisings – only to be told that you must now choose between Europe and America. Poland is a good citizen of Europe and Poland is a close friend of America – and there is no conflict between the two.

America owes our moral heritage of democracy and tolerance and freedom to Europe. We have sacrificed for those ideals together, in the great struggles of the past. In the second world war, the forces of freedom came together to defeat Nazism. In the Cold War, our transatlantic alliance opposed imperial communism. And today our alliance of freedom faces a new enemy, a lethal combination of terrorist groups, outlaw states seeking weapons of mass destruction, and an ideology of power and domination that targets the innocent and justifies any crime.

This is a time for all of us to unite in the defense of liberty and to step up to the shared duties of free nations. This is no time to stir up divisions in a great alliance.

For America, our resolve to fight terror was firmly set on a single day of violence and sorrow. The attacks of September the 11th, 2001, changed my country. On that morning, the American people saw the hatred of our enemies and the future of grief they intend for us. The American government accepted a mission to strike and defeat the terror network and to hold accountable all who harbor it and all who support it.

For my country, the events of September the 11th were as decisive as the attack on Pearl Harbor and the treachery of another September in 1939. And the lesson of all those events is the same: aggression and evil intent must not be ignored or appeased; they must be opposed early and decisively.

We are striving for a world in which men and women can live in freedom and peace, instead of fear and chaos. And every civilized nation has a stake in the outcome. By waging this fight together, we will speed the day of final victory.

One of the main fronts in this war is right here in Europe, where al Qaeda used the cities as staging areas for their attacks. Europe's capable police forces and intelligence services are playing essential roles in hunting the terrorists. And Poland has led the effort to increase anti-terror cooperation amongst central and eastern European nations. And America is grateful.

Some challenges of terrorism, however, cannot be met with law enforcement alone. They must be met with direct military action. The Taliban regime in Afghanistan chose to support and harbor al Qaeda terrorists. And so that regime is no more. The dictator in Iraq pursued weapons of mass murder, cultivated ties to terror and defied the demands of the United Nations – so his regime has been ended.

In the battles of Afghanistan and Iraq, Polish forces served with skill and honor. America will not forget that Poland rose to the moment. Again you have lived out the words of the Polish motto: for your freedom and ours.

In order to win the war on terror, our alliances must be strong. Poland and America are proud members of NATO, and NATO must be prepared to meet the challenges of our time. This is a matter of capability and a matter of will. Our common security requires European governments to invest in modern military capabilities, so our forces can move quickly with a precision that can strike the guilty and spare the innocent.

NATO must show resolve and foresight to act beyond Europe, and it has begun to do so. NATO has agreed to lead security forces in Afghanistan and to support our Polish allies in Iraq. A strong NATO alliance, with a broad vision of its role, will serve our security and the cause of peace.

The greatest threat to peace is the spread of nuclear, chemical and biological weapons. And we must work together to stop proliferation. The countries of the G8 committed last year to aiding Russia and others in securing and eliminating deadly weapons that remain from the Soviet era. I welcome Poland's decision to join this effort.

And I call on America's G8 partners to follow through on their financial commitments so that we can stop proliferation at one of its sources. 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.

In the last 20 months, the world has seen the determination of my country and many others to fight terror. Yet, armed force is always the last resort. And Americans know that terrorism is not defeated by military power alone. We believe that the ultimate answer to hatred is hope. And as we fight the forces of terror, we must also change the conditions in which terror can take root.

Terrorism is often bred in failing states, so we must help nations in crisis to build a civil society of free institutions. The ideology of terror takes hold in an atmosphere of resentment and hopelessness, so we must help men and women around the world to build lives of purpose and dignity.

In the long-term, we add to our security by helping to spread freedom and alleviate suffering. And this sets a broad agenda for nations on both sides of the Atlantic. In Africa, the spread of HIV/AIDS threatens millions, and the stability of an entire continent. The United States has undertaken a comprehensive, \$15 billion effort to prevent AIDS and to treat AIDS and provide humane care for its victims. I urge our partners in Europe to make a similar commitment, so we can work together in turning the tide against AIDS.

Global hunger is a chronic challenge, and we have a crisis in Africa. The United States is establishing an emergency fund so we can rush help to countries where the first signs of famine appear. The nations of Europe can greatly help in this effort, with emergency funds of their own. I hope European governments will reconsider policies that discourage farmers in developing countries from using safe biotechnology to feed their own people.

Wealthy nations have the responsibility to help the developing world and to make certain our help is effective. Through the Millennium Challenge Account, I have proposed a 50 percent

increase in America's core development assistance. This aid will go to where it will do the most good – not to corrupt elites but to nations that are ruled justly, nations that invest in the health and education of their people, and nations that encourage economic freedom.

If European governments will adopt the same standards, we can work side-by-side in providing the kind of development aid that helps transform entire societies. One of the greatest sources of development and growth in any society is trade. America and Europe should lead the effort to bring down global trade barriers.

A world that trades in freedom can bring millions of people into a growing circle of prosperity. And America and Europe must work closely to develop and apply new technologies that will improve our air and water quality, and protect the health of the world's people.

America and Europe are called to advance the cause of freedom and peace, and these two commitments are inseparable. It is human rights and private property, the rule of law and free trade and political openness that undermine the appeal of extremism and create the stable environment that peace requires. We are determined to demonstrate the power of these ideals in the reconstruction of Afghanistan and Iraq. And these ideals will provide the foundation for a reformed and peaceful and independent Palestinian state.

Today in the Middle East, the emergence of new Palestinian leadership, which has condemned terror, is a hopeful sign that the parties can agree to two states, Israel and Palestine, living side-by-side in peace and security.

Early next week I will go to the Middle East to meet with the Palestinian and Israeli Prime Ministers, and other leaders in the region. I will remind them that the work ahead will require difficult decisions. I will remind them that for peace to prevail, all leaders must fight terrorism and shake off old arguments and old ways. No leader of conscience can accept more months and years of humiliation and killing and mourning. I will do all that I can to help the parties reach an agreement, and then to see that that agreement is enforced.

To meet these goals of security and peace and a hopeful future for the developing world, we welcome, we need the help, the advice and the wisdom of our European friends and allies.

New theories of rivalry should not be permitted to undermine the great principles and obligations that we share. The enemies of freedom have always preferred a divided alliance – because when Europe and America are united, no problem and no enemy can stand against us.

Within an hour's journey of this castle lies a monument to the darkest impulses of man. Today, I saw Auschwitz, the sites of the Holocaust and Polish martyrdom; a place where evil found its willing servants and its innocent victims. One boy imprisoned there was branded with the number A70713. Returning to Auschwitz a lifetime later, Elie Wiesel recalled his first night in the camp: I asked myself, God, is this the end of your people, the end of mankind, the end of the world?

With every murder, a world was ended. And the death camps still bear witness. They remind us that evil is real and must be called by name and must be opposed. All the good that has come to this continent – all the progress, the prosperity, the peace – came because beyond the barbed wire there were people willing to take up arms against evil.

And history asks more than memory, because hatred and aggression and murderous ambitions are still alive in the world. Having seen the works of evil firsthand on this continent, we must never lose the courage to oppose it everywhere.

Through the years of the Second World War, another legacy of the 20th century was unfolding, here in this city of Krakow. A young seminarian, Karol Wojtyla, saw the swastika flag flying over the ramparts of Wawel Castle. He shared the suffering of his people and was put into forced labor. From this priest's experience and faith came a vision: that every person must be treated with dignity, because every person is known and loved by God.

In time, this man's vision and this man's courage would bring fear to tyrants and freedom to his beloved country, and liberation to half a continent. To this very hour, Pope John Paul II speaks for the dignity of every life and expresses the highest aspirations of the culture we share. Europe and America will always be joined by more than our interests. Ours is a union of ideals and convictions. We believe in human rights, and justice under law, and self-government, and economic freedom tempered by compassion.

We do not own these beliefs, but we have carried them through the centuries. We will advance them further and we will defend them together.

Thank you for your hospitality. Thank you for your friendship. May God bless this great nation, and may God bless the Polish people.

Appendix D

Proliferation Security Initiative: Chairman's Statement at the First Meeting

Foreign Ministry of Spain
First Meeting of the PSI, June 12, 2003
Madrid, Spain
June 12, 2003

The International Community is deeply concerned by the proliferation of weapons of mass destruction [WMD] and related materials, as well as by the risk that these may fall into the hands of terrorists. There exists a wide-spread consensus that this menace, together with terrorism, constitutes the greatest challenge to International Security.

In this context, the Government of Spain hosted a meeting of countries on June 12, where, building on the Proliferation Security Initiative announced by U.S. President Bush May 31 in Krakow, participants agreed on the need to take more active measures to stop the flow of WMD and missiles to and from states and non-state actors of proliferation concern. Participants recalled G-8 efforts, including the Global Partnership Against the Proliferation of Weapons of Mass Destruction, and the EU Strategy and Action Plan against Proliferation of Weapons of Mass Destruction.

The group included Australia, France, Germany, Italy, Japan, Netherlands, Poland, Portugal, Spain, the United Kingdom, and the United States.

All agreed that proliferation of weapons of mass destruction, their means of delivery, and related materials and equipment is a serious threat to national and international security and that trafficking in these items by certain countries or non-state actors must be stopped.

They agreed to assess existing national authorities under which such practical measures could be pursued, and to encourage the various export control regimes to take this initiative into account in strengthening the regimes.

They expressed the desire to broaden support for and, as appropriate, participation in the Proliferation Security Initiative to include all countries that are prepared to play a role in preventing this dangerous commerce, and that can contribute to proactive measures to interdict shipments.

Proliferation Security Initiative: Chairman's Statement at the Second Meeting

Foreign Ministry of Australia
Second Meeting of the PSI, July 9-10, 2003
Brisbane, Australia
July 10, 2003

The participants in the Proliferation Security Initiative (PSI) meeting in Brisbane on 9-10 July reiterated their strong political support for the initiative, and underscored that the PSI is a global initiative with global reach. They agreed to move quickly on direct, practical measures to impede the trafficking in weapons of mass destruction (WMD), missiles, and related items.

This was the second meeting of the eleven PSI countries. The first meeting was in Madrid on 12 June. Participants are Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the UK, and the U.S.

The Madrid meeting was unanimous on the need to take active measures to stop the flow of WMD, missiles and related items to and from proliferators. This reflected the international alarm at the growing trade in WMD, missiles and related items, including the risk that these might fall into the hands of terrorists.

Under Australian chairmanship, the Brisbane meeting built on the results from the Madrid meeting and moved forward in translating the collective political commitment of PSI members into practical measures.

The Brisbane meeting focused on defining actions necessary to collectively or individually interdict shipments of WMD or missiles and related items at sea, in the air or on land. Participants emphasized their willingness to take robust and creative steps now to prevent trafficking in such items, while reiterating that actions taken would be consistent with existing domestic and international legal frameworks.

The Brisbane meeting made good progress in considering interdiction modalities, particularly in the information sharing and operational arenas. Participants emphasized that effective information sharing is vital to interdiction, and agreed to strengthen and improve capabilities for the exchange of information and analysis between participants as a basis for cooperative action to impede WMD and missile trade. Participants acknowledged that although interdiction efforts have been under way for some time, there is a need to further develop and enhance the capabilities of PSI nations to conduct actual air, ground and maritime interdiction operations in partnership against WMD and delivery systems. To that end, they agreed in principle to the concept of a series of interdiction training exercises, utilizing both military and civilian assets as appropriate, and that such exercises should take place as soon as practicable.

Participants agreed on the importance of building a broad and effective partnership of countries prepared to play a part in disrupting and stopping the trafficking in WMD, missiles and related items. They agreed effective implementation of the PSI will require the active

involvement of countries around the world. As the PSI moves forward, they aim to involve all countries that have the will and ability to take action to address this menace. It also will be crucial to involve countries that are key flag, coastal or transit states, and others that are used by proliferators in their WMD and missile trafficking efforts.

Participants underlined that the spread of weapons of mass destruction, their means of delivery, and related materials and equipment is a serious threat to national, regional and global security. Participants expressed concern that WMD and missiles are increasingly being acquired by states of concern which reject international standards against the acquisition, use and proliferation of such weapons.

PSI participants considered the question of states and non-state actors of proliferation concern. They referred to the relevant statements of the G-8 Evian summit on 1-3 June and the EU-U.S. Joint Statement on the Proliferation of Weapons of Mass Destruction of 25 June which addressed countries of proliferation concern and non-state actors with particular reference to North Korea and Iran.

The Brisbane meeting strongly supported the strengthening of the existing framework of national laws and export controls, multilateral treaties and other tools which remain the international community's main means for preventing the spread of WMD and missiles. They emphasized that the increasingly aggressive and sophisticated efforts by proliferators to circumvent or thwart existing non-proliferation norms, and to profit from the trade of WMD and missiles or related items, requires new and stronger enforcement action by law-abiding nations. The PSI was therefore welcomed as a necessary and innovative approach to the problem of countries which cheat on their international obligations, refuse to join existing regimes or do not follow international norms, and for non-state actors seeking to acquire WMD.

Participants acknowledged that the PSI is a fast-track initiative that will require continued interaction among experts and policy makers in the days and weeks ahead, and agreed to a next high-level meeting in early September.

Proliferation Security Initiative: Chairman's Statement at the Third Meeting

Foreign Ministry of France
Third Meeting of the PSI, September 3-4, 2003
Paris, France
September 4, 2003

Participants in the Proliferation Security Initiative (PSI) met in Paris on 3rd and 4th September under French chairmanship. This informal meeting was the third of its kind, after Madrid on 12 June and Brisbane (Australia) on 9-10 July. Representatives of 11 countries took part: Germany, Australia, Spain, United State, France, Italy, Japan, Netherlands, Poland, and the United Kingdom.

The PSI is an initiative to develop political commitments and practical cooperation to help impede and stop the flow of WMD (weapons of mass destruction), their delivery systems, and related materials to and from states and no State actors of proliferation concern. It is a dynamic process.

Participants affirmed that the PSI is consistent with and a step in the implementation of the UN Security Council Presidential statement of 31 January 1992, which states that the proliferation of all WMD constitutes a threat to international peace and security, and underlines the need to prevent proliferation. It is also in line with the Kananaskis and Evian G-8 Summit declarations as well as recent EU (European Union) statements, establishing that more coherent and concerted efforts are needed to prevent the proliferation of WMD, their delivery systems, and related materials.

They pointed out that this initiative is consistent with international law, as well as national legal authorities. The Chair recalled the primary responsibility of the UN Security Council, under the UN Charter, for the maintenance of international peace and security.

It is part of the overall effort in support of nonproliferation which is a pillar of collective security and strategic stability. It can contribute among other tools to the full implementation of and compliance with commitments under this regime, in particular multilateral nonproliferation agreements.

It can also help to reduce the risk of WMD falling into the hands of terrorists.

Participants reaffirmed their commitment not to play any role themselves in proliferation activities and to take effective measures, either individually or in cooperation with partners, to stop them.

Participants reviewed a broad range of political, legal, practical, technical and operational aspects, with a view to paving the way for early concrete outcomes.

They agreed on a "Statement of interdiction principles." It is released today in the spirit of transparency. The "Statement of interdiction principles" identifies concrete actions to

collectively or individually interdict shipments of WMD, their delivery systems and related materials.

Participants expressed the hope that all countries which share their nonproliferation concerns and objectives, in particular coastal and transshipment States, flag States, and other partners in the international community, will support this initiative.

They expressed their willingness to engage in outreach activities, by rapidly opening dialogue with other countries and seeking their views and comments. They stand ready to review and take into account inputs which would enhance their proposed efforts.

Participants also considered practical steps to improve and enhance interdiction activities, including sharing of information among partners, and confirmed the organization of maritime, air and ground interdiction training exercises in the coming months, aimed at enhancing existing capabilities for implementation of the PSI.

They decided to meet again in October in London to review the progress of the initiative.

Proliferation Security Initiative: Chairman's Conclusions at the Fourth Meeting

Foreign and Commonwealth Office, London, United Kingdom
Fourth Meeting of the PSI, October 9-10, 2003
London, United Kingdom
October 10, 2003

Participants in the Proliferation Security Initiative (PSI) met at Lancaster House, London, on 9-10 October. Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the UK, and the U.S. were represented. The meeting was preceded on 8 October by an air interception command post exercise (CPX), organised by the UK.

The London meeting was the fourth meeting of the PSI, consolidating and building on the foundations laid at Madrid (12 June); Brisbane (9-10 July); and Paris (3-4 September).

Outreach

Following the publication of the Statement of Interdiction Principles on 4 September 2003, PSI participants approached other countries to seek their support for the Statement, and their views on how they might contribute to the Initiative.

Participants agreed that the response had been very encouraging. The Initiative had been well received. Over 50 countries had already expressed support for the Statement of Principles.

It was agreed that further coordinated outreach work would be needed to broaden international understanding of and co-operation with the Initiative. In this context, further regionally based meetings and activities would be valuable. In this regard the meeting welcomed planned efforts in the Asian region by Japan and Australia. The possibility was discussed of inviting additional participants to specific PSI exercises or other activities, on an ad hoc basis.

Participation

The meeting agreed that the PSI was a global initiative with an inclusive mission. Successful interdiction of trafficking in WMD [weapons of mass destruction], their delivery systems and related materials requires the widest possible co-operation between states. Participation in the PSI, which is an activity not an organisation, should be open to any state or international body that accepts the Paris Statement of Principles and makes an effective contribution.

The meeting noted that participation would vary with the activity taking place, and the contribution participants could provide. Some countries had particular experience, assets or expertise relevant to all PSI activities; other countries or organisations could be expected to contribute according to their particular capabilities.

It was noted that a number of countries which had expressed particularly keen interest in participating in future PSI activities and meetings had experience and capabilities which

would be of value to the Initiative, and which should be taken into account in future decision making.

Focus of efforts

The Statement of Interdiction Principles, agreed at Paris in September, outlines the scope of the Initiative. It makes clear that “States or non-state actors of proliferation concern” generally refers to those countries or entities that the PSI participants involved establish should be subject to interdiction activities because they are engaged in proliferation through: (1) efforts to develop or acquire chemical, biological, or nuclear weapons and associated delivery systems; or (2) transfers (either selling, receiving, or facilitating) of WMD, their delivery systems, or related materials.

Participants agreed that the Initiative aimed to impede and stop trafficking of WMD, their delivery systems and related materials by any state or non-state actor engaged in or supporting WMD proliferation programmes, at any time and in any place.

WMD is a global threat which calls for a global response. Participants looked forward to working with all concerned states on developing the specific measures they were able and willing to take in support of the PSI.

Operational matters

Participants had an initial exchange of views on a possible Boarding Agreement, presented by the U.S., which could facilitate practical implementation of the Initiative. They agreed that participants should make comments as rapidly as possible, so that states which are interested can move forward with concluding the agreement.

Participants agreed that future interdiction exercises should build on the successful exercises that have already taken place: an Australian-led maritime interdiction training exercise in the Coral Sea in September, and a UK-led air interception command post exercise in London. Future exercises should seek to integrate civil, military, and law enforcement decision making, as appropriate.

The meeting agreed further steps to plan training exercises that will take place in the coming months:

- Spanish led maritime interdiction training exercise in the Mediterranean, 14-17 October;
- French led maritime interdiction training exercise in the Mediterranean, 24-28 November;
- Italian led air interception training exercise, 3-4 December;
- U.S. led maritime interdiction training exercise in the Arabian Sea, January 2004;
- Polish led ground interdiction exercise, early 2004;
- Italian led maritime interdiction exercise in the Mediterranean, Spring 2004;
- French led air interception exercise, Spring 2004;

- German led interdiction exercise, at an international airport, March 2004.

It was noted that there could be lessons to be learnt from NATO's maritime interdiction operations.

Contacts with international organisations

Participants agreed that all relevant fora should be kept informed of significant developments under the Initiative. To this end, the chair of each PSI Plenary meeting should, as appropriate, circulate its conclusions.

Recalling the 1992 UN Security Council Presidential Declaration on the proliferation of WMD, the meeting noted the value of securing an expression of support in relevant international fora for greater international co-operation against trafficking in WMD, their delivery systems and related materials.

Future meetings

Concluding, the Plenary Chair noted that the broad direction of the PSI had now been agreed. Plenary meetings might therefore become less frequent. But exercises and expert discussion of specific operational and policy issues under the PSI umbrella would continue, with the broadest possible participation by states committed to PSI Principles and to making effective contributions.

The offer by the United States to host an operational experts' meeting in December was warmly welcomed. A number of countries, beyond the original 11 participants, that support the PSI Principles and have concrete contributions to make to PSI activities will take part in that meeting.

Participants warmly welcomed Portugal's offer to host the next PSI Plenary meeting in early 2004.

Proliferation Security Initiative: Chairman's Statement at the Fifth Meeting

Palácio Foz
Fifth Meeting of the PSI, March 4-5, 2004
Lisbon, Portugal
March 5, 2004

1. The fifth Plenary meeting of the Proliferation Security Initiative (PSI) took place at Palácio Foz, Lisbon, on March 4-5, 2004, building on deliberations at Madrid (December 6, 2003); Brisbane (July 9-10, 2003); Paris (September 3-4, 2003) and London (October 9-10, 2003). Australia, Canada, France, Germany, Italy, Japan, the Netherlands, Norway, Poland, Portugal, Singapore, Spain, the UK, and the U.S. were represented.
2. The participants reaffirmed their strong determination to respond effectively to the threat represented by proliferation and trafficking of WMD [weapons of mass destruction], their delivery systems, and related materials worldwide. Recent developments leave no doubt as to the seriousness of the danger posed by such proliferation activities. The PSI [Proliferation Security Initiative] has been successful in raising worldwide awareness to this threat and in fostering the international cooperation that is required to stop WMD-related shipments as well as the proliferation networks. Trafficking in WMD constitutes a global threat to international peace and security. It is an unacceptable activity and should be addressed by all countries. If linked to terrorism, it can represent a random threat to anyone, in any continent.
3. Deterring trafficking is therefore in the interest of all peace-loving countries. The open nature of this Initiative is reiterated and the contributions from countries that share PSI concerns, principles and goals continue to be welcomed. This is a global endeavor with an inclusive nature and it relies on the widest possible cooperation between states from different parts of the world. Participants considered that geographical balance and regional diversity are assets that need to be preserved, as they represent an important added value to PSI effectiveness. In this spirit, the strengthened commitment of Canada, Norway, and Singapore to the PSI is warmly welcomed.
4. Participants supported the call by U.S. President Bush to expand the role of the PSI to not only interdict shipments of WMD, their delivery systems and related materials, but to cooperate in preventing WMD proliferation facilitators (i.e. individuals, companies, and other entities) from engaging in this deadly trade. They also warmly welcomed contributions by other participants namely the UK. Participants agreed to pursue greater cooperation through military and intelligence services and law enforcement to shut down proliferation facilitators and bring them to justice.

PSI participants agree to begin examining the key steps necessary for this expanded role, including:

- identifying national points of contact and internal processes developed for this goal;
- developing and sharing national analyses of key proliferation actors and networks, their financing sources, and other support structures;

- undertaking national action to identify law enforcement authorities and other tools or assets that could be brought to bear against efforts to stop proliferation facilitators.

Outreach

5. The participants agreed that it was essential to continue broadening the international consensus in favor of the fight against the proliferation of WMD, their delivery systems, and related materials, as well as to the widening of the international political and operational support for PSI aims and actions. This will be carried out notably by building on previous outreach activities (over 60 countries have expressed support for the Paris Statement of interdiction Principles until now). This may also be done by concluding bilateral agreements with interested States, notably in view of obtaining their consent for expeditious procedures for the boarding of vessels flying their flag, as required. The first examples of such bilateral agreements seem to indicate that this is an approach that can bear fruit most rapidly and which participants could/should usefully pursue.

6. Regarding significant developments related to the fight against WMD-related trafficking, complementary efforts by all relevant international organization and information sharing with such organizations should be pursued as appropriate.

7. Regional outreach activities have shown to be an effective awareness-raising tool. They provide a useful framework for enhancing the involvement in the PSI activities and create a link between its global aims and the various regional contexts. Participants are encouraged to host further meetings to present and promote the PSI along the lines of those organized by Japan and Poland. The Portuguese announcement of one such outreach meeting for the African continent was welcomed.

8. While continuing to promote wide support for the Initiative, participants agreed to focus their outreach efforts particularly on states that have potentially unique contributions to make to interdictions efforts (i.e. flag states, transshipment states, overflight states, transit states, and coastal states). The support of all countries interested in PSI and cooperation in interdiction is welcome and states are encouraged to consider the following practical steps that can establish the basis for involvement in PSI activities:

- Formally commit to and publicly endorse the PSI and its Statement of Interdiction Principles and indicate willingness to take all steps available to support PSI efforts.
- Undertake a review and provide information on current national legal authorities to undertake interdictions at sea, in the air or on land. Indicate willingness to strengthen authorities where appropriate.
- Identify specific national assets that might contribute to PSI efforts (e.g. information sharing, military and/or law enforcement assets).
- Provide points of contact for PSI interdiction requests and other operational activities. Establish appropriate internal government processes to coordinate PSI response efforts.
- Be willing to actively participate in PSI interdiction training exercises and actual operations as opportunities arise.

- Be willing to consider signing relevant agreements (e.g. boarding agreements) or to otherwise establish a concrete basis for cooperation with PSI efforts (e.g. MOU on overflight denial).

9. The participants discussed the proposed amendments to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) that would criminalise the transport of weapons of mass destruction, their delivery systems, and related materials on commercial vessels at sea.

Operational Activities

10. The participants noted with satisfaction that the PSI is by now operationally active. They also recognized that specific, significant progress was thereby obtained in fighting proliferation activities and that PSI partners had contributed decisively to recently disclosed successes in the disruption or indeed dismantling of some previously covert WMD programs.

11. The meeting heard a report from the chairman of the operational experts meeting that took place in Washington, DC on December 16-17, 2003. It encouraged the operational experts to pursue their work at the meeting that was announced in Canada, to take place in April, notably in view of reaching conclusions on the improvement and rationalization of the PSI exercise program, providing for improved thematic and geographical balance, as well as on several other steps identified at the Washington meeting.

12. Training is required for operational effectiveness. Six exercises took place in different parts of the world since the launching of the PSI and further important operational activities are foreseen in the months to come. The Plenary took note with satisfaction that the UK, Australia, Spain, France, Italy, the U.S., Germany, and Poland, have organized or will organize PSI exercises. Other participants are encouraged to take similar initiatives, in the framework of a coordinated and rationalised exercise program.

13. The Plenary particularly drew the participants' attention to the fact that the attainment of the PSI goals requires continued efforts within the operational experts group to work through operational legal issues, as commenced at the Washington meeting. All countries are encouraged to take the necessary steps to improve their legal systems and practical tools to strengthen their capacity to effectively act as and when required to take action consistent with the PSI Statement of Interdiction Principles. Bearing in mind our common goals, appropriate consultations might be required in this regard.

Future of PSI

14. Not yet one year from the moment it was launched, the Proliferation Security Initiative has established itself as a crucial instrument to respond effectively to some of the most serious security challenges of the XXI century. This is reflected in the growing number of countries supporting the PSI. All participate in this sense in the Initiative and all their contributions are warmly welcomed. Just like proliferation can be a multifaceted

phenomenon, the responses may have to be flexible and may need to take many shapes and forms.

15. PSI is an activity, not an organization. Progress since the London Plenary demonstrates that the main lines of the PSI are now well established and that several directions of action can be pursued separately but still in a mutually reinforcing mode. However, to further build the PSI as an activity, political vision and strategic guidance remain necessary. Further consideration shall be given to the suggestion of establishing a network of contact points at policy level among participants.

Next Meeting

16. To commemorate the anniversary of the launching of the PSI Poland offered to host a meeting in Krakow that will bring together all countries that support the PSI.

Chairman's Statement at the First Anniversary Proliferation Security Initiative Meeting

Foreign Ministry of Poland
First Anniversary Meeting of the PSI, May 31-June 1, 2004
Krakow, Poland
June 1, 2004

The First Anniversary Proliferation Security Initiative (the PSI) Meeting took place in Krakow, on 31 May - 1 June 2004. The Meeting was to commemorate the first anniversary of launching the Initiative by the U.S. President, George W. Bush in his speech at the Wawel Royal Castle in Krakow, on 31 May 2003. Thus, the Proliferation Security Initiative will also be known as the Cracow Initiative.

The meeting brought together senior representatives from over 60 countries. The participation of a broad representation of countries across the globe in the Anniversary Meeting confirms the growing awareness of the danger of proliferation of Weapons of Mass Destruction, related materials and their means of delivery. It also highlights the worldwide support of the PSI and its Statement of Interdiction Principles.

The meeting was conducted under the patronage of Aleksander Kwaœniewski, President of the Republic of Poland.

During the meeting the Addresses by the President of the Republic of Poland, Aleksander Kwaœniewski and President of the United States of America, George W. Bush, were transmitted.

The aims of the meeting included emphasizing the PSI as a global initiative, further development of international support for the aims and objectives of the PSI, and promotion of broad international cooperation and participation in PSI activities. The Cracow Initiative is not about structure and organization, but operation and cooperation.

During one year the Proliferation Security Initiative has been transformed from a vision into an active network of partnership and practical cooperation. Common principles have been defined. Interdiction capabilities developed and tested. Regional activities undertaken.

During the meeting, a series of presentations on the nature of PSI, its prospects, character, future development and outreach efforts were made. A special emphasize was made on the extensive exercise program where many countries have actively participated.

It was stressed that the Proliferation Security Initiative is an important element in responding to the growing challenge posed by the proliferation of Weapons of Mass Destruction. (WMD), their delivery systems, and related materials to or from states and non-state actors worldwide. It was further stressed that the PSI activities had to be consistent with national and international law and frameworks.

The PSI builds on efforts by the international community to prevent the proliferation of WMD, their delivery systems or related materials and complements existing treaties and regimes. It is consistent with newly adopted United Nation's Security Council Resolution 1540 (2004) of 28 April 2004. The UN Security Council Resolution states that the Council is "gravely concerned by the threat of illicit trafficking in nuclear, chemical or biological weapons and their means of delivery, and related materials". It calls upon all states "to take cooperative actions to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials."

The transparent nature of the PSI activities was reiterated and the contributions from countries that share PSI concerns, principles and goals were welcomed. An emphasis was made that the PSI is a global endeavour with an inclusive nature. It relies on the widest possible cooperation between states around the world. This meeting showed the willingness of strengthening and expanding this cooperation.

The meeting confirmed the importance of continued outreach efforts to build the PSI and make it harder for proliferators to engage in this deadly trade. States participating were welcomed to engage in such cooperation as well as to undertake national action to identify law enforcement authorities and other tools or assets that could be brought to bear against efforts to stop proliferation facilitators.

Appendix E

The Proliferation Security Initiative: A Vision Becomes Reality

John R. Bolton, Under Secretary for Arms Control and International Security

Remarks to the First Anniversary Meeting of the Proliferation Security Initiative

Krakow, Poland

May 31, 2004

I am pleased to be here representing the United States at this First Anniversary Meeting of the Proliferation Security Initiative (PSI). Today marks an important milestone for PSI and the many states around the world that are working under its auspices to establish cooperative partnerships to prevent the proliferation of weapons of mass destruction (WMD).

It is gratifying to see so many countries represented here today to help celebrate what in a short twelve months has become an initiative synonymous with counter-proliferation cooperation. I want especially to thank the Polish Government for its work in organizing this meeting and providing us all an opportunity to commemorate what I hope will be the first of many anniversaries for PSI.

The Vision of PSI

As many of you know, President Bush announced PSI a year ago here in Krakow to address the growing challenge of WMD proliferation. The overwhelmingly positive response and enhanced awareness that PSI has fostered globally about real, practical steps that can be taken to defeat proliferation and proliferators is an important testament to the vision that President Bush had, a vision that is a growing reality.

In developing PSI, our main goal has been a simple one – to create the basis for practical cooperation among states to help navigate this increasingly challenging arena. Our goal is based on an equally simple tenet – that the impact of states working together in a deliberately cooperative manner would be greater than states acting alone in an ad hoc fashion.

We often say “PSI is an activity, not an organization.” This is not hard to understand, but is unusual. We think it is a fundamental reason for PSI’s success to date. PSI builds on existing nonproliferation treaties and regimes. In doing so, PSI reflects the reality that, even as we continue to support and strengthen the existing nonproliferation architecture, proliferators and those facilitating the procurement of deadly capabilities are circumventing existing laws, treaties, and controls against WMD proliferation. Through PSI, we create the basis for action to ensure that, if proliferators manage to place their deadly cargoes aboard a ship, plane, or truck, we are prepared to stop them in their tracks.

When PSI first emerged, it was criticized inaccurately as an initiative with a shaky legal underpinning. In fact, the foundation of our ability to act in support of PSI activities is our respective national legal authorities and relevant international frameworks. There is ample authority to support interdiction actions at sea, in the air, and on land. States around the

world have concurred with this fact and lent their support to PSI. Importantly, the unanimous passage of UN Security Council Resolution 1540 establishes clear international acknowledgement that cooperation, such as PSI, is both useful and necessary.

The ‘Practical Steps’ to Support the PSI

PSI was envisioned as a flexible instrument that would create the basis for rapid action between and among states, a network of partnerships. The PSI Statement of Interdiction Principles serves as the blueprint for PSI activities. It identifies steps that will facilitate effective interdiction. We welcome support for PSI, but political support is just the beginning. As PSI partners, we must work within our governments and with each other to establish the basis for cooperation when an interdiction activity requires our assistance. During the PSI meeting in Lisbon this past March, a set of “practical steps” were developed. These steps outline ways that states can make concrete contributions to building PSI’s operational capacity.

1. **Issue Formal Statement of Support for the PSI and its Principles:** This establishes clearly that each state is willing to work on the basis of the Principles if a particular PSI activity requires its support. It is also an important reference point demonstrating our mutual commitment at the highest levels of our governments to work together to tackle the challenges posed by proliferators.
2. **Review and Provide Information on Current National Legal Authorities:** Cataloguing our national legal authorities that support PSI activities and exchanging this information with other partners facilitates rapid action. States are not expected to have identical capabilities – legal, operational, or otherwise. Rather, the PSI Principles acknowledge implicitly that states have different capabilities that could be called upon in support of a given PSI operation.
3. **Establish Points of Contact and Good Internal Procedures:** Establishing PSI points of contact and clear procedures in our respective governments will ensure that information is quickly shared, that requests for cooperation are easily made, and that responses are swiftly provided. Since most PSI operations are based on intelligence information, there must be agreement among PSI partners that information will be protected. Basic information sharing guidelines have been developed to this end.
4. **Identify Operational Assets and Engage in Training Efforts:** A robust series of interdiction training exercises has been underway since last September. Ten training exercises will have been completed by the end of June – five maritime, three air, and two ground. Many states here have participated in one or more of these exercises, improving our collective capabilities to work together smoothly and efficiently when an actual PSI action arises. States supporting the PSI Interdiction Principles that have not yet participated in a training exercise, particularly those taking place in their respective regions, are strongly encouraged to do so.
5. **Be Willing to Conclude Relevant Agreements or Take Other Measures to Facilitate Cooperation:** Certain states’ unique characteristics create additional

opportunities to contribute to PSI. In December, the United States began approaching key flag states seeking bilateral boarding agreements that will facilitate the boarding of vessels in international waters that are suspected of carrying cargoes of proliferation concern. Liberia was the first to sign such an agreement with us on February 11. Panama signed a similar agreement on May 12. We applaud Liberia and Panama not only for their clear and strong support for PSI, but for being willing to take this extra step that demonstrates their resolve to ensure that their registries are not used by proliferators.

We are beginning to consider what mechanisms might better facilitate cooperation in air and ground interdiction arenas so that we can facilitate cooperation among states that will be most directly affected by proliferators using these critical transport methods.

Additional Steps to Consider

In addition to these practical steps, there are other actions states can take to help build PSI.

1. **Cooperate to Shut Down Proliferation Facilitators:** In Lisbon, PSI partners expressed support for President Bush's call for PSI to expand its work to enhance cooperation to shut down proliferation facilitators and bring them to justice. This will require better information sharing to identify where proliferation facilitators operate and enhanced interaction among relevant agencies – law enforcement, military, and intelligence. The recent revelations about A.Q. Khan illustrate the depth and breadth a proliferation network can achieve. More concerted work is needed to prevent individuals, companies, or groups of companies from successfully plying their illicit trade.
2. **Industry Outreach:** Effective outreach to obtain support and cooperation from key shippers, receivers, and insurers involved in maritime, air, port, or ground transport arenas, is essential. Such efforts also will alleviate concerns that PSI will negatively impact on legitimate commerce.
3. **Promote Regional Cooperation:** Not every PSI case will involve the same countries – it is more likely that states in a given region will be called upon to cooperate together. Outreach and cooperation on a regional basis should be a priority, and we encourage PSI partner states to establish communication channels with their neighbors.

The Future of PSI

I have been asked many times to define “success” for PSI. There is an assumption that effectiveness is equal to the number of shipments stopped or proliferators put out of business. This is certainly one measure, but a difficult one to publicize due to the extremely sensitive nature of the information leading to PSI operations. Another barometer of success is the extent to which PSI works to deter proliferators. The deals not signed or completed, shipments not sent, insurance not extended, shipping routes no longer utilized – all the result of PSI but, like the number of operations, not easily quantifiable, particularly publicly.

A tangible measure of PSI success is the foundation it provides for states to work together. It is truly remarkable for an initiative of this scope to have come so far in so short a time. We believe that PSI is succeeding first and foremost because of the international consensus that WMD proliferation is a threat to global peace and security, and also because PSI partners recognize that proliferation threatens their own national security.

PSI is also succeeding because it is based on practical actions that make maximum use of each country's strengths to counter proliferation. The partnerships being forged, the contacts being established, the operational readiness being enhanced through PSI are all helping to create a lasting basis for cooperative action against proliferation.

Our vision for PSI is that a year from now we will have smooth, effective communication and operational procedures in place to interdict shipments and will have utilized them in specific cases; we will know more about how proliferators act and have devised strategies to work together to defeat them; we will have shut down the ability of persons, companies, or other entities to engage in this deadly trade; we will have undertaken effective outreach to the trade facilitation industry; and we will have made it increasingly difficult and costly for rogue states and terrorists to engage in their deadly work.

Conclusion

While PSI is helping stem the spread of WMD, their delivery systems, and related materials, serious proliferation threats remain. These threats must be met head on by active, concerted efforts through PSI cooperation and other available means. North Korea, Iran, and Syria, among others, are clearly states of proliferation concern; we believe that PSI partners should be ready to scrutinize shipments going to or from such states or terrorist groups.

PSI partners are laying a solid foundation for active cooperation to defeat proliferation. Our work sends a strong message that responsible members of the international community will not stand by while proliferators and those facilitating their efforts ply their dangerous trade. As PSI partnerships continue to expand, we are making a real difference. This was President Bush's vision a year ago – a vision that the collaboration by states gathered here today is making our common PSI reality.

Released on June 2, 2004

Appendix F

June 22, 2004

Japan-EU Joint Declaration on Disarmament and Non-proliferation

The proliferation of weapons of mass destruction (WMD) and their means of delivery poses a serious threat to the peace and stability of the international community. In particular, the possibility of the proliferation of WMD, and their means of delivery as well as related materials and technology, to terrorists and other non-state actors adds a new dimension to this threat. Nonproliferation, disarmament, and arms control measures can make an essential contribution to the fight against terrorism.

The illicit trade related to WMD and in particular in highly sensitive nuclear equipment and technology, the reality of which became clear with the revelation of the Khan network, is a matter of serious concern for Japan and the European Union. The international community must be united in its endeavor to close existing loopholes in order to strengthen the non-proliferation regimes. The active and positive engagement and cooperation of as many countries as possible are indispensable in this regard. We must reinforce our efforts to tackle illicit trafficking in WMD and their means of delivery and their procurement network. We will address the issue of the involvement of non-state actors in this field.

At the same time, continuous efforts must be made to undertake measures to further advance disarmament, including of nuclear weapons, in order to build a truly peaceful and secure world.

Positive and active efforts must also be made to strengthen controls over conventional weapons, which cause damage, injury, and death in many countries and threaten to destabilize the international community.

Guided by the common concern and aims described above, we will work together to achieve our common goals of disarmament and non-proliferation, collectively and individually through the identification of concrete measures, including the following:

- a) Recognizing each other as a major partner in the area of disarmament and non-proliferation, we will deepen our cooperation in these pursuits and promote close policy dialogues at opportunities presented by the major international conferences and other fora.
- b) We will reaffirm our commitment to the 2001 Japan- EU Action Plan and the 2002 Joint Press Statement, which call for cooperation on the issue of disarmament and non-proliferation on the basis of mutual understanding of each other's security concerns.
- c) We reaffirm our commitment to the international treaty system and will promote the universalization, implementation, and strengthening of the treaties and norms in the area of disarmament and non-proliferation, such as the NPT, BTWC, CWC, CTBT, CCW, MBT, HCOC, and the IAEA Comprehensive Safeguard Agreements and Additional Protocols.*

- d) We will promote dialogue and cooperation with other countries for disarmament and non-proliferation and will intensify regional activities to this end. Through this process, we will establish “best practices” to be followed by other regions and countries.
- e) We reaffirm our readiness to provide concrete assistance, as the need arises, to countries to enable them to fully implement the requirements and obligations under the relevant disarmament and non-proliferation treaties, as well as to help them upgrade their technical capacities.
- f) We will work together to ensure strict compliance with the obligations under disarmament and non-proliferation treaties. We stress our determination to support international institutions charged with the verification and upholding of compliance with these treaties and agreements.
- g) We consider it of critical importance to duly address the root causes underlying proliferation problems, while reaffirming that no cause should be construed as legitimizing WMD proliferation. In this regard, we reaffirm the importance of combined political and diplomatic efforts in support of shared non-proliferation objectives.
- h) Fully aware that disarmament and non-proliferation education is an effective means for promoting both aims, we will place great importance on efforts related to such education.
- i) We identified priority areas for specific co-operation in the list attached hereto. This list will be revised, as necessary, through consultations at the Japan-EU Troika WG or other designated channel.

Priority areas for specific cooperation

With respect of paragraph (i) in the Joint Declaration, the priority areas for specific cooperation are identified as follows.

Nuclear disarmament and non-proliferation

- Early entry into force of the CTBT
- Early commencement of negotiations on the Fissile Material Cut-off Treaty
- Universalization of the IAEA Comprehensive Safeguard Agreements and Additional Protocols

Biological and chemical weapons

- Universalization of the BTWC and strengthening of the functioning of the BTWC through active participation in the BTWC programme of work
- Universalization of the CWC and cooperating to help strengthen national implementation of the Convention

Missiles

- Universalization of the HCOC

Export control and other non-proliferation measures

- Cooperation in export controls regimes
- Cooperation with like-minded partners to strengthen export controls
- Controls on the export of weapons with a view to avoiding the risk that they could fall into the hands of terrorists
- Assistance to third countries in need of technical assistance in the field of export controls
- Strengthening of law enforcement capabilities to prevent weapons proliferation and of regional outreach efforts to enhance non-proliferation mechanisms
- Cooperation in the context of the Proliferation Security Initiative (PSI)

Conventional weapons

- Acceleration of the implementation of the UN Small Arms Action Plan and assistance by Japan and the EU to this end
- Expansion of the number of countries adhering to the UN Register of Conventional Arms
- Sustaining international political will and financial assistance for mine action including victim assistance in mine affected countries
- Promotion of universal adherence to the principles and goals of the Mine Ban Treaty

Assistance to the countries in need

- Promotion of capacity building assistance for the establishment of legal systems and the strengthening of law enforcement in countries needing such assistance to ensure the domestic implementation of treaties related to disarmament and non-proliferation as well as of the UN Security Council Resolutions 1540
- Enhanced collaboration with those countries which commit to dismantle their WMD, their means of delivery and related arsenals and the provision of necessary assistance to that end

Non-compliance with the obligations under disarmament and non-proliferation treaties

- Cooperation for the peaceful resolution of non-compliance cases
- Working jointly to strengthen the role of the Security Council with respect to non-compliance issues

Others

- Intensification of consultation to resolve the current CD stalemate
- Promotion of disarmament and non-proliferation education
- Common assessment of global proliferation threats

* Abbreviation

NPT: Treaty on the Non-proliferation of Nuclear Weapons

BTWC: Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction

CWC: Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction

CTBT: Comprehensive Nuclear-Test-Ban Treaty

CCW: Convention on Prohibition or Restrictions on the Use of Certain Conventional Weapons

Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects

MBT: Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of
Anti-Personnel Mines and On Their Destruction
HCOC: Hague Code of Conduct against Ballistic Missile Proliferation