



Policy Forum 05-101A: Bring the Proliferation Security Initiative Into the UN



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"Bring the Proliferation Security Initiative Into the UN"

Essay by Mark J. Valencia

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I. Introduction

Mark J. Valencia, Maritime Policy Analyst and Nautilus Institute Senior Associate, writes "Most of the PSI's shortcomings stem from its ad-hoc, extra-UN, US-driven nature. Bringing it into the UN system would rectify many of these shortcomings by loosening US control, enhancing its legitimacy,

and engendering near universal support."

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II. Essay by Mark J. Valencia

- Bring the Proliferation Security Initiative Into the UN
by Mark J. Valencia

The Proliferation Security Initiative (PSI) is an activity initiated by the Bush Administration to prevent weapons of mass destruction (WMD), their delivery systems and related materials from reaching or leaving states or sub-state actors of proliferation concern. Reflecting the Bush Administration's disdain for the UN, it was conceived, originated and implemented outside the UN system. However, despite some early success, the PSI seems to have reached a plateau and suffers from serious shortcomings that can be resolved by the exact opposite--bringing the activity into the UN system.

The main focus of the PSI has been on interdictions of ships carrying WMD-related materials to or from targeted countries like North Korea, Libya, Iran, the Sudan, Syria and Cuba. There have been 12 successful intercepts in two years, including the seizure of WMD related materials bound for Libya that supposedly persuaded Libya to abandon its WMD programs. Countries publicly adhering to its Principles have grown from an initial core of 11 to more than 20.

But its aggressive promotion and implementation has created considerable controversy. It has been criticized for insufficient public accountability, stretching if not breaking the limits of existing international law, undermining the UN system, impeding legal trade, being politically divisive, and having limited effectiveness. In reality it remains a US-initiated and driven ad-hoc activity conceived primarily to deter trade in WMD components and 'related materials' to and from North Korea. It is far from clear that 12 successful interdictions in two years mean that the PSI is effective. The intercepted shipments may be only the tip of an iceberg of rampant uncontrolled trade in WMD components. Moreover, state and non-state actors that want to avoid PSI interdictions can still transport WMD components on their own flag vessels or aircraft or on those of non-participating states.

The secretiveness surrounding PSI interdictions and the methods employed make difficult the evaluation of its success and its legitimacy, and thus the garnering of support from countries suspicious of US driven endeavors. Some fear that the US would like to change existing international law to allow PSI interdictions on or over the high seas. Others do not agree with the US argument that such interdictions are warranted by a right to pre-emptive or preventive self-defense. Indeed, they do not want to see the PSI lead to a weakening of the international prohibition against the unilateral use of force. Thus countries that are key to an effective PSI--like China, India, Indonesia and South Korea---have not publicly joined the activity despite US pressure to do so, and Japan and Russia seem to be rather reluctant participants.

Perhaps the greatest obstacle to PSI effectiveness is the fact that most of the ingredients for WMD are dual-use in nature, having both civilian and WMD application. Few if any countries export 'turn-key' WMD. The harsh reality is that countries and non-state actors can build their own WMD from dual-use components, using dual-use technologies and machines. But a proliferation of interdictions of dual use materials may hamper legitimate commerce and thus engender opposition, even from PSI participants. This means that it is very difficult to make decisions regarding 'good cause' for

interdiction and that such decisions will inevitably be politically influenced and based on who is sending or receiving the shipment. For example, although India, Pakistan and Israel are nuclear states and not parties to the Nuclear Non-Proliferation Treaty, the US does not consider them "states of proliferation concern". Thus they are apparently exempt from PSI interdictions.

The PSI obviously has some way to go before it becomes the effective tool its founders envisioned. As is often proclaimed by its proponents, the PSI is not an organization---only an activity---and thus it lacks an independent budget or co-ordinating mechanism. Although these features may enhance its flexibility as well as the speed of decision-making and resultant action, they also constrain its capacity. Indeed, for it to be fully successful will require near universal support. And even if that is forthcoming, inadequate resources, intelligence, and capacity may ensure that a significant portion of WMD- component shipments will still avoid detection and air or sea interdiction.

Most of the PSI's shortcomings stem from its ad-hoc, extra-UN, US-driven nature. Bringing it into the UN system would rectify many of these shortcomings by loosening US control, enhancing its legitimacy, and engendering near universal support. Whether or not the PSI is formally brought into the UN system, its reach and effectiveness could be improved by eliminating double-standards, increasing transparency and establishing a neutral organization to assess intelligence, co-ordinate and fund activities, and make decisions regarding specific or generic interdictions. Such an organization could provide more objective and legitimate definitions of "states of proliferation concern" and "good cause", help avoid erroneous judgments, resolve disagreements, provide consistency and a concrete structure and budget, and ensure compliance with international law or be a vehicle for any agreed changes.

If PSI effectiveness is not dramatically improved, WMD and related materials will continue to fall into the 'wrong' hands. And it may take only one co-incidence of will, means and opportunity to create a catastrophe.

III. Nautilus Invites Your Responses

The Northeast Asia Peace and Security Network invites your responses to this essay. Please send responses to: napsnet-reply@nautilus.org . Responses will be considered for redistribution to the network only if they include the author's name, affiliation, and explicit consent.

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