



Fact Sheet
Bureau of Nonproliferation
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Proliferation Security Initiative Frequently Asked Questions (FAQ)

[There is an updated version of this fact sheet located at <http://www.state.gov/t/np/rls/fs/46839.htm>, dated May 26, 2005.]

Question: What is the Proliferation Security Initiative (PSI)?

A: The spread of weapons of mass destruction (WMD), their delivery systems, and related materials represents a fundamental threat to global stability, security, and peace. In December 2002, the United States released its "National Strategy To Combat Weapons of Mass Destruction," which called for a comprehensive approach to counter the threat of these weapons getting in the hands of hostile states and terrorists.

In this context, President Bush announced on May 31, 2003, the Proliferation Security Initiative, which is an effort to enhance and expand our efforts to prevent the flow of WMD, their delivery systems, and related materials on the ground, in the air and at sea to and from countries of proliferation concern.

This initiative reflects the need for a more dynamic and active approach to the global proliferation problem. It reflects the reality that proliferators are actively and aggressively seeking WMD using techniques that thwart export controls and enforcement measures.

It envisions partnerships of states working in concert, employing their national capabilities to develop a broad range of legal, diplomatic, economic, military and other tools to interdict shipments of such items.

Question: Who determined the PSI Statement of Interdiction Principles?

A: The Statement of Interdiction Principles (SOP) was agreed among the founding PSI countries on September 4, 2003. We believe the SOP is a straightforward set of principles that countries should support, and in fact, responses worldwide indicate this is the case.

As a practical matter, it would not have been possible to develop the PSI in a way that allowed it to come forward quickly yet still involve all interested states.

While the Principles have been agreed, the PSI is a dynamic initiative. If countries have ideas that are not reflected in the SOP that would contribute to a more robust, effective initiative, we want to hear from them. In that way, the PSI is an initiative open to contributions from all states that want to support interdiction efforts.

Question: How were the founding PSI countries chosen?

A: The original eleven founding states have all demonstrated strong support for nonproliferation; have been involved in efforts to prevent proliferation, including active interdiction efforts; and are located in geographically important locations in relation to proliferation pathways. In order to commence the initiative, meeting with a small group of states proved efficient and productive.

Question: What are the criteria for "joining" the PSI (i.e., can states outside nonproliferation regimes join)?

A: The PSI is not an organization that has "members." It is an activity under which countries around the world will cooperate and coordinate more closely on efforts to prevent shipments of WMD, delivery systems, and related materials.

The U.S. welcomes the support of all states for the PSI, particularly flag, coastal, or transshipment states, or those likely to have suspect flights in their airspace, that may have an especially important role to play in preventing such shipments.

Question: What does the United States want from other countries?

A: The U.S. wants other countries to support PSI and more proactive and deliberate actions to impede and stop shipments of WMD, delivery systems, and related materials going to or from states or non-state actors of proliferation concern.

The U.S. seeks other states' support for the Statement of Interdiction Principles and their thoughts on the contributions they will be able to make, and how they might contribute to further operationalizing the initiative.

If states have the necessary legal authority to take the steps outlined in the SOP, the U.S. hopes that they will agree to support the PSI and cooperate in interdiction efforts. If states do not have all or any of the needed legal authorities, the U.S. hopes that they will take the steps to improve their national legal authority so that they can assist in interdiction activities.

If states have capabilities they can contribute to interdiction efforts, such as operational or Informational assets, the U.S. hopes that they will be willing to use these capabilities in support of PSI efforts.

Ultimately, the United States wants countries to establish the practical basis to cooperate on interdiction efforts. It may well be that a state that indicates interest in the PSI is never asked to help on interdictions, simply because a case requiring that state's help does not arise. However, states should be ready for quick and effective action in the event they can be helpful in preventing a shipment of proliferation concern.

Question: What steps should be taken to express interest in the PSI? Would expression of interest mean an invitation to PSI meetings?

A: Countries that support the PSI and the Statement of Interdiction Principles are encouraged to make that known officially. Countries with the ability to make effective contributions that are interested in participating in PSI activities should also make that known. Since the inception of the initiative, more than 60 nations have indicated their support.

Rather than view PSI meetings as the key, we encourage states to consider PSI as a series of activities, based on concrete and practical cooperation and coordination between and among states.

Question: How should states endorse the PSI Statement of Interdiction Principles (SOP)?

A: The preferred means of conveying explicit support for the PSI SOP is through diplomatic note or another form of official correspondence, accompanied by a public statement of support, if possible. Some foreign officials have first made public or private remarks noting their support for the initiative and SOP, however, these verbal announcements should preferably be followed by written documentation.

Question: What concrete steps can a state take to contribute to the PSI?

A: States are encouraged to:

- Formally commit to and publicly endorse, if possible, 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).

Keeping the above steps in mind, we do not expect every country to contribute at the same level to PSI activities, exercises, or meetings. However, we do expect that states serious about the PSI will undertake a considered evaluation of their capabilities and strengths and offer what they can in support of building the initiative.

Question: Will the PSI affect legitimate dual-use commerce?

A: PSI is not aimed against legitimate commerce, dual-use or otherwise. It seeks to address efforts by states or non-state actors of proliferation concern to ship or receive WMD, delivery systems, or related materials. If we have adequate information that a shipment is destined for an end-use of proliferation concern, we will work to stop that shipment.

PSI does not envision stopping and inspecting every shipment that might involve items that could be used in a proliferation program; rather our intent is to take action based on solid information on shipments that we believe are destined for states or non-state actors of proliferation concern. Legitimate dual use commerce will very rarely be affected by PSI.

Question: What constitutes a "country of concern?" Would failure of a state to join a nonproliferation regime automatically qualify it as a state of concern?

A: Paragraph one of the PSI Statement of Interdiction Principles contains a definition of "states or non-state actors of proliferation concern", which is: "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."

We believe this is as far as it is necessary to go in defining what constitutes a "state of proliferation concern" for PSI.

The basis for considering a state "of proliferation concern" is not whether or not a state has joined or abides by multilateral nonproliferation treaties or regimes.

Question: How does the PSI fit with the Container Security Initiative (CSI)?

A: The PSI and the CSI are complementary, in that both seek to enhance our ability to prevent shipments of problematic cargo. However, the Container Security Initiative is limited to maritime cargoes that are going to be sent to the United States; PSI seeks to address cargoes at sea, in the air, and on land anywhere in the world. CSI is focused on ensuring adequate capabilities exist at major ports to screen cargo containers and ensure they do not contain problematic items. PSI efforts would include action against shipments en route, not only when they might arrive in a port.

Question: How does PSI relate to other "interdiction" efforts, such as counternarcotics?

A: To the extent that efforts in other areas -- such as the prevention of trafficking in narcotics -- have developed procedures that may be useful models for PSI efforts, we are considering how they can be adapted to support our efforts.

Question: What is the relationship between PSI and formal nonproliferation structures (e.g., MTCR, OPCW, NPT)?

A: The PSI is an activity, not an organization. PSI activities will be consistent with domestic and international legal frameworks, many of which, in turn,

implement existing nonproliferation structures.

For example, the PSI will build on existing nonproliferation export control regime efforts to identify and prevent the export of certain commodities to WMD and missile programs of proliferation concern. It seeks to complement and work within the limits of established domestic and international law, including nonproliferation treaties.

Question: How does PSI relate to other nonproliferation treaties or regimes?

A: We have a robust toolbox to prevent proliferation - nonproliferation treaties, multilateral export control regimes, national export controls and enforcement measures.

The PSI will build on these existing tools to prevent the proliferation of WMD, their delivery systems, and related materials. It does not replace other nonproliferation mechanisms, but reinforces and complements, them.

Question: What is the relationship between PSI and International Organizations, such as the UN?

A: The PSI is not envisioned as a formal organization with a budget and headquarters, but rather a collection of interdiction partnerships among interested states taking steps consistent with their respective national legal authorities and international law and frameworks.

While PSI activities may be informed by efforts in other fora, the statement of principles does not establish any mechanism for formal cooperation with the UN or any other multilateral or international bodies.

Notwithstanding, it is noteworthy that the United Nations' High-level Panel in its December 2004 Report to the Secretary General recommended "that all States should be encouraged to join this voluntary initiative" (PSI).

Question: Will there be a formal mechanism for coordination with the UN?

A: PSI activities will be undertaken by states consistent with their national legal authorities and we do not see a need to create any new type of formal mechanism for regular coordination with the United Nations. That said, we believe that it will be useful to keep international bodies such as the UN informed of PSI developments. It is, of course, true that states may report to the UN or other international bodies appropriate information about actions that they take if they believe they should do so.

Question: Is there intent to use UN Security Council resolutions on terrorism as an international legal basis for PSI actions?

A: The PSI SOP states that activities will be undertaken consistent with national legal authorities and relevant international law and frameworks. If an activity is authorized under a UNSC resolution, then it could be cited by a PSI participant as authority for its participation in an interdiction.

Participation in the PSI is voluntary. If a state believes it does not have the legal authorities to act in a specific action, it can decline to participate.

Question: What is the relationship between the PSI SOP and UN Security Council Resolution 1540?

A: UNSCR 1540 and the PSI SOP are mutually reinforcing and are legally and politically compatible.

The April 2004 unanimous passage of UN Security Council Resolution 1540 recognizes the threat to international peace and security posed by the proliferation of Weapons of Mass Destruction (WMD) and outlines concrete actions states can take to counter this threat.

Amongst other steps, operative paragraph 10 of UNSCR 1540 calls upon all states - in accordance with their national legal authorities and legislation and consistent with international law - to take cooperative action to stop, impede, intercept and otherwise prevent the illicit trafficking in these weapons, their means of delivery and related materials.

The Proliferation Security Initiative (PSI) and its Statement of Interdiction Principles (SOP) identifies steps that can produce the kind of cooperation called for in UNSCR 1540. Accordingly, PSI is completely consistent with the UNSC Resolution.

Furthermore, UNSCR 1540's decision under Chapter VII of the UN Charter that all states shall develop effective border, national export, transshipment, end-user and physical protection controls to prevent proliferation is consistent with and, in fact, bolsters the SOP's call for nations to "review and work to strengthen their relevant national legal authorities where necessary ... (and) international law and frameworks in appropriate ways to support these commitments."

Question: Can a party to the NPT (Nuclear or Non-nuclear Weapons State) join in seizing nuclear materials without violating its NPT commitments?

A: Yes, NPT parties can be part of an effort to seize nuclear materials in appropriate circumstances. As part of a PSI action, other partners may be called upon to provide technical, security, or legal assistance in particular cases. Such states would, of course, then need to abide by their obligations under the NPT with respect to disposing or safeguarding of such materials.

Question: What legal authorities exist for interdiction actions?

A: PSI actions will be consistent with existing national legal authorities and international law and frameworks.

There already exists a large body of authority for undertaking interdictions, such as those involving actions by coastal states in their territorial waters, or by flag states against vessels operating on the high seas under their flags. There is of course also authority under international law for states to take actions with respect to their land and airspace.

States also have a range of authorities under their domestic laws that can be used to help achieve the goals of the PSI. In the case of the United States, for example, our export control laws contain "catch all controls" that could provide a basis under U.S. domestic law for the U.S. to detain and prevent

shipments of WMD, delivery systems, and related materials from the United States, if such shipments are destined for end users or end uses of proliferation concern.

Indeed, PSI anticipates a large role for national export control and law enforcement agencies; states' ability to prevent proliferation starts with their national legal authorities and ability to enforce those authorities.

Question: What changes are contemplated to existing law?

A: We are working first to understand the range of international and collective domestic authorities currently available to states for interdiction actions. This will help us better assess what actions might be useful, and how they might be implemented, to support the objectives of the PSI. We are also working to identify actions that can be taken within the structure of existing laws, such as in connection with the boarding agreements we are planning to pursue with flag states that will strengthen the legal basis for acting to stop the flow of WMD-related items as cases arise.

Certain countries, in responding to our approach on PSI, have already made clear that they will be seeking to make changes to their own national legal authorities to allow them to better support PSI efforts. We encourage such actions, and are ready to assist countries to put in place stronger laws in place to support nonproliferation efforts.

Question: Does the initiative alter how participating countries implement international law?

A: PSI actions will be taken consistent with existing international law and frameworks. The PSI statement of principles specifically highlights this point.

Question: What are the full ramifications under international law of air and sea interdictions in international waters and airspace?

A: There are a variety of circumstances under which states may cooperate to prevent transfers, including most notably cases in which a flag state is cooperating in efforts to prevent use of its flag vessels for transfers or enforcing its domestic law in its territory, territorial sea and airspace. The PSI Statement of Interdiction Principles is explicit that PSI activities will be undertaken consistent with national legal authorities and relevant international law and frameworks.

Question: What are modalities and legal ramifications in cases of interdiction of vessels flying "flags of convenience?"

A: PSI actions will be taken consistent with existing national legal authority and international law and frameworks. This includes relevant international legal principles relating to boarding of vessels on the high seas. In the case of interdiction of vessels flying flags of convenience, the consent of the flag state would ordinarily provide a clear basis for a boarding on the high seas under international law.

Question: Which nation leads and/or coordinates a PSI action?

A: Each interdiction case will evolve differently. In general, a country will provide tip-off information about an interdiction that may be needed, and seek help from others in acting to investigate and if warranted stop a shipment. Those states that need to be involved will coordinate among themselves on action needed.

Question: Will there be mechanisms to verify reliability of intelligence used for interdictions?

A: As is currently the case, the United States only pursues interdiction efforts where we believe there is a solid case for doing so. This is a judgement that must be made by senior level leadership in each PSI participant's government.

Question: How will information used be transmitted among PSI participants?

A: Each state that seeks to cooperate with PSI will be asked to identify an appropriate point of contact for sharing of information, in the event a specific interdiction effort requires their active efforts/support.

However, sensitive information on specific interdiction cases will ordinarily be shared only with those states involved in the actual interdiction effort. There is no intent to make such intelligence information available to other PSI countries.

Question: Is there a plan for multilateral intelligence sharing to facilitate PSI efforts?

A: No. We do not envision multilateral sharing of specific intelligence.

Question: Will PSI entail new channels of communication or will existing channels suffice?

A: To the extent that channels of communication exist to pass or receive information, we envision that those channels will continue to be used. Where no effective channels for communication exist, they will need to be established.

Question: What data sharing and data privacy protection will be put in place to coincide with national data privacy laws?

A: The U.S. has not identified any such changes needed under our laws, though each state would, of course, be free to modify its own laws if it thought doing so was necessary.

Question: Will there be regular, organized meetings on PSI to raise policy issues of concern and refine details?

A: The United States does not envision or support regular meetings of PSI participants. That said, it may be useful or necessary to have various PSI participating states meet periodically, at different levels and including regionally, to exchange information or to refine details about the initiative. In addition, the U.S. expects regular meetings of the operational expert group including regional meetings and activities.

Question: What is the definition of "good cause?"

A: In cases involving suspected shipments of WMD-related items to states and non-state actors of proliferation concern, the SOP calls upon states to take action to board their flag vessels or deny transit rights to aircraft over its airspace at the request of other states and with "good cause shown". In responding to such a request, each state will of necessity need to decide for itself whether good cause has been shown; i.e., each state will need to decide for itself whether the information provided by the requesting state warrants acceding to the request.

Question: When and how are operational activities planned for the future?

A: PSI operational activities - including training exercises and relevant workshops - evolve through discussions among respective nations' operational experts. In general, future training events are proposed at periodic Operational Experts meetings, and an exercise schedule promoting maximum, sustained participation is developed on a one-two year horizon.

Question: How will PSI efforts be funded?

A: Each country will be responsible for funding its own efforts in support of the PSI. That said, the U.S. wants to make sure that countries have the capacity to take effective action, and would not rule out the possibility of offering assistance to certain countries to help them develop more effective law enforcement or other such capabilities in support of PSI action - just as the U.S. and other countries are already doing.

Question: Are provisions being made to provide technical assistance to countries that currently lack capabilities to contribute fully to PSI efforts?

A: There are no formal provisions within PSI being made to provide training and assistance to countries in order to improve their capabilities to support PSI actions. That said, we would consider such requests on a bilateral basis in the context of existing assistance and cooperation programs.

Question: What is the status of cargoes following seizure? How will determination on final disposition of seized cargoes be made?

A: Disposition will depend on the precise circumstances of particular cases.

Question: What would be the step by step process of boarding and seizing vessels in international waters? Would flag states be consulted first? Would PSI participants offer blanket allowances boardings?

A: Paragraph 4(c) of the PSI statement of principles specifically contemplates boardings based on consent. Different states could arrange modalities for providing that consent (e.g., on a case-by-case basis, on a blanket basis, or on some other basis) as they best see fit.

As with all PSI actions, ship boardings and seizures would be carried out in accordance with national legal authorities and international law and frameworks.

Question: Would non-PSI countries be subject to boardings and seizures?

A: PSI is not focused on countries but on shipments. Vessels of any state would be boarded only to the extent consistent with international law, e.g., upon gaining the consent of a state to board one of its flag vessels on the high seas. Any case involving a vessel carrying WMD, delivery systems, or related materials to states or non-state actors of proliferation concern could be a potential candidate for our seeking such consent, regardless of whether or not the flag state is a PSI member.

Question: Can interdictions occur on the high seas?

A: Yes. International law recognizes several bases under which PSI activities may be taken against vessels on the high seas. For example, consent of a flag state could provide a clear legal basis to allow the boarding of vessels being used to transport WMD, delivery systems, or related materials to states or non-state actors of proliferation concern.

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