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# China's Position on the Proliferation Security Initiative and Its Reappraisal

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*China did not join the Proliferation Security Initiative due to deep legal and policy considerations. China now has sufficient reasons to reappraise its existing stance in light of the establishment and continuous development of a positive, cooperative and comprehensive Sino-U.S. relationship, institutionalization of the PSI by U.S. President Barack Obama, and new changes in nuclear nonproliferation and disarmament. China's participation in the PSI will be much more useful in enhancing the construction of international nonproliferation systems rather than remaining disengaged. Now it is the time for China to make the political decision and participate in the PSI.*

## Keywords

Proliferation Security Initiative Institutionalization of PSI Positive, Cooperative and Comprehensive Sino-US Relationship Reappraisal

## I. Introduction

The PSI was formally launched by former U.S. President George W. Bush, in Krakow, Poland, on May 31, 2003. After four months, the Proliferation Security Initiative ("PSI") partner countries issued the Statement of Interdiction Principles ("SOP"), the PSI's founding document, aiming at establishing a multilateral cooperative framework for the interdiction of proliferation-related traffic of weapons of mass destruction, their delivery

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systems, and related materials<sup>1</sup> at sea, on land, and in the air, flowing to and from states and non-state actors of proliferation concern. Since its inception, support for the PSI has grown from 11 states initially to more than 90 states, including all G8 and E.U. member states.<sup>2</sup> Unfortunately, some key states, including China, have yet to support the PSI.

What were the reasons China did not endorse the PSI? Should China maintain its current posture or change it in the near future? This Article addresses the legal and policy aspects of these issues in four parts. The first part briefly introduces the PSI. The second part focuses on the legal and policy considerations in China's decision not to participate in the PSI. The third part addresses how President Obama has treated the U.S. government's position on the PSI. The final section details the reasons why China should reappraise its position vis-à-vis the PSI.

## II. China's Position on PSI and Its Reasons

From the beginning, China did not join the PSI. The common argument made by the Chinese Ministry of Foreign Affairs Spokesperson and other high ranking officials is that China did not join the PSI due to concerns of its overreach. The Chinese government worried about possible armed interceptions and, as such, did not join the PSI.<sup>3</sup>

### A. Legal Concerns

Some PSI interdictions do not have sufficient legal bases, especially operations taking place on the high seas. According to the international law of the sea, all ships or aircrafts of all states have freedom of navigation and flight both on and over the high seas. Except flag state vessels, the law does not generally subject a ship to the jurisdiction of any other state.

The SOP does not specify the legal bases for the interdiction of a shipment suspected of proliferation, other than just mentioning actions taken consistent with national legal authorities and relevant international law and frameworks, including the UN Security Council.<sup>4</sup> Former U.S. high ranking officials and commentators usually described the

<sup>1</sup> These are collectively referred to WMD.

<sup>2</sup> Bureau of International Security and Nonproliferation, *PROLIFERATION SECURITY INITIATIVE PARTICIPANTS*, May 27, 2009, available at <http://www.state.gov/t/isn/c27732.htm> (last visited on Jan. 22, 2010).

<sup>3</sup> Foreign Ministry Spokesperson Zhang Qiyue's Press Conference on Oct. 26 2004, available at <http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t167984.htm> (last visited on Oct. 12, 2009).

<sup>4</sup> Bureau of International Security and Nonproliferation, *Statement of Interdiction Principles for the Proliferation Security Initiative*, September 4, 2003, available at <http://www.state.gov/t/isn/c27726.htm> (last visited on Dec. 4, 2009).