

The Proliferation Security Initiative in ASEAN: A Glass Half Full or Half Empty?

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On Nov. 18, 2012, during US President Barack Obama's visit to Thailand, Prime Minister Yingluck Shinawatra announced that her country would join the Proliferation Security Initiative (PSI). Thailand is the fifth of the 10 members of the Association of Southeast Asian Nations (ASEAN) to join the PSI, after Singapore (2004), the Philippines (2005), Brunei Darussalam (2008), and Cambodia (2008); the non-participating countries are Indonesia, Malaysia, Myanmar, Laos, and Vietnam.

It will have taken nearly ten years to convince half of ASEAN's member states to join the PSI. Is the glass half full or half empty?

The PSI emerged in 2003 in response to an incident that exposed serious gaps in the nonproliferation regime. In November 2002, at a US request, Spanish authorities interdicted a Cambodian ship, the *So San*, on its voyage from North Korea to Yemen and discovered Scud missiles and other items hidden under bags of cement. Ultimately, however, the ship was allowed to proceed with its cargo because transshipment of weapons of mass destruction (WMD)-related items was not criminalized under international law, and there were limited legal grounds for seizure.

The *So San* incident set in motion the process that led to the PSI. US officials approached likeminded states to develop a framework for action and President George W. Bush announced the PSI in Poland on May 31, 2003, along with its initial participants: the United States, Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, and the United Kingdom. These states met over several months to determine how the PSI would operate, ultimately publishing a Statement of Interdiction Principles and encouraging other states to participate in the Initiative.

The PSI is a political agreement among states promising to take action, individually or collectively, to interdict WMD shipments over land, in the air, or at sea to and from states and non-state actors of proliferation concern. Because the goal was to react quickly to an urgent problem, its initial participants sought to facilitate interdictions not by creating new laws, but by working through existing domestic and international legal frameworks to enhance intelligence sharing and increase coordination of military and law enforcement assets. That is also why the PSI does not define the "rules of the road" for

interdiction and leaves it up to the participating countries to decide how to do so -- to maximize flexibility.

Many states, notably some prominent members of the Non-Aligned Movement (NAM), were skeptical of the PSI. They were critical of "coalitions of the willing" and its focus on "counterproliferation", seeing them as evidence of the Bush administration's disregard for formal multilateral arms control instruments and preference for military tools to respond to WMD threats. Such misgivings were perhaps understandable: the PSI was promulgated within months of the invasion of Iraq, which was launched without a clear mandate from the United Nations and where the search for WMD came to naught. Furthermore, some legal authorities concluded that the PSI was at odds with the 1982 UN Convention of the Law of the Seas, or UNCLOS.

Over time, however, the PSI has gained traction in the international community. It has been credited with a number of successful interdictions, such as that of the well-publicized *BBC China* in October 2003, a German-owned ship that transported centrifuge parts procured through the A.Q. Khan proliferation network to Libya. It has also led to important international legal developments to facilitate interdictions, and its model has been adopted to craft new initiatives, such as the Global Initiative to Combat Nuclear Terrorism, or GICNT. Significantly, President Obama's intention to make the PSI "a durable international institution" has helped turn it into more of a mainstream policy instrument. The fact that all PSI operations to date have been conducted in accordance with international law has also helped mute criticism of the initiative.

Thus, participation in the PSI has grown from its 11 founding states to 102 today. A number of factors nudged states toward the PSI. In ASEAN, however, the governments that have endorsed it seem to have done so primarily as a concession to the United States: while ASEAN states worry about proliferation and acts of WMD terrorism, they have lower threat perceptions than the United States, which emphasizes nonproliferation, nuclear security, and counterproliferation measures. ASEAN states have more pressing priorities (development and nation-building, notably) and believe that these measures carry considerable costs. But this can be outweighed by a visible US commitment to the bilateral relationship, such as a presidential visit (as in the case of Thailand) or promises for US capacity building: both Brunei and the Philippines have looked at the PSI as an instrument to enhance maritime security, for instance.

In the nonproliferation and nuclear security domains, ASEAN states have made similar concessions to Washington. Although it had been in the works for some time, it is probably not coincidence that Malaysia passed its Strategic Trade Bill (which considerably strengthens export controls of

WMD items) just a few days before the Obama-led April 2010 Nuclear Security Summit in Washington. Similarly, in November 2012, it looked like President Thein Sein of Myanmar felt the need to reward Obama's historic visit to his country by pledging to sign an Additional Protocol (AP) with the International Atomic Energy Agency and allow nuclear inspectors on its territory -- a step that the international community had urged Myanmar to take for years.

All of this might be viewed as successes for US diplomacy in Southeast Asia. The results have thus far been impressive. As long as Thailand, a US treaty ally, remained outside the PSI, Washington's attempts to persuade other ASEAN countries to join the Initiative looked suspect; that obstacle has been eliminated. Likewise, while sharp-eyed legalists note that Malaysia has still not endorsed the PSI, Malaysia's export control laws complicate the transshipment of sensitive dual-use materials to countries of proliferation concern. And if Myanmar's conclusion of an AP materializes, it will go a long way toward addressing concerns over its nuclear activities, including its dealings with North Korea. In sum, these developments suggest that the glass is half full.

Not so fast. Political declarations of intent are one thing, bureaucratic implementation is another. As long as action against WMD threats is seen as a concession to the United States, or as an agenda foisted upon the region by Washington, meaningful steps toward implementation are likely to be few and far between. At the very least, such steps will depend on constant prodding from Washington. Significantly, while implementation of nonproliferation and nuclear security measures is (more) visible and measurable, that is not the case of counterproliferation initiatives like the PSI, which calls for independent, often secretive operations in a non-binding fashion. This means that states can pick and choose when to conduct PSI operations or, worse, they can choose to join the Initiative and then free ride. Proper implementation of the PSI, therefore, requires strong buy-in from regional states. It requires them to see the inherent value of proactively countering WMD threats, and thus must go beyond mere promises of endorsement made in the belief that they will help to bolster their relations with the US or build capacities.

What, then, should be done to promote the PSI in ASEAN? For starters, it would be useful for states other than the United States to advertise its merits so that it is no longer seen as something of interest just to Washington. US Asian allies, notably Australia, Japan, and South Korea, should do more to encourage ASEAN states to endorse the PSI; to avoid being seen as acting on behalf of Washington (as "deputy sheriffs"), they should be engaging ASEAN as a whole, not individual countries. Over the longer term, support and advocacy for the PSI should come from a more diverse range of countries. As much as it might seem farfetched today, efforts to get Chinese, Indian, and even Indonesian endorsements should be redoubled; they would be powerful examples and incentives for other regional states to follow suit.

The promotion of the PSI would also be enhanced if ASEAN officials and security experts pushed harder for its adoption and thorough implementation, both at the national and regional levels. Championing PSI is more likely to

succeed if pressure comes from within, not from outside, ASEAN. This can be encouraged through regional threat assessment studies conducted in partnership with Western states and others to raise awareness not only of WMD threats in ASEAN (a reality often underestimated by regional governments), but also of the PSI's value to address these threats. Such joint studies would help show that *all* states are vulnerable to WMD threats and that it is thus important that they join forces to combat them, notably through the PSI. Significantly, these studies may also help to dispel NAM concerns that the PSI is supposedly (and uselessly) bending, if not breaking, international law.

Although the PSI has gained traction over the past decade, the number of states signing up should not be equated to the number of states convinced of its usefulness. The glass is half empty, not half full. More convincing is needed for the PSI to operate at its fullest. It is an urgent endeavor because proliferation and acts of WMD terrorism are serious threats to peace and security, including in Southeast Asia.

PacNet commentaries and responses represent the views of the respective authors. Alternative viewpoints are always welcomed.