

# Proliferation Security Initiative (PSI): Revisiting the Indonesian Perspective

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## **ABSTRAK**

*Inisiatif Keamanan Proliferasi (PSI) dianggap sebagai salah satu upaya global yang paling agresif dan berdampak di seluruh dunia yang dilakukan untuk menghadang penyebaran bahan dan sistem pengiriman WMD. Meskipun mendapat tekanan berat dari Amerika Serikat terkait dengan upaya global kontra-terorisme maritim dunia dan penyebaran WMD, Indonesia selalu menjaga posisi non-partisipasi terhadap inisiatif tersebut. Artikel ini mengidentifikasi prinsip-prinsip kedaulatan dan lintasan kebijakan luar negeri sebagai salah satu faktor penghalang utama di balik penolakan Indonesia dan mengusulkan evaluasi ulang terhadap inisiatif dan posisi nasional Indonesia.*

**Kata Kunci:** *Indonesia, kontra-terorisme kelautan, Inisiatif keamanan proliferasi, Senjata Pemusnah Masal*

## **ABSTRACT**

The Proliferation Security Initiative (PSI) is regarded as one of the most aggressive and impactful worldwide efforts conducted to contain the spread of WMD materials and delivery system. Despite heavy pressure from the United States and its palpable position on the world's maritime counter-terrorism and WMD effort, Indonesia has always maintained a position of non-participation towards the initiative. This article identified principles of sovereignty and foreign policy trajectory as one of the main hindering factor behind Indonesia's refusal and proposes a re-evaluation towards both the initiative and Indonesia's national position.

**Key words:** *Indonesia, Maritime Counter Terrorism, Proliferation Security Initiative, Weapon Mass Destruction*

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## Introduction

Since its promulgation by US President George W Bush, The Proliferation Security Initiative (PSI) is regarded as one of the most aggressive worldwide efforts conducted to contain the spread of WMD materials and delivery system.

Past experiences, such as the 2002 release of the So San vessel shipping Scud missiles carrying missiles from North Korea becomes one of the underlying reasons for the development of the initiative<sup>2</sup>. Learning from the incident, the US Government sets out interdiction as a critical part of its 2003 National Strategy to Combat WMD, which was released a day before the release of said vessel. The aforementioned National Strategy will then pave its way towards the promulgation of the PSI in May 2003<sup>3</sup>.

Acknowledging the fact that widespread of WMD-related material continues to grow, as evidenced by the nuclear and missile trade by North Korea and the A.Q. Khan network in Pakistan, initiatives such as the PSI is imperative towards the global non-proliferation effort. Observers such as Newman and Williams (2005) argued that the PSI is a response towards the failure of international export control and traditional approaches to prevent proliferation<sup>4</sup>.

Albeit the apparent urgency to establish a cooperation on worldwide interdiction to combat WMD proliferation and CBRN terrorism probabilities, many countries such as China, India and Indonesia, which are vital to the effectiveness and success of the PSI remains outside of the initiative. In the case of Indonesia, which is one of the world leading actors for combatting terrorism and non-proliferation effort, questions arose regarding the legality of interdiction cooperation and the PSI regarded as a US-led unilateral action hampers Jakarta's participation.

This essay first argues that, through analysis of its mechanism and history of interdiction, the Proliferation Security Initiative is one of the most influential and groundbreaking instrument in the current non-proliferation effort. Secondly, this essay argues that Indonesia is an integral part of global maritime security and therefore proliferation-related efforts without Indonesia's participation will be less effective. Lastly, this essay will analyse factors for Indonesia's rejection to join the PSI and provides future outlooks to increase participation of countries in the initiative.

## PSI as an Important Mechanism for Global Counter-Terrorism and Non-Proliferation of WMD Efforts

The PSI at the outset was established as an activity, to gain collective action and avoid bureaucratic impediments that organisations often entails<sup>5</sup>. Rather than

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<sup>2</sup> Su, Jinyuan. (2012). "The Proliferation Security Initiative (PSI) and Interdiction at Sea: A Chinese Perspective", *Ocean Development & International Law*, 43:1, p 103

<sup>3</sup> *Ibid.*

<sup>4</sup> Newman, Andrew and Williams, Brad. (2005). "The Proliferation Security Initiative: The Asia-Pacific Context". *The Nonproliferation Review*. 12:2. P 304

<sup>5</sup> Jr, Charles Wolf; Chow, Brian G; and Jones, Gregory S. (2008) "Enhancement by Enlargement, The Proliferation Security Initiative". RAND Corporation, Pennsylvania, 2008. P 1

being an organisation, PSI is regarded as a "political arrangement" and a "new form of multilateralism" to halt the proliferation of WMD black-market<sup>6</sup>. PSI was established to inhibit and prevent the spread of Weapons of Mass Destruction (WMD), delivery systems, and their interrelated materials to or from States or non-state actors<sup>7</sup>.

Eleven countries, The United States, The United Kingdom, France, Germany, Italy, the Netherlands, Portugal, Spain, Japan and Australia, become the founder of the initiative during its establishment in 2003<sup>8</sup>. At its current stage, PSI has managed to expand its membership to 105 "endorsing states", which included a wide range of participation from countries such as Russia and the Philippines.

### **Mechanism of the Initiative**

Framework and goals of the PSI were proposed by the United States during the meeting of the member countries in Madrid, June 2003. The goals included (1) preventing the import and export of WMD and missile materials (2) hampering activities of aircraft and ships indicated to be involved in WMD and Missile transshipment through the member country's territorial airspace and waters; and (3) conducting joint inspections on the open sea should the situation suggest<sup>9</sup>.

The July 2003 meeting of members in Brisbane marks a milestone for the development of PSI, as it acts as a starting point for the operational phase of the initiative which included activities such as sharing of intelligence, joint training exercises, and cooperative interdictions<sup>10</sup>.

Another significant milestone for the PSI is the promulgation of the "Statement of Interdiction Principles", in September 2003, which sets forth the objectives and working method of the initiative<sup>11</sup>. The document contains languages of ambiguity, such as commitments of member countries to "...working together to stop the flow of these items to and from states and non-state actors of proliferation concern", which leaves the participants to decide on an interdiction situation whether the sender country or non-state actor is "of proliferation concern"<sup>12</sup>.

Newman and Williams (2005) argued that the PSI is technically and politically challenging, as it entails member countries to cooperate on interdiction operations on land, air and sea interdiction<sup>13</sup>. Although in practice, interdiction activities have been largely focused on sea<sup>14</sup>. Within this logic, arguably for the

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<sup>6</sup> Newman, Andrew and Williams, Brad. (2005). *"The Proliferation Security Initiative: The Asia-Pacific Context"*. The Nonproliferation Review. 12:2. P 303

<sup>7</sup> Jr, Charles Wolf; Chow, Brian G; and Jones, Gregory S. *Op. Cit*

<sup>8</sup> Onderco, Michal; Hooft, Paul Van. (2016). *"Why is The Proliferation Security Initiative a Problematic Solution?"*. The Chinese Journal of International Politics. P 82.

<sup>9</sup> Su, Jinyuan. (2012). *"The Proliferation Security Initiative (PSI) and Interdiction at Sea: A Chinese Perspective"*, Ocean Development & International Law, 43:1, p 101

<sup>10</sup> *Ibid*, p 96

<sup>11</sup> Winner, Andrew C. (2005), *"The Proliferation Security Initiative: The New Face of Interdiction."* The Washington Quarterly, 28:2, p 129.

<sup>12</sup> *Ibid*. p 133

<sup>13</sup> Newman, Andrew and Williams, Brad. (2005). *Op. Cit*. P 305

<sup>14</sup> Su, Jinyuan. (2012). *Op.Cit*. p 97

initiative to be practically beneficial, enlargement is crucial, and non-participation will impair the general capability of the initiative to conduct interdiction cooperation.

First, through intelligence sharing and cooperation in interdiction, a member country enjoys the ability for inspection beyond their capability of reach<sup>15</sup>. PSI also helps member countries to increase their interdiction capability through the convening of regular exercises. Secondly, as Jr Chow and Jones (2008) argued, affiliation with PSI will bring positive effect on the overall strategic relations with other member countries of the PSI<sup>16</sup>.

Lastly, the participation of PSI also benefits member countries in their improvement of import and export controls, as it includes the convening of workshops, training and technical assistance on non-proliferation related materials<sup>17</sup>.

### **Practicality of the PSI throughout the History of Interdiction**

Since its promulgation, the PSI has had numerous significant successes, albeit under-publicized. According to John Bolton, the minimum level of publicity is a deliberate strategy, as overexposure will have an effect towards the success of PSI interdiction operations<sup>18</sup>. To that extent, many critics mentioned the difficulties of measuring PSI's success.

One of the most notable success stories of the PSI is the interdiction of the North Korean vessel Pegaebong in Taiwan's Kaohsiun Harbor in August 2003. The interdiction operation resulted in the confiscation 158 barrels of phosphorous Penta sulphide, which is one of the most important ingredients in the manufacture of rocket fuel<sup>19</sup>.

Another notable interdiction success which is arguably under the auspices of PSI is the 2009 seize of arms and sophisticated missiles from North Korea in Bangkok, Thailand. The cargo mentioned above is said to possibly be aimed for use by Hamas and Hezbollah on their operations in the Middle East<sup>20</sup>.

### **Indonesia and Its Importance for Global Maritime Counter-Terrorism WMD Effort**

Indonesia has a very central role in the global maritime security environment. The fact that the Strait of Malacca, Strait of Lombok and Strait of Sunda are

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<sup>15</sup> Jr, Charles Wolf; Chow, Brian G; and Jones, Gregory S. (2008). *Enhancement by Enlargement, The Proliferation Security Initiative*". RAND Corporation, Pennsylvania. P 27

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.* P 28

<sup>18</sup> As quoted in Newman, Andrew and Williams, Brad. (2005).

<sup>19</sup> *Ibid.* P 306

<sup>20</sup> The New York Times (2009), *"Officials Seek Destination of North Korean Arms"*. Accessed at <http://www.nytimes.com/2009/12/14/world/asia/14thai.html>

parts of the world's major important trading routes implies Indonesia's responsibility on the global maritime security agenda<sup>21</sup>.

Indonesia has been a strong supporter of worldwide effort to combat terrorism and proliferation of WMD. Indonesia views terrorism as one of its top priority and national interests, as it has experienced numerous chapters of sectarian violence and copious terrorist attacks which have resulted in heavy casualties of both domestic and international citizens on Indonesia's soil<sup>22</sup>.

Regarding global non-proliferation of WMD, Indonesia is a signatory party to the UNSCR 1540 and numerous other international treaties and agreements concerning non-proliferation. As the leading country in ASEAN, Indonesia also actively promote nonproliferation and disarmament issues in Southeast Asia, negotiated heavily on the acceptance of the Bangkok Treaty by the NPT-recognized nuclear weapon states<sup>23</sup>. Consequently, Indonesia is also the strongest proponent for the Southeast Asia Nuclear-Weapon-Free Zone (SEANWFZ).

Judging by Indonesia's geographical position, high risk of terrorism activities and active participation in the global non-proliferation effort, Indonesia's involvement in the initiative of WMD interdiction initiatives is an important factor to be considered for PSI's success.

### **Reassessing Indonesia's Non-Participation of PSI**

Despite heavy pressure from the United States to join the PSI, Indonesia has retained a consistent position of non-participation. Diplomatic persuasion has been conducted by the US to persuade Indonesia's participation in the PSI, which included an explicit agenda of PSI during the direct visit by Secretary of State Condoleezza Rice to Jakarta in 2006 to negotiate with Indonesia for joining the initiative<sup>24</sup>. Indonesian Foreign Minister Hassan Wirajuda rejected the invitation and mentioned that adhering to such initiative will endanger Indonesia's sovereignty and questions the US's domination of the initiative<sup>25</sup>.

Jr, Chow, and Jones (2008) conducted an implicit calculus of costs and benefits of five non-participating countries of the PSI<sup>26</sup>. On their assessment of Indonesia's non-participatory of the PSI, they first argued that Indonesia's sensitivity towards sovereignty issues and a misunderstanding of PSI's principles and obligations became one of the main impediments to Indonesia's participation<sup>27</sup>.

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<sup>21</sup> Febrica, Senia (2017). *"Maritime Security and Indonesia: Cooperation, Interests and Strategies"*. Routledge: New York. P 5

<sup>22</sup> Gindarsah, Iis, Priamarizki, Adhi (2015). *"Indonesia's Maritime Doctrine and Security Concerns"*. RSIS: Singapore. P 10

<sup>23</sup> Newman, Andrew and Williams, Brad. (2005). Op.Cit p 313

<sup>24</sup> Febrica, Senia. *"Why Cooperate? Indonesia and Anti-Maritime Terrorism Cooperation"*. Asian Politics & Policy- Volume 7, Number 1- Pages 105-130.

<sup>25</sup> Antara News. (2006). "Menlu Tolak Ajakan AS Bergabung dalam PSI" (In Bahasa Indonesia). accessed at <http://www.antaraneews.com/berita/30094/menlu-tolak-ajakan-as-bergabung-dalam-psi>

<sup>26</sup> Jr, Charles Wolf; Chow, Brian G; and Jones, Gregory S. (2008). *"Enhancement by Enlargement, The Proliferation Security Initiative"*. RAND Corporation, Pennsylvania, P 8

<sup>27</sup> *Ibid.*

Secondly, Jr, Chow, and Jones (2008) also argued that Indonesia's independent foreign policy principles which profess nonalignment with any world power deny its possible link of attribution should it agrees to join the PSI<sup>28</sup>. They further suggest that a misunderstanding on Indonesia's behalf of PSI's purpose and scope, as both France and Russia, which is widely regarded as two actively assertive independence players in the global arena, are participating members of PSI<sup>29</sup>.

As confirmed by officials from the Ministry of Foreign Affairs of Indonesia, the two underlying problems iterated by Jr, Chow and Jones is indeed what has and still is hampering Indonesia's participation of PSI to date<sup>30</sup>.

### **Sovereignty Problem and PSI**

As mentioned by The Stockholm International Peace Research Institute (SIPRI) (2007), Indonesia is concerned over the PSI's complication towards the maritime routes and sovereignty claims to its maritime territorial integrity<sup>31</sup>. As mentioned earlier, Indonesia is also critical of PSI's adherence towards international law such as the United Nations Convention on the Law of the Sea (UNCLOS). Similar concern over PSI's infringement of the right of innocence passage also was voiced by China, which also holds a non-participatory position on PSI<sup>32</sup>.

To add to Indonesia's point of concern, the interdiction and boarding of a foreign-flagged vessel may entail the risk of a claim for compensation and political costs to member countries such the suspicions prove to be a fault, and no proliferation related materials are discovered<sup>33</sup>.

Nevertheless, the key passage of PSI's "Statement of Interdiction Principles" highlighted that participants of the initiative should adhere towards the "national legal authorities and relevant international law and frameworks, including the UN Security Council", which stands in contrast towards arguments contradicting PSI's legality<sup>34</sup>. The US has also maintained that the principles are consistent with the UN Security Resolution 1540, operative paragraph 10 which highlighted the call to nations to "prevent illicit trafficking" of CBRN material<sup>35</sup>.

Indonesia's concern over PSI's adherence to UNCLOS also needs to be reconsidered, as Article 110 of the Law of The Sea (LOS) Convention stipulated that boarding inspection which relies on the right of the visit can be conducted should it be relied on "reasonable grounds". Acknowledging this reality, intelligence sharing is crucial to justify a rightful boarding inspection which is based on credible and comprehensive information gained from numerous sources. In this sense, for the PSI to be successful and encapsulate a broad

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<sup>28</sup> *Ibid.* P 10

<sup>29</sup> *Ibid.*

<sup>30</sup> As confirmed by communication conducted with an official of the Ministry of Foreign Affairs of Indonesia by the author, 20<sup>th</sup> of March 2017.

<sup>31</sup> SIPRI (2007), "SIPRI Yearbook 2007: Armaments, Disarmament and International Security". Oxford University Press, Oxford. P 650

<sup>32</sup> Jr, Charles Wolf; Chow, Brian G; and Jones, Gregory S. (2008). *Ibid.* P 20

<sup>33</sup> Su, Jinyuan. (2012). *Ibid.*

<sup>34</sup> Winner, Andrew C. (2005). P 133

<sup>35</sup> Yann-Huei Song (2007). "The U.S.-Led Proliferation Security Initiative and UNCLOS: Legality, Implementation, and an Assessment, *Ocean Development & International Law*", 38:1-2, p 113

reach of the geographic area to counter proliferation, the participation of Indonesia as it is strategically located geographically, is crucial.

Concomitantly, Yann (2007) argued that three determining factors are crucial in determining whether an interdiction operation under the PSI adheres to the UNCLOS, which are (1) the nature of the cargo; (2) the location of the interception, and (3) the nationality of the intercepted vessel<sup>36</sup>. In this sense, classification of adherence towards UNCLOS will be determined on a case-to-case basis of interdiction.

Another determining factor of PSI's adherence towards UNCLOS is the fact that the United States, a leading actor in the initiative has yet to ratify UNCLOS and in doing so is not a party to the Convention<sup>37</sup>. Albeit the fact that in practical, principal provisions of UNCLOS is already considered part of the customary international law, US's non-ratification of UNCLOS is a point of legality question and is hampering PSI's member enlargement. Arguably, US's ratification of UNCLOS will increase the possibility and assurance for countries with sovereignty sensitivity, such as Indonesia, to join the initiative.

### **Indonesia's Independent Foreign Policy and PSI**

As quoted by Newman and Williams (2005), Imron Cottan, Indonesia's prominent diplomat mentioned that Indonesia's non-participation of the PSI is largely based on a perception that the initiative is a US-led regime that does not necessarily adheres towards the international norms<sup>38</sup>. Imron Cotan also mentioned the possibility of an Indonesian participation in the PSI, with the pre-condition that the United Nation (UN) assumes control of the initiative<sup>39</sup>.

Indonesia's argument of the PSI being a unilateral initiative largely dominated by the United States arguably needs to be reassessed. With its current enlargement of 105 participants, only one-third belongs under the auspices of the US nuclear umbrella and is a member of the US alliance system<sup>40</sup>. The participation of countries which has been highly critical of US unilateralism on its history and future predicaments, such as France and most notably Russia, further highlighted the need for a better look at its member's configuration and intent.

Indonesia's concern over the PSI's unilateralist probability of exercising interdictions should be more addressed towards the informality of such initiative. Critics of the initiatives, such as what has been argued by Onderco and Hooft (2016) underlines the risk of the PSI underestimating the long-term legitimacy of a more established and formalised non-proliferation efforts<sup>41</sup>. They further argued that PSI is one of the examples of increasing in formalisation which contradicts the legalisation of world politics<sup>42</sup>.

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<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

<sup>38</sup> Newman, Andrew and Williams, Brad. (2005). Op.Cit p 313

<sup>39</sup> *Ibid.*

<sup>40</sup> Onderco, Michal; Hooft, Paul Van. (2016). *Ibid*

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

The need to formulate the initiative into a more formalised institution is imperative to attract and gain participation from countries with middle or lesser power. Countries such as Indonesia, a growing middle power with high interest in countering terrorism and is crucial towards non-proliferation effort in the Asia Pacific region, arguably will be more attracted towards a formalised initiative. Onderco and Hooft (2016) supports this notion, which underlines that formal institutions mitigates uncertainty and regularise power, therefore allowing the middle to lesser power more voice and leverage vis-à-vis established powers in the group<sup>43</sup>. The possibility of establishing PSI as a more formal institution under the auspices of the UN has been mentioned by high-ranking officials in the UN structure<sup>44</sup>. Nevertheless, member countries, including the US, are reluctant on over institutionalizing the PSI<sup>45</sup>.

## Conclusion

This essay argued that, AS has been evidenced by analysis of its mechanism and practicality, PSI is an important part of the current global combat against terrorism and the spread of WMD. The fact that Indonesia, an important actor due to its geographical location and its role in combatting terrorism and non-proliferation, is a non-member of the initiative is both endangering and hampering the PSI's future success.

Due to PSI's evolution in membership and mechanism, Indonesia's criticism towards PSI's adherence of international law and unilateralism of the initiative needs to be reevaluated. Nevertheless, to guarantee further participation of countries, member countries of the PSI will have to ensure its comprehensive ratification towards UNCLOS and an outlook to a more formalised format of the initiative.

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<sup>43</sup> *Ibid.*

<sup>44</sup> Newman, Andrew and Williams, Brad. (2005). *Ibid.*

<sup>45</sup> *Ibid.*



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