



**COUNCIL OF THE
EUROPEAN UNION**

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Keynote Speech
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Proliferation Security Initiative (PSI)

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***Check against delivery.
Seul le texte délivré fait foi.
Es gilt das gesprochene Wort.***

Excellencies, Ladies and Gentlemen,

On behalf of the European Union, I would like to thank the Government of Poland for organizing this regional PSI meeting and inviting me to give this key note speech. We welcome that our focus in Sopot will be Europe and the contribution that the European Union can make to PSI. We have a lot to offer to PSI operationally.

This meeting is very timely, only two months after US President Obama announced its intention to strengthen PSI. Now is the time to think ahead strategically and to reflect on the best way forward for PSI.

After some more general remarks about the **strategic context** for the EU, I will focus on what the EU can bring to the table. The EU is not yet an official participant in PSI. But the EU has since long time recognized the importance of PSI. The EU Council has endorsed PSI principles and objectives in 2004 and later in 2008 has identified EU participation in PSI as one of our key objectives.

The EU therefore would like to be full participant. My task, and that of my colleagues in the Working Groups, will be to show you why the EU full participation would be good for PSI.

Strategic context - ESS, WMD Strategy

Both adopted in 2003, the **European Security Strategy** and the **EU Weapons of Mass Destruction Strategy** set the strategic context for our policy against proliferation. Proliferation is among the five key threats we face, together with terrorism, regional conflicts, state failure and organized crime. We want to prevent both development by states of WMD programmes and access by terrorists to WMD and means of delivery materials and know how.

The main guidelines set in our strategies for our action are effective multilateralism, international cooperation and prevention. Why ? Because we believe that the non-proliferation system can only be effective if we build a wide consensus around a set of common rules and we convince all countries, including developing countries, that it is our common interest to apply these rules in the most efficient manner.

What does the EU do in practice to prevent proliferation?

Non-proliferation is a key foreign and security policy issue. But non-proliferation implies a number of actions cutting across a broad range of fields, for example export controls, physical protection, border monitoring, visas, financial supervision, university cooperation. This is why, already in 2003, we launched a review process of the implementation of our export-controls in all 27 Member States and also why EU Foreign Ministers adopted in December 2008 the "**New lines for action by the European Union in combating the proliferation of weapons of mass destruction and their delivery systems**". This document foresees concrete action within our 27 member States in exactly those cross-cutting areas, some of which I just mentioned and which are very relevant to PSI. The EU wants to improve its performance in all these areas. By the way, our participation in this very meeting is also clearly mentioned in this Council document, the objective being to assess the possible official EU involvement in PSI.

Transfer of powers from Member States to the EU: reason for particular relevance of EU in PSI

Before entering into specifics on our actions, let me indicate one fundamental reason why the EU is not just another international organization: The individual EU Member States have transferred important powers and therefore parts of their sovereignty to the EU. It means that, in these areas, they cannot act alone and on their own initiative anymore. They cannot deliver individually on issues of common EU policy. This applies to EU legislation in areas relevant to PSI such as customs, transport, internal market, proliferation finance, dual use export controls. Once European legislation is adopted in Brussels, it is binding to all 27 Member States and its implementation is subject to verification, and even judicial review.

In other cases, where Member States have not transferred their competences, they have nevertheless an obligation to coordinate and, when a "Common Position" is adopted in Brussels, its provisions are legally binding to all 27 Member States.

I am not aware of any other international organization having such powers. Since the EU plays a key role in many areas which are at stake in PSI, our Member States have called for participation of the EU in PSI in its own right. The EU is already observer in the Global Initiative to Combat Nuclear Terrorism, but we believe that the unique role the EU can play should be fully recognised in both.

For those who may wonder what a direct involvement of the EU could mean in terms of organization of PSI meetings, I would like to reassure them. There would be one single delegation of the European Union, which would include both Commission and Council Secretariat, or the External Action Service if the Lisbon Treaty enters into force.

This delegation would not replace delegations of EU Member States, since interdiction activities are to be carried out by their national authorities. On the contrary, the EU participation would allow both to provide input and to receive early information on elements on which EU institutions will inevitably have to work in order for Member States to have the appropriate legal basis to act and, even more, to have a uniform legal basis ensuring a high level of performance throughout the 27 EU Member States.

Relevance of ongoing and future EU activities in relation to the PSI Principles

I would now like to give some concrete examples of EU activities relevant for PSI. To that end, I will briefly describe EU activities in relation with PSI principles. Some of my examples may fall under several principles at the same time.

Principle 1: *Interdiction to transfer or transport WMD including their delivery systems and related materials to and from states and non-state actors of proliferation concern and*

Principle 3: *Strengthening the national and international legal frameworks*

Perhaps one of our best examples of legal basis / legal framework falling under these principles is the EU legislation concerning trade and export of dual use items, our customs legislation and EU rules on aviation security:

We all agree that cargoes affected by interdiction principles very often concern **dual-use items and technology**. The legal basis for trade and export controls of such items has been created within the EU in the so called "Dual Use Regulation" adopted in 2000. This regulation applies directly to all 27 member States which means that it constitutes the uniform basis for what our Member States will do. The EU regulation brings together the control lists of the relevant export control regimes. It also includes a "**Watchlist**" of items and technology, which although not included in export control regimes lists, warrant in EU's view special vigilance.

It is important to know that the dual use regulation was updated and improved in May 2009. Following our peer-review process and in line with UNSCR 1540, the new regulation provides a legal basis for enhanced information exchange between Member States and for the setting up of an online system for sharing denials. It also provides a legal basis for Member States to prohibit transit of non-Community dual use items in the case of serious risk of diversion to a WMD programme, and for controls on brokering of dual use items. It includes an updated version of the EU control list, which takes into account the latest changes agreed in the export control regimes.

I understand that one of the lessons learned from the discussion of the PSI Legal and Enforcement Group was related to control of brokering and transit of dual-use items. You already have here clear evidence that there are areas where conclusions reached in the context of PSI works can only be translated within the EU by EU institutions.

The common EU customs legislation sets out rules on the entry, exit, transit and end-use of goods. It includes customs control and verification of cargoes. Enforcement activities cover: confiscation and sale, or even destruction of cargoes. Recently, stricter controls on suspicious cargoes were introduced. Customs regulations are regularly reviewed at the EU level.

Finally, I would like to mention the existence of common minimum EU rules on civil aviation security, directly applicable in EU Member States. They include control and monitoring of cargoes. EU authorities inspect the airports, operators and entities to ensure that aviation standards contained in the EU regulation are being applied. These inspections are an opportunity for identifying weak points in aviation security. It is the European Commission that puts proposals on the table to upgrade security controls, screening, special security procedures. My colleagues from the Commission will give you further information on these issues.

I have already spoken of our general legal framework for interdiction. I would now like to mention another important case of international activities: UN Security Council Resolutions, e.g. in the case of Iran or DPRK. When it comes to the effective implementation of such resolutions, the EU has a key role.

When sanctions resolutions include areas of community competence, such as the transfer of dual use goods or freezing of assets or other financial services, Member States cannot implement the resolution without Community legislation. Even regarding the aspects outside of Community competence, we adopt so-called Common Positions which are legal instruments and provide a common understanding within the EU of how to implement the sanctions and interdiction requirements. Experience proves that the modalities in our Common Positions are often more precise and stricter than the initial UNSC resolutions.

The EU can also adopt “autonomous” EU sanctions against WMD proliferators which go clearly beyond the scope foreseen in UN Resolutions.

We have been working actively on EU legislation allowing for an effective and thorough implementation of UNSCRs 1718, 1737, 1747, 1803 in relation to Iran and DPRK. In particular, our autonomous sanctions against Iran (eg. hitting the financial sector) were considered to be particularly efficient. As far as DPRK is concerned, we are now developing the first drafts for EU legislation in Brussels to implement the most recent UNSCR 1874.

Principle 2: Streamlined procedures for rapid exchange of relevant information, dedicate appropriate resources and efforts to interdiction operations and capabilities, and maximize coordination

The EU agrees that effective action against WMD proliferation needs good intelligence and sharing of information, appropriate capacity-building and good coordination. Here are some examples:

While the intelligence gathering remains in the hands of individual Member States, the EU Situation Centre (SITCEN) allows to produce joint intelligence assessments (with input from Member States) related to WMD proliferation networks and to their operation, to identify companies and countries of proliferation concern at the EU level, etc. This is an additional source of information for Member States. The SITCEN will make a presentation in the intelligence working group. The SITCEN could very usefully participate in the

exchanges of intelligence working group. It could bring there its joint European assessments and could take account of information from other participants in the preparation of its reports.

The European Agency for the Management of Operational Cooperation at the External borders (Frontex) coordinates management of external borders, is engaged in capacity building, assists in the training of national border guards, establishes training standards, and follows-up the research relevant for border control and surveillance.

A number of operational tools have been developed at the EU level, mostly through the Joint Research Centre. They improve surveillance of maritime traffic, the monitoring of container movement, screening of containers. For example, a joint electronic capability helps to identify suspicious containers to national law-enforcement agencies so that they can be checked. About 1/3 of suspicious cargoes identified by this system were confirmed as illegal shipments.

Principle 4: Specific interdiction efforts

I already mentioned the New Lines for Action adopted in December 2009, in which the EU committed to work on the internal front and strengthen its external borders against the threat of Chemical, Biological, Radiological and Nuclear trafficking. In this context, we will strengthen systems for intercepting proliferation flows. EU Member States are encouraged to carry out random checks with the help of risk criteria. They will also increase exchanges of information on entities suspected of trafficking.

Between 2009 and 2010, all EU Member States should ratify the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. Once the Protocol is ratified by all Member States, we will be in a position to create a mechanism whereby EU Member States could, as far as compatible with national legislation, give prior mutual consent to the boarding on the high sea of suspicious vessels flying their flag.

The European Maritime Safety Agency carries out since 2004 some inspection tasks related to EU regulation on enhancing ship and port security.

International cooperation and assistance to third countries

We also try to develop cooperation with all our partners. At the political level, we have included WMD clauses into agreements with more than 100 countries. More importantly, we recognise that because of their technical complexity, non-proliferation provisions are very difficult to implement. Some countries may require assistance. The EU provides legal and technical assistance, training and necessary equipment. We act both in the context of our Common Foreign and Security Policy, through Joint Actions or Council Decisions, and through Community instruments (for instance instruments for stability), on nuclear, chemical and biological proliferation and in support of UNSCR 1540. The EU is the major donor to the IAEA nuclear security fund. We are active for example in physical protection, export controls, fight against illicit trafficking, including proliferation finance, border monitoring and customs controls, hence, in areas relevant to PSI. The EU is working not only with its close neighbourhood, but also with other regions, such as Middle East, South and South East Asia, Northern Africa.

Conclusion

The EU will share its experience with PSI partners and will listen with great interest to ideas presented within PSI which may have implications for future activities within the EU. We look forward to learning from the other PSI participants. In the working groups, colleagues from EU institutions will further illustrate the concrete actions that the EU is taking against proliferation. I think that the added value of the EU in PSI will become clear. If the EU is not actively involved, we may be missing an important opportunity to discuss at an early stage concrete action on this continent.

I hope that I have been able to raise some interest for the EU presentations which will follow in the working groups. The EU develops and adapts its institutions and instruments to evolving situations. PSI is, by definition, a response to evolving situations and we both aim at preventing and countering proliferation. Let's move forward together.
