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**INTELLIGENCE SHARING IN
COUNTERPROLIFERATION**

by

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INTELLIGENCE SHARING IN COUNTERPROLIFERATION

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ABSTRACT

Determining the role information sharing should play in operations has plagued policymakers since the United States' days of isolationism. Such sharing has the potential to either help or hinder any type of operation. This thesis looks at that role specifically with regards to counterproliferation operations. The purpose is to determine if we can prevent the spread of Weapons of Mass Destruction (WMD) material and related technology by improving working relationships with allies via intelligence sharing. Moreover, if increasing intelligence sharing creates a more effective collective security action, then why is the United States very selective with whom and what it shares? Specifically, what are the risks and how do we minimize them? This thesis looks at three distinct cases where intelligence sharing has either helped or hindered counterproliferation operations in order to determine the relationship between the level and nature of sharing and the probability of success. The premise of this thesis is that increased information sharing among allies causes more effective security cooperation and is therefore necessary for combating the spread of WMD. Therefore, identifying and overcoming challenges that information sharing is imperative in preventing the spread of WMD.

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LIST OF ACRONYMS AND ABBREVIATIONS

BKA	Bundeskriminalamt
BND	German Federal Intelligence Service
CoABS	Control of Agent-Based Systems
CSI	Container Security Initiative
CRS	Congressional Review Service
CIA	Central Intelligence Agency
DCI	Director of Central intelligence
DIA	Defense Intelligence Agency
DI	Directorate of Intelligence
DO	Directorate of Operations
DOD	Department of Defense
DOE	Department of Energy
DPRK	Democratic People's Republic of Korea
FOB	Forward Operational Bases
FOUO	For Official Use Only
FY	Fiscal Year
HUMINT	Human Intelligence
IAEA	International Atomic Energy Association
IAU	Information Assessment Unit
ISG	Iraq Survey Group
JIC	British Joint Intelligence Committee
LAN	Local Area Network
MASINT	Measurement and Signature Intelligence
MOU	Memorandum of Understanding
MTCR	Missile Technology Control Regime
MVACIS	Mobile Vehicle and Cargo Inspection System
NATO	North Atlantic Treaty Organization
NGO	Non-Government Organization
NSA	National Security Affairs
NOFORN	No Foreign Access

ODNI	Office of the Director of National Intelligence
PSI	Proliferation Security Initiative
PRC	People’s Republic of China
PACFLT	U.S. Navy’s Pacific Fleet
ROK	Republic of Korea
SBU	Sensitive But Unclassified
SCOPE	Scomi Precision Engineering
SKI	Shared Knowledge Initiative”
SIGINT	Signal Intelligence
SIPRNET	Secured Internet
SOF	Special Operations Forces
SSCI	Senate Select Committee on Intelligence
TREVI	Terrorism, Radicalisme, Extremisme et Violence Internationale
UN	United Nations
UNCLOS	UN Convention on the Law of the Sea
UNMOVIC	UN Monitoring, Verification, and Inspection Commission
UNSCOM	UN Special Commission
UNSCR	UN Security Council Resolution
U.S.	United States
USA PATRIOT Act	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act
WMD	Weapons of Mass Destruction

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I. INTRODUCTION

A. IMPORTANCE OF INTELLIGENCE SHARING WITH ALLIES

Information has played an integral role in the evolution of society since the beginning of time. It could also lead to its ultimate destruction if not properly managed. By sharing information with other nation-states, the United States fosters the growth of security management institutions and alliances, which ultimately leads to an increase in our own national security. Conversely, if we share information, albeit with benign intentions, to those who do not share the same interests as the United States, then the information shared could be used against the United States or its allies.

The purpose of this thesis is to show how information sharing impacts counterproliferation efforts and make recommendations on how to increase the amount of information shared among allies while minimizing the associated risks. Specifically, this thesis will attempt to address the question: can we prevent the spread of Weapons of Mass Destruction (WMD) material and related technology by improving working relationships with allies via sharing intelligence? Does increasing information sharing lead to a more effective collective security action? The initial hypothesis of this thesis is that increased information sharing among allies causes more effective security cooperation and is therefore necessary for combating the spread of WMD. Although cultural differences and technical obstacles restrict the amount of information shared, these issues can be overcome in order to improve global security. More importantly, overcoming these challenges is imperative in preventing the spread of WMD.

At the outset, a point of clarification must be made. This thesis uses the word *information* synonymously with the word *intelligence* even though there is considerable difference in definition. In particular, information, in its simplest form, is nothing more than data that is eventually processed into knowledge. It is what “we know”. Yet, knowing doesn’t always equate to intelligence. Intelligence is the collection of multiple sources of information that may allow a person to predict an action or formulate

possibilities that may reduce uncertainty and assist in a course of action. Therefore, “all intelligence is information; not all information is intelligence.”¹ Information, not necessarily intelligence, is shared all the time. The U.S. military openly shares training procedures with civil authorities as well as foreign militaries. Furthermore, scientists openly share certain advances in medicine, robotics, and other means of research. Intelligence, however, is not easily shared. The military does not routinely offer signal intelligence capabilities to foreign partners. Similarly, politicians do not normally share sources and methods of intelligence collection such as the location and names of CIA operatives with other states. Given these facts, it is not simply information but “intelligence information” sharing which affects security.

The United States must work with allies and share resources, such as information, in order to maintain and possibly increase global security. Information is “a critical power resource”² that gives whoever controls it the ability to wage and win wars, avoid war altogether, or control the stream of criminal activities. In particular, sharing intelligence increases the ability of allies to avoid war by providing warning signs or indicators of potential future conflict. Intelligence sharing also supports the prevention of criminal activities and, most notably, the spread of weapons of mass destruction.

For example, in June 1976 an organization known as the Terrorism, Radicalisme, Extremisme et Violence Internationale (TREVI) was formed within Europe as a means to facilitate the sharing of information. It served those within the European Community for a substantial period and helped facilitate the creation of the European Union.³ Similarly, a September 1997 agreement between the United States and Germany has aided in the prevention of several crimes and the capture of numerous criminals. This agreement allowed for the German criminal unit or Bundeskriminalamt (BKA) to connect with a

¹ Mark M. Lowenthal, *Intelligence: From Secrets to Policy* (Washington, DC: CQ Press, 2003), 2.

² Joseph S. Nye Jr., *Power in the Globalization Information Age: From Realism to Globalization* (New York, N.Y., Routledge, 2004), 75.

³ Dieter Mahncke, Wyn Rees, and Wayne C. Thompson, *Redefining transatlantic security relations: The Challenge of Change* (Manchester and New York: Manchester University Press, 2004), 165–166.

U.S. criminal database in order to view files on any known criminal suspect.⁴ In this case, the bilateral agreement's success rested on information sharing.

Likewise, since the end of the Cold War the United States and its allies have been facing the threat of the spread of WMD technology and related material. Various treaties, initiatives, and organizations have been formed to prevent the shipment of these materials. The most recent counterproliferation efforts, such as the Proliferation Security Initiative (PSI), also rely heavily on intelligence sharing in order to be successful. Notably, it has been stated that an institution such as the International Atomic Energy Association "would be quickly overwhelmed if it tried on its own to track all the potential traffic...that might, or might not, be used to make nuclear components."⁵ Thus, the United States must increase the amount and quality of intelligence shared if it wants to increase the effectiveness of multinational counterproliferation operations.

In order to investigate the hypothesis that intelligence sharing does play a role in security cooperation, this thesis asks the question does sharing intelligence actually have any effect on counterproliferation operations? The cases selected for this thesis will look at the legal, political, and intelligence sharing challenges encountered during their specific counterproliferation activity and focus on the impacts these challenges had on the case outcome. In particular, these cases will be used to assess the hypothesis that intelligence sharing has a substantial impact on counterproliferation operations.

B. LITERATURE REVIEW

Theorists often view intelligence sharing as an intervening and not a direct causal variable when it comes to maintaining security relations. Therefore, the literature reviewed for this thesis begins with a discussion of research on security cooperation in general but then turns to research on how intelligence sharing impacts security as well as

⁴ Mahncke et al., 193.

⁵ Mark Hosenball and Christopher Dickey. "Risky Business; Pyongyang Isn't about to Give Up its Weapons. The Challenge Now is to Find More Effective Ways to Uncover and Squeeze the Illicit Trade in Nuclear Technology." *Newsweek*, October 30, 2006
<http://proquest.umi.com/pqdweb?did=1150858271&Fmt=7&clientId=65345&RQT=309&VName=PQD>
(accessed March 2007).

the associated risks and benefits. For example, according to Helga Haftendorn, Robert Keohane, and Celeste Wallander's *Imperfect Unions: Security Institutions over Time and Space*, institutions are created in order to reduce or eliminate threats, risks, and/or uncertainty of others' intentions.⁶ These institutions mitigate uncertainties by making intentions clear and governance transparent. It is because of this that, according to Haftendorn, "information becomes an instrument of security policy whether a state wishes to avoid conflict or to exercise influence over the behavior of others."⁷

Similar to Haftendorn et al.'s argument is Janne E. Nolan's argument that government transparency and reciprocity are two key elements of successful security management institutions and alliances.⁸ In *Global Engagement: Cooperation and Security in the 21st Century*, Nolan makes the argument that the amount of transparency a government is willing to have is dependent upon the availability, accessibility, and reliability of information being shared and the probability of that act being reciprocated.⁹ In essence, openly sharing information leads to transparency, which breaks down barriers of distrust among foreign partners, and promotes reciprocity or the glue that maintains these bonds.

Specifically, with regard to counterproliferation efforts, Jason D. Ellis and Geoffrey D. Kiefer argue, in *Combating Proliferation: Strategic Intelligence and Security Policy*, that the United States' intelligence community needs to "increase its information-sharing arrangements both on a bilateral basis and with international organizations" in order to continue successful interdiction operations.¹⁰ Such operations are needed because "the intricate network of nonproliferation treaties and regimes built over the past several decades...have not prevented *determined* states from developing [WMD]...or

⁶ Helga Haftendorn, Robert Keohane, and Celeste Wallander, *Imperfect Unions: Security Institutions over Time and Space* (Oxford, NY: Oxford University Press, 1999), 1.

⁷ Ibid, 4.

⁸ Janne E. Nolan and John D. Steinbruner, "A Transition Strategy for the 1990s," in *Global Engagement: Cooperation and Security in the 21st Century*. Edited by Janne E. Nolan, 583 (Washington, DC: The Brookings Institution, 1994).

⁹ Ibid., 66.

¹⁰ Jason D. Ellis and Geoffrey D. Kiefer, *Combating Proliferation: Strategic Intelligence and Security Policy* (Baltimore and London, Johns Hopkins University Press, 2004), 15.

related delivery systems.”¹¹ Because there are networks of cooperation among those seeking to acquire WMD, it is highly improbable, if not counterproductive, for the United States to try to unilaterally attack the issue of WMD proliferation. However, Ellis and Kiefer also argue “there is an inherent tension between sharing sensitive information with partners in U.S. efforts to counter WMD proliferation and the protection of intelligence sources and methods.”¹² Additionally, sometimes the risks of intelligence sharing outweigh the benefits causing information to be restricted from foreign partners. In particular, Ellis and Kiefer use the case study of Russian nuclear and missile transfers to Iran to illustrate the challenges found when conducting intelligence sharing. In their case study they show that intelligence shared was risky and, at times, negatively impacted the prevention of WMD technology transfers to Iran.

Other risks stem from differences in experience and policies between the United States and its allies. In *Redefining Transatlantic Security Relations*, by Dieter Mahncke, Wyn Rees, and Wayne C. Thompson, it is argued that these differences coupled with globalization have led to a plethora of intelligence sharing challenges with transatlantic allies.¹³ However, if these obstacles can be overcome and a common frame of reference can be built among allies then the United States can conduct more effective operations against common threats. Similarly, Richard J. Aldrich argues, in an *International Affairs* article, that “intelligence and security cooperation continues to be problematic because there is a fundamental tension between an increasingly networked world...and highly compartmentalized national intelligence-gathering.”¹⁴ It is his contention that intelligence is often withheld from the international community because Americans not only want to protect their sources, but they also have different notions of privacy. Similarly, Americans cannot agree with allies on what constitutes a threat or indication of a threat. Yet these issues of intelligence exchange are resolvable and intelligence cooperation is one of the most important weapons the United States can use to combat global threats.

¹¹ Ellis and Kiefer, 18. Emphasis in original quote.

¹² *Ibid.*, 109–110.

¹³ Mahncke et al.

¹⁴ Richard J. Aldrich, “Transatlantic intelligence and security cooperation,” *International Affairs*, 80, no. 4 (2004): 731–753.

Therefore, it is my contention, based on the literature reviewed, that intelligence sharing is important not only in order for security institutions to survive but also in order to effectively conduct counterproliferation operations. Specifically, by examining cases where intelligence sharing has affected the outcome of operations this importance can be seen. Notably, this thesis will look at the *BBC China* incident, where good intelligence sharing led to a successful interdiction operation. Conversely, this thesis will also look at case of the *So San*, where good intelligence sharing still led to a failed interdiction operation. Lastly, this thesis will look at the controversial failure of the United States to share intelligence with allies before going to war in Iraq and how this intelligence failure coupled with its ambition to act unilaterally has cost the United States in terms of its credibility. Yet, if intelligence sharing had only positive consequences there would presumably be more of it. Hence, it is also necessary to discuss possible risks that prevent or limit intelligence sharing.

C. POSSIBLE RISKS

Considering the U.S.'s ability to gather and analyze information in order to produce actionable intelligence, it is astonishing that the United States does not use this strength to its fullest capacity. One reason there is not greater intelligence sharing lies in the possible risks involved. Policy makers are especially inhibited by three risks: inadvertent sharing with unintended recipients, credibility, and possible disclosure of sources and methods.

Inadvertent sharing is probably the most common of the three. This is the fear that information shared with benign intentions to one state may be shared by that state to a potential rival of the United States. This fear can be best understood as a twist to the adage "the enemy of my enemy is my friend" expressed as "the friend of my friend might be my enemy." A case that illustrates this is when sensitive technology was inadvertently shared between U.S. companies Loral Space and Communications, Ltd. and Hughes Space and Communications International, Inc. and China during commercial space

launch projects in 1999.¹⁵ The shared information helped China develop the capability to “design and improve reliable future silo-based or mobile PRC ballistic missiles...with advanced payloads (that is, multiple warheads, or certain penetration aids designed to defeat missile defenses), and submarine launched ballistic missiles.”¹⁶ Inadvertent sharing such as this led to policy makers questioning the sharing of any and all sensitive information. In particular, the above example has made it difficult for the United States to help its ally, India, in the development of commercial satellite and space launch capabilities designed to bolster economic modernization.¹⁷ In this case the United States’ security concerns impeded efforts to improve relations with India.

Similarly, in March 2007 the Virginia based corporation, ITT, was fined \$100 million by the U.S. State Department for illegally sending technological data for military night vision goggles to China, the United Kingdom, and Singapore.¹⁸ Additionally, the corporation provided false documents about the transfer seriously jeopardizing U.S. national security. Even more devastating was the fact that the investigation against this illegal sale revealed that in 2001 the corporation transferred technical data about a “light interference filter” to Singapore who then sent that same data to the United Kingdom and finally to China without proper authorization or licensing agreements.

Another risk that plagues policy makers is the question of how information shared will affect the United States’ credibility. A way to illustrate this is to think back to the story of the “Boy Who Cried Wolf.” Just as that boy soon lost his credibility among the other farmers, the United States fears losing its credibility will result in the lack of assistance by other states when it matters most. Notably, this occurred when the United

¹⁵ Larry M. Wortzel and Dana R. Dillon. "Improving Relations with India without Compromising U.S. Security." *American Heritage Foundation* (December 11, 2000) <http://www.heritage.org/Research/AsiaandthePacific/BG1402.cfm#pgfId-1114065> (accessed March 2007); Richard D. Fisher, Jr., "Time to Heed the Cox Commission's Wake-Up Call," *Heritage Foundation Executive Memorandum No. 602* (June 3, 1999).

¹⁶ Ibid. Quote taken from the Report of the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China, U.S. House of Representatives, 106th Congress, 1st Session, Vol. III (May 25, 1999): 170–172.

¹⁷ Wortzel and Dillon.

¹⁸ Brooke Masters. "ITT Fined \$100m for Sale of Military Technology." *MSNBC.Com in New York Financial Times* (March 27, 2007) <http://www.msnbc.msn.com/id/17816832/> (accessed March 2007).

States made sweeping claims that Iraq had large scale weapons of mass destruction programs. However, after Iraq's government fell and no WMD were uncovered, this caused the United States to lose credibility within the international community. In particular, although the United States has gained intelligence that Iran has weapons of mass destruction in addition to being a state sponsor of terrorism, the international community refuses to publicly support any military intervention into Iran based on U.S. intelligence due to the faulty intelligence about Iraq which led to what some of those states believe to have been an unnecessary war. Furthermore, according to Lowenthal, "failure to find an Iraqi WMD arsenal despite intelligence estimates that it existed has probably raised the bar for the level of intelligence that will be required before the next confrontation with any potential proliferator."¹⁹

The third and most serious risk that causes hesitation about information sharing is the probability of disclosing sources and/or methods when sharing intelligence. Accordingly, the protection of sources and methods is why the United States classifies and, at times, over classifies its intelligence. According to the National Security Act of 1947 the Director of Central Intelligence is responsible "for protecting intelligence sources and methods from unauthorized disclosure."²⁰ However, there have been times that the United States has determined that the benefit derived from sharing intelligence outweighed the risks of possibly disclosing sources and methods. For example, according to Ellis and Keifer every time the United States disclosed intelligence that showed Russians conducting missile transfers to Iran, the Russian government would first deny the allegations then try to determine where that information came from and close it off.²¹ Additionally, some of the open source literature reviewed by Keifer indicated that there has been "at least one instance in which a clandestine source was eliminated as a result of intelligence passed to Russian authorities."²²

¹⁹ Lowenthal, 239.

²⁰ U.S. Code Congressional Service, *Laws of the 80th Congress*, 1st session. (St Paul, MN: West Publishing Co., 1947): 502.

²¹ Ellis and Kiefer, 122.

²² Ibid.

The United States consistently attempts to balance this need for protecting sources and methods with the need to share intelligence by passing along information that has been sanitized so as to not give away how this information was gathered. In particular, U.S. Navy's Pacific Fleet (PACFLT) jointly operates with numerous foreign organizations effectively. This is done by having those who want to either participate or benefit from intelligence gathered by the United States Navy sign a Memorandum of Understanding (MOU) with PACFLT as a formal way of showing that they understand that any information they may share could be shared with others who have also signed the MOU.²³ Similarly, the Proliferation Security Initiative (PSI) has its members sign a Statement of Interdiction Principles publicly endorsing the PSI and its efforts to include the sharing of information among its members. Additionally, the PSI addressed the issue of inadvertent sharing by stating that intelligence gathered would only be shared with those states that will be involved in the actual interdiction effort and only through an identified and appropriate point of contact designated by the state providing the intelligence.²⁴ This resolved the issue of inadvertent leakage of information to states deemed to not have a need to know. In addition to these widely recognized risks, however, other barriers may exist that prevent or limit information sharing.

D. BARRIERS TO SHARING INTELLIGENCE

Risk aversion is not the only reason intelligence is often restricted from allies. No matter the steps taken to mitigate the inherent risks, policy makers and members of the intelligence community are still quick to identify other reasons for not sharing intelligence. The underlying reluctance to share information is sometimes referred to as a "Cold War mentality." These barriers can be parsed into four categories, although there is some overlap. I label these four categories of barriers as: technological, behavioral, cultural, and political.

²³ Information derived during VTC session with CAPT Pete Smith, USN, PACFLT N2 on March 8, 2007.

²⁴ Andrew C. Winner, "The Proliferation Security Initiative: The New Face of Interdiction," *The Washington Quarterly* (Spring 2005): 130–132.

1. Technological

Technology can create barriers to intelligence sharing. One major concern is how to share information with those not deemed eligible to receive it because of the level of classification. For example, the United States military shares much of its classified information via a secured Internet connection or SIPRNET. The SIPRNET works just like regular Internet yet it transmits over NSA approved encryption systems. Therefore it is not possible to transmit from regular Internet to SIPRNET and vice versa. This system is not readily available for purchase. It is a U.S. government-controlled system that constantly changes its encryption and is heavily monitored for compliance. Thus, it is not a tool that is readily available for *all* agencies, let alone foreign partners. Moreover, sharing this technology would give away our system capabilities to foreign governments that may or may not still be our allies in the future. This paradox is what most intelligence personnel give as the reason for not sharing intelligence. In other words, they believe that they cannot effectively share if they do not have the means to share, but they cannot share the technology because it will give others possible access to other classified pieces of information.

However, the truth is that technology has actually played a very influential role in *promoting* information flow. For example, based on some of the critiques from the 9/11 Commission Report on poor information sharing, steps have been taken to use current technology to alleviate some of these problems. John Negroponte, then Director of National Intelligence, introduced one such type in October 2006. This system known as “Intellipedia” is a spin off of the “Wikipedia” concept. “Intellipedia” works the same way, allowing different agencies the ability to input what they know and have access to what others know. The secure technology and protocols prevent that information from being possibly leaked or even accessed illegally. The Office of the Director of National Intelligence (ODNI) is working on that issue and states that in the future there will be *Sensitive but Unclassified*, *Secret*, and *Top Secret* versions.²⁵ Additionally, access to this

²⁵ Eben Kaplan, “Intel Community Gets a Wiki,” *Council on Foreign Relations* (November 10, 2006) http://www.cfr.org/publication/11981/intel_community_gets_a_wiki.html (accessed November 2006). Emphasis on the classification codes is done by this author.

information will soon be available to “select U.S. allies, like Britain, Australia, and Canada.”²⁶ Similarly, the United States Strategic Command uses a secured version of this “Intellipedia” known as “SKI Web” or “Shared Knowledge Initiative” that can be accessed over a secured internet connection and is available to all allies who have access to a secured internet connection.

Yet having access to this intelligence causes another dilemma in information sharing. According to Joseph Nye Jr., “technological advances have led to a dramatic reduction in the cost of processing and transmitting information.”²⁷ Although, at first glance this would seem as more of a benefit than a barrier, this free flow of information has led to what Herbert A. Simon calls the “paradox of plenty.”²⁸ In other words as the amount of information has increased, the amount of attention given to that information has decreased. This overloading of information often leads to information being either overlooked or disregarded as unimportant by analysts.

To combat this overloading of information, the United States has taken steps towards creating a software program designed to “sift through troves of images and intelligence data.”²⁹ Since it is not physically possible for a person or number of persons to sift through all available data fast enough to make intelligence actionable, the U.S. Department of Defense is developing software known as the “Control of Agent-Based Systems or CoABS.”³⁰ Yet it has often been contended that any software is only as good as the person who inputs the data or interprets the results from all the data mining. Given these facts it is easy to see that although it can be argued that technology does play a role

²⁶ Eben Kaplan, “Intel Community Gets a Wiki,” *Council on Foreign Relations* (November 10, 2006) http://www.cfr.org/publication/11981/intel_community_gets_a_wiki.html (accessed November 2006). Emphasis on the classification codes is done by this author. There is a link to a report done on the same subject by the Washington Post that can be found in the CFR article. Emphasis on the word select is by this author.

²⁷ Joseph S. Nye Jr., *Soft Power* (New York, NY: Public Affairs, 2004),105.

²⁸ Ibid.

²⁹ Jim Krane. "Military Tests Software Agents for Quick Intelligence." *Washington Times* (October 1, 2001) sec. D, http://www.gcn.com/print/25_27/41900-1.html (accessed March 2007).

³⁰ Ibid.

in preventing intelligence sharing, it not the only barrier. As a professor at the Naval Postgraduate School once said, “technology changes, human behavior doesn’t.”³¹

2. Behavioral

The core behavioral barrier to effective information sharing is the lack of trust. Not all actors can be trusted to safeguard intelligence, but desire to play it safe can lead the United States to exclude even trustworthy allies from access to information. It can be said that trust should be limited to only allies but there is no way of truly identifying an ally. Thomas Barnett once stated that an ally is “basically anyone who agrees with your definition of the future threat, or anyone to whom you’ve already sold weapons.”³² Yet, Henry Kissinger believed that the United States doesn’t have allies; we have interests. So whom do you trust?

Fears about whom to trust tend to lead to the issue of over-classification of information. For example, the New York Times reported that according to a 2006 CRS report since 2001 the “Bush administration is classifying the documents to be kept secret from public scrutiny at the rate of 125 a minute...[while] the volume of declassified material has been decreasing.”³³ This rate of classifying information is not only staggering; it is also expensive. The Information Security Oversight Office reported that in FY 2005, it cost \$7.7 billion to cover the classification and declassification process.

Still, no matter the cost, the need to control sensitive information out of fear of who to trust is a substantial problem. Currently the United States uses the terms Confidential, Secret, and Top Secret as a means to protect the sources and methods used as well as the information itself. The term Confidential is applied to any information that

³¹ This quote comes from CAPT Timothy Doorey, USN, Senior Intelligence Officer and Professor for the Naval Postgraduate School, Monterey, CA during his Seminar on Intelligence Analysis, Winter Quarter 2006.

³² Thomas P.M. Barnett, *The Pentagon’s New Map* (New York, NY, Berkeley Publishing Group, 2004), 23.

³³ Harold C. Relyea, “Security Classified and Controlled Information: History, Status, and Emerging Management Issue,s” CRS Report for Congress RL33494 (September 22, 2006): 27.

may prove damaging to the national security if publicly released.³⁴ The term Secret is applied to any information that may cause serious damage and Top Secret to anything that “could be expected to cause exceptionally grave damage” to national security.³⁵ Likewise, governmental agencies use document control markings on information that does not meet the criteria for regulated classification. Since 1971, there have been over 58 different forms of information control markings.³⁶ Markings such as: For Official Use Only; Limited Official Use; Restricted Data; No Foreign; ROK-U.S. Only; NATO Only; No NGO; Eyes Only; Sensitive But Unclassified, etc. have plagued almost every document that may, just possibly, contain some shred of information that could possibly be detrimental to the security of the United States.

This tendency to over-classify information makes it extremely difficult for U.S. agencies to share information with each other, U.S. allies or with other countries which share our interests. Moreover, if the United States continues down this path it may find itself in a position of classified information overload and with little or no support from its foreign partners. Nowadays it seems that the price of admission for getting any type of coalition support is intelligence sharing. The only way to overcome this barrier and receive support from allies is to strike at the heart of the problem: human behavior. If the United States can figure out how to break down the “Cold War” mentality of many of its decision makers and learn to trust its foreign partners, then the relevancy of this barrier will be like that of technology: easy to overcome. Still, overcoming a behavioral tendency to over classify will require dealing with a third category of barriers I label “cultural”.

3. Cultural

Cultural differences often reflect differences in experience. Differences in experience affect how policies are formulated, which influences what actions are taken. According to Mahncke et al., “Although the United States usually seeks multilateral

³⁴ Lowenthal, 58.

³⁵ Ibid.

³⁶ Relyea, 4 – 6.

solutions to international problems, unilateralism has always been an important characteristic of American foreign policy making and is a source of transatlantic tensions.”³⁷

This can be seen in the United States’ approach towards terrorism and weapons of mass destruction. Although the United States and its transatlantic allies agree that these are important security threats, the United States has a tendency to quickly take unilateral preemptive action as opposed to Europe’s multilateral diplomatic measures. This has caused tension between the two sides. A difference in experience is one of many root causes for this tension. For example, when dealing with terrorism, Europeans have dealt with the issue on the home front since much of their experience comes from terrorists within their country. Conversely, the United States’ experience with terrorism on the home front is limited and has led to their tendency to view terrorism as an external threat and one that should be fought in far off lands.

These differences in experience then translate to differences in foreign policy. If we look at the issue of weapons of mass destruction we would see the United States as a leader in establishing multilateral agreements to prevent proliferation. Yet the United States frequently lacks confidence that these multilateral instruments will be effective. A prime example of this, one that will be covered in more depth later in this thesis, is the United States’ approach towards Iraq and Iraq’s suspected nuclear program. In this case the United States disregarded the requests of international inspectors to continue their searching for any sign of nuclear, biological, or chemical weapons before initiating a preemptive strike against Iraq leading to war.

These actions have hurt the United States’ reputation and caused other states to reconsider whether it is truly wise to share information with the United States, especially if this might result in another war. Along those same lines, the United States is wary of sharing information with its allies for fear that it will do no good since its allies are merely “free-riding” off of America’s military might. Yet, if all benefit from reducing

³⁷ Mahncke et al., 153.

a global threat such as weapons of mass destruction, would it not behoove all to cooperate in preventing the spread of weapons of mass destruction? Are we all not combating the same issue?

Mark Lowenthal argues that the issue lies in balancing the United States' desire for intelligence sharing with secrecy.³⁸ Then again, this balancing act is what has led to what Abram Schulsky and Gary Schmitt consider an issue of classification and over classification.³⁹ No matter what argument is accepted the question remains: does sharing intelligence actually have any effect on counterproliferation operations? If so, then how does it affect counterproliferation efforts? If not, then why do it, especially if the risks outweigh the benefits and the barriers (or excuses if you prefer) are too great to overcome? This leads into the final barrier: Politics.

4. Political

A political barrier is nothing more than a self-inflicted wound resulting from the use of politicized information in order to achieve a desirable policy outcome. More importantly, it directly corresponds with the aforementioned risk of how sharing information may detrimentally affect a states' credibility. To better illustrate how politics can actually prevent information sharing or cause credibility issues one need look no further than the U.S. led invasion of Iraq in 2003 and Iran's present desire to acquire WMD; this case will be covered in more depth in Chapter IV.

Mark Lowenthal covers the issue of politicized information at length in the third edition of his book *Intelligence: From Secrets to Policy*. Essentially, Lowenthal discusses how the U.S. intelligence community would gather and analyze raw information in order to produce detailed intelligence and present their findings to decision makers for policy formulation. Yet, policy makers would politicize the information by separately taking only the information that best suits their politically desirable end state and ignoring intelligence which does not. This process is often labeled "cherry picking" and has led to

³⁸ Lowenthal, 58.

³⁹ Abram N. Schulsky and Gary J. Schmitt, *Silent Warfare: Understanding the World Of Intelligence* (Washington D.C., Potomac Books, 2006)

undesirable outcomes in which the intelligence community, as opposed to the policy makers, gets blamed; it also negatively affects U.S. credibility with other states.

Another way politics creates a barrier to sharing information is through the previously discussed classification process. For example, the U.S. intelligence community has a tendency to automatically label classified documents as *NOFORN*, a term that implies only U.S. personnel are privy to that piece of information, essentially a behavioral barrier addressed earlier. Yet this barrier is not just behavioral it is also done so that same information could later be used as a political bargaining chip. In other words, we [the U.S.] will share what we know about *Country X* if *Country Y* agrees to tell the U.S. everything it knows about *Country Z's* WMD program. This type of bargaining, although it has the potential to be successful, prevents intelligence agencies from openly communicating with allies until political arrangements are made. Incidentally, cultural, technological, and behavioral barriers are often given as plausible excuses for either not sharing enough or sharing erroneous information when these political gains are either not made or the outcome was undesirable. Yet, by and large, politics has an effect on sharing information and can lead to ineffective or none existent intelligence sharing

E. CHAPTER-BY-CHAPTER SUMMARY

Before delving into the three case studies presented in this thesis, it must first be stated that the case studies chosen were done so because of their impact on future counterproliferation activities and availability of information. There are several cases, some more appropriate, that could have been chosen but to do so would have raised the level of classification for this thesis. Moreover, it would be contradictory to write a thesis that stresses open intelligence sharing with foreign partners and then not be able to share it with that same constituency. Another point of clarification is that this thesis was not designed to focus on how to prevent future horrific scenarios; rather it was designed to hopefully bring about a supportive rationale as to the effectiveness of intelligence sharing in order to reduce the likelihood of unimaginable events.

That said, the cases presented in this thesis will look at the legal, political, and intelligence sharing challenges encountered during their specific activity. The focus of these cases will be on the impacts intelligence sharing had or did not have on the case outcome. Specifically, these cases will try to illustrate and either confirm or refute the hypothesis that intelligence sharing can have a substantial impact on counterproliferation operations.

Chapters II through IV of this thesis will be devoted to case studies on how intelligence has impacted counterproliferation operations. Specifically, Chapter II will be a study on a successful interdiction of WMD technology en route to Libya due to good intelligence sharing. In this case study, the German-flagged ship *BBC China* was stopped en route to Libya with a shipment of centrifuge parts for Moammar Gadhafi's covert nuclear-arms program.⁴⁰ Sources tipped off the United States of this shipment and with support from Italy and Germany the ship was diverted to Italy for inspection. While aboard inspectors found containers of uranium enrichment equipment.⁴¹ This interdiction operation not only led to Libya ceasing its nuclear weapons program but also aided in uncovering a covert nuclear supplier network headed by Pakistan's AQ Khan.

In contrast, Chapter III will be a case study on the *So San* incident in 2002. In this case, the United States received intelligence that a North Korean ship by the name of *So San* was carrying SCUD missiles and a rocket fuel additive from North Korea to Yemen possibly destined for Libya, Syria, or Iran.⁴² The ship was tracked while in the Arabian Peninsula until it approached the coast of Yemen. There the United States asked for some help from Spain to stop the ship and inspect the cargo. After some persuasion the *So San* was inspected and 15 SCUD missiles were found aboard.⁴³ Following some diplomatic activity, the Yemen government admitted it was the receiver of the missiles and requested their release with an understanding that they would not resell the missiles and they would

⁴⁰ Winner, 137–138.

⁴¹ Ibid.

⁴² Ibid., 131.

⁴³ Ibid.

provide support to the United States' counter-terrorism efforts.⁴⁴ This case is an example of where good intelligence did not equal a successful interdiction operation of WMD delivery systems. More importantly, the same SCUD missiles found aboard the *So San* were later discovered in Libya.⁴⁵

Similar to the *So San* incident is the issue of the events leading up to Operation Iraqi Freedom. Chapter IV will focus on this controversial issue of intelligence failure by the United States. Moreover, it will focus on why the U.S. intelligence community chose to ignore the intelligence offered by the International Atomic Energy Association (IAEA) inspectors, failed to confirm or validate their intelligence with allies, and took a unilateral approach with politicized intelligence to go to war with Iraq. The outcome to this issue is that, after the invasion, the supposed "1.4 tons of VX nerve agent, 20,000 chemical capable artillery shells, 25,000 liters of anthrax, 12-20 SCUD missiles, and mobile laboratories" were never found⁴⁶ and the United States has found itself in an unpopular war with limited support and its credibility questioned. This failure has also had some impact on potential future conflicts, namely with Iran over their alleged WMD program.

Chapter V will review of the cases drawing on lessons learned from both their successes and failures. This chapter will then conclude with recommendations to improve intelligence sharing as a means to increase the effectiveness of counterproliferation efforts. In sum, the overall goal of this thesis is to determine the impact intelligence sharing can have on counterproliferation operations. By showing that intelligence sharing has a positive effect, this thesis will suggest that by increasing the amount and quality of intelligence shared with U.S. allies we can increase the effectiveness of counter WMD proliferation efforts.

⁴⁴ Winner, 131.

⁴⁵ Tito Drago. "U.S. Spain Caught in Libya Missile Mix-up." *Asia Times Online* (December 12, 2003) <http://www.atimes.com/atimes/Korea/EL12Dg01.html> (accessed March 2007).

⁴⁶ Paul Reynolds, "Can we trust the intelligence services?," *BBC News* (April 24, 2003) http://nes.bbc.co.uk/go/pr/fr/-/2/hi/middle_east/2971907.stm (accessed February 2007).

II. SO SAN (2002)

This chapter focuses on the interdiction of the *So San*, a North Korean vessel found carrying SCUD missiles and rocket fuel additives from its port in North Korea with the nominal destination of Yemen but possibly destined for Libya, Syria, or Iran.⁴⁷ This incident illustrates that no matter how much intelligence is gathered and shared, it still might not prevent WMD material and delivery systems from reaching states of concern. For example, the *So San* was still allowed to continue with its delivery even after the interdiction was publicized. Moreover, those same SCUD missiles were later found in Libya.⁴⁸ Yet, was the result of the *So San* interdiction an intelligence sharing failure or due to other problems? This chapter will examine the extent of the intelligence sharing efforts; some of the legal and political challenges encountered; and the impacts the *So San* had on shaping future counterproliferation efforts.

A. BACKGROUND

Events leading up to this incident began on 13 November 2002 when the *So San* left its North Korean port for Yemen under the name *Nam Po* and flying the Democratic People's Republic of Korea (DPRK) flag. While en route, the *Nam Po* docked in Singapore for eight hours in order to re-supply. While there, the *So San* was again renamed the *Phnom Penh* [hereafter referred to as *So San* in order to avoid confusion]. Additionally, the *So San* lowered its DPRK flag and instead raised the Cambodian flag. This abnormal activity aroused suspicion among U.S. intelligence agencies that began tracking the *So San* with U.S. warships and satellites as it made its way to Yemen.

The crew of the *So San*, realizing they were being shadowed, began to veer on and off course elevating suspicion. On 5 December, U.S. intelligence agencies relayed their *So San* intelligence to Spain stating that, based on satellite imagery analysis, the *So*

⁴⁷ Winner, 131.

⁴⁸ Drago, *Asia Times Online*.

San appeared to be carrying WMD technology and related materials.⁴⁹ The following day, Rear Admiral Juan Moreno of the Spanish Navy and Commander of Task Force 50 (CTF 50) ordered the Spanish frigate, *Navarra*, and an oiler, *Patino*, to shadow the *So San* and intercept if necessary.⁵⁰ The *Navarra* and *Patino*, which were operating approximately 600 miles off the Yemeni coast patrolling the Arabian Sea in order to interdict Al Qaeda militants attempting to enter the Horn of Africa,⁵¹ changed course and headed for the Gulf of Aden. The captain and crew of the *Navarra* indicated that the bizarre activity was continuing and that they were going to intercept.

On 9 December, the *Navarra* and *Patino* intercepted the *So San* in the Indian Ocean approximately 350 nautical miles from Socotra Island.⁵² The captain of the *Navarra* notified the captain of the *So San* of their intention to board in accordance with Articles 92 and 110 in the United Nations Convention on the Law of the Sea (UNCLOS).⁵³ Yet, the captain of the *So San* refused. After two hours of trying to convince the *So San* to let them board, the *Navarra* fired warning shots across the *So San*'s bow.⁵⁴ Still, the captain refused to slow or change course so the Spanish could board. The *Navarra* ordered its snipers to shoot the cables attached to the cargo-handling mast so Spanish Special Operations Forces (SOF) could rappel onto the target vessel via helicopter. Once aboard the *So San*, the SOF team detained the crew and brought the ship to a halt so that their second team could board as well.

⁴⁹ William Safire. "Bush's Stumble: The So San Affair." *New York Times* (December 19, 2002) <http://proquest.umi.com/pqdweb?did=269270961&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed March 2007).

⁵⁰ Romero, Javier. "Spanish Forces Intercept Scuds." *United States Naval Institute. Proceedings* 129, no. 2 (February 2003): 75, <http://proquest.umi.com/pqdweb?did=284255111&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed March 2007).

⁵¹ "International: What have we here? North Korean Scuds." *The Economist* 365, no. 8303 (December 14, 2002): 58, <http://proquest.umi.com/pqdweb?did=267243711&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed March 2007).

⁵² "Joint Doctrine For Combating Weapons of Mass Destruction," *Joint-Publication 3-40*, Department of the Joint Chiefs of Staff (8 July 2004) http://www.fas.org/irp/doddir/dod/jp3_40.pdf (accessed April 2007), 39.

⁵³ Javier, *United States Naval Institute. Proceedings*.

⁵⁴ *Ibid.*

Once the crew of 20 was under guard, Spanish Navy and Marines conducted a detailed inspection of the cargo based on the ship's manifests. Upon first glance they noticed legal problems with the ship's registry and that the name of the boat, covering the original name *So San*, was freshly painted. There was also a discrepancy between the ship's manifest and the course the *So San* was traveling. In particular, the manifest stated that it was destined for Djibouti but its course was set for Yemen.⁵⁵ Likewise, the ship's manifest only showed cement but, hidden beneath pallets of cement bags, the Spanish forces found un-manifested containers. Before inspecting the containers themselves, the Spanish crew notified the U.S. Navy SEALs and requested that they come aboard with their explosive ordnance demolition personnel in order to continue the inspection. Once aboard, the U.S. Navy unit found 15 complete SCUD missiles, 15 warheads, parts for eight more, and capsules of rocket fuel as well as missile fuel oxidizers and 23 tanks of nitric acid.⁵⁶ On 11 December, the *So San's* cargo and crew were turned over to the United States to handle.

At first, the United States and the Spanish Navy were proud to have been a part of such a historical event where multi-national cooperation ultimately led to the prevention of WMD delivery systems falling into the wrong hands. Yet, that sense of pride was short lived. Following the incident, U.S. Vice-President Cheney received a telephone call from Yemeni President Ali Abdullah Saleh stating that the intercepted missiles were legally purchased from North Korea by Yemen as a means of replacing decrepit defense systems.⁵⁷ Furthermore, the United States had no legal basis for detaining the ship or impounding the cargo. The Yemeni government, which had earlier promised that it would no longer purchase missiles from North Korea, indicated that this purchase was done long before that promise was ever made with the United States. Likewise, in order for the

⁵⁵ Ruth Wedgwood. "A Pirate is a Pirate." *Wall Street Journal* (December 16, 2002) <http://proquest.umi.com/pqdweb?did=266698321&Fmt=7&clientId=65345&RQT=309&VName=PQD>. (accessed April 2007).

⁵⁶ Winner, 131; Jofi Joseph, "The Proliferation Security Initiative: Can Interdiction Stop Proliferation", *Arms Control Association: Arms Control Today*, http://www.armscontrol.org/act/2004_06/Joseph.asp (accessed April 2007); David E. Sanger and Thom Shanker, *New York Times* (December 12, 2002) <http://www.nytimes.com/2002/12/12/international/middleeast/12SCUD.html> (accessed April 2007).

⁵⁷ Drago, *Asia Times Online*.

interception to be legal the United States would have to have the consent of either North Korea or Yemen. Therefore, the U.S. reluctantly allowed the *So San* and its shipment of SCUDs and fuel pods to continue their delivery.

In exchange for letting the shipment proceed, the Yemen government promised to continue providing support for the United States' counter-terrorism efforts and assured the United States that they would not resell the missiles.⁵⁸ Releasing the *So San* was seen as a blow to U.S. – Spanish relations because the U.S. decision seemed to have nullified the political and personal risks Spanish soldiers took in interdicting the ship. However, the United States decided that it was more important to preserve support for the Global War on Terror than it would be to deprive a small number of missiles for defense in a country that posed no threat to the United States. Although the United States cited international law as a reason for not holding the *So San*, most observers believe that “Yemen’s importance to the U.S. build-up of forces in preparation for war, not international law, was the trump card in the U.S. decision to release the missiles.”⁵⁹ Either way, the United States’ and Spain’s biggest fear, that these weapons might fall into the hands of terrorists or a regime, remained even after Yemen promised that it would not resell the missiles. These concerns were justified when U.S. intelligence determined later that SCUD missiles discovered in Libya were the same weapons found on the *So San*.⁶⁰

Although the interdiction of the *So San* did not stop the missiles from reaching their final destination, the incident had a cascading effect on shaping future counterproliferation actions. First and foremost, it led to the creation of the Proliferation Security Initiative (PSI). More importantly, it reshaped how the United States interprets the UNCLOS in terms of conducting interdiction operations at sea and how it operates

⁵⁸ Drago, *Asia Times Online*.

⁵⁹ Jofi Joseph, “The Proliferation Security Initiative: Can Interdiction Stop Proliferation,” *Arms Control Association: Arms Control Today*, http://www.armscontrol.org/act/2004_06/Joseph.asp (accessed April 2007).

⁶⁰ Drago, *Asia Times Online*; “Libya Profile,” *Center for Nonproliferation Studies at the Monterey Institute of International Studies*, http://www.nti.org/e_research/profiles/Libya/Missile/3840_5213.html (accessed July 2007); John R. Bolton Testimony Before the House International Relations Committee, “U.S. Efforts to Stop the Spread of Weapons of Mass Destruction” (June 4, 2003) Washington, D.C., U.S. Department of State http://www.nti.org/e_research/official_docs/dos/dos060403.pdf (accessed March 2007).

with other countries. Some of these effects can be understood by looking at the extent of intelligence sharing conducted between the United States and the states involved with the incident.

B. EXTENT OF INTELLIGENCE SHARING

Intelligence gathering efforts on the *So San* didn't actually begin until mid-November 2002 due to the United States focus on disarming Iraq. Yet, some members of the U.S. intelligence community still felt that it was pertinent to keep watch on North Korea. Given the decade long political battle between the U.S. and North Korea with regards to nuclear proliferation and the fact that North Korea has been economically challenged due to U.S. imposed sanctions, members of the intelligence community believed that North Korea might try to improve its economic condition by selling its missiles and/or technology. In 2002, the U.S. intelligence community gathered evidence showing that money transfers equating to approximately \$41 million took place between Yemen and North Korea, indicating that some sort of high value material transaction would soon follow.⁶¹ The theory was confirmed as U.S. satellites provided evidence of SCUDs (B and C variants) as well as other unidentified containers believed to be carrying some sort of chemical or fuel being loaded clandestinely onto the *So San*. According to the New York Times, the U.S. National Security Agency "spotted the movement of 15 Scud missiles and 85 drums of chemicals from a factory in NK to its secret loading aboard the freighter *So San*."⁶²

Fearing that these missile systems were destined for some country(s) or organization(s) that may possess ill will toward the United States and its efforts in Iraq, the United States began gathering information to determine the destination of the *So San*. Although the United States had not pinpointed the recipient of the missile systems, the information collected provided the route the *So San* would be traveling. The United

⁶¹ Joel A. Doolin, Commander, JAGC, US Navy, "The Proliferation Security Initiative: Cornerstone of a New International Norm," *Naval War College Review* (Spring 2006), 59, No. 2, http://www.kross.ro/the_proliferation_security_initiative (accessed March 2007); Safire, *New York Times*.

⁶² Safire, *New York Times*.

States, in its efforts to act multilaterally rather than unilaterally, notified South Korea and Japan of their discovery. Additionally, the United States contacted Yemeni President Saleh asking if Yemen had recently purchased missiles from North Korea. Though Yemen had purchased missiles and missile technology from North Korea in the past, President Saleh replied that Yemen had made no such purchase since their promise to the United States to cease all transactions with North Korea.

As the United States continued to track the *So San* around the world to the Arabian Sea it noticed that the *So San* had changed its name and flag at least twice since it left North Korea. Likewise, its movements seemed to be erratic as they veered back and forth rather than sailing straight. As the *So San* continued its trek to Yemen, the United States contacted the Spanish government requesting support on the tracking and interdiction of the *So San*. After the United States shared all the intelligence gathered on the ship and its possible cargo, the Spanish Ministry of Defense contacted its ships patrolling in that same area.

The Spanish Navy and Air Force identified the *So San* and began tracking its movement by air and sea. After tracking the *So San* for a few miles, Spanish Rear Admiral Moreno sent two of his ships to interdict. After getting its personnel on board, the Spanish Navy conducted a thorough investigation. The results of the investigation were relayed and later confirmed by the United States Navy and Yemen was once again questioned as to its role in this shipment. Yemeni President Saleh attested to the fact that the missiles were indeed theirs and that the purchase was completed long before the United States had asked Yemen to forgo purchasing North Korean goods.

Even though Yemen's "lapse in memory" seems somewhat convenient with regards to purchasing the missiles, the United States, to Spain's dismay, allowed the shipment to pass. This particular interdiction case is interesting because of the extent and timeliness of the intelligence shared to other countries. However, it is also a disheartening case considering that the missiles, purchased from a country labeled as a member of the "Axis of Evil" by the Bush administration, were still allowed to travel to a country having unsettled relations with the United States. The next section discusses some of the political and legal challenges that arose in this interdiction case.

C. CHALLENGES

When conducting interdiction operations there are several challenges states must overcome in order to ensure a successful mission. In the case of the *So San* the mission was riddled with several legal and political challenges. For example, how does a state with presumably no legal authority interdict a foreign ship and investigate and, if necessary, seize its cargo? Moreover, how will this operation be perceived by other states within the international community? Does the perception caused by this type of interdiction affect how future information is received and shared? Did the outcome of the *So San* negatively affect future international relations between the United States and others, such as Spain? This section will look at three challenges encountered: the legality of the interdiction, potential political blowback of the interdiction based on perceptions, and the lack of transparency among all involved.

Legal debates concerning this incident rest on two pillars: the legality of the interdiction itself and the legality of detaining or seizing questionable cargo. The legality of conducting an “at sea” interdiction rests primarily with the United Nations Convention on the Law of the Sea (UNCLOS). In 1956, the UNCLOS was created as a means to protect fish stocks and enforce pollution control. Since then UNCLOS has been signed and ratified by more than 140 different nations and now codifies navigational rights, and defines certain freedoms as well as maritime zones.⁶³ Although not all states have signed or ratified the UNCLOS, many still respect its mandates and provisions as customary law. For example, the United States, as with several other states including North Korea, has signed but not ratified the convention. Yet, these states still deem it customary international law and generally adhere to the mandates set forth by it.

In the case of the *So San*, its interdiction by Spanish and later U.S. troops is considered legal according to the UNCLOS. Specifically, Article 110 of the UNCLOS states:

⁶³ Michael Byers. "Policing the High Seas: The Proliferation Security Initiative." *The American Journal of International Law* 98, no. 3 (Jul., 2004): 526-545, <http://links.jstor.org/sici?sici=0002-9300%28200407%2998%3A3%3C526%3APTHSTP%3E2.0.CO%3B2-U> (accessed March 2007).

...a ship may be forcibly boarded on the high seas if it is reasonably suspected of engaging in piracy or the slave trade; lacks a flag (i.e., a single country of registration); or is broadcasting in an unauthorized manner toward, or is registered in, the state that wishes to board.⁶⁴

Thus, since the *So San* did not properly display its state name or flag and had changed flags in transit, it was deemed “stateless” and according to UNCLOS codes “interdictable”. Moreover, the actions of the *So San* when the Spanish attempted to interdict added to the justification of steps taken by the Spanish navy.

However, the actions by the United States in the detention of the SCUD missiles were deemed illegal. This illegality is based on the fact that neither North Korea nor Yemen is party to the Missile Technology Control Regime (MTCR). Furthermore, carrying missiles or any type of arms is permissible on the high seas as long as it does not violate any other treaty that may ban transport by the state(s) carrying the goods. Considering that North Korea is economically dependent on continuing to aid foreign state missile programs due to U.S. imposed sanctions, it was not only legal for them to transport and sell missiles to Yemen, it would be deemed criminal if the United States did not allow it.

Nonetheless, if the United States wanted to push the legality of the issue and as a way to push its counterproliferation agenda, sending a message to all would-be-proliferators, it could do so in the future. Although neither North Korea nor Yemen is party to the MTCR, Yemen still breached a legally-binding promise to not import North Korean missiles. In point of fact the Yemeni letter, signed by the Yemeni President Saleh in July 2001 and delivered to the U.S. ambassador in Yemen, stated it was “neither the policy nor the practice of the government of Yemen to import SCUD missiles from North Korea.”⁶⁵ More to the point, the United States contacted the Cambodian government and boarded the *So San* with its permission. Had the United States wanted to seize the cargo

⁶⁴ Byers, 526-527.

⁶⁵ Wedgwood, *Wall Street Journal*.

as well they would have only had to ask the Cambodian government for its permission since, according to the flag flown and the registry used, the *So San* ostensibly was Cambodia's legal responsibility.

A weaker legal argument that the United States could have used is "anticipatory self defense". Article 51 of the United Nations Charter allows states to take action in self-defense. Given that the United States is waging a war on terrorism, preventing the possible delivery of WMD-related materials or technology could be deemed legal in the spirit of the U.N. article. In particular, the United States could have argued that it was feared SCUD missiles aboard were destined for terrorists. However, by applying this argument, the United States would be setting a precedent that would allow for the interdiction of any ship at anytime. Moreover, conducting preemptive actions in anticipatory self-defense may lower risks associated with military intervention but it does so by raising political risks. For example, by confiscating Yemen's missiles, the United States could have damaged its relations with Yemen, a state that has not only sustained casualties while supporting U.S. efforts in fighting Al Qaeda but also allowed U.S. air strikes within its borders.⁶⁶

Perception is a powerful instrument in terms of shaping political actions and we do not always get to choose our allies. The *So San* interdiction had a detrimental effect on public perception of U.S. policy as well as relations between the United States, Yemen and North Korea. Moreover, it sent mixed signals to the rest of the international community as to what was important to the United States. For example, days before the interdiction of the *So San*, U.S. President Bush announced a new strategy to fight the spread of WMD, stressing the importance of interdiction and information sharing with allies as a means of combating proliferators. Yet, the *So San* demonstrated the exact opposite. The United States allowed missiles to be delivered from a state often referred to as part of the "Axis of Evil" to a country with questionable relations with the United

⁶⁶Wedgwood, *Wall Street Journal*, Carla Anne Robbins, David S. Cloud, and Yaroslav Trofimov. "In about-Face, U.S. Releases Missile Shipment --- Yemen, an Ally on Terrorism, Says it Owns the Scuds; Juggling Conflicting Goals." *Wall Street Journal* (December 12, 2002) <http://proquest.umi.com/pqdweb?did=262707491&Fmt=7&clientId=65345&RQT=309&VName=PQD>. (accessed April 2007).

States. Why? Given that U.S. economic sanctions on North Korea has forced them to sell missiles, could this be seen as another attack by the United States on North Korea? The overall challenge of the decision to interdict or not rested on the United States deciding which is more important, counterproliferation or counterterrorism, and what political blowback would ensue from that decision.

Another challenge was trying to determine why this shipment occurred in the first place and what was its final destination? Were the missiles themselves intended for Yemen's military, a third country, or some terrorist organization?⁶⁷ All understood why North Korea was selling the missiles as it had been selling missiles to Pakistan, Syria, and Iran for decades. Yet, in the case of the *So San*, North Korea covertly loaded the missiles, filed an improper manifest stating that the cargo was headed for Djibouti, and told the Captain of the *So San* to provide false statements if questioned about it. Why all this secrecy if the transaction was legitimate? More importantly, why did Yemen lie about the transaction when confronted by the United States?

In November 2002, the United States knew that Yemen purchased the missiles after they discovered \$41 million dollars were transferred from Yemen to North Korea. This was later confirmed by intelligence sources that monitored communications between the *So San* and the Yemeni government. The United States questioned Yemen asking if they "were still living up to [the] 2001 pledge to not buy missiles from North Korea"⁶⁸ and still Yemeni President Saleh adamantly protested that the missiles were not theirs. Yet, all the evidence pointed to Yemen being the recipient of the missile systems. This left the United States in a position of having to decide whether maintaining an ally in the global war on terrorism or preventing the delivery of missile systems which could fall in

⁶⁷ John Hendren and Sonni Efron, "U.S. Releases Ship with Scuds; the Vessel is Freed After Yemen Promises it Won't Buy any More Missiles from North Korea. the Incident Exposes a Hole in an Arms Treaty." *Los Angeles Times* (December 12, 2002) <http://proquest.umi.com/pqdweb?did=264283861&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed March 2007).

⁶⁸ Carla Anne Robbins, David S. Cloud, and Yaroslav Trofimov. "In about-Face, U.S. Releases Missile Shipment — Yemen, an Ally on Terrorism, Says it Owns the Scuds; Juggling Conflicting Goals." *Wall Street Journal* (December 12, 2002) <http://proquest.umi.com/pqdweb?did=262707491&Fmt=7&clientId=65345&RQT=309&VName=PQD>. (accessed April 2007).

the hands of possible terrorist organizations was more important. To a greater extent, what would be the impact of making such a decision? The following section will cover the impact the interdiction had on the legality of “at sea” interdictions, political perceptions, and the lack of transparency by all involved.

D. IMPACT

The actual “at sea” interdiction of the *So San* did not have a major impact on the legality of conducting interdiction operations. It did, however, demonstrate that the United States recognizes the legal parameters of the UNCLOS and more importantly, was willing to abide by customary international law.⁶⁹ In addition, it was the genesis of the Proliferation Security Initiative (PSI). The PSI is an initiative designed to prevent the proliferation and/or shipment of WMD delivery systems and related materials via air or sea. It is based on a “non-binding ‘Statement of Interdiction Principles’ released on 4 September 2003, including measures for halting that transfer of nuclear, biological and chemical weapons and delivery systems to ‘states and non-state actors of proliferation concern.’”⁷⁰ This initiative uses international and customary laws to its advantage by looking for loopholes or a “broken tail light”⁷¹ on vessels suspected of carrying WMD delivery systems and/or materials. It then uses these “loopholes” as a means to interdict and inspect possible transporters of WMD. Likewise, the PSI is willing to use the anticipatory self-defense argument to legitimize actions if truly required, yet try to abstain because of the precedent it may set.

Yet, the interdiction of the *So San* was not trumpeted as a great success as some would think. The lack of transparency on the part of all involved sent conflicting messages to the world. Some European critics even stated that “the Americans screwed

⁶⁹ “The U.S. Military and the Limits of ‘Transformation,’” *Strategic Survey* 105, no. 1 (May 2005) <http://docserver.ingentaconnect.com/deliver/connect/routledg/04597230/v105n1/s2.pdf?expires=1180552486&id=37849238&titleid=11636&accname=Naval+Postgraduate+School&checksum=FD012CE3433BF2D9CC334806E9BB8491> (accessed May 2007): 69.

⁷⁰ Ibid.

⁷¹ Joseph, *Arms Control Association: Arms Control Today*.

up” when it came to intelligence efforts.⁷² In particular, the announcement of the *So San*’s release truly irritated the Spanish government. It had meant that it had needlessly risked its soldiers’ lives in an operation that did not yield any results.⁷³ Moreover, it signaled to the rest of the world to go ahead and “go out on a limb for America [and] then watch [them] saw the limb off behind you.”⁷⁴ Yet, if the United States had let the Spanish government know the reason for the *So San*’s release and why it was occurring before the public announcement, or had actually consulted with its ally about what follow on actions to take, then a lot of this dissatisfaction with the United States could have been avoided.

In a similar argument, the *So San* affair was “a real blow to U.S. credibility and U.S. nonproliferation policy... How do you say it’s OK for Yemen but not for Iran?”⁷⁵ Moreover, it is indicative of the United States’ interdiction strategy “failing its first test.”⁷⁶ Then again, no matter the impact, the United States was put in a predicament where it had to consider which was more important: counterproliferation or counterterrorism.

E. LESSONS LEARNED

The *So San* incident was riddled with political and legal challenges that subsequently impacted future counterproliferation operations. In particular, it provided lessons that could be learned in order to benefit future activities like the PSI. Likewise, although it has been argued that this incident merely demonstrated that the United States has “shifted [its] emphasis from eliminating weapons to eliminating regimes,”⁷⁷ one could posit that the United States politically used this incident to send a signal to would-

⁷² Michael. Dobbs. "Waylaid at Sea: Launch of Policy; Handling of Scuds Raises Questions." *The Washington Post* (December 13, 2002) <http://proquest.umi.com/pqdweb?did=264325511&Fmt=7&clientId=65345&RQT=309&VName=PQD>. (accessed April 2007).

⁷³ Safire, *New York Times*.

⁷⁴ *Ibid.*

⁷⁵ Hendren and Efron, *Los Angeles Times*.

⁷⁶ Dobbs, *Washington Post*.

⁷⁷ *Ibid.*

be proliferators, such as North Korea, that the United States is not only set to prevent the spread of WMD but it can and will do so in accordance with customary international law and while preparing for war. Moreover, this incident can be seen as the beginning of a new international norm. In essence, although the United States cannot prevent states from developing their own nuclear program, it can make it difficult for them to obtain the technology and related materials covertly. In essence, if you pursue – you will be caught.

Similarly, there are legal lessons to be learned from the *So San* interdiction. In particular, the incident clearly articulated the need for tighter export control measures as a means of deterring proliferation on the high seas. The United States has taken steps to continue its part in ratifying this issue by expanding its membership in the 2002 Container Security Initiative (CSI). This initiative, a critical component of international trade, tries to deter proliferators from shipping WMD related technology via cargo containers without unnecessarily detaining legal cargo. CSI's real growth occurred in 2004 after bilateral agreements were signed between the European Union and the U.S. Department of Homeland Security. Moreover, the introduction of the Mobile Vehicle and Cargo Inspection System (MVACIS) and other technological breakthroughs has continued to increase membership. Even though the call for increased participation in the CSI is not due to the *So San* issue, the lesson to be learned from this event is that by increasing intelligence sharing efforts with members of the CSI in the future, the U.S. could legally detain questionable cargo without going through the political quagmire as it did with the *So San*.

The case also demonstrated the need for better transparency between states that either have bilateral agreements or are party to a treaty. For example, had there been better transparency (i.e., information sharing) between the United States and Yemen then it would have alleviated some of the political fallout (e.g., embarrassment of the United States) due to the release of the *So San* and its cargo. However, the decision to hand back the cargo could have been strategically chosen based on the actionable intelligence available. Therefore, the lack of transparency did not negatively impact the decision, rather it added to the decision. In essence, it could be posited that the United States used the interdiction as a means of catching Yemen with their hands in the proverbial cookie

jar allowing the United States to secure another ally in its War on Terror; demonstrating to North Korea that the United States can interdict their ships; all while making a political statement that the United States is not above customary international law.

In sum, the *So San* incident demonstrates the impact intelligence sharing has between certain allies. For example, the intelligence shared between U.S. and Spanish militaries leading up to the interdiction was superb. However, the United States did not continue sharing information with Spain following the actual interdiction. The United States failure to continue its consultation with the Spanish government and Spanish forces aboard the *So San* damaged future U.S.- Spanish relations as well the willingness of U.S. allies to support future counterproliferation actions.

Similarly, the intelligence sharing between U.S. and Yemen governments was questionable, at best. It showed that the act of sharing information and intelligence had only a minor impact on counterproliferation operations. In this case, the SCUD missiles were still delivered and more to the point, later discovered in Libya. Overall, the *So San* is an excellent case study of intelligence sharing success between the United States and selective allies, but only to a point. Furthermore, it was a partial success that was ultimately and publicly painted as a political debacle.

Therefore, the major lesson to be learned from this case is that, although it has been viewed as a failure by some, the risks the United States took by sharing information with its allies led to benefits that outweighed the costs. To illustrate, the United States not only demonstrated that it had the capability to interdict but also gained an ally in their war on terror. Additionally, this case illustrates that the intelligence sharing barriers encountered were behavioral on the part of North Korea and Yemen (essentially their mistrust of the United States) and a political barrier between Yemen and the United States.

III. BBC CHINA (2003)

This chapter will focus on the case of the *BBC China*, which involves the interdiction of a German-flagged ship stopped en route to Libya while carrying a shipment of centrifuge parts for Moammar Qaddafi's covert nuclear-arms program.⁷⁸ On the face of it, this incident illustrates the efficiency of bilateral agreements as well as the value of extensive intelligence gathering and sharing among allies in order to conduct effective counterproliferation operations. Most dramatically, following the publicized interdiction, Libya not only renounced its nuclear weapons program and joined efforts to combat terrorism but the infamous and deceptive network of A.Q. Khan collapsed. This chapter will examine the extent of the intelligence sharing efforts; some of the legal and political challenges encountered; and address the impacts the *BBC China* had on shaping future counterproliferation efforts in an attempt to ascertain impact of information sharing on this counterproliferation operation.

A. BACKGROUND

Events leading up to the *BBC China* interdiction in 2003 began as early as April 2000 when U.S. intelligence learned that A.Q. Khan, a known nuclear black marketer, was supplying uranium enrichment equipment to a Middle Eastern customer thought to be Libya. In 2001 and 2002, Khan delivered warhead plans to Libya and was prepared to make purchases for Libya's nuclear weapons program. In early 2003, intelligence officials learned of a shipment of centrifuge parts scheduled to leave Malaysia aboard a cargo vessel destined for Dubai in the United Arab Emirates. In August 2003, the parts were loaded into five shipping containers and marked as "used machine parts" produced by Scomi Precision Engineering (SCOPE) and sent from B.S.A. Tahir, a known associate

⁷⁸ Winner, 137–138.

of A.Q. Khan.⁷⁹ The containers were then loaded onto the Malaysian flagged vessel, which set course through the Straits of Malacca towards Dubai.

A month later, the cargo vessel docked in Dubai and its cargo was loaded onto the German cargo ship, *BBC China*. The captain of the *BBC China* received the cargo, unaware of what it the containers actually contained. In October 2003 the *BBC China* left Dubai for Libya. Two days before reaching port, the captain of the *BBC China* received orders to divert the ship to a port in Taranto, Italy, and by 4 October 2003 the *BBC China* pulled into the berthing area.

While the ship was moored, U.S. investigators explained the cause for the diversion and requested permission to board to conduct their investigations. The investigation revealed several high quality aluminum parts stored in protective wooden crates inside five containers. Specifically, what investigators found was:⁸⁰

Description	Part Numbers	Total
Casing	4	2,208
Molecular Pump	5	2,208
Top spacer	6	608
Positioner	8	10,549
Top end	9	1,680
Crash Ring	12	2,208
Stationary Tube	59	1,056
Clamp holder	73	400
Flange	77	4,525

Significantly, each part uncovered is an essential component in the construction of centrifuges, a device that could be used for enriching weapons-grade uranium. According

⁷⁹ Winner, 137–138; Douglas Frantz. "The World: A High-Risk Nuclear Stakeout" *Los Angeles Times* (February 27, 2005) <http://proquest.umi.com/pqdweb?did=799001271&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed May 2007).

⁸⁰ "Press Release by Inspector General of Police in Relation to Investigation on the Alleged Production of Components for Libya's Uranium Enrichment Programme," Royal Malaysia Police Office, (February 20, 2004) <http://www.iranwatch.org/government/malaysia/malaysia-police-libyareport-022004.htm> (accessed April 2007).

to the director of the International Atomic Energy Association (IAEA) at the time, “the equipment [found] indicated that Libya was at an ‘early stage’ of its weapon program.”⁸¹

Following the initial inspection, the five containers were off-loaded and turned over to the United States for further investigations. The ship and its remaining cargo were then released under their own cognizance to continue delivery. Libya was confronted with news of the interdiction and the findings and was again asked to renounce their nuclear weapons program. After months of further investigations and diplomatic talks between Libya, the United States, and the United Kingdom, Libya agreed, granting U.S. and U.K. inspectors access. Once in country, the inspectors uncovered several documents and artifacts regarding Libya’s nuclear and chemical weapons program. By December 2003 Libya agreed to permanently dismantle its entire WMD program.

Although it is contested whether the publicized interdiction was the sole reason for Libya’s disarmament or if it was the “straw that broke the camel’s back”⁸², the interdiction of the *BBC China* and events that followed had a global effect on shaping future counterproliferation actions. In fact, it has been posited the interdiction prevented Libya from becoming a nuclear state and it became a beacon on the effectiveness of the Proliferation Security Initiative (PSI). More importantly, it helped bring a successful end to a three decade investigation against one of the largest international nuclear smuggling networks, headed by the “father of Pakistan’s nuclear weapons,” Abdul Qadeer Khan.⁸³ The following section covers the extent of intelligence sharing between states that led to an effective interdiction operation.

⁸¹ Robin Wright, “Ship Incident May Have Swayed Libya,” *Washingtonpost.com* (January 1, 2004) A18 <http://www.washingtonpost.com/ac2/wp-dyn/A46260-2003Dec31?language=printer> (accessed April 2007).

⁸² Joseph D McFall. "From Rogue to Vogue: Why did Libya Give Up its Weapons of Mass Destruction?" *Naval Postgraduate School* (2005): 45 <http://bosun.nps.edu/uhtbin/hyperion.exe/05Sep%5FMcFall.pdf> (accessed May 2007).

⁸³ David Albright and Corey Hinderstein. "Unraveling the A. Q. Khan and Future Proliferation Networks." *The Washington Quarterly* 28, no. 2 (2005): 111–128, http://muse.jhu.edu/journals/washington_quarterly/v028/28.2albright.html (accessed March 2007).

B. EXTENT OF INTELLIGENCE SHARING

The interdiction of the *BBC China* played a role in ending Libya's nuclear program and bringing about the fall of A.Q. Khan's nuclear black market network. Yet, credit for the interdiction itself truly lies in the magnitude of multilateral intelligence sharing and strong bilateral ties between the states involved. More importantly, the networking between U.S. and U.K. intelligence activities was crucial to the entire event succeeding. To fully understand the significance of intelligence sharing between these two states, it is best to start at the beginning of the information collection efforts.

Intelligence collection activities actually began in the 1980s with U.S. investigators receiving hints that Khan was willing to sell sensitive nuclear information and equipment to non-nuclear states such as Iran, Libya, and North Korea.⁸⁴ In 1987 Pakistani investigators found nuclear weapon blueprints with handwritten notes wrapped in bags inside an Islamabad dry cleaner that was believed to be a front for A.Q. Khan.⁸⁵ During that same year Khan was discovered over-ordering centrifuge parts from his job as a major subcontractor for Urenco, a British-Dutch-German consortium whose specialty was designing advanced centrifuges for nuclear power plants.⁸⁶ Coincidentally, during that same period Iran's centrifuge construction efforts began to flourish. Yet, these coincidences were not enough to legally and effectively break the network.

Likewise, while Khan worked for Urenco, U.S. and U.K intelligence agencies noticed that Khan began taking frequent trips, specifically visiting 18 countries in order to develop key relations. Intelligence officials continued to follow Khan, recording conversations in hopes of finding something to break this potential network. For example,

⁸⁴ Albright and Hinderstein, 111–128.

⁸⁵ William J. Broad, David E. Sanger, and Raymond Bonner. "A Tale of Nuclear Proliferation: How Pakistani Built His Network." *New York Times* (February 12, 2004) <http://proquest.umi.com/pqdweb?did=544115111&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed March 2007).

⁸⁶ Douglas Frantz. "The World: A High-Risk Nuclear Stakeout," *Los Angeles Times* (February 27, 2005) <http://proquest.umi.com/pqdweb?did=799001271&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed May 2007).

one such relationship discovered was with Sri Lankan businessman, B.S.A. Tahir.⁸⁷ What investigators found was that B.S.A. Tahir had established “front” companies for Khan to sell the over-ordered centrifuge parts.

In 1975, investigators learned that Khan had resigned from Urenco and immediately went to work for the Pakistani government as lead scientist in their nuclear weapons program. While working for the government, Khan requested and was subsequently granted full autonomy with an unlimited budget and no oversight.⁸⁸ It was during this time that intelligence collection efforts proved especially challenging when trying to penetrate Pakistan’s close hold on Khan. However, in 1999, following a military coup in Pakistan, Khan was ordered by the new governing authority to disclose all records. Khan refused and was asked to resign.

Not surprisingly, it was easy for Khan to find new work with non-nuclear states, like Libya, who wanted nuclear weapons and needed logistical and technical support to get their programs running.⁸⁹ This change of events opened the door for U.S. and U.K. intelligence activities as they restarted investigations into Khan’s activities. Khan began rekindling his connections with South Africa and Malaysia in order to restore his former operations. In 2000, CIA and MI6 agents learned that it was probable Khan would be supplying uranium enrichment equipment to Libya.⁹⁰ Yet, there was nothing to confirm the allegations. For the next two years the U.S. NSC and CIA and British MI6 continued their collection efforts in hopes of finding something that would allow them to effectively end Khan’s network.

By 2002, intelligence finally confirmed Khan’s role in Libya’s secret nuclear weapons program and British and U.S. officials needed to act quickly. The British Joint Intelligence Committee (JIC) was also becoming particularly concerned with Libya’s

⁸⁷ Broad et al.; Albright and Hinderstein, 111–128.

⁸⁸ Frantz, *Los Angeles Times*.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

growing nuclear capability and the extent of A.Q. Khan's network.⁹¹ The saving grace came as CIA informant, Urs Tinner, who worked at SCOPE, told CIA and MI6 officials about a shipment of centrifuge parts being shipped to Libya.⁹² This information plus what MI6 agents had learned from Colonel Gaddafi's son, who was studying in London, provided British and American forces enough material to legally conduct a counterproliferation operation.

Tinner, who supervised the production and delivery of the parts, told U.S. agents where the shipment was being loaded. In late August 2003 U.S. spy satellites began to track the shipment as it left the Malaysia toward Dubai.⁹³ In Dubai, the containers were transferred from the Malaysian vessel onto the *BBC China*. As the *BBC China* left Dubai a U.S. warship shadowed the vessel while British officials notified both Germany and Italy of their plans to interdict. Italy and Germany, both active members of the PSI, agreed to the interdiction and as the vessel passed through the Suez Canal German officials contacted BBC Chartering and Logistics GmbH requesting the *BBC China* to dock at Taranto, Italy.

Following the interdiction, bilateral investigations into the Khan network continued and after further diplomatic pressure the Libyan and Pakistani governments finally offered up A.Q. Khan. Likewise, Libya openly resumed talks with the United States and indicated it was willing to renounce its nuclear weapons program. Interestingly, future investigations by the International Atomic Energy Agency (IAEA) also revealed that one of the containers, overlooked during initial investigations,

⁹¹ Committee of Privy Counselors, Review of Intelligence on Weapons of Mass Destruction, The Stationary Office (London, 2004): 17 – 22 <http://www.butlerreview.org.uk/report/report.pdf> (accessed May 2007).

⁹² Mark Hosenball and Christopher Dickey. "A Shadowy Nuclear Saga; WMD Smugglers can Leave Dizzying Trails." *Newsweek* 148, no. 16 (October 30, 2006): 48, <http://proquest.umi.com/pqdweb?did=1150361421&Fmt=7&clientId=65345&ROQ=309&VName=POD> accessed March 2007).

⁹³ Broad et al.

contained Turkish produced centrifuge parts originally destined for Libya's nuclear program. When confronted Libya handed the container over to the United States.⁹⁴

The extensive intelligence sharing that took place is often accredited to the U.S.-led counterproliferation activity, PSI, which relies heavily on information sharing networks designed to prevent the spread of WMD technology and related materials via the means of air and sea interdiction. In this case, the success of the *BBC China* interdiction was made possible by effective intelligence sharing between British MI6 agents, the CIA and NSC, the Malaysian, Pakistani, Italian and German governments, and other various classified sources.

Yet, no activity or operation is without its challenges. In the case of the *BBC China*, U.S. and British intelligence officials "knew that the *BBC China* was actually carrying parts for advanced centrifuges...the problem was how to act on that intelligence."⁹⁵ For example, how could they proceed with interdiction plans without inadvertently informing members of Khan's network or inadvertently starting a diplomatic incident with either Libya or Pakistan? Likewise, what were the legal and political challenges? The following section discusses each of these challenges in turn.

C. CHALLENGES

Interdiction operations are often riddled with challenges states must overcome in order to effectively prevent the spread of WMD. Any type of interdiction operation has the potential for political backlash if it fails. States not directly involved may perceive the action as heavily handed and not conforming to international law. For example, how was it possible for the United States to interdict a German-flagged vessel traveling in

⁹⁴ Michael Richardson, "The Proliferation Security Initiative (PSI): An Assessment of its Strengths and Weaknesses, with Some Proposals for Shaping its Future," *Trends in Southeast Asia Series*: 3(2006), *Institute of Southeast Asian Studies, Singapore* (2006): 18; Stephen Fidler and Mark Huband, "Turks and South Africans 'helped Libya's secret nuclear arms project', *London 2d Edition* (June 10, 2004): 11 <http://proquest.umi.com/pqdweb?did=649403001&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed March 2007).

⁹⁵ James Kitfield. "Success of Bush Nonproliferation Doctrine Remains in Doubt as Iran, North Korea Crises Persist." *Global Security Newswire* http://www.nti.org/d_newswire/issues (accessed May 2007).

international waters? Moreover, how do you interdict a known shipment of WMD-related technology with the help of multiple states without inadvertently sharing operational plans with other proliferators?

There are some who suggest the interdiction was plagued with unpredictability and challenges. For example, the Egyptians wanted to be the ones to actually impound the vessel and then inspect it since the vessel was passing through the Suez Canal. Yet, politically, the United States felt it had too much invested with regards to ending the Khan network to allow someone, other than the United States or the United Kingdom, a chance to claim credit for the interdiction.

Another challenge was working with German and Italian officials. For example, Italy proved to be somewhat reluctant to accept U.S. intelligence as a result of the geopolitical relations Italy had with Libya and Italy's "rocky" relations with the United States, all of which occurring during the United States invasion in Iraq, a topic that will be delved into more in the next chapter. Although it can be argued that Germany was hesitant to support this particular interdiction because of questionable legality, the issues surrounding Germany were actually more political in nature. Sources say that Germany's reluctance was due to fear of negative public and global perception. In the past Germany had been involved with shipping WMD-related materials and expertise to other states. Moreover, Khan's network involved German scientists and components. These issues coupled with the fact that the *BBC China* was a German flagged vessel made the German's decision to interdict a political quandary.⁹⁶

Even though each of these challenges is worth further scrutiny, the supporting evidence has been deemed classified due to political sensitivity. Additionally, to delve further into the evidence behind these accusations would require this paper to be

⁹⁶ The challenges noted above (beginning with the Egyptians) were posited by a former senior DIA analyst and corroborated by a member of the U.S. Counterproliferation Center. Both have requested to remain anonymous. Contact with either of the individuals can be made through this author. The role of German scientists working for the Khan network was verified via the *Press Release by Inspector General of Police in Relation to Investigation on the Alleged Production of Components for Libya's Uranium Enrichment Programme*, Royal Malaysia Police Office, <http://www.iranwatch.org/government/malaysia/malaysia-police-libyareport-022004.htm> (accessed April 2007).

classified. Therefore, in order to keep this paper at an unclassified level, this section will only look at those challenges supported by open-source information. In particular, this section will look at the legality of the interdiction, the collection of actionable intelligence, and the fear of inadvertent intelligence sharing.

Just as in the case of the *So San*, the legal debates surrounding the interdiction of the *BBC China* rest on two principles: the legality of the interdiction itself and the legality of seizing questionable cargo. However, unlike the case of the *So San* and other interdiction cases the actual act of interdicting the *BBC China* did not require looking for legal “loopholes” or “broken tail lights.”⁹⁷ First, the United States abided by Articles 92 and 110 of the United Nations Law of the Sea Convention (UNCLOS) by not personally boarding the ship but having it redirected with consent of the flag nation.⁹⁸ Second, the United States used previously established bilateral agreements with Germany and Italy and interdiction principles created by the PSI as the legal framework. Therefore, the overall interdiction of the vessel was not legally contentious.

Along these same lines, seizing the *BBC China*’s cargo was legal for two distinct reasons. First, the confiscated cargo was not correctly labeled on the ship’s manifest – a violation of both international shipping laws and UNCLOS. Second, the actual shipping of centrifuge parts specifically for the production of nuclear weapons is in direct violation of the Non-Proliferation Treaty. Since Libya was a signed and ratified member of the NPT since 1975, it was in direct violation. The only way the detaining or seizing of these components could be viewed as illegal would be if the components were delivered for industrial use (i.e., processing petrochemicals) and labeled correctly on both the shipping containers and the ship’s manifest. Since neither was done, it could only be assumed the components were for the development of nuclear weapons. Yet, this issue of dual-use technology brings into line another challenge: collecting *actionable* intelligence.

Before discussing actionable intelligence a distinction must be made between intelligence and actionable intelligence. Intelligence in its simplest form is collected,

⁹⁷ Joseph, *Arms Control Association: Arms Control Today*.

⁹⁸ Doolin, *Naval War College Review*.

processed, and analyzed information. Actionable intelligence, however, is that intelligence which is immediately available in order to deal with a current situation. More specifically, actionable intelligence is that intelligence which is specific enough to act on. One of the main challenges of the *BBC China* was collecting enough information that could be later produced into some form of actionable intelligence. This proved especially cumbersome when dealing with dual-use items.

For example, the casings, molecular pumps, spacers, positioners, tubes, and clamp holders discovered on the *BBC China* could be used for other mechanical devices such as water treatment plants. According to the *New Straits Times Press* the parts found, “could easily be fitted into many industrial or home components. Without knowing the full or a significant portion of the total of a sub assembly, no definitive use of assignment of the possible device may be made.”⁹⁹ Likewise, SCOPE had presumed that the parts being manufactured and shipped were for “petrochemical tools, water treatment, and other health functions.”¹⁰⁰

Another issue was finding enough information about the shipment, the actual extent of Libya’s WMD program, and more importantly, the level of A.Q. Khan’s involvement. Moreover, there would need to be an extraordinary level of certainty before taking any action with states not already involved in collection efforts. Trying to develop enough actionable intelligence so the event would not turn into a political debacle, as in the case of the *So San*, embarrassing the United States and its allies would prove to be a difficult task. For example, U.S. and U.K. intelligence officials had been working feverishly to collect intelligence on Khan’s network since the 1980s. Yet, the real breakthrough did not come until March 2003 when Colonel Gaddafi’s eldest son, Seif Islam, approached MI6 agents in London.¹⁰¹ Seif Islam offered British MI6 agents information regarding the rumors that Libya possessed WMD and how the Khan network

⁹⁹ Chow Kum Hor, Annie Freeda Cruz, Anna Maria, and Koh Lay Chin. "Search of Ship Led to Seizure of Containers Bound for Libya." *New Straits Times Press* (February 21, 2004) sec. Nation, <http://lexis-nexis.com> (accessed May 2007).

¹⁰⁰ “*Malaysia Denies Involvement in Producing Nuclear Components for Libya*” *AFX News Limited*, (2004) <http://web.lexis-nexis.com> (accessed May 2007).

¹⁰¹ Frantz, *Los Angeles Times*.

factored into Libya's programs.¹⁰² CIA and MI6 officials used this information to approach Libya with options to forgo its chemical and nuclear weapons programs, yet Libya stonewalled negotiations until after the interdiction was publicized.

Similarly, according to Douglas Waller "the CIA has never had much luck penetrating the inner circles of Gaddafi's government."¹⁰³ This led to the issue of trying to capitalize on the fact that Libya relied on foreign expertise and material for their WMD programs. Consequently, had the United States realized this fact, a counterproliferation operation could have been conducted sooner.¹⁰⁴ Still, the information provided by Seif Islam, the abundance of intelligence U.S. and U.K. agents already possessed, as well as the shipment information provided by Urs Tinner, would prove to be enough for an effective counterproliferation interdiction operation. The only issue remaining was determining whether to proceed militarily or rely on export control measures.

Ostensibly, one would think that export control measures are a perfect alternative to military action and would support international law. However, Dr. Khan had exploited countries, such as the ones involved, for decades particularly because of their weak export control laws. According to investigations by Malaysian police officials, "the centrifuge components seized on the *BBC China* showed how the network exploited Malaysia's weak national export control system."¹⁰⁵ Dr. Khan also used complex transportation arrangements in order to deceive intelligence officials.¹⁰⁶ For instance, "the international free zone in Dubai, through which shipments are still subject to few

¹⁰² Frantz, *Los Angeles Times*.

¹⁰³ Douglas Waller. "Target Gaddafi, again," *Time* 147, no. 14 (April 1, 1996): 46, <http://proquest.umi.com/pqdweb?did=9375303&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed May 2007).

¹⁰⁴ McFall, 43.

¹⁰⁵ *Press Release by Inspector General of Police in Relation to Investigation on the Alleged Production of Components for Libya's Uranium Enrichment Programme* Royal Malaysia Police Office, <http://www.iranwatch.org/government/malaysia/malaysia-police-libyareport-022004.htm> (accessed April 2007); Albright and Hinderstein, 117.

¹⁰⁶ Albright and Hinderstein, 120.

meaningful controls, was particularly critical to the network.”¹⁰⁷ Essentially, these weak export control measures and complicated shipping arrangements had complicated and undermined intelligence collection efforts.

A similar challenge was conducting a thorough search on a vessel as large as the *BBC China*. Since on-board inspectors only had information about the SCOPE containers, one container carrying the Turkish equivalent of the same seized components was never confiscated. According to reports by the IAEA, the United States had released the *BBC China* prematurely and had missed one that contained several more advanced Turkish centrifuge parts.¹⁰⁸ However, U.S. intelligence officials involved rebutted saying they “didn't miss anything... 'Everything we had actionable intelligence on we found’.”¹⁰⁹ Subsequently, five months later Libya turned over the forgotten container to the United States.

The final and most crucial challenge was trying to collect enough intelligence to stop both Khan and Libya without inadvertently sharing information that could forewarn members of Khan's network or the Libyan government. In particular, it was believed that the circulation of any information prematurely would inhibit chances of a thorough investigation into the Khan network.¹¹⁰ This fear was later confirmed when investigators found destroyed evidence following the leakage of information to the press regarding the interdiction. Consequently, these events are why the PSI believes that keeping “their successes secret is important.”¹¹¹ Yet, even though evidence was destroyed, there was enough evidence to continue bilateral investigations into Khan's network, which

¹⁰⁷ Albright and Hinderstein, 120.

¹⁰⁸ William J. Broad, and David E. Sanger. "After Ending Arms Program, Libya Receives a Surprise." *New York Times* (May 29, 2004) <http://proquest.umi.com/pqdweb?did=643930461&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed May 2007).

¹⁰⁹ *Ibid.*

¹¹⁰ Albright and Hinderstein, 123–124.

¹¹¹ *Ibid.*

eventually led to the end of Khan's "nuclear Wal-mart."¹¹² Additionally, Libya eventually allowed inspectors to look at its entire nuclear and chemical weapons programs, although why Libya continued to buy nuclear-related materials six months before abandoning its entire program is a conundrum in itself. The next section covers the impacts the interdiction had on counterproliferation operations more in depth.

D. IMPACT

Parsimoniously, there are three major impacts of the *BBC China* interdiction: Libya's abandonment of its WMD program, the eventual roll-up of A.Q. Khan's network, and the call by the United States to amplify PSI activities. This section will look at each of the impacts and the effect it had on future of counterproliferation activities.

The first, and often contested, impact was the renouncement of Libya's WMD program. Politically, this could not have come at a better time as the United States and its supporting allies were at war with Iraq over the very issue of WMD. Yet, although the interdiction was a factor in Libya's decision-making process, some U.S. officials believe that the interdiction merely had a psychological effect. In particular, some officials believe that the "Libyans may have been 'hedging their bets' by pursuing a weapons programme while engaged in secret talks"¹¹³ and that once "they saw how much we knew about what they were doing"¹¹⁴ they let inspectors into Libya.

Others believe that Libya did not abandon its weapons program simply because of the *BBC China* but because of long, often secret, diplomatic talks between the United

¹¹² Selig S. Harrison. "How to Regulate Nuclear Weapons; the U.S. Deal with India could be a Good Starting Point." *The Washington Post* (April 23, 2006) <http://libproxy.nps.edu/login?url=http://proquest.umi.com/pqdweb?did=1025598411&Fmt=7&clientId=11969&RQT=309&VName=PQD> (accessed May 2007).

¹¹³ Colin Brown. "Straw Accused of Covering Up Libya Weapons Seizure." *Sunday Telegraph* (January 18, 2004) sec. News; International, <http://web.lexis-nexis.com> (accessed 3 May 2007).

¹¹⁴ Carla Anne Robbins. "Cargo Seizure Fueled Libya Arms Shift; U.S.-Initiated Interdiction Led to Discovery of Parts used in Uranium Enrichment." *Wall Street Journal* (December 31, 2003) <http://proquest.umi.com/pqdweb?did=519340061&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed March 2007).

States, the United Kingdom, and Libya.¹¹⁵ For example, the incident occurred just as Libya made a deal to dismantle their programs in return for the removal of U.S. sanctions.¹¹⁶ Still, whether it was the actual interdiction or time spent in secret diplomatic negotiations, the fact remains that Libya renounced its program. Moreover, the events prohibited Libya from continuing its work on weaponizing stockpiles of nerve and mustard agents as well as developing nuclear weapons.¹¹⁷

Politically, Libya's renouncement demonstrated the benefits of disbanding WMD programs and how continuing such programs will only bring dire consequences. It also illustrated how effective diplomatic talks between states could prevent a former "rogue state" from developing a weapon of mass murder. In the end, it led to Libya signing additional protocols to the NPT allowing IAEA inspectors complete access to all programs and facilities.¹¹⁸

Additionally, the information Libya provided U.S. investigators on A.Q. Khan and his nuclear network led to investigators uncovering various and numerous front companies and production facilities. The intelligence gathered also led to the discovery of "hundreds of pages of engineering drawings and handwritten notes [that would] provide an excellent starting point for anyone trying to develop an effective atomic warhead."¹¹⁹ It also uncovered that Khan's network exploited Malaysian facilities and ordered parts from countries with weak export control measures. More importantly, the information

¹¹⁵ Flynt Leverett. "Why Libya Gave Up on the Bomb." *New York Times* (January 23, 2004) <http://libproxy.nps.edu/login?url=http://proquest.umi.com/pqdweb?did=528206461&Fmt=7&clientId=11969&RQT=309&VName=PQD> (accessed May 2007).

¹¹⁶ Ibid.

¹¹⁷ Patrick E. Tyler and James Risen. "Secret Diplomacy Won Libyan Pledge on Arms." *New York Times* (December 21, 2003) <http://proquest.umi.com/pqdweb?did=504536591&Fmt=7&clientId=65345&RQT=309&VName=PQD> (accessed May 2007).

¹¹⁸ Luc de Barochez. "The 'Axis of Evil' Limits its Atomic Ambitions." *Le Figaro* (December 29, 2003) <http://www.opensource.gov/> (accessed May 2007).

¹¹⁹ Frantz, *Los Angeles Times*.

proved embarrassing for states and eventually led to the Pakistani government to look for other possible members of Khan's network, ostensibly to prevent it from happening again.¹²⁰

Another controversial impact of the *BBC China* is the impact the interdiction had on the PSI. Because of the successful interdiction operation, U.S. President Bush announced in 2004 the need to "expand the core group of PSI countries" from its original 11 members.¹²¹ In addition, President Bush announced several proposals to increase the effectiveness of the PSI. Some of these include the expansion of PSI's focus in order to address more than shipments and transfers; increased intelligence sharing activities in both military and law enforcement agencies both foreign and domestic; and the strict enforcement of export control laws.¹²²

These proposals by President Bush were timely and achievable. One month after announcing the proposals, the United Nations Security Council Resolution passed UNSCR 1540. This act requires "all states to criminalize proliferation to non-state actors and to establish, review, and maintain appropriate and effective export control systems."¹²³ Yet, was the interdiction a catalyst for the PSI or did it just happen to come at a time when President Bush needed talking points to promote his quest for taking action against WMD?

It has been suggested, "the PSI was not essential to intercepting the Libya shipment"¹²⁴and that the PSI was too immature for it to have been able to organize such an interdiction. Specifically, the interdiction took place within six months of the PSI's creation. Moreover, there were no documented cases of the PSI conducting any type of

¹²⁰ *President Announces New Measures to Counter the Threat of WMD*. Washington, DC: Office of the Press Secretary (2004) <http://www.whitehouse.gov/news/releases/2004/02/> (accessed May 2007).

¹²¹ *President Announces New Measures to Counter the Threat of WMD*. Washington, DC: Office of the Press Secretary (2004)

¹²² *Ibid.*

¹²³ Albright and Hinderstein, 121.

¹²⁴ Michael Roston. "Polishing Up the Story on the PSI." *In the National Interest* 3, no. 23 (June 9, 2004), <http://www.inthenationalinterest.com/Articles/Vol3Issue23/Vol3Issue23Roston.html> (accessed May 2007). This is Roston's interpretation of President Bush's address February 2004. President Bush never directly stated this.

exercise prior to the *BBC China* incident. Essentially, it was a political decision to credit the successful interdiction of the *BBC China* to the PSI. Still, even though the “the PSI may not have been the chief driver behind”¹²⁵ Libya’s renouncement or A.Q. Khan’s fall, it is implausible to suggest the interdiction did not play a part in how events unfolded.

E. LESSONS LEARNED

Although it cannot be said with certainty that the successful interdiction of the *BBC China* was due in large part to the effectiveness of the PSI, it is a brilliant example of how intelligence sharing among allies is an effective tool for counterproliferation operations. Similarly, although it is contested whether it was because of “threats from America” or “lengthy British and American diplomacy,” that was responsible for stopping the Khan network and subsequent termination of Libya’s WMD programs, it is a testament to the effectiveness of international cooperation.¹²⁶ According to the British Butler Report, good intelligence and good intelligence sharing “can create its own positive momentum... [it] increase[s] confidence in the reliability of reporting from the sources... [and] often uncover[s] new leads... [the *BBC China*] was a major intelligence success.”¹²⁷

Along the same lines, sharing intelligence among allies enables policy makers to make sound policy recommendations. For example, “without precise intelligence, the entire *BBC China* operation might have fizzled, or have even led to an embarrassing international incident.”¹²⁸ As former Director of Central Intelligence, George Tenet, stated, “Intelligence was the key that opened the door to Libya’s clandestine program.”¹²⁹

¹²⁵ Michael Roston. "Polishing Up the Story on the PSI." *In the National Interest* 3, no. 23 (June 9, 2004), <http://www.inthenationalinterest.com/Articles/Vol3Issue23/Vol3Issue23Roston.html> (accessed May 2007). This is Roston’s interpretation of President Bush’s address February 2004. President Bush never directly stated this.

¹²⁶ Brown, *Sunday Telegraph*.

¹²⁷ Committee of Privy Counselors, Review of Intelligence on Weapons of Mass Destruction, 17–22.

¹²⁸ Kitfield, *Global Security Newswire*.

¹²⁹ Torrey C. Froscher, "Anticipating Nuclear Proliferation." *Nonproliferation Review* 13, no. 3 (November 2006): 472 <http://cns.miis.edu/pubs/npr/vol13/133/133froscher.pdf> (accessed May 2007). The quote used by Froscher was taken from a speech given by former DCI Tenet while visiting Georgetown University.

To conclude, although the interdiction was not legally contentious there were legal obstacles that had to be overcome in order for the interdiction of the *BBC China* to be a success. In particular, the *BBC China* incident resulted in stronger UN Security Council resolutions – a sign that preventing the spread of WMD is a global issue and one that requires integrated information sharing networks. Likewise, overcoming the political hurdles of organizing a U.S. led multilateral interdiction based on bilateral intelligence with states that had limited relations with the United States has shown that effective intelligence sharing can be the catalyst to preventing the spread of WMD technology and related materials. Moreover, given the impact intelligence sharing had on the overall success of the interdiction and the subsequent impact it had on future counterproliferation operations, it is reasonable to conclude that intelligence sharing has a substantial impact on counterproliferation operations.

Therefore, the primary lesson to be learned from this case is that, just as in the case of the *So San*, the risks the United States took by sharing information with its allies produced benefits that truly outweighed the costs. The United States took a huge risk of exposing clandestine sources and methods to gain allied support in order to achieve the monumental event of taking down the A.Q. Khan network and the subsequent renunciation of WMD by Libya. Likewise, as with *So San*, technology was not a factor in intelligence sharing. However, unlike with the *So San*, the cultural and behavioral barriers between the United States, Italy, Germany, and Egypt somewhat impeded progress and eventually had to be overcome in order for this operation to be a success. Additionally, although the political barriers – such as the one that existed between the United States and Egypt as to who would be the one to interdict the *BBC China*, the negative perception Italy had on U.S. credibility due to the use of politicized information in the past, and the fact that Germany was trying to avoid being labeled as a supporter of WMD proliferation – protracted operations to a point where no one believed it was going to happen, each issue was successfully overcome. This case clearly demonstrates both that successful information sharing can be achieved and that it can play a vital role in making counterproliferation effective.

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IV. IRAQ WMD

Wednesday, September 12, 2001, dawned as the first full day of a world gone mad...Arriving at the White House, I saw Secret Service personnel stationed every few feet, all of them brandishing weapons. Clearly visible overhead were fighter aircraft patrolling the skies above the nation's capital...All this weighed heavily on my mind as I walked beneath the awning that leads to the West Wing and saw Richard Perle exiting the building just as I was about to enter. Perle is one of the godfathers of the neoconservative movement and, at the same time, was head of the Defense Policy Board, an independent advisory group to the secretary of defense...As the doors closed behind him, we made eye contact and nodded. I had just reached the door myself when Perle turned to me and said, 'Iraq has to pay a price for what happened yesterday. They bear responsibility.'...I was stunned but said nothing. Eighteen hours earlier, I had scanned passenger manifests from the four hijacked airplanes that showed beyond doubt that al Qaeda was behind the attacks...the intelligence then and now, however, showed no evidence of Iraqi complicity. Moments later, a second thought came to me: Who was Richard Perle meeting with in the White House so early in the morning on today of all days?¹³⁰

No quote better suggests the political dynamics that influenced intelligence collection and sharing efforts before an invasion than this account by former Director of Central Intelligence (DCI) George Tenet. According to Tenet, the U.S. decision to invade Iraq was never solely based on the probability of Iraq having WMD. If this were true then the U.S. should have invaded North Korea years before Iraq even became an issue. The prospect of Iraq having WMD was, however, the one reason all members of the Bush Administration could agree upon in order to invade.¹³¹ It also happened to be the one talking point the public understood and could rally around.

¹³⁰ George Tenet, preface to *At the Center of the Storm: My Years at the CIA* (New York, NY: Harper Collins, 2007), xix –xx. According to William Kristol's article "George Tenet's Imaginary Encounter with Richard Perle" (April 29, 2007); *The Daily Standard* <http://www.weeklystandard.com/Content/Public/Articles/000/000/013/593daqmw.asp> (accessed July 2007), Richard Perle denies ever having said this and likewise was out of the country on 12 September when the alleged encounter took place. Kristol posits that Tenet possibly got the date of the encounter wrong while Perle states that Tenet fabricated the entire event.

¹³¹ *Ibid*, 302–303, 321.

This chapter analyzes the intelligence sharing efforts to that supported the portrayal of Iraq as a WMD threat. The “assumptions and inferences that guided analysis” coupled with the amount of flawed intelligence shared made a decision “not” to invade Iraq appear more costly than the alternative.¹³² Saddam Hussein’s deception plan to deter potential adversaries also aided in the United States’ involvement in the most costly and controversial military intervention since Vietnam, Operation Iraqi Freedom. This chapter will cover the extent of intelligence shared, challenges, and impacts intelligence sharing had not only on domestic operations but also U.S. relations with its allies. More importantly, it will discuss lessons that could be learned in an effort to ensure the U.S. does not find itself involved in another fiasco like Operation Iraqi Freedom based on bad intelligence. In short, this chapter will show that, although there was extensive intelligence being shared among allies, the political agendas of all parties involved led to failed counterproliferation efforts. Thus, successful intelligence sharing did not contribute to successful cooperation on counterproliferation.

A. BACKGROUND

Fear of Iraq’s WMD capabilities did not truly manifest as an imminent threat until after Iraq’s invasion of Kuwait in August 1990. Following the Gulf War, the United States increased funding for intelligence collection and analysis with the intelligence community spending a majority of their efforts determining Iraq’s WMD capability and probability of use and giving this information to the United Nations. Information collected was based mostly on Iraq’s earlier use of chemical weapons during the 1980-1988 Iraq-Iran war and against Iraq’s Kurdish population as well as human intelligence (HUMINT) reports. Clandestine sources, generally consisting of Iraqi defectors, revealed that Iraq showed interest towards pursuing nuclear and biological munitions in addition to their chemical arsenal. And although Iraq never used tactical or strategic WMD during the Gulf War, the actual scope of Iraq’s clandestine programs, discovered after the Gulf War, highlighted vulnerabilities in the United States’ defense plans.¹³³

¹³² Froscher, 473. See also endnote 32 in Froscher’s article.

¹³³ Ellis and Kiefer, 17.

Based on initial discoveries, the U.S. ramped up bilateral and multilateral intelligence sharing with allies, particularly with the UN. The information found led to the United Nation's Security Council passing several Security Council Resolutions (UNSCR) calling for several provisions and, specifically, Iraq's unconditional surrender and/or destruction of all WMD. The first of these resolutions, UNSCR 687, was passed in April 1991 and called for the complete destruction of all WMD munitions and Iraq's agreement to never "acquire or develop nuclear weapons or nuclear-weapons-usable material."¹³⁴ Since then there were sixteen other resolutions each with provisions requiring Iraq to cease all WMD-related activities, allow inspectors freedom to go anywhere to ensure compliance, and end its oppression against its own populace.¹³⁵

With the passing of each resolution Iraq would find ways to deceive inspectors, tamper with equipment, or flagrantly disregard provisions set forth. These violations continued until 2002 when the UN passed what was to become their last resolution before war, UNSCR 1441. This resolution, passed in November 2002, called for the "immediate and complete disarmament of Iraq and its prohibited weapons...full access to Iraqi facilities" and a final warning that Iraq "will face serious consequences as a result of its continued violations of its obligations."¹³⁶ Saddam reluctantly agreed to allow UN Special Commission (UNSCOM), later designated the UN Monitoring, Verification, and Inspection Commission (UNMOVIC), inspectors access to all facilities. Inspectors could never verify whether Iraq still had WMD or not; yet, their general inclination was that Iraq was in compliance. However, members of the Bush administration believed that Iraq was still actively pursuing WMD capabilities and had simply hidden stockpiles of chemical and biological weapons from inspectors.

Because of these perceptions, the United States continued pressuring the UN for approval to invade Iraq in order to remove Saddam Hussein from power and destroy Iraq's suspected clandestine WMD facilities. Believing the United States would never

¹³⁴ U.S. Department of State, "A Decade of Deception and Defiance," White House Background Paper on Iraq, September 12, 2002, <http://www.state.gov/p/nea/rls/13456.htm> (accessed July 2007)

¹³⁵ Ibid.

¹³⁶ Ibid.

secure UN Security Council support, President Bush announced plans to attack Iraq whether or not the UN passed another resolution authorizing use of force. Following the announcement, U.S. and British military forces began developing Forward Operational Bases (FOB) in Bahrain, Kuwait, and Oman as well as patrolling the Gulf, Indian Ocean, and Arabian Sea. By the end of January 2003, there were more than 100,000 coalition and Special Forces ready to invade.

On February 5, 2003, then U.S. Secretary of State Colin Powell presented evidence based on satellite imagery and human intelligence that Iraq continued to possess WMD to the UN Security Council. This speech would become the United States' last effort to gain support and legitimacy from UN members. After Powell gave his presentation, Dr. Hans Blix, then head inspector for UNMOVIC, testified that Iraq was adhering to the provisions outlined in UNSCR 1441 and there was no evidence to either confirm or deny the allegations brought forth by the United States. Dr. Blix's testimony cast doubt on Powell's and the United States never received UN approval. Yet, this setback did not stop President Bush and on March 17, 2003, he announced in his "Address to the Nation" the infamous ultimatum to Saddam, "leave within 48 hours or be killed."¹³⁷ Two days later U.S.-led coalition forces crossed into Iraq. In less than a month U.S. troops seized the capital of Iraq and by December 2003 Saddam Hussein was captured and placed on trial for crimes against the Iraqi people.

Since the fall of Baghdad, U.S.-led coalition forces have been conducting reconstruction operations and endeavors to uncover WMD. The goal was to find Saddam's hidden caches and show the world that, although the invasion was deemed illegal, it was necessary to bring about global peace and security. Yet, "neither during combat operations nor in the months immediately following...did coalition forces

¹³⁷ President Bush, "Address to the Nation," aired 17 March 2003 at 8:01pm EST. Transcript of speech can be found at <http://www.whitehouse.gov/news/releases/2003/03/20030317-7.html> (accessed June 2007).

uncover a smoking gun, proving the extensive prewar WMD allegations.”¹³⁸ Moreover, the invasion and subsequent attempt at regime change led to a dangerous political situation with coalition forces stuck in the middle of a civil war. It appears that the United States underestimated Iraq’s WMD capabilities during the Gulf War and overestimated the same threat after inspectors left in 2002. However, was this overestimation due to poor intelligence sharing or the sharing of flawed intelligence on a multilateral level? To what extent did the United States share its intelligence with allies?

B. EXTENT OF INTELLIGENCE SHARING

Long before the creation of current intelligence sharing bureaucracies, the U.S. Central Intelligence Agency (CIA) was the premier intelligence sharing agency with foreign services. In particular, the CIA was the lead element for collecting and analyzing intelligence on Iraq often working side by side with such allies as Israel’s Mossad, Britain’s MI5 and MI6 units, and even Pakistani Intelligence officials. For example, Israel’s Mossad knew a great deal about Iraq’s WMD capability during the 1970s and 80s, and Israel conducted successful preemptive strikes destroying such facilities as Iraq’s Osirak reactor in 1981.¹³⁹ Following the Gulf War, the Mossad provided much of the intelligence collected by the CIA.¹⁴⁰ In August 2002, Israeli intelligence postulated that Iraq was actively pursuing biological weapons and would first release Anthrax against troops followed closely by Smallpox.¹⁴¹ Another example is the intelligence sharing between U.S. and Britain. In particular, in 1999 and then again in September 2002, MI6 produced reports that Iraq was attempting to purchase refined uranium, “yellowcake,” from Niger.¹⁴² Although neither of these reports proved true – a topic that

¹³⁸ Ellis and Kiefer, in preface, xiv – xv.

¹³⁹ *Middle East Newline* “Israel Reportedly Ahead of US on Iraqi WMD Intelligence” (August 2002) <https://www.opensource.gov> (accessed June 2007).

¹⁴⁰ *Ibid.*

¹⁴¹ “US Receives Data Affirming Iraq Behind Anthrax Letters,” *DEBKA-Net-Weekly* (Jerusalem, 9 August 2002) <https://www.opensource.gov> (accessed June 2007).

¹⁴² “The Niger Link,” *BBC News* (July 15, 2003) <http://news.bbc.co.uk/2/hi/americas/3064441.stm> (accessed July 2007).

will be covered more in depth later – these forms of bilateral intelligence sharing are a pittance in comparison to the extent of sharing done between the United States and the United Nations.

The unprecedented collaboration effort between the United States and the United Nations was considered one of the most innovative tactics of the time.¹⁴³ Generally, bilateral agreements were used to manage actions against potential WMD proliferators. However, in this case, members of the United Nations and the United States desired the same end state and “the potential payoff from supplying significant intelligence platforms and products to the [UNSCOM] inspectors outweighed the potential risks to sources and methods.”¹⁴⁴

When UN inspections began in 1991, UNSCOM investigators successfully uncovered several undeclared chemical weapon munitions sites based on intelligence provided by the U.S. and Britain. Yet inspectors were consistently being misled by Iraq. As a result of Iraq’s deception efforts, in 1993 the UN created the Information Assessment Unit (IAU), which relied heavily on support from more than forty nation’s intelligence agencies for collection and analysis.¹⁴⁵ Specifically, the United States, United Kingdom, and Israel became the biggest providers of intelligence.

Of all three, the United States provided the most information focusing mainly on human intelligence (HUMINT), measurement and signature intelligence (MASINT) and signal intelligence (SIGINT) via electronic eavesdropping and ground-based radio scanners.¹⁴⁶ Likewise, prior to 1998, information discovered by the UN inspectors was shared with the United States. For example, defectors from Saddam’s army shared intelligence on Iraq’s WMD program with UNSCOM inspectors who would then pass it on to the United States. One prime example was General Hussein Kamal Hassan. Hassan, one of Saddam Hussein’s sons-in-law and former head of Iraq’s WMD and missile program, provided extensive information to include the location of one of Iraq’s

¹⁴³ Ellis and Kiefer, 125.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid, 130.

¹⁴⁶ Ibid., 135.

clandestine WMD facilities.¹⁴⁷ The U.S. confirmed the location of the facility using satellite imagery. Inside, inspectors found several hundred thousand pages worth of information regarding Iraq's missile and WMD programs including information that led inspectors to believe Iraq had several hundred metric tons of the nerve agent, VX.¹⁴⁸

In 1998 the UN ordered its inspectors to leave Iraq after receiving reports that Saddam Hussein was not cooperating in full with inspection efforts. Additionally, although inspectors were not fully convinced of Iraq's sincerity in abandoning WMD, inspectors believed that there was not enough evidence to warrant further inspections. Incidentally, their departure posed a significant challenge for the United States – an issue that will be covered later. To resume, in December 1999 information provided by HUMINT sources began to raise the question of Iraq's WMD posture thus reinvigorating the necessity for the reinstatement of inspections. However, Saddam refused to allow inspectors back in believing they were spies for the United States. In early 2002, after receiving assurance from Hans Blix that inspectors would not share intelligence found with anyone who did not need to know or spy for any government, Saddam conceded.

Although UNMOVIC refused to continue sharing intelligence with the United States, the United States continued to share relevant information with inspectors. Clandestine satellite photos of WMD storage sites, HUMINT reports, and intercepted telephone messages were still passed to UNMOVIC inspectors. Yet no matter what intelligence was provided, nothing significant was ever found by UNMOVIC inspectors. More importantly, since nothing was ever found, inspectors began to question the validity of the intelligence presented to them. Specifically, in 2003 members of the UN Security began to question the intentions of the United States, Britain, and Israel. More to the point they began to wonder if the United States had “colonialist intentions” in mind and if they were purposefully politicizing the intelligence to support action.¹⁴⁹ This suspicion of

¹⁴⁷ Ellis and Kiefer, 133.

¹⁴⁸ Ellis and Kiefer, 133.

¹⁴⁹ Joshua Micah Marshall, “Practice to Deceive: Chaos in the Middle East is not the Bush hawks' nightmare scenario – it's their plan,” *Washington Monthly* (April 2003) <http://www.washingtonmonthly.com/features/2003/0304.marshall.html> (accessed July 2007)

the United States' intentions was one of many challenges the United States faced with regards to sharing intelligence with allies. The next section covers more of these challenges in depth.

C. CHALLENGES TO SHARING INTELLIGENCE

Estimating Iraq's WMD program essentially became a battle between what the intelligence claimed and what inspectors actually found. A more significant challenge is that once incorrect information has been shared it is almost impossible to continue doing so without your own intentions being called to attention. In this case, there were significant challenges that had to be faced. The three main challenges found were: multilateral sharing; faulty intelligence; and Saddam's deception plan. Each challenge posited made sharing information a difficult feat – one that would inevitably lead to the undermining of the United States' credibility.

1. Sharing on a Multilateral Level

The previous case studies referred to the challenges of bilateral and at times trilateral sharing when it came to counterproliferation. In this situation the U.S. chose to take a multilateral approach to sharing intelligence on Iraq's WMD proliferation. Efforts to operate multilaterally can lead to long-winded debates, misperceptions, frustration, and, as posited by U.S. Vice-President Dick Cheney, "a policy of doing exactly nothing."¹⁵⁰ For example, Saddam Hussein's allegations that UN inspectors were mere "puppets of U.S. interests" and their presence an attempt at covertly gathering intelligence caused uproar within the international community and clearly illustrate the complexity and sensitivity of multilateral sharing.¹⁵¹

Conversely, intelligence sharing with the United Nations was the most notable, yet taxing, approach for the United States. In order to succeed the U.S. would have to overcome some of its most prevalent fears. Notably, it would have to ensure sources and

¹⁵⁰ Nye Jr., *Soft Power*, 65.

¹⁵¹ Ellis and Kiefer, 136.

methods would not be compromised.¹⁵² Likewise, it would have to guard against fabricated information entering their analysis which could cause loss of credibility within the international community.¹⁵³ This daunting task proved even more difficult than originally expected, as some states believed the United States had already decided to go to war with Iraq and was just using the UN to gain legitimacy and support.¹⁵⁴ Additionally, it was perceived the U.S. was pressuring states for information. The issue of having to trust the credibility of information from those already suspicious of your actions makes it very difficult to effectively share information multilaterally.

2. Faulty Intelligence

While trying to collect and disseminate information within a multilateral setting is a complex task, doing so with faulty intelligence is even trickier. First, using faulty information makes it harder for a state to validate sources and methods. Second, passing false information hurts the state's credibility with others. There were three problems that led to faulty intelligence: misinterpretation of information, politicized intelligence by U.S. policymakers and allies, and an overall lack of credible sources [e.g., the infamous Iraqi defector codenamed *Curveball*].

One reason that facts were misinterpreted was due to the challenges of collecting and analyzing information based on dual use technology. Just as in the case of the *BBC China*, the U.S. began investigating dual use technology based on information received from allies and other clandestine sources. U.S. intelligence agencies believed these technologies to be signs that Iraq had not completely abandoned its WMD program. In particular, Iraq's clandestine purchases of aluminum tubes, magnets, high speed

¹⁵² Derek S. Reveron, "Old Allies, New Friends: Intelligence-Sharing in the War on Terror," *Orbis*, 50, no. 3 (Summer 2006): 453-468 <http://www.sciencedirect.com/science/journal/00304387> (accessed July 2007)

¹⁵³ Reveron, 453-468.

¹⁵⁴ Nye Jr., *Soft Power*, 65.

balancing machines, machine tools, and mapping software, and the reporting of mobile biological weapons laboratories were all believed to be significant indicators.¹⁵⁵

Yet, subsequent investigations found each to have been purchased for conventional use. For example, Department of Energy (DOE) and IAEA investigators later assessed the aluminum tubes purchased were unsuitable for centrifuge rotors and were actually for artillery purposes.¹⁵⁶ Likewise, the Iraq Survey Group (ISG) determined that the “machine tools were not capable of supporting a centrifuge program and that the balancing machine was intended for much heavier components than a centrifuge.”¹⁵⁷ The mobile laboratories, thought to be essential for testing and producing biological weapons, were actually antiquated trailers designed to produce hydrogen for meteorological balloons.¹⁵⁸ Similarly, the purchase of mapping software by Iraq was also misinterpreted. Believed to be targeting software, it was actually part of an autopilot software program purchased – yet, never installed – by the Iraqi military.¹⁵⁹ Yet, were these items misconstrued because of poor analysis or was it politicized intelligence used to legitimize U.S. efforts? According to Tenet some of his senior analysts soon came under the perception that the issue of whether Iraq had WMD or if we “should we go to war” was no longer the priority for them.¹⁶⁰ Instead analysts were now being called in to

¹⁵⁵ “Conclusion of Senate’s Iraq Report: Report on the prewar intelligence assessments,” *MSNBC.com* (2004) <http://www.msnbc.msn.com/id/5403731/print/1/displaymode/1098/> (accessed July 2007); *Report on Postwar Findings about Iraq's WMD Programs and Links to Terrorism and how they Compare with Prewar Assessments*, Senate Select Committee on Intelligence, 109th Congress (Washington, DC, 2004) 20-21; George Tenet, “Statement on the 2002 NIE on Iraq’s Continuing Programs for WMD” (August 11, 2003) <https://www.cia.gov/news-information/press-releases-statements/press-release-archive.html> (accessed July 2007)

¹⁵⁶ “Conclusion of Senate’s Iraq Report: Report on the prewar intelligence assessments,” *Report on Postwar Findings about Iraq's WMD Programs and Links to Terrorism and how they Compare with Prewar Assessments*, 20–25.

¹⁵⁷ *Report on Postwar Findings about Iraq's WMD Programs and Links to Terrorism and how they Compare with Prewar Assessments*, 24.

¹⁵⁸ *Report on Postwar Findings about Iraq's WMD Programs and Links to Terrorism and how they Compare with Prewar Assessments*, 36; Klaus Wiendl and Rudolf Lambrecht, “German Television Cites Eye-Witness for Iraq’s Mobile Laboratories,” ARD Television (Munich, Germany, February 17, 2003). Translated by OpenSource.gov <https://www.opensource.gov> (accessed June 2007); Sebastian Knauer, German Site Claims Alleged Mobile WMD Plants Solely for ‘Agrochemicals,” *Spiegel Online*, Hamburg, Germany. Translated by OpenSource.gov <https://www.opensource.gov> (accessed June 2007); Tenet, 403.

¹⁵⁹ *Report on Postwar Findings about Iraq's WMD Programs and Links to Terrorism and how they Compare with Prewar Assessments*, 51.

¹⁶⁰ Tenet, 308.

answer “how” we could go to war and “how will we explain it to the public.”¹⁶¹ For example, the misinterpreted information was never officially cross-referenced with outside agencies to ensure validity – an issue that will be discussed later in this section.

Reports by the Senate Select Committee on Intelligence (SSCI) also found that members of the U.S. intelligence community were consistently looking for evidence to support preconceived notions. Specifically it was found that Iraq’s elaborate clandestine WMD program found after the Gulf War tainted policymaker’s confidence in Iraq’s integrity. Likewise, “prior to 1998, the IC [Intelligence Community] had become heavily dependent on UN information on the state of Iraq’s WMD programs” and “did not develop a sufficient unilateral HUMINT collection effort...to take its place.”¹⁶² This left government officials unable to confirm or deny their fears (i.e., blinded). More to the point it forced intelligence agencies to rely on dated and often “less reliable and less detailed sources.”¹⁶³

The SSCI also found that the U.S. intelligence community discounted UN inspectors’ reports that there was no evidence of WMD, because U.S. officials believed inspectors were being duped by Iraq. Additionally, the SSCI found that one shared assumption by policymakers was that those “sources who denied the existence or continuation of WMD programs and stocks were either lying or not knowledgeable about Iraq’s programs, while those sources who reported ongoing WMD activities were seen as having provided valuable information.”¹⁶⁴ In order to find supporting intelligence they would have to rely on defectors from Saddam’s regime who, interestingly enough, would openly testify in return for secure visas.¹⁶⁵ The most infamous of HUMINT sources used was *Curveball*.

¹⁶¹ Tenet, 308.

¹⁶² “Conclusion of Senate’s Iraq Report: Report on the prewar intelligence assessments.”

¹⁶³ Ibid.

¹⁶⁴ “Conclusion of Senate’s Iraq Report: Report on the prewar intelligence assessments.”

¹⁶⁵ Ibid; “Iraqi Scientist Says Intelligence Agencies Ignored WMD Claims,” *The Age* (August 1, 2004) Melbourne, Australia <https://www.opensource.gov> (accessed June 2007).

Curveball was a former Iraqi chemical engineer who, in 1998, found himself in a German refugee camp. The German Federal Intelligence Service (BND) offered *Curveball* an immigration card in return for information on Iraq. The BND began sharing bits and pieces of what they learned to the U.S. Defense Intelligence Agency (DIA); however, they would let neither DIA nor CIA have direct access to *Curveball*. By chance, members of the CIA were eventually able to gain access to *Curveball* and at first glance believed “there was something wrong.”¹⁶⁶ When *Curveball* was given a routine examination the doctor noted, “the man appeared hungover” and “he expressed doubts about his reliability.”¹⁶⁷ Moreover, according to his German handlers even warned members of the CIA that “You don’t want to see him [*Curveball*] because he’s crazy. Speaking to him would be a waste of time.”¹⁶⁸ Incidentally, this last fact is debatable since the BND still deny ever saying that he was “crazy” merely that they could not verify his testimony and that he was a “single source.”¹⁶⁹

In spite of these indicators, the information *Curveball* provided melded with what members of the Bush administration believed; therefore policymakers judged his testimony to be trustworthy.¹⁷⁰ More importantly, the DIA “disseminated almost 100 foreign intelligence reports from *Curveball*.”¹⁷¹ Furthermore, the information provided was used in Powell's address to the UN Security Council on February 5, 2003, albeit against his better judgment.¹⁷²

Subsequent investigations revealed that those responsible for “handling” *Curveball* did an inefficient job. The information was sparse and it seemed that his “handlers” were merely passing along rather than verifying the information. Likewise,

¹⁶⁶ Tenet, 376.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid., 377.

¹⁶⁹ Ibid., 379.

¹⁷⁰ *Report on Postwar Findings about Iraq's WMD Programs and Links to Terrorism and how they Compare with Prewar Assessments*, 30.

¹⁷¹ Reveron, 453–468.

¹⁷² Eric Lesser, “Doubts Grow in US about Reasons Cited for Intervention in Iraq,” *Le Monde* (Paris, France June 5, 2003). Translated by OpenSource.gov <https://www.opensource.gov> (accessed June 2007)

the CIA agents who were told that *Curveball* was “crazy” and unreliable never relayed that to the DCI or DIA. These failures and inadequacies clearly illustrate the “dangers of relying on foreign intelligence.”¹⁷³ Furthermore, members of the intelligence community knowingly excluded objective analysis from other agencies such as the Department of Energy.¹⁷⁴

Britain’s intelligence services also used sources that were unvetted, untried, or had never presented information with regards to Iraq’s WMD capability.¹⁷⁵ And although members of MI6 emphatically reiterated that information from the sources being used “remains unproven,”¹⁷⁶ the information was still relayed to U.S. intelligence agencies. This fact raises the question, why would Britain knowingly pass along faulty information? According to Robin Cook, Britain’s former foreign secretary and later critic of the Iraq war, “what was propelling the Prime Minister [Tony Blair] was determination that he would be the closest ally to George Bush and they would prove to the United States administration that Britain was their closest ally.”¹⁷⁷ The collection of faulty information was even easier because of Saddam Hussein’s deceptive behavior.

3. Saddam’s Deception Plan

According to the II Republican Guard Corps Commander, Lieutenant General Raad Majid al-Hamdani, Saddam told his inner circle that the “better part of war was deceiving.”¹⁷⁸ Saddam Hussein conducted operations based on this principle up to the point of the U.S.-led invasion in 2003. Prior to that Saddam frequently relied on the implied threat of chemical weapons to ward off Iranian attacks, maintain control over Shiites, and present himself as a powerful dictator not only to his own populace but to the

¹⁷³ “Conclusion of Senate’s Iraq Report: Report on the prewar intelligence assessments.”

¹⁷⁴ Ibid.

¹⁷⁵ “BBC Says Intelligence Chief Told Blair that US ‘Fixed’ Case for Iraq War,” *London Sunday Times*, 22 March 2005 <https://www.opensource.gov> (accessed on 5 June 2007)

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Michael R. Gordon and General Bernard E. Trainor, *Cobra II: The Inside Story of the Invasion and Occupation of Iraq* (New York, Patheon Books, 2006), 119.

world. For example, after the Gulf War Saddam propagated the perception that the only reason why U.S. troops did not enter Baghdad was because of Iraq's chemical and biological capabilities.¹⁷⁹

Saddam's deceptive plans allowed him to stay in power and effectively rule Iraq. However, Saddam's deception also led him into a risky predicament. On the one hand, Saddam had to show his own people that he was still in control; while, on the other hand, he had to show compliance to the UN demands for disarmament. He was playing a risky game trying to keep up a guise George Tenet parallels to the necessity of appearing as a "tough guy" in the bad part of town.¹⁸⁰

In order to keep up the deception but still show compliance, Saddam allowed UN inspectors into Iraq but purposefully limited their access from certain palaces and facilities. Likewise, Iraq would openly tell the UN that they were abiding by UN resolutions often giving ambiguous accounts as to how they had disposed of WMD and precursor stockpiles. Moreover, he would forbid weapon scientists from leaving Iraq or being interviewed by the UN. Saddam's deception plan worked so well that Abd-al-Tawab 'Abdallah al-Mullah Huwaysh, a senior military officer who oversaw the Iraq's military industry, was so convinced he began to wonder if Saddam really did control a secret cache of weapons.¹⁸¹ Furthermore, Saddam's counter-intelligence efforts significantly challenged British MI6 collection operations or efforts to validate the credibility of sources.¹⁸²

As U.S. forces continued plans for the invasion, Saddam knew that his game of deception was about to come to an end. Complete openness by Saddam would be the only way to influence and hopefully dissuade an invasion he did not possess the forces to stop. In January 2003, Saddam granted full access to UN inspectors promising full cooperation. Yet, the U.S. had already made its mind to invade and nothing was going to

¹⁷⁹ Gordon and Trainor, 118.

¹⁸⁰ Tenet, 46.

¹⁸¹ Gordon and Trainor, 135.

¹⁸² Mark Huband, "MI6 attacked for dependence on poor sources," *London Financial Times* (London, England, July 15, 2004), 3 <http://web.lexis-nexis.com> (accessed May 2007).

stop them. Knowing this, Saddam positioned his forces around Baghdad forming a fortress defense or what the U.S. referred to as the “Red Line”.¹⁸³ This led to another misinterpretation by the intelligence community. Essentially, Saddam’s defensive strategy was seen as a trigger for the use of WMD against forces. Specifically, if troops were spotted approaching the “Red Line” Saddam would launch chemical and/or biological weapons in retaliation.¹⁸⁴

Overall, the failure of the intelligence community to accurately vet sources and analyze information mixed with preconceived notions about the Iraq threat contributed to the outcome seen today. Additionally, the invasion itself can be attributed to inadequate information sharing between the U.S. and allies. Ironically, Saddam’s efforts to deceive his enemies in order to remain in power ultimately resulted in him losing his dictatorship and his life. Tenet best summed this point by saying, “Before the war, we didn’t understand that he [Saddam Hussein] was bluffing; and he didn’t understand that we were not.”¹⁸⁵ This next section discusses more of the impacts of intelligence sharing.

D. IMPACT OF INTELLIGENCE SHARING

The fears postulated by members of the U.S. government were coming true as inspection after inspection revealed no WMD in Iraq. Ostensibly, the U.S. had been duped by Saddam Hussein, its allies, and its own people into going to war for the wrong reasons. More importantly, the impact this had both domestically and internationally on U.S. credibility was astounding.

The intelligence communities’ worlds, across the spectrum, had been literally turned upside down as new bureaucracies were being created to “streamline” rather than “stovepipe” information flow. The CIA –already under scrutiny because of Aldrich Ames, India’s nuclear testing, not to mention their inability to prevent 9/11 – lost much of what was left of its reputation because of this intelligence debacle. Likewise, the DIA

¹⁸³ Gordon and Trainor, 120–124.

¹⁸⁴ Gordon and Trainor, 120–124.

¹⁸⁵ Tenet, 333.

was repeatedly criticized for not questioning sources used. The Office of Special Plans – created by U.S. Secretary of Defense at the time, Donald Rumsfeld, and headed by Douglas Feith, the Undersecretary of Defense for Policy, specifically for gathering intelligence to support invasion – was disbanded and its members brought under intense scrutiny. In order to prevent this from happening again, agencies such as the Office of the Department of National Intelligence (ODNI), the National Counterproliferation Center (NCPC), and the National Counter Terrorism Center (NCTC), were created to more effectively manage and control information flow. Similarly, plans such as the Information Sharing Environment (ISE) and parts of the USA PATRIOT Act were also implemented to break down cultural barriers and increase the cross flow of information.

The U.S. military itself was strongly impacted as well. Iraq’s WMD scare led U.S. military installations to ramp up force protection measures, while units focused on techniques to protect themselves in a nuclear, biological, or chemical environment during sustained combat. Soldiers were extensively trained and drilled on the donning of protective equipment, the use of dosimeters, and deliberate as well as field expedient decontamination techniques. Additionally, troops underwent mass inoculations against anthrax and smallpox both in theater and before deploying because of reported biological weapons threats.¹⁸⁶

If the impact at the domestic level seems extensive, then the impact at the international level was monumental. Specifically, the largest impact was on U.S. credibility with other states. In addition, it produced “doubts about the legitimacy of America’s actions and created widespread anxiety about how the U.S. would use its powers in the future.”¹⁸⁷ Muslims worldwide also began boycotting American goods like Coca Cola and Seven-Up buying “Mecca Cola” and “Muslim-Up” instead.¹⁸⁸

¹⁸⁶ Ellis and Kiefer, 132; “US Receives Data Affirming Iraq Behind Anthrax Letters,” DEBKA-Net-Weekly (Jerusalem, August 9, 2002) <https://www.opensource.gov> (accessed June 2007). In addition, this author’s own personal experience as a U.S. Army Soldier during the initial invasion into Iraq in March 2003.

¹⁸⁷ Nye Jr., in preface to *Soft Power*, xii.

¹⁸⁸ *Ibid*, 48.

The WMD fiasco also affected Britain's credibility, damaging U.S. relations with Britain and other allies.¹⁸⁹ For example, a renowned Indian newspaper stated, "Even if under American people's pressure, he [President Bush] quits office, the situation would not undergo any change for the basic goal of the imperialist US system is to capture the whole world. In such circumstances, India should take a fresh look at India-US relations so that unlike Pakistan, it could be saved from becoming a satellite US state."¹⁹⁰ The fact that the U.S. never found a "smoking gun" also affected worldwide opinion of the UN. In particular, it has been posited that the "UN had become corrupted by the United States essentially becoming a puppet of US interests" and is likewise no longer relevant during international conflict.¹⁹¹

Overall these domestic and international impacts have had a lasting effect on U.S. soft and hard power. Furthermore, it will take time, transparency, and diplomatic persuasion for the U.S. to rebound from the perceptions the invasion of Iraq has caused. More importantly, the U.S. must learn from its mistakes identifying barriers and challenges that led to this case's outcome in order to prevent the same thing from happening again.

E. LESSONS LEARNED

According to the "The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction" by U.S. Senators Laurence Silberman and Charles Robb, "the information sharing problem manifested itself in three specific ways: intelligence was not passed (1) from the collectors to the analysts; (2) from the analysts to the collectors; and (3) from foreign liaison services to the Intelligence Community."¹⁹² The first two are systemic problems often created out of tendencies to

¹⁸⁹ Nye Jr., *Soft Power*, 115–116. Nye alludes to the fact that other countries would be less likely to trust American intelligence reports in the future.

¹⁹⁰ "US Imperialism Exposed," *Quami Awaz*, Editorial Section, Urdu, New Delhi (September 12, 2006), 3. Translated by OpenSource.gov <https://www.opensource.gov> (accessed June 2007)

¹⁹¹ Ellis and Kiefer, 135; Nye Jr., *Soft Power*, 95.

¹⁹² Laurence H. Silberman and Charles S. Robb, *The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction*. (Washington, DC: March 31, 2005), 177.

not trust those who do not mirror you. Oddly enough the two most notorious for this lack of trust operated under the same agency. The Directorate of Operations (field agents) and the Directorate of Intelligence (the analysts), two branches of the CIA, are generally leery when sharing information especially when it comes to sharing both raw information and analyzed intelligence with each other and policymakers as in the case of Iraq.¹⁹³ For example, sensitive HUMINT reports concerning Iraq's alleged mobile biological labs and mapping software were restricted from analysts who may have disputed initial assumptions.¹⁹⁴

Both directorates had reasons for not trusting the other – namely, the protection of sources and methods. Likewise, policymakers were not trusted because of their propensity to only hear what they want to hear, disregarding all else. Additionally, there were political barriers that existed between collectors, analysts, and policymakers. In particular, policymakers used whatever bit of information available to support their desire to overthrow Saddam Hussein whether it pertained to WMD or not. George Tenet recalled a meeting in early 2002, among White House officials, where he reported that the probability of Iraq continuing their WMD program was minimal. In response, Vice-President Dick Cheney stated that, although there is currently no intelligence showing Iraq was still pursuing WMD, there was likewise no evidence to prove that they were not.¹⁹⁵

Another issue was the stovepiping of information. In this case, the DCI was ultimately in charge of all intelligence collection, reporting, and analysts while simultaneously the principal intelligence advisor to the President. Although this arrangement may ostensibly appear as streamlined, it actually hampered objective analysis. For example, the CIA tested aluminum tubes identical to the ones discovered in Iraq possibly for centrifuge rotors. The DOE wanted to participate in the testing considering this was one of their specialties. However, the DOE was denied access to the

¹⁹³ Silberman and Robb, 177–178.

¹⁹⁴ “Conclusion of Senate’s Iraq Report: Report on the prewar intelligence assessments.”

¹⁹⁵ Tenet, 48.

testing results and were told that they could not participate “because we funded it. It was our testing. We were trying to prove some things that we wanted to prove with the testing. It wasn’t a joint effort.”¹⁹⁶

The third problem, identified by Silbermann and Robb, reflects the distrustful nature between foreign governments. Knowingly, allies only offer up information that is beneficial and contextually risk free rather than openly sharing raw information. Similarly, the use of spies, even among allies, is proof that neither state truly believes the others openness or capabilities to collect and analyze all information. This behavioral and cultural question of trust erodes effective intelligence sharing. Moreover, the United States’ over-reliance on questionable foreign sources compounded the issue. Behaviorally, the U.S. has an inherently distrustful disposition with anyone who is seen to be opposed to U.S. positions. For example, the British feared the United States would no longer view Britain as an ally if they did not tell the U.S. what they believed they wanted to hear. Similarly, President Musharraf feared the United States would invade Pakistan had they not supported the United States.

From a cultural aspect, the U.S. believed that it was their duty to overthrow Saddam Hussein. As self-professed protectors of human rights, global peace, and security the United States found Saddam Hussein a plausible target – one that would get the attention of other immoral actors in the world and make the world safer. The probability of Iraq having WMD gave the United States a reasonable excuse to invade or at least a reason that was publicly consumable. At the international level, some members of the European Union never truly trusted U.S. motives and intentions and therefore never directly supported war efforts but still provided some support because of their historical NATO ties.

Although difficult, each barrier could have been overcome. The behavioral barriers internal to the CIA could have been resolved through increased interaction and reciprocation on both the Directorate of Operations and Intelligence. Externally, cultural and behavioral barriers could have been overcome through openness and transparency

¹⁹⁶ “Conclusion of Senate’s Iraq Report: Report on the prewar intelligence assessments.”

between states as well as having ambassadors who have a strong rapport with each other – a lesson that should have been learned from the Cuban Missile Crisis. Likewise, it is implausible to believe that all external and internal barriers could not have been eroded had there been increased truthful information sharing between all parties involved. In sum, the best way to prevent another debacle, such as the one the U.S. currently finds itself in, is through openly sharing all the available intelligence and potential doubts about it with allies even if it may not support political goals or aspirations. More to the point, this case shows that extensive intelligence sharing is not the only catalyst for a successful counterproliferation operation; the quality and motives for sharing are also significant factors.

V. CONCLUSION

This thesis has shown how information sharing has impacted counterproliferation efforts in an attempt to determine if it is possible to prevent the spread of WMD material and related technology through increased intelligence sharing. Specifically, it has looked at three distinct case studies as a means of determining whether or not increased information flow actually leads to a more effective collective security action. Theoretically, by increasing intelligence sharing you increase trust among allies and also have a greater probability of connecting valuable pieces of information – unimportant individually but collectively valuable – which equates to more effective collective action. Rationally, being able to “connect the dots” more thoroughly reduces the probability of making a wrong decision or action. Likewise, just as in the “Prisoner’s Dilemma” game where there are increased rewards for cooperation as opposed to joint deception, there should be mutually beneficial rewards for increased intelligence sharing. However, each case studied suggested something different. This chapter will compare the extent, challenges, and impact intelligence sharing had on each case in order to assess the hypothesis that intelligence sharing does have a substantial impact on counterproliferation operations. More importantly, if the hypothesis holds true, it will recommend ways to increase the amount and quality of information shared.

A. CASE COMPARISON

This section focuses on comparing the three cases in order to determine the role of intelligence sharing. In effect it will look at three dimensions of information sharing on each case – the extent, the number of challenges, and potential impacts. This section will also compare the lessons learned from each case in order to determine if there is a trend that can be applied to future counterproliferation operations.

1. Extent of Information Sharing

The *So San* incident demonstrated how effective bilateral sharing could lead to successful interdiction operations even though overall counterproliferation operations could be construed as a failure. In this case study the United States shared information about the contents and possible destination of the *So San* with Cambodia, South Korea, and Japan as well as Yemen – the receiver of the North Korean SCUDs. The United States also shared all its intelligence with Spain in order to get the Spanish Navy to conduct the actual interdiction operation. Similarly, the *BBC China* interdiction also relied on intelligence sharing but among a larger number of partners. In this case, by widely dispersing intelligence gathered, the United States greatly enhanced the probability of success. Specifically, it can be postulated that, had it not been for the effective intelligence sharing between Britain, the United States, the Malaysian and Pakistani governments, Germany, Italy, Egypt, and various classified sources, the Khan network may still be in operation and Libya would be considered an emerging nuclear threat.

However, the last case study demonstrated how the extent of intelligence sharing was both momentous and detrimental. In the beginning, sharing efforts between the United States and its allies with the UN were sound and professional. In particular, Israel's Mossad intelligence on Iraq's past capability and potential WMD sites, Britain's HUMINT reports, and the United States all-source analysis greatly benefited UN investigations. Conversely, when inspectors left for the first time in 1998 the United States continued its pursuit of WMD and began relying on any shared information, even if faulty or politicized, in order to support their claims that Iraq still had WMD. In this case, it was not so much the extent of intelligence being shared but the quality of that information that was most significant.

Overall, it can be presumed from the comparison that there is a positive correlation between the extent of intelligence shared and the probability of success. This implies that by extending the amount and quality of information shared to as many states as possible the United States could conceivably increase the overall success rate of its

counterproliferation efforts. Of particular note, it seems that by increasing the quality as well as extent of intelligence shared, the greater probability of success.

2. Challenges to Information Sharing

The challenges encountered during the *So San* centered on the lack of transparency among all involved. In particular, lack of transparency by Yemeni President Saleh – as to whom the recipient of the SCUDs was – allowed the United States to interdict the shipment without fear of losing an ally. However, when the cargo was later deemed legal and the U.S. reluctantly allowed the ship and its cargo to continue, the United States lost credibility with its other ally Spain. Moreover, it forced the United States to choose between competing priorities – counterproliferation and counterterrorism – for future support. Had there been increased transparency between Yemen, the United States, and Spain, the more effective the counterproliferation operation would have been and conversely the less impact this interdiction would have had on U.S. relations. Therefore, it can be construed that increasing intelligence sharing does increase probability of success.

On the other hand, the challenges in Chapter III revolved around the fear of inadvertent sharing and the challenge of collecting intelligence on dual use technology. Incidentally, the latter challenge – dual use technology – has proven to be a difficult and persistent challenge to overcome when dealing with WMD. The challenge of inadvertent sharing stems from the number of states involved in the interdiction. To illustrate, before the actual interdiction occurred the United States worked somewhat exclusively with Britain. However after learning of the *BBC China* shipment, intelligence sharing between the United States, Britain, Germany, Italy, Malaysia, and Pakistan went into full force. The main challenge was determining when to turn on the information flow in order to prevent leakage of information. Thus, increasing intelligence sharing would not equate to increased probability of success but rather an increased probability of disclosure.

Although initially the challenges found in the Iraq case study were minimal, the challenges encountered later rested not only with the problem of dual use technology but

more so with the lack of quality, unpoliticized, intelligence sharing between multiple allies and the United States. Specifically, the use of non-credible sources and the unwillingness of intelligence agencies to verify information compounded by Saddam Hussein's deception plan and misinterpretation of actions – by both Saddam and the United States – inevitably led to war. Thus, it seems from this case that increasing intelligence sharing would actually lead to not only a greater probability of success but also a greater probability of avoiding unnecessary war. Conceivably, had Saddam Hussein shared his intentions for deceiving potential adversaries with the United States, it could be assumed that a mutually acceptable alternative to war could have been devised between the United States and Iraq.

3. Impact of Information Sharing

The impact of the *So San* interdiction both helped and impaired future counterproliferation operations. Particularly, it spawned one of the greatest yet often debated counterproliferation efforts of today – the PSI. Conversely, the lack of transparency by the United States with Spain, in particular, and other allies led to the perception that the United States was inconsistent in its foreign policy – often choosing counterterrorism over counterproliferation – and that it is not a trustworthy ally. Therefore, the lack of transparency was detrimental to future U.S. counterproliferation operations. Along similar lines, the impact the *BBC China* interdiction had a profound impact and has often been referred to as a sign for increased information sharing among allies. Above all, the interdiction led to the ending of A.Q. Khan's network, Libya's abandonment of WMD, and amplified PSI activities.

Likewise, the impact of the United States' decision to invade Iraq stemmed mainly from the lack of transparency among members. Specifically, the invasion caused the U.S. intelligence community and government, in whole, to lose credibility domestically and internationally. In response, the United States began reorganizing – as it typically does when faced with failures – creating several new agencies and concepts. At the international level, the United States' loss of credibility has had a more lasting impact than at the domestic level on all future operations not just counterproliferation. For

example, how can the United States make credible claims that Iran is a potentially dangerous nuclear state when it made similar unsubstantiated claims about Iraq? Overall, this supports the hypothesis that by increasing intelligence sharing – in particular transparency – there is a corresponding increase in the probability of success in counterproliferation operations. Partial sharing or deception, in which some important information is held back, created problems that could have been avoided by fuller, more open sharing.

4. Lessons Learned

Each case studied had its own particular lessons to be learned from the operation. The *So San* demonstrated the need for tighter export control measures, increased sharing with members of the CSI as well as PSI, and better transparency between states with bilateral ties. The *BBC China* incident demonstrated that sharing intelligence creates positive momentum as long as it is done with exact timing and with those specifically impacted by the operation. Likewise, the case of Iraq verified the need for increased interaction and reciprocation of information sharing among domestic as well as international agencies. Moreover, the Iraq case showed that the best way to prevent another situation like Iraq is through openly sharing all the available intelligence with allies even if it may not support political goals. In particular, policymakers' attempt to retain job security and plausible deniability through the institution of vague policies and political rhetoric – to both the intelligence community and the public – seems to be a major contributor to the lack of intelligence sharing.

B. RECOMMENDATIONS

After looking at the comparisons of each case studied and understanding the theoretical importance of intelligence sharing, the question remains: Should we increase the amount of intelligence shared, and is it worth the risks? This section breaks down the proposed recommendations into two sections. First, it addresses recommendations for overcoming common obstacles. Secondly, it addresses the more important question of, given the inherent risks and barriers, is it worth it?

1. Overcoming Obstacles

As seen throughout this thesis, there are numerous challenges and risks to sharing intelligence. In point of fact each case studied showed how the inherent risks affected the level and intensity of intelligence shared. Subsequently, as time progressed the United States has made several attempts at counteracting the inherent risks of inadvertent sharing and the protection of sources and methods. Notably, PSI and ISE have provided adequately structured measures to offset these risks. In particular, the practice of only sharing information with the state directly affected and with those needed to conduct the operation minimizes problems of inadvertent sharing. Although, it does create the problem of determining who gets to decide what is shared with whom and what is important.

A similar issue and also one that has proven harder to overcome is the issue of trust. These cases explicitly prove that the issues and challenges often found are not of a technological nature – although, that would make it easier to fix. The chief contributor to the behavioral, cultural, and political challenges often encountered is the intriguing problem of trust. Lack of trust is what has led to over-classification; it is the genesis behind the “Cold War” mentality of many decision makers; it is a motivation for the creation of politicized intelligence; and it is the reason the United States has been struggling trying to balance the need for sharing with the need for secrecy. Thus, the United States should not use barriers as an excuse as to whether or not intelligence should be shared. Instead, the decision to share should be based on level of trust and risk orientation.

By taking small measured steps – focusing on a common goal (i.e., counterproliferation), increasing transparency in decision making and operations conducted, and being accountable for successes as well as failures – the United States could slowly regain lost trust among allies. Some of the most notable steps that could be done are increased joint military operations and exercises, increased cultural recognition and status of allied states, and a willingness to take a less risk averse approach when

working with foreign partners. By doing some of the aforementioned steps the U.S. could regain and even increase other nations' trust in the United States.

2. To Share or Not to Share

These cases and the theoretical views postulated have demonstrated that there is a positive correlation between the level of intelligence sharing and the probability of success in counterproliferation. Inherently, there is also a positive correlation between the level of trust and the extent of intelligence sharing. Therefore, although “intelligence sharing is a potentially risky, if sometimes necessary, enterprise,...[it] need not be dismissed as a pointless exercise or one that is so fraught with danger that it should never be attempted.”¹⁹⁷ More importantly, it has been proven a critical catalyst in counterproliferation success.¹⁹⁸ Therefore, the initial hypothesis that increased information sharing among allies causes more effective security cooperation and is therefore necessary for combating the spread of WMD, is generally true.

Likewise, although intelligence sharing involves challenges and risks, the inevitable spread of WMD and increasing threat to U.S. as well as global security has made increased collaboration between allies necessary. To reiterate, intelligence sharing only increases the odds of success, but it is not a guarantee since there are other factors – namely, geopolitical and fear of putting one's own national security at risk – that can produce failure. To close, by increasing intelligence sharing the United States sends a message to those corrupt state and non-state actors that, as so eloquently phrased by Thomas Barnett, “If you believe you can get away with it forever, you are wrong. If you believe no one cares, you are wrong. And if you believe America cannot and will not stop you if you seek to acquire WMD, you are more than wrong – you do not belong in our future.”¹⁹⁹

¹⁹⁷ Ellis and Kiefer, 143.

¹⁹⁸ Froscher, 467–468.

¹⁹⁹ Barnett, 331.

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