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Varieties of Cooperation:
Government Networks in International Security

Mette Eilstrup-Sangiovanni

EUROPEAN UNIVERSITY INSTITUTE, FLORENCE
ROBERT SCHUMAN CENTRE FOR ADVANCED STUDIES
TRANSATLANTIC PROGRAMME SERIES

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ISSN 1028-3625

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Printed in Italy in October 2007

European University Institute

Badia Fiesolana

I – 50014 San Domenico di Fiesole (FI)

Italy

<http://www.eui.eu/RSCAS/Publications/>

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For further information:

Transatlantic Programme

Robert Schuman Centre for Advanced Studies

European University Institute

Via delle Fontanelle, 19

50016 San Domenico di Fiesole (FI), Italy

Fax: + 39 055 4685 770

E-mail: atlantic@eui.eu

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Abstract

A growing literature touts the prominence of international cooperation among substate officials through so-called transgovernmental networks (TGNs). These networks are allegedly faster, cheaper and more flexible than conventional international treaty organizations (ITOs) (e.g. Slaughter, 2004). Yet, TGNs are not evenly distributed, either in terms of geography or issue-area. While some policy-areas are characterized by networked cooperation, others continue to be dominated by formal ITOs. How can we explain such variation? I draw on recent network studies in public policy, economics and sociology to theorize the conditions in which states may prefer cooperation through TGNs. I have two main findings: First, TGNs are designed to deal with cooperation problems of a different nature than those addressed by ITOs. ITOs aim to reduce transaction costs, enhance credibility of interstate agreements and solve problems of incomplete contracting. By contrast, the chief benefit of TGNs is to provide policy flexibility and untie the hands of national executives, allowing them to bypass domestic and international constraints on policy. Second, TGNs are not a panacea for international problem-solving. Rather, they are useful tools in situations where states are reluctant to embrace treaty-based cooperation due to sovereignty concerns or environmental uncertainty. The argument is applied against three cases drawn from the ordinarily hierarchical realm of international security cooperation.

Keywords

Transgovernmental Networks - International Security Cooperation - Functional Regime Theory - Proliferation Security Initiative (PSI) - Missile Technology Control Regime (MTCR).

Introduction

'Networks' are at the heart of a vibrant debate in international relations studies about the role of the state and the changing nature of political authority. At least since the 1970s, scholars have foreshadowed the demise of the state in favour of global networks of corporations, criminals, and non-governmental organizations that link their activities across borders and circumvent state authority.¹ 'Networking' is not, however, confined to non-state actors. A growing literature—spearheaded by international lawyers—points to the prominence of networks of government officials that share information and coordinate policies across borders.² Based on direct links among sub-state officials and often operating without close supervision by either cabinets or chief executives such 'transgovernmental networks' (TGNs) provide an alternative to conventional inter-state cooperation based on multilateral treaties and often coupled with formal international organizations.³

Government networks are, of course, not a new phenomenon. Specialized international organizations such as the International Telegraphic Union (1865), the International Postal Union (1874), the Food and Agriculture Organization (1945) and the World Health Organization (1948) have long been fora for collaboration among domestic regulators and an object of study for social scientists (see Mitraný 1932, 1943; Salter 1919, 1921; Claude 1956). What appears to be new, however, are the scale, scope, and strength of transgovernmental ties. By many accounts, TGNs are rapidly proliferating (Slaughter 2004b, Raustiala 2002, 4; Zaring 1998, 282; Bermann 2000). From the global economy and finance to the environment, government officials increasingly collaborate with their functional equivalents abroad to address problems of a global scale. Prominent examples include the Basle Committee on Banking Supervision (1974), in which representatives of the world's most important central banks meet to regulate international banking markets and the Financial Action Task Force (1989), where members of the G-8 work together to combat money laundering. Within these function-specific networks, public officials exchange information and coordinate policies to strengthen enforcement. Due to their flexibility, speed and low sovereignty costs many predict that government networks will be the primary vehicles for international cooperation in the 21st century, performing many of the functions of world-government—legislation, administration and adjudication—only without the form (Slaughter 1997, 195; 2004b, 162; Reinicke 1999).

Yet, despite their promise as an emerging form of global governance, the dynamics of government networks are still insufficiently understood. So far, the literature on transgovernmentalism has mainly focused on demonstrating that government networks exist and have capacity to influence policy outcomes. Getting this point across has taken precedence over rigorous analysis of why TGNs arise, and how they operate in particular settings. Moreover, both theoretical and empirical research on government networks has centred predominantly on areas of 'low politics'—including financial regulation, securities and antitrust—while other areas such as, for example, homeland and national security, have received far less attention. We thus lack a fuller understanding of why TGNs develop and how they function across different policy areas.

This article seeks to lay the foundation for an explanatory account of trans-governmentalism. My main question is: Under what conditions are TGNs likely to be a preferred vehicle for international cooperation as opposed to more traditional intergovernmental organizations (IGOs)? To many transgovernmentalists, government networks are a straightforward response to growing functional interdependence. As more policy problems have gone global, government officials have increasingly found it useful to deal directly with their foreign counterparts (Scharpf 1993, 125; Raustiala 2002, 4). Moreover, 'functional equivalency' (i.e. the proliferation of functionally similar regulatory practices within states) and developments in information and communication technology (ICT) make it both easier and more relevant for regulators and bureaucrats to cooperate across borders (Finnemore 1996, 325). Such explanations are, however, too indiscriminate. First, these developments are hardly new. Domestic equivalency and functional interdependence were among the chief reasons cited by

functionalist scholars in the early 20th century in favour of a global technocracy. Second, if the proliferation of TGNs were a straightforward response to growing interdependence and advances in ICT, we would expect to see a general increase in networked cooperation. Yet government networks are not evenly distributed, either in terms of geography or issue-area. While some policy issues are characterized by informal, networked cooperation, others continue to be dominated by highly structured, formal treaty organizations. Existing literature leaves such organizational diversity largely unexplained.

In seeking to account for variation in TGNs vs. IGOs, I focus specifically on international security cooperation as an area that has so far received scant attention from transgovernmentalist scholars. From the original theorizing of transgovernmental relations in the 1970s to the present, government networks have been seen to predominate in issue-areas outside the realm of high politics (Keohane and Nye 1977). For example, Slaughter's recent manifesto for *A New World Order* foresees that even a world of disaggregated, networked states 'would still feature states interacting as unitary actors on important issues, particular in security matters' (2004a, 6). Yet, empirically, we see that many security issues—such as anti-terrorism and anti-proliferation—are today being dealt with by direct contacts between sub-state agents operating either within or alongside existing IGOs. These networks include militaries, national intelligence agencies, interior ministry officials and police and law enforcement officials (Krahmann 2003, 2005; Webber *et al.* 2004). There are grounds, therefore, to broaden the focus of transgovernmentalist studies to include government networking in areas of 'high politics'.

In what follows, I use the functional regime theory pioneered by Keohane (1984) and others to explain the presence of TGNs in international security. The basic premise of functional regime theory is that institutions exist to perform specific functions and that uncovering what function an institution serves is key to explaining its creation.⁴ Transgovernmentalists, I contend, have generally paid insufficient attention to the particular functional attributes of networked organizations. Often TGNs are simply assumed to present an efficient solution to underlying cooperation problems, but the specific comparative advantages of networked cooperation remain obscure. To remedy this weakness, I draw on recent network studies in public policy, economics and sociology to theorize the conditions in which states may opt to cooperate through TGNs. I find that, whereas standard regime theory—especially via its focus on the advantages of informal and soft law cooperation—can go some way towards explaining transgovernmental activity, the insights of regime theory need to be combined with a specific theory of networks in order to account for transgovernmentalism.

My argument is developed in three stages. In the first, I describe the key features of TGNs and show how they differ from traditional IOs. In the second, I first review some common claims by transgovernmentalists regarding the proliferation of government networks. I show that these claims are too general and indiscriminate to explain the proliferation of TGNs or to account for variation in their appearance across different issue-areas. Instead, I draw on recent network studies to derive hypotheses about when we should expect TGNs to be a preferred instrument of governance. The third section applies the argument to three cases of international security cooperation. Two cases—the *Missile Technology Control Regime* and the *Proliferation Security Initiative*—are informal government networks, while the third—the *Chemical Weapons Convention*—is a highly structured, formal IGO. This application is not intended to provide a full test of my argument. Nonetheless, I believe that investigating the proliferation of TGNs in an area where formal hierarchical cooperation is widely expected to be the rule can yield important clues about the allures of government networking.

I. Describing the Phenomenon: What are Transgovernmental Networks?

To explain the proliferation of TGNs we must first identify what is distinct about this form of policy coordination. Robert Keohane and Joseph Nye first discussed the phenomenon of government networking at length in 1974. They distinguished three modes of international cooperation: *Interstate* (or 'intergovernmental'), *transgovernmental* and *transnational*. Intergovernmental cooperation refers

to diplomatic interactions among unitary, sovereign states—led by chiefs of government (CoGs) or foreign offices and consummated in multilateral treaties, which are often coupled with international organizations. This form is at the heart of the liberal international system that emerged during the 19th and 20th centuries. Transgovernmental cooperation signifies “direct interactions among sub-units of different governments” that cooperate at sub-state level rather than through chief executives (Keohane and Nye 1974, 43). This form is not based on international treaties but relies on informal, non-binding agreements. Transnational cooperation, finally, refers to cooperation led by private non-state actors, including business representatives, bankers and NGOs, independently of states.⁵

Transgovernmentalism, by many accounts, is on the rise. Since the 1990s, observers have pointed to *prima facie* evidence for an increase in direct regulatory and legal cooperation among sub-state actors—including both high-level officials (ministerial level) and lower-level national regulators (Marin and Mayntz 1991; Slaughter 1997, 2004; Zaring, 1998, Picciotto 1997, 2000; Picciotto and Mayne 1999; Reinicke 1999; Raustiala 2002; Benvenisti 2006). TGNs today encompass most spheres of governmental activity—from the global economy and finance to national security, environmental policy, and human rights—and include a variety of government agencies, such as central banks, antitrust regulators, national courts, police and customs authorities, and environmental protection agencies. They range from highly institutionalized organizations such as the Basle Committee or the G-8 annual summits of leaders of the world’s major economic powers, to more informal, or even secretive, bilateral or multilateral arrangements. TGNs may sometimes be housed within existing IGOs, as in the case of the OECD’s PUMA committee, the FATF, or the EU’s web of expert committees (Trondal 2004) but even so, they are independent entities, separate from their IGO hosts.

How does cooperation in a transgovernmental mode differ from intergovernmental cooperation? International regime theorists have drawn important distinctions between formal vs. informal agreements (Lipson 1991) and between ‘hard’ vs. ‘soft’ law.⁶ The differences between TGNs and IGOs overlap these distinctions but are not reducible to them. Indeed, reducing the difference between trans- and intergovernmental cooperation to a dichotomy between formal vs. informal collaboration, or soft vs. hard law collapses together a variety of features of membership, negotiating and implementing characteristics that separate these approaches and define their comparative advantage as means for pursuing collective policy objectives (see *Assessment* 2001). The main differences between TGNs and IGOs pertain to membership, structure and degree of obligation/legalization. It should be noted, however, that these are general differences to which individual exceptions can frequently be found. It should also be stressed that TGNs and IGOs are not mutually exclusive. Many IGOs are underpinned and complemented by TGNs. Yet, these forms represent distinct ways of organizing cooperation.

Membership: The most basic difference between inter- and transgovernmental cooperation is in the differing conception and representation of the state. The key actors in intergovernmentalism are unitary states. The intergovernmentalist image draws a relatively sharp distinction between the domestic and international realms of politics. International politics is the domain of foreign offices and is characterized by direct relations between executives. States are presumed to speak with one voice—a voice represented by either the head of state or the foreign minister. To the extent sub-state actors play any role in international policy-formulation it is either through lobbying or advising executives at the stage of national policy formation or as agents implementing international agreements. International policy-making, however, remains dominated and controlled by executives (Pollack and Shaffer 2001, 24; Moravcsik 1998). Transgovernmentalism, on the other hand, portrays the state as disaggregated rather than unitary (Keohane and Nye 1974, 44-8). To transgovernmentalists, the critical actors in international politics are not foreign ministries and CoGs, but high- and mid-level officials in sub-units of national governments who coordinate policies across borders with only periodic supervision by foreign-policy establishments. Such coordination not only complements but also *substitutes* for cooperation at the executive level.

Structure. Interactions tend to be structured differently in TGNs vs. IGOs. Traditional international organizations (IOs) are often hierarchically structured. Action is based on high-level ‘political’

decisions in the first instance, followed up by implementation by lower ties (Thompson 2003, 22-4; Sabel 1993, 71). By contrast, TGNs—like other social networks—are characterized by lateral ties and decentralized decision-making. Although power may be distributed unequally among network components, there are no formal, centralized lines of command. This flat organization implies ‘subsidiarity’ (decisions tend to be worked out directly among the agents responsible for implementing them) and encourages the development of differentiated solutions to local problems rather than the imposition of centrally directed, uniform policies. It also implies the absence of a legitimate organizational authority to resolve disputes among actors.

Formality. A third difference pertains to how interests are coordinated. This difference, which is best characterized as a difference in degree rather than in kind, can be conceived along three dimensions: *legalization*, *obligation*, and *irreversibility*. Cooperation in an intergovernmentalist mode is often—but not always⁷—based on formal treaties, negotiated by executive branches and approved by formal legislative processes (Zaring 1998; Raustiala 2002; Slaughter 1995). Treaty-based cooperation often entails a high degree of obligation. Precise objectives are set out in detailed written agreements that provide clear definitions of acceptable and unacceptable behaviour. Moreover, treaty-based agreements may be difficult to reverse. While most treaties entail opt-outs and provisions for withdrawal, the high visibility and legally binding status of treaty agreements means there may be high political costs to withdrawing or pulling back from implementing a specific initiative (*Assessment* 2001).

Transgovernmental cooperation, by contrast, tends to be informal and non-obligatory. TGNs are not constituted by treaty or ratified charter, they have few or no mechanisms for formal enforcement and implementation; indeed nothing they do purports to be binding on states (Zaring 1998, 301-2; Slaughter 2004a, 48; Bermann *et al.* 2000, 1). The decisions of the Basle Committee, for example, are private and purely advisory (Raustiala 2002, 23). Transgovernmental agreements tend also to be less precise in terms of objectives and responsibilities, often leaving the terms of agreement vague (*Assessment* 2001; Zaring 1998, 301). Finally, non-binding status and low visibility, of most TGNs means there are generally fewer costs to retraction than from formal, treaty-based agreements.

Relations among units. The lack of a contractual foundation that can be relied on to settle disputes means that TGNs are critically dependent on expectations of generalized reciprocity. Hence, they typically depend on higher levels of trust than other organizational forms.⁸ Whereas IGOs can rely on formal rules and administrative procedures to govern interactions, TGNs are based on direct personal contacts among professionals. As a result, they are often highly issue-specific, composed of members with similar professional standards, interests and values (Thompson 2003, 30).

Decision-Making and Implementation. A final difference pertains to decision-making and implementation. IGOs are often (not always) configured as representational organizations, where formal votes are taken and majority rules may apply. Even when decisions are consensus-based, the presence of a centralized bureaucracy implies an element of central agenda setting, which may constrain actors’ choice. In TGNs, by contrast, decision-making is exclusively consensus-based (Zaring 1998, 281; Agranoff 2003, 21). The two forms also feature differing levels of support for implementation and compliance. Whereas IGOs often involve delegation to neutral agents that are empowered to interpret and enforce the rules, TGNs typically do not seek a common legal basis for action, but rely exclusively on the capacities and willingness of individual members to implement agreements in accordance with national laws and practices and to monitor and verify the compliance of other members (Zaring 1998, 301).⁹

TABLE I. Main Characteristics of IGOs/TGNs

	IGO	TGN
<i>Membership</i>	Unitary states	Sub-state agencies/officials
<i>Structure</i>	Centralized/Hierarchical	Decentralized/Flat
<i>Political visibility</i>	High	Low
<i>Legalization</i>	High	Low
<i>Obligation</i>	High	Low
<i>Irreversibility</i>	Low	High
<i>Unit Relations</i>	Rule-based	Trust-based
<i>Scope</i>	Broad	Narrow
<i>Decision-mode</i>	Consensus or (Q)MV	Consensus only
<i>Support for implementation/compliance</i>	High	Low (self-enforced policies and voluntary compliance)

Benefits and Drawbacks of the Network Form

The above characteristics of the network confer distinct benefits upon social and political actors. In this section I focus on network benefits that apply specifically to TGNs and set them apart from other forms of policy coordination.¹⁰

According to social network theory, a key advantage of the network is *speed and efficiency of communication*. In hierarchies, information must pass through a central processing unit, thereby increasing the risk of delays and information congestion. Moreover, it is often difficult to transmit information on local characteristics of problems and potential solutions to central decision-makers (Scharpf 1993, 135; Baker and Faulker 1993, 844). By contrast, the network's flat structure implies that communication can flow unhindered between local nodes, thereby allowing for maximum speed and local initiative (Watts 2003, 280-1; Powell 1990, 325).

Another advantage is low start-up costs. Due to their informal, non-contractual nature TGNs are faster and less costly to contract and implement than IGOs. IGOs often require considerable time and resources to establish in national or international law. After signature, domestic political battles can result in ratification and implementation delays. By contrast, TGNs require no ratification and only limited implementing action.

Like other networks, TGNs exhibit both scalability and adaptability. Much like the illicit drugs cartels or terrorist networks explored by Kenney and Kahler, nodes in TGNs are 'loosely coupled' in the sense that they are not bound together by contractual agreements and have low political visibility. This implies that the costs—political as well as administrative—of adding new members are low. The practice of loose coupling also prevents 'locking-in' of ineffective relationships. If a particular organizational link is not providing expected payoffs, actors can terminate the relationship at relatively low cost and search for alternative links (Thompson 2003, 144). The basis of TGNs also means that issues can be added to or dropped from the agenda with relative ease, allowing TGNs to adapt quickly to changes in their environment.

The network literature focuses overwhelmingly on network *benefits*. Yet, there may also be drawbacks to networked organization, which are often overlooked. First, while they promote fast communication, the lack of centralized leadership implies that networks may be subject to slow, complicated decision-making as all members try to have their say (Agranoff 2003, 29; Thompson 2003, 46-7; Powell 1990, 318). Moreover, the flexibility associated with networks may come at a price. The possibility of frequent readjustment and modification of agreements may increase bargaining costs as individual members seek to adapt agreements to meet their short-term interests.

Second, networks such as TGNs may suffer from a credibility deficit. According to functional regime theory, a key reason for states to create international institutions is to enhance the credibility of international agreements. Generally speaking, international institutions enhance credibility by lengthening the shadow of the future (Keohane 1984) and by solving second-order problems of monitoring and enforcement. This is particularly true of formal, treaty-based organizations where centralized verification and enforcement means there are high potential costs to reneging on agreements in the form of sanctions and reputation effects (Abbott and Snidal, 427; Lipson 1991, 512). Yet, it is less likely to be true of TGNs. The decentralized implementation and verification associated with TGNs lends itself less well to raising compliance issues with other countries and seeking their resolution (*Assessment* 2001). Moreover, the low visibility of agreements administered by sub-state officials and regulators means there are fewer reputation costs to violating them.

A third potential problem is patchy implementation. The absence of centralized monitoring and enforcement means networks are often vulnerable to free riders and that collective agendas can be easily undermined by parochial sub-unit goals (Powell 1990, 318).

Finally, the high premium on trust in networks may restrict the scope of participation (Raab and Milward 2003; Powell 1990, 300-26). It is well known that it is easier to generate trust and generalize expectations of reciprocity in small collectivities where actors are homogenous in values, perceptions, customs of action etc. Hence, social networks may not expand as easily as proponents claim. Below we shall see how these features influence institutional choice.

Table 2. Advantages and Drawbacks to Networked Cooperation

Advantages	Drawbacks
Fast, efficient communication	Slow, complicated collective decision-making
Low contracting and implementation costs	Low credibility/patchy implementation
Scalability	Limited scope due to reliance on trust
Adaptability	High bargaining costs due to frequent renegotiation

II. Explaining the Phenomenon: Accounting for the Proliferation in TGNs

Existing literature points to several reasons for increased transgovernmental activity. The most frequently cited cause is *growing functional interdependence*. According to transgovernmentalists, economic, social and ecological interdependence is straining the capacity of the state to exercise control through centralized, hierarchical coordination: 'Globalization undercuts the effectiveness of domestic regulatory institutions', creating new issues and problems, which can only be solved through collaboration with administrators in other states (Scharpf 1993, 125; Finnemore 1996, 325; Keohane

and Nye 1974, 41-2; Pollack and Schaffer 2001, 27, Raustiala 2002, 4). A second impetus for transgovernmentalism is the proliferation of functionally similar regulatory practices within states—so-called *functional equivalency* (Raustiala 2002, 14, 21). States are increasingly organized in similar ways, not only in the sense that they are Weberian rationalist bureaucracies, but also in the sense that there are closely corresponding functional divisions within state bureaucracies (Finnemore 1996, 325). Such similarities make it both easier and more relevant for regulators and bureaucrats in one state to cooperate with their functional equivalents abroad. Transgovernmental cooperation is further aided by the perception that many international policy issues are characterized by growing technical complexity and are therefore best controlled by a domestic regulatory agency rather than guided by the foreign affairs bureaucracy (Raustiala 2002, 26; Keohane and Nye 1977, 210). Finally, scholars point to technological changes—in particular the revolution in ICT—which make cross-border social and political networks easier and cheaper to maintain (Raustiala 2002, 13; Keohane and Nye 1977, 210).

It is quite evident that these trends contribute to the phenomenon of transgovernmentalism. As more policy problems transcend national borders and as policy-issues become more technically complex, there is growing need for direct cross-border cooperation involving policy experts. The above explanations are, however, too indiscriminate. First, the cited factors are general, macro-level phenomena. They may help to explain a *general* increase in transgovernmentalism (alongside other forms of international cooperation) but they are less useful for explaining variation in TGNs across different policy areas or between different groups of states (see Whytock 2005). Second, they fail to isolate the specific advantages that arise from cooperation through TGNs as opposed to IGOs. After all, IGOs also address transborder issues and draw on national and international technical expertise. Third, none of these factors is new. It is noteworthy that the principal reasons cited by transgovernmentalists to account for the present growth in TGNs—functional interdependence, functional equivalency, technical complexity and improvements in ICT—were also among the chief reasons cited by functionalist scholars in the early twentieth century to explain (and encourage) an expanding international technocracy.¹¹ We therefore lack answers to fundamental questions: Why do we seemingly see a proliferation of TGNs? Why among some states and not others?

In what follows, I consider the choice between TGNs vs. IGOs from the perspective of state executives rather than individual public administrators. Most existing literature on transgovernmentalism rests on the premise that domestic regulators voluntarily seek each other out in order to improve the quality of domestic regulations or to avoid obsolescence in an increasingly globalized regulatory environment (see e.g. Colombatto and Macey 1996; Zaring 1998). Yet, there is reason to doubt this ‘bottom-up’ perspective when it comes to ‘high-politics’ areas like national security. In such areas, networks continue to be underpinned by the power and authority of the state. Lower-level national officials may exchange ideas or reach informal agreements with their foreign counterparts on national security issues but they will only secure implementing action if it is in the interest of those who control state apparatuses. Moreover, the funds necessary for establishing and running TGNs usually must be approved by executives and, in some cases, by national parliaments.¹² We can therefore assume that, at least in the security domain, executives can effectively choose (or prevent) the formation/employment of TGNs and set parameters for their activities.¹³ This suggests that coordination through TGNs is best understood as a form of policy delegation by executives to lower-level officials. The question therefore becomes: what prompts executives to delegate policy to lower-level national administrators who operate under few or no agreed rules, rather than to IGOs, operating under a set of formally agreed rules and procedures? To answer this question I use a ‘rational design’ framework: states, acting for self-interested reasons, are assumed to select institutions to minimize the costs and risk associated with achieving policy outcomes under different institutional arrangements (Koremenos et al. 2001).

Conditions for Networked Cooperation

1. Small Group Size and Harmonious Preferences

TGNs are most likely among small groups with relatively homogenous preferences. Although a key benefit of the network is ‘scalability’ TGNs are best suited to cooperation among small groups with similar interests and values for two reasons. First, small groups are more likely to reap benefits of speed and flexibility associated with networked cooperation. As noted, while networks facilitate fast and efficient communication, they can be subject to slow, complicated decision-making due to a lack of centralized leadership and arbitration. This is less likely to be a problem among small groups with closely aligned preferences that will, *ceteris paribus*, have less difficulty in reaching consensus.

Second, networks are more likely among small homogenous groups due to credibility issues. As noted, TGNs do not offer centralized monitoring and verification and the terms of agreement are often ambiguous, increasing the risk of non-cooperation. This is less a liability among small groups with similar goals, since cheating among such groups is less likely and because effective peer-to-peer monitoring is more easily achieved among small numbers. Instead, small groups can benefit from the added flexibility and discretion entailed in decentralized implementation and compliance. By contrast, the larger and more heterogeneous a group, the more likely members will seek to commit each other to a specific behaviour and seek extensive monitoring and sanctioning.¹⁴

C1: A first condition for governments to choose TGNs is small group size and relatively homogenous interests, which lessens the need for central arbitration and sanctioning.

2. Urgency and Time Horizon

Issues of timing may impact on institutional design in two ways. First, while urgency is not a necessary condition for networked cooperation in the way that small group-size is (at least when in sensitive areas like national security), TGNs are particularly suited to cooperation in conditions where speed is a priority. TGNs are generally faster to contract and implement than IGOs. As a result, reliance on TGNs should shorten the time between when a problem is identified and some form of collective action can be taken.¹⁵

Second, TGNs may be more probable when time-horizons are short. According to standard regime theory, a key reason why states create international institutions is to reduce the transaction costs of repeated cooperation (the costs of exchanging information, negotiating bargains and codifying agreements) (Keohane 1984; Keohane and Axelrod 1985). Formal IGOs do this by collecting and distributing information, by interpreting and enforcing rules and by negotiating supplementary agreements. Institutions may also lower costs by resolving coordination dilemmas. In coordination dilemmas reaching an agreement is typically more important than precisely which policy is chosen (Stein 1990). In such cases, states can enhance efficiency by granting authority to an IO-agent to propose policy¹⁶ or to adjudicate between alternative policies from a disinterested perspective. TGNs, however, are less likely to achieve these benefits: First, the non-contractual nature of TGNs implies they may fail to lock in bargains but leave scope for frequent renegotiation, thereby increasing bargaining costs. Second, since TGNs do not empower administrative and judicial agents to propose, interpret, enforce or extend broad legal principles they are less likely than IGOs to solve problems of either coordination or ‘incomplete contracting’. Of course, the transaction cost benefits associated with centralized information gathering, arbitration and enforcement in IGOs must be weighed against higher contracting costs. Delegation of monitoring and dispute-resolution functions to IOs requires protracted negotiation and contracting. Such an investment only makes sense if states anticipate that a cooperative relationship will endure over time. If time-horizons are short, by contrast, the lower start-up costs associated with TGNs may be more appealing.

C2a: Governments are likely to favour TGNs when speed is a priority.

C2b: Governments are likely to favour TGNs when time-horizons are short.

3. *Uncertainty*

A third factor, which gives preferentiality to TGNs are the conditions of uncertainty surrounding many international policy issues. Conventional approaches to IR tend to assume that states' self-interests are clear and the ways those interests may be most efficiently pursued are equally clear (Haas 1992, 14). The point of creating international institutions, on this view, is to hammer out mutually advantageous bargains and safeguard those bargains against defections by foreign governments or reversals by future domestic administrations. Yet, there may be situations in which states' interests are uncertain due either to inadequate information about the situation at hand or to doubt about the likely outcomes of different courses of action.

To judge the effects of uncertainty on institutional design we must distinguish between different *kinds* of uncertainty. 'Behavioural uncertainty' arises when states are unsure about the actions taken by others—for example, when they have difficulty knowing whether others are complying with an agreement (Koremenos *et al.* 2001, 778). 'Uncertainty about preferences' arises when governments are unsure about others' intentions and motivations. Uncertainty about the 'state of the world', finally, refers to states' knowledge about the consequences of their own actions or those of other states (*ibid.* 778-9). Such uncertainty may stem from rapid social, political and economic change along with the increasingly complex and technical nature of many issues considered at an international level

Different forms of uncertainty have different institutional implications. A frequent response to uncertainty about behaviour or preferences is to create formal, legalized institutions, which can be used to monitor and report on behaviour (Koremenos *et al.* 787-8) and whose stringent commitments may help to weed out uncommitted partners.¹⁷ By contrast, uncertainty about the state of the world favours more flexible arrangements. A rapidly changing environment makes it difficult to anticipate long-term consequences of cooperative measures. What are the most important future problems? Who are the most relevant allies in a given issue-area? What are the distributive effects, international as well as domestic, of alternative agreements? How will measures to address a specific issue impact on other, related issues? Transaction cost theory suggests that in a constantly changing environment, actors will avoid binding large amounts of resources into formal, vertically integrated institutions that 'lock-in' agreement. As Kahler (2000, 668) notes, delegation under uncertainty may be politically costly if a politician constrained by formal, legalized institutions is unable to compensate domestic groups affected by unexpected shocks. Instead they will seek institutional flexibility that can protect them against unanticipated costs or adverse distributional consequences (Rosendorf and Milner 2001, 831).¹⁸ Of course, flexibility may be built into formal treaties and soft law agreements. Yet, IGOs are less flexible than TGNs. Although many IGOs have escape clauses or veto options that allow members to respond to unanticipated shocks, the use of 'opt outs' or veto power is politically costly. Moreover, while IGOs may entail limited escape clauses, the underlying arrangements are not subject to change, except for through renegotiation, which is likely to be slow and cumbersome. By contrast, the informal non-binding status of TGNs means they can more quickly adapt to changing conditions.¹⁹

C3: Governments are likely to favour TGNs in conditions of uncertainty about the state of the world.²⁰

4. *Domestic Political Divisions*

Governments are more likely to favour TGNs in the presence of domestic political divisions. It is well known that delegation to international institutions can be a vital tool for executives to strengthen their hand in domestic political struggles (Keohane and Nye 1974; Moravcsik 1994). By claiming their hands are tied at the international level, executives can resist pressure from legislatures and particularistic domestic interests. Note, however, that TGNs are likely to loosen domestic constraints on executives to a *greater extent* than IGOs for several reasons. First, cooperation through TGNs reduces the weight of public debate. International treaties often require legislatures to vote directly on ratification or on implementing legislation. TGNs require no ratification and are thus less likely to

become captive to domestic disputes. Second, TGNs may reduce incentives for domestic groups to mobilize and pressure their governments to adopt specific policies that favour their interests. As Goldstein and Martin (2000, 604) argue, insofar as institutionalization entails a process of increasing rule precision, a more institutionalized regime will provide better information about the distributional effects of agreements. This in turn will affect the incentives of groups to mobilize for and against agreements. By contrast, the more ambiguous (and in some cases secretive) nature of many transgovernmental agreements may reduce domestic pressure by obscuring distributive effects. Third, the narrow technical scope of many TGNs means members can claim special scientific and technical expertise. As a result, their activities may be less exposed to scrutiny or intrusion by other agencies. (NB: The loosening of domestic constraints has potential implications for values like transparency and the democratic control of foreign policy. The transparency and democratic legitimacy of TGNs has been the focus of debate elsewhere (see e.g. Howse, 2000; Slaughter, 2000a, 2004b; Picciotto, 1997, 2000; Raustiala, 2002). My interest in this paper is strictly in identifying the reasons why executives may favour TGNs, not to assess the moral implications of this choice).

C4: Executives are more likely to favour TGNs when their policy preferences differ from other domestic groups (legislatures, interest groups and general publics).

5. Clubs and Exclusion of 'Spoilers'

TGNs are useful for forming 'clubs' of strongly committed states and for excluding 'spoilers'. Formal IOs, especially those registered with the U.N., often aim at universality. Although a few states may be central to cooperation in a given area, the presumption is that all stakeholders can join as long as they pledge to uphold an agreement. The informal network approach, by contrast, allows a few committed parties to initiate an agreement without consulting others. This not only makes it easier to get cooperation off the ground but also has clear advantages when it comes to expanding agreements. By confining an initiative to a small group of highly committed states, 'insiders' can set standards to which 'outsiders' are later compelled to accede. If the initial group includes a majority of powerful states in an issue-area, non-participating states may find they have to adapt to the rules set by the group, not because those rules bind them, but because insiders are able to deny them important privileges lest they comply. In this way, excluded states may find themselves forced to accept standards that they would not have contracted into as parties to formal multilateral negotiations.²¹ We can make this more concrete with an example: Not all countries are party to the FATF. The FATF, however, publishes a list of non-participating countries and territories, which, according to FATF standards, have critical deficiencies in their anti-money laundering systems and urges them to adopt recommended measures to improve their systems. If a listed state fails to comply with the recommendations, the FATF urges its members to "condition, restrict, target or even prohibit financial transactions with such jurisdictions". As a result, many states have joined the FATF (membership has grown from 16 to 31) and many more choose to comply with its guidelines even if they have not signed up for the Task Force.

C5: TGNs are most likely among strongly committed and highly capable states that wish to exclude spoilers from cooperation.

III. Security Cooperation

This section applies the argument to international security cooperation. Security is widely seen as an area dominated by intergovernmental cooperation under tight executive control. While studies of transgovernmental relations in areas like financial regulation, securities and environmental protection abound, national security has so far received scant attention. This is an oversight. The aftermath of the Cold War has seen significant changes in how security is governed. During the Cold War, major international institutions like the UN (1945), NATO (1949), the IAEA (1957) were created to provide

security. This period also saw the conclusion of major arms-control treaties like the Partial Test Ban Treaty (1963), the Nuclear Non-Proliferation Treaty (1968), the Anti-Ballistic Missile Treaty (1972), the Bacteriological and Toxin Weapons Convention (1972), and the Strategic Arms Limitation Treaties (SALT and II).

Since then much has changed. Although states continue to rely on formal treaties to govern security cooperation²², these have been complemented (but by no means replaced) by a variety of transgovernmental instruments. The early 1990s saw the creation of several TGNs between the U.S. Administration and the states of the former Soviet Union, including the Materials Protection, Control & Accounting Program, managed by the U.S. Department of Energy and equivalent bureaus in former Soviet states, and the Cooperative Threat Reduction Program, managed by the U.S. Department of Defense (*Assessment* 2001). There has been a proliferation of Expert Groups and Task Forces among the G8, focusing on problems of non-proliferation, counter-terrorism and nuclear safety.²³ More recently, the 'War on Terror' has led to intensified information sharing among national Intelligence Agencies, Interior Ministry officials and police forces on both sides of the Atlantic (Webber *et al.* 2004, 16-7). What these initiatives share is that they are all informal, non-binding, highly flexible and of low political visibility.

What may account for these institutional developments? Four features characterized the formal treaties that dominated Cold War security cooperation: (1) they generally took long to negotiate and ratify²⁴; (2) they typically had stringent verification procedures, which were of core concern for the signatories²⁵; (3) they required elaborate implementation measures; (4) they had high political visibility, which made them subject to both domestic and international audience costs (the difficulties confronting successive U.S. administrations in gaining relief from the ABM Treaty—and the international visibility of this issue—provides an example). These features were appropriate to a Cold War environment characterized by relative stability in strategic relations. As Lipson (1991, 520) observes, strategic arms reduction agreements, which were a major focus of Cold War security cooperation, are rarely subject to sudden shocks or developments. Modern weapons systems require long lead times to build and deploy. As a result, military capacity and technological advantages shift slowly within specific weapons categories. More generally, the relative stability in strategic relations during the Cold War meant that the costs and benefits of formal treaty restraints could be projected with some confidence over the medium term. It also meant that rapid conclusion of agreements was not a major priority. Indeed, some suggest the slow pace of Cold War treaty negotiations constituted a benefit insofar as it provided time to assess the implications of alternative actions, eased the difficulty of political adjustments, and allowed the parties to come to understand each other's perspectives on key issues (*Assessment* 2001). Instead a priority was strong verifiability measures to ensure that cheating would be caught, and high political visibility to increase the costs of non-compliance.

Formal IGOs continue to offer advantages in many areas of security cooperation as demonstrated by the conclusion of the Chemical Weapons Convention (see below). Yet, today's security milieu differs from the Cold War milieu in important ways. During the Cold War, IGOs were used to establish credible commitments to a set of clearly defined long-term goals among fixed sets of actors. In contrast, present security goals are often short-term and coalitions constantly changing. Rapid political and technological change adds to uncertainty about the state of the world and makes it difficult for states to foresee the consequences of formal, legalized agreements. At the same time, it is widely believed that end of the Cold War has been accompanied by an increase in domestic constraints on foreign policy. Whereas foreign policy used to be controlled by a handful of executive leaders, international treaties are today subject to increasing scrutiny by legislatures and publics. These trends all favour TGNs by creating demand for flexibility and low visibility. Below I review three cases of security cooperation.

The Proliferation Security Initiative (PSI)

The PSI responds to the growing challenge posed by proliferation of WMD. Launched by President Bush in May 2003, the initiative aims at interdicting the ‘transfer or transport of WMD, their delivery systems, and related materials to and from states and non-state actors of proliferation concern’. The PSI’s scope and objectives are set out in a *Statement of Interdiction Principles* issued in September 2003, which calls on participants to carry out cargo interdictions at sea, in the air, and on land to make it more costly and risky for proliferators to acquire weapons or related materials (PSI 2003). The Principles further call on participants to adopt procedures for ‘rapid exchange of information concerning suspected proliferation activity’, to review and strengthen national legislation and to undertake a number of specific cooperative actions, including coordinated training exercises designed to improve joint capacities to interdict WMD trafficking.

Organizational Structure

The PSI is an informal framework rather than a formal organization.²⁶ The Initiative has no secretariat or coordinating body and no compliance mechanisms. It does not rest on a treaty agreement, which defines its scope and mandate. Instead, participants aim to share information ‘as appropriate’ and to act when they consider it necessary to thwart illicit trade (Joseph 2004). The decision-making process relies on meetings of experts and representatives of participating governments (including Foreign and Defense Ministry officials, national intelligence agents, military officials, customs inspectors and law enforcement officers)²⁷, which are the only recognizable structure within the initiative. No specific budgetary authority or grant exists to support PSI activities.²⁸ In terms of legal authority, the PSI is based exclusively on the authority individual governments have under existing national and international laws (PSI 2003). As such, the initiative does not grant governments any new legal authority to conduct interdictions in international waters or airspace (Byers 2004, 529). Such interdictions may take place, but they must be confined to what is currently permissible under international law.²⁹

The lack of an organizational framework and legal mandate is paralleled by a loose definition of goals and means of enforcement. PSI members remain vague in describing the types of shipments they are targeting, speaking only in general terms of ‘nuclear, chemical, or biological weapons, delivery systems and related materials’. They have not offered definitions for these terms, and have declined to reference specifically the international conventions governing the possession of nuclear, chemical, and biological weapons (Joseph 2004). This leaves open a range of questions: How is the decision to interdict made? How is a state to be determined to be ‘of concern’ and thus have its ships subject to interdiction? If a state is deemed ‘of concern’ does this concern extend to commercial ventures trading with such a state? The ambiguity surrounding these issues is undoubtedly deliberate. As Joseph (2004) argues, not specifying items subject to interdiction allows participants maximum flexibility: the shipment of a dual-use components carrying both military and civilian uses, for example, will be viewed differently depending upon its ultimate destination.

Why a TGN?

To explain the institutional design of the PSI, we must first understand the nature of the problem it is responding to. While it aims broadly at WMD interdiction, most observers agree that PSI is a reaction to the growing threat of proliferation to and from ‘rogue’ states, specifically North Korea and Iran (Byers 2004, 526; Joseph 2004). The trigger for the Initiative came in December 2002, when the U.S. intercepted the *So San*, an unflagged merchant ship travelling from North Korea to Yemen. An inspection revealed the ship was carrying 15 Scud B missiles, 15 warheads, and missile fuel oxidizer. However, the U.S. government found it was unable to seize the cargo due to the lack of provision under current international law allowing states to intercept and seize the cargo of foreign vessels in international waters.³⁰ Hence, the *So San* was released.

A second impetus came from the disclosure in the Fall 2002 that North Korea was pursuing a highly enriched uranium (HEU) program to supply fissile material for nuclear weapons. To construct a working HEU program North Korea would need to purchase many individual components from foreign suppliers, requiring multiple shipments via land, sea, and air (Joseph 2004). Interdiction of procurement shipments was thus an obvious way to block Pyongyang's program. But also here international law fell short; the U.S. had no jurisdiction to interdict vessels outside its own territorial waters and could not risk a formal blockade of North Korea since this would constitute an act of war and might invite condemnation from allies (Friedman 2003; Joseph 2004; Doolin 2005).

The predicament afforded two possible solutions. The first was to put forward a new treaty or a protocol to the LOS, which would alter the right of Freedom of the Seas and grant a legal mandate for interdiction of suspected WMD shipments in international waters or airspace. Several factors spoke against this solution. First, given the imminent threat of North Korea and Iran acquiring nuclear capabilities, speed was a priority (Condition C2a). An effort to change international law would likely be slow. The LOS took decades to write; changing it or negotiating a new treaty could be expected to take many years (Friedman 2003, 7). Even if a treaty were broadly signed and ratified, the states most likely to traffic in WMD, such as North Korea, would not become parties and their ships would thus not be subject to seizure (Byers 2004, 531; Friedman 2003). Second, a treaty-based approach was liable to founder on opposition from spoilers. China could be counted on to veto any UN Resolution on interdiction,³¹ and other states would likely raise concerns over what criteria would form the basis for forcible interdictions and how the resolution would be enforced to prevent overreaching (Joseph 2004). For cooperation to succeed, one would therefore need to find a way to bypass objections from 'spoilers' (C5).

A third factor that militated against the formal route was uncertainty about how a multilateral treaty would affect the interests of the U.S. and its close allies (C3). The principle of exclusive 'flag state' jurisdiction is beneficial to the U.S. As Byers (2004, 527) notes, the LOS regime forms the legal foundation for the global mobility of U.S. forces. The U.S. has a keen interest in safeguarding the transfer of weapons and technology to its armed forces abroad and to foreign allies. The same is true of other states with which the U.S. is likely to cooperate on anti-proliferation. Hence, neither the U.S., nor its partners are willing to surrender the requirement of flag state consent on an irrevocable basis (ibid. 540). The U.S. also values the requirement of flag state consent because it protects its merchant vessels as well as foreign vessels legitimately carrying goods to or from U.S. territory (Byers 2004, 540). An international agreement extending reciprocal stop-and-search powers could risk being biased in unforeseen ways against domestic commercial interests, as foreign states could cut off U.S. shipments where it served their purposes (Friedman 2003, 2). Indeed, Byers (2004, 545) speculates that U.S. shipping interests and perhaps even the U.S. Navy defended the requirement of flag state consent, thus implying domestic opposition to a binding agreement (C4).

Given these constraints what was needed was an informal agreement that would a) bypass domestic and international objections, b) address the proliferation threat promptly, and c) be sufficiently flexible to avoid imposing unwanted constraints on the legitimate (or indeed illegitimate) business of the U.S. and its allies. The PSI fulfils these requirements. Instead of changing international law, PSI uses an aggressive and innovative approach to the enforcement of existing national regulations to thwart WMD trafficking (Rice 2005). According to Joseph (2004), PSI members use minor legal violations (such as a technical customs violation) as a rationale to inspect and seize illicit shipments. They also take advantage of national laws to search suspected vessels while docked in members' ports. This informal strategy has several advantages: First, due to the lack of a legal framework, the Initiative was adopted and implemented with great speed. Only a handful of plenary sessions were held before the launch. In the first year of its operation, 10 interdiction-training exercises were scheduled, improving working relationships among the navies, coastal authorities, customs officials, and law enforcement agents of PSI participants and partners cooperated on several interdiction efforts. Second, the secrecy surrounding PSI operations and the fact that no budgetary funding has been sought for the initiative

minimizes domestic controversy and reduces pressure from parties claiming it violates international law.³² Third, PSI entails a high degree of flexibility, which safeguards member's individual interests. PSI participation does not generate any automatic commitments (Joseph 2004). On any given interdiction activity, only those members who choose to involve themselves will do so.³³ More importantly, there is great selectivity with respect to targets of enforcement. The Initiative does not aim to track all illicit shipments of WMD and dual-use goods but is limited to seizing shipments by countries or non-state actors that are viewed as posing a security threat to PSI participants, such as North Korea and Iran. In an interview in November 2003, Undersecretary of State for Arms Control and International Security John Bolton responded to a question on whether PSI should also focus on Israel, India, and Pakistan: "There are unquestionably states that are not within existing treaty regimes that possess WMD legitimately. We're not trying to have a policy that attempts to cover each and every one of those circumstances. What we're worried about are the rogue states and the terrorist groups that pose the most immediate threat".³⁴ Critics have asserted that the selective focus on 'shipments to and from states and non-state actors of proliferation concern' is inherently discriminatory and subjects some states to an unfair scrutiny of their trade and commerce (Joseph 2004). For example, China has expressed concern that the PSI could infringe on the right of innocent passage for Chinese ships through the territorial waters of PSI member states and could be used as a pretext to seize legal Chinese missile and arms exports (Richardson 2006, 8-9). Yet, so long as PSI Members operate within the bounds of existing international law they are free to engage in selective enforcement. By narrowly targeting a few states, the PSI avoids alienating countries that are not of proliferation concern. At the same time, selective enforcement allows participants to quickly adjust the focus of the initiative in response to political and military developments. This is a level of flexibility that could not have been achieved within a formal, treaty-based agreement, which would have had to offer a clear definition of the conditions in which a state would be targeted for interdiction or not.

A final strength of the PSI is the small number of participants (C1). The PSI began as an initiative among 11 states—all close American allies.³⁵ Today there are 20 members.³⁶ Many more countries have expressed support for the PSI.³⁷ Yet, initial members have chosen not to pursue an aggressive expansion of membership. Instead, other nations are asked to participate in PSI activities on a case-by-case basis, insofar as they can make a specific contribution to a particular operation. The decision to restrict membership to a small, close-knit group seems to reflect a desire to keep the Initiative flexible and free of the constraints on decision-making associated with a larger and more diverse group (Joseph 2004). It may also be indicative of the desire to exclude spoilers from influence. By confining the initiative to a small group of closely allied states, PSI members have acquired a potent tool with which to pressure outsiders to aid their anti-proliferation efforts. By unilaterally targeting other states' ships and commerce, PSI members can pressure them to grant legal rights of reciprocal stop-and-search and cooperate in searches of third party vessels. Indeed, the U.S. has used PSI as a basis for signing a series of bilateral ship-boarding agreements with key flag, coastal or transit states.³⁸ Due to such agreements, more than half the global commercial shipping fleet is subject to rapid boarding, search and seizures by the U.S. or a PSI member (Richardson 2006, 15; Roston 2004). The key to success, however, is to secure the co-operation of states that control large ports at strategic chokepoints or own large merchant fleets. PSI members are therefore likely to target countries like China and Indonesia through whose waters North Korean vessels are likely to pass, to pressure them to enact legislation allowing them to stop and search North Korean ships (Doolin 2005).

How effective is the regime? Although information regarding interdictions is generally kept secret, there have allegedly been several successful interdictions since the PSI was launched (Bolton 2004; Rice 2005).³⁹ On the other hand, critics point to notable interdiction failures such as an alleged Iranian purchase of a mobile crane from Germany (Roston 2004). Clearly, the fact that PSI has not succeeded in halting proliferation in all cases does not mean it is ineffective. Yet there are clear limitations to a narrow transgovernmental regime. By choosing not to pursue a U.N. Resolution, PSI members have not secured a right to interdict on the high seas. This means that potential interceptions by PSI coastal states of vessels exercising the right of transit passage through international shipping straits or

innocent passage through national waters could raise thorny legal issues. Byers (2004, 543) speculates, however, that if they should perceive an urgent need to do so, PSI members would prefer to break international law. The occasional breach of the rules may be preferable, he argues, to seeking a change in international law. If a high sea interdiction is judged necessary, PSI members will not claim a right under international law. This will allow them to break the rules without advancing strained and potentially destabilizing legal justifications.⁴⁰

Another potential weakness is that membership remains patchy. While the PSI includes some of the world's leading military and economic powers, key players like China, India, Indonesia and Singapore and Thailand, who control major strategic ports in the Asia-Pacific, have not signed on (Doolin 2005). It is still early days, though. Given their political and economic clout, continued pressure by PSI members may succeed in tightening the cordon around the world's proliferators.

Missile Technology Control Regime (MTCR)

The MTCR is an informal agreement by the G-7 partners in 1987 to limit proliferation of nuclear-capable missiles and missile technology. The regime is based on adherence to a common export control policy (the 'Guidelines') applied to a list of controlled items (the 'Equipment and Technology Annex'), which comprises virtually all key equipment and technology needed for missile development, production, and operation—whether military or dual-use. The regime also provides for the sharing of intelligence and technical expertise. The MTCR originally targeted nuclear capable missiles only, but in 1993 its objective was expanded to cover delivery systems capable of delivering all types of WMD, and in 2003 the mandate was further widened to preventing terrorists from acquiring missiles and missile technology. The regime today has 34 members, including most of the world's key missile manufacturing states, and a number of countries unilaterally observe its guidelines.

Organizational Form

MTCR is not an international organization or treaty-based regime but an informal association among countries sharing a common interest in controlling missile proliferation (U.S. DOS 2003). The regime has no headquarters or secretariat (the French Foreign Ministry serves as an informal point of contact) and the decision-making process is minimally structured. The Partners hold an annual Plenary Meeting chaired on a rotational basis. Inter-session consultations take place monthly through Point of Contact Meetings in Paris, and technical experts meetings are held on *ad hoc* basis. All meetings are closed to the public due to the sensitive nature of the discussions and intelligence materials being shared.

Like the PSI, the MTCR entails a high degree of ambiguity and discretion with respect to means and goals of enforcement. Items included in the Equipment and Technology Annex are not subject to an export ban but may be transferred at the discretion of individual members, on a case-by-case basis. Before transferring controlled items, exporting governments are invited to obtain credible assurance from recipients that the items will be used for acceptable purposes (U.S. DOS 2003; ACA 2004). However, these guidelines are voluntary and implemented by governments in accordance with national export control legislation and practices. Because the decision to export is the sole responsibility of each member, the MTCR has no penalties for transfers of controlled items. Instead, members impose their own penalties. For example, U.S. law mandates that Washington sanction entities (whether individuals, companies, or governments) that export MTCR-controlled items to certain countries identified as proliferators or potential threats to national security. It does so irrespective of whether these entities are a state or operate within a state that is a member of the MTCR. Typically, Washington prohibits the charged entity from signing contracts, receiving aid, or buying arms from the U.S. government for a period of two years (MFA-Canada 2005).

Why a TGN?

The origins of the MTCR are similar to the PSI. The regime emerged in reaction to a growing threat of global proliferation of nuclear-capable missiles and technology. In the early 1980s, evidence of long-range missile development and proliferation among several developing countries, including Libya, Egypt, Syria, Iraq, Iran, and Saudi Arabia strengthened the resolve of the G7 to tighten controls on proliferation (Halevy 1993). Yet several considerations militated against creating a binding international treaty that could restrict the right to—or contribute to an international norm against—international transfers of missiles and missile technology. First, the strategic interests of the G7 partners demanded that they remain free to transfer technology amongst them and to select third parties. A formal, binding agreement might risk constraining the partners in unwanted ways (C3). Second, there were powerful domestic actors (including the military, the national security bureaucracy, and nationally based manufactures) who could be counted on to oppose a binding regime placing a comprehensive ban on international transfers of missiles and related technology (C4).

Like PSI, the MTCR squares this circle by adopting a highly flexible and discriminatory approach. The regime does not seek a general ban on the transfer of missiles and related technology. The narrow objective of export licensing is to prevent transfers that may contribute to the proliferation of WMD. But controls are not intended to impede peaceful aerospace programs or to restrict access to technologies necessary for economic development (U.S. DOS 1993). More importantly, the MTCR, like the PSI, does not provide a multilateral instrument that draws a clear line between acceptable and unacceptable missile activities. Rather, it condemns specific activities on a case-by-case basis (MFA-Canada 2005). As such, the Guidelines are not offensive to domestically based manufacturers. Indeed, far from restricting trade, MTCR Guidelines may enable it by building confidence among suppliers that they can provide access to technology without it being diverted to WMD delivery system programs. Nor does the program hinder technology or hardware transfers to third-party governments with whom the partners wish to cooperate militarily.⁴¹

The MTCR also provides a clear example of the benefits of TGNs when it comes to excluding spoilers and setting standards to which others can later be pressured to accede (C5). The initiative started among a small group of states with homogenous interests. These included the world's foremost producers of missiles and missile technology. By confining the initiative to a core group, members excluded potential spoilers from influence at the drafting stage. Yet, the potential for *ad hoc* application of sanctions meant they could later pressure non-members to abide by the guidelines. Because of their control over advanced technology and equipment (commercial as well as military) MTCR members have the ability to deny valuable privileges to non-members lest they give credible assurances that they will counter proliferation.⁴² Core members have repeatedly called on non-members to apply the MTCR control list and guidelines. This strategy is particular evident with respect to China, who is seen as a major proliferation source. The U.S. and other MTCR partners opposed Chinese participation in the process of drafting the guidelines due to their concern that China may gain access to sensitive missile design information (CNS 1998). Members then proceeded to sanction China for breeches of MTCR Guidelines. In 1991 the U.S. imposed sanctions on China for allegedly exporting M-11 missile technology to Pakistan. The sanctions were lifted the following year after China gave written assurances that it would adhere to MTCR guidelines (*Inventory*; Halevy 1993). The U.S. has since sanctioned Chinese entities for allegedly engaging in missile proliferation with Iran. China denies the charges and is now in discussion with MTCR members about joining the regime. Another suspected proliferator, Russia, joined the MTCR in 1995, after being sanctioned for having sought to transfer cryogenic rocket engines to India (Pande 1999). Several other countries have chosen unilateral compliance. For example, India announced in 2005 that it intended to adhere unilaterally to MTCR Guidelines (*Inventory*) and Israel and South Africa have also chosen to observe the Guidelines voluntarily (Pande 1999).

The MTCR is widely believed to have contributed to a reduction in missile proliferation. The regime has been credited with stopping a joint Condor II ballistic missile program among Argentina,

Egypt, and Iraq, and with persuading Brazil, South Africa, South Korea, and Taiwan to abandon missile or space launch vehicle programs (Pande 1999). Poland and the Czech Republic are also said to have destroyed their ballistic missiles, in part, to better their chances of joining MTCR (ACA 2004). Yet the regime has clear limitations. Among members, the application of voluntary export controls has been uneven. Companies or individuals in France, Germany, Italy, Japan and the U.S. have reportedly transferred entire systems, components, materials or technological information to other countries engaged in missile development (Pande 1999). The MTCR has failed to prevent (or halt) the development of missile programs by at least five countries: India, Israel, Pakistan, Iran, and North Korea⁴³. These countries continue to advance their missile programs and, as non-parties to the MTCR, continue to supply technology to other states. The limitation of the MTCR does not consist in having failed to persuade these countries to join the regime: clearly states with an interest in proliferation are unlikely to sign up to any agreement—formal or informal—that aims to thwart their ambition. However, an international treaty-based regime with broad participation and strong verification and sanctioning mechanisms might have done more to stop these countries from advancing their missile programs in the first place.

Summary

The PSI and the MTCR offer good illustrations of the conditions favouring TGNs. The two cases appear to support conditions 1, 3, 4 and 5. Both networks emerged among small groups with highly homogenous interests and values (C1). In both cases, there was a clear need for flexible standards and easy escape. On the one hand, this need arose from general uncertainty about how cooperation would influence the long-term strategic interests of member states and from concerns about potentially adverse effects on key domestic groups (C3). On the other hand, it derived from a straightforward desire to engage in selective enforcement. This militated against spelling out clear definitions of acceptable and unacceptable activities and favoured a flexible approach that would allow members to continue certain practices while working to curb the same practices among foreign states. Both cases also featured domestic opposition to a constricting agreement (from shipping interests and the military in the PSI and from domestically based producers in the MTCR) (C4). Finally, in both cases there was a desire to exclude potential spoilers from the drafting stage (C5).

The effects of urgency (C2a) are less clear. While speed was certainly a priority in drafting the PSI it is not clear that pressure for a quick solution was any greater in this case or in the case of the MTCR than for most issues of international cooperation. The relationship between time horizons and institutional form (C2b) is also ambiguous. The MTCR has been operational for more than 20 years and shows no signs of disappearing. Yet, it has not been formalized. The PSI may be expected to be relatively short-lived in its current form. However, a short time-horizon in this case may be the result of a highly informal, flexible and adaptable structure as much as a precondition for it.

Chemical Weapons Convention (CWC)

The CWC is a multilateral arms control agreement outlawing the production and use of chemical weapons. The treaty was signed in Paris in January 1993, after decades of painstaking negotiations⁴⁴, and entered into force on April 29, 1997. The Convention is the second multilateral disarmament agreement to provide for the elimination of an entire category of WMD⁴⁵. The Convention prohibits all development, production, acquisition, stockpiling, transfer, and use of chemical weapons. It further establishes a comprehensive export control regime that applies not only to scheduled chemicals but also to all the elements that make up the definition of a chemical weapon (toxic agent, munitions and delivery system). (Feakes 2001, 46). Since its entry into force, 178 states have become party to the CWC.

Organizational Form

The CWC has an extensive formal organization: It is administered by the Organization for the Prohibition of Chemical Weapons (OPCW), which is responsible for implementing its provisions. The OPCW consists of three bodies: the Conference of the States Parties, a policymaking organ of all members that meets once a year; the 41-country Executive Council, which oversees treaty implementation; and the Technical Secretariat that analyzes data and conducts inspections. Implementation requirements are stringent: At the national level, members are required to pass legislation making the provisions of the treaty binding on their citizens and companies; to implement national export controls on controlled chemicals and to establish a 'National Authority' to communicate with the OPCW (Tucker 2001). Rules and obligations are very specific: an annex lists all the substances ruled out and is updated regularly to keep up with technological progress. Strict verifiability criteria are in place: OPCW inspection teams conduct routine inspections of military and industrial plants in all member states, and each member has a right to request inspection of a facility—declared or undeclared—on the territory of another member-state suspected of violating the treaty.

The provisions of the CWC not only affect the military sector but also the civilian chemical industry through restrictions on the production, processing, transfer, and consumption of dual-use chemicals and precursors that can be used to produce chemical weapons. Companies engaged in activities involving these chemicals may be required to submit declarations to their National Authorities and are subject to on-site inspections by the OPCW. In addition, trade in certain chemicals with states not party to the CWC may be prohibited or subject to export licenses and end-use certificates.

Why an IGO?

Our framework suggests several reasons why control of chemical weapons is tackled through a highly legalized IGO rather than a TGN. First, verifiability measures are of central importance to controlling the production of chemical weapons. Chemical weapons are notoriously difficult to monitor (certainly more so than transfers of missiles or missile technology) due to problems of dual-use substances that can serve as precursors for chemical weapons. Hence, an elaborate regime was needed to permit close monitoring of compliance. Second, new developments in chemical industry require constant adaptation of the industry verification regime (Kelle 2003). As a result there are clear benefits to having a centralized secretariat, which can gather, analyze and synthesize information and keep up with technical developments. Third, broad participation is of central importance. Any nation with a developed chemical industry has the potential to make chemical weapons. Moreover, there are growing concerns over the involvement of non-state actors in the production and use of chemical weapons. Unlike in the cases of interdiction of nuclear weapon components or control of WMD-capable missiles, therefore, it does not suffice to target select countries of special proliferation concern.

At the same time, many factors, which favoured reliance on TGNs in the case of WMD interdiction and anti-missile proliferation, were absent in respect to controlling chemical weapons. First, flexibility, either in the form of easy escape from the regime or in the form of the possibility for selective enforcement or 'double-standards', was not a crucial concern. The U.S. and other major proponents of the CWC are not heavily reliant on chemical weapons. Hence, there is less need for ambiguity in defining acceptable conduct or for flexibility in respect to enforcement. Second, although private interests were widely affected, this did not create a domestic lobby against a treaty regime. The potential negative effects of the Convention were narrowly concentrated on a single domestic group: the chemical industry. Rather than oppose a treaty agreement, industrial leaders chose to collaborate in the elaboration of a formal regime that would increase public confidence that chemical companies have no connection to weapons (Burgess 2001).

The reasons for the collaboration of the chemical industry are instructive: Until 1984 trade in dual-use chemicals was unregulated. In 1984 it was discovered that Iraq's production of chemical weapons

had relied extensively on precursors and production equipment supplied by Western companies. In response, several countries imposed national export controls and licensing measures on CW precursors, including Canada, the EC, Japan, New Zealand and the U.S. (Feakes 2001). Since they were unilateral and voluntary these measures had the effect of disadvantaging industries in countries in which they were adopted vis-à-vis foreign competitors. Hence, the chemical industry had an incentive to cooperate with governments to get out-and-out bans lifted and to extend export control measures to other countries.

The harmful effects of unilateral export controls explain the absence of domestic opposition to a formal, binding regime in major Western states. But how do we explain support for the CWC among other countries? Ironically the explanation seems to lie in the formation of a small transgovernmental alliance. In 1985, a group of states created an informal mechanism to harmonize national export controls on dual-use CW precursors and production equipment (Feakes 2001, 45). This group, which is known as the 'Australia Group' (AG), includes the world's most advanced producers and consumers of industrial chemical components.⁴⁶ Non-members have widely seen it as a discriminatory cartel that harms their economic development by impeding legitimate trade in chemicals and equipment (ibid, 47). Brazil, Cuba, India, Iran, Malaysia, China and Pakistan have all been highly critical of the AG accusing it of being 'a white mans club', which practices 'apartheid'. Yet, the AG has provided an incentive for other states to agree to a formal multilateral export control regime. By acceding to the CWC they hope to undermine the rationale and legitimacy of the AG and to gain access to material and equipment necessary to advance their chemical industrial capacity. Article XI of the CWC treaty states that, "implementation of the Convention shall not hamper the economic and technological development of states parties and shall instead promote chemical trade among states parties for peaceful purposes". When Cuba, Iran, Pakistan, and Sudan submitted their CWC ratifications to the UN Secretary-General, they attached statements critical of the AG. Together with India these countries have created a Non-Aligned Movement, which calls for 'the removal of all and any discriminatory restrictions that are contrary to the letter and spirit of the [CWC]' (Feakes 2001, 46). In response to the creation of the CWC, AG members have in turn pledged to remove export controls from "states parties to the Convention acting in full compliance with their obligations under the Convention".

The CWC is highly credible. Since its entry-into-force in 1997, five members have declared CW possession (US, India, Russia, South Korea and Albania) and have begun destruction activities. However, the CWC also highlights the downsides of a formal treaty approach. First is the refusal of several known and suspected chemical proliferators to join the treaty, including North Korea, Egypt, Iraq, and Syria. Second, stringent verification procedures do not guarantee success: a number of states parties continue to lag behind in national implementing legislation (Kelle 2003). Partly as a result of such patchy implementation, the AG is still operational and key members of the group such as the U.S. and U.K. continue to defend its existence as a necessary tool to deal with non-compliance under the CWC.

IV. Conclusion

The concept of 'political networks' offers a useful framework for conceptualizing recent developments in international security cooperation. While international security cooperation takes place both through IGOs and TGNs, observers point to a growing reliance on government networks (Krahmann 2003, Webber et al. 2005). I have identified several features of networked cooperation that may help to explain this trend. For example, the flat organizational structure associated with networks promotes differentiated local solutions to common problems. This is important in an area where sovereignty concerns are high. Also, the informal, non-contractual nature of networks means they can adapt quickly to conditions of uncertainty and rapid change, which characterize many areas of international security. Due to their non-contractual nature and low visibility, networks are also well suited to loosening domestic constraints on executives. This is a useful asset in a political context where gaining domestic approval of treaties has become increasingly difficult.

One advantage of networked cooperation deserves specific highlighting. As we have seen TGNs allow states to limit cooperation to small groups of like-minded states, with the group being easily expanded once momentum has been achieved. By making informal rules and enforcing them unilaterally, ‘insiders’ can change the incentives facing ‘outsiders’ and compel them to comply with rules they would not have agreed to as parties to formal, multilateral treaty negotiations. While I have shown this logic at work in the area of security cooperation, there is reason to believe it generalizes to other areas of global governance.

One final issue needs to be addressed. The government networks represented in this paper are all in important respects reflections of US foreign policy. The PSI and the MTCR were both initiated by the US and their continued success depends crucially upon active U.S. support and leadership. The same is true of TGNs in other areas: The initiative for the FATF, for example, came primarily from the US in cooperation with a few close allies. The American predilection for TGNs may be explained by its hegemonic position. As hegemon the US can afford unilateral enforcement of small-scale regimes. Hence it is less likely to value centralized formal sanctioning. However, it may also be explained in terms of a specifically American preference for avoiding international legal constraints. Since the end of the Cold War Washington has backtracked from a number of formal treaty commitments, including the ABM Treaty and the CTBT. It has also been reluctant to proceed with negotiation of a verification protocol for the BWC. The growing use of TGNs in some policy-areas may be a reflection of an American attempt to redefine multilateralism and create a system of international cooperation that is more flexible and places fewer constraints on key American national interests.

Government networks are a significant development in international security, whether as supplements to or substitutes for existing IGOs. Yet, the strengths and limitations of TGNs are not sufficiently understood. Transgovernmentalists hold that TGNs are uniquely suited to cooperation in a globalized world. Yet if networks uniformly possess advantages over other forms of governance, why do these other forms persist? This paper has sought to highlight the comparative advantages of TGNs. By doing it hopes to advance our understanding of variation in institutional design.

Endnotes

- 1 E.g. Spiro 1995; Strange 1996; Matthew 1997; Naim 2003.
- 2 See Picciotto 1997, 2000; Slaughter 1997, 2004ab; Zaring 1998; Raustiala 2002; Pollack and Shaffer 2001; Benvenisti 2006.
- 3 Some doubt that trans- and intergovernmentalism are in fact distinct modes of collaboration (Alvarez 2001). While inter- and transgovernmental forms of cooperation overlap in important respects, I submit they are functionally distinct and that understanding their differences can yield important insights into the nature of international cooperation. Other scholars that distinguish between trans- and intergovernmental cooperation include Keohane and Nye 1974; Slaughter 1997, 2004ab; Raustiala 2002; Bach 2003.
- 4 International regime theorists, who tend to focus on cooperation among unitary states, have largely overlooked TGNs consisting of sub-state actors/agencies.
- 5 Transnationalism is heralded by many as the fastest growing and most significant form of international interaction, posing an acute challenge to state authority (Ohmae, 1995; Strange, 1996; Matthews, 1997; Spiro, 1995). I do not look at transnational cooperation here, although network theory clearly has much to say about this form. Rather my aim is to compare two forms of cooperation among state actors (trans- and inter-governmentalism) and to identify the conditions in which states prefer one to the other.
- 6 See e.g. Abbott and Snidal 2000; Kahler 2000. A special issue of *International Organization* (vol. 54, no. 3, Spring 2000) was devoted to exploring issues of ‘Legalization and World Politics’ and contains valuable perspectives on the benefits of soft vs. hard law.
- 7 Official international treaties do not always characterize intergovernmental cooperation. Governments can and frequently do opt for more informal Executive Agreements. Yet, a commitment made by a Head of State is still a highly visible and credible sign of policy intentions and tends, therefore, to be more effective in binding national policies than commitments by lower-level bureaucracies. See Lipson 1991, 498-9.
- 8 On the role of trust in networks see Powell 1990, 304; Thompson 2003, 43.
- 9 Decentralized enforcement is not unique to TGNs. Some IOs rely on national enforcement. E.g., the Convention Against Torture requires governments to prosecute or extradite torturers. Yet, due to their formal, legal status, IGOs tend to have more detailed and intrusive verification and compliance regimes than TGNs.
- 10 Some advantages of networking—such as prospects for learning through repeated interaction—are relevant to TGNs but do not distinguish them from IGOs where learning also takes place.
- 11 Like transgovernmentalists, Functionalists hold the best way to tackle universal socio-economic problems is through administration rather than legislation. IGOs, they argue, are ill equipped to deal with the complexities and fluidity of modern economic and social life. What are needed are function-specific networks of technocrats that can adapt more easily to constantly changing circumstances (Salter 1919; Mitrany 1932, 1943, 35. For an overview of classic functionalist thought, see author 2006).
- 12 Although some transgovernmental initiatives, like PSI, do not require extra funding, most do. E.g., funds for the Cooperative Threat Reduction Program, a transgovernmental program between the U.S. and USSR successor states, are included in the President’s budget request for the DoD and subject to the annual Congressional appropriation and authorization cycle
- 13 This interpretation is corroborated by Slaughter (2004b, 4, 7). She argues that TGNs function as a direct extension of the state. Although TGNs may arise outside formal international institutions they are composed of national government officials who are appointed by national governments and are subject to sanctions at home. The ‘bottom-up’ view is also belied by Pollack (2005:911-2). In his study of the regulatory networks associated with the New Transatlantic Agenda, he finds that ‘most of the transatlantic regulatory dialogues surveyed resemble not so much voluntarist romances undertaken independently of governments as much as ‘shotgun marriages’, undertaken grudgingly under pressure from CoGs’
- 14 Some observers suggest the opposite, namely that TGNs are useful in cases where interests diverge too widely to be reconciled in a joint legal agreement (Benvenisti 2006). In such cases, TGNs can exploit bureaucrats’ discretion under national laws to bridge the gaps. This rings true. Yet, I believe this logic is consistent with the idea that for TGNs to work, there must be broad agreement on goals (if not on means) and no overwhelming fear of cheating. In such circumstances, TGNs can enable states to pursue shared goals while allowing for maximum flexibility in choosing specific means for doing so.

- 15 While there are examples of multilateral treaty agreements, such as the Convention on the Rights of the Child, that were negotiated with relative speed and that garnered wide ratification in only a few years, and while some transgovernmental agreements may by contrast take longer to complete, informal, non-binding agreements are, *ceteris paribus*, faster and less costly to implement.
- 16 Powers of proposal enable institutions to solve coordination problems because, so long as preferences do not diverge too widely, it is often cheaper for governments to accept an agent's proposal than to amend it.
- 17 According to Abbott and Snidal (2000, 429) the explicit rules and sanctioning mechanisms associated with formal, legalized organizations function as an *ex ante* sorting device: because explicit legal commitments impose greater costs of violators, a willingness to make them identifies one as having a low propensity to defect.
- 18 TGNs may also be cheaper to set up in conditions of uncertainty. Informal agreements make fewer informational demands on parties. Negotiators need not try to predict all future states and comprehensively contract for them. See Lipson 1991, 500.
- 19 E.g. Simmons (xxxx, 262) find that the use of non-binding accords in the FATF has been an effective way to deal with rapidly changing financial practices and market conditions.
- 20 Flexibility can help states cope with uncertainty about states of the world but have no effect on reducing uncertainty about behavior or preferences. This is why small group-size is an important condition for TGNs.
- 21 The fact that there are more bilateral and regional treaty agreements than multilateral ones might seem to contradict the idea that TGNs are better at excluding spoilers than treaty-based IGOs. Yet, while bilateral treaties may be perfectly acceptable in some cases, in areas with many obvious stakeholders it may be politically difficult to exclude states from gaining at least an observer status to formal negotiations from which they may influence the process. Moreover, formal treaty negotiations are more likely to run into objections from excluded states over their legitimacy under international law. Indeed, in some cases, such as the PSI, treaty-based cooperation would likely require amendments to international law, hence automatically drawing in a wider group.
- 22 The post-Cold War period has seen the signing of major arms reduction treaties, including START I (1991), START II (1993), the Comprehensive Nuclear Test Ban Treaty (1996), the Chemical Weapons Convention (1993), and the Mine Ban Treaty (1997).
- 23 Examples include a High Level Group on Nonproliferation, the Rome/Lyons Group on Terrorism and Organized Crime, the Counter-Terrorism Expert Group, the G8 Nonproliferation Experts Group, the Nuclear Safety and Security Group, and the G-8 Global Partnership against the Spread of WMD.
- 24 E.g. START I (1991) and the CWC (1993) both took more than a decade to negotiate. START II (1993) took 7 years before entering into force, the CWC took 4 years to ratify, and the CTBT, signed in 1996, has still not entered into force.
- 25 The major nuclear arms agreements between the U.S.A. and U.S.S.R (SALT I, SALT II, START I, START II, and the LTBT) all triggered intense debates on verifiability (see Assessment, 2001).
- 26 PSI participants emphasize that the PSI is "an activity, not an organization." Chairman's Statement, 2004, Lisbon.
- 27 The PSI has been led in the U.S by Undersecretary of State for Arms Control and Intl. Security, Jon Bolton. Assistant Secretary of State for Arms Control, Steven Rademaker, and Director of National Intelligence, John Negroponte, have also been closely involved.
- 28 The PSI has no joint budget and individual members have no earmarked funds for the project. In the U.S. context, the Pentagon maintains that existing U.S. capabilities can support PSI activities. See Joseph, 2004; Richardson, 2006.
- 29 International law does not prohibit the transfer of nuclear, chemical, and biological weapons, missiles, and related components, nor does it allow interdiction of WMD on the high seas. Under the 1982 UN Law of the Seas (LOS) Convention, ships owned or operated by a State shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State. A ship can be stopped in international waters if it is not flying a national flag but it cannot be stopped simply because it is suspected of transporting WMD.
- 30 The Law of the Seas Convention (LOS) gives ships the rights of freedom of the seas and 'innocent' passage through other states' territorial waters.
- 31 An attempt by the U.S. in Sept. 2003 to insert a provision authorizing high seas interdiction into UNSC Resolution 1540, which calls on states to strengthen domestic controls over WMD manufacture and possession was blocked by the threat of a Chinese veto. See Friedman 2003, 4; Richardson 2006, 13.

- 32 A frequent criticism has been that by inviting interdictions ‘on land, at sea, and in the air’ PSI defies the inviolability of international waters and the right of ‘innocent passage’ within other nations’ territorial waters, which is considered customary law and enumerated under Article 19 of the LOS Convention (Chatham House, 2005). The U.S. has not ratified the LOS, but every other core member of the PSI has.
- 33 Chairman’s Conclusions, Oct. 2003.
- 34 Quoted in Joseph 2004
- 35 Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the UK, and the U.S.
- 36 Since its creation the PSI has expanded to include Russia, Canada, Norway, Singapore, Denmark, Argentina, Iraq, Georgia, Turkey.
- 37 At the first anniversary of the PSI, 62 countries were represented, as well as the EU and NATO, evidencing the growing support for the Initiative. Chairman’s Statement 2004.
- 38 The U.S. has signed bilateral treaties with Belize, Croatia, Cyprus, Liberia, the Marshall Islands, and Panama. Such agreements allow US officials to board ships registered under these flags anywhere in international waters if they are judged to pose a proliferation danger. Panama and Liberia are the two countries with the most foreign vessels registered under their authority. Cyprus is no. 6 and the Marshall Islands no 7.
- 39 In 2003, the U.S. allegedly intercepted aluminum tubes bound for North Korea’s nuclear program, a combined Franco-German effort intercepted sodium cyanide likely bound for North Korea’s chemical weapons program, and details were released about the interception of a ship carrying components for uranium centrifuge tubes destined for Libya (Joseph 2004; Rice 2005).
- 40 However, if the PSI continues to prove its value without provoking charges of misuse then a UNSC Resolution may eventually become a feasible option. Hence, in the longer run, this may well turn out to be a case where a TGN becomes an ITO.
- 41 Membership decisions are equally arbitrary. Although the regime intends to ban missiles with more than 300km range and 500kg payload, this criterion is waived for some members. When Ukraine joined in 1998 it retained the right to produce offensive missiles and was allowed to keep its Scud missiles—the type of rocket the MTCR is specifically designed to counter—in return for ending its nuclear commerce with Tehran. See Pande 1999.
- 42 E.g., the U.S. has made China’s MNF status conditional on better performance on non-proliferation. China, in turn, has accused the MTCR of discrimination on the part of states already possessing missile technology. Other states have raised similar objections. See MFA-Canada 2005; McDougall 2002.
- 43 Israel, of course, was never a target state. And the indigenous character of India’s missile program makes the MTCR practically redundant in the context of that country.
- 44 Negotiations on provisions for eliminating chemical weapons began in 1962 within the Conference of the Committee on Disarmament [CCD] and continued within its successor institution, the Conference on Disarmament (CD).
- 45 The 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxin Weapons and on their destruction (BWC), which entered into force in 1975 was the first multilateral agreement to eliminate an entire category of WMD. However, the BWC at present contains no provisions for the monitoring or verification of compliance or implementation.
- 46 The AG consists of 32 states plus the European Commission: Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Turkey, U.K., U.S.

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Author Contact:

Mette Eilstrup-Sangiovanni □ □
Centre of International Studies □ □
University of Cambridge, 17 Mill Lane □ □
Cambridge CB2 1RX □ □
Email: mer29@cam.ac.uk □