

## 4 Unbounded or Overbalancing? An Outlier Case

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### Introduction

States do not always accurately assess the threat posed by another country, and such misperception can lead to potentially costly under- or over-reactions to the reality of a given situation (see Christensen & Snyder 1990; Jervis 1976; Waltz 1979, 172; Wohlforth 1993; Schweller 1998, 2004). In other words, rather than appropriately balancing the actual threat to national power (which in this case would imply accurately assessing the threat posed by the foreign takeover, and choosing the appropriate level of intervention), states might instead under- or over-balance that threat (in this case, by engaging in an unwarranted degree of intervention, or not intervening enough).<sup>1</sup>

This chapter focuses on a case that is an example of such a costly aberration: the US intervention into the takeover of the Peninsular & Oriental Steam Navigation Company (P&O) in Britain by Dubai Ports World (DPW) of the UAE. This can be considered an instance of *overbalancing*, and thus an outlier case, because parts of the US government engaged in unbounded balancing against the UAE, in a situation where bounded balancing would have been sufficient to address any true national security concerns. The US and the UAE, though not members of a security community, were close allies in the War on Terror. Yet, two completely diverging views of the UAE emerged – one of it as a positive ally, and the other of it as a threatening power – that bifurcated the US government position. At the same time, a certain degree of economic nationalism arose against the deal. The result was that the powerful elements opposed to the transaction were able to block the US element of the deal and, thus, an act of overbalancing occurred, which had a temporarily negative impact on the relationship between the two countries. This is a unique case in terms of both US history and non-military internal balancing. It offers new insight into the primary argument put forward in this book and provides an excellent opportunity to examine the ramifications of such an overreaction.

**Case 5: DPW/P&O***The Story*

In fall 2005, DPW first indicated its interest in acquiring P&O. Owned by the Emirate of Dubai, DPW is a well-respected global ports operating company that at the time of this case operated fifty-one port terminals in thirty countries (Blitzer et al. 2006b). P&O was also a global ports operating company, which operated twenty-nine port terminals across eighteen countries. Combining the two companies seemed like a winning idea; with almost no competition issues emerging from the possible combination, a takeover would instantly “create one of the top three leading ports groups in the world” (Zephyr 2006a).

The initial public reports of a possible deal surfaced in the market on October 31, when P&O met with DPW for the first time (Paleit 2006; Zephyr 2006a). Yet, DPW contacted CFIUS on October 17, 2005, before even approaching P&O, knowing that any possible deal with P&O would be reviewed by CFIUS because DPW was owned by a foreign government, and because six of the P&O port terminals involved in the transaction were in the US (Paleit 2006).<sup>2</sup> Thus, long before any agreement had been reached and the CFIUS process officially begun, the relevant intelligence security agencies were able to start gathering information on DPW, and to “[review] the transaction with company officials” (Davis 2006). Notably, the various “US intelligence agencies” questioned by the Department of Homeland Security (DHS) did not find any “derogatory” evidence against the company (Davis 2006).

With the path seemingly clear, DPW made an offer to acquire 100% of P&O through its acquisition vehicle Thunder FZE on November 29, 2005, for £3.3 billion (Zephyr 2006a). On the same day, P&O’s board of directors “unanimously recommended” that its shareholders accept the deal (Zephyr 2006a). By December 16, DPW had formally filed notice of the transaction with CFIUS, which began its formal review of the transaction the following day (Davis 2006; Paleit 2006). After conducting a thirty-day investigation of the transaction, and failing to find any significant national security repercussions, CFIUS approved the potential deal between DPW and P&O (Paleit 2006; Ylagan 2006). As part of the process, DPW signed a Letter of Assurance making certain concessions and promises to the US government, and providing rather unprecedented access of information to help US intelligence agencies in their efforts to ensure the security of the ports in question.

In the meantime, a rival bidder materialized from among the herd that had emerged to try and take over the only public ports operator of

such size: PSA International Pte Ltd., which at the time was a minority stockholder of P&O (Zephyr 2006a). While other potential bidders, such as Hong Kong's Hutchinson Whampoa and the Singaporean SWF Temasek, fell by the wayside, PSA indicated that it was "willing to make an offer" on January 11, 2006, and by January 26 it had announced an offer worth almost £3.6 billion (Zephyr 2006a). DPW increased its own offer to £3.9 billion the next day, forcing PSA out of the running (Zephyr 2006a). By February 13, DPW's 100% acquisition of P&O was formally approved by the latter's shareholders (Paleit 2006), and it seemed the deal was almost done.

That week, however, turned out to be the beginning of what would become an intense and angry debate between US lawmakers and the Bush Administration over the deal. After discovering that a company owned by an "Arab" government would be buying seaport terminal operations in the US, lawmakers demanded that the President (and the member agencies of CFIUS) explain the rationale behind the approval for a deal that they believed posed a "potential national security threat" (Davis 2006; Paleit 2006). These lawmakers denounced the fact that two of the 9/11 hijackers had come from the UAE, and that money had been supplied to them through its banks. They pointed to the fact that the UAE was technically a member of the Arab League boycott against Israel and decried that nuclear material had once slipped through its ports. The implication of their statements was clear, though heavily misguided: they felt that allowing such a company to "control" operations at a US port would mean potentially laxer security standards that could lead to a future terrorist incident. A number of lawmakers, including Senators Charles Schumer (D-NY), Bill Frist (R-TN), and Hillary Clinton (D-NY), thus quickly promised to bring forward legislation in the coming weeks that would prevent the takeover.<sup>3</sup>

Members of Congress and the Senate not involved in the CFIUS process became aware of the deal largely through the lobbying efforts of a disgruntled US firm (Eller & Co.) that had operated a JV in stevedoring services in the port of Miami with P&O, and which feared it would lose business after the takeover was complete (Hitt & Ellison 2006a). With important mid-term elections coming up in November 2006, and President Bush's approval rating at an extremely low level, lawmakers seemed to seize the opportunity to look stronger than the Administration (and their opposition) on national security by registering their concerns over the transaction. Members of the US public became aware of the deal, and started to pressure lawmakers to stop it, once certain members of the media began to frame the takeover in a manner that played on post-9/11 fears. Spewing protectionist rhetoric and framing the story in an

anti-Arab light, media figures such as CNN's Lou Dobbs and radio's Michael Savage are credited with having fanned a "grass-roots brush-fire" of opposition (Hitt & Ellison 2006b).

The Bush Administration was caught off guard by the media firestorm and the congressional backlash that emerged at this point. It was allegedly not until February 16 that President Bush was even made aware of the deal (Davis 2006). Upon learning about the case, President Bush was adamant that lawmakers should not intervene. On February 21, he argued: "They ought to look at the facts and understand the consequences of what they're going to do. But if they pass a law, I'll deal with it, with a veto" (Kuhnhehn 2006). This position had two primary bases. First, that the Administration and all of the government agencies related to security and intelligence were satisfied that the deal *would not* pose a national security threat following the initial CFIUS review. Scott McClellan, the White House spokesman at the time, argued that: "If this transaction were blocked, [it] would not change port security one iota. The Coast Guard and the Customs and Border Patrol remain in charge of our security . . . The Coast Guard remains in charge of physical security; the Customs and Border Patrol remain in charge of cargo security" (Dow Jones 2006h). He also pointed out that "there was a broader intelligence community assessment done as part of the review that addressed such questions, and there were no unresolved national security issues at the end of the process" (Dow Jones 2006g). The second basis for the President's strong stance in favor of the deal was that the UAE is a vital ally in the Global War on Terror, and the Administration had no desire to have it appear that the deal was being crushed because of perceived distrust of the Arab state. The President thus announced that he wanted those opposed to the transaction "to step up and explain why all of a sudden a Middle Eastern company is held to a different standard than a British company" (Hull Daily Mail 2006). In a meeting with the National Governors Association on February 27, he "stressed that the UAE is an important American ally," and that the "deal has foreign policy implications that must be considered" when weighing its merits (Feeney & Orr 2006).

Despite their frustration at the reaction, both the Administration and DPW itself sought to make lawmakers more comfortable with the deal. DPW tried to help the process by releasing the Letter of Assurance<sup>4</sup> it had provided to CFIUS on February 21, and, two days later, by "offer[ing] to delay taking operational control of terminals pending [the] outcome of discussions" (Paleit 2006). On the same day, however, the "Senate Armed Services Committee held [a] hearing" in which "Democrats charged the Bush [Administration] violated [the] law by not

conducting an additional forty-five-day security review and fully informing congress” of DPW’s intent (Davis 2006). At the same time, lawmakers – including Sen. Barbara Boxer (D-CA), Rep. Scott Garrett (R-NJ), and Sen. Schumer – continued to send letters to the President registering their discontent with the deal. Still, the Administration and DPW remained confident that such lawmakers would change their minds once they were given a chance to think about the deal and had all of the facts before them. Thus, they worked together to come up with a deal that would allow this to happen,<sup>5</sup> and on February 26 DPW formally requested that CFIUS conduct the full-length forty-five-day investigation of the proposed transaction (McAuliff 2006). In addition, the company “agreed to put up a temporary fire wall between itself and P&O’s American operations, including Manhattan’s cruise ship terminal, and Newark’s vast container port” (McAuliff 2006).

Despite these efforts, a rush toward unbounded intervention by US lawmakers followed, as different congressmen and senators sought to go on record opposing the deal. On February 27, Sen. Susan Collins (R-ME) introduced S.J.Res. 32, otherwise known as “A Joint Resolution Disapproving the Results of the Review Conducted by . . . CFIUS into the Purchase of . . . P&O by . . . DP World,” with Rep. Jane Harman (D-CA) introducing the resolution to the House the following day (US House 2006a; US Senate 2006c; Harman 2006). Over the course of the same two days, Sen. Schumer and Rep. Peter King (R-NY) also proposed related pieces of legislation (S. 2333 and H.R. 4807) in their respective chambers, which sought to mandate a further forty-five-day investigation of the DPW/P&O deal under the auspices of the Defense Production Act of 1950, which required that such an investigation “shall” occur if the acquiring company in question is owned by a foreign government (US House 2006d; US Senate 2006b). Also on February 28, Sen. Byron Dorgan (D-ND) attempted to go even further with S. 2341, subtly entitled “A Bill to Prohibit the Merger, Acquisition, or Takeover of Peninsular and Oriental Steam Navigation Company by Dubai Ports World” (US Senate 2006a). Finally, by March 7, Rep. Duncan Hunter (R-CA) had sought to use the issue as a springboard to address the greater issue of protecting critical infrastructure in general from such foreign takeovers with the introduction of H.R. 4881 (US House 2006c). Each of these different pieces of legislation was eventually referred to the relevant committee, which was the driving force behind the numerous House and Senate Committee Hearings on the subject of the takeover during the following weeks.

With no serious opposition to the deal arising in the UK, where P&O was domiciled, US lawmakers could only really affect the fate of

the six US ports in question. The deal was thus formally completed, and P&O delisted, on March 9 (DPW 2006a). Yet, on the same day, the House “Appropriations Committee vote[d] 62-2 to derail the deal” (Paleit 2006). The same morning, President Bush met with Congressional leaders including Rep. Dennis Hastert (R-IL) and Rep. Frist, who made it clear that “there was no way to stop lawmakers from blocking” the deal because they had enough votes to override the promised presidential veto of any legislation seeking to do so (Kuhnhehn 2006). Donald Rumsfeld stressed the folly of this move, stating that: “from day one, they have been helpful to us. From 9/11 on . . . [the UAE] has provided direct assistance to the global war on terror” (Orr 2006a). Both the Administration and the UAE were thus increasingly concerned over the damage to their relationship that could arise from the “row” over this deal, largely because the national security concerns cited by those lawmakers opposed to the deal appeared to be at best unfounded, and at worst discriminatory and insulting. As discussed later, such an act of overbalancing, unlike a normal act of non-military balancing, had the potential to cause a temporary disruption in the greater relationship between the US and UAE.

In an effort to defray the issue, therefore, the “United Arab Emirates order[ed] DPW to relinquish control of the five US port terminal facilities” on March 9 (Paleit 2006). Sen. John Warner (R-VA), who had helped to broker the original agreement for an extra forty-five-day investigation, broke the news later that day on the floor of the Senate “on behalf of Dubai Ports World that it would transfer management of [the] six major US ports to an American company” (MEJ 2006).<sup>6</sup> The White House welcomed this development on the grounds that it seemed to calm the waters and would “give Congress a ‘better opportunity to understand this deal’” (AFX 2006d),<sup>7</sup> but the Administration also made it quite clear to lawmakers and the general public that it would not change its mind about the transaction (Feeney & Martin 2006).<sup>8</sup>

Despite this agreement, Congress remained concerned. Some lawmakers worried that the “American entity” would simply be DPW’s US subsidiary, leaving DPW in effective control of the operations. These congressmen wanted to ensure that the disposal of the port terminal leases in question was complete. Congress thus included a provision in §3011 of the Emergency Spending Bill (US House 2006b) introduced on March 13 that both (1) prohibited the President from using any of the funds in the bill to approve the transaction and (2) prohibited and nullified the “acquisition of any leases, contracts, rights, or other obligations of P&O Ports by Dubai Ports World” (US House 2006b). On March 15, therefore, DPW published a statement explaining how the

disposal would proceed, which “appeared to satisfy the most prominent critics” of the deal in Congress (Blustein 2006; see CBS 2006). Finally, on December 11, 2006, DPW announced that it had divested the six US ports to the American International Group (AIG), ensuring that the ports would remain under American control (Guardian 2006).

Yet, though the eventual outcome was amicable, and the greater relationship between the US and the UAE remained strong, the initial ramifications of the “ports row” for that relationship were manifold. The US–UAE Free Trade Agreement talks, which had reached their fourth round before the takeover emerged, were stalled. On March 13, the UAE announced its intention to convert 10% of its foreign-exchange reserves from dollars to Euros, as a number of its public officials registered their anger and frustration at the intervention of US lawmakers into the P&O deal (Thornton 2006a).<sup>9</sup> The debate over the ports also had a lasting effect on US law. No matter what their stance on the deal, lawmakers in general were extremely unhappy that CFIUS did not pursue a lengthier review of the deal or have any special protections for “critical infrastructure.” Long after the storm had passed, lawmakers continued to fight for CFIUS reform until FINSA was passed in 2007.

### *Significance as an Outlier*

It is of vital importance to examine this case because of its very nature as an outlier. It is an aberration in the context of both the database as a whole and the history of US government intervention into foreign takeovers on the grounds of national security in particular. As shown in this section, there are a number of deeply interwoven reasons for this, but the end result is the misuse of the tool of non-military internal balancing.

It is first important to understand that the DPW case is arguably the most publicized example of government intervention into a foreign takeover in the US in recent memory. Graham and Marchick point out that this case “stands out” because of (among other reasons) its “highly politicized” nature, in which “the polemics surrounding the . . . case were especially raucous,” and because “the case did not involve a direct purchase of a US firm, but rather an indirect purchase of US assets through one foreign firm acquiring another foreign firm” (Graham & Marchick 2006, 136–8).

This foreshadows another, more important reason why this deal is an “outlier,” which is that domestic political factors seem to have outweighed the geopolitical ones in motivating certain congressmen and senators to pursue a course of unbounded intervention. Normally, within an allied relationship, even one outside of a security community context such as this, we would expect to see intervention motivated

primarily by economic nationalism. Yet, P&O was not an American icon or a national champion; it was a British one, having played a critical role in the British Empire.<sup>10</sup> Furthermore, neither US jobs nor economic prosperity were threatened by the deal, which included only a tiny portion of US assets.

Thus, to block an acquisition originating from a close ally in the War on Terror on mostly spurious national security grounds that reeked of “anti-Arab sentiment,” and to antagonize that ally to the point of potentially creating negative economic and military consequences, can only be explained as an anomaly, and a case of unnecessary and overbalancing. It was anomalous because it was the conflux of the desire of certain lawmakers to “score points” and look strong on national security at a time when they faced mid-term elections, and when the White House was extremely weak. Yet, the vast majority of US interventions are neither motivated by domestic politics, nor highly politicized – and this was, indeed, the most politicized case in the history of the US, much more so than the CNOOC/Unocal case of the year before.<sup>11</sup> It was a case of overbalancing, because the understanding of the geopolitical situation as conceptualized by those opposed to the deal was inaccurate – portraying a threat where it did not necessarily exist. For those few valid national security concerns that were raised by the deal, *bounded* balancing would have been sufficient, and would have been unlikely to lead to the tensions that *unbounded* balancing caused.

How, then, can one draw lessons from this deal that can impact our understanding of when and why governments will normally intervene in foreign takeovers? I argue that the reaction of most of the government – i.e., of the Administration, CFIUS, and its member agencies – is what we would normally have expected given the true parameters of the variables being examined in this investigation, namely the close alliance between the countries involved and the relatively low levels of economic nationalism at the beginning of this case. In turn, the intervention carried out by lawmakers, while anomalous in its motivations, would have been impossible to carry out if they had not been able to *contextualize* their concerns in terms of national security and geopolitical consequences in a plausible (or at least saleable) manner to the American public. It may thus be that in certain highly politicized cases with a large number of domestic externalities, the variables that normally provide the motivation for intervention may be used by policymakers to instead “frame,” and sell, their concerns to a broader audience. Moreover, where there are instances of overbalancing such as this, the states involved will pay a certain price for their miscalculation. Thus, unlike the normal outcome of non-military internal balancing, where the greater meta-relationship between the states involved is unaffected, over- or unnecessary balancing



can result in the possibility of a tension being created, at least temporarily, within that relationship.

### *Competition Concerns*

The DPW/P&O deal did not face the possibility of being blocked because of economic competition concerns, for three reasons. First, the perceived economic competitiveness of the US, as with the CNOOC case, did not play a role in motivating lawmakers to try and stop the transaction. Second, the potential combination of the two companies did not threaten to create competition issues in the market. Though the deal did create the third-largest ports operator in the world, it was not expected to create a monopoly or threaten competition in any particular market. Alan Johnson, the US Secretary of Trade and Industry at the time, also confirmed that the deal did not pose a problem for competition (Lyons 2006). Third, despite the large number of foreign operators of US port terminals, a number of countries had recently charged the US with being guilty of not opening *enough* of its ports to foreign competition in the most recent Doha Round of the WTO meetings (Beattie 2006). In sum, this variable does not seem to have provided lawmakers with the motivation for their unbounded intervention into this deal.

### *Interest Group Presence*

The DPW/P&O case is extremely interesting because there were a small number of interest groups actively pressing for both the UK and US to intervene and to block the deal. As illustrated in this section, these interest groups even achieved a certain amount of limited success in convincing lawmakers that the deal was a national security issue. Yet, it will also be argued here that their effectiveness in that respect was due to the domestic political factors and timing already discussed. The nature of this case as an outlier is, therefore, partly due to the elevation of this variable in terms of its importance in motivating state action; as expected, however, these interest groups are not the sole cause, reason, or justification for such intervention.

The first major interest group pressing for intervention in the deal was the Fort Lauderdale-based Eller & Co., which had a stevedoring JV with P&O based at the Port in Miami, and which “feared” the deal would ruin its future business prospects (Hitt & Ellison 2006a). Eller’s campaign began with a completely unsuccessful attempt to lobby CFIUS, which – as is usual in these cases – remained unmoved by lobbyists’ efforts (Hitt & King 2006). As we know, CFIUS did not find any national

security issues with the deal that could not be resolved through certain agreements being made with DPW. After this clear failure, Eller started contacting lawmakers directly, and, according to a spokesman for Sen. Schumer, acted as “the canary in the mineshaft for many people on the Hill and in the media” (Hitt & King 2006). Its position as a “whistleblower,” however, should be overshadowed in this analysis by the fact that it was only able to strike a chord with lawmakers seeking to either gain re-election, score points against the Administration, or distance themselves from the Administration. Significantly, Eller lost its attempt to block the deal through the legal systems of both the US and the UK.<sup>12</sup>

There were actually a few interest groups that sought to block, or at least mitigate, the deal through the use of the courts, including the Port Authority of New York and New Jersey, the State of New Jersey, and two groups of minority shareholders. The Port Authority sought the ability “to break the terminal lease that was held by P&O because of the transfer of ownership,” on which it claimed it had not been consulted, and on which it claimed it had the final right of approval (Orr 2006a). Interestingly, however, the Port Authority did not base its lawsuit on any sort of national security concern: a spokesman for the Port Authority confirmed “it was a landlord-tenant dispute aimed at getting proper notification and information about who was going to be doing business at our port” (Davis & Jackson 2006). The case went to trial in the Superior Court of Newark on March 3 (Orr 2006a), and was unsuccessful. The State of New Jersey also tried to get “a federal judge to order an investigation into the deal, but the Bush administration had already agreed to the company’s request for a forty-five-day investigation of the deal’s potential security risks, and the judge said that review should be sufficient” (Frankston 2006).<sup>13</sup> The State of New Jersey also wanted to see confidential documents from the original CFIUS review relating to national security, but the judge refused the request on the grounds that he had no power to order such classified documents to be handed over to the state. Finally, two groups of “private holders of P&O securities objected to the deal, one saying the documents weren’t detailed enough, and the other claiming the terms were unfair” (Singer 2006). This objection was registered in the British High Court at the same hearing that heard Eller’s grievances, and, like Eller, the groups’ concerns were dismissed and the deal was allowed to be completed in the UK (where P&O was based). Significantly, the “overwhelming majority of shareholders . . . approved the deal” (Singer 2006), demonstrating that one of the most important and powerful interest groups in such a takeover case was fully behind the transaction.

Additionally, two of the labor unions based at some of the six US ports affected by the deal protested against the takeover in a highly publicized rally on February 28, 2006 at the port in Newark, NJ. The International Brotherhood of the Teamsters (which provides the trucking services for the port) and the International Longshoreman's Association (which provides most of the dockworkers) joined forces to display their anger at the deal (Nussbaum 2006; Pacific Shipper 2006). Yet, excepting a minor demonstration in Los Angeles by another dockworkers union, such protests and rallies were not widespread, and not repeated.<sup>14</sup> The unions were protesting nominally because of fears over job security. However, one of the reasons why these protests were not more widespread was because it was clear that DPW did not intend to overhaul the existing staff used by P&O. The reason for the large rally in Newark was the proximity of that port to Manhattan, and continuing anger over 9/11 that caused many of the workers to resent the possibility of working for an "Arab" company. Unfortunately, the fact that the company resided in a country that is a vital ally in the Global War on Terror, and that the company itself had made unprecedented efforts to help US intelligence agencies in that war effort, seemed neither to register, nor to break through the "paranoia" that appeared to have taken hold of the workers.<sup>15</sup> Interestingly, workers at other ports seemed unworried by the takeover; at least, they seemed to realize that it would not really affect their daily lives, other than that they would be working for a well-respected company in the industry. The real reason why this rally was significant was because the protesters were joined by Senators Frank Lautenberg (D-NJ), Bob Menendez (D-NJ), and Schumer, who used the demonstration as a platform to show their own displeasure at the deal, while at the same time garnering support from an influential constituency in their districts.

It should be mentioned, however, that a number of interest groups, influential individuals, and companies were also lobbying on behalf, or in favor, of DPW. For example, as soon as DPW came under attack from members of Congress angry at the UAE's formal acceptance of the Arab boycott of Israel, ZIM, the leading shipping company in Israel, publicly backed DPW's bid for P&O (Condie 2006; Verjee et al. 2006).<sup>16</sup> This was largely because ZIM and DPW did a large amount of business with one another, despite the boycott, which is largely ignored by the UAE.<sup>17</sup> The global shipping industry in general was both extremely supportive of the deal, and shocked by the reaction that it caused within the US; the general feeling was that it was a mistake to view the deal as a threat to national security, and an even greater mistake to set a precedent for what reeked of unwarranted protectionism.<sup>18</sup> Other specific companies

and institutions that backed the deal included APCP Worldwide,<sup>19</sup> Boeing,<sup>20</sup> and the American Business Group of Abu Dhabi.<sup>21</sup> Additionally, certain individuals voluntarily cast their weight behind the deal, including Thomas Freidman<sup>22</sup> and Oliver North (see Chanda 2006; US Fed News 2006a). At the same time, DPW hired retired Sen. Bob Dole (R-KA) to lobby Congress on its behalf (Pagnamenta 2006).<sup>23</sup>

It was not, however, just private companies and individuals who lobbied in favor of the deal. For example, the US Chamber of Commerce went on record saying that it “would lobby against any legislation that would give Congress the right to block such deals” (Kuhnhehn & Douglas 2006). Furthermore, while the Port Authority of New York and New Jersey was protesting against the deal, other US Port Authorities were happy to have DPW join the operators at their ports, mainly because the company had a reputation in the industry for having the best security equipment, and because of a strong belief that the takeover would not really affect day-to-day operations or personnel. For example, while the Port of New Orleans did not actively lobby for the deal, it did come out in favor of it publicly, as did representatives for the Port of Miami.<sup>24</sup>

Unfortunately, those interest groups lobbying in favor of the deal, or at least publicly pushing for it, were unable to overcome the fear-mongering rhetoric of those lobbying against it. As an EIU report makes clear, the attempts by these interest groups and by DPW to convince lawmakers that this transaction “posed no conceivable threat to US national security cut little ice – with congressional elections coming up in November, both Republican and Democratic members paid more heed to opinion polls” (EIU 2006). It also seems clear that at least one of the groups (like Eller) lobbying against the deal was successful in convincing lawmakers to object to it on so-called “national security” grounds. Yet, the fact that Eller was unable to persuade the relevant government agencies, which under law are meant to make the recommendation regarding national security for the review of the President, highlights the fact that it would not have been able to affect the takeover process under normal circumstances. Thus, it would seem that in this case, the control variable of “interest group presence” has played at least a minor role in motivating lawmakers to intervene in the deal. This role was only possible, however, within the context of such a highly politicized case.

### *Economic Nationalism*

It is argued here that economic nationalism played a secondary role in the DPW case. The UAE (as discussed further later) is a strategic partner of both the US and the UK in the War on Terror and, therefore, we

would normally expect that economic nationalism might play a much greater role than other factors in motivating unbounded intervention. Yet, in this particular case, not much evidence can be found of such an occurrence.

P&O was not protected on the basis that it was a national champion. As discussed in the CNOOC case, the US rarely evidences support for national champions, and in this case P&O was not even a US company, but a UK one. The US assets involved, which were actually leases to operate certain individual terminals within the context of six larger ports, could hardly be considered national champion material either, even though their safe operation is vital to national security.<sup>25</sup> Ironically, if P&O had been a national champion for anyone, it would have been so for Britain, given the company's long history and integral association with the trade of the British Empire. Yet, despite the occasional article in the *Daily Mail* or the *Independent* apathetically lamenting the great sell-off of British national assets and icons, no real movement arose against the deal on such grounds in the UK.<sup>26</sup> This is not surprising, given that the UK has relatively moderate levels of national pride (at 46.9%) compared to the US (at 71.1%) (WVS 2001–04). Interestingly, the UK's level of pro-globalization sentiment rose moderately over the course of the deal (see IMD 2007b),<sup>27</sup> and protectionist forces in the UK were largely ignored in favor of free-market principles.

Economic nationalism should have seemed an unlikely candidate for motivating action in this case. Though pro-globalization sentiment fell in the US during this time,<sup>28</sup> it was actually higher in the US than it was in the UK during 2005, when the ports row began, and remained above the median value of surveyed nations in the 2005–06 period (see IMD 2007b), supporting the notion that economic nationalism was overall generally low in the US relative to other countries. However, it might be argued that the same elements who reconceptualized and recast the geopolitical relationship between the US and the UAE for their own ends, also whipped up a certain amount of economic nationalism against the deal by playing on fears about economic security (a phenomenon that will be discussed to a greater extent later).

### *Geopolitical Competition*

The special nature of this case mandates that we examine both the geopolitical relationship between the UAE and UK and that between the UAE and US. It can be shown that the UK, given the geopolitical context between it and the UAE, reacted to the takeover as we would have expected. Indeed, the British response largely supports the main hypothesis. The US, however, took a stance we would not have expected

given (1) that the US was only a tertiary party to the deal, and (2) the geopolitical context between the US and the UAE. Ironically, the only way that the US response to the transaction can be truly explained is through an examination of how the geopolitical context between these two countries came to be politicized. It was this process that allowed two completely separate understandings of the relationship between the UAE and US to coincide: one in which the UAE represented a “foe,” for those lawmakers seeking to block the deal, and another (more realistic) one in which it represented a close “ally,” for those who sought to save the deal.

### **Degree of Resource Dependency**

Neither the UK nor the US is particularly dependent on the UAE for any of its imported resources.<sup>29</sup> The UK is far more resource-dependent in general than the US: its resource dependency ratio was 54.83% in 2005 and 58.94% in 2006, compared to 36.35% and 37.68%, respectively, for the US.<sup>30</sup> Thus, if resource dependency played a role in motivating intervention, we would expect the UK to have intervened in the deal, rather than the US. As this did not happen, and as this issue was never really raised during the course of the ports row, we can safely dismiss the idea that resource dependency played a role in the upheaval that occurred in the US over the takeover.

### **Relative Power Differential**

The UAE is not considered in the annals of international relations theory to be a “major power,” like the US and UK, or even to be a “rising power” on the scale of China or India. In fact, while five-year military growth rate averages for both the US and the UK remained positive and in high territory in 2005 and 2006 (4.78% in 2005 and 4.08% in 2006 for the UK, and 8.19% and 8.98%, respectively, for the US), they were actually negative in the UAE, declining from  $-2.59\%$  in 2005 to  $-2.67\%$  in 2006.<sup>31</sup> The relative military power of the UAE to the UK is also fairly low, at a ratio of 4.26% in 2005 and 4.24% in 2006, while it is even lower in relation to the US, at 0.51% in 2005 and 0.48% in 2006.<sup>32</sup> Thus, neither the US nor the UK needed to worry about a rise in the conventional military power of the UAE during these years. Furthermore, the deal itself was located in an industry where a rise in asymmetric power capabilities, such as terrorist activity, would have been a more particular cause of concern.

Yet, while the UAE may have been declining as a military power, it was definitively rising as an economic power within the international system at this time. Over the previous decade, the UAE had become a financial center in the Middle East and abroad, and its SWFs had become a force

to be reckoned with in the international financial system.<sup>33</sup> The five-year average economic growth rates for the UAE of 10.70% and 10.38% in 2005 and 2006 were almost double those of the US and the UK during those years.<sup>34</sup> Thus, at the time, the UAE was gaining economic power relative to the US and the UK, and some of the investments sought by its SWFs raised economic nationalist sentiment in certain countries.<sup>35</sup> Yet, the UAE's overall economy remained only a fraction of the size of that of the US or the UK, and, thus, its overall relative economic power remained fairly low and unthreatening. In fact, the UAE's GDP PPP totaled only 18.08% of the UK's in 2005 and 19.07% in 2006.<sup>36</sup> These numbers were even lower in comparison to the US, at 2.89% and 3.09%, respectively.<sup>37</sup> Again, if the reality of the geopolitical situation was as it was portrayed to be by those seeking to kill the deal, then we would have expected the UK to intervene rather than the US. The US should not have been motivated by this factor considering the context discussed here and the fact that the UAE is a good trading partner that the US has no interest in losing. Indeed, at the time of the deal, fears were expressed that "trade worth more than \$8 billion between the US and the [UAE] could be jeopardized if a Dubai ports deal is blocked" (Reuters 2006e). The US and the UAE were even in the midst of negotiating a free-trade agreement when the row over the deal broke out – a free-trade agreement that the Administration believed was jeopardized by the dispute, and which it was determined to save. Thus, relative economic power *should not* have been a motivating factor behind the unbounded intervention in this transaction, but the lawmakers who intervened never seemed to have realized the true economic implications of their actions.

### **The Character of the Political Relationship**

The UAE is a strategic partner to both the US and the UK in the Global War on Terror, but it is not a member of the highly integrated security community that exists between the US and the UK, nor a formal military "ally" in the traditional sense. Because of this, its role as an important, but relatively "new," friend and partner suffered from what might be termed a publicity problem in the US. Much of the American public and many of its lawmakers were sadly unaware of the fact that the relationship between the countries had strengthened considerably in the post-9/11 era, but everyone did seem aware that two of the 9/11 hijackers were from the UAE. The public perception issue was not as bad in the UK, however, where most of the general public was aware of the friendship between their country and the UAE, largely due to the economic activity between them and the heavy flow of tourists between the two countries.

Thus, the perception of the geopolitical “threat” posed by the UAE varied greatly between the US and the UK. Indeed, the position never even emerged in the UK media, parliament, government agencies, or courts that the UAE-owned company could pose a threat to British national security. In the US, obviously, the case was quite different: the government was neatly bifurcated in its opinion of the threat posed by the UAE and DPW.<sup>38</sup>

CFIUS, the Administration, and the defense and intelligence agencies clearly did *not* believe the UAE posed a threat to the US, because of the strategic importance of the country as an ally in the Middle East.<sup>39</sup> The Administration made it clear in late February that the country “is a staunch ally in the US war on terrorism and has worked to close the loopholes that allowed al Qaeda operatives to use it as a financial and logistics hub before the September 11th attacks” (Palmer 2006). In the post-9/11 period, the UAE has helped the US by “apprehending terrorists, . . . providing tangible support for US military operations in both Afghanistan and Iraq,” and giving the US military over-flight permission (US Fed News 2006a; Knight Ridder 2006).<sup>40</sup> The UAE also provides a vital port for the US Navy to dock and service its vessels (including aircraft carriers) in the Middle East, thus playing a critical role in the ability of the US to project its power in the region.<sup>41</sup> Reportedly, “it was this close cooperation” that convinced “CFIUS – to greenlight the transaction,” and which in late February led Secretary of State Condoleezza Rice to assure the UAE that the “administration was confident” the deal would go through as planned (US Fed News 2006a; Daily Star 2006). When it became clear the deal was in jeopardy because of misconceptions over the relationship between the UAE and the US, a number of Administration and Defense Department officials weighed in to defend this important ally:

Donald Rumsfeld, the Secretary of Defense urged the Senate not to follow the House move on the Dubai deal, saying that, while he did not know how the UAE would react, the country was a critical ally in a region strategically and economically vital to the US. His admonition was echoed by Condoleezza Rice, the secretary of state, who said it was crucial that “we treat this state as a valued ally.” Gen John Abizaid, who oversees US operations in the Middle East, told Congress that the UAE had been “especially steadfast” in supporting the war on terrorism. “The port in Dubai is very important to the war effort,” he said. (Kirchgaessner & Sevastopulo 2006)

These officials were clearly eager to ease any tensions created by the ports row in order to maintain and preserve this important alliance relationship.



Unfortunately, this public education campaign was belated and ineffective: those who did not understand the relationship between the two countries were easily swayed against the UAE, and hence DPW, by those who played on prevalent fears of terrorism to frame the UAE as an Arab country with “ties to 9/11.” Members of the Senate and Congress continued to object to the deal on a number of grounds. To recap, their arguments against the UAE were mainly that two of the 9/11 hijackers originated from that country; that some of the money used in the attacks had passed through its banking system;<sup>42</sup> that it had formally supported the Israeli boycott; that it had allowed nuclear-related materials to be smuggled through its country;<sup>43</sup> and that it had been one of the only countries to recognize the Taliban before 9/11 (Cornwell 2006; Orr 2006a).

These same lawmakers then argued that DPW’s takeover of the P&O port terminals in the US would endanger national security because the emirate-owned company might allow terrorists to breach the security of the port terminals, either unwittingly as the result of lax standards, or purposefully as part of some nefarious plot. The examples of this attitude are many. At the Teamster’s rally in the Port of Newark, Senators Lautenberg, Menendez, and Schumer “said the deal would compromise the safety of the US and port workers” (Pacific Shipper 2006). At the rally, Sen. Menendez stated: “Our message is very clear, that the ports of the United States are part of the critical infrastructure that are a big part of security and they should not be in the operational hands of a foreign government” (Pacific Shipper 2006). This sentiment was echoed by Congressman Bill Young (R-FL), who later claimed that “one of the most vulnerable situations facing America is our ports of entry. Whoever’s responsible for those ports of entry should be American. This is a national security issue” (Gawenda 2006). Similarly, Representative Virginia Brown-Waite (R-FL) claimed she “could not believe that officials at the Department of Defense could be so careless as to play Russian roulette with port security for the sake of a smooth business transaction” (Brown-Waite 2006). Senator Paul Sarbanes (D-MD) asked, “how could one reasonably question the fact that the Government of Dubai’s control [over DPW, which would be operating] major terminals in some of the largest ports in the United States, ‘could affect national security?’ Port security is a major component of our defenses against terrorism” (US Fed News 2006b). He thus portrayed those who did not believe national security was in jeopardy as unreasonable or ridiculous. Others, such as Representative John Culbertson (R-TX), also tied the deal to the War on Terror, claiming: “the agreement would weaken America’s border defenses and endanger our nation while we are fighting the war on terror” (Thiruvengadam 2006).

This type of argument was based on the often reiterated, and wholly misconceived, claim that DPW would be “buying” the ports themselves. For example, Senator Carl Levin (D-MI) argued: “I don’t think we ought to fool the American people on what’s going on here . . . if this [deal] takes place, Dubai owns these facilities” (Dobbs et al. 2006a). This argument seemed to take root, and to sway the American public against the deal, despite the persistent efforts of the Administration, a number of government agencies, and many present and former naval and Coast Guard officers, to explain that DPW was simply taking over the contracts and leases held by P&O, which allowed only for the *operation* of certain terminals within the context of the larger ports.

Other lawmakers took the argument further, framing the UAE as a geopolitical rival, and even as an enemy of state. Congressman Hunter, for example, argued vociferously against the deal on the grounds that the UAE was “a bazaar for terrorist nations” and a country “who you do not want close to American ports,” not only because of its “lax security,” but also because it (and thus DPW) would sell US port security to the highest bidder (Condie 2006; Kuhnenn & Douglas 2006; Mathews 2006). According to Lou Dobbs, Rep. Hunter sent the President a letter stating that “a foreign owned company operating these ports could likely use its position to improve its understanding of security vulnerabilities at those ports” (Dobbs et al. 2006b). During the dispute over the deal, Rep. Hunter even used this platform to call for a ban on the foreign ownership of all companies and assets related to critical infrastructure,<sup>44</sup> and likened DPW’s purchase of the British company P&O to the attempt in 1998 by the Chinese government-owned company COSCO (which had ties to the Chinese military) to take over a former naval base in the US port of Long Beach, which was blocked on national security grounds.<sup>45</sup> Such a comparison was especially damaging in the wake of the CNOOC case, which had also been somewhat politicized (though to a lesser extent),<sup>46</sup> framing the UAE as a geopolitical rival rather than the close strategic partner it was. Sen. Lautenberg went even further, framing the UAE as a foreign government to be “feared,” when he said: “We wouldn’t transfer the title to the devil, and we’re not going to transfer it to Dubai” (Nussbaum 2006; Pacific Shipper 2006). In response to the idea that such a comment was racist, Lautenberg justified his claims by saying: “It’s not anti-Arab. It’s anti-enemy” (Nussbaum 2006). Congressman King similarly suggested that the “members of the [UAE] royal family,” whom he believed might still be close to the Taliban and Osama bin Laden, could infiltrate DPW (Blitzer et al. 2006a). On Wolf Blitzer’s CNN broadcast, Rep. King stated: “My concern is people working within the company, . . . people within the

government who just four and a half years ago were allied with our sworn enemy” (Blitzer et al. 2006b). Not surprisingly, King (like many of the others just named) backed legislation that “would allow Congress to reject the Dubai Ports World transaction” outright (Kuhnnehn & Douglas 2006).

This framing of the UAE as a geopolitical rival, and even an “enemy,” by the lawmakers who sought to block the DPW deal – in addition to the specific concerns they raised about port security – was in complete opposition to the view taken by the Administration, the Treasury, Commerce, and US security and intelligence agencies. CFIUS concluded by the end of its initial investigation that no national security concerns were sufficient to prohibit the deal or warrant a further full forty-five-day investigation. The DHS had been the only member agency of CFIUS to “protest” against the deal, and its “early objections were settled” once DPW “agreed to a series of security restrictions” in the Letter of Assurance it signed as part of the CFIUS process (Record 2006). In that letter, DPW promised to “adhere to strict security checks” and grant US government officials “instant access to company operational documents” (Griffin et al. 2006; Wolffe & Bailey 2006). The Coast Guard had also voiced concern in an internal memo circulated on December 13, 2005 over “intelligence gaps” during the initial CFIUS review,<sup>47</sup> but these were also addressed and satisfied by the end of it.<sup>48</sup> Thus, CFIUS “finished their formal review in mid-January with no public fanfare and no extended inquiry,” and “approved the deal without dissent,” as all of the government agencies involved in the process were by then comfortable with the takeover (Record 2006; Wolffe & Bailey 2006).<sup>49</sup>

Many of these government agencies even viewed the transaction as an opportunity to *improve* port security, as did most maritime and port security experts.<sup>50</sup> Indeed, Michael Chertoff, the Secretary of Homeland Security at the time, was in favor of the deal because DPW had agreed in writing to help the US government with security, and, since shipping companies only do that on a voluntary basis, it was a unique opportunity to enhance national security, not hurt it (Block 2006). Secretary Chertoff thus worried that this “unprecedented access that the [DHS] and other federal agencies would have to monitor the UAE shipping company’s personnel and business records would ‘evaporate’ if Congress stopped the deal from proceeding” (Block 2006).

Moreover, DPW’s security system was actually considered to be quite good.<sup>51</sup> It had already voluntarily implemented the Container Security Initiative (CSI). And it had a distinct interest in having good security for economic reasons: it needed to be trusted in order to expand its business, and security breaches could lead to costly disruptions and legal

ramifications, in addition to loss of business.<sup>52</sup> The shipping industry itself even spoke out against the US lawmakers' attempts at unbounded intervention, in disbelief that the deal could be viewed as having a possible impact on international security.<sup>53</sup>

Additionally, many maritime and port security experts pointed out that the lawmakers' concern over foreign "ownership" of ports was misconceived, for four fundamental reasons. First, as mentioned briefly already, the ports were not being sold as part of the transaction. It is the "states, cities, and municipalities [that] own the ports" (Levans 2006). DPW was only purchasing "long-term contracts with port authorities" that would allow it to "assum[e the] operations of certain berths, stevedoring activities, and terminal operations from P&O at 22 US ports" (Levans 2006).<sup>54</sup> Thus, many agreed with the sentiment expressed by one "former member of the US Federal Maritime Commission" that "the reality is . . . this is really just a financial transaction . . . the controversy around this is political ignorance and grandstanding" (Thiruvengadam 2006).

Second, many foreign (and foreign government-owned) companies already operated in US ports without having caused any concern over national security. In fact, "some 80% of [US] ports are run . . . by foreign companies . . . some of whom you might argue are operated by foreign governments" (Hunter et al. 2006). The list of foreign companies operating US port terminals at that time includes AP Moller-Maersk Group (Denmark), Ceres Marine Terminals (Japan), Citgo Petroleum (Venezuela), COSCO (China), ISS (Dubai), Neptune Orient Lines (Singapore), Odfjell Terminals (Norway), and PSA (Singapore).<sup>55</sup> Furthermore, no objections were raised when DPW bought "the international terminal network of US-based CSX corporation" in 2005 (Urquhart 2006), nor was there any effort to block the purchase of the UK ports operator Inchcape Shipping Services (ISS) by the UAE-based private equity group Istithmar in January 2006 – at the same time the row over DPW's takeover of P&O began (Auger & Marshlian 2006). This is especially odd, given that ISS "provides security services to 12 US ports and the US Navy itself" (Auger & Marshlian 2006).

Third, the proposition put forward to ban all foreign companies from providing ports services was wholly impractical because of the international nature of the business<sup>56</sup> and the relatively small market share held within it by US companies (Cohn 2006). In fact, "the largest US firm, SSA Marine, is ranked ninth among global operators and has been mentioned as a takeover target itself" (Cohn 2006).<sup>57</sup> It is for this reason that the Administration "flatly rejected Senator Clinton's proposal to ban all state-owned foreign companies from owning terminal operations at US

ports as uninformed and – quote – ‘totally unworkable’ . . . [and said that] to ban them would not only hurt the economy; it would hurt foreign relations too” (Griffin et al. 2006).

Finally, whether or not the companies operating and servicing the ports in question are foreign, the US government is ultimately responsible for providing security for those ports, and the greatest threats to their security usually hail from outside the port operating industry. In fact:

the physical security of the port ultimately is the responsibility of the port authority. Port authorities must conform to security plans overseen by the US Coast Guard, which conducts regular compliance reviews. No matter who leases and operates a terminal, they are under the watchful eye of the coast guard and are subject to rules enforced by US Customs and Border Protection.<sup>58</sup> (Levans 2006)

It is true that port operators contribute to security by implementing the wishes of these agencies efficiently, and by providing them with intelligence. Yet, in an appearance on CNN, Christopher Koch, the President and CEO of the World Shipping Council, argued that “there is no evidence that terminal facilities operations conducted by foreign controlled companies are any less secure or in any way less compliant with security regulations or in any way less cooperative with US government security authorities than US controlled companies” (Dobbs et al. 2006c). Indeed, it should be recalled that as part of the deal, DPW had agreed to provide the US government with even greater levels of cooperation than a normal company would have done (foreign or otherwise). Additionally, the terminals retain “the same labor pool” regardless of whether a foreign or domestic company runs them, because the “dockworkers [are] hired through US Unions” (Thiruvengadam 2006; Wolffe & Bailey 2006). Experts also agree that ownership of operations is not the issue when it comes to security. For example, Stephen Flynn of the Council on Foreign Relations argued that, while he was “deeply worried about the security of our ports overall . . . this commercial transaction . . . ranks near the bottom of my security concerns, because the other gaps are so huge” (Scheiffer et al. 2006).<sup>59</sup>

Furthermore, even if national security issues did exist, lawmakers could have chosen to *mitigate* the deal through a strategy of bounded, rather than unbounded, intervention. This could have been achieved in a variety of ways, one of which CFIUS had already accomplished through its obtaining of the Letter of Assurance from DPW. Alternatively, CFIUS could have requested that DPW operate the ports through a subsidiary that was kept separate from the rest of the company and run by US citizens (Dow Jones 2006b).<sup>60</sup> Some lawmakers, such as

Rep. King and Sen. Collins, originally suggested this would be an acceptable solution to them (see Blitzer et al. 2006a). Yet, such thoughts were overtaken by the overwhelming movement to block the US-related aspects of the deal in their entirety.

Why and how, then, did this deal become one that lawmakers sought to block on so-called “national security” grounds? The preceding points seem to make it quite clear that, once DPW made the concessions and agreements requested by the DHS and other CFIUS member agencies, there should not have been any lingering national security issues over the transfer of operations from P&O to DPW at the ports in question. That there were still concerns – ones only weakly supported by the interest groups examined earlier, and which were not deeply rooted in competition issues, economic nationalism, or the reality of the geopolitical relationship between the two countries – makes this case a true outlier among all of the cases examined, not only in this chapter, but also among the population of 209 cases examined in Chapter 2.

In the end, the motivation behind the unbounded intervention in this case seems to have been an alternative understanding of the geopolitical relationship between the US and the UAE that was created by lawmakers and certain members of the media, which combined with the highly politicized nature of this case to contribute to the explosion of sentiment against the deal. It would seem that this alternative framing of the UAE as a potentially dangerous enemy, and of DPW as an Arab company controlled by that rival, was the result of (1) some lawmakers seeking to look “strong” on national security before an important election and, even more damagingly, (2) simple discrimination. For example, William H. Webster, a former federal judge, a former director of both the FBI and the CIA, and the Chairman of the Homeland Security Advisory Council at the time of writing, provided one of the clearest descriptions of this unfortunate process to a member of the press after attending a CSIS conference on DPW, who reported that:

After the conference, Judge Webster spoke . . . [of] what may be an underlying reason for the recent furor. The relentless, politicized message of “protecting America from terrorists” may have come back to bite the Administration. Citizens have been convinced that they should fear Middle East terrorism as a result of this constant drum-beat of “keeping America safe.” When they heard that an “Arab nation” would be “taking over our ports,” they reacted. Members of Congress sensed this fear, and true to the political climate of today, smelled blood from a weakened White House in the water, and went full bore to show how vigilant they were in defending the nation . . . Senators and Representatives alike saw an opportunity to set themselves up for the next election’s campaign ads; missing the real issue completely. (Forecast International 2006)

Indeed, many political observers of the ports row agreed that Congress seemed to be taking advantage of what looked like a golden opportunity to score political points.<sup>61</sup> Politicians were able to misconstrue the deal as a security issue by arguing (falsely) that total control over the ports in question would be ceded to the new owner and that the security for those ports would then be in the hands of that new “owner.”<sup>62</sup>

The alternative vision of the geopolitical “stakes” was created over time by portraying “non-issues” as “issues.” An excellent example of this was the reaction by certain senators and congressmen to the internal Coast Guard memo on DPW. Despite the resolution of the Coast Guard’s initial concern, the memo was later leaked to the press as “proof” that the deal was a danger to national security, and for some time became a flashpoint in the controversy.<sup>63</sup> Senator Schumer, for example, proclaimed to the press that, “if this [wasn’t] a smoking gun, it shows there may [have been] one undetected by the CFIUS committee” in the course of their initial review (US Fed News 2006c). There was, unfortunately, a public relations issue, as much of the concern raised by the memo could have been easily assuaged if it were not for the fact that the answers that most of the lawmakers sought were classified. Thus, the only lawmakers whose fears were eventually eased were those few who had security clearances high enough to be briefed on *how* the concerns in the memo were resolved.<sup>64</sup> Those lawmakers without this ability, however, did not believe the high-ranking Coast Guard officials who could only tell them that all of the issues *had* been resolved.<sup>65</sup>

In addition to this type of incident, the deal also became heavily politicized because certain members of the media were portraying it as one that involved a geopolitical rival. One observer points out that the media fanned a “grassroots brushfire” of opposition to the transaction (Hitt & Ellison 2006b). For instance, coverage of the deal skyrocketed after “the Associated Press framed the debate in a new way: [as] ‘a company in the United Arab Emirates . . . poised to take over significant operations at six American ports as part of a corporate sale, leaving a country with ties to the Sept. 11 hijackers with influence over a maritime industry considered vulnerable to terrorism’” (Hitt & Ellison 2006a). Media figures such as Michael Savage, Michael Smerconish, and Lou Dobbs then continued to wage a media campaign against the deal (Hitt & Ellison 2006a; Mathews 2006; Wolffe & Bailey 2006).<sup>66</sup>

The American public was thus swayed against the deal over time by this “alternative” understanding and portrayal of the geopolitical stakes, which in turn placed constituent pressure on lawmakers to block the deal. Public opinion against the transaction therefore increased over time. On March 2, it was reported that “a Los Angeles Times/Bloomberg

poll... [had] found that 58 percent of Americans oppose[d] the DPW deal,” and by March 9 “a CNN/Gallup/USA Today poll” put that number at “66% of voters” (Sevastopulo & Kirchgaessner 2006; Yeager 2006). Indeed, observers at the time confirmed that “media portrayals of the port deal generated a wave of anger from Americans across the country that left lawmakers in Washington – by their own admission – following their constituents much more than leading” (Hitt & Ellison 2006a). Thus, constituent pressure on lawmakers to block the transaction became very heavy.<sup>67</sup>

Yet, some lawmakers originally opposed to the acquisition changed their mind once they had access to more information. Sen. Frist, one of the original opponents of the deal,<sup>68</sup> said that “he was more comfortable” with it by late February “because he had received more information” about DPW and the UAE after attending “classified intelligence briefing[s]” and “talking to the [DHS]” (Bohan & Cornwell 2006; Dobbs et al. 2006c).<sup>69</sup> Similarly, Governor Robert Ehrlich Jr. became more comfortable and moved away from his oppositional stance to the transaction once he learned more facts about it (Mosk 2006).<sup>70</sup> Unfortunately, not all lawmakers had the advantage of such high-level classified intelligence briefings, which meant that it was difficult for the Administration to change the opinion of a majority of those against the deal.<sup>71</sup>

There was also little to no resistance to the deal outside of the US on national security (or other) grounds. “None of the other countries including the UK, Australia, Canada, China, and India [were] especially worried about security issues once the P&O terminals in their countries [were to be] transferred to the new Dubai owners” (Urquhart 2006),<sup>72</sup> though India did voice concern over the competition effects of the deal in its country.<sup>73</sup> The country primarily affected by the transaction, the UK, welcomed the deal with “hardly a murmur of protest” and “surprisingly little uproar” (NPR 2006; Watson 2006; see also Pacific Shipper 2006; Whitfield et al. 2006). Indeed, the UK government made a point at the time of encouraging investment from the UAE, decrying US protectionism, and making it clear that it would not “protect UK plc from foreign bids” (Neveling 2006).<sup>74</sup>

As already mentioned, President Bush and his Administration did not believe that the DPW transaction posed a threat, because of the US alliance relationship with the UAE in the War on Terror (see Cornwell 2006; Orr 2006b). Furthermore, as Stephan Hadley pointed out, the deal “isn’t a security risk” because “this is a company we know” (AFX 2006d). On the contrary, the Administration’s greatest concern was that the dispute over the deal might damage the relationship between the



two countries. Thus, at the very beginning of the row, “President Bush stressed that the UAE is an important American ally” and that “the port deal has foreign policy implications that must be considered (Feeney & Orr 2006). A small number of lawmakers agreed with this statement, including Representative Dana Rohrabacher (R-CA), who stated that “the real threat to national security is for the US to block the transaction and insult an ally that is a moderating influence in the Middle East” (Pacific Shipper 2006). Similarly, Senator John Warner helped to arrange the deal with DPW for the forty-five-day investigation, “call[ing] the ports deal diplomatically and economically vital to the United States” (Weisman 2006a). This seems to reflect an understanding that overbalancing in this case could potentially have damaged the relationship between the two countries, because it would imply the presence of a type of geopolitical competition that did not really exist.

President Bush thus stated he was “concerned about a broader message this could send” (Sun 2006). In particular, the White House worried the US would be sending the message that it was protectionist, and more specifically that it discriminated against foreign investment of Arab origin.<sup>75</sup> Many shared this concern. As Graham and Marchick note, “statements by congressional leaders from both parties were unusually strong, so strong that defenders of the deal could have credibly argued that anti-Arab sentiment was a factor in the statements” (Graham & Marchick 2006, 136). General John Abizaid stated he was “very dismayed by the emotional responses” to the deal, which he attributed to “Arab and Muslim bashing” (Federal News Service 2006). The EIU called “the DPW Affair . . . an unpleasant reminder of the enduring potency of anti-Arab sentiment” (EIU 2006). Some, like Lt. Colonel Kevin Massengill, representing the Dubai American Business Group, fought against the simplified characterization in the media of DPW as “an Arab Muslim company” that “is going to somehow have control of the port[s]” (Blitzer et al. 2006c).

The reaction in the UAE was mixed. T. B. McClelland, President of the Dubai-based consulting firm Center House, called the deal a case of pure “racism” (Hensel 2006a). Mohammed Sharaf, Chief Executive of DPW, argued it was a case of ignorance rather than of racism, claiming “it’s a lack of information, a lack of understanding . . . the things that were said simply weren’t the reality” (Teather 2006). Either way, many in the UAE agreed with the view of the *Gulf News* that “other foreign-owned companies run US ports – but they were not Arab. That is the message. And we got it” (Abdelsamad 2006). It seemed there was a widespread belief that “UAE companies will continue to face discrimination like DPW” (Sharif 2006).

This perceived protectionism caused a great amount of concern, not only in the Middle East, but also among the Administration and its supporters, who feared that it would lead to lower future levels of FDI from the UAE specifically, and from the Middle East in general (see Wallis 2006). Senator Warner, for instance, said of the deal that it was “going to establish a precedent, and it’s got to be done in a way not to choke off other opportunities” (Weisman 2006a). Treasury Secretary John Snow worried that “the implications of failing to approve this would be to tell the world that investments in the United States from certain parts of the world aren’t welcome” (Dobbs et al. 2006a). Wall Street leaders “published an open letter to the Senate Banking Committee” saying that they were “very concerned about proposals [to block the deal] that could impose harmful barriers to foreign investment” more generally (Litterick 2006).<sup>76</sup> In addition, a number of market “analysts voiced concern that the dollar may be vulnerable to the possibility that investment from the Middle East will dry up in the wake of news that US lawmakers have blocked the sale of P&O’s ports to the Dubai Port Authority” (AFX 2006e).

A number of the Administration’s fears proved to be warranted in the aftermath of the dispute. First, lawmakers attempted to pass legislation, such as H.R. 556, that would make the CFIUS process not only more stringent and comprehensive, but possibly more open to politicization (see Jackson 2007), causing Treasury Sec. Snow to say “that foreign investment is ‘being put in jeopardy’ by the bill” (Shinkle 2006). The DPW row is also widely viewed as having “set” an “unfortunate precedent . . . that if Congress raises a really big fuss about an individual takeover bid, it can effectively frighten off a foreign bidder” (Financial Times 2006b). Second, the dispute itself may possibly have had a negative impact on US port security, as it angered the very companies the US relies on to do voluntary security checks abroad (Lau & Mitchell 2006c). Third, as the White House feared, the reaction to the ports row in the UAE was sufficiently negative to have certain economic and political ramifications. While it will be quite some time before the exact effect on FDI from the UAE can be determined,<sup>77</sup> the leadership of Dubai did threaten in early March to decrease its investment in the US and in US companies as a result of the row (Mist News 2006; Tiron 2006).<sup>78</sup> It was soon clear, however, that there would be some definite effects. By July, for instance, the UAE announced its plan to “move 10% of its Dollar . . . foreign exchange reserves into Euros” and to move away from a dollar FX peg by 2010, in favor of a floating one (Khalaf 2006). The free-trade talks between the UAE and US were also “postponed” amid the dispute over the transaction, and later rescheduled for May 2006

(AFP 2006b, 2006d). This was attributed specifically to the fallout over the dispute, which led to “a determination on both sides to ride out the diplomatic and economic storms” before resuming the talks (Auger & Marashlian 2006).<sup>79</sup> The deal at the time was even reported to have negatively affected negotiations over the “open skies treaty” (Done 2006). The most damning report was made in the *Harvard International Law Review*, in which Abdelsamad argued that “the future looks grim” for the US–UAE relationship, as a “Gulf News poll” at the time had

reported 64% of readers claimed the deal’s dismissal “changed their opinion for the worst” regarding investment in the United States . . . The alienation of an essential trade partner and war ally in an increasingly anti-US region is bad for the United States and unnecessarily costly for US–UAE trade and diplomatic relations. (Abdelsamad 2006)

Luckily, the desire on the part of the Administration and the UAE to maintain and foster the relationship between the two countries was strong enough to overcome some of these negative impacts. It was clear that DPW was ordered to relinquish the ports by the Dubai leadership in order “to preserve” the US–UAE “relationship” (Lloyd’s 2006).<sup>80</sup> A “UAE official” confirmed “it [was] a political decision to ask Dubai Ports to defuse the situation” (Cornwell 2006).<sup>81</sup> The US also clearly wished to repair any damage done to the relationship between the two countries. For example, “a senior defense official said the Pentagon would watch ‘very carefully’ to see whether the Congressional backlash over the ports issue would negatively impact the US–UAE military relationship,” because “the Pentagon planned on making efforts to ensure the UAE understands the value the US places on the country as an ally in the ‘war on terror’” (Alden et al. 2006c).

Indeed, the desire of the Administration to maintain good relations with the UAE may have been one of the reasons behind its support at that time for another UAE purchase of a UK company: that of the defense company Doncasters by the SWF Dubai International Capital. The fact that Doncasters owned “US plants that supply the Pentagon” (Mist News 2006)<sup>82</sup> meant there was a great potential for a negative reaction in Congress. Yet, it was observed at the time that the White House was “keen to patch up relations with the [UAE] following the failed takeover of British-owned P&O’s port operations by [DPW]” because “the row has threatened to damage bilateral relations between the countries and undo lucrative US contracts” (Auger 2006).<sup>83</sup> And it was later reported that the “mood” between the US and the UAE did “improve with the successful conclusion of the purchase of . . . Doncasters,” once “Bush gave his personal approval to the deal” and it “had been given

the green light by . . . CFIUS” (Auger 2006). The Administration and CFIUS thus learned from the ports case to engage lawmakers early on, and to let it be known that a deal was being heavily scrutinized from a national security perspective,<sup>84</sup> in order to prevent it from becoming heavily politicized. There was a clear understanding on the part of not only the White House, but also some lawmakers, that the US had “overbalanced” against the ports deal, and that mitigation (i.e., *bounded* intervention) would have been sufficient to deal with any actual national security issues.

### Conclusion

In sum, it was an alternative vision of the geopolitical stakes that seems to have motivated lawmakers (and the public) against the DPW/P&O deal. Though this “vision” was inaccurate, it was the primary motivator behind the actions taken to block the deal. Such cases are extremely rare, because such tremendously divergent understandings of the reality of a geopolitical relationship rarely coincide within one government. For, though it may be understandable for geopolitical rivalry to exist between two countries that are members of even the closest-knit security communities, like the US and France, that sense of rivalry is usually felt in some sort of universal manner, and does not necessarily question the basic premise of that friendship. In this case, however, the opinions and visions of the very basic nature of the bilateral relationship itself were completely bifurcated. Some of this may have been rooted in discrimination, some in “political grandstanding.” Yet, it was the *politicization* of this case itself that allowed for such bifurcation of sentiment to persist, for an alternative understanding of the geopolitical ramifications of the deal to take root in public sentiment, and for a certain amount of economic nationalism to accompany it.

The DPW case also clearly indicates the price that states may pay for such an overreaction, and, thus, for the *misuse* of such a tool of non-military internal balancing. If the danger had not been miscalculated by lawmakers, and perhaps bounded (instead of unbounded) intervention had been undertaken, then no damage would have been done to the greater relationship between the UAE and the US. Even with this miscalculation, however, it is important to note that the resulting disruption to that relationship was temporary and ultimately not completely destructive.

Despite its status as an “outlier,” the DPW case does evidence some support for the theory of non-military internal balancing, and is therefore useful to compare to the four cases of unbounded intervention

examined in the previous chapter. First, in each of those four cases, geopolitical or economic nationalist concerns were the primary and/or secondary motivator for unbounded intervention. In the DPW/P&O case, the intervention eventually carried out by lawmakers was also rooted in these variables. It was simply that this intervention was rooted in an inaccurate conception of these variables' true values, as two distinct understandings of the geopolitical relationship between the US and UAE, as well as two separate values on the economic nationalism variable, had emerged within the US government. Indeed, unbounded intervention would have been impossible if those lawmakers intent on such action had not been able to contextualize their somewhat spurious concerns in terms of national security and geopolitical consequences in a plausible, or at least "saleable," manner to the American public.

Second, the cases in Chapter 3 demonstrated that, when the states involved were not members of the same security community, geopolitical concerns were the *primary* reason for unbounded intervention. Again, geopolitical concerns were arguably of primary importance in the DPW/P&O case, where even though the countries involved *are* strategic partners, they do not have a security community relationship, making it possible for some lawmakers to frame the UAE as a threat.

Third, "interest group presence" played only a minor role, and "competition concerns" no role at all, in motivating unbounded intervention in the cases in Chapter 3. And as with the CNOOC/Unocal case, interest groups were only moderately effective in raising awareness in the DPW/P&O case, where this variable was arguably affected by the unusually politicized nature of this aberrant case. Even then, the role of these interest groups was once again simply to alert government actors to pre-existing concerns, rather than to be a primary or secondary *motivator* of intervention.

Finally, in each instance of unbounded intervention examined in Chapter 3, the transaction in question was either completely or effectively blocked. In this outlier case, the transaction as a whole was not blocked, because the objecting state (the US) was only a third party to the deal. Nevertheless, the US was still able to effectively block the sale of the assets on its national territory, offering some further support to the claim that intervention type is closely correlated with a deal's outcome.

## NOTES

- 1 In an examination of the more traditional forms of military balancing, the neoclassical realist Randall Schweller explains that "appropriate balancing" implies an accurate assessment of, and reaction to, a given threat

- (Schweller 2004, 10). “Overbalancing,” however, “occurs when the target is misperceived as an aggressor but is, instead a defensively minded state seeking only to enhance its security”; which can result in “a costly and dangerous arms spiral” (Schweller 2004, 10–11). On the other hand, “non-balancing,” which he argues can also in specific instances be considered “underbalancing,” “may take the form of inaction, normal diplomacy, buckpassing, bandwagoning, appeasement, engagement, distancing, or hiding” (Schweller 2004, 11).
- 2 P&O owned port terminals in Baltimore, Miami, New Orleans, New York City, Newark, and Philadelphia, and “had lesser dockside activities at 16 other ports in the US” (Bridis 2006).
  - 3 For example, on February 16, Sen. Schumer “holds a news conference to denounce the deal” (Hitt & Ellison 2006a). Sen. Clinton had promised by February 17 that “she [would] propose legislation to block deal,” and by February 21, Sen. Frist claimed that “he [would] introduce legislation to ensure the deal is placed ‘on hold’ pending review” (Paleit 2006).
  - 4 Normally, such documents remain classified and confidential unless the company involved decides voluntarily to release the information to the public. In the letter, written to DHS, “the company agreed to provide law enforcement, if asked, with information about its US operations, facilities, and personnel. It also agreed to provide federal agencies with any records in the US involving its foreign operations” (Block 2006). This was significant, because “since [9/11], federal law-enforcement and intelligence agencies have been trying to get inside information about global shipping operations” generally, to build better defenses against terrorists (Block 2006).
  - 5 Reportedly, those involved were Senators Frist, John McCain (R-AZ), and Warner, as well as Al Hubbard, an Administration economic advisor, and Vin Weber, a lobbyist for the UAE (Dobbs et al. 2006a).
  - 6 On March 9, DPW stated that it was told to make the divestment by the Ruler of Dubai and UAE Prime Minister Sheikh Mohammed Bin Rashid Al Maktoum, due to “the strong relationship between the [UAE] and the [US]” and a desire “to preserve this relationship” (DPW 2006b).
  - 7 The Administration’s efforts to sell “the 45-day probe as a chance to educate lawmakers” (Hitt & Singer 2006) seemed to backfire, however, as many lawmakers opposed to the deal resented the implication that they had not been doing their homework.
  - 8 President Bush’s National Security Advisor “told reporters the administration does not intend to use the [forty-five-day] delay to reconsider its approval of the sale,” stating: “There’s nothing to reopen. In terms of the . . . executive branch process, it’s been completed” (Feeney & Martin 2006).
  - 9 For example, Sultan Nasser Al-Suweidi, governor of the UAE Central Bank, said the US was “contravening their own principles . . . Investors are going to take this into consideration [and] will look at investment opportunities through new binoculars” (Thornton 2006a).
  - 10 P&O was reportedly “once key to British Empire building” (Watson 2006).

- 11 Graham and Marchick agree on the latter point (Graham & Marchick 2006, 138), as do a number of industry sources and members of the legal community with whom the author has spoken.
- 12 For further details on these legal suits, see Harrison 2006; Rowe 2006; Tait et al. 2006.
- 13 Judge Linares, who presided over the case in the Newark District Court, reportedly said: “I am not going to order an investigation that everyone agrees is going to take place . . . I would have to assume the investigation will be a sham” (Brennan 2006).
- 14 The only other labor rally that received publicity was “a much smaller protest rally . . . held in Los Angeles by members of the International Longshore and Warehouse Union” (Pacific Shipper 2006).
- 15 For indicative comments by both the Intl. Longshoreman’s Assoc. and the Teamsters, see Green & Cohn 2006; Nussbaum 2006.
- 16 ZIM’s leadership formally endorsed the deal through the media, and through written statements to lawmakers. For example, its Chairman wrote to Sen. Clinton that “as an Israeli company, security is of the utmost importance to us . . . during our long association with DPW, we have not experienced a single security issue,” and that DPW was a “leader with regard to security and works closely with us . . . to maintain the highest security standards in all its terminals” (Verjee et al. 2006).
- 17 Neither DPW, nor the UAE, seems to follow the boycott in practice (see Osler 2006; Verjee et al. 2006; Whitfield et al. 2006).
- 18 The row was denounced at the Port Productivity and Trans-Pacific Maritime conferences, and “leaders of the US transportation industry” also showed their support for the deal (McDermott 2006; Ward 2006). Supporters of the deal also included Scott Axelson, the Vice President of TraPac, Christopher Koch, the President of the World Shipping Council, and Matthew Rose, the Chief Executive of BSNF (see Ward 2006).
- 19 This firm gave DPW “strategic counsel and media support” (Crea 2006).
- 20 Boeing feared the UAE would cancel a large plane order as a result of the row (Tiron 2006).
- 21 As part of its lobbying efforts, the American Business Group of Abu Dhabi “sen[t] a delegation to Washington [in March 2006] to lobby 120 members of congress” (Reuters 2006e). Members appeared on CNN and spoke with the press; see Blitzer et al. 2006a; Reuters 2006e.
- 22 Friedman called the row “shameful” (Chanda 2006), and wrote a number of op-eds decrying the backlash against the deal.
- 23 DPW also hired other members of the lobbying firm Altson & Bird (Pagnamenta 2006).
- 24 See comments by the spokesmen for the Port of New Orleans (Chris Bonura) and the Port of Miami (Andrea Muniz) in Alden et al. 2006a, 2006b.
- 25 While recognizing the importance of ports to US national security, a change in companies operating those ports does not necessarily threaten security. On the contrary, the US relies on foreign companies to cooperate to conduct security checks abroad, and to hand over vital intelligence. It is thus unclear how the change from P&O to DPW, which was globally envied for

- its high-tech security system and internationally valued for its cooperation on intelligence, would have made the ports any less safe.
- 26 A number of articles discuss how too many UK “brands fall into foreign hands,” and a *Financial Times* poll found “that more than two-thirds of the British public believe[d]” it was “outrageous” (Daily Express 2006). This suggests that certain sectors of the British public resented this fact, though not enough to try to make public officials change their free-market policies (for a list of the some of the UK’s “most famous . . . icons that are no longer British,” see Daily Mail 2006b).
  - 27 The UK’s level of pro-globalization sentiment went from a value of 5.83 in 2005 to one of 6.54 in 2006 (IMD 2007b).
  - 28 Pro-globalization sentiment in the US went from 6.34 in 2005 to 6.25 in 2006 (IMD 2007b).
  - 29 In 2006, the UAE supplied the US with only 0.06% of its total crude oil and petroleum product imports (EIA 2008c).
  - 30 Numbers used for these calculations were projected from past IEA data, sourced from IEA 2006. For the calculation used, see Chapter 2, note 4.
  - 31 These numbers were calculated from data sourced from SIPRI (2006).
  - 32 These percentages were calculated from data sourced from SIPRI (2006).
  - 33 Arab investment generally increased in the years before this deal, with the UAE, and the Emirate of Dubai in particular, demonstrating a meteoric rise in profile over that time. (For a list of its relevant SWF investments, see Reuters 2006b.) Despite Dubai’s recent economic troubles, the UAE as a whole appears to have remained an active investor.
  - 34 The UK five-year average growth rate was 4.76% in 2005 and 4.34% in 2006. The numbers for the US were slightly higher at 4.93% in 2005 and 4.96% in 2006. Numbers calculated from data from the WDI database (WDI 2008).
  - 35 For example, the Dubai International Financial Centre (DIFC) was in talks for a while to obtain a large stake in Euronext, before it became clear that such a transaction would be blocked if the DIFC tried to take over the entire financial exchange, or even a majority stake (see Reuters 2006c).
  - 36 These numbers were calculated from data sourced from the WDI database (WDI 2008) using GDP PPP, in current international dollars.
  - 37 These numbers were calculated from data taken from the WDI database (WDI 2008) using GDP PPP, in current international dollars.
  - 38 See, for example, the discussion in Jackson (2007, 19–20) on this issue.
  - 39 Then Secretary of State Condoleezza Rice praised the UAE as “a strong ally” of the US – a sentiment echoed by then UAE Foreign Minister Sheikh Abdullah bin Zayed al-Nahayan (Daily Star 2006; Reuters 2006d). The UAE holds a unique position as an economic power considered benign by both Western and non-Western countries. This political position, combined with its “strategic position between China and India, the world’s fastest-growing economies, and Europe and the US, its biggest consumers, . . . inarguably [give it] a trump card” (Watson 2006).
  - 40 Defending the relationship, Yousef Al Otaiba, International Affairs Director to the UAE Crown Prince, pointed out on CNN that “the UAE contributed



forces to Operation Desert Storm. And we allowed US forces to base in the [UAE]. In 1993, we contributed forces to operations in Somalia. In 1998, we sent as many as 9,000 troops to conduct peacekeeping operations under the NATO alliance. We operated in Kosovo for over three and a half years” (Blitzer et al. 2006a).

- 41 According to the DOD, “more US warships are serviced . . . in Dubai than any other port outside of the United States” (Blitzer et al. 2006a).
- 42 On these two points, see also Blitzer et al. 2006b; Cornwell 2006; Wolffe & Bailey 2006.
- 43 Those against the deal pointed to a 2003 incident in which “66 high-speed electrical switches, which can be used to detonate nuclear weapons” passed through the country, and to comments by “a United Nations agency [that] said disgraced Pakistani scientist Abdul Qadeer Khan used Dubai as the headquarters for his nuclear black market” (Cornwell 2006; Mathews 2006). On *Hardball* with Chris Mathews, Rep. Hunter claimed he had “court documents that evidence the transfers of *bad stuff* through Dubai,” referring to the switches (Mathews 2006). On his CNN show, Wolf Blitzer asked why “dangerous nuclear material, went through Dubai Ports World, the port here in Dubai from Pakistan to Iran and to Libya” (Blitzer et al. 2006b).
- 44 Congressman Hunter “wanted foreign firms to sell their investments in American ports, electricity plants and other infrastructure critical to US security,” and “favor[ed] banning ownership by all foreign companies, not only government-owned ones” (Cornwell & Crawley 2006; Kuhnenn & Douglas 2006).
- 45 Rep. Hunter did this in an appearance on Lou Dobbs’ CNN show, saying, “We stopped that [transaction], even though the Clinton Administration supported it. We put that in as an amendment to the Armed Services Bill” (Dobbs et al. 2006b). Rep. Hunter felt supporters of such deals indicated that “you can do anything with free traders and with capitalists, because somehow that glazes our eyes and it blinds us . . . Let’s stop it” (Dobbs et al. 2006b).
- 46 For a discussion of the “politicization” of the CNOOC case, see Graham & Marchick 2006, 128–35.
- 47 The memo from the Coast Guard Intelligence Coordination Center claimed that there were “many intelligence gaps concerning the potential for DPW or P&O assets to support terrorist operation,” and noted “three areas where [such] intelligence gaps would prevent a thorough evaluation of the deal: operations, personnel, and foreign influence” (Hindustan Times 2006).
- 48 This point was verified after lawmakers tried to use the memo to claim the DPW deal was unsound. Clay Lowery, then Treasury Assistant Secretary for International Affairs, told the Senate Homeland Security Committee that “the concerns” raised in the memo had been “addressed and resolved” in the Letter of Assurance (PNG Post Courier 2006). Coast Guard Admiral Thomas Gilmore echoed this sentiment to the press, and the Coast Guard also issued a statement saying parts of the memo were “taken out of context” and that the “full, classified analysis” determined that the deal “[did] not

- pose a significant threat to US assets in [US] ports” (PNG Post Courier 2006; Weisman 2006b).
- 49 Each of the “American intelligence agencies have told the White House that the change in ownership poses no additional risks” to national security generally, or to port security particularly (Stephens 2006). John Negroponte, then CIA Director, claimed he was “confident there’s a low risk” posed by the deal, and that the CFIUS review raised “no red flags” (Dobbs et al. 2006c; Dow Jones 2006g). The Administration’s spokesman, Scott McClellan, also told CNN that the “broader intelligence community assessment done as part of the review . . . addressed such questions, and there were no unresolved national security issues at the end of the process” (Dow Jones 2006g).
  - 50 Early on, “maritime security experts sided with the president” over the deal (Ambrogi 2006).
  - 51 Wolf Blitzer reported that UAE customs authorities believed “their security is extremely tight and technologically advanced” (Blitzer et al. 2006a). More importantly, independent maritime experts agreed. For example, an ex-member of the US Federal Maritime Commission, Rob Quartel, working in private-sector shipping, argued: “From a security standpoint [the US] should be delighted, because [the UAE] have far more money to burn on security than anyone else” (Thiruvengadam 2006).
  - 52 Coast Guard members also made this point during the debate (see Whitfield et al. 2006).
  - 53 In addition to ZIM, numerous companies argued publicly that this was not a national security issue, including Seasure, “the largest port security consulting firm in the country,” and Dupuy Storage & Forwarding and Port Cargo Service, two warehousing service companies operating in New Orleans, a port affected by the transaction (see Buchanan 2006; Dobbs et al. 2006a).
  - 54 As Oliver North pointed out, “the six ports . . . aren’t being ‘sold to a foreign power’ . . . Nor is the sale a ‘hostile takeover,’ as one ill-informed television anchor described it” (US Fed News 2006a). Levans (2006) provides a detailed list of these ports at [www.logisticsmgmt.com](http://www.logisticsmgmt.com).
  - 55 For further details on foreign port operators in the US, see Glanz 2006; Hensel 2006b; Urquhart 2006.
  - 56 For instance, a Virginia Port Authority spokesperson said, “If you pulled the foreign shipping companies out of this port or any port, I don’t know what we would do. It’s as international a business as you can put your hands on” (Glanz 2006).
  - 57 Similarly, “the biggest American container shipper is Matson Navigation Co. Inc. in Oakland, and it ranks 31st in terms of shipping capacity with 18 ships, . . . Horizon Lines Inc., in Charlotte, NC with 16 ships, is the world’s 35th-largest shipper” (Glanz 2006).
  - 58 The Administration also tried to reiterate this point to the public, and Scott McClellan, who at the time was the spokesman for the Administration, said: “If this transaction were blocked, this would not change port security one iota. The Coast Guard and the Customs and Border Patrol remain in charge

- of our security... The Coast Guard remains in charge of physical security; the Customs and Border Patrol remain in charge of cargo security” (Dow Jones 2006h). On this point, see also Berman 2006; Whitfield et al. 2006; Wolfe & Bailey 2006.
- 59 For more on Flynn’s position, see Pine 2006. Similarly, Dr. Shashi Kumar, then Dean of the Loeb-Sullivan School of International Business and Logistics at the Maine Maritime Academy, claimed that “port security is a problem, but this (shift in control) is not going to change anything” (Berman 2006).
- 60 Some commentators expressed surprise that this more common route was not taken. For instance, Alan Sloan, Wall Street editor for *Newsweek*, said: “It’s easy. You let the buyer own the whole company – but you don’t let it control the strategically important business. That part is insulated from the rest of the acquired company and is controlled by a separate board of directors with impeccable national-security credentials. The new owner gets the financial benefits of ownership but can’t exercise any control over the sensitive stuff” (Dow Jones 2006b).
- 61 Other commentators similarly observed that the White House had “created a climate in which economic xenophobia [could] be justified on spurious grounds” (Financial Times 2006b), and was now paying the price. Donna Brazile, a CNN political analyst, also noted that lawmakers’ stance on the DPW deal was partially attributable to the fact that homeland security was “no longer an issue that the Democrats will allow the Republicans [to] control the dialogue on” (Blitzer et al. 2006b).
- 62 Sen. Clinton, for example, publicly argued that “we cannot cede sovereignty over critical infrastructure like our ports. This is a job that America has to do” (Guardian 2006).
- 63 The story broke when Sen. Collins “released an unclassified portion of the Coast Guard document during a congressional hearing on the takeover” (PNG Post Courier 2006). Senators Schumer and Olympia Snowe (R-ME) wrote a letter to Secretary Michael Chertoff around March 1, saying the “memo, in no uncertain terms, shows that the CFIUS evaluation of the DPW takeover was dangerously incomplete,” and “the immediate initiation of the [full] 45-day investigation” was thus “warranted” (Hindustan Times 2006).
- 64 For instance, “among those who briefed the Armed Services Committee was Rear Adm. Thomas Gilmour of the Coast Guard,” who “insisted he could answer questions on the [memo] only in a secret session to staff members with appropriate security clearances” (Weisman 2006b).
- 65 Admiral James M. Loy, Former Deputy Secretary of Homeland Security, and Rear Admiral Craig Bone, then US Coast Guard Director of Inspection and Compliance, both spoke at a CSIS conference on the deal; neither believed it would threaten national security (Forecast International 2006). Adm. Loy also wrote a couple of unsigned op-eds in favor of the deal in the *New York Times* and *Wall Street Journal* (Dobbs et al. 2006c). Other Coast Guard officials speaking out on the issue included Rear Admiral Thomas Gilmour and Vice Admiral Terry Cross. The latter went on record trying to calm the fears of some congressman, but they largely ignored his claims that though “much

- work remains to be done . . . we're a lot more secure in our ports than we were prior to 9/11" (Dobbs et al. 2006b).
- 66 On February 13, three days after the appearance of that Associated Press article, Lou Dobbs became the first TV news anchor to frame the deal in a similar way (see Hitt & Ellison 2006a). He then continued his campaign against the deal, to the point that DPW refused to grant CNN any interviews (see Dobbs et al. 2006a, 2006b, 2006c, 2006d). Similarly, on February 13, "Michael Savage, a conservative radio talk-show host, also attacked the [deal]. Though [it] had received some newspaper attention before then, Mr. Savage's angry message raised early concerns inside the Bush White House about trouble ahead" (Hitt & Ellison 2006a; see also Wolffe & Bailey 2006). Such approaches continued, with TV personalities such as Chris Matthews continually referring to "the Arab company, Dubai Ports World" and applauding radio talk show hosts Savage and Smerconish for spreading the story (Mathews 2006).
- 67 James Carville pointed out on CNN that "the problem is that they can't seem to move public opinion on this. And if they don't move public opinion, they're not going to move Democratic or Republican senators. This thing has *the stench of being kind of fact-proof* right now" (Blitzer et al. 2006a, emphasis added).
- 68 The senator happened to be visiting a port for unrelated reasons when the story really broke, and he held a press conference there voicing his concerns over the transaction.
- 69 Sen. Frist changed his mind to such a degree that he eventually pledged to "not allow any related legislation on the Senate floor while the new inquiry is under way" (Bohan & Cornwell 2006).
- 70 He then declared that those opposed to the deal, such as his "opponent in [the mid-term election]," were "really behind the curve as far as the facts are concerned" (Mosk 2006).
- 71 Sen. Frist confirmed that getting such a briefing was not, at the time, something all members of the Senate could do "easily" (Dobbs et al. 2006c). The FINSA law (passed after this case) changed this; CFIUS is now required to supply such briefings to members of Congress when requested.
- 72 For further information on this point, see also Handelmann 2006; Murphy & Norington 2006; Wilson 2006.
- 73 After the deal closed, India considered lowering the FDI levels allowed in some sectors. The DPW deal involved numerous ports in India, originally causing concerns that it might lead to the creation of a monopoly (Deshpande 2006; Shah 2006). Some further concerns were voiced months later by the Indian National Security Council over DPW's Indian operations, though these appear to have been satisfactorily addressed by DPW (Joseph 2006; Manoj 2007).
- 74 Then Prime Minister Tony Blair stated: "We strongly welcome Emirate investment into the UK, for example, Dubai Ports World takeover of P&O," and "I don't think you can ever allow issues like that to become a back door way into protectionism" (AFX 2006c; Blair 2006). Mark Warham, the Director General of the UK Takeover Panel, also claimed that "it was not the

- responsibility of the panel to protect UK plc from foreign bids” (Neveling 2006).
- 75 President Bush said the nation had to “ask . . . what kind of signal does it send to say it’s okay for a British company, but not okay for an Arab company to manage this port, when in fact, this same company manages ports all around the world” (Dow Jones 2006a).
- 76 Similarly, Dan Christman of the US Chamber of Commerce suggested the row could even “threaten South-East Asia’s investment and trade with the US” (Han 2006).
- 77 The American Business Group of Abu Dhabi, for example, claimed investors would “now have to factor in a political risk premium into investments in the US” (Mist News 2006).
- 78 On March 9, it was reported that “members of Dubai’s royal family [were] furious at the hostility” of US lawmakers to the transaction and were “saying: ‘All we’ve done for you guys, all our purchases, we’ll stop it, we’ll just yank it’” (Tiron 2006). Moreover, it was reported that “retaliation from the Emirate could come against lucrative deals with aircraft maker Boeing and by curtailing the docking of hundreds of American ships, including US Navy ships, each year at its port in the [UAE]” (Tiron 2006).
- 79 Sultan bin Nasser Al Suwaidi, UAE Central Bank Governor, reportedly decided early on that “the issue would be raised on March 13, when the next round of trade negotiations [was] set to take place”; he said this was because the intervention by US lawmakers into the deal “is something that doesn’t reflect well” on the US (Al-Bawaba News 2006). After that March 13 negotiation round was cancelled, Sheikha Lubna al-Qassimi, the UAE’s Economy and Planning Minister, said the row had “raised ‘certain questions on our side about the process of investment – because a major chunk of the FTA is related to . . . investment in the US,’ but added that she was ‘100% confident’ that the FTA deal will go through” (Auger & Marshlian 2006).
- 80 Edward Bilkey, COO of DPW, said in a press release that it was “because of the strong relationship between the UAE and the US, and to preserve that relationship, [that DPW] decided to transfer fully the operation of P&O Ports North America to a US entity” (Lloyd’s 2006). Similarly, Sheik Muhammad bin Rashid al-Maktoum, the Emir of Dubai, “gracefully and generously declared that a financial deal will not be allowed to jeopardize present good relations with the US” (Ylagan 2006; see also Auger & Marshlian 2006).
- 81 The same UAE official said furthermore that “Our close ties with the [US] are important” (Cornwell 2006). Mohammed Sharaf, Chief Executive of DPW, also said that his company would “return to the [US] despite” the row, because it is “the world’s largest economy. How can you just ignore it?” (Traffic World 2006).
- 82 The Doncasters deal would give “the [DIC] control of nine plants in the US. These produce turbine fan parts and airfoils for tanks and helicopters, among other things” (Auger 2006).
- 83 Indeed, the American Business Group of Abu Dhabi said at the end of April 2006 that “the Doncasters deal is now crucial” to the continued good relations between the US and the UAE (Mist News 2006).

- 84 The Bush Administration announced on March 3, 2006 that CFIUS was “conducting a 45-day review of the deal because security concerns had not been resolved in a preliminary probe” (Sevastopulo & Kirchgaessner 2006). This enhanced scrutiny was taken well in Dubai, probably because it was less politicized and more in keeping with the normal CFIUS process. Dubai International Capital’s then Chief Executive, Sameer Al Ansari, understood this, announcing that “after what happened with Dubai Ports, the government is looking at this deal more closely” (Daily Mail 2006a).