



# IDSS COMMENTARIES (15/2006)

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## THE U.S. PORTS CONTROVERSY – THE POLITICS OF FEAR AND MARITIME SECURITY

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THE controversy in the United States over the purchase of P&O Ports by the state-owned Dubai Ports World (DPW) has turned out to be much more than just a “storm in the tea cup”. It has taken on cyclonic proportions with far-reaching implications for U.S. relations in the Gulf, international maritime transport, global trade, and the whole process of globalization.

DPW was successful in a bidding battle with Singapore’s PSA International to gain control of the entire P&O operation, which includes cruise liners, ferries and a share of the major shipping container company, P&O Nedlloyd, as well as port and terminal activities. The successful bid was US\$6.8 billion against PSA’s top bid of US\$6.13 billion. Singapore’s Prime Minister Lee Hsien Loong described the withdrawal of PSA from the battle as a “hard-headed” business decision.

The deal included the transfer of management of some container terminals and stevedoring operations in several U.S. ports to DPW. Six ports -- Miami, New York, New Jersey, Baltimore, Philadelphia, and New Orleans -- have been the main focus of attention, but P&O also has some involvement in up to sixteen other U.S. ports. In the main ports, this means operating some container terminals in the port (e.g. two out of the fourteen terminals in Baltimore and two out of the five terminals in New Orleans). In most of the other ports, it just involved some stevedoring operations.

### **Uproar in Washington**

Washington DC is in pandemonium over the deal. Playing strongly on nationalistic sentiments, and the politics of fear asserting increased risks of terrorist attack if the deal went ahead, an influential group of U.S. politicians, both Democrat and Republican, launched an “all out” attempt to kill the deal. DPW will now defuse the situation by selling off its American interests. But the damage has been done, and the world has had a salutary lesson on nationalism, even American xenophobia. General John Abizaid, commander of U.S. Central Command, has described the political response as coming down to “Arab and Muslim bashing that was totally unnecessary”.

Despite President Bush’s clear stand on homeland security and the global war on terror, some U.S. politicians were determined to “out secure” the President. They played strongly on the politics of fear and the populist vote. As one senator observed, he would block the deal because it is not “a popular thing in grassroots Iowa”.

The U.S. Treasury's Committee on Foreign Investment in the United States (CFIUS) had earlier approved the DPW deal. That's a major problem for the Bush Administration, which was caught terribly short by the deal. The President himself admitted he knew nothing about it, or its approval, until he read about it in the papers. Now, in catch-up mode, President Bush has to defend the approval, pointing to Dubai's record in supporting the U.S. in the war on terror. Dubai is a critical transshipment port for U.S. military forces in the Middle East. Inevitably there will be fall-out for U.S. relations in the Gulf.

Once again, following the Katrina disaster, the Bush Administration is looking inept. The balance between security and restrictions on investment and trade has become more complicated. Foreign investors are going to be more cautious in the future about U.S. investments. In their ill-founded drive to foster public concern about increased risks of terrorist attack should the DPW deal go ahead, the politicians involved have had a deleterious impact on American interests.

### **The Politics of Fear**

Tactics in Washington to defeat the deal included the proposed Critical Infrastructure Protection Act of 2006. This would have effectively stopped the DPW deal by creating citizenship and other requirements for companies that own, manage, and operate national defense critical infrastructure; reformed the current process of the CFIUS to ensure national control over critical infrastructure, and mandated 100% inspection of cargo entering the U.S.

Politicians supporting the new legislation referred to previous instances when Dubai authorities had allegedly not exercised appropriate controls over the consignment through Dubai of materials related to weapons of mass destruction (WMD). And they were quick to note that two of the 9/11 terrorists were citizens of the United Arab Emirates (UAE), of which Dubai is a component state. One politician observed: "To those who say that keeping America's critical defense infrastructure in the hands of Americans smacks of protectionism, we say this: America is worth protecting." The U.S reaction over the DPW issue sets a highly dangerous precedent if the intention of the proposed critical infrastructure legislation were to be translated into reality.

### **Global Implications**

The international maritime transportation industry, including both ships and ports, is the archetypical globalised industry. A single ship may represent the interests of many countries. It may fly the flag of one country but the home of its owner, the parent company (or companies) of the owner, its insurer, cargo owners, and crew members may all be elsewhere. Much the same applies to port terminals, stevedoring companies and other shipping services. These are often owned and managed by a string of multinational corporations in a range of different countries.

Following its takeover of P&O, DPW will become one of the world's top three port companies. Apart from its activities in the U.S., P&O operates terminals and stevedoring companies in Asia, Europe and Australia. But no similar concerns to those now apparent in the U.S. have been raised in these regions about the security implications. Unfortunately the U.S. politicians arguing against the DPW deal seem to understand little about international

maritime industry. They apparently do not understand how the industry operates; what function a stevedore fulfils; the difference between a “port” and a “terminal”, or the objectives (and success of) the International Ship and Port Facility Security (ISPS) Code.

Responsibility for ensuring the safety and security of international maritime transport rests primarily with the International Maritime Organization (IMO). The International Ship and Port Facility Security (ISPS) Code is the main measure for ship and port security. This is a powerful piece of regulation that applies to all ships over 500 gross tons employed on international voyages and all port terminals. It sets comprehensive standards for personnel and physical security onboard ships and in port terminals. It has been widely implemented, and most experts regard it as highly successful. It rests heavily on international cooperation and any nationalistic approach, such as that evident in the U.S., could jeopardize the Code’s effectiveness.

The balance between the demands of free trade within the World Trade Organization (WTO) framework and national security is also threatened by the U.S. political response to the DPW deal. In the past, several trading partners of the U.S., including the European Union, Japan and China, have asked the U.S. to open up its port services to international competition. However, this request, made in the context of the World Trade’s Organization Doha Round, has almost no chance of success, and even less so now.

The brouhaha over the DPW deal has also diverted attention away from other major gaps in international maritime security, particularly the total supply chain. Ports, terminals and ships are only intermediate stages in the chain. Security experts are now mostly concerned about potential vulnerabilities at point of uplift, inland carriers, and freight forwarders operating in the first links of the chain that carry a container to its destination. These might represent a greater security risk than parts further down the chain (i.e. port terminals and ships) well covered by the ISPS Code.

### **Likely Outcome**

While DPW has calmed the situation by saying it will not press ahead with its involvement in U.S. port operations, the damage has been done. And Congress will likely continue with the Critical Infrastructure Protection Act, thus maintaining a controversy that the U.S., and the world generally, could do without. This may be good for U.S. politicians seeking to exploit the domestic popular vote, and perhaps even for some sectors of U.S. industry able to exploit the opportunities being created. But it is certainly not in the best interests of the freedom and security of international seaborne trade.

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