

TESTIMONY OF THE DEPARTMENT OF DEFENSE
BEFORE THE SENATE BANKING, HOUSING, AND URBAN AFFAIRS
COMMITTEE
REGARDING THE DUBAI PORTS WORLD CFIUS CASE

Mr. Chairman, Members of the Committee.

Thank you for the opportunity to appear before you today to discuss the Department of Defense's role in the Committee on Foreign Investments in the United States (CFIUS) and our review of the Dubai Ports World (DPW) and Peninsular and Oriental Stream Navigation Company (P&O) transaction.

As a formal member of the CFIUS process, the Department of Defense weighs a number of factors when it considers any individual proposed foreign acquisition of a U.S. company.

First and foremost, our primary objective in this process is to ensure that any proposed transaction does not pose risks to U.S. national security interests. To do this, the Department of Defense reviews several aspects of the transaction, including:

The importance of the firm to the U.S. defense industrial base (e.g., is it a sole-source supplier, and, if so, what security and financial costs would be incurred in finding and /or qualifying a new supplier, if required?);

Is the company involved in the proliferation of sensitive technology or WMD?

Is the company to be acquired part of the critical infrastructure that the Defense Department depends upon to accomplish its mission;

Can any potential national security concerns posed by the transaction be eliminated by the application of risk mitigation measures, either under the Department's own regulations or through negotiation with the parties?

Regarding this specific CFIUS transaction, the Departments of Treasury, Commerce, and Homeland Security met with the legal representatives of DPW and P&O for CFIUS pre-filing notification consultations on October 31, 2005. On December 6, 2005, the companies held a pre-filing briefing for all CFIUS agencies. The Defense Technology Security Administration (DTSA) attended the meeting for DoD. On December 16, 2005, the Department of Treasury received an official CFIUS filing. On the same day, Treasury circulated the filing to all CFIUS member agencies for review and DTSA staffed the filing to sixteen other Department of Defense (DoD) elements or agencies for review and comment.

The review conducted by the Department of Defense on this transaction was neither cursory nor casual. Rather, it was in-depth and it was comprehensive. This transaction was staffed and reviewed within the DoD by 17 of our agencies or

major organizations. In this case, DoD agencies reviewed the filing for impact on critical technologies, the presence of any classified operations existing with the company being purchased, military transportation and logistics as well as other concerns this transaction might raise. During the review process (December 21, 2005 through January 6, 2006), DoD did not uncover national security concerns that warranted objecting to the transaction or requiring a 45-day investigation. Positions were approved by staff that ranged from staff-matter experts up to a Deputy Under Secretary of Defense, as appropriate to the office undertaking the review. All who were consulted arrived at the same position: “do not investigate further.”

The DoD organizations that reviewed this and all other CFIUS transactions bring to bear a diverse set of subject matter expertise, responsibilities and perspectives. The organizations included, for example, the Office of the Under Secretary for Intelligence; the Office of the Under Secretary for Acquisition, Logistics, and Technology; the Military Departments (Army, Navy and Air Force); U.S. Transportation Command; the National Security Agency; and the Defense Intelligence Agency. The Army, for example, reviewed the case in the following manner: Army Materiel Command (AMC) Headquarters and Assistant Secretary of the Army for Acquisition, Logistics, and Technology (ASA(AL&T)) staff gave a preliminary review, immediately upon receipt of the case. AMC staffed the

filing to their subordinate readiness commands responsible for acquisition and logistics, including the Military Surface Deployment and Distribution Command (SDDC). For this case, the Army's review criteria included the question of assured shipping, and the Army's final position was "no objection."

The Defense Technology Security Administration, which reviews, coordinates and analyzes the recommendations from all the DoD components, as well as assessing export control and sensitive technology issues, ultimately "signed off" on the transaction for the Department. Therefore, we had a comprehensive and in-depth review of this transaction, and no issues were raised by any agencies or departments within the Department of Defense. We are comfortable with the decision that was made.

I do want to provide a perspective from the Department of Defense regarding our relationship with the United Arab Emirates and their support, as a friend and ally, in the Global War on Terrorism. In the War on Terrorism, the United States needs friends and allies around the world, and especially in the Middle East, to help in this struggle. A community of nations is necessary to win this Long War.

In our recently published Quadrennial Defense Review, we highlight that in conducting this fight to preserve the security of the American people and our way of life, it is important that we strengthen the bonds of friendship and security with our friends and allies around the world. We must have the authority and resources to build partnership capacity, achieve unity of effort, and adopt indirect approaches to act with and through others to defeat common enemies.

The United Arab Emirates is an outstanding example of the kind of partner critical to winning this Long War. Dubai was the first Middle Eastern entity to join the Container Security Initiative – a multinational program to protect global trade from terrorism. It was also the first Middle Eastern entity to join the Department of Energy’s Megaports Initiative, a program aimed at stopping illicit shipments of nuclear and other radioactive material. The UAE has also worked with us to stop terrorist financing and money laundering by freezing accounts, enacting aggressive anti-money laundering and counter-terrorist financing laws and regulations, and exchanging information on people and entities suspected of being involved in these activities.

As you may know, the UAE provides the United States and our coalition forces with important access to their territory and facilities. General Pace has

summed up our defense relationship by saying that “in everything that we have asked and work with them on, they have proven to be very, very solid partners.”

The UAE provides excellent access to its seaports and airfields like al Dhafra Air Base, as well as overflight through UAE airspace and other logistical assistance. We have more Navy port visits in the UAE than any other port outside the United States. Last year, US Naval warships and Military Sealift Command ships spent over 1400 days in the ports of Dubai, Jebel Ali, Abu Dhabi and Fujairah. And, by the way, the port at Jebel Ali—which is the only carrier-capable port in the Gulf—is managed by DPW. Coalition partner ships also used the UAE ports last year. The U.S. Air Force has operated out of al Dhafra Air Base since the Gulf War in 1990. Today, al Dhafra is an important location for air refueling and aerial reconnaissance aircraft supporting operations in Iraq and Afghanistan.

And we should note that our most important commodity—our military men and women—are frequent visitors to the UAE on liberty or leave while deployed to the region. So we rely on the Emirates for our security in their country, and I appreciate and thank them for that.

Our close military-to-military relationship with the UAE also includes the use of the UAE Air Warfare Center, established in January 2004, where our pilots train with pilots from countries across the Middle East.

Finally, the United Arab Emirates have been very supportive of our efforts in Iraq and Afghanistan. They have provided military and operational support to OPERATION ENDURING FREEDOM in Afghanistan and financial and humanitarian aid to Afghanistan and its people. The UAE has provided monetary and material support to the Iraqi government, including a pledge of \$215M in economic and reconstruction assistance.

Mr. Chairman, this concludes my formal statement. I would be happy to answer any further questions you may have regarding this subject.