

March 2, 2006

**STATEMENT OF H. EDWARD BILKEY,  
CHIEF OPERATING OFFICER,  
DP WORLD  
BEFORE THE HOUSE ARMED SERVICES COMMITTEE**

Mr. Chairman and Members of the Committee,

My name is Ted Bilkey. I am the Chief Operating Officer of DP World. I commend you for holding this hearing. DP World welcomes the opportunity to get the truth out so that Congress and the public can better understand the facts surrounding our acquisition of P&O Ports North America, Inc.

By way of personal background, I grew up in New Jersey and New York. I graduated from Yale and the Fletcher School of Law and Diplomacy and served as an officer in the U.S. Navy. I have worked in the ports and shipping business for over 45 years, starting on the docks of Brooklyn and Newark. Also, on a personal note, it is a pleasure and an honor for me to appear before this committee of the United States Congress. My grandfather, Joseph S. Frelinghuysen, served as Senator from New Jersey earlier in the 20<sup>th</sup> century and as Chairman of the Senate Committee on Coast Defenses. Indeed, in every generation from the founding of the United States to today members of my family have served in the Senate, House of Representatives or as Secretary of State.

Let me start my presentation by giving you a little background on DP World and its acquisition of The Peninsular & Oriental Steam Navigation Company, which is

headquartered in the United Kingdom. Prior to the acquisition, DP World was the seventh largest port terminal operator in the world. We manage 19 container terminals, four free trade zones, three logistics centers and operations in some 14 countries, which incorporated the operations of the U.S. company CSX World Terminals about one year ago. Our Jebel Ali facility in Dubai handles more container freight than all the ports on the East Coast of the United States combined. We operate as a strictly commercial entity but are owned by the Government of Dubai. Our management is truly international. Of the 11 members of DP World senior management, three are Americans, one is British, two are Indian, one is Dutch and four are citizens of Dubai. Our Board Chairman, a citizen of Dubai, went to Temple University. Our Chief Executive Officer, also a citizen of Dubai, is a graduate of the University of Arizona. Last week Lloyds List voted DP World as the Port Operator of the Year 2005.

DP World has a long and rich history of supporting the global operations of the U.S. military. These efforts include operations in support of the U.S. military in Germany, Djibouti and Dubai. For example:

- We have dealt with the U.S. Navy for over two decades in Dubai. We have allowed the U.S. Navy to station an officer 24/7 in our control tower which is highly unusual. He has a panoramic view of the harbor and any potential threats.
- We allow the U.S. Navy to provide its own security by having two high-speed gunships that are heavily armed. This is an unusual arrangement which shows strong commitment and trust.

- We have given the U.S. Navy a lease of highly secured land to stow its cargo and rework its volume.
- We have created a high security “bunkering operation” in Djibouti that hosted as its first vessel the USS Vicksburg. It is a very secure refueling station in the Red Sea which is highly prized.
- We have hosted over 500 vessel calls in Dubai by U.S. Navy warships.
- In Fujairah we are the main transshipment point for the U.S. Army’s Afghanistan operations. Cargo comes in on roll on/roll off vessels, and we provide a high security area blocked off by containers and patrolled by the U.S. Army. We then containerize the rolling stock for movement to Karachi and on to Afghanistan. Whenever battalions change we go to work to move the cargo efficiently. We do the same as battalions leave Afghanistan for home.
- In the last Gulf War, I personally set in motion the arrangements for the first aircraft carrier to enter and berth at Jebel Ali, solving a major logistics problem for the Navy.

If I may, Mr. Chairman, I’d like to show the committee some pictures which may be helpful in understanding what we do.

Now, as a general trend, the shipping and ports business is becoming increasingly globalized, and, as a result, consolidated. DP World determined to acquire P&O for commercial reasons, based on its strong management team and global and complementary geographic fit as the shipping world becomes more consolidated. It is important to understand that this is a \$6.8 billion transaction involving assets all over the

globe. The U.S. operations of P&O - - P&O Ports North America - - constitute approximately 6 to 10% of the overall value of the transaction, depending on calculation methods. As a smaller entity acquiring a larger entity, DP World wants and needs the existing talent and expertise of the P&O Ports North America team to run those operations. It is important to understand that it has always been DP World's express intent, from the start, to operate P&O Ports North America as a separately incorporated U.S. legal entity, using its longstanding reputation and maintaining the current management structure and personnel to the maximum extent possible but reporting to the senior management in Dubai. As part of our voluntary cooperation and offer, we have agreed to disengage any reporting to Dubai management for the present.

I would now like to try to dispel a couple of myths which have been played up.

First, we are not "acquiring," "controlling" or "taking over" U.S. ports, as some people have claimed. U.S. ports are owned by local governments or port authorities, which is a fundamental fact that has been totally distorted. Rather, we act as an "operator" who has a lease or license to operate a particular terminal within a port. The terminal operator is responsible for the area within the port that serves as a loading, unloading or transfer point of the cargo. To be exact, DP World would acquire the following terminal leases or concessions that handle containers operated by P&O Ports North America:

- Baltimore
- Philadelphia - in a 50-50 joint venture with Stevedoring Services of America
- Miami - 50% of Port of Miami Terminal Operating Company

- New Orleans
- Newark - through a 50-50 joint venture in the Port of Newark Container Terminal (PNCT) with Maersk terminals.

P&O is involved in general stevedoring and other cargo handling operations in a number of other locations in the United States and a passenger terminal in New York in close cooperation with the U.S. Coast Guard. Stevedoring is lifting containers on or off vessels and depositing them in an area operated by the port authority.

Second, this transaction does not involve an “outsourcing of U.S. security,” as some have alleged. I will defer to the Department of Homeland Security and others to describe in detail how port security operates or to my colleague from P&O Ports North America in charge of security, Rob Scavone, to describe in detail how port security with us operates. Suffice it to say that security is a layered approach, with the U.S. Customs and Border Protection and Coast Guard taking leading roles to “push out the borders” of the United States. A terminal operator is one piece of a complex picture.

Within the context of the terminal operator’s responsibilities, both DP World and P&O Ports North America are active participants in various U.S. Government-sponsored and international initiatives. These programs include:

- The Customs-Trade Partnership Against Terrorism;
- The Container Security Initiative -- in fact the United Arab Emirates was the first country in the Middle East to join that initiative;
- The Business Alliance on Smuggling and Counterfeiting;
- The International Maritime Organization International Ships and Port Security; and

- The Megaports Initiative with the Department of Energy.

DP World has expressly committed to continuing and, as appropriate, expanding its commitment to these programs.

Third, some people have charged that DP World enforces the Arab League boycott of Israel. Let me answer that, as a terminal operator, we do not operate in a capacity that involves us in boycott issues at all. DP World does not discriminate. DP World, as a global port management company, facilitates trade with many nations. Our company has long-standing business relationships with Israeli companies among our diverse international clients. Further, let me assure you that, consistent with our policy of corporate compliance, the U.S. operations of P&O will fully comply with both the letter and spirit of the U.S. antiboycott regulations to which they are subject. We comply with the laws of all countries in which we operate.

Fourth, DP World did not seek to obtain U. S. Government approval of its acquisition of P&O Ports North America, as some people have stated, “secretly,” “in the dead of the night” or “without adequate review.” This is a total misrepresentation. There is an explicit process administered by the Committee on Foreign Investment in the United States (“CFIUS”) mandated by Congress in the Defense Production Act and by Department of the Treasury regulations. In point of fact, CFIUS actively reviewed the transaction for almost three months. We believed we were doing the right thing as we were following the law and the process, as we have in other countries.

DP World first met with CFIUS staff on October 17, 2005 to discuss the acquisition. We then held a face-to-face meeting with certain key CFIUS member agencies -- including the Department of Homeland Security, Customs and Border

Protection, Coast Guard, Department of Justice and Department of Commerce -- on October 31, 2005. As a result of those meetings, DP World provided additional detailed information on the proposed transaction to CFIUS, which had already commenced its review and analysis of the transaction. DP World and P&O Ports North America held a subsequent meeting on December 6, 2005 with all member agencies of CFIUS. I myself flew in from Dubai to participate in that meeting with our Senior Vice President for Operations for Europe and the Americas and our senior officer responsible for overseeing security.

Further, during this period, the transaction received considerable coverage in the press in the United States and Europe. For example, on October 31, 2005 the *Wall Street Journal* carried an article reporting on the transaction and on November 14, 2005 the *Journal of Commerce* ran a lengthy article reporting on the U.S. aspects of it. Also, the *Financial Times* reported extensively on the transaction from the start. Copies of some of these articles are attached as exhibits to my written testimony.

We filed our CFIUS notification on December 15, 2005. It should be noted that CFIUS has previous filings from P&O from its acquisition of International Terminal Operating Company, DP World from its acquisition of CSXWT and, most importantly, from P&O's security filings with the Coast Guard for its U.S. facilities.

CFIUS commenced a 30-day review as required by statute. During the course of that review, CFIUS asked us to memorialize certain undertakings we had voluntarily made in our notification, as well as others at their request. These took the form of a "Letter of Assurances" dated January 6, 2006. Among these undertakings were seven additional express and legally binding commitments:

- To maintain “no less than” the current levels of membership and cooperation in various security arrangements;
- To provide DHS with at least 30 days advance notice of any proposed material change to our levels of membership or cooperation in these security arrangements;
- To operate all U.S. facilities to the extent possible with current U.S. management;
- To designate a responsible corporate officer to serve as point of contact with the Department of Homeland Security on security matters;
- To provide relevant information promptly to DHS upon request;
- To assist and support law enforcement agencies (including disclosing information on the design, manufacture and operation of the U.S. facilities); and
- To provide records relating to foreign operational direction, if any, of the U.S. facilities.

A copy of that Letter of Assurances is attached as an exhibit to my written testimony submitted to the Committee.

Based on this review and the Letter of Assurances, on January 17, 2006 CFIUS issued a formal letter of “no objection” completing the CFIUS review and allowing the transaction to proceed. In express reliance on the U.S. Government’s clearance, DP World took the necessary legal steps required by UK takeover laws to complete its

purchase of P&O on a global basis, which included advising P&O that our offer was unconditional because all necessary permissions had been received.

In conclusion, I respectfully submit that DP World is a company that in good faith sought to comply with applicable U.S. legal requirements, and, having been told by the U.S. Government that we met those requirements, now finds itself in the position of being told that that was not good enough.

Nonetheless, we recognize that there are concerns in Congress and among the public about DP World's acquisition of P&O's terminal operations. Despite having obtained approval by the federal government and relied on that approval, DP World has moved voluntarily to take steps to assure people that the security of the United States will remain strong. Specifically, on February 26, 2006, DP World and P&O Ports North America voluntarily entered into a legally binding "Hold Separate Commitment" under which the management and control of P&O's North American operations will be held in suspension -- without direction or control from DP World -- until May 1, 2006 or completion of the CFIUS process in order to allow additional review of DP World's acquisition of P&O Ports North America. In addition, at the same time the two companies requested CFIUS to conduct a review, including a full 45-day investigation of the acquisition. Both companies expressly stated that they will abide by the outcome of that review. The "Hold Separate Commitment" contains a number of specific obligations, including maintaining P&O Ports North America's current management and having a U.S. citizen serve as Chief Security Officer for P&O Ports North America. We are confident that further review by CFIUS will confirm that DP World's acquisition of P&O's U.S. operations does not pose any threat to America's safety and security. We

hope that voluntarily agreeing to further scrutiny demonstrates our commitment to security and to operating as a responsible corporate citizen of the United States.

If there is good to come out of this experience, perhaps it is that both Congress and the Executive Branch will take a closer look at port security and find ways to upgrade it further and increase funding for these efforts. DP World strongly encourages such efforts and looks forward to working with you to achieve them.

Finally, I would like to conclude by making a couple of observations as an American. The United States Government, through successive administrations, has pursued a policy of encouraging investment in the United States. The assumptions underlying this policy are that the United States is a land governed by the rule of law, is a country that treats people fairly and on an even playing field and is a nation whose economic well being and national security are enhanced by engaging with the world. It is my firm belief that the security of our country - - the United States - - is well served and in fact enhanced on numerous levels by allowing this transaction to go forward and working with DP World's global 51-terminal network as a responsible partner in ensuring security. At home and abroad, security is everybody's business.

On Sunday I went to the Lincoln Memorial to relax and consider all that has happened. I saw the words in our sixteenth President's Second Inaugural Address: "With malice toward none, with charity for all, with firmness in the right." It is my personal prayer that all our actions will be guided by these principles.

Thank you.