BALANCING POWER THROUGH THE MARKET:
GOVERNMENT INTERVENTION IN CROSS-BORDER Mergers & ACQUISITIONS

A Dissertation
submitted to the Faculty of the
Graduate School of Arts and Sciences
of Georgetown University
in partial fulfillment of the requirements for the
degree of
Doctor of Philosophy
in Government

By

Ashley Anne Thomas, B.S.F.S.

Washington, DC
February 24, 2009
BALANCING POWER THROUGH THE MARKET: 
GOVERNMENT INTERVENTION IN CROSS-BORDER MERGERS & ACQUISITIONS

Ashley Anne Thomas, B.S.F.S.

Thesis Advisor: George Shambaugh, Ph.D.

ABSTRACT

Since Bretton Woods, Western leaders have worked to establish an international order founded on economic liberalism and free trade. Yet, in recent years the very same states that helped to found the liberal economic order are acting in a way that seems to fundamentally undermine it – by implementing (or encouraging) the creation of domestic barriers to cross-border mergers and acquisitions in industries they deem vital to national security.

Even more puzzling, however, is the fact that states are engaging in such behavior not only against their strategic and military competitors, but against their closest allies as well. Traditional interest group and domestic politics explanations cannot account for this behavior, because states are often intervening against the parochial interests of companies and other domestic groups on the behalf of national interest and security.

This dissertation argues that such government intervention into foreign takeovers constitutes a form of non-military internal balancing, which allows states to secure and enhance their relative power for long term gain, without destroying the greater meta-relationship between the states involved in the transaction. It is
hypothesized that such behavior is motivated by the desire to increase the relative power and prestige of the state through non-military means in response to either economic nationalism, or pressing geo-strategic concerns. The exact form that intervention takes, and the motivations behind it, are determined to vary with both the relationship of the countries involved, and the exact nature of the threat posed by the transaction in question.

This dissertation employs a rigorous multi-method approach to test the theory presented within. First, the hypotheses are tested qualitatively, using the case study method to examine ten critical cases. The hypotheses are then tested quantitatively using categorical data analysis. Four multinomial logit models are used to examine a large-n population of cross-border merger and acquisitions cases that occurred over a five-year period in an identified set of national security related sectors. These tests are found to support the theory of non-military internal balancing presented in this work, and provide a solution to the puzzle.
The research and writing of this dissertation is dedicated to my husband, Robert J. Lenihan III, and my parents, Harry and Judy Thomas. Thank you for your insightful suggestions, patience, and support over the years.

I would like to thank my committee (Doctors George Shambaugh, Christopher Joyner, Charles Kupchan, and Kathleen McNamara) for their invaluable advice and guidance. I would also like to thank my family, friends, and colleagues whose kind help and comments will never be forgotten.

Many thanks,
Ashley Anne Thomas
TABLE OF CONTENTS

Chapter 1 – Introduction ................................................................. 1

Mergers, Acquisitions, and International Security ......................... 1

Chapter 2 – The Theory ................................................................. 22

Introduction ................................................................................... 22

National Security and Foreign Takeovers ..................................... 23

Economic Interdependence and Power ....................................... 26

The Theory ................................................................................... 30

Methodology .................................................................................. 57

Conclusion ..................................................................................... 65

Chapter 3 – Quantitative Testing .................................................. 68

Introduction ................................................................................... 68

Specifications of the Database ................................................... 70

Specifications of the Models and Variables ............................... 71

Independent Variables .................................................................. 73

Specifications of the Models and Expected Results ..................... 79

Results ......................................................................................... 85

Conclusion ..................................................................................... 101

Chapter 4 – Unbounded Intervention ............................................ 105

Introduction ................................................................................... 105

Unbounded Intervention ............................................................. 107
Case Selection ................................. 112
Case 1 – PepsiCo / Danone .............................. 118
Case 2 – CNOOC / Unocal .............................. 136
Case 3 – Check Point / SourceFire ...................... 186
Case 4 – Dubai Ports World / P&O ...................... 197
Case 5 – Macquarie / PCCW ........................... 258
Conclusion ........................................... 271

Chapter 5 – Bounded Intervention .......................... 275
Introduction ........................................... 275
Defining Bounded Balancing ............................. 276
Case 6 – Alcatel / Lucent .............................. 295
Case 7 – Lenovo / IBM .................................. 322
Conclusion ........................................... 345

Chapter 6 – Non-Intervention and the ‘Internal’ Intervention Alternative ........... 349
Introduction ........................................... 349
Part I: Non-Intervention ................................. 350
Part II: Internal Intervention ............................. 374
Conclusion ........................................... 394

Chapter 7 – Conclusion .................................. 396
Introduction ........................................... 396
The Theory and Hypotheses Revisited ..................... 399
Summary of the Findings .................................................... 405
Significance ........................................................................ 414

Appendix A. – Detailed Listing of Cases in the Database ............ 428
Appendix B. – Descriptive Statistics of Variables in MNLM I-IV .... 437
Appendix C. – Model III and Resource Dependency ................ 441
Appendix D. – Descriptive Statistics of Dataset Variables: Frequencies ...... 443
Appendix E. – Bivariate Correlations of Dataset Variables ........... 444
Appendix F. – Timelines of Unbounded Intervention Cases ........... 445
Appendix G. – Full Text of Letter from Congressmen Barton and Hall to President Bush ......................................................... 449
Appendix H. – H.R. 6 § 1837 .......................................................... 451
Appendix I. – Negative Case Selection, Skocpol, and Mahoney & Goertz .... 453
Bibliography ........................................................................ 457
LIST OF FIGURES

1. Modes of Balancing ................................................................. 35
2. Types of M&A Intervention as a Tool of Non-Military Internal Balancing ................................................................. 48
4. Cross-Border Deal Breakdown by Intervention Type ......................... 88
5. Cross-Border Deal Breakdown by Deal Outcome ............................ 99
LIST OF TABLES

1. Amount of Cross-Border M&A Deals ........................................... 15
2. Value of Cross-Border M&A Deals ........................................... 15
3. Non-Military Internal Balancing through M&A Intervention ............. 57
4. Critical Cases ............................................................................. 61
5. National Security Sectors .......................................................... 63
6. Cross-Border Case Types ......................................................... 71
7. Variable Sources ....................................................................... 72
8. Measures of Economic Competitiveness from the IMD Database .... 78
9. Measures of Interest Group Presence and Position Sourced from the IMD Database ................................................................. 79
10. Values of Dependent Variable $Y_1$ .......................................... 81
11. Values of Dependent Variable $Y_2$ .......................................... 84
12. Multinomial Logit Model Results: Intervention Type ................. 89
13. Probability Change in MNLM I ................................................ 91
14. Probability Change in MNLM II ................................................ 95
15. Probability Change in MNLM III ............................................. 98
16. Multinomial Logit Model Results: Deal Outcome ....................... 100
17. Probability Change in MNLM IV ............................................. 100
18. Unbounded Intervention: Critical Cases .................................... 106
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>20. Bounded Intervention: Critical Cases</td>
<td>276</td>
</tr>
<tr>
<td>21. Significant Motivating Factors</td>
<td>292</td>
</tr>
<tr>
<td>22. Dataset Subset: Cross-Border Deals Between the US and France</td>
<td>297</td>
</tr>
<tr>
<td>23. Non-Intervention and the Secondary Hypothesis</td>
<td>372</td>
</tr>
<tr>
<td>24. Non-Intervention Cases: Outcome Breakdown by Sector</td>
<td>373</td>
</tr>
<tr>
<td>25. Case Study Findings: Unbounded and Bounded Intervention</td>
<td>409</td>
</tr>
</tbody>
</table>
## Important Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>AMF</td>
<td>Autorité des Marchés Financiers (France)</td>
</tr>
<tr>
<td>DFAT</td>
<td>Department of Foreign Affairs and Trade (Australia)</td>
</tr>
<tr>
<td>BERR</td>
<td>Department for Business Enterprise and Regulatory Reform (UK)</td>
</tr>
<tr>
<td>CFIUS</td>
<td>Committee on Foreign Investment in the United States (US)</td>
</tr>
<tr>
<td>CIA</td>
<td>Central Intelligence Agency (US)</td>
</tr>
<tr>
<td>CNOOC</td>
<td>Chinese National Offshore Oil Company (China)</td>
</tr>
<tr>
<td>DOD</td>
<td>Department of Defense (US)</td>
</tr>
<tr>
<td>DOT</td>
<td>Department of the Treasury (US)</td>
</tr>
<tr>
<td>DRIS</td>
<td>Decision on Reforming the Investment System (China)</td>
</tr>
<tr>
<td>DSS</td>
<td>Defense Security Service (US)</td>
</tr>
<tr>
<td>EIA</td>
<td>Energy Information Administration (US)</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>GAO</td>
<td>General Accounting Office (US)</td>
</tr>
<tr>
<td>FDI</td>
<td>Foreign Direct Investment</td>
</tr>
<tr>
<td>FINRA</td>
<td>Financial Industry Regulatory Authority (US)</td>
</tr>
<tr>
<td>FINSA</td>
<td>Foreign Investment and National Security Act of 2007</td>
</tr>
<tr>
<td>FOCI</td>
<td>Foreign Ownership, Control, or Influence</td>
</tr>
<tr>
<td>FSA</td>
<td>Financial Services Authority (UK)</td>
</tr>
<tr>
<td>EIU</td>
<td>Economist Intelligence Unit</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Form</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------</td>
</tr>
<tr>
<td>IEA</td>
<td>International Energy Agency.</td>
</tr>
<tr>
<td>ISSP</td>
<td>International Social Survey Programme</td>
</tr>
<tr>
<td>JV</td>
<td>Joint Venture</td>
</tr>
<tr>
<td>M&amp;A</td>
<td>Mergers and Acquisitions</td>
</tr>
<tr>
<td>MNLM</td>
<td>Multinomial Logit Model</td>
</tr>
<tr>
<td>MMC</td>
<td>Monopolies and Mergers Commission (UK)</td>
</tr>
<tr>
<td>MOFCOM</td>
<td>Ministry of Commerce (China)</td>
</tr>
<tr>
<td>NDRC</td>
<td>National Development and Reform Commission (China)</td>
</tr>
<tr>
<td>NSA</td>
<td>National Security Agreement</td>
</tr>
<tr>
<td>OECD</td>
<td>Organisation for Economic and Co-operation and Development</td>
</tr>
<tr>
<td>PADEFI</td>
<td>Provisions on Acquisitions of Domestic Enterprises by Foreign Investors (China)</td>
</tr>
<tr>
<td>RGDFI</td>
<td>Regulation for Guiding the Direction of Foreign Investment (China)</td>
</tr>
<tr>
<td>SASAC</td>
<td>State Asset Supervision and Administration Commission (China)</td>
</tr>
<tr>
<td>SEC</td>
<td>Securities and Exchange Commission (US)</td>
</tr>
<tr>
<td>SIPRI</td>
<td>Stockholm International Peace Research Institute</td>
</tr>
<tr>
<td>SCA</td>
<td>Security Control Agreement</td>
</tr>
<tr>
<td>SSA</td>
<td>Special Security Agreement</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Form</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------</td>
</tr>
<tr>
<td>UDI</td>
<td>United Defense Industries</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
<tr>
<td>WVS</td>
<td>World Values Survey</td>
</tr>
</tbody>
</table>
Chapter 1 – Introduction

Mergers, Acquisitions, and International Security

The Issue

For decades, the mergers and acquisitions of companies across national borders have acted as one of the key drivers of globalization. This fundamental role within globalization remains the same, despite the rise and fall in the number of deals that may accompany economic boom and contraction alike. In many sectors of the economy, from service to consumer goods, cross-border merger and acquisition activity (M&A) occurs with few impediments beyond those that domestic M&A deals would normally face. Certain sectors of the economy, however, including the aerospace & defense, energy, basic resources, and high technology sectors, have long been identified by states as vital to their national security. For this reason, the sovereign state has maintained the right to veto attempts by foreign entities to acquire domestically based companies operating in those industries.

While the actual use of that right has been historically rare among liberal and democratic states like the US,¹ the history of M&A in this century, and the last, has

¹ The United States provides us with an excellent example of this phenomenon. For it was not until the Exxon-Florio Amendment was passed in 1988, that the Committee on Foreign Investment in the United States (CFIUS) was given not only “specific jurisdiction for reviewing bids for U.S. assets,” but also was empowered with “the authority to recommend blocking a deal on the grounds of national security.” Even with this power, “as of February 2005, … presidential authority was invoked to block only one” such deal. Wallace and Armon, however, also point out that these numbers “fail to capture CFIUS’s real influence,” as the threat of review and rejection often prevents companies from pursuing
still been marked by periods of increased governmental intervention into such deals on the grounds of national security.\(^2\) Indeed, the threat (and use) of domestic barriers to foreign acquisitions is an increasingly typical phenomenon with which global economic actors must contend. The last few years provide numerous examples of various forms of domestic barriers being implemented or encouraged at the state level against foreign takeovers of companies in state defined ‘national security’ sectors. The US House of Representatives was instrumental in getting the Chinese National Offshore Oil Corporation (CNOOC) to withdraw its bid for the American based Unocal Corporation.\(^4\) The Government of France announced its intention to prohibit many takeovers in the first place. This is an important point, because as the number of potential deals increases, every deal that is visibly rejected by a country on national security grounds may indicate hundreds of others that were never even pursued because of the potential opposition that would be faced (Wallace and Armon 2005).

\(^2\) For example, the US has been marked by a number of notable surges in protectionist sentiment as well as in formal government measures ensure that mergers and acquisitions of US did not jeopardize national security. These include the time periods surrounding WWI, WWII, the 1970s, the 1980s, and after 9/11 (Graham and Marchick 2006; Kang 1997). After a period of liberalization on takeover issues among the advanced industrial societies, the OECD in 2006 expressed the view that widespread “concerns about security and other essential interests are on the rise” (OECD 2006b). The OECD has convened an international roundtable on the issue, and is hoping to foster measures that would protect against the possibility of a deepening of protectionism across the globe (OECD 2006b).

\(^3\) In most cases the right to define and delineate the term ‘national security’ is reserved by the state, leading to many different definitions and uses of the term. For the purposes of this dissertation, ‘national security’ sectors will be considered to be those defined as such by the state in question. Generally, however, this term encompass industries in the aerospace and defense, energy and natural resource, and high technology sectors.

\(^4\) The United States House of Representatives passed a resolution, stating that “it is the sense of the House … that (1) the Chinese state-owned China National Offshore Oil Corporation, through control of Unocal Corporation obtained by the proposed acquisition, merger, or takeover of Unocal Corporation, could take action that would threaten to impair the national security of the United States; and (2) if Unocal Corporation enters into an agreement of acquisition, merger, or takeover of Unocal Corporation by the China National Offshore Oil Corporation, the President should initiate immediately a thorough review of the proposed acquisition, merger, or takeover” (US House 2005c). Soon thereafter, CNOOC withdrew its bid for Unocal rather than become embroiled in a costly political battle. See, for example: (McGregor 2005).
by law the foreign takeovers of companies in ten different “strategic” sectors it considered vital to its national security. The German government actively encouraged the search for a “national solution” that would prevent one of its companies, Volkswagen, from becoming the target of a foreign acquirer. The issue of foreign takeovers in the banking sector even divided the Italian government and gripped national headlines for months when governmental regulators sought to bar a deal without formal governmental approval. At the best of economic times, such government intervention poses a threat not only to the forward progress of economic globalization, but also (and more fundamentally) to the stability of the liberal economic order on which international security largely rests. When the international economy is experiencing a severe dislocation, of the type that began in the fall of 2008, and the level of cross-border activity slows significantly, the threat to continued globalization and international stability only becomes more marked.

---

5 See, for example: (Laitner and Parker 2005).
6 See, for example: (Harrison 2005).
7 See, for example: (Cronin 2005).
8 Waltz points out the important difference between economic globalization (which implies ‘integration’) and economic interdependence. He notes that “economic globalization would mean that the world economy, or at least the globalized portion of it, would be integrated and not merely interdependent. The difference between an interdependent and an integrated world is a qualitative one and not a mere matter of proportionately more trade and a greater and more rapid flow of capital” (Waltz 1999, 697).
The Puzzle

Since Bretton Woods, Western leaders have sought to establish an international order founded on economic liberalism and free trade in the hopes that increased economic interdependence would decrease the likelihood of future wars and improve the global standard of living. It is odd, therefore, that the domestic barriers to cross-border mergers and acquisitions being discussed here are being implemented or encouraged at the state level. Stranger still is that these domestic barriers are often being employed against the wishes of corporate shareholders, and the advice of economists. Traditional interest group and domestic politics explanations, therefore, cannot account for this behavior because states are often intervening against the parochial interests of companies and other domestic groups on the behalf of national interest and security. Thus, the very states that helped to found the liberal economic order are taking actions that do not make rational economic sense to the market, shareholders, or economists. In that case, then, there must be another, more pressing rationale behind such behavior.

Given this context, it is a striking puzzle that states are engaging in this behavior not only against strategic and military competitors, but against allies as well. For example, France, Spain and Germany have voiced concern about takeovers of strategic industries by foreign entities hailing from within the European Union itself. As mentioned below, the Mittal/Arcelor and E.ON/Endesa deals clearly

---

9 See, for example: (FT 2005d).
illustrate this. Former French Prime Minister Dominique de Villepin openly supports a “new ‘economic patriotism,’” [which] he says, is designed to defend ‘France and that which is French’ by declaring entire sectors of French industry off-limits to foreigners,” including other Europeans (Theil 2005). The desire to create “national champions” within Europe is no longer simply a sign of being French either; actions by nations such as Germany and Spain have signaled a preference for domestically headquartered ‘white knights’ to acquire susceptible national takeover targets.  

*Why are states willing to engage in this specific form of economic protectionism within a security community based on economic liberalization and integration?* It will be the purpose of this paper to solve the riddle of this highly contradictory, almost schizophrenic, behavior by states. This paper will argue that the basis for such actions may be found in the struggle for economic power between nations. While nations have largely accepted and adhered to the liberal principle that free trade results in absolute gains beneficial to all states, this particular aspect of inward foreign direct investment remains a last bastion of protectionism even among

---

10 Before proceeding it is important to clearly define some market terminology. *A target company* is “a company which is the object of a takeover attempt.” *A white knight* is “a potential acquirer who is sought out by a target company's management to take over the company to avoid a hostile takeover by an undesirable black knight.” *A hostile takeover* is “a takeover which goes against the wishes of the target company's management and board of directors, [the] opposite of friendly takeover.” *A black knight* is “a company which makes a hostile takeover bid on a target company.” These definitions are sourced from: (Investor Words 2007).

11 See: (FT 2005b).
the most benign liberal states because of its potential to directly threaten national security.\textsuperscript{12}

Drawing from the international relations literature on balancing, it will be argued that governmental barriers to cross-border mergers and acquisitions are imposed as a form of non-military internal balancing. This concept is defined here as those actions that seek to enhance a state’s relative power position vis-à-vis another state through internal balancing, without severing the greater meta-relationship at stake between them. Unlike the current literature on soft-balancing, non-military internal balancing is classified by the objectives of state behavior as well as the type of conduct involved. The ‘power’ that is being balanced is also defined differently from the traditional sense of the term. In a world in which nuclear power has lessened the rewards of territorial conquest, and made great power war less likely, states have less reason to fear that their territorial sovereignty will be jeopardized (Mandelbaum 1998/9; Mueller 1988). At the same time, the expanse of economic globalization has increased the reasons for states to be concerned that their economic sovereignty will remain intact. For these reasons among others, states are now as concerned with the economic component of power as they are its military component, and will seek to balance it appropriately.

\textsuperscript{12} As one observer recently commented, “the blocking of mergers remains one of the few areas left for national authorities to play an interventionist role in a world where markets are increasingly global” (US Library of Congress 2006).
Yet, as will be discussed further below, this type of non-military internal balancing will take different forms when it is motivated by different factors. The puzzle can be solved if domestic barriers to foreign takeovers in national security sectors are understood to be the result of either pressing geo-strategic concerns, or of economic nationalism.\textsuperscript{13} In the latter instance, this behavior is evidence of a desire for enhanced national economic power and prestige vis-à-vis other states, ally and foe alike. In the former case, this behavior is considered to be a more severe form of non-military internal balancing, which allows states to secure and enhance their relative power for long term gain, without destroying the greater meta-relationship between the two states in the short run.

The answer to this question should also provide the key to explaining other puzzling dynamics involved when states pose domestic barriers to foreign acquisitions on national security grounds. For example, the terms ‘national security’ and ‘strategic sector’ are often defined in a manner that includes industries outside of the realm that neorealists and neoliberals would traditionally consider vital to hard power and security. The French, for instance, have included the gaming (and possibly the food) sector on their list of ‘strategic’ industries.\textsuperscript{14} Furthermore, states often use such barriers selectively, and in a manner that is both opaque and inconsistent. Yet, once we determine why states are willing to engage in such protectionist strategies in

\textsuperscript{13} Here economic nationalism is defined as “set of policies that results from a shared national identity and therefore bears its characteristics;” and “because national purposes vary … so must economic nationalism” (Helleiner and Pickel 2005, 26).

\textsuperscript{14} See: (Finfacts 2005).
the most unlikely case (i.e. – within a security community founded on economic integration) we should be better able to predict what industrial sectors they will seek to protect and when.

**The Context**

This issue has recently received attention in the United States because of the intense media coverage and political debate surrounding the proposed foreign takeovers of a number of US companies. On June 22, 2005 the majority government owned Chinese National Offshore Oil Corporation (CNOOC) announced its bid to acquire the California based Unocal Corporation (Zephyr 2007b). Extensive national and congressional debate over the sale of one of the largest US oil and gas companies eventually resulted in legislation that left CNOOC with extensive delays and the likelihood of further opposition to the deal, effectively leaving the company with little choice but to withdraw its bid (Asia Times 2005; Graham and Marchick 2006, 128-136; White 2005). On November 29, 2005, the UAE based Dubai Ports World (DP World) launched its bid for the British ports operator known as P&O (Zephyr 2007c; Zephyr 2007d). Few concerns were raised in Britain, which has close ties with Dubai, and few were expected from the US, which is an ally of the UAE in the Global War on Terror. Yet the deal, which involved the transfer of five US container ports from P&O to DP World, eventually raised a furor that resulted in a shocking

---

15 P&O is formally known as the Peninsular & Oriental Steam Navigation Company.
“70 per cent of all Americans … opposed [to] the deal” (Frum 2006). Faced with the possibility of the deal being blocked, P&O offered to divest the ports in question, and then sold them to the American International Group (AIG), so that they would remain under U.S. control (Wright and Kirchgaessner 2006).

Other cross-border deals also made headlines in the US during this period. The Department of Defense raised concerns over the proposed purchase of the US high tech network security firm (Sourcefire) by an Israeli company (Check Point Software Technologies) (Martin 2006). Check Point subsequently withdrew its bid while it was being reviewed by the US Government’s Committee on Foreign Investments in the United States (CFIUS) – only “a week before a federal … report which insiders say would have blocked the merger on the grounds of national-security interests” (Lemos 2006). In 2006, that same government body undertook a retroactive review of a 2005 takeover involving the purchase of a US voting machines firm (Sequoia Voting Systems) by a Venezuelan software company (Smartmatic) due to fears that the company might have ties to the Venezuelan government of Hugo Chavez (Golden 2006). By November 2007, Smartmatic announced that it had sold Sequoia to its American management in November 2007, “rather than complete an investigation by … CFIUS” (O’Shaughnessy 2007; Smartmatic 2007).

This phenomenon is not limited to the United States. In fact, government involvement in M&A activities that results in effectively blocking or changing deals
between multinational corporations is surprisingly common among advanced industrialized and industrializing societies. A recent spate of government intervention into cross-border M&A activity within the European Union has raised concern that there has been a rise in economic nationalism in the region.\(^\text{16}\) The Spanish government, for example, denied the validity of a European Commission ruling that tried to prevent its intervention in a deal between the German energy giant E.ON and the Spanish utility Endesa (Bilefsky 2006; Buck 2006). The initial efforts of a number of European governments to block the takeover of the French steel company (Arcelor) by the Dutch based steel company (Mittal)\(^\text{17}\) on the perceived basis that it was run by an individual of Indian origin (even though he was a British resident)\(^\text{18}\) further serves to highlight the capability of governments to see even military allies as economic foes. Other governments actively seeking to block foreign takeovers include China, Russia, Japan, and Australia, to name but a few.\(^\text{19}\)

\(^{16}\) See, for example: (Euractiv 2006; US Library of Congress 2006; Parker and Smyth 2006).

\(^{17}\) See, for example: (Times of India 2006).

\(^{18}\) See, for example: (Dasgupta 2006).

\(^{19}\) It is being reported that in China “Acquisitions of Chinese enterprises by foreign companies are increasingly being challenged amidst a growing mood of ‘economic patriotism’” (Yan 2006). The Chinese Government, for example, has been recognized to have blocked the Australian based Macquarie Bank’s bid for its biggest phone company PCCW, and to have “stalled” the American based Carlyle Group’s bid for Xugong, its “largest construction equipment maker” (Bloomberg 2006; Yan 2006). Russia is in the process of “draft[ing] new legislation regarding the protection of ‘strategic sectors’” from foreign takeovers (OECD 2006a). As Japanese foreign investment laws are relaxed, “there is particular concern that takeover bids from companies based in developing countries could pose a threat to Japan's strategic interests. Japan's trade ministry has advised the country's steelmakers to adopt poison pills to protect themselves from foreign takeovers, and has called for antitrust regulations to be relaxed to allow further consolidation” (Economist 2006a). (A ‘poison pill’ may be defined as: “any tactic by a company designed to avoid a hostile takeover [for] … example … the issuance of preferred stock that gives shareholders the right to redeem their shares at a premium after the takeover” (Investor Words 2008). Even in the normally economically open Australia, the
Yet, scholarly explanations of these events have been mostly limited in context to government intervention by the United States. These inquiries have provided a depth of valuable insight into how the United States operates vis-à-vis foreign takeovers, and into what motivates national security concerns. They have also provided invaluable comparisons to the antagonism surrounding takeovers of American companies by the Japanese in the 1980s and the early 1990s (Graham and Marchick 2006; Kang 1997). These inquiries do not, however, test their assumptions across nations, or seek to create a generalizable theory that can explain when and why states intervene in M&A activity. While this author does not disagree that states evaluate all foreign takeovers on a case-by-case basis according to their own internal national security criteria, there do seem to be some general tendencies among states concerning when and why they engage in this behavior. This may in turn be used to create parsimonious theory. Furthermore, by failing to take a more global scope of inquiry, these theorists fail to examine some of the truly puzzling aspects of state behavior regarding foreign takeovers that are discussed below. With that in mind, this dissertation will seek to build on and draw from the work of these scholars, the public policy world, and empirical data to create a generalizable and probabilistic theory of

---

Australian Treasurer blocked a bid made in 2001 by the European based Royal Dutch/Shell to become a majority owner in the Australian oil company Woodside by “invoking] a rarely used provision that foreign takeovers should not be ‘against the national interest’” (Marsh 2001).

20 Such scholarly inquiries, past and present, include: (Graham and Marchick 2006; Kang 1997; Larson and Marchick 2006; Moran 1990; Moran 1993; Tyson 1992). One notable exception to this US-centric approach is: (US GAO 1996).
when and why the governments of advanced industrial and industrializing societies intervene in foreign takeovers.

It is also necessary to note here that while it is important to understand cross-border mergers and acquisitions within the broader context of economic interdependence and globalization (as will be shown below), it is important to study these dynamics without simply lumping them into the broader category of FDI. Mergers and acquisitions are only one form of foreign direct investment (FDI), or the “ownership of assets in one country by residents of another for purposes of controlling the use of those assets” (Graham and Krugman 1995, 8). FDI is usually defined as encompassing both mergers and acquisitions and new ‘greenfield’ investment (Gilpin 2001, 278), which are largely seen as alternative “modes of market entry” (United Nations 2006, 1). Where M&A “involve[s] the partial or full takeover or the merging of capital assets and liabilities of existing enterprises in a country by [enterprises] from other countries,” greenfield investments refer to the “establishment of new production facilities such as offices, buildings, plants, and factories, as well as the movement of intangible capital (mainly in services)” (United Nations 2006, 15). Each of these forms of investment are not only governed by different legal and regulatory frameworks, but are also often attended by different implications and concerns for the states involved. For the state and society in which the target company of an acquisition or merger is located, there is a great deal of uncertainty that attends the process. Existing operations may face “expansion … or
reduction” (Ibid), jobs may be lost, domestic workers may be replaced with foreign nationals, cutting edge technology may go to another country that is viewed as a competitor, or control over domestic resources might be lost. On the other hand, greenfield investment “directly adds to [the] production capacity in the host country and, other things remaining the same, contributes to capital formation and employment generation in the host country” (Ibid). Foreign takeovers might also lead to the same good fortune, but it remains difficult for the host country to tell, and as will be shown, this contributes to the uncertainty and the concentration on relative advantages as states interact within the international financial environment.

**The Significance**

When a cross-border takeover or merger is completed successfully, it can be considered as a part of the broader process of “the growing integration of economies and societies around the world” (World Bank 2006) referred to as globalization. It is true that globalization is not a ‘new’ phenomenon. Yet, while economic interdependence is generally recognized to have only recently reached the levels it had obtained prior to the First World War, cross-border mergers & acquisitions

---

21 Dombrowski points out that “globalization, however defined, is neither new nor unprecedented in world history” (Dombrowski 2005, 8).
22 In 2001, Gilpin asserted that “the world is not as well integrated [today] at it was in a number of respects prior to World War I. … Trade, investment, and financial flows were actually greater in the late 1800s, at least relative to the size of national economies and the international economy, than they are today” (Gilpin 2001, 364). In 1999 Waltz claimed that the “interdependence of states … has increased, but only to about the 1910 level if measured by trade or capital flows as a percentage of
account for a much larger portion of total inward foreign direct investment (IFDI) than they did at the beginning of this century. For example, if we look to the US, Graham and Marchick note that “most [of the] FDI in the United States was of a ‘greenfield’ nature” before WWI, “but since then … FDI as shifted away from greenfield investments and toward mergers and acquisitions” (Graham and Marchick 2006, xvi-xvii). In fact, by the late 1980s, “the majority of ‘new’ FDI in the US was … being generated by foreign takeovers of extant US firms” (Graham and Krugman 1995, 20). If we look at the global picture, the United Nations Commission on Trade and Development’s 2006 World Investment Report notes a surge in foreign takeovers that almost rivals the unprecedented highs of the late 1990s, when the annual average value of cross-border mergers and acquisitions between 1999 and 2001 totaled $834 billion and there was an average of 6,974 deals per year (United Nations 2006, 13 & 16). Comparing numbers with 2004, the report notes that “both the value and number of cross-border M&As rose in 2005, to $716 billion (an 88% increase) and to 6,134 (a 20% increase) respectively” (United Nations 2006, 13). (Please refer to Tables 1 and 2).

---

GDP; lower if measured by the mobility of labor, and lower still if measured by the mutual military dependence of states” (Waltz 1999, 693).
Table 1 - Amount of Cross-Border M&A Deals

(Data Sourced from the UNCTAD’s Cross-border M&A Database)

Table 2 - Value of Cross-Border M&A Deals

(Data Sourced from the UNCTAD’s Cross-border M&A Database)
Yet, even though economic globalization is returning to previous levels, and mergers and acquisitions appear to be expanding as a key driver of that process, there is no assurance that this process will continue to be forward moving. Many respected scholars have instead cautioned that the history of the century implies that the continued progress of globalization is far from inevitable.\(^{23}\) Nye, for example, notes that after…

“two world wars, the great social diseases of totalitarian fascism and communism, the end of European empires, the end of Europe as the arbiter of world power … economic globalization was reversed and did not again reach its 1914 levels until the 1970s. Conceivably, it could happen again” (Nye 2002, 3).

There are a number of possible factors, of course, that could negatively impact globalization. Indeed, the current global economic downturn indicates the fragility of the progression of global commerce on a number of levels. By the end of the 2008 fiscal year end, “worldwide M&A activity” was reported to be “down by 31%” from the previous year, “marking the lowest annual volume since 2005” (Hall 2008).

Furthermore, the National Intelligence Council’s 2020 Project has suggested that a global pandemic, terrorism, or a “popular backlash against globalization” could slow down, or even reverse globalization (National Intelligence Council 2004, 30). Such a ‘backlash’ could result from a “white collar rejection of outsourcing in the wealthy countries” or a “resistance in poor countries whose people saw themselves as victims of globalization” (Ibid). The forward progress of economic globalization may

also require the presence of a benign hegemonic military power that desires a liberal economic order and is able to ensure that integration is possible by signaling its willingness to protect that order.\textsuperscript{24} If Europe’s position as the dominant military power ensured the survival of the economically interdependent system it favored before World War I, many believe that the United States is playing a similar role today.\textsuperscript{25} It is a valid concern, therefore, that any protectionism emanating from the US, which signals an unwillingness to foster certain areas of economic integration, could threaten the very basis of that liberal economic order. Dombrowski, for example, points out that increased efforts by the United States to expand “its security perimeter” to include the “transportation hubs that facilitate international commerce” after the September 11\textsuperscript{th} terrorist attacks could actually serve to “limit, contain, and

\textsuperscript{24} Gilpin has argued that, in their respective hegemonic roles, “Great Britain and the United States” both “created and enforced the rules of a liberal international economic order” successfully, largely because of the power that allowed them to “[impose] their will on lesser states and partially because other states have benefited from and accepted their leadership.” Here the benefits include a “secure status quo, free trade, foreign investment, and a well functioning international monetary system” (Gilpin 1981, 144-145, emphasis added). Importantly, hegemony only leads to increased economic interdependence among nations when the hegemon is both ‘efficient’ economically and actually desires such a liberal economic system (Gilpin 1981, 129). Following Gilpin, Lentner claims that the “phenomena and pressures associated with global integration rely upon specific historical power arrangements and political choices made by specific agents” (Lentner 2004, 19).

\textsuperscript{25} According to Gilpin’s Hegemonic Stability Theory, as the hegemon loses ground to rising challengers who are no longer happy with the current order, the stability of that order founded by the hegemon will be jeopardized, and hegemonic war possible. If the hegemon loses to its challenger in such a war, a new order will be created (Gilpin 1981, 9-15). Gilpin stresses that while this does not mean that “the decline of hegemony will lead inevitably to the collapse of a liberal world economy. … the dominant liberal power’s decline does … greatly weaken the prospects for the survival of a liberal trading system” (Gilpin 1986, 311). Lenter follows this logic when he claims that “should the United States falter or should its allies lose confidence, then circumstances might undergo a substantial change. In short … globalization does not constitute an inexorable juggernaut leading the world onward” (Lentner 2004, 19). Ikenberry, however, raises the possibility that the current liberal economic order might outlive the end of US hegemony, because of the highly institutionalized, or ‘constitutionalized’ nature of today’s order (Ikenberry 2001, 23-29).
perhaps even reverse economic globalization,” at least “when combined with new … restrictions on the movements of people and ideas across national borders” (Dombrowski 2005, 235). These cautions may take on an even greater sense of urgency, when in 2008 and 2009 many national economies have begun to slow down and international commerce has begun to contract correspondingly. Yet, even in this situation, states have not altered their behavior to allow mergers that they would normally attempt to block on national security grounds.

If one accepts these premises, then government led barriers to cross-border mergers and acquisitions (especially those originating in the United States) may be a troubling sign for the future of global economic integration. It is worth noting that these concerns were raised in the Economist Intelligence Unit’s 2006 report on World Investment Prospects to 2010, the same report that argued that the future would likely be one of “constrained globalization” (EIU and CPII 2006, 43). In examining the possibility that domestic barriers to foreign takeovers could be a possible cause of a “backlash” against globalization, the EIU notes:

“Crossborder M&As sometimes involve domestic firms that are regarded by politicians as ‘national champions’ – perceived to be important for national security, cultural identity, or economic development. Host-country resistance to such investment is becoming more frequent. Recent protectionist reactions in Europe and the US towards some M&As suggest that this favored mode of entry for MNCs into other markets may become more difficult. … These developments demonstrate a potentially significant reservoir of resistance to cross-border M&As. It would be ironic if developed countries – which led the FDI liberalization wave of the past two decades or so and, like most other countries, benefited from it – now led a backlash against FDI and triggered a roll-back of liberalization” (EIU and CPII 2006, 11).26

26 As evidence of this, the EUI report further cites that: “Resistance to crossborder M&As was reflected in the European Commission’s takeover directive, which was diluted compared to initial
This could be especially true if governments seek to engage in reciprocal behavior, or seek to use national security arguments to prevent foreign takeovers in even the most benign of sectors. Indeed, if we look at France’s recent efforts to protect the food and gaming industries there is evidence that the latter possibility may already be occurring. As will be examined in the theory section below, there is also evidence that shows that national security arguments may be used to block foreign takeovers that are believed by the host state to threaten the nebulous concept of ‘economic security’ – a distinct threat to an increase in economic integration.

The clear ties between M&A activity and economic interdependence and integration suggest two significant reasons why there is a need to understand when and why governments might intervene against foreign takeovers. The first is that a reversal, or even slowing, of globalization could have a significant and negative economic impact on the global community. Krugman’s work tells us that the gains from FDI are manifold: FDI allows countries to enhance their “comparative advantage,” creates “increasing returns to scale,” leads to “increased competition,” and often results in “valuable spillovers to the domestic economy” in the form of new technology and or more highly skilled workers (Graham and Krugman 1995, 57-59). A “backlash scenario” against globalization could lead not only to the loss of these drafts. Two bills are at present making their way through the US Congress that would subject potential foreign takeovers to more rigorous scrutiny – relatively limited changes are being considered in the House of Representatives and a far more restrictive bill is before the Senate” (EIU and CPII 2006, 11).
benefits, but also pose a “huge opportunity cost in terms of forgone FDI” that the Economist Intelligence Unit places at “$270bn in [world] FDI inflows per year” (EIU and CPII 2006, 14). A theory that explains why governments engage in such protectionist behaviors in the face of these potential costs may help provide public policy makers with the tools necessary to make decisions regarding foreign takeovers in the future.

The second reason is that the protectionist behavior being discussed here may help us to better understand the theoretical relationship between economic interdependence and levels of conflict within the international system. Liberal theorists tend to view this relationship as positive, expecting a lessening in international conflict as states become increasingly interdependent, the gains from free trade become widespread, and the incentives towards conflict are reduced. These observations make the fact that barriers to cross-border M&A are being erected between military and economic allies extremely puzzling. As theorists of complex interdependence, Keohane and Nye caution that the tendency towards conflict will largely depend on the form that interdependence takes, but that in general we should expect less military conflict among states that are tied by extremely high levels of economic interdependence (Keohane and Nye 2001). At the same time, they note that “conflict will take new forms, and may even increase” as interdependence deepens – an insight which may help to explain the puzzle if we consider these barriers to M&A as a form of conflict. Yet, why states would engage
in a form of conflict that threatens the very survival of the liberal economic order that brings not only gains from trade, but also a high level of stability to the system by decreasing the likelihood of the use of military power, must be explained. Structural realism suggests that (in general) conflict, especially economic conflict, might increase with interdependence (Waltz 1993). Yet, this explanation is both underspecified and vague; providing little or no clarification of what form such conflict will take, and how those forms might vary according to the different relationships between the states in question. It will be the purpose of this dissertation to fill this theoretical gap, and to test the new theory proposed here. Towards this end, the next chapter provides an outline of the author’s theory that barriers to foreign takeovers serve as a form of non-military internal balancing of economic power.
Chapter 2 – The Theory

Introduction

The purpose of this chapter is to provide a theoretical explanation for the puzzle of why states intervene in the foreign takeover process, even within the context of a security community based on economic liberalization and integration. Though extant theory alone cannot explain this puzzle, it can provide valuable insights that assist in producing a clearer picture of when and why states intervene in this process. The following sections will therefore outline the potential national security\textsuperscript{27} concerns raised by both foreign takeovers and the economically interdependent relationships they help create. Once this general security context has been examined, the theory and proposed solution to the puzzle will be presented. Specifically, it will be argued that such government intervention is a type of non-military internal balancing, which will tend to take different forms depending on its motivations.

\textsuperscript{27} For the purposes of this dissertation, national security will be defined as that which seeks to maintain the survival of the state and preserve its autonomy of action within the international system. As few states completely agree on the scope of national security, it will be necessary in the case studies that follow to look for the identification by each state of those issues that they identify with ‘national security.’ It is understood that state officials may use this term both instrumentally and inappropriately, but the determination such occurrences is the subject of a separate inquiry. It is also important to note that few states actually specify (in writing or speech) what precisely is meant by national security, because the flexibility that this lack of specificity brings to the state is vital and necessary to maintenance of security itself (however one chooses to define it).
National Security and Foreign Takeovers

Given the importance of economic power to the state, there are a number of national security concerns that states must address as cross-border mergers and acquisitions become an increasingly regular form of FDI. This is true regardless of a state’s regime type or power status. Even the United States, an arguably benign liberal hegemon, has recognized the need for a strict policy that maintains its technological advantage (and thus its military advantage) in the world by pursuing economic policies that maintain the health of the defense industrial base, prevents its control by foreign governments, and ensures that technology shared with its closest allies is not exported to unfriendly regimes. Undergirding this strategy are the institutions that allow the US government to mitigate or block those cross-border mergers and acquisitions it believes to threaten the national security.28 Graham and Marchick explain that the dangers emanating from such deals are numerous. They argue that when assessing a potential takeover:

“the threats most commonly considered by CFIUS include the following potential actions of foreign investors: shutting down or sabotaging a critical facility in the United States; impeding a US law enforcement or national security investigation; accessing sensitive data …; limiting US government access to information for surveillance or law enforcement purposes; denying critical technology or key products to the US government or industry; moving critical technology or key products offshore that are important for national defense, intelligence operations, or homeland security; unlawfully transferring technology abroad that is subject to US export control laws; undermining US technological leadership in a sector with important defense, intelligence, or homeland security applications; compromising the security of government and private sector networks in the US; facilitating state

28 As will be investigated in more detail in the following chapter, these institutions include the Exon-Florio Legislation and the related CFIUS review, as well as the review process associated with the Foreign Ownership, Control or Influence (FOCI) legislation.
or economic espionage through acquisition of a US company; and aiding the military or intelligence capabilities of a foreign country with interests adverse to those of the United States” (2006, 54).

Though their list focuses on US security, it could be applied to almost any state faced with a potential foreign takeover.

Most of these concerns emanate from a state’s fear that another state will seek to gain influence over one of its corporations in order to enhance their position and power within the international system. For example, as Graham & Marchick point out, such predatory behavior may include a state that uses its influence over a domestic company to encourage the takeover of a foreign company in order to engage in espionage (54).29 Worse yet, such a state might endeavor to acquire a vital component of another country’s defense industrial base (which they could then destroy, hijack, or generally use to their advantage). The Chinese government, for instance, has a reputation for trying to buy foreign companies in order to acquire military technology through espionage (Interview January 11, 2007; Graham and Marchick 2006, 112-113). Not surprisingly, this behavior has affected the reception

29 Such concerns over espionage date back to the US experience with Germany during the First World War, when it was discovered that the Germans sought to control US companies (particularly in the vital chemicals sector) in order to “[enhance] German war capabilities, [reduce] Allied capabilities, [and spy] on the United States” (Graham and Marchick 2006, 2-18). According to Graham and Marchick, a “public and official attention to German investment intensified following a 1915 incident in which a German diplomat accidentally left a briefcase on New York’s elevated transit. Materials found in the briefcase indicated that some German-controlled operations in the United States were aimed at, or at least useful for, enhancing German war capabilities, reducing Allied capabilities, or spying on the United States. This revelation confirmed the suspicions of certain members of congress that at least some German investment in the United States was meant to achieve sinister ends, even for cases in which the apparent purpose of the investment was purely for commercial gain” (4 - emphasis added).
of Chinese takeover bids within the United States (Ibid). Indeed, the only foreign acquisition to be formally vetoed by the President of the United States (since the Exon-Florio legislation enabling him to do so) involved a Chinese company that sought to takeover a US machine operating company.

Another concern is that a state may (through entities it owns directly or is able to influence) endeavor to acquire foreign companies that will increase its control over a valuable resource. Such control could (in turn) enhance that state’s position within the international system by increasing its influence over the behavior of those states that need the resource in question, and fear an intentional disruption of its supply. The behavior of the Russian government in recent years, which suggests an effort to increase its control over the oil and natural gas industries within Europe in order to augment its influence in the region, illustrates this point well.

---

30 Graham and Marchick have argued that public concern regarding this issue and comprehensive confirmatory evidence provided to the government by both the CIA and FBI have affected the way that the “CFIUS … reviews … acquisitions of US companies by Chinese entities” (113). (These authors provide one of the most detailed investigations into the dynamics between national security and foreign direct investment through mergers and acquisitions in the US, and many of their useful insights will be drawn on below.)

31 As will be discussed below, there is a difference between a formal veto, and intervention that effectively blocks a foreign takeover. Yet, the result is the same, and the exceptional rarity of formal vetoes should not lull the reader into a belief that effective blocks are not a more common and frequent occurrence across the globe – for they are.

32 The machine operating company did not involve sensitive technology, but was a contractor to Boeing; the US government determined that the takeover was an effort on the part of the Chinese government to gain entrance to the industry in order to later pursue predatory practices (Interview 2006).

33 In January 2006, Russia suspended natural gas supplies to the Ukraine in order to obtain that state’s acceptance of higher gas prices (Nichol, et al. 2006). Russia threatened to do so again in 2007, and then cut off supplies once more in January 2009 as the result of another price dispute. The Russian government also played a large role in Gazprom’s takeover of its foreign partners’ (Royal Dutch Shell of Great Britain, and Mitsui and Mitsubishi of Japan) stake in the Sakhalin-2 gas project (RFE 2006b).
Significantly, each of these national security concerns implies that the state on the receiving end of the cross-border transaction believes the sending state could be placed at an advantage in terms of military or economic power, which could be potentially detrimental to the receiving state. Whether or not the sending state actually intends, or is believed to intend, harm will (as discussed further below) have a great affect on how the government of the receiving state responds to the proposed transaction.

**Economic Interdependence and Power**

Clearly, some states do seek to take advantage of the interdependent relationships that arise from economic globalization. Indeed, this notion is well documented (Gilpin 1981; 1987; 2001; Hirschman 1945; Moran 1993; Shambaugh 1999; Tyson 1992; Waltz 1993; Waltz 1999) and, though most theorists of economic interdependence deal with the dependencies that result from foreign trade, rather than foreign direct investment, it is a reasonable assumption that these dynamics may be applied to the latter.  

In “an attempt to improve Gazprom’s bargaining position,” the “Russian environmental authorities … threatened [the project with] … administrative sanctions, withdrawal of key permits, and environmental damages (RFE 2006). As a result, some “US companies” believe that “a ‘soft nationalization’ is taking place in [such] sectors of Russia’s economy” (Gutierrez October 11, 2006); rumors even surfaced in 2006 that a confidential NATO report argued that Russia’s intent is to create an oligopoly in the natural gas industry. It is not surprising, then, that governments have a heightened sensitivity to cross-border acquisitions that threaten to diminish their control over important resources.

---

In “an attempt to improve Gazprom's bargaining position,” the “Russian environmental authorities … threatened [the project with] … administrative sanctions, withdrawal of key permits, and environmental damages (RFE 2006). As a result, some “US companies” believe that “a ‘soft nationalization’ is taking place in [such] sectors of Russia’s economy” (Gutierrez October 11, 2006); rumors even surfaced in 2006 that a confidential NATO report argued that Russia’s intent is to create an oligopoly in the natural gas industry. It is not surprising, then, that governments have a heightened sensitivity to cross-border acquisitions that threaten to diminish their control over important resources.  

It should be noted here that Keohane & Nye define dependence as “a state of being determined or significantly affected by external forces,” and interdependence as “mutual dependence,” which “in
‘sensitivity’ and ‘vulnerability’ as a result of a mutually dependent relationship; where sensitivity implies that a state A can suffer the negative effects of the actions of another state B “before policies are altered to try to change the situation,” and vulnerability implies that state A can be negatively affected by the actions of state B “even after policies have been altered” (Keohane and Nye 1989, 13). Hirschman’s systematic examination of such phenomena demonstrates not only that “international trade might work to the exclusive or disproportionate benefit of one or a few of the trading nations,” but also that states may abuse their position in an asymmetrical trading relationship (Hirschman 1945, 11). He makes the important point that enhancing a state’s economic power does “not necessarily lead to an increase in relative power,” or “a change in the balance of economic power in favor of any particular country,” unless states pursue policies that enhance the dependencies of other states on that relationship (Hirschman 1945, 9). As some states do pursue such policies, states consequently remain concerned with the relative distribution of the world politics refers to situations, characterized by reciprocal effects among countries or among actors in different countries” (Keohane and Nye 1989, 8).

35 Hirschman speaks of a somewhat similar phenomena, namely that there is an “influence effect of foreign trade,” where he notes that “even if war could be eliminated, foreign trade would lead to relationships of dependence and influence between nations” (Hirschman 1945, 15). Waltz also discusses sensitivity and vulnerability interdependence (Waltz 1979, 139-146).

36 In observing the nefarious and predatory behavior of the Nazi regime (both before and during WWII) in its trading relationship with Southeastern and Central Europe, Hirschman illustrates that a state A might purposefully use an initial advantage in an interdependent trading relationship to enhance their economic power position relative to another state B. This might be done by following economic policies that a) enhance the position of state A as a supplier to state B of critical “goods needed for the war machine” and b) make it harder for state B to try to disengage from that relationship (Hirschman 1945, 34-35). This illustrates the possibility that states (whether or not they are yet engaged in military conflict) might pursue the policies of economic warfare by either “depriving the enemy of [the] imports” on which they have become dependent, or placing an “export embargo” on those resources (Ripsman 2005, 19-20).
gains from trade, even though liberal theorists since Adam Smith have demonstrated the absolute gains to all involved (Hirschman 1945, 5-6; Keohane and Nye 1989, 10; Waltz 1979, 140-143).37

Thus, states are highly likely to focus on the relative distribution of economic power within the international system.38 This is especially true in an environment where the likelihood of major power war is extremely low (Mandelbaum 1998/9; Waltz 1993) and hard power within the system must increasingly be gained through non-military means.39 States will, therefore, seek to increase their economic power, which benefits not only that state’s domestic economy, but also provides absolute gains to its trading partners, and hopefully increases the state’s ability to influence others by enhancing either its position of dominance, or the dependence of other states on its economic policies.40 As a result, “economic competition” will in all probability “become more intense” (Waltz 1993, 59).

States will, therefore, feel insecure as another state gains economic power

37 Keohane & Nye caution that “it is important to guard against the assumption that measures that increase joint gain from a relationship will somehow be free of distributional conflict” (Keohane and Nye 1989, 10).
38 Waltz argues that the possession of nuclear weapons by most major economic players in the game of advanced economic interdependence will reduce their focus on relative military power (as they each possess the most important form of that power) and hence increase their focus on relative “distribution of gains” from international trade (Waltz 1993, 74). In a similar vein, Keohane and Nye point out the value of economic influence in an environment where “in many contemporary situations, the use of force is so costly, and its threat so difficult to make credible, that a military strategy is an act of desperation” (Keohane and Nye 1989, 18).
39 Here power is defined as both capabilities and the potential of state A to have influence over another state B.
40 Shambaugh provides a detailed discussion of the role of dominance and dependence in the power relations of states in interdependent relationships (Shambaugh 1999, 10-18).
relative to itself, and seek to ‘balance’ that rising economic power. Similarly, one state may seek to ‘balance’ another, if the latter attempts to make the former dependent upon it in some way through FDI. Indeed, when international relations theorists refer to the US backlash against Japanese investment in the 1980s, there is an assumption that this is what occurred. Waltz claims that once Japan had recovered from WWII, the United States “objected more and more strenuously” to its “protectionist policies” as its economy developed to that of a rising power with a “strategy of ‘creating advantages rather than accepting the status quo’” (Waltz 1979, 7-8). In 1991, Borrus and Zysman suggested that Japan and Europe were both pursuing policies to protect their technological industrial bases from foreign acquisition as part of internal balancing strategies meant to create an eventual advantage over the US (Borrus and Zysman 1991, 25 and 27). Laura Tyson’s Who’s Bashing Whom?, also written in the early 1990’s, strenuously argued for FDI policies that would protect American interests from such Japanese tactics. Graham and Marchick make a similar argument about the current US backlash against Chinese and Middle Eastern investment (2006). They assert that if “the United States in the

41 She declared that the US “must not be hoodwinked by the soothing notion that, in the absence of US intervention, the fate of America’s high-technology industries will be determined by market forces” (Tyson 1992, 13-14). Kang later argued that the “sudden increase in foreign acquisitions of domestic firms and business operations” by the OPEC countries in the 1970s and from Japan in the 1980s “alarmed a US public unaccustomed to even a hint of [FDI] activity in the postwar period,” prompting the creation of the current regulatory regime for the review of foreign takeovers (Kang 1997, 302, 311). Thus, it was public perception of the loss of relative power to another country as a result of cross-border M&A that led to the creation of new laws that enhanced the government’s ability to intervene in the foreign takeover process.
past has sought to protect itself from FDI originating in Germany and Japan,” then “today, similar sentiments are harbored toward Middle Eastern countries for their supposed links to terrorist activities, but more importantly towards China, which, as a vast and growing economy, could one day challenge the US in economic might” (94). Such an attitude, they claim, can explain US intervention into the Dubai Ports deal and into CNOOC’s attempt to buy Unocal.

The Theory

*Non-military Internal Balancing and Foreign Takeovers*

This dissertation, therefore, argues that government intervention into foreign takeovers of companies in national security sectors should be understood to be a form of *non-military internal balancing* that is primarily motivated by either economic nationalism, or pressing geo-strategic concerns. As will become clear, the theory presented here begins from neorealist assumptions about the structural dynamics of the international system and its general affect on state action. However, because structural realism alone cannot provide the solution to the puzzle investigated here, the inclusion of certain domestic level variables (such as the presence of economic nationalism) becomes necessary. This combination of domestic and structural variables with a primary focus on the structure of action could be likened to what Gideon Rose has called ‘neoclassical realism,’ whose “adherents argue that the scope and ambition of a country's foreign policy is driven first and foremost by its place in
the international system and specifically by its relative material power capabilities,”
but who also believe “that the impact of such power capabilities on foreign policy is
indirect and complex, because systemic pressures must be translated through
intervening variables at the unit level” (Rose 1998, 146). While the author does not
wish to become mired in the debate as to which ‘type’ of realism the theory of non-
military internal balancing may qualify, it should be sufficient to recognize that much
of international relations is part of a two level-game (Putnam 1988), and that an
examination of the domestic variables that motivate states to recognize and
implement structurally demanded strategies should not be degrading to realist theory,
but instead contribute to its progress in the Lakatosian sense.\(^{42}\)

Thus, this theory begins from the structural realist assumptions that states are
the primary actors\(^{43}\) in an anarchic international system and, as such, must rely on
themselves to provide for their own security and survival (Waltz 1979, 88-93). This
focus on survival within the context of a necessarily ‘self-help system’ causes states
to be concerned with the relative distribution of power, defined primarily on the basis
of ‘capabilities’ (Waltz 1979, 97-99, 129). As a result, states will seek to maintain or
maximize their state’s power relative to that of others,\(^{44}\) either when threatened (see

\(^{42}\) For a thoughtful discussion of the work of Lakatos and progress in the theory of international
relations, see: Elman and Elman 2003.

\(^{43}\) For the purpose of parsimony, Waltz also assumes that states are “unitary” actors (Waltz 1979, 93-97).

\(^{44}\) Waltz argues that states will “at a minimum, seek their own preservation and, at a maximum, drive
for universal domination” (Waltz 1979, 118).
Walt 1987), or when their relative power is challenged by an actual and unfavorable change in the distribution of capabilities (Waltz 1979, 118). According to Waltz, a state might balance the relative power of others either externally, through “moves to strengthen and enlarge one’s own alliance or to weaken and shrink an opposing one” (Waltz 1979, 118), or internally, through “moves to increase economic capability, to increase military strength, [and/or] to develop clever strategies” (Waltz 1979, 118).

This author argues that government intervention into cross-border M&A can, thus, clearly be understood to be a tool of internal balancing. Such intervention can clearly be part of an effort to preserve or enhance domestic ‘economic capability’ and/or ‘military strength,’ when the outright takeover of a particular domestic company challenges, or threatens to alter, the state’s relative possession of those capabilities. In other words, states may use intervention to protect companies (or some of their assets and capabilities) from foreign control, when that control is sought for purposes that would prove detrimental to state security. For example, states may attempt to block or alter a foreign takeover in order to preserve (and sometimes further) technological and industrial advantages that are vital to military power, or resources necessary for the state’s continued existence. Similarly, states have also used intervention to protect national champions deemed vital to the state’s economic power and position. Thus, it will be demonstrated in the chapters to come

---

45 Walt argues that states balance not just power, but threat. For a more detailed discussion of his balance of threat theory, see: Walt 1987)
that most examples of government intervention into foreign takeovers in national security sectors are clearly acts that seek to maintain or maximize the economic and/or military power of the state in response to a threat or challenge to that power, which the takeover poses. In other words: the form, intent, and purpose of this tool agrees with that of internal balancing, as it is traditionally understood.\footnote{As Vasquez has recently pointed out, the acts usually associated with external and internal balancing (i.e. – “alliance making and military buildups”) can only truly be considered to be acts of balancing when they are “taken for the purpose of checking and blocking ambitions or have that consequence” (Vasquez in Vasquez and Elman, 2003, 91).}

The scope of Waltz’s definition of internal balancing is indeed wide enough to encompass such government action. For, though many scholars have come to simplify the definition of the term to refer only to the ‘mobilization’ or enhancement of arms and other military capabilities,\footnote{See, e.g.: Layne in Paul et al. 2004 105; Mearsheimer 2001, 157; Vasquez in Vasquez and Elman 2004, 91.} the economic element should not be forgotten – especially as it is often integral to the success of the defense industrial base that oils the machine of war. In an effort to further specify the role of economic policy in balancing, Brawley argues that there is a clearly separable economic and military component of both internal and external balancing (Brawley in Paul et al. 2004).\footnote{Regarding internal balancing, he claims that the military component is an “arms race,” while the economic component is to “strengthen oneself through economic development” or “investment” to actively engage in investment strategies that focus on bolstering your own economy (Brawley in Paul et al. 2004, 82 and 85).} Though his discussion of the economic component of internal balancing revolves primarily around basic trade and financial aid strategies, there is no reason why it might not include strategies for dealing with FDI in sensitive industries of the

\begin{small}
\footnotesize
\begin{enumerate}
\item[46] As Vasquez has recently pointed out, the acts usually associated with external and internal balancing (i.e. – “alliance making and military buildups”) can only truly be considered to be acts of balancing when they are “taken for the purpose of checking and blocking ambitions or have that consequence” (Vasquez in Vasquez and Elman, 2003, 91).
\item[48] Regarding internal balancing, he claims that the military component is an “arms race,” while the economic component is to “strengthen oneself through economic development” or “investment” to actively engage in investment strategies that focus on bolstering your own economy (Brawley in Paul et al. 2004, 82 and 85).
\end{enumerate}
\end{small}
type examined here. Borrus and Zysman, for example, have earlier claimed that Waltzian internal balancing can be synonymous with ‘positive industrial adjustment’ of the type used by states to gain a competitive economic and military advantage in terms of technology, which they mention can – beyond the trade and industrial policies usually discussed in that context – involve policy that either prevents foreign acquisitions in some sectors, or places “local content requirements” on other forms of FDI (Borrus and Zysman, 1991). Thus, there is some precedent for the argument that the behavior examined in this dissertation can act as a type of internal balancing.

This dissertation further argues that state intervention into foreign takeovers acts – more particularly – as a form of non-military internal balancing. Here the strategy still involves the strengthening of military and/or economic capabilities, but has two important non-military elements. First, the tool is clearly one of policy and action that occurs within the context of the economic realm. Second, non-military internal balancing involves actions that seek to enhance a state’s relative power position vis-à-vis another state, or states, without severing the greater meta-relationship at stake between those states. Thus, the goal is still to balance a challenge or threat to power through non-military and internal means. Yet, unlike Brawley’s concept of the economic component of internal balancing, non-military internal balancing is classified by an additional objective of state behavior, as well as the type of conduct used to achieve those objectives. Furthermore, unlike soft balancing, non-military internal balancing is a strategy that may be employed by
hegemonic, as well as weaker, powers. Thus, though it might be used in tandem with soft balancing under certain circumstances, it must be clearly differentiated from that concept.⁴⁹ (See Figure 1 below.)

Figure 1. – Modes of Balancing

---

⁴⁹ There are two fundamental differences between the concept of non-military internal balancing introduced in this dissertation and soft balancing. First, soft balancing is usually defined as a tool that is used against a hegemon. Most of the literature on soft balancing has arisen out of a perceived need to explain the failure of states to form a counter-veiling military coalition against the hegemonic power of the United States after the Cold War, as well as a desire to categorize the non-military efforts of many states to constrain, or restrain, US unilateralism in the wake of September 11th (See for example: Pape 2005;Paul 2005;Walt 2005). This dissertation, however, agrees with Nye that while the world may be unipolar in the military realm, it is clearly multipolar in the economic realm (Nye 2002, 39). As a result, this author believes that traditional methods of internal balancing are even more likely in the economic realm than soft balancing theorists currently recognize and, more importantly, argues that the military hegemon may engage the same type of non-military internal balancing as weaker states. For the US seeks to preserve its relative power position through internal balancing against rising powers, just as China may use similar techniques to enhance its position. Second, while soft balancing has been defined in many different ways, most definitions are based on the policy tools that states employ, more than on the policy objectives states seek, and few soft balancing theorists mention that the use of economic tools might be part of an act of soft balancing (see for example: Pape 2005;Paul 2005;Walt 2005), while even less provide rigorous empirical testing of their claims regarding economic forms of soft balancing.
Government intervention in foreign takeovers acts as an excellent form of non-military internal balancing because it allows states to provide for their long-term security in a way that takes full advantage of their present power position without causing them to engage in activities that are viewed as inherently confrontational.\(^{50}\) In other words, states are able to both “maximize value in the present” and “secure their future positions” through economic competition (Waltz 1993, 63),\(^{51}\) without other states necessarily perceiving that build-up as targeted against them. This may be especially true in an international environment where the use of force between nations is less acceptable.\(^{52}\) It may also help to explain why allies might engage in such a form of balancing against one another, i.e. – such a strategy may allow states to jostle for position within an alliance, as well as provide for long-term security in case the strength of the alliance later deteriorates.\(^{53}\) Indeed, there is a prevailing perception that, while states intervene in foreign takeovers for the ‘high politics’ reason of national security, the act and its effects are considered to occur in the ‘low

\(^{50}\) For as with certain conceptualizations of soft balancing, the nature of the non-military internal balancing technique means that it is fairly “low cost” and “not likely to invite intense retribution” (Paul in Paul et al 2004, 4).

\(^{51}\) In reality, “the distinction between high and low politics, once popular among international political economists is misplaced. In self-help systems, how one has to help oneself varies as circumstances change” (Waltz 1993, 63). He was suggesting that economic competition among states might very well be an effective form of ‘self-help’ today.

\(^{52}\) For a discussion of the possible ‘obsolescence’ of major power war, see: (Kagan, et al. 1999;Mandelbaum 1998/9).

\(^{53}\) As with soft balancing, or Brawley’s understanding of economic internal balancing, the time frame may be longer and the urgency to balance through military means low or (at that moment) non-existent. In other words, it may be that “at the moment, the rising state may not be a challenge” for the intervening state, “but in the future, without counterbalancing, it may emerge as a key source of insecurity for the states concerned” (Paul in Paul et al 2004, 14).
politics’ realm of bureaucrats and businessmen. This perception, in turn, can in many cases help the state to maintain valuable relations with the other state involved in the transaction. Even when heads of state do become involved in a foreign takeover process, the professed desire to protect industries or technology deemed vital to national security is so old, and so inherent, that it is rarely taken ‘personally’ by other states. Additionally, on the rare occasion that such a decision does offend the host state of the acquiring company, it is difficult for that state to demonstrate its offense at the official level.

Additionally, government intervention in foreign takeovers serves as a highly flexible tool for nonmilitary balancing, because of the numerous forms it can take. In point of fact, formal government vetoes of foreign takeovers, though the most well known form of intervention, are also the rarest. Instead, interventions usually tend to range from alterations to the deal that allow the host state of the target company to retain control over their domestic security, to informal government intervention that causes the acquiring company to voluntarily withdraw from the process in order to

---

54 Whether or not the distinction between high and low politics is in fact false, such intervention is not usually considered by the general populace to be a form of balancing. Even the most politicized of cases are not seen as belonging to the realm of ‘high politics.’

55 For, if the state were not truly and directly involved in the company in question, it is not a matter for state comment. In order to show offense, they would have to deny the right of states to veto foreign takeovers on national security grounds themselves, and then forego that right themselves. On the other hand, if state B was directly involved in the company pursuing an acquisition in state A, then (even if the nations involved are on the most friendly of terms) state A’s concerns will appear largely valid to the international community as there will appear to have been some effort by state B to gain backdoor access to technology or resources in state A, of which the sovereign state A did not desire to relinquish control.

56 See the discussion provided below of the different forms of mitigation available to states.
save ‘face’ or money. Thus, many forms of intervention do not, on the surface, look as if a deal was ‘blocked,’ or make the government in question appear to be one that has taken a truly negative action against another state. Instead, their action is cloaked within the deal process. This assuages negative feelings between both countries and helps to preserve the relationship between them, while allowing one state pursue a gain in relative economic power. It also permits governments to preserve their relative economic and military power vis-à-vis other states by helping them maintain domestic control over those industries, resources, and companies they consider vital to national security.  

Now, while these arguments clearly indicate the tendency of states to balance economic power through non-military internal balancing, they do not answer the puzzle of why governments would treat members of their own security community in the same way as those outside of that community. For while it might be a fairly obvious choice for the realist that America should choose to balance a rise in Chinese economic power, the motivations behind a European state’s desire to balance the rise in the economic power of another European state (within the context of both an

---

57 It is a mechanism that protects the state A against other states or entities that might seek to use the open market for M&A as a means to cause harm to state A. Deleterious actions to national security resulting from M&A activity could vary widely, as demonstrated by the vast array of concerns Graham and Marchick argued that the US government looks at when dealing with a foreign takeover. For example, state B might actually be seeking to gain control or influence over a company with technology sensitive to the security of state A through such a takeover. Or, company Z in state B with no ties to the government might wish to pursue a takeover for reasons that are purely to do with opportunities for synergies or the creation of value between it and company X in state A, but state B may actively engage in corporate espionage or have a bad track record with export controls regarding sensitive technology. Indeed, the question of what a given state will consider to threaten its national security when it comes to mergers and acquisitions is a complicated one, as will be discussed below.
economic and a security community) are not as obvious. As mentioned above structural realism does not account for why a state would engage in such behavior against its military allies, or how that balancing of economic power might vary according to motivation and context.

The rest of the theory presented here will attempt to resolve these issues, by arguing that the answer lies in the form of government intervention that non-military internal balancing takes, which will vary in accordance with its motivations. A probabilistic theory of intervention (laid out below) will be followed by an examination of the possible solution to the puzzle, and the hypotheses that will be tested in this study to verify the soundness of that argument. These hypotheses will be tested over time (from September 11th to the present) and across countries (the United States, the European Union 15, China, and Russia), both statistically and qualitatively in the chapters to come. The methodology section, which will follow the remainder of the theory section below, will provide the rationale behind these parameters.

**A Probabilistic Theory of Intervention**

Before moving to the solution of the puzzle, it is necessary to first provide a general and probabilistic theory of when and why governments are likely to intervene in foreign takeovers. As mentioned above, non-military internal balancing is motivated primarily by either geopolitical concerns or economic nationalism.
However, alternative explanations, including economic and interest group arguments, must be controlled for. Thus, the principal hypothesis that will be tested in this study is that an individual government’s use of domestic barriers to foreign takeovers of companies in national security sectors will depend on (1) the geo-strategic implications/concerns raised by the potential takeover; (2) the level of economic nationalism in the target company’s home state; (3) the economic competition concerns raised by the potential takeover; as well as (4) the presence of interest groups that oppose the acquisition of the target company and have access to power in the home state of that company. Stated in terms of dependent and independent variables, the hypothesis is as follows:

\[ Y_{1(\text{Government intervention})} = X_{1(\text{Geo-strategic concern})} + X_{2(\text{Economic nationalism})} + X_{3(\text{Competition concern})} + X_{4(\text{Interest groups})}. \]

The use of the qualitative method will allow for the detailed exploration of the various nuances and dimensions of these independent variables, and the definitions that follow are those that will be used in the performance of a number of case studies detailed below. (As will be discussed in the next chapter, however, these variables will require narrower definitions for the purposes of quantitative testing.)

The presence of geopolitical competition between states, therefore, will be
determined qualitatively on the basis of three factors. The first factor will be the degree to which the character of the political relationship between the countries involved in the transaction is positive or negative. In other words, are the two countries formal military allies? If so, are they members of the same security community? Does the potential for strategic competition exist between those countries? Even if the states $A$ and $B$ are allies, is there a prevailing perception within state $A$ that state $B$ is a threat? The second factor is the degree of resource dependency between states $A$ and $B$. In other words, what is the general level of state $A$’s dependence on trade to obtain basic resources such as oil, natural gas, and water? Furthermore, (to the extent that information is available) what is the specific level of state $A$’s dependence on state $B$ for these resources? The third factor is the differential in relative power between the two states involved in the transaction. Is the host state of the acquiring company a major power? Is the host state of the target company a major power? Is state $B$ rising in relative economic power to state $A$? Is it increasing in military power?

The next chapter will include a more detailed explanation of how these variables will be measured for the purposes of statistical analysis. These data used to measure these variables will be sourced from the EuGene Database, with the exception of ‘resource dependency’ variable that will be sourced from International Energy Agency (IEA) reports. The coding details for these variables will be included in the appendix at the end of the dissertation.

For the sake of clarity, letters have been assigned to identify the different entities involved in a given transaction.

<table>
<thead>
<tr>
<th>Role</th>
<th>Signifier</th>
</tr>
</thead>
<tbody>
<tr>
<td>Host State of Target Company</td>
<td>State $A$</td>
</tr>
<tr>
<td>Host State of Acquiring Company</td>
<td>State $B$</td>
</tr>
<tr>
<td>Target Company</td>
<td>Company $X$</td>
</tr>
<tr>
<td>Acquiring Company</td>
<td>Company $Z$</td>
</tr>
</tbody>
</table>
The presence of economic nationalism in state A will be determined on the basis of three factors. The first will be the level of *national pride* that the populace of state A professes to have. The second factor will be the level of *anti-globalization sentiment* within the populace of state A. The third factor will be the level of domestic support for companies that are considered ‘national champions.’ In other words, is the target company often referred to in public parlance as a ‘national champion’? Does state A demonstrate support for national champions in other cases?

The remaining variables represent two possible alternative explanations of government intervention for which this study will need to control. The first is that the specific form of economic protectionism being examined here may be explained by the presence of interest groups pressing for governmental intervention. The case studies will, therefore, seek to identify the presence of individual pressure groups that were involved in the process, and determine their effectiveness in changing the policy of the government in question vis-à-vis the potential takeover.

This author expects to find, however, that while interest groups may raise the awareness of state A to national security issues raised by state B’s involvement, or company Z’s behavior, it is unlikely to be the *cause* of intervention. In other words, states will tend to formally intervene (either to block or alter a deal), only when national security issues are actually present because of the reputation concerns

---

60 This data will be sourced from the World Values Surveys.  
61 This data will also be sourced from the World Values Surveys.
involved. If we look to the United States, for example, it seems to be the case that while there is often evidence that a pressure group has raised the government’s awareness of a deal, once that awareness is raised pressure groups are largely kept out of the process. As governmental decisions in this area seem to fly in the face of interest group pressure as often as they agree, the results of the hypothesis testing are expected to show little or no correlation to this variable.

The second alternative explanation for government intervention is that the merger or acquisition was blocked on the basis of competition concerns raised by either the host state of the target company, the host state of the acquiring company, or a relevant regional economic authority (such as the EU Commission). Each case will be examined to see if the relevant state, or regional, authority raised competition concerns. This variable is included in the case studies as a control variable, because of the possibility that government review of a given deal might be precluded by the decision that the takeover should be blocked on the grounds of competition.

If the sole purpose of this inquiry were purely to predict the likelihood of intervention in any one particular case, it would be necessary to formulate our hypothesis differently and look at that deal from every possible angle. For instance, Grundman and Roncka have created a comprehensive “risk assessment matrix” to

---

62 An anonymous source has pointed out that once the US government is made aware of the security implications of a takeover that they might have otherwise overlooked, the government then makes it quite clear to the interest groups involved that they will not be pressured into a decision in either direction. Instead, the interest groups are reminded of the institutionalized procedures for review of takeovers that must be followed in the United States by the CFIUS, and that is a process that remains above their influence.
help determine the chances of a US government intervention into a given cross-border merger and acquisition (Grundman and Roncka May 2006, 8). For Grundman and Roncka there are twenty possible variables that might affect a company’s chance for survival of the government review process. These include general economic and political variables such as: whether or not the deal is “beneficial to current US customers;” the “viability of current US ownership;” the “price paid (relative to all bidders);” whether or not the “rationale of the acquisition” is geared towards “consolidation;” the “amount of media coverage;” and the “lobbying strength of competing bidders” (Grundman and Roncka May 2006, 8). Others are focused on how the deal affects the health of the defense industrial base, including: the benefit to the US in terms of the “net technology transfer;” the “requirement for interoperability with the US;” whether or not the “target firm’s business” is “commercial” or “defense” related; the degree to which the target company has a “value-added role” as a “prime contractor” to the DoD or as a “components” manufacturer; whether the target’s “level of classification” is “unclassified” or one of “special access;” the “technological sophistication” of the target’s product; and the “dependence of the US on [the] target” company in question (Ibid). Additional variables focus on the national security concerns germane to this inquiry, namely: whether or not the “partner country is [a] US ally;” the degree of “foreign ownership;” the degree of “foreign government ownership;” the degree to which the “management” of the foreign company “is influenced by [a] foreign government;” whether or not the
“parent country” of the acquiring company has “ties to ‘unfriendly’ entities (e.g. Libya);” the “[company’s] links to ‘unfriendly’ entities;” and the degree to which the “political climate” is “hostile” to the deal (Ibid). Checking off every item on this exhaustive list of factors is the only choice for companies engaging in the US review process.

The goal of this dissertation, however, is to create a theory that is generalizable across countries and time, rather than one that is U.S., or case, specific. It will, therefore, be necessary to draw on the work of Grundman and Roncka, but also to ascertain whether or not some of the specific variables they examine might fit into broader categories, or drop out all together. It must be stressed again that this dissertation is looking to delineate probabilistic tendencies towards state intervention across both cases and time. The author fully recognizes that states (and the bureaucrats dealing with these issues on a daily basis within those states) approach each foreign takeover as an individual case, and may not even be cognizant of the overarching tendencies in their behavior. What is being examined here, however, is how the environment in which they must act (on the whole) structures the action of states in those individual cases, given the presence of the hypothesized variables.

The Solution to the Puzzle

The above provides a probabilistic theory of government intervention into cross-border M&A, but does not serve to explain our puzzle of why states utilize
domestic barriers to foreign takeovers of companies in national security industries, even within security communities founded on economic liberalism and integration.

One way to solve the puzzle is to argue that not all forms of non-military internal balancing through government intervention into M&A in national security industries can be considered equal. Rather, as in all forms of balancing and power competition, there are variations on the theme that can achieve the same desired effect. In other words, state A may be able to ensure the protection of its national security, and even preserve its long term power objectives relative to state B by simply altering or mitigating the effects of a M&A deal in certain ways. (Again, these will be defined fully in the next chapter, but one such example in the US might be through the creation of a Special Security Agreement (SSA).) This will be a more likely option among close allies, especially where some degree of integration of the defense industrial base is preferable because it widens the scope of competition, and thus enhances the opportunities for the development of new technologies while likely lowering prices. Thus, while governments will intervene in cross-border takeovers by allies, that intervention may be more likely to lead to a ‘changed’ deal

---

63 An SSA is an agreement that may be made between the US government and a foreign acquirer of an American company, when that company has sensitive/classified facilities, programs, and/or contracts with the US government. An SSA, for example, obliges the foreign acquirer to adhere to “all the requirements of any cleared firm in the NISP [National Industrial Security Program]” and would mean, for example, that while the “prerogatives of ownership [would be] retained by [the] foreign investor,” the company’s “decisions [would have to be] monitored by US Outside Directors,” who would be required to have a certain level of security clearance with the US government (DSS 2008). For further information on SSAs or the NISP, see the Defense Security Service’s (DSS) website on industrial security: https://www.dss.mil/GW/ShowBinary/DSS/isp/industrial_sec.html.
that protects national security, rather than a ‘blocked’ deal.

Most instances in which deals are effectively or formally blocked will result from geo-strategic concerns that arise between countries that are either not allied, or between whom there have arisen issues of trust despite the existence of an alliance relationship. It must be noted that there are examples of even the closest of military allies finding that companies within their state (that they may or may not be connected to) are having their proposed takeovers effectively or formally blocked. It will be argued that this can occur when the host state of the acquiring company, or the acquiring company itself, is viewed as threatening for a significant reason. Some flexibility is required in determining what poses a significant enough threat to lead to a breakdown in trust between two countries – it could range from fears of espionage to a negative perception of the other state arising from actions in the realm of national security (despite the existence of a formal military alliance between those states). As one source within the legal community has pointed out: “there are allies, and there are allies” (Interview January 11, 2007). Which ‘friends’ are the most trusted, and in what areas they are trusted, becomes quite clear to those looking at government intervention into M&A. In these instances, there will be geo-strategic concerns that will lead to a deal being effectively or partially blocked, despite a close military and/or political relationship.
**Forms of M&A Intervention as Non-Military Internal Balancing**

It will be argued here that government intervention into Mergers & Acquisitions can be considered to take three possible forms. These will be classified as ‘unbounded’ intervention, ‘bounded’ intervention, and ‘internal’ intervention. Each of these forms will be defined below, as will the conditions that might allow a deal to proceed with little or no intervention. In most of the sectors considered to be integral to national security, discussed above, it is extremely rare for a deal not to face some level of mitigation or alteration before it is allowed to go through, so it is equally important to identify the circumstances under which this might occur. (Please refer to Figures 2 and 3 below).

**Figure 2. – Types of M&A Intervention as a Tool of Non-Military Internal Balancing**

![Diagram showing the types of M&A intervention]

- Non-Military Internal Balancing
  - M&A Intervention
    - ‘Unbounded’ Intervention
    - ‘Bounded’ Intervention
    - Internal Intervention
    - No Intervention
‘Unbounded’ Interventions

A deal will be considered to be an example of ‘unbounded’ intervention when the result of government intervention is either a formal, or effective, block of a cross-border merger or acquisition as a result of stated concerns regarding national security. A ‘formal block’ will be considered to have occurred when the government, or a representative government agency, announces that the deal has been vetoed on national security grounds. An ‘effective block’ will be considered to have occurred when the acquiring company withdraws or rescinds its proposed bid for the target company as a result of the following conditions:

1) The government (and/or its agencies) voices such significant concerns or reservations regarding the deal before the formal review process begins that the acquiring company feels compelled to withdraw the bid in the face of ‘overwhelming opposition’ that would be costly to overcome.

2) The part of the deal involving the state in question has, for all intents and purposes, been vetoed through either a forced divestiture of the facilities/subsidiaries in their country or some other, similar, means.

3) A lengthy review process through which the company does not believe its bid will emerge successfully either because
   a. The review process has extended in time to a point where it is proving
too costly for the company to proceed\textsuperscript{64} or

b. The government has indicated to them that they are unlikely to emerge from the process successfully.

Indeed, anonymous sources confirm that in the United States, CFIUS and/or its member organizations will indicate to a company whether or not it is likely to emerge successfully from a CFIUS review or investigation. This is one of the reasons that the number of withdrawals during the review/investigation process is exponentially higher than the number of vetoes.\textsuperscript{65}

Such ‘unbounded’ opposition will usually be motivated by geopolitical concerns and involve companies about which state A is concerned with protecting on national security grounds. These will often be the most highly politicized cases in the United States, as interest groups there will be able to effectively prey on post-9/11 sensitivities to national security. It is important to note again that while interest groups may raise the alarm about a deal, they will rarely affect its outcome. It is also possible that some of these cases will simultaneously raise competition concerns in other government agencies – agencies that might seek to veto the deal on those grounds. This will, therefore, have to be controlled for as the hypothesis is being

\textsuperscript{64} If the proposed bid was going to be financed through debt rather than, or in addition to, cash or stock, then the debt that had already been raised could be costly to maintain until the bidding process is over. There are also audience costs, and opportunity costs, associated with a lengthy bidding process that the acquiring company may wish to avoid if they become too onerous.

\textsuperscript{65} There has only been one presidential ‘veto’ of a transaction since 1988. However, during that same time period, 13 of the 25 bids that went to the ‘full investigation’ stage of the CFIUS review process were withdrawn by the potential acquirers before the findings of that Committee could be sent to the President (Graham and Marchick 2006, 57).
‘Bounded’ Interventions

Bounded interventions will be considered those that result in deals that the government has been able to alter in its favor through some means or another. Though the effect of interest groups and competition concerns will be controlled for, it is usually expected that ‘bounded balancing’ will most often be motivated by either pure national security concerns raised by the geopolitical competition context of the case and/or economic nationalism surrounding companies in those national security industries named above. It is also expected that in the latter case, states may closely identify ‘national security’ with ‘economic security.’

In the United States, mitigation may take a couple of different broad forms. Graham and Marchick, for example, note that “if the [Department of Defense] believes that the risks [to national security] it identifies can be managed, it may also negotiate mitigation measures with the transaction party” which “generally fall into four categories (in ascending order of restrictiveness)” (Graham and Marchick 2006, 71). These are “board resolution,” “limited facility clearance,” a “Special Security Agreement (SSA)” or “Security Control Agreement (SCA),” and a “voting trust agreement” or a “proxy trust agreement” (Graham and Marchick 2006, 71-72). One of the most recent CFIUS decisions, concerning the Alcatel – Lucent deal that will be examined in depth in chapter five of this dissertation, also made it clear that new
forms of mitigation may be emerging. In the review of that takeover, the United States included an ‘evergreen’ clause as part of the security agreement between itself and the companies involved, which basically means that the US government retains the right to force a reversal of the deal at any point in the future if it discovers that Alcatel has not lived up to its promises regarding measures to safeguard US national security. Members of the legal community have indicated their belief that such a clause has never been used before in a US security agreement regarding a cross-border acquisition (Interview January 11, 2007). It should also be noted that forced divestitures, while not common in the US, do occur there and in other countries as a form of mitigation. The different types of mitigation in the US and abroad will be defined and examined in more detail in the chapter on bounded interventions.

Though there are many different forms that mitigation may take, and these forms vary by country, the US forms of mitigation (mentioned above) will be used as the standard, as they are the most highly institutionalized and the most is known about them. Similar phenomena will be looked for in the other countries in order to determine whether or not a deal has been altered. That being said, the actual existence of most of these forms of mitigation in an individual case is meant to be confidential, and their content is classified. Thus, we will only know of the existence of these forms of mitigation if they have been made public through a press release made by one of the companies in question, or the news of their existence has been leaked to

---

66 For a good discussion of this issue, see: (Smith 2006).
the press. This will obviously skew any statistical results away from the correlation that this study seeks to find between mitigation and the variables proposed above. This is, however, an acceptable reality, because it means that we can largely assume that any correlation found is in fact much stronger than the statistical results indicate.

It is important to note here that one of the reasons that we are more likely to see bounded balancing among the allies of the Western security communities (meaning the transatlantic partnership and the European Union) is because the process for the review of cross-border mergers and acquisitions is more highly institutionalized among the Western advanced industrial states. Indeed it is most highly institutionalized in the United States, thus the US is where we should expect to see the lowest level of interest group influence on outcomes of the review process. The process is less institutionalized within Europe, but still is much more advanced than it is in say Russia, or China, where there is extremely little transparency about how the review process even occurs. Higher levels of institutionalization allow allies to find alternative solutions to national security concerns, rather than simply not allowing a deal to occur, or throwing up such overwhelming opposition that the proposed acquirer voluntarily withdraws from the process. Aside from the more closed natures of the Russian and Chinese markets, and the high risk that these markets pose for investors, this may contribute to the extremely low levels of cross-border deals in Russia and China in what is being defined here as a national security sector.
Non-Intervention

The following circumstances allow a proposed deal, that would normally be mitigated, to go through without any visible intervention. (Again, it must be noted here that some of those deals that seem to go through without intervention may have actually been mitigated in some way by the host state of the target company but, due to the classified nature of that mitigation, it may not be possible to tell.)

First, if the bid for the target company comes from an institutional investor based in a foreign country, or a consortium of institutional investors from multiple countries, intervention may be less likely. Here it is expected that the deal will be more likely to go through, because institutional investors are generally viewed as more focused on profit than politics, and are also viewed as being largely independent from government control or influence. Exceptions, for example, may occur when governments fear that an institutional investor will run the company into the ground, or sell the company in question to an unfriendly country.

Second, there may be a reduced probability of intervention if the deal in question involves a company that the government wishes to be sold (i.e., the sale is a ‘desired exit’), and there is a realization that it cannot be sold domestically. In this case, the cross-border deal is less likely to face intervention if that sale can be made to a handpicked friendly country.

---

67 This is a term that is often used, and which can have multiple definitions. Thus, the definition that will be used in this study is provided, and discussed more fully, in Chapter 6.
Third, a deal that may initially have faced strenuous opposition from the government, may suddenly be welcomed if another less-desirable company is rumored to, or actually announces, a bid for the company in question. In other words, imagine that state A initially opposes a bid for company X by a company Z from state B (who is neither a true ally, nor an enemy). Then, a company Y, influenced or controlled directly by state C (with whom state A is on a less friendly footing), is known to be contemplating a bid for X. The fear of the bidder from state C, may very well cause state A to withdraw its opposition from the initial bid by state B. (As will be discussed in another chapter, this is arguably what happened in the Arcelor/Mittal deal).

Fourth, a deal may face little or no opposition if the national security concerns that would normally be raised have been previously addressed in some way. An example of this in the US would be if the company in question had already negotiated a Special Security Agreement for the type of deal at hand, and the government did not feel that it needed to negotiate a new one. (Again, as will be discussed in another chapter, BAE Systems may serve as an excellent example of a company that has benefited from already having a very comprehensive security agreement with the US government.)

Fifth, a deal may face little or no intervention if it is considered to be advantageous to the defense industrial base in some way, or is perceived to be advantageous to national security. (As mentioned in chapter 6, Moran provides an
excellent test of how this might be determined (Moran 1993)). The deal might, for example, increase the competition among companies in the production of a good vital to national security (such as semiconductors). In another example, the deal might provide the state in question with access to a resource that it desperately needs.

Finally, intervention into a particular proposed foreign takeover may prove unnecessary if the option of internal intervention is pursued, and obviates the need for such ‘direct’ intervention. This concept is explained below, and again more fully in Chapter 6.

‘Internal’ Intervention

‘Internal’ intervention is an alternative for governments that are seeking to protect a specific company from a foreign takeover. This usually occurs when the company in question is considered by the government to be vital to national security (and may also be considered a national champion) but is considered to be a vulnerable takeover target by the market. Rather than waiting for a proposed bid for the company that may potentially come from an unfriendly source, the government in question proactively seeks a domestic alternative. This may mean that the government actively encourages another domestic company to take over (or merge with) the vulnerable company, or that it encourages domestic investors, companies, or government-backed entities to purchase a large stake in the company in order to promote a high level of cross-shareholding that makes a foreign takeover more
difficult.

### Table 3. – Non-Military Internal Balancing through M&A Intervention

<table>
<thead>
<tr>
<th>Cross-Border M&amp;A</th>
<th>Domestic M&amp;A</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Unbounded Intervention</td>
<td>‘Internal’ Intervention</td>
</tr>
<tr>
<td>High-Bounded Intervention</td>
<td>‘White Knight’ Deal</td>
</tr>
<tr>
<td>Low-Bounded Intervention</td>
<td>Deal</td>
</tr>
</tbody>
</table>

**Methodology**

Thus, there are three hypotheses that emerge from this theory. As stated above, the primary hypothesis that will be tested is that government use of domestic barriers to foreign takeovers of companies in national security sectors will depend on (1) the geo-strategic implications/concerns raised by the potential takeover; (2) the
level of economic nationalism in the target companies home state; (3) the economic competition concerns raised by the potential takeover; and (4) the presence of interest groups with access to power in the home state of the target company that oppose the foreign acquisition of that company. Stated in terms of dependent and independent variables:

Hypothesis #1:

![Dependent Variable: Intervention Type](Y_1) = (Geopolitical Competition _X_1) + (Economic Nationalism _X_2) + (Competition Concerns _X_3) + (Interest Group Pressure _X_4)

The second hypothesis follows from the discussion of the theory as put forth in Table 3 above: that the outcome of a proposed cross-border merger or acquisition will be strongly affected by the type of intervention employed by state A. In other words, it is expected that unbounded interventions will typically lead to a ‘no deal’ outcome (i.e. – where the proposed takeover is blocked or thwarted). Bounded intervention will be expected to result in a deal that is changed or altered to the target state’s advantage, and occasionally to lead to a ‘no deal’ outcome. No intervention on the part of the target state’s government, on the other hand, will typically mean that a deal will be more likely to go through unmitigated. Thus:
**Hypothesis #2:**

<table>
<thead>
<tr>
<th>Dependent Variable</th>
<th>Independent Variable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deal Outcome</td>
<td>Government Intervention</td>
</tr>
<tr>
<td>$Y_2$</td>
<td>$X_3$</td>
</tr>
</tbody>
</table>

The third is a supporting hypothesis. Controlling for the presence of national security concerns, geopolitical competition between states A and B, competition concerns, and interest group pressure, it is argued that a foreign takeover will be least likely to face visible intervention by state A when any of the following conditions are present. These conditions are: the presence of an institutional investor, the ability to achieve a desired exit, fear of a less-friendly bidder, the national security concerns have been previously addressed, the deal is advantageous for another reason, or internal intervention is pursued. While resource and space constraints prevent a statistical testing of this hypothesis, it will be examined qualitatively in the chapter dedicated to examining those cases in which governments do not intervene in foreign takeovers, and may prove fertile ground as an avenue for future research.
The first and second hypotheses, however, will be rigorously tested both quantitatively and qualitatively. They will be tested qualitatively using the case study method to examine ten critical cases (and three illustrative supporting cases) across four categories: 1) ‘unbounded’ intervention; 2) ‘bounded’ intervention; 3) no intervention; and 4) internal intervention. These cases are listed in Table 4 below.
Table 4 – Critical Cases

<table>
<thead>
<tr>
<th>Intervention Type</th>
<th>Acquiror</th>
<th>Country</th>
<th>Target</th>
<th>Country</th>
<th>Industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unbounded</td>
<td>CNOOC Ltd.</td>
<td>China¹</td>
<td>Unocal Corporation</td>
<td>USA</td>
<td>Oil</td>
</tr>
<tr>
<td></td>
<td>Dubai Ports World</td>
<td>UAE</td>
<td>P&amp;O Co.</td>
<td>UK</td>
<td>Infrastructure</td>
</tr>
<tr>
<td></td>
<td>PepsiCo Inc.</td>
<td>USA</td>
<td>Groupe Danone</td>
<td>France</td>
<td>Other</td>
</tr>
<tr>
<td></td>
<td>Check Point Software Technologies Ltd.</td>
<td>Israel</td>
<td>SourceFire Inc.</td>
<td>USA</td>
<td>High-Tech</td>
</tr>
<tr>
<td></td>
<td>Macquarie Bank Ltd.</td>
<td>Australia</td>
<td>PCCW Ltd.</td>
<td>China</td>
<td>Telecom</td>
</tr>
<tr>
<td>Bounded</td>
<td>Alcatel SA</td>
<td>France</td>
<td>Lucent Technologies Inc.</td>
<td>USA</td>
<td>Telecom</td>
</tr>
<tr>
<td></td>
<td>Lenovo Group Ltd.</td>
<td>China</td>
<td>IBM Corporation’s PC Business</td>
<td>USA</td>
<td>High-Tech</td>
</tr>
<tr>
<td></td>
<td>Finmeccanica* (Defense electronics div.)</td>
<td>Italy</td>
<td>BAE Systems plc.</td>
<td>UK</td>
<td>Defense</td>
</tr>
<tr>
<td></td>
<td>BAE Systems plc.*</td>
<td>UK</td>
<td>United Defense Technologies</td>
<td>USA</td>
<td>Defense</td>
</tr>
<tr>
<td>None</td>
<td>Compagnie Générale de Géophysique (CGG)</td>
<td>France</td>
<td>Veritas DGC</td>
<td>USA</td>
<td>Oil &amp; Gas (Seismic Data)</td>
</tr>
<tr>
<td></td>
<td>JP Morgan</td>
<td>USA</td>
<td>Troika Dialog</td>
<td>Russia</td>
<td>Investment Banking</td>
</tr>
<tr>
<td>Internal</td>
<td>Gaz de France SA</td>
<td>France</td>
<td>Suez SA</td>
<td>France</td>
<td>Electricity/Gas/Water</td>
</tr>
<tr>
<td></td>
<td>Rusal *</td>
<td>Russia</td>
<td>Sual Group</td>
<td>Russia</td>
<td>Aluminum</td>
</tr>
</tbody>
</table>

¹ The company is listed in Hong Kong.

* Abbreviated Case included for illustrative purposes

The data will also be tested quantitatively using categorical data analysis. Towards this end, a database of every cross-border merger and acquisition that has occurred within the past five years in the ‘national security sectors’ identified in Table 5 (below) will be created. As most states prefer to maintain a flexible approach to the scope of security, few states choose to actually define or delineate those sectors it associates with national security. The economic sectors identified with national
security have, therefore, changed over time (Graham and Marchick 2006). It is maintained here that the sectors listed in Table 5 are those that are most often identified by nations with national security in the post-9/11 environment. The list does not attempt to be exhaustive, but seeks to represent those basic industries that both anonymous and written sources most commonly identify as posing security concerns vis-à-vis foreign takeovers today. Some sectors have been purposely left out because of the lack of identifiable (versus actual) intervention activity in recent years, making it difficult to accurately assess levels of government interference. The table identifies each sector used in this study according to its ‘Industry Classification Benchmark’ (a coding system used to track M&A transactions).

As Graham and Marchick point out, the chemical and telecommunications industries were originally considered to be among the most important to protect; since then other industries have also risen to be items of concern, including those related to the ‘critical infrastructure’ of the country (2006). Tyson pointed out the importance of high-tech and electronics industries (especially the semiconductor sector) in the 1990’s – sectors that remain vital to national security today (Graham and Marchick 2006; Tyson 1992). Additionally, the aerospace and defense, as well as the oil and energy, industries have been identified by the United States as vital to national security over the course of several decades. These sectors (and others) have been identified as vital to national security in Europe. France, for instance, is now infamous for its recent attempt to include the food (namely yogurt) and casino industries as part of ten different “strategic” sectors it considered vital to its national security. [See, for example: (Laitner and Parker 2005). Though, as Graham and Marchick relate, the yogurt sector “did not make the French government’s [final] list of strategic industries to be shielded from foreign ownership” (2006, 162).] Other states maintain a closed list of strategic sectors that they bar from public ownership, but do not publicly disclose. [For an excellent discussion of this issue see: (OECD 2006a).] With this seemingly wide range of sectors that vary across time, and across nations, it is important to explain the choice behind the sectors of the economy identified with national security in this study.

Sector, Benchmark, and Industry titles are sourced from: (Zephyr Online Database of M&A Transactions, 2006)
Table 5. – National Security Sectors

<table>
<thead>
<tr>
<th>Sector</th>
<th>Benchmark</th>
<th>Industries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oil &amp; Gas</td>
<td>0533, 0537</td>
<td>Oil &amp; Gas Producers</td>
</tr>
<tr>
<td></td>
<td>0573, 0577</td>
<td>Oil Equipment, Services &amp; Distribution</td>
</tr>
<tr>
<td>Basic Resources</td>
<td>1753</td>
<td>Aluminum</td>
</tr>
<tr>
<td>(Industrial Metals)</td>
<td>1757</td>
<td>Steel</td>
</tr>
<tr>
<td>industrials</td>
<td>2713</td>
<td>Aerospace</td>
</tr>
<tr>
<td></td>
<td>2717</td>
<td>Defense</td>
</tr>
<tr>
<td></td>
<td>2773</td>
<td>Marine Transportation</td>
</tr>
<tr>
<td>Telecommunications</td>
<td>6535</td>
<td>Fixed Line Telecommunications</td>
</tr>
<tr>
<td></td>
<td>6537</td>
<td>Mobile Telecommunications</td>
</tr>
<tr>
<td></td>
<td>6575</td>
<td>Satellite Telecommunications</td>
</tr>
<tr>
<td>Utilities</td>
<td>7535</td>
<td>Electricity</td>
</tr>
<tr>
<td></td>
<td>7573</td>
<td>Gas Distribution</td>
</tr>
<tr>
<td></td>
<td>7575</td>
<td>Multi-utilities</td>
</tr>
<tr>
<td></td>
<td>7577</td>
<td>Water</td>
</tr>
<tr>
<td>Financials</td>
<td>8777</td>
<td>Investment Services (Stock Exchanges)</td>
</tr>
<tr>
<td>Technology</td>
<td>9537*</td>
<td>Software</td>
</tr>
<tr>
<td></td>
<td>9572</td>
<td>Computer Hardware</td>
</tr>
<tr>
<td></td>
<td>9576</td>
<td>Semiconductors</td>
</tr>
<tr>
<td></td>
<td>9578</td>
<td>Telecommunications Equipment</td>
</tr>
</tbody>
</table>

*Included only when the target company is known to retain a defense related contract at the time of the transaction.

The number of years used in the database has been chosen because the security environment has changed since September 11<sup>th</sup> in a manner sufficient enough to cause some states to be concerned with sectors of the economy that had previously not been identified with national security. This especially includes the US, who recently included the ‘critical infrastructure’ of the nation among its identified national security related industries. As the United States is arguably subject to the most foreign takeovers on a yearly basis, it is important to limit the timeframe in such
a way that the cases can be considered comparable. The cases are limited in scope to mid- to large-cap deals where the enterprise value of the target company is estimated to be over $500 million.

These cases will also be limited to those in which companies in the United States, China, Russia, or one of the original fifteen members of the European Union were the targets. This set of countries has been chosen for a number of reasons. First, and most importantly, they offer us a wide range of approaches to government intervention in foreign takeovers. Second, they offer us variance in that some of the first set are ‘advanced industrialized’ societies, while China and Russia may be considered to be advanced industrializing powers. Their inclusion is important to demonstrate that these hypotheses do not only hold for the most advanced Western industrial nations. At the same time, and as was discussed above, it does not make sense to include lesser developed nations in the cases, because the developing world is subject to a separate set of dynamics within the process of globalization and interdependence that would make those cases less comparable.

Third, both the US and the EU belong to strong security communities, from within which foreign takeover bids are likely to originate. Furthermore, this activity flows in two directions within those security communities. US companies will take over EU companies, and vice versa in the transatlantic security community. Within the community of the European Union itself, foreign takeovers occur without unidirectional flow. Russia and China provide an excellent contrast to this. Even
though Russia may arguably maintain a series of strong alliances that resembles a security community, the nations within that community rarely engage in takeovers of Russian companies, but Russian companies will often seek acquisitions within allied nations as well as without. The same is largely true for China.

Finally, it was important to include non-US states in the database, because the theory of non-military internal balancing presented in this dissertation is neither US-centric, nor necessarily dependent on a unipolar environment. It is necessary, therefore, to examine cases in which such balancing might be occurring against states other than the United States, or in which the US might be balancing against another state, in addition to those cases in which the US is being balanced against.

**Conclusion**

The purpose of this dissertation is to explain a simple puzzle. Specifically: why do states place domestic barriers to foreign takeovers of companies in national security industries, even within security communities founded on economic liberalism and integration? If the argument proposed above is accurate, one should expect to find that the cases and the statistical results support the hypotheses just presented. For example, one would expect the cases to support the conclusion that geo-strategic concerns and economic nationalism are the best explanation for the use of domestic barriers to foreign takeovers. One would also expect to find that where geo-strategic issues are the most important factor in determining whether or not
domestic barriers are used, these barriers equate to a more intense form of non-military internal balancing of economic power, and the proposed takeover in question will usually be blocked. In this case one would expect to see, then, that the home state of the target company perceives a large potential loss of relative power to the home state of the acquiring company if the bid were to go through, and that the relative cost of non-military internal balancing in this form is not perceived to be disruptive to the greater relationship between the two countries. One would also expect to find that most of the cases within security communities, where geo-strategic concerns are low, can be explained by the high presence of economic nationalism. Lastly, it is anticipated that the variables controlling for the alternative explanations (namely, for concerns over competition and interest group presence) will be low in those cases where domestic barriers are used. For example, one would anticipate a number of cases where those domestic interest groups that should be the most influential (i.e. – the economists, the market, and the share-holders), are over-ruled or ignored by their own governments; governments who then cast their actions in terms of national security. Such findings would support the idea that the hypothesis stated above may provide a more satisfactory explanation of the puzzle than could an interest group or domestic politics explanation.

The phenomena being studied in this dissertation is of great significance for a number of reasons. First, there are implications for international law, as efforts to create a multi-lateral treaty on foreign investment and foreign takeovers are
continually thwarted by disagreement over how to handle sovereign intervention in key national security industries. Understanding when and why governments engage in such intervention would shed much light on this international legal process. Second, it is vital to understand the relationship between national security and the ownership of key industrial, technology, and energy sectors, given state concern over resource competition and dependence on foreign oil. Third, the creation of domestic barriers by states to foreign takeovers is increasingly a matter of great concern for traders, investors, and economists, as well as for those states whose economies are affected by these actions. Lastly, this dissertation will have considerable implications for international relations theory. For in the process of trying to solve a previously unexplained empirical puzzle, it hopes to contribute to the political economy of security literature.

The rest of the dissertation will proceed as follows. The next chapter will focus on the statistical results of the hypothesis tests just mentioned. Chapters four and five will examine five critical cases of ‘unbounded’ intervention and two of ‘bounded’ intervention respectively. The sixth chapter will examine two cases of ‘non-intervention’ and one of ‘internal’ intervention. The last chapter will provide a final overview of the results, and a conclusion.
Chapter 3 – Quantitative Testing

Introduction

The purpose of this chapter is to quantitatively test the theory of non-military internal balancing put forth in the previous section. This will be achieved through the use of categorical data analysis (in the form of four multinomial logit models, or MNLMs) to test the hypotheses on which this theory rests. MNLM I will be used to test the primary hypothesis: that government intervention in foreign takeovers chiefly depends on geopolitical and economic nationalist concerns in the host state of the target company (state A). In order to explain the puzzle of why such intervention still occurs within security communities, MNLM II restricts the test of the primary hypothesis to those deals that take place within the security community context. MNLM III will then test it against those cases that have occurred outside of such an environment. A comparison of all three models should provide deeper insight into the explanation behind the puzzle. Finally, MNLM IV will test the secondary hypothesis: that the outcome of cross-border deals is clearly affected by government intervention on the part of state A. This will complete the statistical modeling of the theory of non-military internal balancing.

The multinomial logit function has been chosen as the most appropriate form of categorical data analysis because of the type of data being tested and the benefits offered for assessing the theory in question. The dependent variables of both the first
and second hypotheses are nominal, making the multinomial logit model a logical choice for a comprehensive investigation. It would not be appropriate to use an ordered logit model here, because neither of the dependent variables has an ordered set of outcomes. Multinomial logit models are valuable because they provide the reader with the probable likelihood that an individual outcome will occur (relative to a defined base outcome). Such models also illustrate how the change in one unit of a given independent variable $x$ (such as economic nationalism) will result in an increased (or decreased) probability of a given outcome $y$ (such as bounded intervention). This type of model, therefore, is highly flexible, providing a comprehensive picture of the relationship between the individual independent variables and each of the considered outcomes.

---

70 A nominal variable is one whose “values represent categories with no intrinsic ranking,” such as “region, zip code, or religious affiliation,” whereas the values of an ordinal variable do “represent categories with some intrinsic ranking,” such as “levels of satisfaction or confidence” (SPSS 2006).

71 In other words, their outcome categories are not associated with a natural value hierarchy. This is because we cannot strictly claim which type of government intervention or deal outcome would be universally preferred. For while the author recognizes the dangers of repeated and egregious government intervention to the process of globalization and the stability of the liberal economic order, not all cases of government intervention are necessarily or inherently bad, though the general trend may be undesirable. For example, one might assume that ‘no intervention’ is the ‘best’ option within a liberal economic regime, but this may not necessarily be true given certain extreme geopolitical constraints and national security concerns. Furthermore, the cases being examined in this study cross the borders of the most entrenched areas of the western liberal economic regime, and some of the states involved in such intervention being discussed here might rank the order of the categories of intervention outcome very differently. In regards to the categories of the dependent variable of ‘deal outcome,’ this is also difficult to rank universally – for the preferred deal outcome of states, interest groups, and the best interests of the economy at large may vary greatly from case to case. Thus, to truly understand the dynamics behind both the puzzle and its hypothesized explanations, it is necessary not to place value constraints on the categories of either dependent variable. In this manner, the results of the test can be considered valid across more than one set of value systems, and will allow for the creation of a more generalizable theory.
This chapter will be organized in the following manner. First, a brief overview is given of the database created for the purposes of this study. Second, a detailed explanation is provided of the models and the variables they employ. Third, the model results will be assessed and some preliminary conclusions drawn regarding the success of the aforementioned hypotheses.

**Specifications of the Database**

As mentioned above, an original database was created for the purpose of statistically modeling the theory of non-military internal balancing through government intervention in foreign takeovers. This database includes all cross-border mergers and acquisitions with a deal value of over $500 million, which have occurred since September 11, 2001\textsuperscript{72} in the national security sectors enumerated in Table 5. For the purposes of this investigation, the parameter of cases was narrowed to those examples of the purest form of cross-border M&A in order to allow for the clearest possible investigation of the relationship between the host state of the target company (state $A$) and the host state of the acquiring company (state $B$). In other words, cross-border cases were limited to those that took one of the forms

\textsuperscript{72} The end date of the database is May 15, 2007, which is when creation of the database started, and the author’s access to the Zephyr database ended.
represented in Table 6 (below). In all, 209 cases were determined to fit these criteria. (A complete list of these cases is included in Appendix A.)

Table 6. – Cross-Border Case Types

<table>
<thead>
<tr>
<th>State of Parent Company of Acquirer</th>
<th>State of Acquiring Company</th>
<th>State of Target Company</th>
<th>State of Vendor Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>(State B)</td>
<td>State B</td>
<td>State A</td>
<td>(State A)</td>
</tr>
<tr>
<td>State B</td>
<td>State A</td>
<td>State A</td>
<td>(State A)</td>
</tr>
</tbody>
</table>

Note: Certain values of the vendor and parent companies have been placed in parentheses to signify the fact that they may or may not necessarily be present in a given transaction.

Specifications of the Models and Variables

MNLMI tests the primary hypothesis that state A’s intervention in foreign takeovers of companies in national security sectors depends on (1) the geo-strategic concerns raised by the potential takeover; (2) the level of economic nationalism in state A; (3) the economic competition concerns raised by the potential takeover; as

73 The Zephyr database was used to help determine which cases fit most of these parameters. Zephyr is an online database of global financial deals that is used by both the academic and private sectors for exactly this type of research. However, it must be noted that Zephyr’s definition of ‘cross-border’ takeover was not used because it did not have the precision necessary for this investigation. For example, Zephyr denotes cases as cross-border when a company headquartered state C takes over the assets of a company in state D that are physically located in state C, and which had been previously owned by another company headquartered in state C. In such cases it would be difficult to test the dynamics of the relationship between the host state of the target company and that of the acquiring company. Zephyr also, for example, precludes cases from the cross-border classification in which a company from state Z uses a newly created shell acquisition company registered in state X to take over a company in state X – even though such an act is a clear example of a foreign takeover. The author, therefore, began with all 1,238 mergers & acquisitions that fit the other parameters of the database, and narrowed them down to 209 cases of ‘simple,’ or ‘pure,’ cross-border M&A cases as defined above.

74 To reiterate, state A is the domicile country of the target company, and state B is the domicile country of the acquiring company. A ‘vendor’ refers to the company or entity that is selling the target company, which is usually (but not always) its parent company. A ‘parent’ company refers to that company which owns the majority stake in a given company.
well as (4) the presence of interest groups that oppose the acquisition of the target company and have access to power in state $A$.

The database employs variables that seek to approximate these concepts as closely as possible. It is important to understand, however, that cross-national and yearly data on these variables is not always available or complete. In certain instances, therefore, it was necessary to use proxy variables to estimate the desired theoretical concept as closely as possible. The following provides an explanation of how this was achieved. Table 7 (below) provides a summary of these variables, their position in the hypothesis, and their sources.

Table 7 – Variable Sources

<table>
<thead>
<tr>
<th>Conceptual Variable</th>
<th>Proxy Variables</th>
<th>Type</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Security Community</td>
<td>Dummy</td>
<td></td>
<td>CIA World Factbook 2001-2007</td>
</tr>
<tr>
<td>Relative Military Power</td>
<td>Scale</td>
<td></td>
<td>SIPRI Military Expenditure Database</td>
</tr>
<tr>
<td>Resource Dependency</td>
<td>Scale</td>
<td></td>
<td>International Energy Balances of OECD Countries 2006 and Non-OECD Countries 200675</td>
</tr>
<tr>
<td>Inward FDI</td>
<td>Scale</td>
<td></td>
<td>IMD World Competitiveness Yearbook (WCY) 2001-2007</td>
</tr>
<tr>
<td>Nationalism</td>
<td>Scale</td>
<td></td>
<td>World Values Survey 2001-2004</td>
</tr>
<tr>
<td>Pro-Globalization Sentiment</td>
<td>Scale</td>
<td></td>
<td>IMD WCY 2001-2007</td>
</tr>
<tr>
<td>Economic Competitiveness Index</td>
<td>Scale</td>
<td></td>
<td>IMD WCY 2001-2007</td>
</tr>
<tr>
<td>Interest Group Presence</td>
<td>Interest Group Position Index</td>
<td>Scale</td>
<td>IMD WCY 2001-2007</td>
</tr>
</tbody>
</table>

75 These are both publications of the International Energy Agency (IEA).
Independent Variables

**Geopolitical Competition**

The concept of geo-strategic concern was measured across four dimensions.

1. *Security Community* – A dummy variable was created to represent whether state A and state B were part of the same security community at the time of the deal in question. For the purpose of this study, a security community is generally defined in accordance with Adler and Barnett. They argue that the formation of a common identity between states can eventually lead to the development of a ‘norm of non-violence’ among those states (Adler and Barnett 1998). The result is a community in which participating states will resolve their disputes with one another solely through the use of non-violent means, and a sense of ‘we-ness’ develops (Ibid). For the purposes of coding this database, security communities are considered to be those in which this norm of non-violence has been demonstrated to be historically robust; whether through the existence of the highest level of mutual security agreements (such as that provided for in the North Atlantic Treaty Organization – NATO), the existence of treaties providing

---

76 Adler and Barnett argue, after Deutsch, that there are two types of security communities: ‘amalgamated’ and ‘pluralistic’ (Adler and Barnett 1998, 5). Amalgamated security communities are those in which states have become ‘formally’ integrated or unionized under a “common government” rendering war between its previously autonomous parts unthinkable (Adler and Barnett 1998, 6). Pluralistic security communities, however, are not as formal, and rely more strongly on normative integration and common identity than on a formally structured relationship. According to Adler and Barnett, “states within a pluralistic security community possess a compatibility of core values derived from common institutions, and mutual responsiveness – a matter of mutual identity and loyalty, a sense of ‘we-ness,’ and are integrated to the point that they entertain ‘dependable expectations of peaceful change’” (Adler and Barnett 1998, 7).
for the sharing of the highest levels of intelligence (such as the American, British, Canadian, Australian and New Zealand Multilateral Master Information Exchange Treaty – ABCANZ), or membership in a highly integrated political and economic union (such as the European Union). Such communities may not always take the exact same form, but they are uncommon.

2. *Relative Military Power* – This variable seeks to roughly approximate the relative military power differential between both states involved in the transaction. Its purpose is to shed light on both the extent to which state A might have felt threatened by state B, and when military power differentials might have played a role in causing a given state to seek alternative forms of balancing. This variable represents the ratio of the military expenditure of state B to that of state A.

3. *Resource Dependency* – This variable measures the general resource dependency of the state A.\(^{77}\) This was calculated in accordance with the method used by the International Energy Agency,\(^{78}\) i.e. – by taking the yearly ratio of state A’s energy imports to its energy supply.

4. *Inward Foreign Direct Investments* – This variable is meant to proxy the relative economic power position of state A, by representing its inward foreign direct investment. This measure was used instead of net foreign direct investment because a number of political economists have argued that it is the rapid or

---

\(^{77}\) I would have preferred to do the resource dependency of state A on state B in each case, however, this data is not publicly available for all of the states in this database.

\(^{78}\) Resource dependency ratio calculation was provided courtesy of Riccardo Quercioli, Head, Non-OECD Countries Section, Energy Statistics Division, International Energy Agency on June 7, 2007.
sudden increase in inward FDI, rather than changes in a state’s net FDI position, which causes states to react negatively (through protectionism or other means) to the conspicuous investment in their country by another state’s companies.79

**Economic Nationalism**

1. *Nationalism* – A variable measuring the level of nationalism in state A has been included for two reasons. First, nationalism is often a strong component of economic nationalism. The author strongly agrees with Helleiner & Pickel “that economic nationalism, like political or cultural nationalism, can be understood only if it is analyzed in the context of nation and nationalism in general, rather than as just another economic doctrine or ideology (the conventional economistic view)” (Helleiner and Pickel 2005, 12). Second, comparable cross-national data on ‘economic nationalism’ per se does not yet exist for many countries outside of the European Union, and even within the Union, data is neither yearly nor complete. This variable, therefore, helps to round out an understanding of the theoretical concept of economic nationalism, while providing truly comparable data. It represents the percentage of those respondents in a state who said that they were “very proud” of their nationality.80

---

79 See, for example: (Tyson 1992).
80 This data was taken from the World Values Survey (2001-2004). Question G006 in the survey asked respondents “How proud are you of your nationality?” (WVS 2001-2004). The value coded in the dataset represents the percentage of respondents who said they were “very proud” of their nationality (Ibid).
2. **Pro-Globalization Sentiment** – This variable represents the level of pro-globalization sentiment in state $A$. As high levels of anti-globalization feeling in a state are often associated with higher levels of economic nationalism, this variable acts as an excellent proxy for the latter concept. Furthermore, anti-globalization attitudes are often associated with the very particular form of protectionism (the use of government intervention to prevent foreign takeovers) being examined in this study, because it is often associated with a desire to protect so-called ‘national champions.’ This variable represents the level to which the respondents (business elites in state $A$) believed that “attitudes towards globalization [were] generally positive in [their] economy” (IMD 2007a, 6).

**Economic Competition**

1. **Economic Competition “1”** – In the primary hypothesis, this variable is meant to control for the possibility that a foreign takeover may be blocked on competition, rather than national security, grounds. Data was not readily available for this variable on a case-by-case basis for all countries without the expenditure of resources unavailable to the author. Moreover, it is a concept for which the creation of a single dummy variable would be inadequate to represent the complexities of the competition review process. The author, therefore, leaves the detailed theoretical examination of this idea for the case study section, where it is more appropriately applied.
2. *Economic Competition* “2” – This variable seeks to control for a different theoretical concept, which also falls under the rubric of the word ‘competition.’ This is the extent to which state A is believed to be ‘competitive’ in the international market as a state open to liberal economic business practices and foreign investment. Given the nature of the hypothesis, this variable offers another important statistical control to the data being examined here. Thus, an index of the perceived economic competitiveness of state A was made in order to create this variable. This index was formed by taking the average of twelve different measures of economic competitiveness provided by the IMD World Competitiveness Yearbook, which obtains these rankings by conducting a large-n survey of business elites worldwide on a yearly basis. The IMD measures indexed for the purposes of this dataset can be found in Table 8 (below).
Table 8. – Measures of Economic Competitiveness Sourced from the IMD Database

<table>
<thead>
<tr>
<th>IMD Measures of Economic Competitiveness81</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relocation Threats of Production</td>
</tr>
<tr>
<td>Relocation Threats of R&amp;D Facilities</td>
</tr>
<tr>
<td>Policy direction of the government</td>
</tr>
<tr>
<td>Legal and Regulatory Framework</td>
</tr>
<tr>
<td>Adaptability of Government Policy</td>
</tr>
<tr>
<td>Government Decisions</td>
</tr>
<tr>
<td>Political Parties</td>
</tr>
<tr>
<td>Transparency</td>
</tr>
<tr>
<td>Public Service</td>
</tr>
<tr>
<td>Bureaucracy</td>
</tr>
<tr>
<td>Bribing and Corruption</td>
</tr>
<tr>
<td>Values of Society</td>
</tr>
</tbody>
</table>

**Interest Group Presence**

1. Interest Group Position Index – The case study method used in the following chapters will seek to determine the presence of interest groups, as well as their effectiveness in blocking foreign takeovers, in each of the critical cases. Yet, such an investigation is not practical for the dataset due to the lack of readily available and comparable data. The index variable used here, however, provides a useful approximation of the concept of interest group presence by measuring the general influence of relevant interest groups within state A. This was achieved by taking the average value of two separate measures of interest group

---

81 All quotes are taken from: (IMD 2007a).
position within these societies, again from the IMD World Competitiveness Yearbook. These measures, outlined in Table 9 (below), arguably address two of the most critical interest groups involved in cross-border mergers and acquisitions. These are labor unions and shareholders: labor because they tend to be one of the more effective groups in voicing their opposition to takeovers and in opposing them in costly ways (through strikes or negotiations), and shareholders for their ability to directly influence the outcome of public takeovers.

Table 9. – Measures of Interest Group Presence and Position Sourced from the IMD Database

<table>
<thead>
<tr>
<th>IMD Measures of Interest Group Presence/Position in Society⁸²</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor Relations</td>
<td>“Labor relations are generally productive”</td>
</tr>
<tr>
<td>Shareholder’s Rights</td>
<td>“Shareholder’s Rights are sufficiently protected”</td>
</tr>
<tr>
<td>Interest Group Position Variable used in Dataset</td>
<td>Interest Group Position Index = (Labor Relations + Shareholder’s Rights) / 2</td>
</tr>
</tbody>
</table>

Specification of the Models and Expected Results

*MNLM I*

The first multinomial logit model tests the primary hypothesis that state A’s intervention in the foreign takeovers of companies in its national security sectors will

⁸² All quotes are taken from: (IMD 2007a).
depend primarily on geopolitical competition and economic nationalism, controlling for economic competition and interest group presence. As specified above, the independent variables tested as part of MNLM I are: security community, relative military power, resource dependency, nationalism, pro-globalization sentiment, economic competitiveness, inward FDI, and interest group position. The dependent variable in MNLM I represents the type of intervention (i.e. – the form of non-military internal balancing) that state A chooses to utilize vis-à-vis the foreign takeover in question. This dependent variable (labeled Y$_{1}$ - intervention type) has four value categories, as defined in Table 10 (below).
Table 10. – Values of Dependent Variable $Y_1$

<table>
<thead>
<tr>
<th>Intervention Type ($Y_1$)</th>
<th>Conceptual Value</th>
<th>Numerical Value</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Intervention</td>
<td>0</td>
<td>0</td>
<td>Those cases in which no apparent government intervention into the foreign takeover in question occurred.</td>
</tr>
<tr>
<td>Bounded Intervention Low</td>
<td>1</td>
<td>1</td>
<td>Those cases in which government intervention in the foreign takeover takes the form of lower levels of mitigation intended to result in changes to the deal in question. Low levels of mitigation include (but are not limited to) the creation of a standard national security agreement between the acquiring company and state A, as well as other forms of compliance agreements within the existing national security laws of state A, which are viewed as everyday standard operating procedures within the industry in question.</td>
</tr>
<tr>
<td>Bounded Intervention High</td>
<td>2</td>
<td>2</td>
<td>Those cases in which government intervention in the foreign takeover takes the form of higher levels of mitigation intended to result in changes to the deal in question. High levels of mitigation include (but are not limited to) the use of severe national security agreements, the forced creation of proxy boards,\textsuperscript{83} the forced divestiture of strategic assets, or the use of novel measures such as the ‘evergreen clause.’\textsuperscript{84}</td>
</tr>
<tr>
<td>Unbounded Intervention</td>
<td>3</td>
<td>3</td>
<td>Those cases in which state A (or in rare cases a third party state whose national security interests are also threatened by the potential takeover) either formally or effectively attempts to block a foreign takeover. This may be done through the use of multiple tools ranging from high-level government statements, to the passage of new laws that prevent the deal from occurring.</td>
</tr>
</tbody>
</table>

It should also be noted here that the category of bounded intervention has been divided into two parts: ‘high bounded’ and ‘low bounded’ intervention.

Parsimony demands that the broader category of bounded intervention is retained

\textsuperscript{83} A proxy board is set up by a proxy agreement before the takeover can be finalized. “Proxy Agreements or Voting Trusts may be used where a foreign investor is in a position to control a U.S. company. Under such agreements, trustees or proxy holders are given control of the corporation, except for specifically identified extraordinary matters, such as mergers or the dissolution of the company. The foreign-influenced parent company will have limited authority over the company subject to the Proxy Agreement or Voting Trust and will be restricted even in its access to business information about the company. Proxy holders or trustees have formal obligations to the U.S. government, as well as to the company’s shareholders” (Reynolds 2004).

\textsuperscript{84} See page 44 in Chapter 2 for the definition of an ‘evergreen clause.’
within the theory, because governments use both these sub-categories of bounded intervention to *mitigate* rather than *block* foreign takeovers. However, these sub-categories of bounded intervention (as explained in Table 10 above) utilize different methods (or at least very different levels of the same tools) to accomplish bounded intervention. Thus, while there are conceptual benefits to maintaining the broader concept of ‘bounded intervention,’ these sub-categories are distinct enough that they offer valuable insights into the explanation of the puzzle when examined statistically. It should also be noted that a Hausman Test of the Independence of Irrelevant Alternatives (IIA) confirms that all four categories of the dependent variable are statistically distinct and useful.\(^8^5\)

It should be the case that the variables representing economic nationalism and geopolitical competition concerns play a significantly larger role than those variables controlling for interest group presence and economic competition concerns in MNLM I.

\(^8^5\) For example, the table below provides the output of the Hausman IIA test for Model I.

<table>
<thead>
<tr>
<th>Omitted</th>
<th>Chi2</th>
<th>Df</th>
<th>P &gt; chi2</th>
<th>Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2.143</td>
<td>18</td>
<td>1.000</td>
<td>For Ho</td>
</tr>
<tr>
<td>2</td>
<td>0.313</td>
<td>18</td>
<td>1.000</td>
<td>For Ho</td>
</tr>
<tr>
<td>3</td>
<td>0.041</td>
<td>18</td>
<td>1.000</td>
<td>For Ho</td>
</tr>
</tbody>
</table>
**MNLM II and MNLM III**

The second multinomial logit model restricts the cases tested to those in which the cross-border M&A deal takes place within the context of a security community. The third multinomial logit model restricts the number of cases tested to those that occur outside of that same context. It should be noted here that the independent variable of ‘resource dependency’ drops out of MNLM III for purely statistical reasons: namely, there is insufficient variance on the variable within the population of cases under consideration.86

The purpose behind these additional tests is to determine whether or not the behavior of state A varied significantly under these diverse conditions. If it did, then these models should indicate which independent variables are associated with a higher probability that state A will pursue these different types of intervention vis-à-vis their closest allies. Such information would help explain the puzzle motivating this dissertation to a great extent.

---

86 There are only six cases in the database in which security community = 0, and the dependent variable = 3 (in other words cases of unbounded intervention outside of the security community context.) It should be remembered that this is the population of such cases. However, the resource dependency of the states involved in each of these cases is quite close. Though resource dependency is a scale variable that ranges in value from 0.14 to 1.82, in four out of six of these cases state A has a resource dependency between 0.5 and 0.6. For detailed descriptive statistics of each of these different scenarios, please refer to Appendix C.
**MNLM IV**

The fourth multinomial logit model tests the second hypothesis that the outcome of a foreign takeover is largely determined by the form that state A’s intervention takes. Thus, the dependent variable of the first three models (*intervention type*) becomes the independent variable in this model. The dependent variable ($Y_2$) of MNLM IV, then, represents the actual outcome of the deal in question, and takes on the values noted in Table 11 (below). It is expected that the results of MNLM IV will strongly support the secondary hypothesis.

**Table 11. – Values of Dependent Variable $Y_2$**

<table>
<thead>
<tr>
<th>Deal Outcome (Y2)</th>
<th>Conceptual Value</th>
<th>Numerical Value</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deal</td>
<td>0</td>
<td>0</td>
<td>Those cases in which the foreign takeover in question was allowed to occur apparently unaltered.</td>
</tr>
<tr>
<td>Changed Deal</td>
<td>1</td>
<td>1</td>
<td>Those cases in which the foreign takeover in question was (or will be) allowed to go through, but with alterations. This includes deals that were completed, announced, or pending.</td>
</tr>
<tr>
<td>No Deal</td>
<td>2</td>
<td>2</td>
<td>Those cases in which the foreign takeover in question was not allowed to take place. This category includes both those deals that were withdrawn after a formal announcement, as well as those that were quashed at the stage of a verified market rumor.(^{87})</td>
</tr>
</tbody>
</table>

\(^{87}\) It is extremely important to include those cases of market rumor that can be verified by both the Zephyr database and market intelligence. This is because they usually indicate instances in which companies or banks (whether purposefully or not) indicated interest in a merger or acquisition, only to find that there were difficulties facing its execution. It would be sheer folly not to include the most credible of these ‘rumors,’ because they are almost always true, and because governments and states do react to them. As will be seen, the Pepsi-Danone case was technically a rumor, but the French government reacted vehemently (and with formal legislation) to this rumored intent of Pepsi to take over Danone.
Results

The dataset of 209 cases utilized in MNLMs I-IV represents the population of cases of the type of cross-border deal specified above, rather than a random sample. It is interesting to note, therefore, that 158 of those cases (or 75.6%) occurred within the confines of a security community, and only 51 (or 24.4%) occurred outside of the bounds of such a relationship (see Figure 3 below). Thus, while those deals that crossed the borders of a security community are not rare, they do occur with a much lower frequency. These numbers are extremely important, because they illustrate the extent to which the globalization phenomenon is still largely confined to those states with close military and cultural ties. The notion of a truly globalized international economy, where global financiers can act unimpeded by the borders of such communities, has clearly not yet been realized.

Figure 3. – Cross-Border Deal Breakdown: the Security Community Context
This differential in ‘cross-border’ deal type further evidences the fear that states experience when confronted by a potential takeover in a sensitive industry from a company that does not reside in an allied country. For these numbers do not include the large number of deals never even attempted by investment bankers, who shied away from economically viable acquisitions as a result of the domestic barriers created by governments to discourage takeovers originating from undesirable sources.

This fear of the acquisition of national champions or sensitive industrials by companies residing in non-allied countries has been intensified by recent concern over the rise of sovereign wealth funds and government investment corporations. Many political, economic, and market analysts view these funds as not only increasingly powerful within the world economy, but also as potential vehicles for the political goals of the states that control them. Indeed, the “debate [is] grow[ing] among politicians and policymakers in the US and Europe who are increasingly fearful that some of these investors, including powerful sovereign wealth funds, are being driven by political motives, rather than purely financial ones” (Chung 2007a).

At the same time, a recent report by the McKinsey Global Institute claims that these “sovereign wealth funds are grouped within the four ‘power brokers’ that are having

---

88 For an astute discussion of this, and the recent McKinsey Global Institute report on the topic, see: (Chung 2007b).
an increasing impact on the world’s capital markets,” namely “petrodollar investors, Asian central banks, hedge funds, and private equity” (Chung 2007b).

Thus, it is not at all surprising that states may be more likely to intervene in a given deal in order to protect their national security interests, when that deal does not take place within the environment of a well-developed security community. States may also be more concerned about those cases in which states A and B are engaged in intense geopolitical competition with one another (whether that competition is economic, political, or both). The statistical evidence, as will be demonstrated below, clearly supports such a trend and shows that economic nationalism is a matter of greater importance in determining intervention type among allies.

As almost three-quarters of cross-border deals do take place within the context of a security community, it is not surprising that many deals (151 or 62.7%) have occurred without any apparent government intervention at all since 9/11. (See Figure 4 below).
The remaining 37.3% of deals, however, did face some form of government intervention, and this includes a number of deals that take place within security communities such as the European Union or NATO. The explanation for this behavior may be found in the results of the first three models, reported in Table 12.
Table 12 – Multinomial Logit Model Results: Intervention Type

<table>
<thead>
<tr>
<th>Variable</th>
<th>Y1: Multinomial Logit Model I (All Deals)</th>
<th>Y1: Multinomial Logit Model II (Deals Within Security Communities)</th>
<th>Y1: Multinomial Logit Model III (Deals Outside Security Communities)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Coefficient (S.E.)</td>
<td>Coefficient (S.E.)</td>
<td>Coefficient (S.E.)</td>
</tr>
<tr>
<td><strong>Bounded Intervention Low / No Intervention</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Community</td>
<td>-0.632 (0.452)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Relative Military Power</td>
<td>-0.000 (0.015)</td>
<td>-0.003 (0.014)</td>
<td>-0.313 (0.254)</td>
</tr>
<tr>
<td>Resource Dependency</td>
<td>0.866 (0.702)</td>
<td>0.411 (0.910)</td>
<td></td>
</tr>
<tr>
<td>Nationalism</td>
<td>2.374 (1.438)</td>
<td>1.824 (1.916)</td>
<td>15.459 (6.623)</td>
</tr>
<tr>
<td>Pro-Globalization Sentiment</td>
<td>0.101 (0.374)</td>
<td>-0.003 (0.504)</td>
<td>1.833 (1.336)</td>
</tr>
<tr>
<td>Economic Competitiveness</td>
<td>-0.062 (0.391)</td>
<td>-0.247 (0.965)</td>
<td>0.076 (1.216)</td>
</tr>
<tr>
<td>Inward FDI</td>
<td>0.005 (0.005)</td>
<td>-0.003 (0.008)</td>
<td>0.057 (0.030)</td>
</tr>
<tr>
<td>Interest Group Position</td>
<td>0.212 (0.548)</td>
<td>0.870 (0.768)</td>
<td>-5.244 (3.467)</td>
</tr>
<tr>
<td>Constant</td>
<td>-4.757 (1.811)</td>
<td>-7.152 (2.710)</td>
<td>8.680 (7.589)</td>
</tr>
<tr>
<td><strong>Bounded Intervention High / No Intervention</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Community</td>
<td>-0.035 (0.690)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Relative Military Power</td>
<td>-0.105 (0.071)</td>
<td>-0.154 (0.090)</td>
<td>-0.367 (0.155)</td>
</tr>
<tr>
<td>Resource Dependency</td>
<td>1.632 (1.013)</td>
<td>2.351 (1.337)</td>
<td></td>
</tr>
<tr>
<td>Nationalism</td>
<td>3.280 (1.613)</td>
<td>2.961 (1.718)</td>
<td>7.552 (4.387)</td>
</tr>
<tr>
<td>Pro-Globalization Sentiment</td>
<td>-0.152 (0.410)</td>
<td>-0.247 (0.470)</td>
<td>0.858 (1.227)</td>
</tr>
<tr>
<td>Economic Competitiveness</td>
<td>0.048 (0.469)</td>
<td>-0.201 (0.518)</td>
<td>-0.006 (1.119)</td>
</tr>
<tr>
<td>Inward FDI</td>
<td>-0.010 (0.007)</td>
<td>-0.014 (0.010)</td>
<td>-0.006 (0.008)</td>
</tr>
<tr>
<td>Interest Group Position</td>
<td>-0.361 (0.466)</td>
<td>-0.312 (0.604)</td>
<td>-1.965 (0.885)</td>
</tr>
<tr>
<td>Constant</td>
<td>-0.235 (2.064)</td>
<td>1.033 (2.988)</td>
<td>-2.987 (3.427)</td>
</tr>
<tr>
<td><strong>Unbounded Intervention / No Intervention</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Community</td>
<td>-1.810 (0.700)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Relative Military Power</td>
<td>0.021 (0.012)</td>
<td>-0.003 (0.010)</td>
<td>0.089 (0.036)</td>
</tr>
<tr>
<td>Resource Dependency</td>
<td>0.849 (1.155)</td>
<td>2.676 (1.828)</td>
<td></td>
</tr>
<tr>
<td>Nationalism</td>
<td>-2.488 (3.133)</td>
<td>-2.698 (3.801)</td>
<td>1.637 (6.284)</td>
</tr>
<tr>
<td>Pro-Globalization Sentiment</td>
<td>-1.006 (0.418)</td>
<td>-1.861 (0.688)</td>
<td>0.346 (0.759)</td>
</tr>
<tr>
<td>Economic Competitiveness</td>
<td>0.752 (0.731)</td>
<td>1.138 (0.902)</td>
<td>0.458 (0.990)</td>
</tr>
<tr>
<td>Inward FDI</td>
<td>0.013 (0.009)</td>
<td>-0.024 (0.019)</td>
<td>0.037 (0.015)</td>
</tr>
<tr>
<td>Interest Group Position</td>
<td>-0.122 (0.646)</td>
<td>0.135 (0.656)</td>
<td>-1.353 (0.843)</td>
</tr>
<tr>
<td>Constant</td>
<td>1.311 (1.825)</td>
<td>0.956 (4.140)</td>
<td>-1.668 (3.257)</td>
</tr>
<tr>
<td><strong>No Intervention / Unbounded Intervention</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Community</td>
<td>1.810 (0.700)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Relative Military Power</td>
<td>-0.021 (0.012)</td>
<td>0.003 (0.010)</td>
<td>-0.089 (0.036)</td>
</tr>
<tr>
<td>Resource Dependency</td>
<td>-0.849 (1.155)</td>
<td>-2.678 (1.828)</td>
<td></td>
</tr>
<tr>
<td>Nationalism</td>
<td>2.488 (3.133)</td>
<td>2.609 (3.801)</td>
<td>-1.637 (6.284)</td>
</tr>
<tr>
<td>Pro-Globalization Sentiment</td>
<td>1.006 (0.418)</td>
<td>1.861 (0.688)</td>
<td>-0.346 (0.799)</td>
</tr>
<tr>
<td>Economic Competitiveness</td>
<td>-0.752 (0.731)</td>
<td>-1.138 (0.902)</td>
<td>-0.456 (0.990)</td>
</tr>
<tr>
<td>Inward FDI</td>
<td>-0.013 (0.009)</td>
<td>0.024 (0.019)</td>
<td>-0.037 (0.015)</td>
</tr>
<tr>
<td>Interest Group Position</td>
<td>0.122 (0.646)</td>
<td>-0.135 (0.656)</td>
<td>1.353 (0.843)</td>
</tr>
<tr>
<td>Constant</td>
<td>-1.311 (1.825)</td>
<td>-0.956 (4.140)</td>
<td>1.668 (3.257)</td>
</tr>
</tbody>
</table>

Log pseudolikelihood = -186.937 -125.355 -41.517
Number of Observations = 203 152 51
Wald chi² = 61.75 50.67 65.36
Prob > chi² = 0.000 0.000 0.000
McFadden’s Pseudo R² = 0.107 0.157 0.292

p < 0.15 = †, p < 0.1 = *, p < 0.05 = **, p < 0.01 = ***
The results of the first model demonstrate clear support for the hypothesis that economic nationalism and geopolitical competition are the primary motivations for the type of non-military internal balancing being examined here. The impact of these variables on the probability of state A engaging in either bounded or unbounded intervention, versus the base outcome of no intervention, however, does vary.

For example, it can be said with 90% confidence that state A is significantly more likely to use a higher or lower form of bounded intervention, rather than no intervention, as the level of nationalism within state A increases. In general, this supports the idea that higher levels of economic nationalism in state A will lead to that state’s desire to protect its national interests through such measures. Indeed, an increase in one standard deviation of nationalism increases the probability that state A will engage in low bounded intervention by 11.6% and high bounded intervention by 7.9%. As nationalism increases from its minimum to maximum value, the chances of being in these categories increases by 16.7% and 11.7% respectively. (See Table 13 below for a summary of the effect of these variables on probability change in MNLM I, or refer to Appendix B for the complete marginal effect tables.)

Three indicators of geopolitical competition between states A and B (relative military power, resource dependency, and inward FDI) approach significance in heightening the probability that state A will engage in high bounded intervention. Increases in the inward FDI and resource dependency of state A may therefore play a
role in determining state behavior, while – interestingly – so may a *decrease* in the relative power of state $B$. The results of models II and III, as discussed below, indicate that under certain conditions (namely when the deal occurs within a security community) state $A$ may feel more comfortable imposing domestic barriers to foreign takeovers when it is in an advantaged power position versus state $B$. Yet, as will also be shown, it is clear that when state $A$ is in a position of weakness versus state $B$, state $A$ will be more likely to engage in unbounded intervention.

Thus, when trying to understand what factors generally motivate states to engage in bounded forms of intervention, it is clear that nationalism is the most important determining factor. Geopolitical factors may also play a role, though their impact is less clearly defined.

Table 13. – Probability Change in MNLM I

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Average Change</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Security Community</td>
<td>$0 \rightarrow 1$</td>
<td>9.11%</td>
<td>16.67%</td>
<td>-6.86%</td>
<td>1.55%</td>
</tr>
<tr>
<td>Relative Military</td>
<td>Min $\rightarrow$ Max</td>
<td>23.13%</td>
<td>-26.75%</td>
<td>-6.65%</td>
<td>-12.86%</td>
</tr>
<tr>
<td>Power</td>
<td>+/-sd</td>
<td>13.99%</td>
<td>19.06%</td>
<td>4.39%</td>
<td>-27.98%</td>
</tr>
<tr>
<td>Resource Dependency</td>
<td>Min $\rightarrow$ Max</td>
<td>21.42%</td>
<td>-42.83%</td>
<td>13.47%</td>
<td>25.85%</td>
</tr>
<tr>
<td>+/-sd</td>
<td>7.49%</td>
<td>-14.98%</td>
<td>6.39%</td>
<td>6.90%</td>
<td>1.69%</td>
</tr>
<tr>
<td>Nationalism</td>
<td>Min $\rightarrow$ Max</td>
<td>14.20%</td>
<td>-19.70%</td>
<td>16.72%</td>
<td>11.67%</td>
</tr>
<tr>
<td>+/-sd</td>
<td>9.71%</td>
<td>-14.17%</td>
<td>11.57%</td>
<td>7.85%</td>
<td>-5.24%</td>
</tr>
<tr>
<td>Pro-Globalization</td>
<td>Min $\rightarrow$ Max</td>
<td>28.77%</td>
<td>41.45%</td>
<td>15.96%</td>
<td>0.14%</td>
</tr>
<tr>
<td>Sentiment</td>
<td>+/-sd</td>
<td>5.48%</td>
<td>6.09%</td>
<td>4.88%</td>
<td>-1.67%</td>
</tr>
<tr>
<td>Economic Competitiveness</td>
<td>Min $\rightarrow$ Max</td>
<td>9.05%</td>
<td>-11.45%</td>
<td>-6.64%</td>
<td>0.15%</td>
</tr>
<tr>
<td>+/-sd</td>
<td>3.01%</td>
<td>-3.44%</td>
<td>-2.59%</td>
<td>0.25%</td>
<td>5.78%</td>
</tr>
<tr>
<td>Inward Foreign</td>
<td>Min $\rightarrow$ Max</td>
<td>11.71%</td>
<td>-5.47%</td>
<td>12.12%</td>
<td>-17.96%</td>
</tr>
<tr>
<td>Direct Investment</td>
<td>+/-sd</td>
<td>6.64%</td>
<td>-4.51%</td>
<td>7.17%</td>
<td>-8.77%</td>
</tr>
<tr>
<td>Interest Group</td>
<td>Min $\rightarrow$ Max</td>
<td>7.06%</td>
<td>1.50%</td>
<td>12.63%</td>
<td>-12.14%</td>
</tr>
<tr>
<td>Position</td>
<td>+/-sd</td>
<td>3.12%</td>
<td>-0.13%</td>
<td>6.23%</td>
<td>-5.11%</td>
</tr>
</tbody>
</table>
In regards to unbounded intervention, model I indicates that geopolitical competition and nationalism are the chief motivating factors in determining the behavior of state A. In fact, it can be said with 95% confidence that those deals occurring outside of the security community context were significantly more likely to result in state A engaging in unbounded intervention, rather than no intervention at all. For example, when state A and state B are members of the same security community, the probability of state A engaging in unbounded intervention decreases by 11.4%. Furthermore, it can be said with 90% confidence that as the military power of state B increases relative to state A, state A is significantly more likely to employ a tool of unbounded intervention to block a foreign takeover. An increase of one standard deviation in the relative military power of state B increases the probability of state A using this category of intervention by 4.5%, but as relative military power moves from its minimum to maximum value, the probability of A engaging in unbounded intervention is raised to 46.3%. Together, these figures provide positive evidence that the motivations behind the behavior of state A will vary in accordance with its alliance relationship to state B.

In terms of economic nationalism, model I also illustrates that a decrease in pro-globalization sentiment will significantly increase the likelihood of state A engaging in unbounded intervention, rather than no intervention at all. An increase in one standard deviation of the value of pro-globalization sentiment decreases the probability of unbounded intervention by 9.3%. Looked at from the opposite angle,
as anti-globalization sentiment increases, the probability of unbounded intervention in foreign takeovers rises by 57.5%.

On the whole, therefore, elements of geopolitical competition and economic nationalism play a clear role in motivating states to engage in this type of non-military internal balancing. Notably, none of the control variables registered as having a significant impact on any level of intervention that state A was likely to choose; indicating that the alternative explanations discussed in chapter 2 cannot necessarily explain state behavior in this model.

**MNLM II**

Interestingly, none of the variables explored in model II provide insight into why a state would be likely to pursue lower forms of bounded intervention. This phenomenon is likely to be explained by two factors. First, many cases of even ‘low’ bounded intervention are classified. Second, ‘low’ bounded interventions that occur within the confines of a security community are often not mentioned within the press, as mergers and acquisition activity is so frequent and regularized between these countries that those companies involved in these transactions see the government’s actions as standard operating procedures and, thus, may not feel the need to publicize them of their own accord.

It can be said at the 90% confidence level, however, that ‘high’ bounded interventions are significantly more likely to occur when the resource dependency of
the target state is high, and its levels of nationalism are high. This outcome suggests that elements of economic nationalism and geopolitical competition are again motivating factors for state behavior. For the marginal effect of higher levels of resource dependency in state A resulting in high bounded intervention is 13.2%, and a move from that variable’s minimum to maximum value leads to a 44.4% increase in the probability of this form of non-military internal balancing. For nationalism, these numbers are 15.6% and 8.9%, respectively. (See Table 14 and Appendix B.) Interestingly, as in MNLM I, relative military power is significant in the negative direction, which indicates that stronger target states are likely to feel that they have sufficient power to impose such measures among their allies.

Furthermore, it can be said with 99% confidence that unbounded intervention into foreign takeovers within security communities is significantly more probable than no intervention when there are lower levels of pro-globalization sentiment in the target state. A one standard deviation change in this variable decreases the probability of state A engaging in this behavior by approximately 2.7%. There is a great difference, however, in the value of this variable across countries.89 Thus, it is important to note that as pro-globalization sentiment goes from its minimum to maximum value, the probability of state A engaging in unbounded intervention within a security community decreases by 72.1%. In other words, as anti-globalization sentiment increases (or economic nationalism rises) within state A, it is

89 Please refer to Appendix D for descriptive statistics of the variables used in the dataset.
also increasingly likely that state A will utilize a tool of unbounded intervention vis-à-vis a ‘within security community’ takeover deal. This is in line with the expectation that economic nationalism would play a larger role within security communities, where geopolitical competition is obviously lower.

**Table 14. – Probability Change in MNLM II**

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Average Change</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relative Military Power</td>
<td>Min → Max</td>
<td>8.91%</td>
<td>17.82%</td>
<td>-2.88%</td>
<td>-14.80%</td>
</tr>
<tr>
<td></td>
<td>+/- sd</td>
<td>19.69%</td>
<td>34.10%</td>
<td>5.09%</td>
<td>-39.39%</td>
</tr>
<tr>
<td>Resource Dependency</td>
<td>Min → Max</td>
<td>25.55%</td>
<td>-49.14%</td>
<td>-1.95%</td>
<td>44.40%</td>
</tr>
<tr>
<td></td>
<td>+/- sd</td>
<td>6.25%</td>
<td>-12.51%</td>
<td>1.96%</td>
<td>9.45%</td>
</tr>
<tr>
<td>Nationalism</td>
<td>Min → Max</td>
<td>10.23%</td>
<td>-19.20%</td>
<td>11.60%</td>
<td>8.86%</td>
</tr>
<tr>
<td></td>
<td>+/- sd</td>
<td>7.00%</td>
<td>-13.27%</td>
<td>8.04%</td>
<td>5.97%</td>
</tr>
<tr>
<td>Pro-Globalization Sentiment</td>
<td>Min → Max</td>
<td>36.01%</td>
<td>60.14%</td>
<td>11.74%</td>
<td>0.14%</td>
</tr>
<tr>
<td></td>
<td>+/- sd</td>
<td>2.77%</td>
<td>4.71%</td>
<td>0.83%</td>
<td>5.97%</td>
</tr>
<tr>
<td>Economic Competitiveness</td>
<td>Min → Max</td>
<td>8.38%</td>
<td>10.33%</td>
<td>-12.76%</td>
<td>-4.01%</td>
</tr>
<tr>
<td></td>
<td>+/- sd</td>
<td>3.51%</td>
<td>5.72%</td>
<td>-5.35%</td>
<td>-1.68%</td>
</tr>
<tr>
<td>Inward Foreign Direct Investment</td>
<td>Min → Max</td>
<td>10.05%</td>
<td>20.09%</td>
<td>-4.17%</td>
<td>-12.76%</td>
</tr>
<tr>
<td></td>
<td>+/- sd</td>
<td>6.14%</td>
<td>12.28%</td>
<td>-2.90%</td>
<td>-7.87%</td>
</tr>
<tr>
<td>Interest Group Position</td>
<td>Min → Max</td>
<td>19.70%</td>
<td>-29.10%</td>
<td>39.36%</td>
<td>-10.30%</td>
</tr>
<tr>
<td></td>
<td>+/- sd</td>
<td>9.94%</td>
<td>-15.36%</td>
<td>19.86%</td>
<td>-4.52%</td>
</tr>
</tbody>
</table>

**MNLM III**

For the non-security cases examined in Model III, nationalism again proves to be a significant factor in increasing the likelihood that a state will engage in either low or high bounded intervention. For example, a one standard deviation increase in the value of this variable results in a 13.8% increase in the probability that state A
will engage in low bounded intervention, and a 9.7% increased probability that it will pursue high bounded intervention. (See Table 15 below and Appendix B.) A change from the minimum to maximum value of the nationalism variable increases the chances of state A being in these categories by 33.6% and 10.9% respectively. It is not surprising that this variable, which may be considered a precursor of economic nationalism, plays a role in state behavior here. Especially when it is recalled that higher levels of nationalism in state A, were associated with a significantly increased likelihood of high bounded intervention in both models I and II, and with low bounded intervention in model I. It is clear, therefore, that nationalism is associated with states that seek to look out for their economic and national security interests by altering or mitigating cross-border deals in their favor.

Most significantly, however, model III demonstrates the greater importance placed on the geopolitical relationship of states A and B in determining intervention type for non-security community cross-border deals. To begin with, it can be said with 90% confidence that higher levels of inward FDI in state A significantly increase the likelihood that state A will utilize low bounded intervention in non-security community deals, rather than no intervention at all. Indeed, a one standard deviation increase in the level of inward FDI in state A increases the probability that state A will use this tool of intervention by 16.6%. This, of course, illustrates the heightened importance that the relative economic power positions of states A and B plays in
determining even the lesser forms of intervention in deals that occur outside of the security community context.

As with model II, state $A$ is significantly more likely to engage in high bounded intervention as the military power of state $A$ relative to state $B$ increases. Initially, this seems contradictory. As mentioned above, however, the likely explanation for this is that as state $A$’s power increases relative to $B$ it may feel more comfortable engaging in a form of intervention that simply seeks to impose changes to a deal, rather than blocking it. In such a situation, state $A$ may feel that it is both easier to impose such conditions on a transaction that involves a weaker non-allied state, and that more severe measures are unnecessary because of the less threatening nature of such a state.

In the category of unbounded intervention we see that the theory proposed in the previous chapter is again borne out. If the acquirer’s state (state $B$) has a higher level of military power relative to the target company’s state (state $A$), then it can be said with 95% confidence that the target state’s government is significantly more likely to intervene in this most strenuous of ways, rather than not at all. In fact, a one standard deviation increase in the military power of state $B$ relative to state $A$ increases the probability of unbounded intervention on the part of state $A$ by 25.1%. An increase from the minimum to maximum value of the military power of state $B$ relative to state $A$, raises the probability of unbounded intervention on the part of state $A$ by an astounding 94.3%.
Relative economic power proves to be an important element of geopolitical competition here as well, as higher levels of inward FDI are shown to be significant in determining the probability of this course of action on the part of state $A$. A one standard deviation increase in the inward FDI of state $A$ raises the probability of unbounded intervention by 33.6%. On the whole, therefore, it does seem clear that outside of the security community context, foreign takeovers are more likely to be barred on the basis of geopolitical concerns.

Table 15. – Probability Change in MNLM III

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Average Change</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relative Military Power</td>
<td>$\text{Min }\rightarrow\text{Max}$</td>
<td>47.13%</td>
<td>-77.53%</td>
<td>-5.14%</td>
<td>-11.59%</td>
</tr>
<tr>
<td></td>
<td>+/sd</td>
<td>43.79%</td>
<td>62.44%</td>
<td>-23.07%</td>
<td>-64.52%</td>
</tr>
<tr>
<td>Nationalism</td>
<td>$\text{Min }\rightarrow\text{Max}$</td>
<td>22.80%</td>
<td>-45.59%</td>
<td>33.60%</td>
<td>10.90%</td>
</tr>
<tr>
<td></td>
<td>+/sd</td>
<td>12.88%</td>
<td>-25.75%</td>
<td>13.80%</td>
<td>9.68%</td>
</tr>
<tr>
<td>Pro-Globalization Sentiment</td>
<td>$\text{Min }\rightarrow\text{Max}$</td>
<td>18.70%</td>
<td>-37.39%</td>
<td>22.09%</td>
<td>9.27%</td>
</tr>
<tr>
<td></td>
<td>+/sd</td>
<td>8.18%</td>
<td>-16.35%</td>
<td>7.20%</td>
<td>5.47%</td>
</tr>
<tr>
<td>Economic Competitiveness</td>
<td>$\text{Min }\rightarrow\text{Max}$</td>
<td>6.81%</td>
<td>-12.96%</td>
<td>0.24%</td>
<td>-0.67%</td>
</tr>
<tr>
<td></td>
<td>+/sd</td>
<td>3.03%</td>
<td>-5.76%</td>
<td>0.13%</td>
<td>-0.30%</td>
</tr>
<tr>
<td>Inward Foreign Direct Investment</td>
<td>$\text{Min }\rightarrow\text{Max}$</td>
<td>40.97%</td>
<td>-74.52%</td>
<td>45.62%</td>
<td>-7.41%</td>
</tr>
<tr>
<td></td>
<td>+/sd</td>
<td>25.11%</td>
<td>-45.55%</td>
<td>16.58%</td>
<td>-4.67%</td>
</tr>
<tr>
<td>Interest Group Position</td>
<td>$\text{Min }\rightarrow\text{Max}$</td>
<td>49.82%</td>
<td>96.87%</td>
<td>-99.65%</td>
<td>1.12%</td>
</tr>
<tr>
<td></td>
<td>+/sd</td>
<td>28.45%</td>
<td>56.89%</td>
<td>-37.68%</td>
<td>-4.87%</td>
</tr>
</tbody>
</table>

**MNLM IV**

It will be recalled that the fourth multinomial logit model tests the effect of government intervention on the outcome of cross-border deals. Here, intervention type now acts as the independent variable, and the dependent variable is deal
outcome (i.e. – deal, changed deal, or no deal). Out of the 209 cases in the database, 104 deals went through with no apparent changes imposed by governments, 48 deals were mitigated in some way by the state in question, and 57 resulted in ‘no deal.’ (See Figure 5 below.)

**Figure 5. – Cross-Border Deal Breakdown by Deal Outcome**

![Deal Breakdown Chart]

Significantly, the results of this multinomial logit model show clear evidence that the type of government intervention employed by state A will affect the outcome of the foreign takeover in question. (See Table 16 below.) It may be said with 99.9% confidence that intervention type significantly affects the likely outcome of the dependent variable across each of its categories. Furthermore, as the level of government intervention increases, so do the chances that the deal will be barred or mitigated. For example, a one-unit increase in intervention type (i.e. – an increase from no intervention to low bounded intervention, or from high bounded intervention to unbounded intervention) decreases the probability of an unaltered deal outcome by
111.3%. (See Table 17 below.) Such a one-unit increase in the level of intervention, then, concurrently increases the probability of a ‘changed deal’ outcome by 53.8%, and raises the probability of a ‘no deal’ outcome by 57.5%.

Table 16. – Multinomial Logit Model Results: Deal Outcome

<table>
<thead>
<tr>
<th>Variable</th>
<th>Y2: Multinomial Logit Model IV (All Deals)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Coefficient</td>
<td>(S.E.)</td>
</tr>
<tr>
<td>No Deal/Deal</td>
<td>Intervention Type</td>
<td>2.736</td>
</tr>
<tr>
<td></td>
<td>Constant</td>
<td>-1.600</td>
</tr>
<tr>
<td>Changed Deal/Deal</td>
<td>Intervention Type</td>
<td>2.945</td>
</tr>
<tr>
<td></td>
<td>Constant</td>
<td>-2.033</td>
</tr>
<tr>
<td>Deal/No Deal</td>
<td>Intervention Type</td>
<td>-2.736</td>
</tr>
<tr>
<td></td>
<td>Constant</td>
<td>1.600</td>
</tr>
</tbody>
</table>

Log pseudolikelihood = -162.227
Number of Observations = 209
Wald chi² = 12.660
Prob > chi² = 0.009
McFadden’s Pseudo R² = 0.253

Table 17. – Probability Change in MNLM IV

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Average Change</th>
<th>0</th>
<th>1</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intervention Type</td>
<td>Min → Max</td>
<td>49.97%</td>
<td>-74.96%</td>
<td>44.90%</td>
</tr>
<tr>
<td></td>
<td>+/- 1</td>
<td>74.20%</td>
<td>-111.31%</td>
<td>53.76%</td>
</tr>
<tr>
<td></td>
<td>+/- sd</td>
<td>72.92%</td>
<td>-109.38%</td>
<td>52.83%</td>
</tr>
</tbody>
</table>
Conclusion

The results of the MNLMs I-IV provide clear evidence in support of the theory of non-military internal balancing outlined in the second chapter. First, MNLMs I-III bear out the primary hypothesis that intervention type is primarily motivated by geopolitical competition concerns and economic nationalism. Two separate variables were used in these models to approximate economic nationalism: nationalism (as possible preliminary indicator of the concept) and pro-globalization sentiment (because anti-globalization sentiment may act as an indicator of economic nationalism.) Increased levels of nationalism in state A were associated with a significantly higher likelihood of low bounded intervention in MNLMs I and III, and of high bounded intervention in all three models. This suggests that nationalism may motivate states to protect interests by seeking to mitigate cross-border deals in their favor. Anti-globalization sentiment, which can be most clearly linked with economic nationalism per se, proved to be highly significant in increasing the probability of unbounded intervention generally (as seen in MNLM I), and to an even greater extent within security communities (as shown in MNLM II). This suggests that economic nationalism may be a greater motivating factor than geopolitical concerns within security communities, where such strategic competition is by definition lower and, therefore, occurring on a much longer time scale where elements of economic power may be viewed as more important.
This idea is corroborated by MNLMs I-III, which show that while geopolitical competition was of great significance in determining intervention type in most cases, such concerns appear to play a larger role outside of the security community context. The results demonstrate that when state A’s military power was greater relative to that of state B, state A was significantly more likely to engage in high bounded intervention (for deals both inside and outside of a security community). As mentioned above, this is likely because state A may feel more comfortable in imposing domestic barriers to foreign takeovers when it is in an advantaged power position versus state B. The results also highlight that when the military power of state A was low relative to that of state B, then state A was likely to engage in unbounded intervention in an attempt to block the foreign takeover in question. Here, relative military power proves to be significant generally in affecting the chances of an unbounded intervention outcome (as illustrated in MNLM I), but reaches an even greater degree of significance outside of the security community context (as seen in MNLM III).

Other elements of geopolitical concern also play a vital role in determining intervention type. Higher levels of resource dependency in state A significantly increased the likelihood of high bounded intervention within security communities. Furthermore, outside of security communities, inward foreign direct investment levels in state A played an important part in determining intervention type. For instance, when states A and B were not part of the same security community, inward
FDI was highly significant in enhancing the probability that state A would engage in unbounded intervention. This suggests that state A may seek to balance the relative economic power of state B through this form of non-military internal balancing.

It is also important to note that the alternative explanations, explored in the previous chapter and controlled for in the primary hypothesis, are not supported in the models. The only instance in which a control variable neared statistical significance was in MNLM III, where interest group position was shown to approach significance in increasing the likelihood of low-bounded and unbounded interventions. As will become clear in the next chapter, however, interests groups are rarely able to affect a government’s decision to intervene in a foreign takeover, even when they actively attempt to do so.

Finally, MNLM IV strongly supports the secondary hypothesis that intervention type significantly affects deal outcomes. For as the level of government intervention increased, so did the chances that the deal would be mitigated or blocked. This is vital to the theory, and is a result that could not have been as comprehensively tested through the case study method.

The numbers, therefore, clearly support the hypotheses laid out in the theory of non-military internal balancing. Moreover, the information provided in these models may have provided a preliminary answer to the puzzle of why interventions occur within security communities. For geopolitical competition and nationalism seem to motivate bounded forms of intervention no matter what the security
community context. As a result of the analysis, it is now clear that economic nationalism may play a larger role in motivating states to engage in unbounded intervention within security communities, and geopolitical competition contributes more to inspiring such intervention outside of that context. The case studies that follow should provide additional evidence in support of the primary and secondary hypotheses. They will also add further detail to these initial insights.
Chapter 4 – Unbounded Intervention

Introduction

States may employ a variety of balancing strategies in response to a perceived threat to their power position within the international system. This dissertation argues, however, that when the perceived threat to a state’s power is caused by the potential foreign takeover of a company in one of its national security industries, states are likely to react using one of three non-military internal balancing strategies: ‘unbounded,’ ‘bounded,’ or ‘internal’ intervention. As discussed above, each of these forms of non-military internal balancing are specific tools used to handle the potential imbalances in power caused by cross-border mergers and acquisitions. As with other forms of balancing, states may not even be fully cognizant that their actions could be categorized as such, but there are costs to states for both over- and under-reactions to the changes in the balance of relative power with which they are faced. The next three chapters will provide a deeper explanation of each of these forms of balancing respectively, and will employ qualitative methods to test the primary and secondary hypotheses put forth in this dissertation.

Thus, the purpose of this chapter will be to further specify the conditions under which a state might choose to engage in unbounded intervention. Towards this end, five critical case studies will be examined. These are: 1) the rumored attempt of the U.S. company PepsiCo to acquire the French food company Danone, 2) the
attempted takeover of the U.S. oil company Unocal by the Chinese company CNOOC, 3) the attempted takeover of the U.S. software company Sourcefire by the Israeli company Check Point, 4) the takeover of the Peninsular & Oriental Steam Navigation Company (P&O) in Britain by Dubai Ports World (DP World), and 5) the attempted takeover of the Chinese telecommunications company PCCW by Australia’s Macquarie Group. Table 18 below provides an overview of these cases.

**Table 18 – Unbounded Intervention: Critical Cases**

<table>
<thead>
<tr>
<th>Case 1</th>
<th>Case 2</th>
<th>Case 3</th>
<th>Case 4</th>
<th>Case 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquirer Name</td>
<td>PepsiCo</td>
<td>CNOOC</td>
<td>Check Point Software</td>
<td>Dubai Ports World*</td>
</tr>
<tr>
<td>Acquirer Country</td>
<td>USA</td>
<td>China**</td>
<td>Israel</td>
<td>United Arab Emirates</td>
</tr>
<tr>
<td>Target Name</td>
<td>Groupe Danone</td>
<td>Unocal Corporation</td>
<td>SourceFire Inc.</td>
<td>P&amp;O</td>
</tr>
<tr>
<td>Target Country</td>
<td>France</td>
<td>USA</td>
<td>USA</td>
<td>Great Britain</td>
</tr>
<tr>
<td>Target Industry</td>
<td>Food &amp; Beverage</td>
<td>Oil &amp; Gas Producers</td>
<td>Software</td>
<td>Marine Infrastructure</td>
</tr>
<tr>
<td>Deal Type</td>
<td>Acquisition</td>
<td>Acquisition</td>
<td>Acquisition</td>
<td>Acquisition</td>
</tr>
<tr>
<td>Deal Value (in $US thousands)</td>
<td>N/A</td>
<td>18,209,400</td>
<td>225,000</td>
<td>5,701,062 (Bid 1)</td>
</tr>
<tr>
<td>Deal Status</td>
<td>Rumor/Informally Withdrawn</td>
<td>Withdrawn</td>
<td>Withdrawn</td>
<td>Bid 1 – Withdrawn</td>
</tr>
<tr>
<td>First Deal Date</td>
<td>2/12/2004</td>
<td>3/3/05</td>
<td>10/7/05</td>
<td>10/31/05</td>
</tr>
</tbody>
</table>

*The acquisition vehicle used for this deal was named Thunder FZE.

** The company is headquartered in Hong Kong.

106
Unbounded Intervention

Definition

The term ‘unbounded intervention’ is used to represent the most extreme form of government interference into a cross-border merger or acquisition. Such intervention is defined by the intention of government actors who, on the whole, seek to prevent a potential foreign takeover bid from reaching a successful conclusion. Yet, government actors do not always act coherently and, on rare occasions, the government may even be divided as to the best course of action. When trying to identify cases of unbounded intervention, therefore, it will be necessary to demonstrate that either a critical mass of government actors seek to block the bid, or that crucial government players (i.e. – those with veto power, or particular sway in the decision making process) wish to do so. In such cases, the opposition is often unable to prevent the unbounded intervention strategy from being carried out. In fact, the results from the secondary hypothesis indicate that intervention type and deal outcome are closely linked, and unbounded intervention strategies will usually result in the successful prevention of a foreign takeover.

Purpose and Motivation

The stated purpose of unbounded intervention will almost always be the protection of national security. Indeed, the right of states to intervene is based on the protection of companies whose loss or foreign control would pose an immediate
threat to national security. It is important to note, though, that actors involved in this type of intervention may stretch the notion of ‘national security’ beyond its traditional bounds. This is because government actors concerned with the relative power position of their state may have longer time horizons with respect to what they consider to be a ‘threat.’ They might also place companies not normally associated with national security under the rubric of the national security umbrella, especially if they are national champions considered vital to a state’s economic power.

The first hypothesis being tested in this dissertation claims that government intervention in foreign takeovers will be primarily motivated by either geopolitical concerns or economic nationalism. As the results of the hypothesis tests conducted in Chapter 3 indicate, it should be expected that the respective prominence of each of these factors will vary in accordance with the systemic relationship between states A and B. In other words, the case studies should support the general idea that when states A and B are members of the same security community, economic nationalism will usually be the primary motivation behind unbounded intervention. Similarly, when states A and B are not members of the same security community, the case studies should show that geopolitical concerns play a greater role in unbounded intervention. In either situation, however, the case studies are expected to show that state A is concerned with its power position relative to state B and, therefore, seeks to balance the potential increase in state B’s relative power (that could result from the takeover) by preventing that transaction from occurring in the first place.
It also important to recognize two other possible reasons that state A might employ a strategy of unbounded intervention – reasons that will be controlled for in the case studies. These are: the presence of interest groups who desire a negative deal outcome, and the presence of competition concerns on the part of a relevant economic authority. It is important to note, however, that while interest groups may raise the alarm about a deal that could affect national security, it is expected that they will rarely affect the outcome of that deal, or the strategy with which state A chooses to handle that deal. It is equally important to understand that in some cases a state may raise competition concerns at the same time that national security issues are flagged, or that a relevant government agency may seek to veto the deal solely on competition grounds.

**Means and Manner**

Unbounded intervention involves the efforts of government actors to block a foreign takeover through formal, or ‘effective,’ means. A ‘formal block’ is when a government, or a representative government agency, officially vetoes the deal on national security grounds. An ‘effective block’ is when the acquiring company is convinced or pressured to withdraw/rescind its proposed bid for the target company through one of the following means:

1) The government and/or its agencies voice such significant concerns or reservations regarding the deal before the formal review process begins in the
relevant regulatory agencies of state A, that the acquiring company feels compelled to withdraw the bid in the face of ‘overwhelming opposition,’ which it deems too costly to overcome.

2) The government forces the divestiture of the facilities or subsidiaries involved in the deal that reside in their country. (This particular strategy may also be used by a third party state involved in the transaction to block the sale of assets within its territory).

3) The government of state A instates a lengthy review process in a relevant regulatory body from which the acquiring company does not believe its bid will successfully emerge. The company’s cause for concern will likely be either: that the review process that has extended in time to a point where it is proving too costly for the company to proceed,\(^\text{90}\) or that the government of state A has indicated to the company that they are unlikely to emerge from the review process without triggering a formal veto.\(^\text{91}\)

\(^\text{90}\) If the proposed bid was going to be financed through debt rather than, or in addition to, cash or stock, then the debt that had already been raised could be costly to maintain until the bidding process is over. There are also audience costs, and opportunity costs, associated with a lengthy bidding process that the acquiring company may wish to avoid if they become too onerous.

\(^\text{91}\) As mentioned in Chapter 2, legal sources confirm that in the United States, CFIUS and/or its member organizations will indicate to a company whether or not it is likely to emerge successfully from a CFIUS review or investigation. This is one of the reasons that the number of withdrawals during the review/investigation process is exponentially higher than the number of vetoes. There has only been one presidential ‘veto’ of a transaction since 1988. However, during that same time period, 13 of the 25 bids that went to the ‘full investigation’ stage of the CFIUS review process were withdrawn by the potential acquirers before the findings of that Committee could be sent to the President (Graham and Marchick 2006, 57).
Outcomes and Results

Unbounded intervention will usually lead the acquiring company to withdraw their bid, whether or not it had been formally announced. There are a couple of reasons behind this. First, even if there is any chance that state A’s position on the bid might be reversed, a company facing such extreme government opposition will usually not have the time, money, or patience to surmount it. Second, the company is unlikely to desire any further negative publicity of the type that can result from such government opposition. Third, a company whose bid has been formally vetoed on national security grounds is often forever after branded as a ‘security risk’ in future deals. Companies faced with such severe government opposition will, therefore, often withdraw from the bidding process before a formal veto can occur. Finally, if state A’s unbounded balancing strategy does result in the use of a formal veto (though such a result is extremely rare) it may be impossible for the company to reverse the decision through any means.

In addition to the immediate outcome of the deal itself, it is also important to examine the impact of unbounded intervention on the relationship between states A and B. At the very best, such government intervention is viewed as a legitimate action by the state to protect a company from foreign control because of an immediate national security concern – an action that is viewed as a ‘right’ of states and which many states view as ‘fair play’ even in the context of a free market environment. Indeed, the relationship between the states involved will usually
remain largely unchanged, because government intervention in foreign takeovers is something that can be quickly and easily forgotten by states for the very reason that M&A is associated with the private, rather than the public, realm. At worst, intervention might irritate another state into tit-for-tat behavior, causing it to respond similarly in the future.

Thus, as discussed earlier, government intervention in foreign takeovers may be considered a form of non-military internal balancing, because it is a type of action that will rarely cause a complete disruption in the relationship of states A and B. Of all the forms of intervention, however, unbounded balancing is undoubtedly the most complete and – if it used improperly (i.e. – if it becomes an example of unnecessary or overbalancing) – it can potentially be the type of intervention most likely to produce a modicum of temporary antagonism between states A and B. Yet, as the DP World case will demonstrate below, even in this unique situation the nature of this balancing tool will make it unlikely to lead to a permanent disruption in the meta-relationship of states A and B. Indeed, it is highly unlikely that even the improper use of unbounded balancing will ever result in one state cutting its military or diplomatic ties with the other state involved in the transaction.

**Case Selection**

Most analysts would agree that the five cases examined in this chapter, as well as the five cases discussed in the following chapters, are critical to
understanding government intervention into cross-border M&A. This is because each of these ten cases has had a distinct impact on the way in which market analysts have tried to understand domestic barriers to foreign takeovers. These cases also represent a diverse population of states associated with both the target and acquiring companies, and in each case the impact on the international merger market was significant. This section will thus provide a brief overview of why each of the cases included in this chapter are considered critical to understanding unbounded intervention as a form of non-military internal balancing.

The Pepsi/Danone case is critical to our understanding of unbounded intervention for two main reasons. First, it is one of the rare instances in which unbounded intervention has occurred within the security community context. As will be discussed in the next chapter, this is because bounded intervention tends to be viewed as a more satisfactory and useful tool of non-military internal balancing between two closely allied states. Indeed, the database exhibited only 11 cases of unbounded intervention out of 158 cases of intervention within security communities as a whole. In almost every case, economic nationalism was the primary, and

92 More than one example has been included in which from the U.S. because the home states of the acquiring company in each instance had vastly different political relationships with the U.S.. Both of the cases also faced an unusual level of politicization, which sparked a worldwide debate about this particular form of intervention and arguably changed the discourse surrounding it. Most market analysts recognize the remaining cases as important examples of high-level government intervention into foreign takeovers, though they did not face the same level of politicization.

113
geopolitical concerns the secondary, motivation for unbounded intervention. The Pepsi-Danone case is representative of this trend, and thus helps us to understand how and why this particular type of rare case occurs. Second, though Pepsi/Danone is generally representative of these cases in terms of motivation and form, it has one unique feature that prevented its inclusion in the statistical database, and which makes it, therefore, critical to examine qualitatively in order to further our understanding of such balancing as a whole. For though it is arguably one of the most often cited examples of government intervention into foreign takeovers, the target company (Danone) hails from an industry that most states would not normally associate with ‘national security’ – namely, the food and beverage industry. It was important to include this case, however, because the French government adamantly argued that Danone’s safety from foreign acquisition was a matter of national security, and promptly changed French FDI law to reflect their concerns. This case thus provides an excellent opportunity to examine the dynamics that result when such an odd categorization is made.

CNOOC/Unocal, on the other hand, is a critically important instance of unbounded intervention that occurred outside of the security community context. This case provides a detailed example of a company, which is owned by the

---

93 It could be argued that the rankings of these motivations were switched in one case (the attempted purchase of the German company MTU Aero Engines by the American firm Kohlberg Kravis Roberts & Company in 2003), because of the extremely sensitive nature of the target companies product, and concerns that such a sale could make state B more dependent on state A for military technology in the future.
government of a rising power that has a stated policy of using M&A to gain control of vital resources, finding its attempted acquisition blocked primarily because the target company’s state fears the geopolitical and national security implications of such a deal. This case is also of interest because of the historical context in which it occurred. For, as will be discussed in greater detail below, unbounded intervention had been rare on the part of the United States before this case. Furthermore, the US had not previously sought to block British Petroleum’s (BP) purchase of Amoco in 1988 or Petróleos de Venezuela’s (PDVSA) purchase of CITGO in 1990, both of which were arguably of much greater economic importance. Thus, it is important to understand why unbounded intervention was considered warranted in this particular case.

The Check Point/Sourcefire case was included because it is a rare example of unbounded intervention within a security community that is primarily motivated by national security and geopolitical concerns, rather than by economic nationalism. The two countries involved were the U.S. and Israel. Yet, despite the extremely close relationship between them, there was tension over the latter’s ability and willingness to adhere to the United States’ export control laws for technology in the sector in which this transaction would have occurred.94

94 It should also be noted that this case falls outside the technical parameters of the database because its deal value was just below the five hundred million dollar cut-off point used in the database. It is included here, however, because even though its deal value was just a little low, market and research analysts believed it would have a significant impact on the prospects for future cross-border consolidation of companies in that particular sector of high tech software. For while the parameters
The DP World/P&O case is critical for examination because it is, arguably, an aberration. It is an example of overbalancing through the use of unbounded balancing by parts of the US government against the UAE, when bounded balancing would have been sufficient to address any true national security concerns that existed in this case. 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) and bifurcated the US government position, at the same time that a certain degree of economic nationalism arose against the deal. The result was that the powerful elements that opposed the transaction were able to block it and, thus, an act of overbalancing occurred which had a temporarily negative impact on the relationship between the two countries. This is, therefore, a unique case in terms of US history and that of non-military internal balancing. It offers new insight into the primary hypothesis, and provides an excellent opportunity to examine the ramifications of such an occurrence.

Finally, the Macquarie/PCCW case has been included as a final example of unbounded intervention outside of the security community context, and is considered critical because it widens the geographical test of the hypotheses. In this case, the target company is Chinese, and the acquirer Australian. Certainly, it is the only set for the database were necessarily restrictive in order to increase the level of comparability among cases and to ensure the validity of the statistical results found, not all ‘critical cases’ fit neatly within such stringent parameters. It is, thus, equally important to ensure that such significant cases are examined qualitatively and not discarded from consideration.
example within the database of unbounded intervention being undertaken by either Russia or China within the time frame examined. This is primarily because these are what might be termed ‘capitalist autocracies’ and, therefore, the foreign acquisition of a 100% of a company within the industries examined here are very highly regulated, and often must be undertaken with the cooperation of the government (if they are allowed at all). In other words, these countries have such strict regulations regarding foreign investment of this type that unbounded interventions are rarely necessary, because if the government doesn’t indicate in advance that it wants the deal to happen in some form, companies are often unwilling to risk the capital to pursue them. Indeed, the high level of regulation within many industries in China and Russia already indicates a tendency towards internally balancing, in order to strengthen their strategic sectors relative to those of other states. Furthermore, the number of foreign acquisitions in these countries is generally lower than in the EU or US because of the uncertainties of their investment climate. Given this, however, it is still possible for a foreign company to attempt a takeover in these ‘strategic industries,’ and it is important to understand how these governments will react, and what will motivate them. Thus, it is imperative to investigate this rare case.
Case 1 – PepsiCo / Danone

The Story

On July 6, 2005 a rumor surfaced in the international equities market that the US beverage company PepsiCo was in the process of formulating a bid to acquire 100% of the French yogurt and water company Groupe Danone. Talk of the rumor persisted throughout the summer despite Danone’s insistence that they had not been approached regarding a possible takeover (Perri and Deen 2005), largely because of Pepsi’s refusal to comment on the rumor either positively or negatively (Matthews 2005; Mercer 2005). International newspapers and newswires kept the story going, naming inside sources who believed that the bid was real, or who claimed to know which banks were helping Pepsi to prepare their offer. Meanwhile, “the French media reported rumors that [the takeover] was imminent - and even, wrongly, that the American group had already bought a 3% stake” (Gow 2005).

What followed was an almost immediate reaction on the part of the French government, who sought (with gusto) to prevent the takeover entirely. By July 19th, a lower level government official made the “concern” of the French government over such a “culturally awkward” deal known to the press (Zephyr 2005a). In the next two days, the French Prime Minister Dominique de Villepin publicly proclaimed Danone’s status as a national champion: naming it one of the “jewels of [French]

95 This story initially leaked when the news service Dow Jones cited “an advance copy of the French publication Challenges” (Matthews 2005).
96 See, e.g.: (Brothers and Robbins 2005; Gay 2005; Schuman 2005).
industry” (Beaupuy 2005) and claiming that the French government would protect its independent French status in order to “defend France’s interests” (Vandore 2005a). At the same time, French President Jacques Chirac announced his concern over the possible deal, stating that the French government was “particularly vigilant and mobilized” to intervene if necessary, and stressing the role of the government in maintaining “the industrial competitiveness and … strength of its companies” (Beaupuy 2005).

It was not until July 25th that PepsiCo reported to the French market regulatory body (the Autorité des Marchés Financiers, or AMF) that it was not preparing a takeover bid for Danone “right now” (Perri and Deen 2005). This ‘denial’ of the rumor, however, still clearly left open the possibility that Pepsi might make such a bid in the future. The result was that less than 20 days after the initial rumor surfaced, and without any formal bid having been announced by Pepsi, the French government signaled their intent to prevent a ‘hostile’ foreign takeover of Danone through a series of actions that formed a coherent strategy of unbounded intervention.

First, the AMF became involved towards the end of the month by announcing that it would begin an investigation into the trading of Groupe Danone’s shares (Vandore 2005b). This was because Danone’s share prices had been fluctuating greatly, rising on reports of a takeover, and then falling sharply on July 25th, when Pepsi made the announcement that it was not preparing a bid, at least at the moment
anyway (Gow 2005). The investigation was made at the behest of “the minority shareholders' defense group, ADAM,” which “demanded a full-scale investigation to determine whether the rumors about Danone were the result of market manipulation and insider trading” (Gow 2005). The AMF echoed the widespread frustration that Pepsi’s failure to clearly refute the rumor had a great effect on share price (AMF 2005). This investigation eventually had a great impact on the FDI in France, as it prompted the so-called ‘Danone Amendment’ to be passed into law in March 2006. The new law “ultimately … aims to deter takeover bids that are either hostile or motivated by speculation, by [allowing the target company to] increase[e it]’s capital through the issuing of stock purchase warrants, … thus raising the price to be paid by the bidder” (EIRO 2006). Ironically, this amendment was attached to the law that was meant to provide for the domestic implementation of the European Takeover Directive, one of the goals of which was to reduce barriers to cross-border M&A within the European Union.

Second, and more importantly, Chirac and Villepin announced in a government meeting on July 27th that France “must strengthen the measures to protect [its] key companies,” and suggested that French law would need to be changed in order to protect their companies from such ‘hostile’ foreign takeovers.

---

97 See: (Merger Market 2006).
99 A ‘hostile’ takeover is considered to be one “which goes against the wishes of the target company’s management and board of directors” (Investor Words 2008). The virulent tone of Chirac’s and Villepin’s comments during the summer of 2005, however, suggest that they (at the time anyway) also
(Vandore 2005b). By August 31, French Finance Minister Thierry Breton announced that eleven ‘sensitive’ sectors would be considered strategic and, therefore, that the government would be changing the law to protect companies in these industries from unwanted foreign takeovers in the future (Beaupuy 2005b). On December 31, 2005, the French government put this plan into action, passing an anti-takeover decree that gives it “the right to veto or impose conditions on foreign takeovers of domestic companies operating in as many as 11 sensitive industries” (Buck, Hollinger and Braithwaite 2006). These include the industries dealing with…”

“private security, if used, for example in nuclear or other secure installations; research or production of products that can be used in terrorist or chemical attacks; bugging equipment; information security; companies providing information technology security to government; dual-use technology for civilian or military applications; cryptology; companies en-trusted with defense secrets; arms; certain sub-contractors to the defense ministry; and casinos, where the government is concerned about money laundering” (Buck, Hollinger and Braithwaite 2006).

Both the French President and Prime Minister were strongly in favor of such a law as a result of their opposition to a possible bid by Pepsi for Danone and, consequently, used every opportunity to show their support for it during the furor caused by the rumor. Chirac and Villepin were reported not only to have argued that “they would defend French interests in a possible transaction,” but also that the July “speculation that Groupe Danone may be an acquisition target showed the need for laws to defend against hostile takeovers” (Vandore 2005b). Chirac claimed that France “must strengthen the measures to protect [its] key companies and examine considered ‘hostile’ foreign takeovers to include those takeovers that have not been invited or at least tacitly approved by the government.
whether any changes [to the law] are necessary” (Vandore 2005b). Villepin contended that France “must ensure that [its] companies have the same means to act and defend themselves as their foreign counterparts” (Vandore 2005b).

Thus, it is clear that even though the acquisition of Danone by Pepsi had not yet passed the rumor stage, the French government reacted to the potential bid with a virulent campaign to prevent it from ever becoming an actuality. Furthermore, the French government sought, and succeeded, in carrying out a strategy of unbounded intervention to block this potential cross-border takeover bid on the basis that it threatened the national interest and security. (This strategy is starkly apparent when one examines the timeline provided in Appendix F). The question, therefore, is not only why did the French pursue this type of intervention, but also why did they pursue it in the context of the Yogurt industry, which is not one that could legitimately be associated with ‘national security’ in the traditional sense. The following will be an exploration of the different variables proposed in the primary hypotheses in relation to the Pepsi/Danone case, as well as an analysis of which variables provided the primary motivation behind the French government’s actions with regards to this case.
**Geopolitical Competition**

**Resource Dependency**

While France is a resource dependent nation, the United States is not one of its primary sources of energy.\(^{100}\) France’s resource dependency ratio, or the ratio of all its imported energy sources to its total energy supply, was 63% in 2005.\(^{101}\) This is very close to the mean resource dependency ratio for the 209 cases in the dataset, which was 62%. Coal is the only energy source of which the US is a major supplier for France, and France is not heavily dependent on coal, which only accounts for a small fraction of its energy consumption (EoE 2007).

**Relative Power Differential**

Despite the fact that both the US and France are major powers, the relative power differential between them is vast because the US retains its status as the world’s only superpower. In terms of relative military power, of course, the US completely overshadows France. In 2005, US military expenditure was $504,638

---

\(^{100}\) “France had net crude oil imports of 1.89 million bbl/d in 2005, the largest sources of these imports being Norway, Saudi Arabia, Russia, and the United Kingdom. Due to the lack of domestic oil sources, the French government has encouraged the use of nuclear power as an alternative energy source to oil where possible, and the proportion of France’s total energy consumption derived from oil decreased from 71 percent in 1973 to 39 percent in 2003” (EoE 2007).

\(^{101}\) The numbers used for the calculation of France’s resource dependency ratio in 2005 were projected from past IEA data, and are “in thousand tonnes of oil equivalent (ktoe) on a net calorific value basis” (IEA 2006). The total of all energy sources France imported was projected to be 175021.28, and the total supply of all France’s energy sources to be 279775.98 (IEA 2006). The resulting ratio of 62.60% for 2005 is consistent with the range of that same ration from 2000-2004, in which the range was between 60.96% (in 2001) and 63.38% (in 2000) (IEA 2006).
million, which is over nine and a half times what France spent, at $52,917 million.\textsuperscript{102} Furthermore, US military power relative to France is increasing because the average growth rate of the US’ military expenditure between 2001 and 2005 was 8\%, while it was only 1\% in France. In terms of relative economic power, the differences are also stark. US GDP in 2005 (at price purchasing parity) was almost seven times that of France.\textsuperscript{103} The relative economic power of the US was also increasing vis-à-vis the France at this time, with the average economic growth rate for the years 2001-2005 being 5\% for the US, and 4\% for France. It is clear, however, that France is closer to the US in terms of relative economic power than relative military power, and it would make sense for the French government to seek to balance the US through means that would help enhance the French relative economic power position.

**Overall Character of the Geopolitical Relationship**

The United States and France are formal military allies and members of a deeply integrated security community, a relationship formalized through their membership in the North Atlantic Treaty Organization (NATO). At the heart of this alliance is article 5 of the Treaty that provides for the mutual self-defense of its members, who commit therein to treat “an armed attack against one or more of them”

\textsuperscript{102} These figures are reported in constant 2005 US dollars by SIPRI (SIPRI 2006).

\textsuperscript{103} The ratio of GDP PPP of the US divided by the GDP PPP of France was 6.71\%. The numbers used for this calculation was sourced from the World Bank Development Indicators database, and were reported in US current dollars (World Bank 2008).
as “an attack against them all” (NATO 1949).\textsuperscript{104} Despite the end of the Cold War that originally gave it purpose, NATO’s members have maintained the alliance and have committed to both strengthen it and redefine its mission. Indeed, NATO remains the “essential alliance” for the US (Burns 2004), and France recognizes it as “a priceless asset that must be maintained in order to cope with current and future challenges and threats” (French Ministry 2008).

This being said, the relationship between the US and France within NATO is far from uncomplicated. France left the military arm of NATO in 1966 in order to pursue its own independent nuclear and military defense plans, largely because of disagreements with US policy and concerns that the US would not provide fully for the defense of France in case of a nuclear war (Anonymous 2008). Since that time France has contributed troops to Alliance operations such as Kosovo and Afghanistan, but has yet to officially rejoin NATO’s military command. Chirac initiated a discussion to rejoin the NATO command early in his Presidency, but his demands for rejoining were not met, and the discussion was dropped almost ten years before the 2005 Pepsi/Danone case (Reuters 2007). In 2007 French President

\textsuperscript{104} Article 5 of the North Atlantic Treaty states: “The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area” (NATO 1949).
Nicolas Sarkozy made overtures to rejoin the military command of NATO, but as of yet has not been successful.

Strain within the US-French alliance arguably reached its most recent height, however, following the invasion of Iraq in 2003. French opposition to the Iraq war was vociferous and unflagging, with threats of a French veto in the UN preventing the US from gaining full security council authorization for the invasion, and the acrimony of the discussion causing many to question the future of the alliance. Indeed, “NATO members do not like to admit it, but now that the Cold War is over, the alliance simply does not enjoy the solidarity that it once did – as the trans-Atlantic acrimony over the Iraq War made amply clear” (Kupchan 2006). This strain had not disappeared by the time of the Pepsi-Danone case in 2005, and it is only with the recent election of President Sarkozy that tensions have begun to ease.

As a result of these tensions, there was a prevailing perception within France at the time that the US was a threat to international stability, not only because of its ‘unilateralist’ foreign policies, but also more fundamentally because of its position as the world’s only superpower. Though a ‘favorable opinion’ of the US has been relatively low among the French public for some time, the Pew Global Attitudes Project found that French public opinion of the US changed dramatically after the Iraq War, falling from 63% in the summer of 2002 to 43% in June 2003 (Pew Global Attitudes Project 2003). More importantly, however, the French government has not been shy over its concerns with US hyperpuissance – a concept first put forward by
the French Foreign Minister Hubert Vedrine in 1999 (Lieber 2004). The French strongly believe in “the need to counterbalance [US] power,” and have “expressed under Chirac’s presidency” the belief that “multipolarism is a better way to guarantee world security than unipolarism” (Tardy 2003-2004). The French strongly believe that unipolar power is dangerous because of its ability to act beyond the constraint of international norms and agreements. The French have thus tried to establish themselves as the leaders of a self-styled effort to balance US hyperpuissance and return the world to multipolarity.

Within the confines of the NATO relationship, then, there is a potential for a certain level of strategic competition between the United States and France. This competition will largely focus on the use of diplomatic and economic tools to balance US power. Within this context, then, it is not surprising that the French Government might use a tool of unbounded intervention to prevent the takeover of one of its national champions by a US company. Indeed, the use of such a tool of non-military internal balancing makes perfect sense within the context of a French desire to enhance its own power vis-à-vis the US, while at the same time maintaining an alliance with the US, which it believes provides more strategic benefits than costs.

Thus, while French and American security is formally intertwined, their relationship remains antagonistic because of the vast power differentials and historical differences between the two countries, which are resented by the French, and which have been exacerbated by the US’ unilateralist approach to Iraq War. The
French have a stated policy of seeking to balance US power, and it is not surprising that it chose to do so through a strategy of unbounded intervention in the Pepsi/Danone case. This case can be interpreted as the French government seeking to protect its relative economic power position vis-à-vis the US, by defending one of its national champion’s (Danone) from a US ‘predator’ (Pepsi).

Indeed, the timing of the anti-takeover decree, and the acknowledgement that this case was the impetus behind the law, helped to frame the protection of Danone as a matter of French national security. Recall that Chirac and other members of the French government painted Danone as a ‘key’ company, a ‘national treasure,’ and a ‘jewel’ of French industry, whose protection was of paramount importance not only to French ‘industrial competitiveness,’ but also to France’s ‘interests’ (see: Beaupuy 2005; Brothers and Robbins 2005; Corcoran 2005; Vandore 2005b). While the food industry was not protected in the final version of the law, there was much speculation that it would be included as one of the 11 strategic sectors that would be ‘off limits’ to foreign takeovers. Furthermore, the government did nothing to dispel the belief that Danone would be protected until after the rumors of the takeover had died down, when French Finance Ministry official would only say that “Yogurt does not feature on our list” (Bennhold 2006a). However, under the provisions of the law Danone is protected from a foreign takeover, as Danone also owns a casino, and the casino industry is protected under the provisions of the law on the grounds that the government would need to monitor the industry to protect the country from money-
laundering used for organized crime and terrorism.\textsuperscript{105} The French government thus went to extraordinary lengths to ensure that a food and drinks company was associated with national security in order to effectively veto it at the time, and to ensure the validity of its ‘right’ to veto such a deal in the future.\textsuperscript{106} With all of this in mind, it is still true that the US and France are closer allies than many states in the world, and the underlying elements of geopolitical competition between these states could not have been enough to cause this kind of virulent reaction on its own.

\textit{Economic Nationalism}

As the birthplace of the concept of nationalism, and as one of the few true ‘nation-states,’ France is of course known for its high levels of national pride. In the last wave of the World Values Survey, 37\% of respondents in France claimed to be “very proud” of their nationality, and another 47\% to be “quite proud,” making a total of 84\% who were proud of their national identity to at least some degree (WVS 2001-2004).

Not surprisingly, the French are also well known for their economic nationalism. This is partially rooted in pride – 32\% of French citizens claim to be proud of their nation’s economic achievements (ISSP 2003). The virulence of their economic nationalism, however, is also rooted in a strong belief that globalization

\footnote{105}{See e.g.: (PINR 2005).}
\footnote{106}{It should be noted, that even under the provisions of the EU takeover directive, states maintain the individual right to veto foreign takeovers on national security grounds.}
threatens not only French “culture and … identity,” but also the health and vitality of the French economy (Gordon 2005). However misguided the latter belief is, it is only strengthened by the fact “that globalization directly challenges the statist economic and political traditions of the country” (Gordon 2005). For example, a 2005 survey that included every G8 country with the exception of Japan, asked respondents in those nations whether “the free enterprise system and free market economy [was] the best system on which to base the future of the world” (World Public Opinion 2006). France was the only country in the G8 where more respondents disagreed with that statement (50%), than agreed that the free market economy was a positive influence (36%) (World Public Opinion 2006). In a survey of 51 countries, French businessmen ranked second to last among those who believed that “attitudes toward globalization are generally positive in [their] economy,” followed only by Venezuela (IMD 2006). Such intense anti-globalization sentiment infuses every aspect of business in France, and was one of the primary reasons behind the French rejection of the EU constitution in 2005. Furthermore, the French associate the evils of globalization with “Americanization” (Gordon 2005; World Public Opinion 2006), which explains in part the virulent reaction of the French to their perceived national champion being taken over by a US company. As one journalist noted:

“French fears of foreign takeovers and related concerns about jobs migrating abroad are nothing new. But they have gained as unemployment remains stuck near 10 percent. Protectionist slogans helped far-left and far-right parties topple the European constitution in a referendum last May in France. A few weeks later,
rumors about a takeover of French dairy giant Danone by PepsiCo of the United States met with wide-spread outrage” (Bennhold 2006a).

The French government blatantly refused to allow one of its recognized national champions to become a victim of globalization in the form of a takeover by an American company. After all, the government portrayed Danone not simply as a national champion, but more fundamentally as a “jewel of [French] industry” (Beaupuy 2005; Brothers and Robbins 2005; Corcoran 2005). One observer even went so far as to proclaim “L’etat, c’est Danone” (Corcoran 2005). France has had a history of subsidizing and protecting its companies from foreign control since the Cold War, but the Danone case seems to have sent the government “into protectionist overdrive” (WSJ 2005a).

Villepin’s stated policy of ‘economic patriotism’ throws the role that economic nationalism played in the French opposition to the Danone takeover into stark relief. Economic patriotism has been described as a “woolly doctrine” that is a “mixture of Gaullist corporatism and mercantilism” (EIU 2005c). More simply put, it is an “industrial Maginot line”; a policy that “is designed to defend ‘France and that which is French’ [according to Villepin] by declaring entire sectors of French industry off-limits to [foreign takeovers]” (Theil 2005; Economist 2006b). The

---

107 It should be noted that “Villepin … was the first to coin the phrase ‘economic patriotism’” (Betts 2005). From the beginning he strenuously “urged his compatriots to rally behind his concept of ‘economic patriotism’ to ensure they compete more effectively in a globalizing world” (Thornhill and Jones, 2005). Villepin declared “I am absolutely convinced that France has exceptional assets and has nothing to fear from international competition. But our forces must be united, organized and mobilized so that we have the will to win together, business chiefs, social groups, the state and workers” (Thornhill and Jones, 2005).
French government even argued that this was not ‘protectionism,’ but a policy designed to counter similar policies “in the US and elsewhere” (Thornhill and Jones, 2005).\textsuperscript{108} Most importantly, however, this policy of economic patriotism is considered by many to be a “response” to the rumors surrounding the possible takeover of Danone by Pepsi (EIU 2005c). The formulation of such a stated policy clearly demonstrates France’s desire to balance the relative economic position of the US through a policy of unbounded intervention in this case, and to balance that of other countries in similar cases in the future.

All of these facts combine to show that economic nationalism was indeed one of the primary motivations behind France’s strategy of unbounded intervention in this case, and that this was exacerbated by tensions in the geopolitical relationship between the US and France. It is in the context of such virulent economic nationalism that the Pepsi rumor was able to trigger both legislation and the formalization of a new economic policy designed specifically to block a foreign takeover of Danone. Furthermore, these policies enjoy such strong support across government and public lines that it is unlikely they will change in the future, even with the rise to power of a relatively market friendly leader like Sarkozy.\textsuperscript{109}

\textsuperscript{108} VILLEPIN said of the issue: “I do not see why this idea of economic patriotism is modern in the US and outmoded in France” (Thornhill and Jones, 2005).

\textsuperscript{109} This is because Sarkozy much more open to the free market, and was a great rival of Villepin and his policies. His free market positions, however, will be unlikely to overcome popular opinion against globalization.
Presence of Interest Groups

There were interest groups present in France who either opposed the Pepsi/Danone deal, or who were likely to oppose it if given the opportunity to do so. Danone itself preferred “to remain independent”, but was also reportedly looking for a domestic white knight to provide an alternative if Pepsi did make a formal offer for its company (Perri and Deen 2005; Schuman 2005). Danone Chairmen Franck Ribaud later suggested, however, that he did not actually want to see government “‘sanctuarise’ Danone” because “sanctuaries are for relics, whereas Danone thrives on the competition it faces in all its markets” (Dairy Reporter 2006). Thus, the actual role played by Danone in the government’s actions is somewhat opaque. Furthermore, the fact that the government reacted to the rumor almost immediately meant that shareholders (who would be the main stakeholders in such a transaction) didn’t really have time to respond either positively or negatively to the deal.

It was also fairly clear that the interest groups that were normally associated with anti-globalization movements would protest such a deal because of fears that it would lead to a loss of jobs for French workers, and because of its somewhat iconic role in the identity of the French economy. It was, for example, claimed that “France’s Unions would … strongly oppose a PepsiCo deal,” as would French farmers (Brothers and Robbins 2005; Corcoran 2005). This did, of course, play a role in the government’s attitude towards the deal, and contribute to the unlikelihood
that it would become more than a rumor. However, these interest groups themselves were largely motivated by economic nationalism, and it seems clear that it was the general economic nationalist mood of the nation at that time, rather than the persuasive powers of any one interest group, that contributed to the rapidity of the French government’s intervention. In the end, it was not the opposition of a particular interest group, but the staunch opposition of the French leadership combined with widespread opposition that prevented the rumor from ever becoming a reality.\textsuperscript{110}

More importantly, the immediate groundswell of opposition to the deal did not come from the market, but from French government officials appalled at the notion that such a French icon would be bought by a foreign, and equally important – an \textit{American}, firm. As the above discussion of the general French tendency towards economic nationalism and the specific French policy of ‘economic patriotism’ demonstrates, it is not surprising that the government in this case did not need the lobbying of a specific irate interest group or stakeholder to bring their attention to, or convince them of, the ‘dangers’ of such a deal.

\textbf{Competition Concerns}

The issue of whether or not such a combination of companies would be monopolistic, or whether competition within the food industry would be affected

\textsuperscript{110} As one market analyst put it: “If I put myself in Pepsi’s shoes, do I want to invest $30 billion in buying a company in France with President Chirac, the chairman, unions, and farmers hostile to the move? You’d be insane” (WSJ 2005a).
negatively by such a takeover, was not a concern that was flagged by the government or by the market in this case. This was largely because government efforts to block the deal on other grounds were so quick that the deal was scuppered long before it could move beyond the rumor stage.

**Conclusions on Pepsi / Danone**

There is a distinct pattern of French government led efforts to balance the relative economic power position of the US through a strategy of unbounded intervention in this case. This makes sense in the context of French efforts to balance American *hyperpuissance* as a whole. This strategy seems to be both purposefully and consciously implemented. For, at the same time that the French are seeking to protect their own national champions from foreign takeovers, they have been “vocal [in their] approval of foreign takeovers by French firms” (EIU 2005c). Indeed, “since 2000, … the value of takeovers abroad by French companies has totaled €260bn, while the value of takeovers of French companies by foreign ones has totaled less than half that amount, around €120bn” (EIU 2005c).\(^\text{111}\)

---

\(^\text{111}\) In fact, “since the beginning of 2005, French companies have been particularly active in cross-border mergers and acquisitions (M&As). Suez has bolstered its position as a leading player in the EU’s energy market by acquiring all the capital of its Belgian subsidiary, Electrabel; Pernod-Ricard has acquired Allied Domecq, a UK drinks company; France Télécom has acquired a majority stake in the Spanish telecoms company, Amena, as it seeks to deepen its presence in the five foreign markets on which it is concentrating (the UK, the Netherlands, Belgium, Spain and Poland); and Saint-Gobain has launched a hostile takeover bid for BPB, a UK plasterboard manufacturer” (EIU 2005c).
Case 2 – CNOOC / Unocal

The Story

In 2005, the potential acquisition of the American Unocal Corporation by the Chinese government-owned CNOOC Ltd., caused an almost unprecedented reaction in Washington, where a widespread movement among members of the US government sought to block the foreign takeover through a strategy of unbounded intervention, allowing the American company Chevron to win the ‘war’ for Unocal. All three of the companies involved were in the oil and gas industry, and Unocal was a recognized takeover target that, though relatively small as “the 9th largest oil company in the world” (Powell 2005), provided others with a unique opportunity to buy an independent company with wholly owned assets in Asia. In fact, Unocal had relatively few assets in North America (mainly in the Gulf of Mexico) and Europe, but had a number of prime assets in Asia (in Azerbaijan, Bangladesh, Indonesia, Myanmar, the Philippines, and Thailand) (Unocal 2005; Greenwire 2005c), in addition to a number of joint venture projects in Asia. Meanwhile, CNOOC Ltd. (an American listed company based in Hong Kong) was seeking to expand its asset base in Asia. The fit to the market initially seemed obvious, though there were

112 At the beginning of the bidding process, many market analysts and observers agreed that a CNOOC/Unocal deal would make sense in so far as the two companies assets seemed to be a good fit for one another. [See, for example, (Chen 2005).] Indeed, there seemed to be a big difference between market analysts at the beginning who dismissed the national security concerns involved and focused on the financials of each bid, and policymakers who really played up the national security issues involved in the CNOOC deal (Intl. Oil Daily 2005b). This is not to say, however, that the market did not acknowledge early on that US policy makers would be wary of the deal. Not too long
questions over whether CNOOC could afford Unocal. Yet, controversy would ensue when it was realized by public policymakers that CNOOC Ltd was 71% owned at the time by the Chinese government owned and controlled Chinese National Offshore Oil Company.

The race for Unocal began very early in 2005. CNOOC announced that it was considering a bid for Unocal on January 7th, and by March 3rd Chevron had joined the fray by announcing that it too was contemplating mounting a takeover attempt for Unocal (Zephyr 2005b). In early April, CNOOC withdrew itself from the Unocal ‘race’ amid concerns of its non-executive board members who were “troubled by the amount of debt” CNOOC would have to take on in order complete such a deal (Timmons 2005). With the path seemingly clear, Chevron announced on April 4th its intention to buy Unocal for $18 billion in a debt/cash deal worth “an overall value of US $62.00 per share” (Zephyr 2005b; Zephyr 2005c), for which they received approval from the Federal Trade Commission of the United States by June 10th, and approval from the US Securities and Exchange Commission by July 29th. The race, however, was far from over and on June 7th CNOOC once again ‘confirmed’ its intention to make an offer for Unocal in the near future (AFP 2005a), a promise that it fulfilled on June 22nd when it topped Chevron’s bid with a cash offer for $67 per share of Unocal stock (Zephyr 2005b; Zephyr 2005c).

before the Unocal race, there was a scandal involving China Aviation Oil, which demonstrated the problems inherent in China’s lax financial reporting requirements. Despite this, as will be shown below, the market still believed that CNOOC could win because of the premium their bid offered to shareholders (AFP 2005b).
In the United States, there are three major hurdles that a foreign takeover (such as that intended by CNOOC) must clear in order to be successful (Grundman and Roncka 2006). The first hurdle a foreign company must pass is “Foreign Ownership, Control or Influence (FOCI) review,” in which the DOD Defense Security Service (DSS) investigates a transaction to ensure that it will not affect the “security of classified information and contractor performance on classified contracts” (Grundman and Roncka 2006). This process was established in 1993 as part of the National Industrial Security Program (NISP) that was established by Executive Order 12829 (Enix-Ross 2006). Like the CFIUS process, the FOCI review is classified, and it is unclear whether Unocal had classified contracts that would have triggered a FOCI review if it accepted CNOOC’s bid.

113 The American Bar Association has provided one of the clearest explanations of the FOCI process. They explain:

“Executive Order 12829 (January 6, 1993) created a National Industrial Security Program to ‘safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government.’ To implement Executive Order 12829, the Department of Defense (DoD) prepared and issued the ‘National Industrial Security Program Operating Manual’ (NISPOM). Among other things, the NISPOM employs the concept of ‘foreign ownership, control or influence’ (FOCI) and specifies that a contractor who is under FOCI may not hold a security clearance or deal with classified government information. See NISPOM §2-102(d). Under NISPOM the Defense Security Service (DSS), a key agency within the DoD, conducts investigations whenever an issue of FOCI may arise with a contractor that holds or wishes to hold a security clearance. The NISPOM also prescribes very precise information that must be supplied to the DSS whenever an issue of FOCI arises and, if necessary, “mitigation” measures that must be adopted by a contractor with FOCI if it wishes to continue to hold a security clearance and to have access to classified information. Among the tools available to the DSS in such FOCI cases are such screening mechanisms as independent outside directors who are trusted U.S. nationals or, in cases of greater concern about the degree of FOCI present and the risks to U.S. national security, imposition of either a formal voting trust or proxy agreement in which the U.S. contractor is fully insulated from its foreign owner in the conduct and operation of the contractor’s business. See NISPOM § 2-306” (Enix-Ross 2006).
The second hurdle is a competition review provided for under the 1976 Hart-Scott-Rodino Antitrust Improvements Act, which occurs before a transaction is concluded. The Hart-Scott-Rodino review process is “conducted by the Department of Justice or Federal Trade Commission, [and] supported by Dept. of Defense,” and is “intended to protect competition and prevent transaction-specific adverse impacts on prices and innovation” (Grundman and Roncka 2006). As will be discussed below, the US government did not really display concern over a proposed CNOOC/Unocal deal on competition grounds.

The third hurdle for foreign investors during the time period examined in this dissertation was the Exxon-Florio process, which served as the backbone of foreign takeover law in the US until it was recently updated by the Foreign Investment and National Security Act of 2007 (FINSA). For the purposes of this investigation, it should be noted that FINSA simply clarifies the Exxon-Florio Process, and has not changed it materially from the description given below. It is, therefore, the latter

---

114 Both FOCI and Hart-Scott-Rodino reviews can last anywhere from one to six months (Grundman and Roncka 2006).
115 FINSA amends section 721 of the Defense Production Act (DPA), and went into effect on October 24, 2007. “The President issued Executive Order 13456 on January 23, 2008, to amend Executive Order 11858,” which had been the original order implementing section 721 of the DPA (US DOT 2008a). Then, after a period of public comment and analysis within CFIUS itself of the amendment requirements, the US Department of the Treasury (DOT) issued its ‘final regulations’ on how the law would be implemented in practice on November 14, 2008 (these are officially known as the ‘Regulations Pertaining to Mergers, Acquisitions, and Takeovers by Foreign Persons’).
116 For the most part, the 2007 FINSA, and the 2008 regulations and executive order, only provide for a “codification of [the] many existing informal practices” (Plotkin et al 2009) that are described in this chapter. FINSA did add the Secretary of Energy to the membership of CFIUS, and formally recognized that critical infrastructure was of concern to national security in the transactions covered by its review. However, the latter was already informally recognized in the DP World transaction, and
framework that is described here, in order to provide a more precise historical understanding of the nature and uncertainties of the process as faced by the acquirers of US companies examined in this work. The review process was, thus, provided for by the Exxon-Florio Amendment to the 1988 Omnibus Trade and Competitiveness Act, which:

“…amended Section 721 of the Defense Production Act of 1950 to provide authority to the President to suspend or prohibit any foreign acquisition, merger or takeover of a U.S. corporation that is determined to threaten the national security of the United States. The President can exercise this authority under section 721 (also known as the ‘Exon-Florio provision’) to block a foreign acquisition of a U.S. corporation only if he finds: (1) there is credible evidence that the foreign entity exercising control might take action that threatens national security, and (2) the provisions of law, other than the International Emergency Economic Powers Act do not provide adequate and appropriate authority to protect the national security” (CFIUS 2007).

CFIUS is the body that was created in order to implement this provision. It is headed by the Secretary of the Treasury (who at the time of this case was John Snow) and by 2005 boasted twelve separate government agencies as reporting members. Filings with CFIUS are usually voluntary, with companies notifying the Committee once an preliminary or formal agreement has been reached for the transaction in question (CFIUS 2007). Once this notification is received, the review process begins; for most companies this involves a simple 30 day review of the transaction, but in cases

the former was presaged by the CNOOC transaction. Furthermore, these changes do not affect the theory presented here in any way, nor do they affect the conclusions drawn from the case studies examined in this dissertation.

117 Under Exxon-Florio, these government agencies include: “the Director of the Office of Science and Technology Policy, the Assistant to the President for National Security Affairs, … the Assistant to the President for Economic Policy, … the Department of Homeland Security, … the Secretary of Treasury, … the Secretaries of State, Defense, and Commerce, the Attorney General, the Director of the Office of Management and Budget, the U.S. Trade Representative, and the Chairman of the Council of Economic Advisers” (US DOT 2007). As mentioned above, under FINSA, these members now include the Secretary of Energy (US DOT 2008b).
where a national security issue is flagged the Committee can then conduct a “extended 45 day review” which must be followed by “a report … to the President, who must [then] announce the [his] final decision [on the deal] within 15 days” (CFIUS 2007). This means that 90 days is the maximum time allowed for a review (CFIUS 2007). This time limitation is important, because it gives foreign investors a time frame in which they can plan to have contingent funding and resources available for their transaction. One industry source has also pointed out that unexpected delays in the review process, especially those that might unofficially extend the 90-day limit, can cause some foreign companies to lose short term financing opportunities or force them to pay higher prices because of interest accrued on loans that may have already been in place for a deal. More importantly, however, and as the CNOOC/Unocal case will demonstrate, attempts to cause a delay in a foreign takeover transaction beyond the 90 day process causes uncertainty and, therefore, a degree of risk that investors, shareholders, and board members of the companies involved are usually unwilling to accept. Understanding the details of this review process, therefore, is integral to understanding what happened in the CNOOC/Unocal case.

Indeed, the possibility of a Chinese government owned company taking over a US oil company during a period of tense Sino-American relations and rising energy prices began to worry members of the US government. These policymakers then quickly sought to deal with the issue both inside and outside the context of the highly
institutionalized process for reviewing foreign takeovers under US law. By June 17th, US Congressmen Duncan Hunter (R-CA) and Richard Pombo (R-CA) sent a letter to President Bush requesting that CFIUS investigate the potential ramifications of a CNOOC/Unocal deal because they were ‘concerned’ that such a deal would threaten “U.S. Jobs, energy production, and energy security” (Timmons 2005). The latter issue was of significant concern to the Congressmen, who “encourag[ed] Bush to consider the national security implications regarding the transfer of technology to China in the event of Unocal's acceptance of CNOOC's offer” (Bullock and Xiao 2005b). On June 22nd, only five days after the Hunter/Pombo letter, “Energy Secretary Samuel Bodman [confirmed] that a bid would be reviewed by [CFIUS]” (Gold, Pottinger, and Berman 2005). Then on June 23rd, on the same day that “the Senate Finance Committee … [held] a hearing on the evolving U.S. – Chinese economic relationship (Gold, Pottinger, and Berman 2005), Senator Chuck Grassley (R-IA) announced that US “legislators [would] watch [the] CNOOC-Unocal” deal (Dow Jones 2005b). By “late June 2005,” then, “41 members of Congress sent a letter to Treasury Secretary John Snow …, asking that the potential transaction ‘be reviewed immediately to investigate the implications of the acquisition’” (Graham and Marchick 2006). On June 27th Congressmen Joe Barton (R-TX) and Ralph Hall (R-TX) wrote a letter to President Bush urging him to block a

118 The issues addressed at the hearing included “Beijing’s currency-management practices [and whether they were] designed to give Chinese firms an unfair advantage over U.S. companies in the world marketplace. Both Treasury Secretary John Snow and Fed Chairman Alan Greenspan … testif[ied]” (Gold, Pottinger, and Berman 2005).
CNOOC takeover of Unocal because it “poses a clear threat to the energy and national security of the United States” (Orol 2005d; Barton and Hall 2005). The Congress was beginning to lean towards a clear strategy of unbounded intervention, with the intent to block the deal one way or another.

This strategy was solidified on June 30th, in two separate formal actions taken by the US House of Representatives. The first was the passage of House Resolution 344, sponsored by Congressman Pombo, which formally recognized congressional concern that a CNOOC/Unocal deal “threatens to impair the national security” (US House 2005c). This concern mostly emanated from a belief that, in an environment where the US and China were competing for energy resources and Sino-US relations were strained, the Chinese government might through its ownership of CNOOC use a Unocal purchase to gain control over much needed energy assets, as well as control over dual-use technologies that could have military applications. H. Res. 344, therefore, demanded that if Unocal and CNOOC did agree to a transaction, that “the President … initiate immediately a thorough review of the proposed acquisition, merger, or takeover” (US House 2005c). This resolution passed by a vote of 398-15 (US House 2005c). The second action taken by the US Congress was the addition of Amendment 431 to H. R. 3058. The purpose of this amendment, which was sponsored by Congresswoman Carolyn Kilpatrick (D-MI) and passed by a vote of

119 House Record 3058 is entitled: Making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes. For further details, see: (US House 2005b).
333-92, was to “prohibit the use of [Treasury] funds from being made available to recommend approval of the sale of Unocal Corporation to CNOOC Ltd. of China” (US House 2005c). This amendment was clearly a tactic to block a CNOOC/Unocal deal, because if CNOOC and Unocal were to have reached an acquisition agreement, a CFIUS review would have been triggered, and those funds required. For H.Res. 344 mandated that such a review be “thorough,” which would indicate a full 45-day CFIUS investigation, resulting in a report to the President, who would then have to give his approval or disapproval regarding the transaction. This amendment, therefore, would have made it impossible for the President to give his approval under such a scenario, because the report would be delivered through the Chair of CFIUS, who is the Secretary of the Treasury, and who by definition would be using funds from the Treasury.

The high profile concern generated by the deal caused the CEO of CNOOC, Fu Chengyu, to take the highly unusual step in late June of not only “writing to members of Congress expressing his company’s willingness to participate in a [CFIUS] review” (Intl. Oil Daily 2005c), but also on July 1st of requesting that CFIUS review the transaction before an acquisition agreement had actually been reached with Unocal (Amaewhule 2005).120 On June 30th, Liu Jianchao, the

120 According to the papers at the time, “CNOOC … made a formal request for an urgent review by CFIUS of its proposal to acquire Unocal. …The call for the review by CNOOC is a pre-emptive one having been made before a deal was agreed to with Unocal, which would normally trigger such a review. Unocal was quoted by Reuters as stating that the company was not involved in CNOOC’s
spokesman for the Chinese Foreign Ministry, announced that: “China wants to find a ‘win-win’ result,” because “this issue is a commercial transaction between two companies, and a normal exchange between China and the United States. It should stay free of political interference” (Dow Jones 2005a). In fact, CNOOC really believed in the beginning that the US government would not block the deal, so long as they ‘marketed’ it, and their intentions, correctly. Chengyu, for example, was truly “confident [that the] deal politically [was] viable” (AFX 2005a), once he made it clear that their “all-cash offer [was] clearly superior for Unocal shareholders,” that “it [was] good for America,” and that “[CNOOC would] protect Unocal’s U.S. jobs” (Gold, Pottinger, and Berman 2005).}

request for the review and had not reached a sale agreement with CNOOC” (Amaewhule 2005). Another reporter claimed that the issue was all about timing:

“CNOOC’s request for an expedited review is evidence of the immense political pressure that its proposal for Unocal [was] facing. A situation that has been intensified by Chevron’s move to bring forward the date for a vote on its proposal for Unocal. Originally scheduled to be held later in the third quarter of this year, the 10 August date Chevron has succeeded in setting for the shareholder vote by Unocal leaves CNOOC with a mere five weeks to persuade Unocal’s shareholders of the merits of its proposal. The House resolutions are yet to take effect, and if the US government does agree to an early CFIUS review of CNOOC’s proposal, the Treasury Department has 30 days within which to commence an investigation. Once commenced, the investigation may last a maximum of 45 days, leaving CNOOC with very little room to maneuver” (Amaewhule 2005).

121 Jianchao had similarly stated two days earlier: “I think this kind of business activity is normal business activity. The relevant people should not make a fuss and should not interfere in this kind of business co-operation based on political reasons” (Reuters 2005a).

122 Chengyu said: “I am confident that with the US government leading the campaign for global free trade and freedom, and with US companies making acquisitions in China, the transaction will prevail in the US.” Regarding Pombo’s letter and CFIUS he said: “That process has to do with national security. … We all know that this company does not (have) any negative impact to the national security of the US. … People need to understand this is a purely commercial transaction driven by market forces and consideration” (AFX 2005a). In another statement, Fu claimed that “[CNOOC] is driven purely by economics … If there’s a good market, the more we can supply, the more value we
The frustration on the part of the Chinese government at what it viewed as US ‘protectionism,’ however, soon began to show. In what is widely viewed as a critical slip in the campaign to win the race for Unocal, the Chinese Foreign Ministry made another statement on July 5th, declaring: “We demand that the US Congress correct its mistaken ways of politicizing economic and trade issues and stop interfering in the normal commercial exchanges between enterprises of … [China and the US]” (Dow Jones 2005d). This statement only served to increase the fears of certain members of the US government that the Chinese government was guiding the CNOOC bid, and that such an offer did not necessarily have friendly motivations (Dow Jones 2005d).

On July 13th, the same day that it was reported CNOOC was contemplating making a higher offer (Canadian Press 2005) in order to win over Unocal shareholders, the difficulties for CNOOC’s bid intensified. CFIUS reportedly denied CNOOC’s request for “a preliminary opinion on its proposed acquisition” of Unocal (AFX 2005c). The House Armed Services Committee held a hearing to review the “national security implications” of a CNOOC takeover (Dow Jones 2005c). The

---

123 In fact, the statement had a very deleterious effect on the situation. As Congressman Pombo quickly pointed out, the Foreign Ministry spokesman’s words “only reinforce[d] the concerns expressed by the House last week. … If the Chinese are willing to tell the Congress of a free nation to get lost what assurance do we have that they wouldn’t tell the free market to but out too? I think the answer is ‘no’. An investigation into the national and economic security ramifications of this deal is clearly warranted” (Dow Jones 2005c). Now, Steve Hadley (the National Security Advisor to President Bush at the time) was also quick to point out that such an investigation would have happened anyway, but the statement did serve to solidify opposition and anger in Congress, ensuring that they would use their power to block a CNOOC/Unocal deal if need be (Dow Jones 2005c).
majority of witnesses at the hearing, and most members of the committee, believed that such a takeover would be a threat to US national security (AFX 2005c). Committee Chairman Duncan Hunter argued that the deal was fundamentally “at odds with US interests” (AFX 2005c). That same day, Senators Chuck Grassley and Max Baucus (D-MT) also sent a letter to the President expressing their concern over the possible CNOOC takeover, supporting calls for a formal CFIUS review of the deal if an acquisition agreement was made with Unocal (Grassley 2005). On July 15th, Senator Dorgan (D-ND) introduced S. 1412 to the Senate, a piece of legislation that would have “prohibit[ed] the merger, acquisition, or takeover of Unocal Corporation by CNOOC Ltd. of China” outright, if it had been passed (US Senate 2005).

Despite the hot political environment, Unocal was enticed by the possibility of a bidding war for its company, as well as the higher return for its shareholders that a courtship of CNOOC promised. Unocal’s board and its shareholders were worried about receiving the highest price for the company at the lowest level of risk. On July 14th, therefore, the board of Unocal “agreed that ‘assuming neither Chevron nor CNOOC improved the financial terms of [their] proposed transaction[s], the board’s inclination would be to withdraw its recommendation for the Chevron transaction’” (NG 2005). When Chevron raised its bid for Unocal on July 19th to “an overall value of US $63.01 per share” (Zephyr 2005d), therefore, it was not surprising that “the
Unocal board recommend[ed] that stockholders vote in favor of adopting the amended merger agreement” with Chevron (Zephyr 2005d).

At this point, opposition to the deal remained strong within the US government and the public. The hearing held by the House Energy & Commerce Committee reviewed the possible CNOOC/Unocal Deal on July 22nd. Senators Vitter (R-LA), Bayh (D-IN), Talent (R-MO), Coburn (R-OK), and Inhofe (R-OK) also sent a letter on this date:

“urging Senate Energy and Natural Resources Committee Chairman Pete Domenici (R-NM) and Ranking Member Jeff Bingaman (D-NM) to include language in the Energy Bill Conference Report that would require the Secretary of Energy, along with the Secretaries of Defense and Homeland Security, to study the implications of such a transaction before a formal review could begin” (States News Service 2005b).

As regards the general public, 73% of Americans polled by the Wall Street Journal in mid-June claimed to “‘dislike’ the potential [CNOOC] deal” (Voice of America 2005).

Throughout this period of time, the White House itself remained fairly neutral on the proposed foreign takeover, as is the norm in such cases. This was largely because it did not yet need to get involved, and likely because it probably was better to wait and see whether or not Unocal actually chose CNOOC over Chevron, rather than to waste valuable political capital by committing itself to a position at such an early stage in the process. The White House did make it clear, however, that a CFIUS review would be triggered if the CNOOC bid was chosen, and it did not openly favor such a deal – indicating a desire for Congress and the Senate to do the
dirty work of balancing in this case. Nevertheless, it was clear that (at the very least) the majority of the legislative branch of the US Government wanted to completely block a CNOOC/Unocal deal, and the muted response of the Executive branch would not fill CNOOC with any confidence of approval for its proposed transaction.

Unocal, meanwhile, was still hoping for a bidding war. They held meetings with both Chevron and CNOOC during this time period, hoping to see a higher offer result from one or the other. Even without a changing their offer, CNOOC’s original bid was indeed higher than Chevron’s, but the degree of political uncertainty that surrounded CNOOC’s bid was much greater than it was if they decided to go with Chevron, who not only had FTC and SEC approval, but who (as a US company) would also not have to face the CFIUS process.\(^{124}\) It was, therefore, reported by July 26\(^{th}\) that “despite the [original] higher cash offer from CNOOC, Unocal management argued that increased risks of government approval and delay outweigh the differential on CNOOC’s $67/share bid” (Taylor 2005).\(^{125}\) At the same time, it was reported that CNOOC might raise their bid for the company above $67/share, but only if Unocal met two demands (Taylor 2005). These were that Unocal: 1) “pay the

---

\(^{124}\) See: (AFX 2005b).

\(^{125}\) As many observers of the deal pointed out, the “furor in Washington creates uncertainty… and for Unocal uncertainty argues against a CNOOC deal” (Murray 2005). In fact, it was reported that “many investors have said that the CNOOC bid is more attractive financially, but that a Chevron deal” is much more attractive to those investors because it “offers more certainty of being completed in a timely fashion” (Reuters 2005d).
$500 million break-up fee for terminating the [original deal with] Chevron”126 and 2) that they “take ‘specific actions’ to help ‘influence the US congress’ towards a deal with CNOOC” (Taylor 2005). Neither of these conditions would be particularly easy for Unocal to achieve, and the market roundly believed at this point that while CNOOC still had a chance if they made a higher bid, the political risk of their deal would probably be too much for either CNOOC or Unocal to accept. As one analyst put it, “the market [was] split” in its estimates of how the CNOOC bid would play out, mainly because many disagreed on “how to price political risk” (NG 2005). One of Oppenheimer’s analysts claimed that “CNOOC must realize it’s a ‘dead-end street’ without political support in the US and would not want to offer more money without assurances of success” (Taylor 2005).

Despite all of this, many in the market and the press still believed that CNOOC would raise their bid. For example, on July 28th it was rumored that “CNOOC Ltd. has drafted plans to increase its $67/share cash bid to more than $70 /share, valuing Unocal at about $19.3 bil[lion], about $2 bil[lion] above Chevron’s proposal” (Platts 2005). It was also believed that “Unocal’s board would need a 10% premium from CNOOC, over and above Chevron’s $63.01/share offer to compensate for risk that US Legislators and regulators would delay or even stop a CNOOC-Unocal Merger” (Platts 2005). Rumors even surfaced as late as August 1st, that

---

126 The original agreement between Unocal’s board and Chevron from April 2005 specified that there would be $500 million dollar ‘break up fee’ if Unocal chose to accept an offer from a different company.
CNOOC was waiting for Congress to recess to announce both a higher bid, and a white-knight buyer for Unocal’s US assets (Natural Gas Intelligence 2005). Either way, CNOOC’s pursuit was dealt a strong blow that same day when the proxy firm Institutional Shareholder Services, “which can at times sway US takeover battles with its recommendations, said it was supporting Chevron because of the significant premium associated with the Dollars 17.5 [billion] offer, as well as the regulatory risks associated with CNOOC’s bid” (Guerrera and Polti 2005).

In the following days and weeks another crucial effort at unbounded intervention was made by legislative branch to block a possible CNOOC/Unocal deal. Then, on August 8th, a piece of legislation introduced by Representative Joe Barton, the Energy Policy Act of 2005 (H. R. 6), was signed into law. This law included within it a provision that provided for an extraordinary delay in the conclusion of any deal between CNOOC and Unocal – a delay that effectively killed the deal. Section 1837 of H. R. 6, required that a report be made to Congress assessing the national security implications of the issues relating to China’s quest for energy, the use of foreign investment to satisfy those energy needs, and of ‘reciprocity’ issues (such as whether or not a US company would be able to purchase an oil company in China) (US House 2005a). (Please refer to Appendix H for the text of H. R. 6 § 1837.) This section was the result of an amendment made by Congressman Pombo, who “admitted to reporters that his amendment was meant to effectively kill a potential CNOOC/Unocal deal” (Oil Daily 2005a). According to
Senator Dorgan, who also supported this amendment, the main motivation behind the request for this study was the ‘delay’ that it would cause (O'Driscoll 2005). H. R. 6 allowed 120 days for the completion of the report, and effectively mandated that CFIUS could not begin its review of a CNOOC/Unocal deal until 21 days after that, in order for its findings to be considered in the review process (US House 2005a; O'Driscoll 2005). Thus, this law ensured that there would be an excessive and onerous delay of 186 days (about 6 months) before the companies would officially be told if the transaction could be concluded.

Not surprisingly, CNOOC withdrew its outstanding bid for the Unocal Corporation on August 2nd, 2005. The company’s stated reason for pulling out was “the political environment in the U.S.,” where “unprecedented political opposition that followed the announcement of our proposed transaction” (CNOOC 2005). In

127 According to one reporter, “Dorgan said a delay was just what was intended” by Pombo’s Amendment. (O'Driscoll 2005).
128 Part C of H. R. 6 § 1837 states that: Notwithstanding any other provision of law, any instrumentality of the United States vested with authority to review a transaction that includes an investment in a United States domestic corporation may not conclude a national security review related to an investment in the energy assets of a United States domestic corporation by an entity owned or controlled by the government of the People's Republic of China for 21 days after the report to the President and the Congress, and until the President certifies that he has received the report described in subsection (b).” It is also important to note here that the Pombo amendment was initially considered controversial because of the delay it caused to the CFIUS timeline, which was already set by law. See (O'Driscoll 2005).
129 CNOOC’s press release following on the announcement of the withdrawal from the race for Unocal stated:
“CNOOC has given active consideration to further improving the terms of its offer, and would have done so but for the political environment in the U.S. The unprecedented political opposition that followed the announcement of our proposed transaction, attempting to replace or amend the CFIUS process that has been successfully in operation for decades, was regrettable and unjustified. This is especially the case in light of CNOOC’s purely commercial objectives and the
fact, the opposition to the deal was so intense that the Chinese government withdrew their support for the acquisition towards the end of the bidding process (Grimmer 2005). This was because tensions with the US were already high at the time (as will be discussed below), and “it was just not worth using up a lot of political capital over, especially with President Hu Jintao heading to the United States in September for his first visit” (Grimmer 2005). By August 10th Unocal held a shareholder meeting to assess Chevron’s bid. Just after this meeting, “Unocal announced that its shareholders [had] approved the merger agreement [with Chevron],” and Chevron announced that the deal was complete (Zephyr 2005d).

The timeline of events in this case makes it clear that the legislative branch’s strategy of unbounded intervention forced CNOOC to decide that they were unlikely to be able conclude the deal at all, much less do so in a timely and profitable manner. It was clear that many members of the US government felt that the deal needed to be prevented, or blocked if necessary, on national security grounds. But what were their exact concerns? What was it that really motivated these worries, and caused the Congress to react the way that they did to the possibility of a CNOOC/Unocal deal? Where geo-strategic issues the main concern? It is clear that the context of the

---

extensive commitments that CNOOC was prepared to make to address any legitimate concerns U.S. regulators may have had regarding our acquisition. This political environment has made it very difficult for us to accurately assess our chance of success, creating a level of uncertainty that presents an unacceptable risk to our ability to secure this transaction. Accordingly we are reluctantly abandoning our higher offer to the clear disadvantage of Unocal shareholders and employees” (CNOOC 2005).
geopolitical relationship between the US and China at the time only intensified opposition to a deal that was never going to be easy in the first place (because of the national security issues it raised). Indeed, “Washington attorneys familiar with the deal [said that] … CNOOC’s biggest problem in Washington was that its attempt collided with US lawmaker’s growing frustration with the US relationship with China on issues ranging from currency manipulation to trade reciprocity and intellectual property rights” (Kirchgaessner 2005). Or was the failure of the deal caused by “a variety of factors – economic nationalism, superpower rivalry, fears about declining US competitiveness, and worries about energy security – [which] blended into a potent mixture” to prevent CNOOC from taking over Unocal, as some claimed (Molchanov 2005)? The following section will assess the variables hypothesized to be the primary reasons behind unbounded balancing. This case should demonstrate that while there were many variables influencing government action in this case, the geopolitical issues it raised were clearly the strongest.

**Geopolitical Competition**

China and the United States were in 2005, as they are now, geopolitical rivals with a highly complex, but mainly amicable, relationship. These states are neither military allies, nor members of the same security community. China is a major, and a rapidly ‘rising,’ power. The relationship between the two countries has long been complicated by each state’s position on the status of Taiwan, which Beijing’s seeks
to fully reintegrate, while Washington seeks to defend the ‘status quo,’ thus treading a fine line between its commitment to a military defense of the Island and its commitment to a ‘one China’ policy (see: US House Committee 2004).

In the summer of 2005, when the CNOOC bid took place, there was a prevailing perception in the US that China was more than just an emerging power. Many saw China as a strategic rival, which had the potential to develop into a military threat in the future.\textsuperscript{130} Thus, the Department of Defense made clear in its Annual Report to Congress in 2005:

\begin{quote}
“The United States welcomes the rise of a peaceful and prosperous China, one that becomes integrated as a constructive member of the international community. But, we see a China facing a strategic crossroads. Questions remain about the basic choices China’s leaders will make as China’s power and influence grow, particularly its military power” (US DOD 2005, 4).
\end{quote}

US unease over China’s rapid growth and modernization was amplified by the fact that Chinese military spending is not very transparent (US DOD 2005, 4). For while SIPRI reported Chinese military spending in 2005 as $40,300 million (SIPRI 2006),\textsuperscript{131} the DOD “estimates put it at two to three times the officially published figures” (US DOD 2005, 4). This means that China’s average military growth over the last five years may be much higher than the already large estimates of 11.31%.\textsuperscript{132} In either case, though its average five year growth rate for military spending is much

\textsuperscript{130} Indeed, in the 2005 Pentagon report (which came out before CNOOC came forward with its bid for Unocal), concluded that: “over the long term, if current trends persist, [the] capabilities [of China’s Army] could pose a credible threat to other modern militaries operating in the region” (US DOD 2005, 4).

\textsuperscript{131} These figures are reported in constant 2005 US dollars by SIPRI (SIPRI 2006).

\textsuperscript{132} These numbers were calculated from data taken from SIPRI (SIPRI 2006).
higher than the US’ 8.19%, China’s military spending still remains a far second to that of the US, which totaled $504,638 million in 2005 (SIPRI 2006).

The US continues to engage China economically, politically, and culturally, and the trade between the two countries is highly interdependent. Yet, the relationship between these two states was strained in 2005 by China’s growing economic power relative to the US. In relative terms, the China’s economy is still smaller than that of the US: it was about 71% of the size of the US in terms of GDP in 2005, when US GDP that year was $12,416.51 billion, and China’s was $8,814.86 billion (World Bank 2008). Still, the undervaluation of its currency the Yuan (or Renminbi, which some measure as being undervalued by more than 50%) implies that China’s economy is larger than suggested by calculations taken from the official exchange rates, and by 2006, China’s economy was the second largest in the world (CIA 2007). As with the examination of military growth rates above, China’s average economic growth rate outstrips that of the US for the five years before 2005; with China’s being 12.13% and the US’ remaining at 4.93%. Not surprisingly, such figures contribute to US fears that China’s relative economic power is growing rapidly.

At the same time, there were a number of other economic issues contributing to heightened tensions between the two countries. In 2005, China was seen by many

---

133 The economist, for example, reported in mid 2003 that the Yuan “[was] undervalued by 56% against the dollar” (CIA 2007).
134 These numbers were calculated from data taken from the World Development Indicators database (World Bank 2008).
as a nation whose financial actions would prove threatening to the future of the US economy. The trade deficit with China had reached $201,544.8 million in 2005 (US Bureau of the Census 2008), and there was mounting pressure placed on China by the US during the summer of 2005 to revalue the Yuan. For many in the US believed that its undervaluation was part of an economic policy designed to give China an unfair trade advantage (Preeg 2002). The Chinese government did revalue the Yuan by “2.1% against the US dollar and moved to an exchange rate system that reference[d] a basket of currencies” in July of that summer (CIA 2005 and 2007), largely as a palliative measure to deteriorating US-Chinese relations during the CNOOC/Unocal bidding process. Other issues straining Sino-US relations at the time included disputes over intellectual property rights, and “an escalating trade row” over Chinese export tariffs on textiles (Financial Times 2005a).

Thus, the geopolitical relationship between China and the United States in the summer of 2005 was characterized by heightened tensions over a series of issues, making CNOOC’s bid for Unocal more unpalatable to the US government than it might otherwise have been. Indeed, there was “a widening sense among politicians in both parties that China [was] reaping the benefits of free trade without playing fully by the rules,” which observers rightly believed would make “steering [the]

---

135 It is important to note, however, that some economists believed the push for revaluation of the Renminbi was a grave mistake. Joseph Stiglitz and Lawrence Lau, for example, argued in April of 2005 that “there is currently no credible evidence that the Renminbi is significantly undervalued, and an adjustment in its exchange rate at this time is neither warranted nor in the best interests of China or global economic stability” (Lau and Stiglitz 2005).
public debate away from politics … difficult” for CNOOC (Linebaugh, Pottinger, and Hitt 2005). At the time, it seemed that the deal was only “raising political tension between two countries with an already strained relationship” (Kirchgaessner, McGregor, and Roberts 2005). Dick D’Amato (Chairman of the US-China Economic and Security Review Commission), for example, went so far during the CNOOC/Unocal bid as to ask: “what in [the] relationship [with China] is working?” (Kirchgaessner, McGregor, and Roberts 2005).136 Congressmen Barton and Hall made clear their opposition to the CNOOC bid, on the grounds that “the Chinese are great economic and political rivals [of the US], not friendly competitors or allies in democracy” (Barton and Hall 2005).

The tensions within the geopolitical relationship between the US and China were also sharpened by the fact that both countries were increasingly competing for access to energy resources, over which there were new worries about scarcity of supply. The US resource dependency ratio in 2005 was 36%.137 Though the US is not dependent on China for oil,138 China had recently become highly dependent on oil imports, and the two countries were now actively vying for new sources of supply (CIA 2008). Moreover, an April 2005 IEA Report may have raised fears about the

---

136 The full quote from Chairman D’Amato reads: “There is a currency issue, an intellectual property issue, on North Korea [the Chinese] are not helping us, we have this big military build-up … What in this relationship is working?” (Kirchgaessner, McGregor, and Roberts 2005).

137 The numbers used for the calculation of the US resource dependency ratio in 2005 were projected from past IEA data, and are “in thousand tonnes of oil equivalent (ktoe) on a net calorific value basis” (IEA 2006).

138 China is not among the top 15 countries that import oil and petroleum to the United States (EIA 2008a).
scarcity of oil supplies at the time of the CNOOC/Unocal bid (Greenwire 2005c).\footnote{This report said that oil “importing countries should activate emergency conservation policies if oil supplies fall by as little as 1 million barrels per day” (Greenwire 2005c).}

This, of course, must be understood within the context that “most of the world’s oil fields are already believed to have been discovered, and many of those are in oil-producing countries such as Saudi Arabia that are off limits to public companies” (Gentile 2005).

In order to truly understand the effect of such geopolitical concerns, it is necessary to understand not only the stated rationale behind CNOOC’s bid (and the Chinese government’s original support for that bid), but also what the US government believed to be the ‘real’ motivation behind the bid. CNOOC claimed that its deal rationale hinged mainly on the large gains to be made to its Asian asset portfolio – of a “nearly 80% increase in reserves and a doubling of production,” which had hitherto been somewhat deficient (FD 2005). According to CNOOC, the bid was one made by a commercial company for commercial, and no other, reasons.\footnote{For instance, CNOOC’s Chairman and Chief Executive (Fu Chengyu) said that “this company is driven purely by economics” (McDonald 2005), and that “people need to understand that this is a purely commercial transaction driven by market forces and consideration” (AFX 2005a).} The company, furthermore, claimed that the Chinese government played no role in its decision to make an offer for Unocal.\footnote{Fu Chengyu also noted that CNOOC was seeking the acquisition “not because the government asked us to do it, but because we believe it’s the profitable thing to do” (McDonald 2005).}

Yet, the deal did not necessarily make sense from a purely economic standpoint, for two major reasons. First, CNOOC simply did not have the financial
wherewithal to pull off such a bid without the help of the Chinese Government. It lacked the cash for such a high all cash bid, and therefore needed its “state parent to foot the bill” (Lex 2005c). Indeed, “China’s interest in acquiring oil assets can be seen in the proposed financing of CNOOC’s bid. Of the $16 billion in pledges the company has said it has received for its bid, $13 billion comes from state owned Chinese entities, including $7 billion in long-term and short-term loans from CNOOC’s parent China National Offshore Oil Corp” (Gold, Pottinger, and Berman 2005).\(^{142}\) Second, CNOOC’s offer would be a financial burden to the company, as the Fitch Ratings Agency (among others) argued that it would negatively affect their credit rating (Reuters 2005b).\(^{143}\) CNOOC’s bid, therefore, was perceived as another example of a Chinese company hungry for brands, resources, and assets that could outbid other more traditional buyers because of the “extraordinarily cheap financing” they received from their government (Kirchgaessner, McGregor, and Roberts 2005).

Furthermore, despite CNOOC’s claims of independent action, it was clear that the bid had the backing of the Chinese government in more than monetary terms. First of all, it must have had state backing because all foreign acquisitions made by Chinese companies are required to first receive government approval under Chinese

\(^{142}\) See also: (FD 2005). Interestingly, the Chinese government’s stake would actually have increased as a result of their subsidy for the Unocal bid. It was reported that “the interest free convertible loans from CNOOC’s state parent that would help fund the deal, or the government’s existing 71% stake in US listed CNOOC Ltd., which would increase through that arrangement” (IGR 2005).

\(^{143}\) See also: (PR Newswire 2005; AFX 2005b).
law. Second, many observers were able to confirm that the Chinese government (whether tacitly or actively) were involved in the deal in some way. In fact, “all four of CNOOC’s executive directors [were] Communist Party Members” (Cheng and NG 2005), and David Merjan (of investment bank William Blair & Co.) claimed that at the time “it [was] clear that the Chinese Government [was] exerting … pressure on management” (Cheng and NG 2005). Third, the ‘government subsidy’ itself served for many observers to “[highlight] the degree to which this [deal was] backed by a [Chinese] state keen for global influence and resources” (Lex 2005a).

The geopolitical positioning of the two countries vis-à-vis world energy resources also forced US policymakers, for good or ill, to assume that CNOOC’s bid for Unocal was part of a larger Chinese government policy of trying to gain access to oil resources abroad. A number of foreign policy, oil and gas, and market analysts at the time seemed to agree that Chinese government was using all means available, including the acquisition of foreign companies and the conclusion of joint-ventures abroad through its state owned national oil companies (or NOCs), in order to meet energy demands at home, and to secure supply lines for the future. James Sweeney

---

144 In fact any Chinese company wishing to purchase a foreign company must acquire “official approval” from the Chinese government before the deal may be concluded (Kirchgaessner, McGregor, and Roberts 2005). Kirchgaessner, et al., inform us that the “gatekeeper for overseas investments is the National Development and Reform Commission, China’s top economic planning body, which has substantial powers over foreign purchases made by government-backed enterprises. All significant investments overseas must be approved by the State Council, China’s cabinet, but the deals are first scrutinized by the NDRC, which exercises a sway over enterprises similar to that wielded in the 1960s by Japan’s ministry of international trade and industry” (Kirchgaessner, McGregor, and Roberts 2005).

145 The financial press was also keenly aware that this was part of CNOOC’s motivation at the time. The financial times, for example, warned that: “CNOOC does not need this deal. But China…does.
(an energy economist and Director of the Precourt Institute for Energy Efficiency at Stanford University) publicly argued that CNOOC’s bid for Unocal was about “security of supply” because “China want[s] to control supply themselves,” and such a deal would arguably give them that control (Greenwire 2005b). The former Executive Director of the International Energy Agency (Robert J. Priddle) said at the time that China was: “in a panic,” because “they’re relatively newly dependent on oil imports, and think they must do something to secure their own supply” (Blustein 2005). Similarly, an oil market analyst with Foresight Research Solutions claimed that the race for Unocal was “just round one in the fight for strategic energy resources” (AFX 2005b). McKinsey’s Paul Gao maintained that the Chinese “government [was] pushing to create national champions to reduce dependence on foreign technology,” giving them “a mandate to look overseas for deals” that would help them accomplish this goal (Kirchgaessner, McGregor, and Roberts 2005).

Indeed, it was quite clear that the Chinese NOCs were busy actively concluding deals with companies in Canada, Sudan, and Venezuela, to name but a few. At the same time, the expansion of Chinese M & A activity during 2005 included a number of big deals in the oil and gas industry (AFX 2005b). At the time of the CNOOC/Unocal case, for example, China Petroleum & Chemical Co. was looking to buy the Canadian company Husky Energy Inc. (Chen 2005), and two separate Chinese

Unocal’s … reserves would go a long way to meeting China’s fast-growing liquefied natural gas demand. Unocal’s Caspian assets would also satisfy a long standing – previously thwarted – Chinese desire to expand in that region” (Lex 2005b).

146 See: (Greenwire 2005a; Chen 2005).
companies (Synopec and CNOOC) bought stakes in Canadian oil sands development projects (Reguly 2005). Such activity, as will be discussed further below, heightened the fears of some in the US government that the Chinese government was using its NOCs to gain access to foreign oil reserves. Congressman Hunter, for example, was clear that part of his concern emanated from the fact that “China [was] in the business of making strategic acquisitions,” (Orol 2005c) for the purpose of gaining access to both resources and technology.\(^\text{147}\)

One of the fundamental issues for members of the US legislative branch, therefore, was energy security: a strategic competitor for natural resources was seeking to buy a US company with US assets when it was believed that there was a Chinese government strategy of systematically seeking resources through the use of the ‘free’ market, and there was no guarantee that such a rival might not then take those freely acquired resources ‘off the market’ in the future. For while market analysts generally assumed that CNOOC was only interested in the Asian assets of Unocal,\(^\text{148}\) there was no actual guarantee that CNOOC would sell off Unocal’s American assets as promised. CNOOC had been vociferous about the fact that it was willing to give up Unocal’s US assets in order to get through the Exxon Florio review process – a tactic that they fully expected to work.\(^\text{149}\) However, CNOOC’s advisor

\(^{147}\) For a discussion of ‘China Inc.’s’ use of state funds to pursue acquisitions of resources, see: (Fishman 2005, 294).

\(^{148}\) See for example: ((AFX 2005b); Chen 2005; Lex 2005a).

\(^{149}\) According to Hua Yang (SVP and CFO of CNOOC Ltd.): “To support our efforts to obtain Exxon-Florio approval, we are willing to divest or take other exchange with respect to any of Unocal’s non-
from JP Morgan (Charles Li) made it quite clear to investors that CNOOC had no intention of selling the US assets unless forced to by the US regulatory process. Though the US assets involved were relatively small in size, they were of symbolic importance in the context of the greater debate over whether a Chinese state-owned company might divert supplies solely to China in an energy crisis, pulling those reserves off the market and making them unavailable for purchase at any price. Priddle from the IEA claimed that a CNOOC/Unocal deal would not “change the price of oil, or the availability of oil,” because these factors would be governed solely by the rules of supply and demand (Blustein 2005). Jerry Taylor of the CATO Institute, made basically the same argument to Housed Armed Services Committee Hearing (and any reporter willing to listen), claiming that even if China were to pull such supplies from the market, the US could replace them by paying for equivalent supplies from other sources (Kudlow 2005). The three other major witnesses at the hearing, however, completely disagreed with this assessment, instead arguing that the

---

E&P assets in North American, to the extent that such action would not give rise to a material adverse effect until Unocal, including considering special management arrangement for Unocal’s US non-controlling minority pipeline interest and storage assets” (FD 2005). [Note: the transcript for this conference call had certain grammatical errors, which is reflected here.] It was also widely reported that CNOOC was ready to divest those US assets upon a Unocal purchase and to ‘keep US jobs’ in order to make the deal more palatable to the US government, and the US public (Gold, Pottinger, and Berman 2005).

150 In a conference call he said: “With respect to North American assets, … we have no plans of disposing of any of them, but … [pursuant] to any regulatory issues in terms of US regulatory review, there might be a need for us to review that eventually and we will review that when we are there” (FD 2005).

151 Similarly, “Philip K. Verleger Jr., an energy specialist at the Institute for International Economics, ‘there are absolutely no reason why we should care’ who owns Unocal’s oil and gas reserves, which total about 1.75 billion barrels” (Blustein 2005).
communist regime was likely to divert those resources if necessary, that those resources would then be going to a rival, and that the market would not necessarily be able to fill the gap.\textsuperscript{152} One of those witnesses, Thomas Donnelly (a member of the US-China Economic & Security Review Commission) believed “there [was] a fairly strong argument [for blocking the deal] not simply because Unocal is a national asset,” but because of “the strategic question of how China is approaching energy supplies” (Kirchgaessner, McGregor, and Roberts 2005). Indeed, the letter sent from Congressmen Barton and Hall to President Bush stated that “this transaction poses a clear threat to the energy and national security of the United States” (Barton and Hall 2005). Their argument was that:

“This sale would be a mistake under almost any circumstance, but it would be especially egregious at a time when energy markets are so tight and the U.S. is becoming even more dependent on foreign sources of energy … U.S. national energy security depends on sufficient energy supplies to support U.S. and global economic growth. But those supplies are threatened by China's aggressive tactics to lock up energy supplies around the world that are largely dedicated for their own use. China has used its state-owned oil companies to advance this strategy, by buying up energy assets around the world without regard to human rights and environmental protection, in countries such as Sudan and Iran. And unlike other companies, these resources are not available to the global market” (Barton and Hall 2005).

Similarly, Congressman Hunter announced his “intention to oppose the sale” (Intl. Oil Daily 2005b), which he saw as a security threat not only because China could try to block US access to Unocal’s oil assets in Asia, but more fundamentally

\begin{flushright}
\textsuperscript{152} One of those three witnesses was Frank Gaffney, who at the time headed that Center for Security Policy, but whom had also worked in the Pentagon during the Reagan administration. Gaffney and Taylor took their debate beyond the hearing, but the difference between their positions largely boiled down to the fact that Gaffney did not believe that the market always operates freely, while Taylor argued that it would. See: (Kudlow 2005).
\end{flushright}
because it could shift the geopolitical balance of power in Asia. Referring to “investments by Unocal in pipelines running from Caspian sea oil fields through Azerbaijan, Georgia, and Turkey,” Hunter claimed that “China’s purchase of Unocal would dramatically increase its leverage over these countries, and therefore its leverage over US interests in those regions” (Eckert 2005). Another concern that was cited by observers of the deal was that Unocal had “terminals at the US Strategic Petroleum Reserve” (Murray 2005).

Energy security, however, was not the only concern sparked by the geopolitical tensions between the two countries. Congress was equally concerned by a number of national security issues that were raised by the perception that the Chinese government backed such foreign takeovers in order to gain access to technology that had dual-use applications, thus helping China to enhance their military (or other forms of) power. Again, the text of Congressmen Barton and Hall’s letter gives us an insight into the concerns of the legislative branch on this issue. They stated that:

“In addition to this obvious threat to our energy security, the acquisition of Unocal by a Chinese state-owned company poses other risks to our U.S. national security. As a significant player in the U.S. energy industry, Unocal uses a host of highly advanced technologies necessary for the exploration and production of oil and gas. Many of these technologies have dual-use applications. Given the potential military threat posed by China to our allies in Asia and our security interests, it is of the utmost importance that U.S. export control laws be strictly applied to ensure that no sensitive technology falls into the hands of the Chinese government - or, through China, other, more dangerous regimes around the world - which can later be used to undermine our national security” (Barton and Hall 2005).
The Senior Vice President and Chief Financial Officer of CNOOC Ltd. (Hua Yang) had likely confirmed some of these fears when he told investors during a conference call that the deal was desirable because it involved “technical advantages” such as: “Unocal’s leading deepwater drilling technology [that] would extend CNOOC’s exploration capability” (FD 2005). Yang also stated a desire “to retain substantially all Unocal employees” because they included “a highly skilled management and technical talent pool” that was “driving this technology” (FD 2005), confirming the general belief that CNOOC was as interested in Unocal’s technology and expertise as it was in its physical assets.

There were five major technological and defense related national security concerns that were raised during the bidding process. The first was Unocal’s deepwater drilling technology mentioned above. CNOOC was actually formed by the Chinese government “in the early 1980s to explore and develop undersea oil and gas fields” (Gold, Pottinger, and Berman 2005), but did not have the advanced technology that Unocal possessed. In fact, the Research Director of the NBR Energy Security Program (Mikkal Herberg) foresaw that the Chinese company’s bid would “incite a ‘firestorm’ in Congress” because of Unocal’s “very good deep-water exploration skills’ developed in projects off of Indonesia and Mexico that could have military applications, [which] … critics are likely to ‘question letting … fall into the hands of the Chinese government’” (Cincinnati Post 2005). Similarly, “Richard D’Amato, chairman of the US-China Economic Security Review Commission, an
organization mandated by congress,” made similar comments during the House
Armed Services Hearing on the CNOOC bid (Orol 2005c). The related underwater
mapping capabilities Unocal possessed were also reportedly one of the causes of
concern. “Trade and security analysts” at the time “said that Unocal had underwater
terrain-mapping technology used for offshore oil exploration that might also be
useful in navigation for the Chinese military’s growing fleet of submarines” (Lohr
2005). The third concern was raised “in [an unpublished] letter to Energy Bill
conference Committee Chairman Joe Barton” by Congressman Pombo who “pointed
out Unocal could have important technologies to access oil shale resources” (Oil
Daily 2005a). The fourth issue raised during the debate over the CNOOC/Unocal
deal was that Unocal allegedly possessed a rare earth mineral mine that the US
government would not want under foreign government control for strategic reasons,
because the “rare earth metals … have military functions for laser technology” (Orol
2005c) Congressman Joe Schwartz (R-MI), for example, showed his concern by
stating: “these kinds of metal technology are important to our defense posture’ (Orol
2005c). The final issue raised on pure national security grounds was related to US
missile defense capabilities. This issue was again raised by D’Amato at the House
Armed Services Committee hearing, when he “noted that Unocal has 14 offshore oil
platforms in Alaska and the Gulf of Mexico that are near important US defense
strategic facilities, an apparent reference to missile defense operations in those
regions” (Orol 2005c).
Thus, the overall character of the geopolitical relationship between the two countries in 2005 was one mostly characterized by rivalry. It is clear that Congress defined energy security as a ‘national security’ issue in this case because of the Sino-US geopolitical context. It is also not surprising within the context of the above geopolitical and deal specific concerns that many in the US government saw this deal as a Chinese ‘power grab,’ and therefore sought to intervene to block a CNOOC/Unocal deal. Despite this, however, there remained a distinct recognition of the mutual economic dependence between the two nations, as well as recognition of the need for constructive engagement, which led to mutual efforts and policies geared towards the maintenance of an overall amicable relationship. It was this recognition of mutual self-interest in a constructive relationship that eventually led the Chinese government to pull its support for CNOOC’s bid for Unocal, thus proving that such a form of intervention will (in conjunction with the purpose of non-military internal balancing) be used by states because it effectively balances a certain aspects of power, without endangering the greater meta-relationship between them.

**Economic Nationalism**

The United States is not usually associated with economic nationalism, yet as with many states there remain distinct pockets of such nationalism among members of the US government and its institutions. Indeed, one source in the legal community

---

153 For commentary on this feeling see: (Lex 2005a).
that often deals with CFIUS cases pointed out that among all of the US government institutions, the only one that seems to continuously retain elements of economic nationalism is (not surprisingly) the Department of Commerce, which is one of the agencies involved in the CFIUS process. Thus, while national pride in the US is relatively high,\textsuperscript{154} instances of economic nationalism in the US are usually fairly targeted and rare. Notably, these have been largely caused in the past by massive influxes of FDI from a particular state, as witnessed by the reaction and response in the US to the huge increase in FDI from Japan in the 1980’s.

Indeed, some observers at the time made comparisons between the Japanese case and the CNOOC bid, indicating a belief that economic nationalism might be to blame for government intervention.\textsuperscript{155} Part of this was rooted in the fact that the CNOOC bid, if accepted, would have been “China’s largest overseas investment ever” (Timmons 2005). Part of it can be explained in the context of a general expansion of overseas Chinese M&A activity, which included not only the oil and gas deals mentioned above, but also two recent high profile Chinese purchases in unrelated US industries: Lenovo bought IBM’s Personal Computing Business in 2004 for $1.25 billion and Haier was bidding over a billion dollars for Maytag at the

\textsuperscript{154} In the last wave of the World Values Survey, 71.1\% of respondents in the United States claimed to be “very proud” of their nationality (WVS 2001-2004). Yet, while 86.71\% of US citizens claim to be proud of their nation’s economic achievements, the US is not always identified with economic nationalism (ISSP 2003).

\textsuperscript{155} One reporter, for example, claimed that some pundits believed “that the Chinese are on the verge of threatening the very fabric of American society, as the Japanese were accused of doing in the 1980’s, when they won Columbia Pictures and the Rockefeller Center” (Reguly 2005).
time of the CNOOC bid (Reguly 2005). Thus, there may have indeed been an element of economic nationalism against Chinese investment generally that was particularly aroused by this case, as it would have been the largest Chinese investment yet in a strategic industry in the US. In fact, it does seem true that this case marks the beginning of a period of somewhat increased economic nationalism in the US generally, at least relative to its previously low levels of that sentiment.

There are some very important differences though, between the US response to the CNOOC bid, and its response to Japanese investment in the 1980’s. First, “in contrast to the Japanese acquisitions … Chinese companies seem more interested in industrial businesses than trophy assets” (Kirchgaessner, McGregor, and Roberts 2005). This is of more than symbolic importance, when many in the US government believed that the Chinese government had a policy of supporting/encouraging foreign takeovers through which they could gain technology and resources. Certainly, this fact, and the geopolitical context between the US and China, made the influx of Chinese FDI much more worrying for the US government. Senator Charles Schumer (D-NY), for example, pointed out that: “Japan was an ally, and Japan was fundamentally a smaller country than we are. [But] China is emerging as a dominant player, and at the same time, China isn’t acting like one. It isn’t playing by the rules” (Murray 2005).

---

156 Haier eventually withdrew their bid for Maytag, not because of government intervention, but because a bidding war increased the price beyond their means (Goodman and White 2005).
It is for this reason that those who were concerned with the economic consequences of a possible CNOOC transaction believed the issue was (or simply framed it as) a matter of ‘economic security.’ Certainly, there was a big push throughout the whole debate over CNOOC/Unocal to change the way CFIUS defines national security, to get economic security issues (such as oil) included in the definition.\footnote{See: (Jackson 2007; Graham and Marchick 2006, 75 and 172; Lohr 2005).} On June 22\textsuperscript{nd}, for example, Congressman Pombo stated: “I do not believe it is in the best interest of the United States to have Unocal owned by the Chinese national government. I am afraid that such an acquisition would come with disastrous consequences for our economic and national security” (Greenwire 2005b).

It could be argued that this concern over economic security was an example of economic nationalism. “Some analysts,” for example, claimed that “CFIUS … [was] being used as a weapon of economic nationalism” by some of the Congressman involved (Intl. Oil Daily 2005c). Other scholars, such as Graham and Marchick, feared that the inclusion of economic security in the national security ‘criteria’ used by CFIUS could prompt the review process to “become even more politicized,” and possibly allow “domestic companies to exploit the CFIUS process against foreign bidders” in the future (Graham and Marchick 2006). Indeed, the July 1\textsuperscript{st} House resolution called on the deal to be blocked, given that “oil and natural gas resources are strategic assets critical to national security and the Nation’s economic prosperity” (US House 2005c).
Despite all of this, however, it is important to understand that Unocal was never trumpeted as a ‘national champion,’ and that the US does not really have a history of protecting national champions per se. As one observer poignantly noted: “Unocal is not an economic or cultural icon. For Americans it is holier than that; it’s an oil producer” (Reguly 2005). Indeed, neither members of the US government, nor lobbyists, nor pundits, went so far as to call Unocal a national champion, as it was a relatively small oil company that provided an extremely minor portion of the US oil supply. It must also be remembered that the US did not block Chinese efforts to purchase Maytag or IBM, which could have been viewed as national champions in their industries. Within the oil and gas industry, furthermore, the US certainly did not seek to block British Petroleum’s (BP) purchase of Amoco in 1988 or Petróleos de Venezuela’s (PDVSA) purchase of CITGO in 1990, which were arguably of much greater economic importance. In fact, unbounded intervention through CFIUS (or otherwise) has been rare on the part of the US before the CNOOC case. The one case of CFIUS intervention was, interestingly, when in 1989 China National Aero-Technology Import and Export Corporation (CATIC) bought – and was then ordered by the President to wholly divest in 1990 – the US company MAMCO Manufacturing (Bush 1990; Graham and Marchick 2006). The intervention was made “to protect national security” because MAMCO was the sole supplier of certain

158 For example, between 1988 and 2005 there were 1,593 notifications filed with CFIUS, which “have generated 25 investigations, 13 withdrawals, and 12 decisions by the President,” who “has formally rejected only one transaction” (Graham and Marchick 2006).
airplane parts in the US, and CATIC was owned and operated by the Chinese government’s Ministry of Aerospace Industry, which had obvious ties to the Chinese military (Bush 1990). After that, one of the largest efforts made to block a deal was when a Chinese military owned company (COSCO) tried to lease terminal space at the former US naval base in Long Beach, California. Therefore it would be difficult to argue that the US has a history of supporting national champions against foreign takeovers, but there is clear evidence of concern over Chinese state-owned corporations pursuing takeovers of US companies for national security reasons.

Thus, while there was an element of economic nationalism to the efforts of some members of Congress who sought to block the deal on the grounds of ‘economic security,’ these concerns were largely present and intensified because of the larger geopolitical context of the case. Furthermore, these concerns were consistently accompanied, and overshadowed, by anxiety over the national security issues discussed above.

**Presence of Interest Groups**

The majority of the lobbying in Congress for or against CNOOC’s bid for Unocal was backed by either CNOOC or Chevron themselves. Indeed, once it became clear that the two would be battling for control of Unocal, both companies

---

159 For further discussion of this case, see H.R. 3616 § 3601 (US House 1998); Iosco County Republicans 1999; and Walton 2008.
“hired public-relations firms to press their respective agendas” (Gold, Pottinger, and Berman 2005). As will be demonstrated below, Chevron’s lobbying efforts played an undeniable role in making members of Congress aware of the national security issues posed by CNOOC’s bid. Yet, it will also be argued that these lobbying efforts played on pre-existing national security concerns, and would not have resonated with Congress outside of the geopolitical context in this case.

Chevron was definitely the biggest and primary ‘interest group’ actively lobbying against CNOOC’s bid. The Vice Chairman of Chevron, Peter Robertson, immediately declared that he felt Chevron was “competing with the Chinese government and … that is wrong,” because “clearly, this is not a commercial competition” (Mouwad and Barboza 2005). Chevron went much further than scathing commentary, however. In fact, it was “Chevron lobbyists [who] helped draft language for at least one letter [that was] circulated by lawmakers to Treasury Secretary John Snow, [which] warns that CNOOC’s bid for Unocal … challenges American jobs, energy production and national security” (Pierce and Newmeyer 2005). They also “provided Member offices with information to support those claims” and even helped “to gather signatures for the letter to Snow” (Pierce and Newmeyer 2005).

A history of campaign contributions to certain members of Congress by Chevron was also considered by many to have helped their cause. Californian representatives, where Chevron was based, obviously had a vested interest in looking
out for Chevron’s interest (Intl. Oil Daily 2005a). It is also important to note, however, that “both [Congressmen Hall and Barton] have received significant contributions from Chevron Corp. and Texaco” in the past (Orol 2005d). “According to the Center for Responsive Politics … Barton received $19,000 … while Hall received $9,500” (Orol 2005d). It was also reported that Congressman Pombo had received $15,500 from Chevron (Pierce and Newmeyer 2005). It is unlikely, however, that these contributions (the exact timing of which are unspecified) would alone have swayed these Congressmen into such active opposition to the CNOOC deal. For many domestic companies that later end up in bidding wars with foreign companies contribute to lawmaker’s campaigns, and it is extremely rare (as mentioned above) for those lawmakers to be so vociferous against a foreign takeover.

Thus, it is highly unlikely that Chevron’s lobbying could have been effective without there first being genuine national security and geostrategic issues for them to play upon. To be sure, it was reported at the time that “Chevron Lobbyists are finding a warm reception to the patriotic message they have been pitching on Capitol Hill, especially among Members with oil and gas interests in their districts as well as those with long-standing national security concerns” (Pierce and Newmeyer 2005). For example, Congressman Barton’s spokesman Larry Neal responded to criticism over the Congressman’s position (raised because he had received donations from Chevron in the past) by saying: “Chairman Barton has consistently opposed
advancing Chinese governmental interests” (Pierce and Newmeyer 2005).\textsuperscript{160} Thus, the general consensus (not surprisingly) was that “while Chevron skillfully drummed up opposition to CNOOC’s bid in Washington, it was merely tapping into already existing anti-China sentiment” (EIU 2005a).

Outside of Chevron’s lobbying efforts, there was one particular former policy maker who lobbied vociferously against the deal both as a witness at the House Armed Services Committee hearing, and through press, TV, and radio interviews. This was Frank Gaffney, a former member of the Pentagon under President Ronald Reagan, and (at the time) the head of the Center for Security Policy. Gaffney took a realist approach to the deal, arguing that China was not an ally, and (as mentioned above) that he was worried that they were using this deal in order to gain access to resources that they would then make unavailable to the US in the future. While his arguments were well received at the Hearing, they lost some support in the public when he lost his realist rational tone and went so far as to call those in favor of the deal “panda huggers” (Kudlow 2005).

CNOOC, however, had also hired a small army of lobbyists and advisors, which they used to counter the image Chevron was painting of their intentions. CNOOC actually hired “three investment banks, a pair of media strategy groups, and

\textsuperscript{160} In a fit of frustration at the implication that the Congressman had been ‘bought’ by Chevron, his spokesman went on to state: “If you want the Chinese Government to own an American company, please do not contribute to the Congressman Joe Barton Committee, PO Box 1444, Ennis, Texas, 75120. Send your contributions to Communist Party General Secretary Hu Jintao, instead. If the Chinese government manages to buy Unocal, your going to end up sending your money to Beijing anyway” (Pierce and Newmeyer 2005).
four law firms” (Linebaugh, Pottinger, and Hitt 2005). The firms hired to “manage the media firestorm” were “Public Strategies Inc., a firm with close ties to the Bush White House, and Brunswick Group, which handled the corporate meltdown at the energy company Enron” (Pierce and Newmeyer 2005). The law firms included Akin Gump Strauss Hauer and Feld, which also was reported to have close “connections to the White House” (Linebaugh, Pottinger, and Hitt 2005; Pierce and Newmeyer 2005). Public Strategies diligently argued, as did CNOOC itself, that the transaction was meant to be a purely “commercial deal” (Gentile 2005). It was also reported that that CNOOC’s many lobbyists “anticipated” the arguments put forward by those against the deal, …

“and prepared an aggressive response. CNOOC’s Chairmen immediately sent letters to every member of Congress and to the media. He argued that a Unocal purchase was not a threat to the US at all. Most of Unocal’s assets are in Asia, not America. And CNOOC [would] sell whatever Unocal holdings are [in the US]. Unocal’s US employees [wouldn’t] have to worry either. CNOOC [would] not fire any of them, he wrote” (Davidson 2005).

CNOOC also had a variety of other interest groups on their side, who were not paid lobbyists, but who (for various reasons) had a vested interest in making sure that the bid was not blocked. The US Chamber of Commerce who, as mentioned above, would be the one institution from whom we might expect a possible economic nationalist response, publicly announced that it was not against a CNOOC bid for Unocal (Kirchgaessner, McGregor, and Roberts 2005). Indeed, there were a number of economic liberal groups concerned that the market should be allowed to work.
The National Foreign Trade Council, who wished to encourage more FDI from China, tried to speak out against the “paranoia” surrounding the deal (Kirchgaessner, McGregor, and Roberts 2005). Similarly, the National Association of Manufacturers had spoken out against “China’s manipulation of its currency” but is maintained “a relaxed stance on takeovers” like many other business lobbies that again welcomed such Chinese FDI (Kirchgaessner, McGregor, and Roberts 2005). Finally, Jerry Taylor (of the libertarian think-tank the CATO Institute) spoke out often against blocking the deal, usually arguing against Gaffney’s position. In fact, he was the only witness at the July 13 Congressional Hearing that believed national security concerns were spurious (AFX 2005c) because, as mentioned above, he believed the purchase would not pose a threat to US security because (among other reasons) the US would still be able to purchase oil on the open market.161 Others who were advocates for the deal included Albert Keidel (of the Carnegie Endowment) who argued that the US must:

“engage China in a rules-based global system, as the bedrock for our national military security, going forward. If we try to create a non-price based system for securing or guaranteeing energy resources or other scarce resources, we will be creating a climate that will force China into a similar posture. And that is dangerous, in a national military-security sense” (Voice of America 2005).

It is necessary to note that, despite all of this lobbying, two important and influential players in the case remained neutral. The first is the White House, which argued that it would reserve judgment on the deal until it received a report from

161 On whether or not such a deal would “deliver an oil weapon into China’s hands,” Taylor’s response was “hell no” (AFX 2005c).
CFIUS, when (and if) that process was triggered by a transaction agreement between CNOOC and Unocal. Part of the desire to appear neutral may have been because Secretary Rice had previously served as member of Chevron’s board (Intl. Oil Daily 2005a). To be sure, the administration was extra clear that the decision would be made on the merits of the national security assessment of the deal presented to it by the appropriate agency, and that it would not be swayed by interest group efforts.

The second group that remained neutral, and un-swayed by lobbyist pressure was Unocal itself. As mentioned above, it was quite clear that Unocal’s CEO Charles Williams wanted a bidding war, and was actively speaking to both companies throughout the whole process. “Unocal spokesman Barry Lane,” for example, made it clear that “his company [was] not actively lobbying Congress on the issue, but [was] considering the CNOOC counter bid” (Pierce and Newmeyer 2005). It was also apparent that Unocal’s shareholders, one of the most important interest groups in the takeover of a public company, wanted the highest price possible for the company – no matter who the eventual owner was. Two minority shareholders even went so far as to sue “[Unocal’s] board of directors for a breach of their fiduciary duty to the shareholders, … contending that the directors failed to test the value of the company fully in the marketplace before hastily accepting Chevron’s

---

162 “The White House said … it was following the CNOOC-Unocal issue closely. Spokesman Scott McClellan said that if the Chinese bid goes through, then ‘we would expect the appropriate procedures to be followed’” (Wright 2005). John Snow reiterated this position on July 9th (Bullock and Xiao 2005a).
There also did not seem to be any sort of true labor or union movements against the CNOOC bid, another interest group that could have been highly effective in blocking a bid if it had been present. This was probably because of CNOOC’s constant claims that it would “seek to retain substantially all Unocal employees” (FD 2005). CNOOC Chairman and Chief Executive Fu Chengyu said that the deal would be “good for America,” because CNOOC “[would] protect Unocal’s U.S. jobs” (Gold, Pottinger, and Berman 2005). The attorney generals of some states affected by the deal were worried that the CNOOC bid might negatively affect Unocal pension plans and its promises on the environment (Oil Daily 2005b). Yet, these concerns were directed towards Unocal itself, not to policy makers, and they did not turn into a widespread movement or seem to have any impact on the deal.

Thus, while there were some interest groups pressing for the US government to block a CNOOC/Unocal deal, namely those sponsored by CNOOC’s competitor Chevron, these interest groups were not the primary motivation behind the US

---

163 This lawsuit, however, did not gain any real traction. It was reported that “since the lawsuit has not escalated to a class action lawsuit by all Unocal shareholders, the risks to the Unocal/Chevron deal remain minimal for the moment” (Amaewhule 2005). For full details of these two lawsuits, see: (Taylor 2005).

164 “In a letter to Unocal President Joseph Bryant on [July 6, 2005], the attorney generals of California, Texas, Montana, and New Mexico sought assurances that a CNOOC-owned Unocal could and would pay for current and future environmental cleanups. … The attorneys general also expressed concerns that CNOOC’s acquisition of Unocal might endanger the funding of pension and medical plans for former Unocal employees and that taxpayers may end up meeting these costs” (Oil Daily 2005b).
government’s strategy of unbounded intervention. For there was an equal amount of
pressure on the government coming from CNOOC’s lobbyists as well as independent
free market and liberal interest groups. Furthermore, it is likely that even if they had
not lobbied against the deal, a number of these national security issues (especially
those involving technology mentioned above) would have been flagged in the CFIUS
process anyway. Finally, Chevron was really only able to make lawmakers aware of
existing national security issues involved in the deal, and were not able to coerce
them into action. They would not have been able to have any effect on Congress, if
the geopolitical context of the deal had not been as it was, meaning that interest group
presence, though it may have played a role in making legislators aware of the case,
was not the primary motivation behind government intervention in this foreign
takeover.

**Competition Concerns**

Importantly, there were no real competition issues involved with either
CNOOC’s or Chevron’s bid for Unocal. Indeed, the Chevron/Unocal deal received
competition clearance from the Federal Trade Commission by June 10, 2005. There
were also no competition problems that were expected to arise from CNOOC’s
alternative bid. “Marc Schildkraut, an attorney with law firm Heller Ehrman, said he
[did] not see antitrust problems for the CNOOC-Unocal deal, commenting, ‘It’s
extremely rare for the FTC to care about upstream deals’’ (Intl. Oil Daily 2005a).\textsuperscript{165}

In fact, the only evidence of any concern on the issue came from Charlie Crist, the Florida Attorney General, who wrote a letter to John Snow urging a review of the deal, because: “[he was] concerned about the impact of increasing concentration in the petroleum industry on gasoline prices” (AFX 2005d). Yet, Snow’s only comment on the deal was that it would be reviewed if the CFIUS process was triggered, and did not evidence any concern on competition grounds. Indeed, the general consensus of the market seemed to be that “whatever legal tools might be used to block a deal, antitrust probably won’t be one of them,” because “there is little to suggest an excessive concentration of ownership in the worldwide oil industry” (Orol 2005a).

Finally, it should be noted that the United States is generally considered to be one of the most competitive economies in the international marketplace, in the sense that it is a state open to liberal economic business practices and foreign investment.

\textit{Conclusions on CNOOC / Unocal}

Thus, it must be concluded that unbounded intervention in this case was primarily motivated by the geopolitical issues surrounding the Chinese state-owned company’s bid for Unocal, and secondarily by economic nationalism. Interest group presence may have also played a much smaller, tertiary, role in motivating

\textsuperscript{165} Schildkraut added that “the only exception would be if the FTC concluded that there is a separate submarket for a specific crude, he said… ‘I can’t think the CNOOC-Unocal deal will have that problem’” (Intl. Oil Daily 2005a).
intervention. Yet, it is important to note that neither economic nationalism, nor interest group presence, would have had the effect that they did in the absence of the geopolitical context, without which those opposed to the case would not have been able to gain the support that they eventually did. Finally competition issues did not seem to play any significant role.

Unbounded intervention in this case was, thus, clearly an example of non-military internal balancing. CNOOC’s bid, and the presumed role played by its state-owned parent company, caused apprehension over the use by the Chinese Government of its rising economic power to ‘buy’ power in the form of companies that would supply it with resources, knowledge, and technology. Furthermore, certain members of the US government did not wish to allow China to win the ‘energy race’ through the use of Chinese-government subsidized asset purchases, or to give them control over those resources. Therefore, intervention was about preventing this transfer in those forms of relative power from occurring. While this situation, in the context of increased Chinese FDI in the US, did arouse a certain amount of economic nationalist sentiment, intervention was not about saving a national champion, as it was in the Danone Case. Instead, this was about intervening in a market transaction to prevent the loss of relative power to a strategic rival. For while the CNOOC case was in process, Secretary Rice visited China and made it clear that the US government was aware of “a significant military buildup going on [in China], that is concerning, [and caused the US to] … have concerns about the
military balance” (Rice 2005). Indeed, those who objected to the deal seemed to honestly believe that the sale of Unocal to CNOOC could lead to the transfer of military technology, and resources that could eventually also be used by the Chinese military. Others, as mentioned above, were concerned that ownership of the company would give the Chinese government more social power and influence in Asia, or even provide it with the ability to gain more power over Taiwan. As one member of the US-China Economic and Security Review Commission noted, the US was not dealing with “a market economy” because “[China] see[s] resource acquisition as an integral part of their military plans. We need to look at it on the same basis” (Blustein 2005). Similarly, former CIA director James Woolsey called CNOOC’s attempt to takeover Unocal a “sharp elbow” (Eckert 2005) from a ‘bully’ and that “anyone who believes this is a purely commercial undertaking … is extraordinarily naïve” (Ivanovich 2005).

Furthermore, the CNOOC / Unocal case provides an excellent example of unbounded intervention as non-military internal balancing. This is because the ‘balancing’ was targeted, finite, and used a tool that was not expected to, and that ultimately did not, damage the overall relationship between the two countries involved.

166 “According to D’Amato, CNOOC’s control of Unocal’s gas holdings in Indonesia would be a threat to regional security should the deal go through. D’Amato also noted that Taiwan buys 60% of its imported natural gas from Indonesia raised the question of whether China would allow such gas exports to continue” (States News Service 2005a).
Case 3 – Check Point / SourceFire

The Story

On October 6, 2005 Check Point Software Technologies Ltd (an Israeli company) made a mixed cash and share offer for SourceFire Inc. (a US company) for about $225 million. Both companies specialize in security software, and both companies provide software to the US government – making the deal seem like a smart fit to market and tech analysts alike. The deal rationale provided by the companies was that SourceFire’s intrusion prevention system (IPS) software (including a well-known open-source system called SNORT) would complement and “strengthen Check Point's perimeter, internal, Web and endpoint security portfolio,” allowing it to “expand” into the “fast-growing intrusion prevention and network awareness” business (Check Point 2005). This rationale was well received and the deal quickly gained the support of the “boards of both companies as well as SourceFire shareholders” (Vaas 2005), after which it was subjected to an initial 30-day CFIUS review and the Hart-Scott-Rodino anti-trust process.

---

167 As explained earlier, this case has been included even though it falls below the $500 million threshold used as one of the parameters for case selection. This is was done because: 1) the case is agreed by most market and political analysts to be highly significant because it is one of the few examples of a case in which a company has pulled out of the CFIUS and bidding processes after the initiation of a 45-day investigation, and 2) in the interest of expanding the states examined as ‘acquiring countries’ to include countries such as Israel, where it is extremely rare to have a cross-border M&A deal that surpasses the $500 million threshold.

168 At the time, Check Point was “best known for its firewall technology that defends networks against Internet attacks” (Lemos 2006).
On February 13, Check Point confirmed that CFIUS had decided to pursue a further 45-day investigation of the deal (Check Point 2006a), and that both companies were cooperating in that process.\textsuperscript{169} Though the proceedings of the investigation itself are classified, and the Treasury Department refused to officially comment on whether or not the deal would have made it through the investigation unscathed,\textsuperscript{170} it nevertheless emerged that there were several objections raised to the deal while CFIUS performed its review.\textsuperscript{171} The primary objection was against possibly allowing a foreign company (any foreign company) to take control of a software company that provided computer network and systems security for a number of US government agencies, including the Federal Bureau of Investigation (FBI), the Department of Defense (DOD), and the National Security Agency (NSA) (Dagoni 2006; Greene 2006; Rothman 2006; Williams 2006). Apparently, these agencies “expressed concern” that the deal “[put] their networks at risk” (Rothman 2006) and would have allowed Israel to “acquire sensitive technology” related to “the implementation of SourceFire’s anti-intrusion software ‘SNORT’” (Williams 2006). Peter Cooper (a Morgan Stanley analyst) claimed “CFIUS feared that the takeover would expose SNORT to manipulation by a non-US entity” and “that Check Point would shut down the open source software and limit accessibility by users” because

\textsuperscript{169} The CFO of Check Point (Eyal Desheh) later said of the CFIUS process that “it’s a dialogue with the government” (FD 2006).

\textsuperscript{170} See: (Dagoni 2006; Lemos 2006)

\textsuperscript{171} Indeed, the Chairman and CEO of Check Point (Gil Shwed), confirmed that the company was “finding specific issues” in “dealing with the government,” though he declared that he was unable to “share” what they were (FD 2006).
“similar occurrences (unrelated to Check Point) had happened before” (Dagoni 2006).

There may have been objections specifically to Check Point, as well. For, while it has been noted that “Check Point has National Security Agency certification” (McLaughlin 2006) and “has had success in US government security projects,” some questioned whether or not there was concern over the security of the company itself. One observer, for example, suggested that certain members of government might have had “a dim view of the close ties between key Check Point executives and the IDF [Israeli Defense Forces], especially unit 8200,” which handles signals and encryption intelligence (Dagoni 2006). Additionally, one industry source claimed at the time that “government contractors ha[d] told him that they [we]re strictly prohibited from using Check Point software” (McLaughlin 2006).

Either way, it seems that there were enough concerns raised during the CFIUS process to assume that the government’s actions were tantamount to unbounded intervention. Throughout the process it was clear that the deal would either be blocked, or that the requirements placed on both companies would be so onerous (and the delay to the completion of the deal so great) that Check Point would withdraw their offer voluntarily. For instance, “in private meetings between the panel and Check Point, FBI and Pentagon officials” made it obvious to the company that they “took exception to letting foreigners acquire the sensitive technology” (Williams 2006). Apparently, Check Point’s “lawyers had tried to salvage the deal
by offering to attach conditions intended to satisfy the Feds, despite execs feeling they were onerous,” but “agreement could still not be reached” between the parties (Williams 2006). Indeed, it was reported that “the US [government] made the approval process so miserable for both parties that they threw in the towel” (Rothman 2006).

Thus, on March 23, 2006, Check Point announced that it was withdrawing from the CFIUS process, ahead of the recommendation that the Committee was due to make to the President a week later regarding the deal (Lemos 2006). CFIUS “accepted th[is] request” (Dagoni 2006), and in a press release, Check Point declared that it was now seeking a simple “business partnership” with SourceFire, rather than continuing to pursue its acquisition of the company (Check Point 2006b). Check Point also released a statement at the time providing its rational for abandoning the transaction, stating that “given the complex technology, the complexity of the process, [and] the current scrutiny of CFIUS, we have come to the conclusion that that it may be simpler and better to pursue other partnership alternatives or take more time to work with the government” (Lemos 2006). Similarly, SourceFire’s Chief Marketing Officer blamed the pullout on “the complexities of the overall CFIUS process, the lengthy ongoing delays and the current climate for international acquisitions” (Chickowski 2006). Certainly, one industry source believed that “it [wa]s possible the government had put forward requirements that the companies
found unacceptable, or that CFIUS was dragging its feet’ on purpose (Brockmeier 2006).

Yet, it was more than the costly delays and complex negotiations that scuppered the deal. For a number of ‘US analysts said the Bush Administration would have vetoed the Check Point … Sourcefire deal and that withdrawal from the acquisition was the only way for Check Point to avoid being branded a security risk’ (Dagoni 2006). Thus, in the end, the deal was dropped because of unbounded government intervention: there were multiple objections raised by the government agencies that took part in the CFIUS investigation, the process was lengthy and difficult enough to be viewed as discouraging the transaction, and there was an overwhelming belief that the deal would be blocked by the government at the end of that process.

Because SourceFire’s spokesman had mentioned the ‘current political climate,’ some observers blamed the government’s intervention (and thus the ultimate failure of this deal) on the negative attitudes towards FDI raised by the DP World dispute (discussed below), which was in full swing by the time Check Point withdrew from the CFIUS investigation (See: Peter Cooper of Morgan Stanley in (Dagoni 2006; Lemos 2006; Roberts 2006). Yet, the member agencies of CFIUS had raised objections to the deal long before the ports row began (Weisman and Schmidt
Furthermore, the nature and tenor of their concerns (which were not politicized by lawmakers like they were in the DP World transaction) suggest that the DP World dispute did not play a significant role in motivating government intervention in this case, as the software deal was unlikely to survive the CFIUS process anyway. Indeed, the only role the ports dispute may have played, was to contribute to the belief on the part of Check Point that its bid would be blocked by CFIUS – though it has yet to be proven that CFIUS can be swayed in its recommendations by political pressure, and there were enough reasons for the deal to be blocked beyond the existence of a negative ‘political climate.’

**Geopolitical Competition**

Though the US and Israel are not formal military allies, the historical relationship between the two countries has been extremely close, and is considered by many to constitute a security community (see: Adler in Katzenstein et al. 1996,

---

172 As Weisman and Schmidt pointed out at the time: “there have been suggestions in the trade press that the publicly traded Israeli firm, Check Point Software Technologies, has been subjected to more scrutiny than Dubai Ports World, the state-owned Arab company that was initially cleared to take over operations at the six major U.S. ports with no security investigation. That inquiry was initiated only after an outcry about turning over port security to a country that has been cited for ties to terrorism. Sources familiar with the Israeli investigation said cyber security officials at the departments of Defence, Justice and Homeland Security all raised serious concerns about the purchase before the port controversy erupted” (Weisman and Schmidt 2006).

173 This point of view, for example, was supported by those such as “Richard Bejtlich, president and CEO of TaoSecurity and author of the popular TaoSecurity blog, [who] said that he did not think the scrutiny of this deal was strictly political or related to the failed DP World deal. Instead, he says there are legitimate concerns with the sale” (Brockmeier 2006).

174 For, “although Israel is frequently referred to as an ally of the United States, the two countries do not have a mutual defence agreement” (US Library of Congress 2007, 23).
For “even though there is no treaty obligation, President Bush has said several times that the United States would defend Israel militarily in the event of an attack” (US Library of Congress 2007, 23), a fact ensured by the close historical, diplomatic, and political relationship between the two countries. As Adler points out, however, even this “special relationship” can be subject “to corrosive forces” and will, therefore, at times experience tension within it.

At the time of this particular transaction, for example, tensions between the two countries had only just begun to ease after a 2003 dispute over “Israeli arm sales to China” which had caused the “annual interagency strategic dialogue[s]” between the two countries to be suspended until the November 2005 (US Library of Congress 2007, 23). Indeed, while Israel itself is obviously not perceived as a strategic competitor or a general threat, US government agencies do remain concerned that its lack of cooperation on issues relating to US export control laws could negatively impact US national security. Part of the problem has been that Israel is not a party to any of the multilateral export control regimes, and only “voluntarily adhere[s] to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-

---

175 Adler, for example, argues that “the US-Israeli relationship can be conceptualized as a security community” (Adler in Katzenstein et al. 1996, 434).
176 Some would argue that this position is also ensured by the high degree of political influence wielded by the Israel lobby within Washington. For a discussion of the role played by the Israel Lobby in Washington, see: (Mearsheimer and Walt 2007).
177 According to the most recent CRS report on Israel, “the United States and Israel have regularly discussed Israel’s sale of sensitive security equipment and technology to various countries, especially China. U.S. Administrations believe that such sales are potentially harmful to the security of U.S. forces in Asia” (US Library of Congress 2007, 25). This same report provides details of the particular sales that have caused heightened tensions between the two countries and “angered the Department of Defence” (US Library of Congress 2007, 25).

“The U.S. DOD and the Israeli Ministry of Defense issued a joint press statement reporting that they had signed an understanding ‘designed to remedy problems of the past that seriously affected the technology security relationship and to restore confidence in the technology security area. In the coming months additional steps will be taken to restore confidence fully’” (US Library of Congress 2007, 25).

Given this climate, it is not surprising that the US would be concerned about the purchase of a US company, which developed network security for its federal agencies, by an Israeli company. For as one industry commentator noted, even among the closest of “allies, … all bets are off relative to source code” (Rothman 2006). Indeed, there would have been a great deal of legitimacy given to the concern that the sensitive code, which would have been purchased as part of this deal, might be passed on not only to the Israeli government, but also possibly sold to third party governments who might be on less friendly terms with the US.

While it seems clear that the above geopolitical issues provided strong motivation for the US government’s unbounded intervention in this case, it is unlikely that any of the remaining geopolitical factors to be examined in this section played such a significant role. First, it is unlikely that US resource dependency would have played any role in this case. The US level of resource dependency, while not low at 36.35% in 2005 and 37.68% in 2006, is not excessively high compared to

178 This observation was made in the context of discussing the difficulties Check Point was encountering in its attempt to purchase of SourceFire. Rothman argued that such protective actions were “not restricted to the United States. UK regulatory entities now have an issue with US company SafeNet buying nCipher, a UK encryption vendor. … the United Kingdom and the United States are allies, but I guess all bets are off relative to source code” (Rothman 2006).
that of other nations. More importantly, however, Israel is not a major supplier of energy to the US, providing (for example) just 0.04% of the US imports of ‘crude oil and petroleum products’ in 2005 and 2006 combined (EIA 2008c). Second, the relative power differential between the two countries is not only decidedly in the US’ favor, but does not seem to be changing in any significant way. Unlike the US, Israel is not considered a major power, and it is also not considered a rising power. The five-year average economic growth rates of both countries remained largely similar. Furthermore, Israel’s military expenditure remained under 2.5% of that of the US, and Israel’s five-year average military growth rate actually declined during 2005 and 2006, while the US’ increased.

**Economic Nationalism**

As discussed in the CNOOC case, the level of economic nationalism in the US is usually considered to be fairly low. SourceFire was never referred to as a ‘national champion,’ and though it is very important to the government, it is an extremely small company. Overall, the industry at the time seemed to believe that the combination would be good for the technology involved, and for the industry as a whole.

---

179 These numbers have been calculated from data sourced from: (IEA 2006).
180 The US 5-year average economic growth rate was 4.93% in 2005 and 4.96% in 2006, while Israel’s was 4.40% and 4.98% respectively. (These numbers were calculated from data taken from the World Development Indicators database (World Bank 2008)).
181 The US 5-year average military growth rate increased from 8.19% in 2005 to 8.98% in 2006, while Israel’s decreased from 5.96% to 3.79% during that same time period. Additionally, the Israel’s military expenditure was only 2.48% of that of the US in 2005, and 2.15% in 2006. These numbers were calculated from data taken from SIPRI (SIPRI 2006).)
182 SourceFire reportedly only had 140 employees at the time of the failed transaction (Messmer 2006).
Furthermore, “the [US] is Israel’s largest trading partner,” and that trade is far from insignificant, totaling $29.9 billion in 2005 (Jones 2006; US Library of Congress 2007). This can partly be attributed to the US-Israeli free trade agreement (FTA) (US Library of Congress 2007, 21). Thus, it would not have made a huge amount of sense for the government to block this deal on economic nationalist grounds, and there seems to be no evidence that this was a motivation behind the government’s unbounded balancing.

**Presence of Interest Groups**

Finally, the control variable of interest group presence did not seem to provide a motivation for government intervention in this case either. For there is no evidence of interest groups lobbying against the deal (outside of the government agencies themselves), and the only lobbying that does seem to have occurred was in favor of the deal. Indeed, it was reported that though “Check Point had committed to an all out effort to lobby the committee for approval,” their efforts were unsuccessful (Lemos 2006). In fact, the most powerful interest group in the US, the Israel lobby, would have been in favor of the deal. There was no reason for the labor pool involved in the deal to protest either, as Check Point announced to the press that it “w[ould] be adding SourceFire’s 140 employees to its own staff of 1400 and

---

183 See, e.g.: (McLaughlin 2006; Rothman 2006; Vaas 2005).
184 For a detailed discussion of the power of the Israeli lobby, see: (Mearsheimer and Walt 2007).
expect[ed] no layoffs” (Vaas 2005). Thus, in addition to there being no evidence that this particular variable motivated government intervention, it was also highly unlikely that it would have done so.

**Competition Concerns**

There is also no evidence that competition concerns played any role in motivating government intervention in this case. The US’ concern with its competitive role in the international marketplace has been explained above in the CNOOC case, and is unlikely to have played any role here. Furthermore, there is definitive proof that anti-trust competition concerns did not affect this transaction in a negative way. For Check Point was “granted early termination” of the competition waiting period that is part of the Hart-Scott-Rodino process “by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice” (Federal Register 2005) in November 2005, long before CFIUS even started its 45-day investigation.

**Conclusions on Check Point / Sourcefire**

Thus, we must conclude that it was national security concerns, motivated by specific geopolitical concerns, which were the root cause of unbounded government intervention in this case. It is rare for this to be the primary motivating factor within the context of a security community relationship, and this case is critical because it
demonstrates how and why this can occur. The US was worried not only about maintaining access to the SNORT intrusion protection software created by SourceFire (which was “open source”), but also over other SourceFire systems used by the government (that were “not open source”), which would have been wholly owned by a foreign company if the transaction had been successful (Brockmeier 2006). Indeed, the US’ concerns over the deal seem to be legitimate given Israel’s fairly lax approach to export controls of sensitive technology in the past. Thus, it can be concluded that the primary (and sole) motivating factor behind government intervention in this case was geostrategic concern.

Case 4 – Dubai Ports World / P&O

The Story

In the fall of 2005, Dubai Ports World (DP World) first indicated its interest in acquiring the Peninsular & Oriental Steam Navigation Company (P&O). DP World, owned by the Emirate of Dubai, is a well-respected global ports operating company that at the time of this case operated 51 port terminals in 30 countries

---

185 This point can be attributed to “Richard Bejtlich, president and CEO of TaoSecurity” who explained to the press at the time that “there [we]re legitimate concerns with the sale. He noted that SNORT, the open source component of Sourcefire's product line, is only one piece of the company's product line. The remainder of the product line is not open source, and therefore not subject to inspection the way that open source software is. According to Bejtlich, Sourcefire gear has been approved for deployment in sensitive environments, and the fact that Sourcefire was about to be purchased by a foreign company ‘upset people’” (Brockmeier 2006). Apparently, “this [wa]s especially true,” because SourceFire “ha[d] modified their code specifically for the government” (Roberts 2006).
(Blitzer et al. 2006b). P&O was also a global ports operating company, which operated 29 port terminals across 18 countries. Combining the two companies seemed to be a clear winner – with almost no competition issues emerging from a possible combination of the companies, a takeover would instantly “create one of the top three leading ports groups in the world” (Zephyr 2006a).

The very first public reports of a possible deal surfaced in the market on October 31\textsuperscript{st}, the day that P&O had its “first meeting” with DP World (Zephyr 2006a; Paleit 2006). Before even approaching P&O, however, DP World contacted CFIUS on October 17, 2005, knowing that there would be a review of any possible deal with P&O because DP World was a company owned by a foreign government, and because six of the P&O port terminals that would be involved in the transaction were in the United States (Paleit 2006).\textsuperscript{186} Thus, long before any agreement had been reached and the CFIUS process officially begun, the relevant intelligence security agencies were able to begin gathering information on DP World, and to “[review] the transaction with company officials” (Davis 2006). Notably, the various “US intelligence agencies” questioned by the Department of Homeland Security did not find any “derogatory” evidence against the company (Davis 2006).

Thus, with the path seemingly clear, DP World made an offer to acquire 100% of P&O through its acquisition vehicle Thunder FZE on November 29, 2005

\textsuperscript{186} P&O owned port terminals in: Baltimore, Miami, New Orleans, New York City, Newark, and Philadelphia. In addition, P&O “had lesser dockside activities at 16 other ports in the United States” (Bridis 2006).
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 16th, DP World “filed formal notice of the deal with the Treasury,” the department that chairs CFIUS, which began its formal review of the transaction the following day (Davis 2006; Paleit 2006). After conducting a 30-day investigation of the transaction, and after failing to find any significant national security repercussions, CFIUS ‘approved’ the potential deal between DP World and P&O (Paleit 2006; Ylagan 2006). As part of the process, DP World 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.\footnote{DP World voluntarily released the contents of the Letter of Assurances on February 21, 2006 (Graham and Marchick 2006).}

In the meantime, a rival bidder had 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 Hutchinson (of Hong Kong) and Temasek (the Singaporean sovereign wealth fund) fell by the wayside, PSA indicated that it was “willing to make an offer” on January 11, 2006, and by January 26th PSA announced an offer for P&O worth almost £3.6 billion (Zephyr 2006a). DP World increased its offer for P&O to £3.9 billion the next day, forcing PSA out of the
running (Zephyr 2006a). By February 13, DP World’s 100% acquisition of P&O was formally ‘approved’ by the shareholders of P&O (Paleit 2006), and it seemed that the deal was almost over.

That week, however, turned out to be the beginning of what would be 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 agencies represented in CFIUS) explain the rationale behind the approval for a deal that they believed posed a “potential national security threat” (Davis 2006; Paleit 2006). The lawmakers denounced the fact that the United Arab Emirates was a country from which two of the 9/11 hijackers had come (and through the banks of which money had been supplied to them). 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 their ports. The implication of all 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 Schumer, Frist (R-TN), and Clinton (D-NY) thus
quickly promised to bring forward legislation in the coming weeks that would prevent the takeover.\footnote{188}

Members of the Congress and 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 joint-venture in stevedoring services in the port of Miami with P&O, and who feared they would lose business after the takeover was complete (Hitt and 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 began 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 “grassroots brushfire” of opposition (Hitt and Ellison 2006b).

President Bush’s administration was caught off guard by the media firestorm and the congressional backlash that emerged at this point. For, it was allegedly not until February 16\textsuperscript{th} that President Bush was even made aware of the deal (Davis \textsuperscript{188} For example, on February 16\textsuperscript{th}, “New York Sen. Charles Schumer holds a news conference to denounce the deal” (Hitt and Ellison 2006a). Senator Hillary Clinton had promised by February 17\textsuperscript{th} that “she [would] propose legislation to block deal,” and by February 21\textsuperscript{st}, Senator Bill Frist claimed that “he [would] introduce legislation to ensure deal is placed ‘on hold’ pending review” (Paleit 2006).
2006). Upon learning about the case, however, President Bush was adamant that lawmakers should not intervene. On February 21st, President Bush 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” (Kuhnhenn 2006). This position had two primary bases. The first was 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 further 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. Thus, the President 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\textsuperscript{th}, he also “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 and Orr 2006).

Despite their frustration at the reaction, both the Administration and DP World itself sought to make lawmakers more comfortable with the transaction. DP World tried to help the process by releasing the Letter of Assurances it had provided to CFIUS\textsuperscript{189} on February 21\textsuperscript{st}, 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 45-day security review and fully informing congress” of DP World’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 DP World remained confident that such lawmakers would change their mind 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,\textsuperscript{190} and on February 26\textsuperscript{th}, DP World formally “requested” that

\textsuperscript{189} Normally, such a document remains classified and confidential unless the company involved decides voluntarily to release the information to the public.

\textsuperscript{190} It was reported that President “Bush[’s] economic advisor Al Hubbard worked with a Bush ally and UAE lobbyist Vin Weber and Senate Majority Leader Bill Frist. GOP Senators John McCain and
CFIUS conduct the full length 45-day investigation of the proposed transaction (McAuliff 2006). “Dubai Ports World also 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 towards unbounded intervention by US lawmakers followed, as different congressman and senators sought to go on record opposing the deal. On February 27th, 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 (US House 2006a) to the House the following day (US Senate 2006c; Harman 2006). Over the course of the same two days Sen. Charles 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 45-day investigation of the DP World/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 Senate 2006a). On that same day of February 28th, Senator Byron Dorgan attempted to go even further with S.2341, subtly entitled: ‘A Bill to Prohibit the Merger, Acquisition, or Takeover of Peninsular and Oriental

---

John Warner were key middlemen in talks that finally produced agreement over the weekend” (Dobbs et al. 2006a).
Steam Navigation Company by Dubai Ports World’ (US Senate 2006b). Finally, by March 7th, Rep. Duncan Hunter 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 over the following weeks.

With no serious opposition to the deal arising in the United Kingdom, 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 9th (DP World 2006a). Yet, on this 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 Hastert and 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 just that (Kuhnhenn 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). Indeed, both the administration and the UAE were increasingly concerned over the damage to their relationship that could arise from the ‘row’ over this deal, largely because the ‘national security concerns’ named by those lawmakers opposed
to the deal appeared to be at best unfounded, and at worst discriminatory and insulting. For, as will be discussed below, 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] DP World to relinquish control of the five US port terminal facilities” on March 9th (Paleit 2006). Sen. John Warner (R-VA), who had helped to broker the original agreement for an extra 45-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). 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), but the Administration also made it clear quite clear to lawmakers

---

191 In a press release dated March 9th, the CEO of DP World (H. Edward Bilkey) states: “Because of the strong relationship between the United Arab Emirates and the United States and to preserve this relationship, His Highness Sheikh Mohammed Bin Rashid Al Maktoum, Vice President and Prime Minister of the UAE and Ruler of Dubai, had decided that DP World will do the following. DP World will transfer fully to the US operations of the P&O Ports North America, Inc. to a United States entity. This decision is based on an understanding that DP World will have time to effect the transfer in an orderly fashion and that DP World will not suffer economic loss. We look forward to working with the Department of the Treasury to implement this decision” (DP World 2006b).

192 After the 45-day review was announced, President Bush stated: “Obviously, Congress should have had a better heads up, and … the explanation to the American people must be done in a way that, you know, lays out the facts and doesn’t frighten people” (Dow Jones 2006a). Yet, it should be noted that the Administration’s efforts to “portray[] the 45-day probe as a chance to educate lawmakers” (Hitt and Singer 2006) seemed to backfire, as many lawmakers opposed to the deal resented the implication that they had not been doing their homework.
and the general public that it would not change its mind about the transaction (Feeney and Martin 2006).

Despite this agreement, Congress remained concerned. Some lawmakers worried that the ‘American entity’ would simply be DP World’s US subsidiary, leaving DP World in effective control of the operations. These Congressmen wanted to ensure that the disposal of the port-terminal leases in question was complete. Thus, Congress included a provision in §3011 of the Emergency Spending Bill (US House 2006b) introduced on March 13th that both a) prohibited the president from using any of the funds in the bill to approve the transaction and b) 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 15th, therefore, DP World published a statement explaining how the disposal would proceed. This “announcement appeared to satisfy the most prominent critics” of the deal in Congress (Blustein 2006). Finally, on December 11, 2006, DP World announced that

---

193 The administration let its feelings on this be known immediately to the press. In fact, “the President’s National Security Adviser, Stephen Hadley, told reporters the administration does not intend to use the [45 day] delay to reconsider its approval of the sale. ‘There’s nothing to reopen. In terms of the administration and the executive branch process, its been completed’” (Feeney and Martin 2006).

194 H.R.4939 § 3011 reads as follows: “(a) None of the funds made available in this Act or any other Act may be used to take any action under section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) or any other provision of law to approve or otherwise allow the acquisition of any leases, contracts, rights, or other obligations of P&O Ports by Dubai Ports World or any other legal entity affiliated with or controlled by Dubai Ports World. (b) Notwithstanding any other provision of law or any prior action or decision by or on behalf of the President under section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170), the acquisition of any leases, contracts, rights, or other obligations of P&O Ports by Dubai Ports World or any other legal entity affiliated with or controlled by Dubai Ports World is hereby prohibited and shall have no effect” (US House 2006b).

195 For further details see: (CBS 2006).
it had divested the six US ports to AIG (the American International Group Inc.), thus ensuring that the ports would remain under American control (The 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 4th round before the takeover emerged, were stalled. On March 13th, 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). 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 passed over, lawmakers continue to fight for CFIUS reform.¹⁹⁷

**Significance as an Outlier**

It is of vital importance, therefore, to examine this case because of its very nature as an outlier. It is, indeed, an aberration in both the context of the database as

---

¹⁹⁶ For example, Sultan Nasser Al-Suweidi (governor of the central bank in the UAE), said that the “[US is] contravening their own principles. … Investors are going to take this into consideration [and] will look at investment opportunities through new binoculars” (Thornton 2006a).

¹⁹⁷ For a detailed discussion of the legislation that has arisen to reform CFIUS following the ports row, see: (Jackson 2007).
a whole, and the history of US government intervention into foreign takeovers on the grounds of ‘national security’ in particular. As will be shown below, 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 DP World case is arguably the most publicized example of government intervention into a foreign takeover in the US in recent memory. Certainly, in their investigation of *US National Security and Foreign Direct Investment*, Graham and Marchick point out that the DP World/P&O 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 and 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 though it is true that this one is outside of the security community context), we would expect to see such interventions 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. Furthermore, neither US jobs nor US 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 concerns 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. It was a case of unnecessary and 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. Indeed, for those few valid

---

198 The Peninsular & Oriental Steam Navigation Company (P&O) is credited with having “once [been the] key to British Empire building” (Property Week 2006).
199 One reporter captured the mood of the situation perfectly when describing the Judge William Webster’s (former Director of both the CIA and the FBI) take on the situation: “Citizens have been convinced that they should fear the 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” (Forecast International 2006).
200 Graham and Marchick agree on this latter point, as do a number industry sources, and members of the legal community with whom the author has spoken. See: (Graham and Marchick 2006, 138).
national security concerns that were raised by the deal, \textit{bounded} balancing would have been sufficient, and would have been unlikely to lead to the tensions that \textit{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 would argue that the reaction of most the government (the Administration, CFIUS, and the government agencies that report to CFIUS), 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 \textit{in terms of national security and geopolitical consequences} in a plausible (or at least ‘saleable’) manner to the American public. Thus, it may 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 ‘frame,’ and sell, their concerns to a broader audience. Furthermore, and perhaps most importantly, where there are instances of overbalancing such as this, the states involved will pay a certain price for their miscalculation. In other words, 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 an, at least temporary, tension being created within that relationship.

**Competition Concerns**

The DP World / P&O deal did not face the possibility of being blocked because of economic competition concerns for three fundamental 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. For, while 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. Furthermore, Alan Johnson (the US Secretary of Trade and Industry at the time) confirmed that the deal did 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 having opened *enough* of their ports to foreign competition in the most recent ‘Doha round’ of the WTO meetings.\(^{201}\) Thus, this variable does not seem to have provided

\(^{201}\) “The US has been asked by several trading partners to open up its port services to international competition, a longstanding request given more significance by the dispute over the takeover of P&O by Dubai Ports World. The request, made in the World Trade Organization ‘Doha Round’ of Global Trade Negotiations, stands almost no chance of success. The proposal is not new, and the US has already ruled out liberalizing any port services in the Doha round” (Beattie 2006). Notably, the G-Six failed to reach any agreement at the WTO trade round in London that occurred in early 2006.
lawmakers with the motivation for their unbounded intervention into the DP World transaction.

**Interest Group Presence**

The DP World / P&O case is extremely interesting because there were a small number of interest groups that were actively pressing for both the UK and the US to intervene and to block the deal from taking place. As will be illustrated below, 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 discussed above. Therefore, the nature of this case as an outlier is partly due to the elevation of this variable in terms of its importance in motivating state action, but as always the role of the interest group is still primarily confined to this role and will rarely ever be the sole cause, reason, or justification for such intervention.

The first major interest group pressing for an intervention in the deal was the Fort Lauderdale based Eller & Co. (Eller), which had a stevedoring joint venture with P&O based at the Port in Miami, and which “feared” the deal would ruin its future business prospects (Hitt and Ellison 2006a). Eller’s campaign began with a completely unsuccessful attempt to lobby CFIUS, which – as is usual in these cases – remained unmoved by lobbyist’s efforts (Hitt 2006). As we know, CFIUS did not find any national security issues with the deal, which could not be resolved through
certain agreements being made with DP World. After this clear failure, Eller started contacting lawmakers directly and, according to a spokesman for Senator Schumer, “was really the canary in the mineshaft for many people on the Hill and in the media” (Hitt 2006). Their position as ‘whistleblower,’ however, should be overshadowed by the fact that they were only able to strike a chord with lawmakers who were 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 United States and the United Kingdom.202

There were actually a few interest groups who 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,” which they claimed they had not been consulted on, and on which they claim they had the final right of approval (Orr 2006a). Interestingly, however, the Port Authority did not base their lawsuit on any sort of national security concern either. “Our lawsuit was never about Dubai,” said Steve Coleman, a port Authority Spokesman. ‘It was a landlord-tenant dispute aimed at getting proper notification and information about who was going to be doing

202 In the United Kingdom, Eller filed a motion with the British High Court “ask[ing] the court to reject proposals that would implement the transaction” on the grounds that “the deal would mean the loss of business worth $115 m[illion] … and affect more than 1,500 jobs at the port” (Tait, Wright, and Kirchgaessner 2006). However, Judge Warren of “the British [High] court rejected Eller’s claims,” as did the British Court of Appeals on March 6, 2006 (Harrison 2006; Rowe, 2006). Eller had also filed a separate suit in Miami.
business at our port” (Davis and Jackson 2006). The case was to go to trial in the Superior Court of Newark on March 3rd (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 45-day investigation of the deal’s potential security risks, and the judge said that review should be sufficient” (Frankston 2006).203 The state of NJ 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.204 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, their concerns were dismissed and the deal allowed to be completed in the United Kingdom (where P&O was based). It is important to note here that 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.

---

203 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).

204 Again, Judge Linares reportedly responded that: “The agencies who have the information get to decide who gets access to the documents, not the governor of New Jersey” (Brennan 2006).
Additionally, two of the labor unions that work at some of the six US ports affected by the deal protested the takeover in a highly publicized rally on February 28th, 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 (Pacific Shipper 2006; Nussbaum 2006). Yet, excepting a minor demonstration in LA by another dockworkers union, such protests and rallies were not widespread, and were not repeated.205 The unions were protesting nominally because of fears over job security. However, one of the reasons these protests were not more widespread was because it was clear that DP World did not intend to overhaul the existing staff used by P&O. The reason that this large rally took place in Newark was because of the proximity of that port to Manhattan, and continuing anger from 9/11 caused many of the workers to resent the possibility of working for an ‘Arab’ company. Unfortunately, the fact that that 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 break through the ‘paranoia’ that seemed to have taken hold of the nation.206 Interestingly, workers at other ports seemed unworried by the

205 The only other labor demonstration that received any sort of publicity was “a much smaller protest rally was held in Los Angeles by members of the International Longshore and Warehouse Union” (Pacific Shipper 2006).
206 In a telling moment, “John Bowers, president of the International Longshoreman’s Association, yelled to the crowd” that: “the President of the United States tells us to watch out for terrorists every
takeover, as they at least seemed to realize it would not really affect their daily lives, other than that they would be working for a very well respected company in the industry. The real reason that this rally was significant was because the protesters were joined by Senators Schumer, Lautenberg (D-NJ), and Menendez (D-NJ); 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 there were also a number of interest groups and influential individuals and companies that were lobbying either on behalf of, or in favor of, DP World. For example, as soon as DP World came under attack from members of Congress who were angry at the UAE’s formal acceptance of the Arab boycott of Israel, ZIM (the leading shipping company in Israel) publicly backed DP World’s bid for P&O (Condie 2006; Verjee et al. 2006). This was largely because ZIM and DP World do a large amount of business with one another, despite

night. … How the hell could he sell these six ports to a foreign country?” (Nussbaum 2006). Similarly, one of the representatives of the International Brotherhood of Teamsters was reported to have said: “Our position is that American ports ought to be operated by American companies” while “he carried a sign that read, ‘Goodbye Dubai, Secure America’s Ports” (Green and Cohn 2006).

207 ZIM’s leadership offered their formal endorsement of the deal through both the media and written statements to lawmakers. For example, it was reported that “in a letter to Democratic Senator Hilary Clinton of New York, Idan Ofer, the chairman of Zim integrated Shipping Services Limited says … ‘As an Israeli company, security is of the utmost importance to us, and we require rigorous security measures from terminal operators in every country in which we operate, but especially in Arab countries, and we are very comfortable calling at DP World’s Dubai Ports. During our long association with DP World, we have not experienced a single security issue in these ports, or in any of the terminals operated by DP World, and have received exemplary service that enhances our efficiency and the smooth running of our operations. … DP World has been an industry leader with regard to security and works closely with us on an ongoing basis to maintain the highest security standards in all its terminals around the world’” (Verjee et al. 2006).
the boycott, which is largely ignored by the UAE. Certainly, the global shipping industry in general was both extremely supportive of the deal, and highly 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. Other specific companies and institutions that backed the deal included APCP Worldwide, Boeing, and the American Business Group of Dubai. Additionally, certain individuals voluntarily

---

208 Neither DP World, nor the UAE, seems to follow the boycott. As one reporter pointed out, “DP World belongs to a government that on paper supports the boycott… Yet, ironically enough, Israeli carrier Zim is an established major customer” (Osler 2006). See also: (Verjee et al. 2006; Whitfield et al. 2006).

209 According to one reporter, “Importers fear[ed] that hawkish attitudes on Capitol Hill could undermine the cooperation developed between Customs authorities and port users since the 2001 terrorist attacks and upset the delicate balance between security and free trade” (Ward 2006b). The row over the deal was also denounced at the Port Productivity Conference, were “shipping industry veteran C. Thomas Burke” was reported to have said: “[the deal will] be a good thing for the United States and good for international trade” (McDermott 2006). “As it turned out, Burke was preaching to the choir. The feeling among the shipping executive and manager who attended the … Conference … was that, as far as national security is concerned, the DP World deal is much ado about nothing” (McDermott 2006). Similarly, “leaders of the US transportation industry have warned that rising protectionist sentiment is posing a threat to the economy and called for greater public education about the benefits of global commerce” (Ward 2006a). This stance was made clear at the yearly Trans-Pacific Maritime conference. Supporters of the deal included: Scott Axelson (“Vice President of TraPac, a Japanese owned operator of US port terminals”), Christopher Koch (“President of the World Shipping Council… accused critics of the deal of ‘racial stereotyping’ against the [UAE]”), Matthew Rose (“Chief Executive of BSNF, the second-largest US railroad operator, condemned the ‘crazy’ protectionist forces”) (Ward 2006a).

210 This firm “[was] ‘not on the hill lobbying’ but has been providing ‘strategic counsel and media support’ [to DPW]” (Crea 2006). Yet, APCO was “enlisted to help diffuse the issue” by DPW in late January/early February 2006 (Crea 2006).

211 Boeing was reportedly worried that the UAE would cancel an order for a number of their planes as a result of the DP World dispute (Tiron 2006).

212 As part of their lobbying efforts, the Dubai American Business Group (ABG) “sent[ed] a delegation to Washington [in March 2006] to lobby 120 members of congress. ABG members include US business people in the UAE, as well as loyal representative offices of large US firms” (Reuters 2006f). Lt. Colonel Kevin Massengill, who is retired from the US army and was at the time a representative of the ABG, went on CNN to say of the deal and the UAE: “What we don’t want … is to look like we can’t tell the difference between our friends and our enemies. We don’t want to look like we’re slapping
cast their weight behind the deal, including Thomas Freidman and Oliver North. At the same time, DP World hired Bob Dole to lobby Congress on their behalf (Pagnamenta 2006).

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 they “would lobby against any legislation that would give Congress the right to block such deals” (Kuhnhenn and Douglas 2006). Furthermore, while the Port Authority of New York and New Jersey were protesting the deal, other US Port Authorities were happy to have DP World 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 back at somebody who’s been a good, trusted, reliable ally in this war on terror” (Blitzer et al. 2006a). Similarly, the Executive Vice President of the ABG said: “If the deal is blocked on terms that aren’t consistent with a due diligence process, that sends a loud and clear message to our friends that maybe they should rethink investments in the US” (Reuters 2006f).

Thomas Friedman called the row “shameful” (Chanda 2006), and wrote a number of op-eds decrying the backlash against the deal.

See, for example: (US Fed News 2006a).

Bob Dole was hired by DPW as one of their lobbyists, along with other members of the lobbying firm Altson & Bird (Pagnamenta 2006).
didn’t actively lobby for the deal, they did come out in favor of the deal publicly,\textsuperscript{216} as did representatives for the Port of Miami.\textsuperscript{217}

Unfortunately, those interest groups lobbying in favor of the deal, or at least publicly pushing for the deal, were unable to overcome the fear-mongering rhetoric of those lobbying against the deal. As an Economist Intelligence Unit report makes clear, the

“efforts by DP World itself and by lobbyists for US businesses with interests in the Gulf to persuade Congress that the deal 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 2006e).

It also seems clear that at least one of these interest groups (Eller & Co.) were successful in convincing lawmakers to object to the deal 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 Eller 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

\textsuperscript{216} The Port’s spokesman (Chris Bonura), when discussing the issue of how the takeover would affect jobs, pointed out that “We don’t have lots of British people running around our port just because P&O is here. Americans run the terminal and the labor is local and unionized. That would not change” when the DP World were to take effect (Alden, Kirchgaessner, and Ward 2006b).

\textsuperscript{217} As one reporter on the issues pointed out “Critics fear that terrorists could infiltrate DP World and gain positions of influence inside ports. But Andrea Muniz, spokeswoman for the Port of Miami, says that would be difficult in her city because all dock workers, including those employed by terminal operators, are subject to a string of stringent background checks by the port authority” (Alden, Kirchgaessner, and Ward 2006a).
in the deal. This role was only possible, however, within the context of such a highly politicized case.

**Economic Nationalism**

It will be argued here that economic nationalism played a secondary role in the DP World case. The UAE (as will be discussed further below) 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 there is really not much evidence of such an occurrence.

Indeed, P&O was not protected on the basis that it was a ‘national champion.’ As was discussed in the CNOOC case, the US rarely evidences support for ‘national champions,’ and in this case P&O was not 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.218 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

---

218 It must be noted here that the author is in no way disparaging the importance of ports to US national security. It is simply that the author believes that the change in companies operating at those ports does not threaten that 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 DP World (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.
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, there was no real movement against the deal on such grounds in the UK. This was not surprising, given that the UK has relatively moderate levels of national pride (at 46.9%) compared to the US (at 71.1%) (WVS 2001-2004). Interestingly, the UK’s level of anti-globalization sentiment did rise moderately over the course of the deal (from a ranking of 5.85 in 2005 to one of 6.54 in 2006) (IMD 2007b), but in the UK these protectionist forces were largely ignored in favor of free market principles.

In fact, economic nationalism should have seemed an unlikely candidate for motivating action in this case. In general, anti-globalization sentiment fell in the U.S. during the time period of this case (from 6.34 in 2005 to 6.25 in 2006), and was actually lower in the U.S. than it was in the U.K. during 2006 (when the ports row hit full swing). However, it might be argued that the same elements who reconceptualized and recast the geopolitical relationship between the US and the

---

219 See footnote 108 above.
220 There were a number of articles about how “our [UK] brands fall into foreign hands,” suggesting 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 example, at the time of the deal, “a … poll in the Financial Times newspaper revealed that more than two-thirds of the British public believe it is outrageous that we are allowing so many key companies to fall into foreign hands. The poll, taken at the height of the Spanish battle for BAA, shows the public understands what financiers and politicians are reluctant to acknowledge. That there are certain functions in any economy which are best run at home” (Daily Express 2006). See also: (Daily Mail 2006b). That article listed “some of the most famous of the country’s icons that are no longer British” including: Harry Ramsden’s, Fortnum & Mason, The Body Shop, Mini, Manchester United, Tetley’s Bitter, Bentley, London Electricity, Hamleys, Weetabix, Rowntree, County Hall, Chelsea FC, P&O, HP Sauce, Ty-Phoo Tea, and OXO (Daily Mail 2006b).
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 phenomena that will be discussed to a greater extent below).

*Geopolitical Competition*

The special nature of this case mandates that we examine the geopolitical relationship between both the UAE and UK, in addition to the relationship between the UAE and the US. It will be demonstrated 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, takes a stance that we would not have expected given that 1) 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 became politicized. For it was this process that allowed two completely separate understandings of the relationship between the US and the UAE to coincide: one in which the UAE represented a ‘foe’ for those lawmakers seeking to block the deal, and another (more realistic) understanding 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 United Arab Emirates for any of its imported resources.\textsuperscript{221} 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 the US, whose ratio was 36.35\% and 37.68\% respectively.\textsuperscript{222} Thus, if resource dependency played a role in motivating intervention, we would have expected the UK to intervene 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 the UK, or even to be a ‘rising power’ on the scale of China or India. In fact, while 5 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\% in the US), yet it was

\textsuperscript{221} In 2006, the UAE supplied 3,148 thousand barrels of crude and petroleum to the US, which imported a total of 5,003,082 thousand barrels that year; meaning that the US relied on the UAE for only 0.06\% of its total crude oil and petroleum product imports in 2006 (EIA 2008c).

\textsuperscript{222} The numbers used for the calculation of these resource dependency ratios were projected from past IEA data, and are “in thousand tonnes of oil equivalent (ktoe) on a net calorific value basis” (IEA 2006).
actually negative in the UAE, declining from -2.59% in 2005 to -2.67% in 2006. 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. Thus, neither the US nor the UK needed to have worried 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 an unparalleled financial center within the Middle East and abroad, and its sovereign wealth funds had become a force to be reckoned with in the international financial system. Indeed, the 5-year average economic growth rates for the UAE of 10.70% and 10.38% in 2005 and 2006 far outstrip are almost double that of the US and the UK during those years. This clearly demonstrates that the UAE is gaining in terms of relative economic power vis-à-vis the US and the UK, and it should be noted that some of the investments

223 These numbers were calculated from data taken from SIPRI (SIPRI 2006).
224 These numbers were calculated from data taken from SIPRI (SIPRI 2006).
225 Arab investment in general has increased in recent years, but the UAE, and the Emirate of Dubai in particular, has demonstrated a meteoric rise in profile over even the last five years. For a detailed list of such investments, see: (Reuters 2006b).
226 The UK average growth rate over 5 years was 4.76% in 2005 and 4.34% in 2006. The numbers for the US were a little bit higher at 4.93% in 2005 and 4.96% in 2006. These numbers (and those above) were calculated from data taken from the World Development Indicators database (World Bank 2008).
sought by their SWFs had raised economic nationalist sentiment in certain countries.\textsuperscript{227} Yet, the UAE’s overall economy remains only a fraction of the size of these countries and, thus, its overall relative economic power remains fairly low and unthreatening. In fact, the UAE’s GDP at Price Purchasing Parity totaled only 5.77\% of the UK’s in 2005 and 6.14\% in 2006.\textsuperscript{228} In comparison to the US, these numbers were even lower at 0.93\% and 0.98\% respectively.\textsuperscript{229} Again, if the reality of the geopolitical situation was what it was portrayed to be by those seeking to scupper the deal, then we would have expected the UK to intervene rather than the US. In fact, the US should not have been motivated by this factor considering the above, and the fact that the UAE is a good trading partner, which the US has no interest in losing. Indeed, at the time of the deal there were fears that “trade worth more than $8 billion between the US and the United Arab Emirates could be jeopardized if a Dubai ports deal is blocked” (Reuters 2006f). The US and the UAE were even in the midst of negotiating a free trade agreement when the row over the deal broke out – an agreement that the Administration believed was jeopardized by the dispute, and which the Administration was determined to save. Thus, relative economic power

\textsuperscript{227} For example, the Dubai International Financial Centre (DIFC) was in talks for quite a while to obtain a large stake in Euronext when it became clear that such a transaction would be blocked if the DIFC tried to take over the entire financial exchange. In fact, “Euronext said” quite clearly to the press that “it was comfortable with the Dubai International Financial Centre (DIFC) taking a minority stake in the pan-European exchange operator, but not a majority stake” (Reuters 2006d).

\textsuperscript{228} These numbers were calculated from data taken from the World Development Indicators database (World Bank 2008).

\textsuperscript{229} These numbers were calculated from data taken from the World Development Indicators database (World Bank 2008).
should not have been a motivating factor behind the unbounded intervention in this transaction, but the lawmakers who intervened never even seemed to have realized the true economic implications of their actions.

**The Character of the Political Relationship**

The United Arab Emirates is a strategic partner to both the United States and the United Kingdom 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 or 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 we might term a publicity problem in the United States. For much of the American public and many of its lawmakers were (sadly) unaware of the fact that the relationship between the countries has strengthened considerably in the post-9/11 era, but everyone seemed 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 the countries, largely because of 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 the 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 their opinion of the threat posed by the UAE and DP World.

CFIUS, the Administration, and the defense and intelligence agencies, clearly did not believe that the UAE posed a threat to the US, because of the strategic importance of the country as an ally in the Middle East. The administration made it clear in late February that “the United Arab Emirates 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 11 attacks” (Palmer 2006). The UAE also provides a vital port for the US Navy to dock its vessels in the Middle East and, therefore, plays a critical role in the ability of the US to project its power in the region. Reportedly, “it was this close cooperation” that

---

230 On a visit to meet with the UAE’s government at the end of February, Secretary of State Condoleezza Rice was said to have praised the UAE as “a strong ally” of the US, a sentiment echoed by Sheikh Abdullah bin Zayed al-Nahayan (the Foreign Minister of the UAE) just the week before (Daily Star 2006; Reuters 2006e). Indeed, the UAE seems to hold a unique position as an economic powerhouse that is viewed as benign by both Western and non-Western countries. Indeed, it is this political position, combined with its physical “strategic position between China and India, the world’s fastest-growing economies, and Europe and the US, its biggest consumers, [that] inarguably [gives it] a trump card” (Watson 2006).

231 Certainly, “since [9/11], the UAE has become one of America’s closest allies in the Global War on Terror, apprehending terrorists, shutting down their financial networks, and providing tangible support for US military operations in both Afghanistan and Iraq” (US Fed News 2006a). John McLaughlin, the former acting director of the CIA, said the US had had a very good intelligence relationship with the UAE since the 2001 attacks on the US. But another former senior intelligence official said the intelligence links were almost non-existent. He said the UAE did not even have an external intelligence service, such as the CIA or MI-6 in the UK” (Sevastopulo and Kirchgaessner 2006).

232 In fact, “the Pentagon says more US warships are serviced here in Dubai than any other port outside of the United States” (Blitzer et al. 2006a). Additionally, “the administration, in defending the deal, has said that the UAE allows US military planes to fly through its air space and provides docking facilities for Navy ships” (Knight Ridder 2006). Yousef Al Otaiba (International Affairs Director to the Crown Prince of the UAE) also defended the relationship by pointing out on CNN’s Situation Room with Wolf Blitzer that: “in 1991, the UAE contributed forces to Operation Desert Storm. And
convinced “CFIUS – to greenlight the transaction” (US Fed News 2006a), and which in late February led Secretary Rice to assure the UAE that the “administration was confident” the deal would go through as planned (Daily Star 2006). When it became clear that 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. The port is used by US aircraft carriers and for transport” (Kirchgaessner and 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 both belated and ineffective, as those who did not understand the relationship between the two countries were easily swayed against the UAE (and thus DP World) by playing on prevalent fears of terrorism to frame them 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

we allowed US forces to base in the United Arab Emirates. 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. … The US Navy sends ships up to 572 US Naval vessels to port and ports in the UAE … We’re reaching vessels up to the size of nuclear powered aircraft carriers ….” (Blitzer et al. 2006a).
grounds, as mentioned above. 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, that it had formally supported the Israeli boycott, that it had allowed nuclear related materials to pass through its country, and that it had been one of the only countries to recognize the Taliban before 9/11 (Cornwell 2006; Orr 2006a). Others pointed out that the UAE had allowed nuclear related materials to be smuggled through their country.

These same lawmakers then argued that DP World’s takeover of the P&O port terminals in the US would endanger national security because the emirate-owned

---

233 For example, it was often reported that those “US lawmakers opposed to the takeover” continually pointed out “that two of the September 11 hijackers came from the UAE, that al Qaeda funding passed through UAE banks, and that a United Nations agency said disgraced Pakistani scientist Abdul Qadeer Khan used Dubai as the headquarters for his nuclear black mark” (Cornwell 2006). Reporters mimicking the Congressman against the deal stated that “money to fund the 9/11 attackers sloshed through [the UAE’s] wide-open banking system” (Wolffe 2006). Wolf Blitzer also recapped “the other major concern … that it wasn’t that long ago, just before 9/11, when this country the [UAE] had direct relations with the Taliban and that money that was used by the 9/11 hijackers. Including Mohammed Atta, he got about $180,000 that went through the banking system here in the [UAE] and we all know the end result, 3,000 people were killed on 9/11” (Blitzer et al. 2006b). As mentioned above, opponents strongly believed that the deal should be blocked because the UAE had “recognized the Taliban government that allowed al Qaeda to flourish in Afghanistan and … supported the Arab League’s boycott of Israel” (Orr 2006a).

234 Wolf Blitzer, on his highly viewed show on CNN, asked why: “nuclear material, dangerous nuclear material, went through Dubai Ports World, the port here in Dubai from Pakistan to Iran and to Libya?” (Blitzer et al. 2006b). On Hardball with Chris Mathews, Congressman Duncan Hunter went into more detail on the nuclear issue claiming that he had “court documents that evidence the transfers of bad stuff through Dubai, with the Dubai customs director.” He was incensed that in 2003 Dubai: “…allow[ed] these 66 high-speed electrical switches, which can be used to detonate nuclear weapons, allowing that transfer to Islamabad, even after the American customs agents standing there saying “Please don’t let this go through,’ there’s no excuse for that” (Mathews 2006). Hunter also claimed that “having the documents on these technology transfers, these weapons transfers, that Dubai allowed to take place…” would even prevent the president from using his veto (Mathews 2006). Along a similar vein, Rep. Sue Kelly (R-NY) asked whether CFIUS: “discussed that international arms trafficker and US designated terror financier Victor Bout [who] appears to continue operating freely in the UAE despite … repeated US requests that he not” (Dobbs et al. 2006b).
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, Senator 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, Rep. 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 of the corporation that their operating of 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 Rep. John Culbertson (R-TX), also
tied the deal to the GWOT, 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 DP World 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 convincingly sway the American public against the deal, despite the persistent efforts of the Administration, a number of government agencies, as well as many present and former naval and coast guard officers, to explain that DP World was simply taking over the contracts and leases held by P&O, which allowed only for the operation of certain terminals within context of the larger ports.235

Other lawmakers took the argument farther, framing the UAE as a geopolitical rival, and even as an enemy of state. Congressman Duncan Hunter, for example, argued vociferously against the deal on the grounds that the UAE was “a bazaar for terrorist nations” (Condie 2006)236 and a country “who you do not want

235 For instance, Oliver North, in a statement issued by the Freedom Alliance, argued that: “the six ports in question aren’t being ‘sold to a foreign power’ as alleged by some on both the right and the left. Nor is the sale a ‘hostile takeover,’ as one ill-informed television anchor described it” (US Fed News 2006a).

236 The full quote from Congressman Hunter was that Dubai was “a bazaar for terrorist nations … Dubai has a reputation of being the place where you go in … if you want to ship something with anonymity” (Condie 2006).
close to American ports,” not only because of its ‘lax security’ (Mathews 2006), but also because they (and thus DP World) would sell US port security to the highest bidder (Kuhnhenn and Douglas 2006). According to Lou Dobbs, Hunter sent the President “a letter … [that] said ‘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, Hunter even used this platform to call for a ban on the foreign ownership of all companies and assets related to critical infrastructure, and likened DP World’s purchase of the British company P&O to the attempt by a 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. Such a comparison was especially damaging in the wake of the CNOOC case, which had

237 Congressm Man Hunter went so far as to say that “the UAE [were] ‘accommodators’ who will help anyone with enough cash…. ‘These are people who you do not want close to American ports,’ Hunter said” (Kuhnhenn and Douglas 2006).

238 Congressman Hunter “wanted foreign firms to sell their investments in American ports, electricity plants and other infrastructure critical to US security” (Cornwell and Crawley 2006). Apparently, “he favor[ed] banning ownership by all foreign companies, not only government-owned ones” (Kuhnhenn and Douglas 2006).

239 In an appearance on Lou Dobb’s CNN show, Representative Hunter stated that in 1998: “the Chinese communist government” through COSCO “was buying or trying to buy the naval base at long beach, the closed naval base. We stopped that, even though the Clinton Administration supported it. We put that in as an amendment to the Armed Services Bill and we stopped them. We tried to stop Hutchinson Whampoa, which actually was the second highest bidder, and American company from Arkansas was the highest. We understand that money was exchanged” (Dobbs et al. 2006b). He then likened the DP World/P&O deal to those: “Lou, it’s the same as when we had the Port of Long Beach, the port officials coming in with their eyes glazed over, having talked to the local lobbyists, and they talked not about the Chinese – the People’s Liberation Army owning the naval base, they talked about a corporation, and this idea of free trade, that if you mask one of your military services by calling it a corporation, which the Chinese do regularly, you can do anything with free traders and with capitalists, because somehow that glazes our eyes and it blinds us. And so we have to pull back. Let’s take a new perspective. Let’s look at critical infrastructure. Let’s stop it” (Dobbs et al. 2006b).
also been somewhat politicized (though to a lesser extent), framing the UAE as a geopolitical rival rather than the close strategic partner it was. Senator 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” (Pacific Shipper 2006; Nussbaum 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 Peter King similarly suggested that the “members of the [UAE] royal family,” who he believed might still be close to the Taliban and Osama bin Laden, could infiltrate DP World (Blitzer et al. 2006a). On Wolf Blitzer’s CNN broadcast, Congressman 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 named above) backed

---

240 For a greater discussion of the ‘politicization’ of the CNOOC case, see: (Graham and Marchick 2006, 128-135).

241 In its entirety, Representative Peter King said: “There is no doubt that there has been a change since September 11 in the attitude and the policies of the UAE. And there’s been quite a bit made public about cooperation. There’s also some information that’s classified as to what they’re doing. So there’s no doubt … the UAE has become a much better partner now than they were. But the fact is, prior to September 11, they were one of the only three governments in the world to recognize the Taliban, members of the royal family did have a close social relationship to Osama bin Laden and supporters of Al Qaeda. And my concern today is, since this is a government-owned company, where are those people? Are the people who supported the Taliban and bin Laden, are they still in government? How can we be sure that they would have no influence over the company or they don’t have their own people working in parts of the company which would give them access to internal port operations and also give them access to vulnerability assessments which they couldn’t get otherwise?” (Blitzer et al. 2006a).
legislation that “would allow Congress to reject the Dubai Ports World transaction” outright (Kuhnhenn and Douglas 2006).

This framing of the UAE as a geopolitical rival (and even ‘enemy’) by the lawmakers who sought to block the DP World deal, as well as the more specific concerns about port security that they raised, was in complete opposition to the view taken by the Administration, the Treasury, Commerce, and the US security and intelligence agencies. It is true that two government agencies were initially concerned by the deal. The Department of Homeland Security’s (DHS) was actually the only member agency of CFIUS to “protest” the deal (The Record 2006). Their “early objections were settled,” however, “after … Dubai Ports World agreed to a series of security restrictions” in the letter of assurances that they signed as part of the CFIUS process (The Record 2006). In the letter, DP World promised to “adhere to strict security checks … [and grant] instant access to company operational documents” for US government officials (Griffin 2006; Wolffe 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, but these concerns

242 According to reports at the time, the memo, which was written by the “Coast Guard Intelligence Coordination Center,” notes ‘many intelligence gaps concerning the potential for DPW or P&O assets to support terrorist operation that precludes an overall threat assessment of the potential … merger. The breadth of the intelligence gaps also infer potential unknown threats against a large number of potential vulnerabilities.’ The excerpt lays out three areas where intelligence gaps would prevent a thorough evaluation of the deal: operations, personnel, and foreign influence” (Hindustan Times 2006).
were also addressed and satisfied during that same investigation.\footnote{This point was verified after lawmakers had tried to use the memo to claim that the DP World deal was unsound. For example, Clay Lowery (who was the Treasury’s Assistant Secretary for International Affairs at the time) told the Senate Homeland Security Committee: “the concerns” raised in the memo “were addressed and resolved” in the letter of assurances (PNG Post Courier 2006). Coast Guard Admiral Thomas Gilmore (the US “assistant commandant for marine safety”) echoed this sentiment saying: “any concerns we had were addressed in the assurances letter” (PNG Post Courier 2006). Reportedly, after the memo was leaked, “the Coast Guard said in a statement that the excerpts of its preliminary evaluation ‘when taken out of context, do not reflect the full, classified analysis’ that eventually concluded ‘that DP World’s acquisition of P&O, in and of itself, does not pose a significant threat to US assets in ports’ in the continental United States” (Weisman 2006b).}

Thus, by the end of the 30-day CFIUS review, all of the government agencies involved in the CFIUS process were comfortable with DP World’s takeover of P&O.\footnote{Indeed, each of the “American intelligence agencies have told the White House that the change in ownership poses no additional risks” to national security in general, and port security in particular (Stephens 2006). John Negroponte (the Director of the Central Intelligence Agency at the time) “said he [was] confident there’s a low risk” posed by the deal (Dobbs et al. 2006c), and he even said that the CFIUS review raised “no red flags” (Dow Jones 2006g). Furthermore, “White House Spokesman Scott McClellan told CNN 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).}

Indeed, “[CFIUS] finished their formal review in mid-January with no public fanfare and no extended inquiry” (Wolffe 2006), and “approved the deal without dissent” (The Record 2006).

Many of these government agencies even viewed the transaction as an opportunity to improve port security, as did most maritime and port security experts.\footnote{It was reportedly quite early on that “maritime security experts sided with the president” over the deal (Ambrogi 2006).} 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 an ‘unprecedented’ chance to enhance national security, rather than hurt it (Block 2006). Chertoff was also worried that this “unprecedented access that the
Department of Homeland security 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).246

Furthermore, there was the fact that DP World’s security system was actually considered to be quite good.247 DP World had already voluntarily implemented the Container Security Initiative (CSI). DP World also has a distinct interest in having good security for economic reasons – they need to be trusted in order to expand their business, and security breaches can lead to costly disruptions and legal ramifications in addition to loss of business.248 The shipping industry itself even spoke out against the US lawmakers’ attempts at unbounded intervention in disbelief that that this could be viewed as having a possible impact on international security.249

246 Now, “according to the letter to the Homeland Security Department containing DP World’s agreement, 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. Since the terrorist attacks of September 11, 2001, federal law-enforcement and intelligence agencies have been trying to get inside information about global shipping operations, long seen as a potential conduit for smuggling terrorists and weapons around the globe” (Block 2006).

247 In an expose on the DP World transaction, Wolf Blitzer reported that the UAE “local customs authorities” believed that “their security is extremely tight and technologically advanced” (Blitzer et al. 2006a). More importantly, however, independent maritime experts seemed to agree. In fact, “Rob Quartel, a former member of the US Federal Maritime Commission” (who now works in the private sector’s shipping industry) argued that “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).

248 This idea is supported by the Coast Guard itself, which reportedly “says foreign companies are excellent security partners because it is in their economic interests to keep the cranes hauling freight 24 hours a day” (Whitfield et al. 2006).

249 A number of companies in addition to Zim (discussed above) publicly argued that this was not a national security issue, including Dupuy Storage & Forwarding and Port Cargo Service (two warehousing service companies who operate in New Orleans – one of the ports affected by the transaction) (Buchanan 2006). In addition, Seasecure, “the largest port security consulting firm in the country,” argued vehemently with Lou Dobbs on his CNN show to say that this deal would not
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 above, the ports were not being sold as part of the transaction. It is the “states, cities, and municipalities [that] own the ports” (Levans 2006). DP World is only purchasing “long-term contracts with port authorities” that would allow them to “assum[e the] operations of certain berths, stevedoring activities, and terminal operations from P&O at 22 US ports” (Levans 2006). 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 owned (and foreign government-owned) companies already operated in US ports without having caused any concern over national security. In fact, “some 80% of our 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 includes, for example, A.P. Moller-Maersk Group (Denmark), Ceres Marine Terminals (Japan), Citgo Petroleum (Venezuela), COSCO (China), ISS (Dubai), Neptune Orient Lines (Singapore),

---

250 Levans provides a detailed list of these ports at www.logisticsmgmt.com (Levans 2006).
Odfjell Terminals (Norway), and PSA (Singapore). Furthermore, no objections were raised when DP World 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 of 2006 – at the same time the row over DP World’s takeover of P&O began (Auger and Marashlian 2006). This is especially odd, given the fact that ISS “provides security services to 12 US ports and the US Navy itself” (Auger and Marashlian 2006).

Third, the proposition put forth to ban all foreign companies from providing ports services, was wholly impractical because of the international nature of the business, 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). It is for this reason that “The White house 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.’ … White House aides [said

\[\text{See: (Glanz 2006; Hensel 2006b; Urquhart 2006).} \]

\[\text{For instance, a Virginia Port Authority spokesperson said: “If you pulled the foreign shipping companies out of this port or any port, I don’t know what we would do. Its as international a business as you can put your hands on” (Glanz 2006).} \]

\[\text{Similarly, “the biggest American container shipper is Matson Navigation Co. Inc. in Oakland, and it ranks 31st in terms of shipping capacity with 18 ships, … Horizon Lines Inc., in Charlotte, NC with 16 ships, is the world’s 35th-largest shipper” (Glanz 2006).} \]
that], to ban them would not only hurt the economy; it would hurt foreign relations too” (Griffin 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 these 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” (Levans 2006).254

It is true that port operators do contribute to security by implementing the wishes of these agencies efficiently, and by providing them with intelligence. Yet, in an appearance on CNN’S Lou Dobbs Tonight, 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, DP World had agreed to provide the US government with even greater levels of cooperation than a normal

254 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; Wolffe 2006).
company would have done (foreign or otherwise). In addition, the terminals “still have the same labor pool” regardless of whether a foreign or domestic company runs them, because the “dockworkers [are] hired through US Unions” (Thiruvengadam 2006; Wolfe 2006). The experts also agree that ownership of operations is not the issue when it comes to security. For example, Stephen E. Flynn (who is the Kirkpatrick Senior Fellow for National Security Studies at the Council on Foreign Relations) argued at the time 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 2006).

Additionally, 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 obtainment of the letter of assurances from DP World. Alternatively, CFIUS could have requested that DP World operate those ports through a subsidiary that was kept separate from the rest of the company, and which would have been run by US citizens (Dow Jones 2006b).

Some commentators expressed surprise that this was not the route taken, as it is a fairly common one. For instance, “Newsweek Wall Street editor Alan Sloan note[d] that because foreign companies like DP World frequently buy corporations that own sensitive US businesses, Washington has evolved a legal and regulatory apparatus that deals with this kind of national-security problem all the time. ‘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

---

255 Similarly, “Dr. N. Shashikumar, dean of business at the Maine Maritime Academy’s Loeb-Sullivan School of Business” reportedly claimed that “port security is a problem, but this (shift in control) is not going to change anything” (Berman 2006). For more on Flynn’s position, see also: (Pine 2006).

256 Some commentators expressed surprise that this was not the route taken, as it is a fairly common one. For instance, “Newsweek Wall Street editor Alan Sloan note[d] that because foreign companies like DP World frequently buy corporations that own sensitive US businesses, Washington has evolved a legal and regulatory apparatus that deals with this kind of national-security problem all the time. ‘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
lawmakers, such as Representative Peter King and Senator Susan Collins, did originally suggest that this would be an acceptable solution to them.\footnote{Cong. Peter King, who had a number of concerns with the deal as noted above, stated: “I’ve had some preliminary discussions with the White House and with some other members of Congress, and what I had suggested as a possibility – and again, it’s just a possibility that I was putting out there – that to satisfy the issue of security, that Dubai Ports would subcontract out the operation of the American Ports to an American company. I don’t think a subsidiary would be satisfactory, but a separate American company could do it so long as there was no access to the information or to the operations at all by Dubai Ports. Dubai Ports could still be the contractor, but the actual work and access to everything would be controlled by a totally separate American company. And again, I put that out there. I don’t know exactly how far it’s going to go. And I certainly can’t speak for any of the leadership in the House of Representatives” (Blitzer et al. 2006a). It was also reported that “a similar plan is being pushed by … Senator Susan Collins” (Blitzer et al. 2006a).} Yet, such thoughts were overtaken by the overwhelming movement to block the US-related aspects of the deal in its entirety.

Why and how, then, did this deal become one that lawmakers sought to block on so-called ‘national security’ grounds? For the above seems to make it quite clear that once DP World made the concessions and agreements requested by the Department of Homeland Security and the other agencies that contribute to CFIUS, there should not have been any lingering ‘national security’ issues over the transfer of operations from P&O to DP World at the ports in question. That there were still concerns, ones that were only weekly supported by the interest groups examined above, and which were not deeply rooted in competition issues, economic nationalism, or the reality of the geopolitical relationship between the two countries,
make this case a true outlier among all of the cases examined in not only this chapter, but among the 209 cases examined in the previous chapter.

In the end, the motivation behind the unbounded intervention in this case seems to be 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 DP World as an Arab company controlled by that rival, was the result of 1) 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 CIA, and the current Chairman of the Homeland Security Advisory Council) provided one of the clearest descriptions of this unfortunate process to a member of the press after attending a CSIS conference on DP World, who reports 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 the Middle East terrorism as a result of this constant drum-beat of ‘keeping America safe.’ When they heard that at ‘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. Politicians were able to misconstrue this 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.’

The alternative vision of the geopolitical ‘stakes’ were 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 DP World. For 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. Senator Schumer, for example, proclaimed to the press that “if this [wasn’t] a smoking gun, it shows there may [have

---

258 Others similarly observed that the White House “[had] created a climate in which economic xenophobia [could] be justified on spurious grounds,” (Financial Times 2006) and was now paying the price in regards to its support for DP World. Donna Brazile, a political analyst for CNN also noted at the time that lawmakers stance on the DP World deal was partially attributed 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).

259 Senator Hillary Clinton, for example, argued to the public that: “we cannot cede sovereignty over critical infrastructure like our ports. This is a job that America has to do” (The Guardian 2006).

260 The story broke when “US Senator Susan Collins released an unclassified portion of the Coast Guard document during a congressional hearing on the takeover” (PNG Post Courier 2006). Senators Snowe and Schumer also wrote a letter to Secretary Chertoff around March 1st, which stated: “[The Coast Guard] memo, in no uncertain terms, shows that the CFIUS evaluation of the DP World takeover was dangerously incomplete. We believe intelligence gaps in the areas of operations, personnel and foreign influence are simply unacceptable and any uncertainty as to the veracity and integrity of DP World’s security in these areas should have warranted the immediate initiation of the 45 day investigation. It is hard to believe that, given the concerns raised in this memo, the members of CFIUS still opted to forgo the more thorough evaluation. We understand the Coast Guard says they evaluated these concerns throughout the course of the 30 day staff review and resolved these issues” (Hindustan Times 2006).
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.261 Those lawmakers without this ability, however, did not believe those high-ranking Coast Guard officials who could only tell them that all of the issues had been resolved.262

In addition to this type of incident, the deal also became heavily politicized because certain members of the media were portraying the deal as one that involved a geopolitical rival. One observer points out, that the Media “fanned” a “grassroots brushfire” of opposition to the transaction (Hitt and 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 is poised to take over

---

261 For Instance, “among those who briefed the Armed Services Committee was Rear Adm. Thomas Gilmour of the Coast Guard … [and] Gilmore insisted he could answer questions on the [memo] only in a secret session to staff members with appropriate security clearances” (Weisman 2006b).

262 For instance, Admiral James M. Loy (the former Deputy Secretary of Homeland Security) and Rear Admiral Craig Bone (the Director of Inspection and Compliance for the US Coast Guard at the time) both spoke at a CSIS conference on the DP World transaction; neither believed that the deal would threaten national security (Forecast International 2006). In addition, Admiral James Loy wrote a couple of op-eds in favor of the transaction (unsigned, in both the NYT and WSJ) (Dobbs et al. 2006c). Other Coast Guard officials who spoke out on the issue included Rear Admiral Thomas Gilmour and Vice Admiral Terry Cross. The latter went on record trying to calm the worries 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).
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 and Ellison 2006a) Figures such as Michael Savage, Michael Smerconish, and Lou Dobbs then continued to wage a media campaign against the deal (Hitt and Ellison 2006a; Mathews 2006; Wolffe 2006).263

The American populace was thus swayed against the deal over time by this ‘alternate’ 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. For example, on March 2nd, it was reported that “a Los Angeles Times/Bloomberg poll … [had] found that 58 percent of Americans oppose[d] the DP World deal,” (Sevastopulo and Kirchgaessner 2006), and by March 9th “a CNN/Gallup/USA Today poll” put that number at “66% of voters” (Yeager 2006). Indeed, observers at the time confirmed that “media

263 On February 13, three days after the appearance of that Associated Press article, Lou Dobb’s became the first TV news anchor to frame the deal in a similar way. “In a ‘special report’ on his evening program, he asserted that ‘a country with ties to the Sept. 11 terrorists could soon be running significant operations at some of our most important and largest seaports with a full blessing of the Bush White House’” (Hitt and Ellison 2006a). Dobb’s then continued his campaign against the deal, to point at which DP World refused to grant CNN any interviews. See: (Dobbs et al. 2006a; Dobbs et al. 2006b; Dobbs et al. 2006c; Dobbs et al. 2006d). Similarly, on February 13th, “Michael Savage, a conservative radio talk-show host, also attacked the transfer of some American shipping terminals to a company owned by an Arab state. Though the deal had received some newspaper attention before then, Mr. Savage’s angry message raised early concerns inside the Bush White House about trouble ahead” (Hitt and Ellison 2006a) (See also: Wolffe 2006). Such approaches continued, with TV personalities such as Chris Matthews continually referring to “the Arab company, Dubai Ports World” and applauding the work of radio talk show hosts Savage and Smerconish for their work in spreading the story on the radio (Mathews 2006).
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 and Ellison 2006a). Thus, constituent pressure on lawmakers to block the transaction became very heavy.264

It is important to note that some of the lawmakers originally opposed to the acquisition changed their mind once they had access to more information on the UAE and the deal with DP World. For instance, Senator Bill Frist was one of the original opponents of the deal,265 but by late February “said he was more comfortable because he had received more information” about DP World and the UAE (Bohan and Cornwell 2006) after attending “classified intelligence briefing[s]” and “talking to the Department of Homeland Security” (Dobbs et al. 2006c).266 Similarly the state of Maryland’s Governor, Robert Ehrlich Jr., became more comfortable and moved away from his oppositional stance to the transaction once he learned more facts about it

264 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. If the public doesn’t like it, they don’t like the process that went – and until the White House and the supporters of this deal can start moving some of the public, I don’t think they’re going to move Democrats on this, and I don’t think they’re going to move Republicans on this. I think this thing has the scent of a real political loser across the board” (Blitzer et al. 2006a, emphasis added).
265 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.
266 While on Lou Dobbs Tonight, Senator Frist declared: “I began to do … what some of the other members of the Senate can’t do quite as easily, started having classified intelligence briefing, started talking to the Department of Homeland Security. Starting asking each of the cabinet ministers one by one through phone calls over the last several days what exactly went on in the process. Now, based on what I’ve heard today, its made me much more comfortable” (Dobbs et al. 2006c). In fact, Frist had changed his mind so much that he eventually pledged to “not allow any related legislation on the Senate floor while the new inquiry is under way” (Bohan and Cornwell 2006).
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.

It is also important to note that there was little to no resistance to the deal outside of the United States on either national security or other grounds. During the height of the row, for example, it was reported “that none of the other countries including the UK, Australia, Canada, China, and India [we]re especially worried about security issues once the P&O terminals in their countries are transferred to the new Dubai owners” (Urquhart 2006). (Though, towards the end, India did evidence some concern over sight-specific security issues.) The country primarily affected by the transaction, the United Kingdom, welcomed the deal with “hardly a murmur of protest” (NPR 2006) and “surprisingly little uproar” (Property Week 2006).

---

267 He then declared that those opposed to the deal, such as his “opponent in [the midterm election],” were “really behind the curve as far as the facts are concerned” (Mosk 2006).
268 See footnote 71.
269 For example, it was clear from the outset that Australian politicians were not really concerned by the takeover. “Australian politicians have refused to buy into a growing political storm in the US over [the deal]” (Murphy and Norington 2006). Similarly, “nobody in Canada blinked” at DP World’s takeover of P&O facilities in Vancouver. According to “Anne McMullin of the Vancouver Port Authority … ‘It’s a real vote of confidence in our port’” (Handelman 2006). See also: (Wilson 2006).
270 After the deal closed, India began to think about lowering the level of foreign investment allowed in some sectors of the economy. The DP World deal involved a number of ports in India that originally caused competition concerns (Deshpande 2006) but later triggered concerns by the National Security Council in India. The NSC believed that the deal meant “DP World’s personnel will be in close proximity to vital installations at the Cochrin naval base, and will be able to monitor the activities of both merchant and naval vessels” (EIU 2006c). The trouble was first reported around March 19, 2006 (PA Business 2006). See also: (Shah 2006).
271 Even commentators in the UK noted that there “hasn’t been the kind of uproar here in Britain there has been in the United States about a British company being taken over. And some of the security issues certainly do overlap, but there just has not been the same concern” (Whitfield et al. 2006). In fact, “in Europe, the acquisition [was] so noncontroversial that the Lloyd’s List Port Operator of the
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).

As mentioned above, President Bush and his administration did not believe that the DP World transaction posed a threat because of the US alliance relationship with the UAE in the GWOT. Furthermore, as Stephan Hadley pointed out, the deal “[wa]sn’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 and Orr 2006). A rare few lawmakers agreed with this statement,

---

272 Tony Blair, the British Prime Minister at the time, stated after the deal concluded that: “We strongly welcome Emirate investment into the UK, for example, Dubai Ports World Takeover of P&O. British companies for their part are heavily involved in Dubai’s big projects, like the HSBC, Standard Chartered, Lloyd’s TSB and Barclays have all committed to the Dubai International Finance Centre” (Blair 2006).

273 Prime Minister Tony Blair also said of the ports dispute: “I don’t think you can ever allow issues like that to become a back door way into protectionism” (AFX 2006c).

274 It should be noted here that the full statement was made by the United Kingdom’s “Takeover Panel director general Mark Warham [who] said it was not the responsibility of the panel to protect UK plc from foreign bids” (Neveling 2006).

275 On February 28th, for example, President Bush stated: “My position hasn’t changed … If there was any doubt in my mind, or people in my administration’s mind that our ports would be less secure and the American people endangered, this deal wouldn’t go forward” (Orr 2006b). The White House consistently spoke to the press, telling them that “the United Arab Emirates is an ally in its war on terrorism and has worked to close loopholes that allowed al Qaeda members to use the Gulf Arab state as a financial and logistical hub before the September 11 attacks,” (Cornwell 2006) but that message was often drowned out by press reporting on the other side of the issue.
including Representative Dana Rohrbacher (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 DP World for the 45-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 damage the relationship between these two countries, because it would imply the presence of a type of geopolitical competition that wasn’t really there.

Thus, President Bush stated that he was: “concerned about a broader message this could send” (The Sun 2006).276 In particular, the White House worried that the US would be sending the message that it was protectionist, and more specifically that it discriminated against foreign investment of an Arab origin.277 As Graham and Marchick point out, “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 and Marchick 2006, 276-277).

---

276 President Bush pointed out that the nation had to “ask the question whether or not, you know, doing business with this company is going to jeopardize the security of the United States, first. And secondly, if not, what kind of signal does it send to say its 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).

277 For example, President Bush argued that the nation must: “ask the question whether or not, you know, doing business with this company is going to jeopardize the security of the United States, first. And secondly, if not, what kind of signal does it send to say its 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).
Indeed, many shared this concern. General John Abizaid, for example, stated that he was “very dismayed by the emotional responses” to the deal, which he attributed to “Arab and Muslim bashing” (Federal News Service 2006). The Economic Intelligence Unit at the time determined that “the DP World Affair … [w]as an unpleasant reminder of the enduring potency of anti-Arab sentiment” (EIU 2006e). Some, like Lt. Colonel Kevin Massengill (who represented the ABG of Dubai), tried to fight against the simplified characterization in the media of DP World as “an Arab Muslim company” who “is going to somehow have control of the port[s]” (Blitzer et al. 2006a). The reaction in the UAE was mixed. Mohammed Sharaf (the Chief Executive of DP World) argued that 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). Others, however, such as T.B. McClellend (President of the Dubai based consulting firm Center House), called the deal a case of pure “racism” (Hensel 2006a). Either way, many in the UAE seemed to agree 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). Indeed, there seemed to be a widespread belief that “UAE companies will continue to face discrimination like DP World” (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. Senator Warner, for instance, said of the deal that it “[was] going to establish a precedent, and its 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” (Litterick 2006) saying that they were “very concerned about proposals [to block the deal] that could impose harmful barriers to foreign investment” (Litterick 2006) more generally. 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).

Indeed, it seems that a number of the Administration’s fears were proved true 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. “Treasury Secretary John

278 See: (Wallis 2006).
279 Similarly, Dan Christman (of the US Chamber of Commerce speaking to the American Chamber of Commerce in Singapore in May 2006) was reported to say that “of the mood in Congress is not carefully watched and acted on, it might threaten South-East Asia’s investment and trade with the US” (Han 2006) – thus suggesting that the ramifications of the row could be fairly widespread on FDI in the US.
280 See: (Jackson 2007).
Snow, who chairs CFIUS, said in a speech that foreign investment is ‘being put in jeopardy’ by the bill” (Shinkle 2006). Furthermore, the DP World row is widely viewed as having “set” and “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 2006). Second, though it remains to be seen, it is possible that the row over the deal may have had a negative impact on US port security. For some believe that port security may have been hurt (rather than improved) because the dispute angered the very companies that the US relies on to do voluntary security checks abroad (Lau and Mitchell 2006c).

Third, as the White House feared, the reaction to the ports dispute 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 (Mist News 2006), in early March the leadership of Dubai did threaten to decrease their investment in the US and US companies as a result of the row (Tiron 2006).

---

281 For instance, John Meredith of the shipping company Hutchinson said that: “the US is relying on the goodwill of Dubai Ports and other port operators to do (overseas security checks) for them” (Lau and Mitchell 2006c). He also reportedly “add[ed] that the furor over DP World ‘obviously doesn’t help’ secure such cooperation” (Lau and Mitchell 2006c).

282 Certainly, “the American Business Group of Dubai warned that it would take years to ascertain the fallout from the political storm that forced Dubai Ports World to relinquish control of facilities at six major US ports … [and which] put a question mark over the United States as a destination for investment” (Mist News 2006). “They said there was no sign yet that Arab investors were moving funds away from the US … but people now have to factor in a political risk premium into investments in the US. Not just here and in the Arab world but beyond” (Mist News 2006).

283 On March 9th, it was reported that “members of Dubai’s royal family are furious at the hostility both Republicans and Democrats on Capital Hill have shown toward the deal. They’re saying: ‘All we’ve
effects. By July, for instance, the UAE had announced its plan “move 10% of its Dollars … foreign exchange reserves into Euros” (Khalaf 2006), and to move away from a dollar FX peg by 2010, in favor of a floating one. The dispute over the transaction also “interrupted” the free trade talks between the UAE and US, which were rescheduled for May 2006 (EIU 2006d). This was attributed specifically to the fallout of the row, which led to “a determination on both sides to ride out the diplomatic and economic storms” (Auger and Marashlian 2006). The deal at the time was even reported to have negatively affected the 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).

done for you guys, all our purchases, we’ll stop it, we’ll just yank it,’ the source said. 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 United Arab Emirates (UAE), the source added” (Tiron 2006).

284 See also: (Thornton 2006a).
285 For instance, Sultan in Nasser Al Suwaidi (the UAE’s Central Bank Governor) had reportedly decided early on “that the issue would be raised on March 13, when the next round of trade negotiations [had been] set to take place between the two countries (Al-Bawaba News 2006). He declared that this was because the intervention on the part of US lawmakers into the transaction “is something that doesn’t reflect well” (Al-Bawaba News 2006). After that March 13 round of negotiations had been cancelled, the “UAE Economy and Planning Minister Sheikh Lubna al-Qassimi told the BBC that the fall-out from the deal had raised ‘certain questions on our side about the process of investment – because a major chunk of the FTA is related to investment and investment in the US,’ but added that she was ‘100% confident’ that the FTA deal will go through” (Auger and Marashlian 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 the negative impacts discussed above. It was clear that DP World was ordered to relinquish the ports by the Dubai leadership in order “to preserve” the US-UAE “relationship” (Lloyd’s 2006).\textsuperscript{286} According to one “UAE official,” “it [was] a political decision to ask Dubai Ports to defuse the situation” (Cornwell 2006).\textsuperscript{287} 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, Kirchgaessner, and Sevastopulo 2006).

Indeed, the desire of the Administration to maintain good relations with the UAE may have been one of the reasons behind their support at the time for another UAE purchase of a UK company: the purchase of the defense company Doncasters

\textsuperscript{286} To illustrate this sentiment, we need only look to the press release made by Edward Bilkey (the COO of DP World), which said that it was “because of the strong relationship between the UAE and the US, and to preserve that relationship, Dubai Ports World has 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 and Marashlian 2006).

\textsuperscript{287} He reportedly further said that “we have to help our friends. Our close ties with the United States are important” (Cornwell 2006). Similarly, “Dubai Ports World said it will return to the United States despite” the row. “This is the world’s largest economy. How can you just ignore it?” said Mohammed Sharaf, chief executive of DP World” (Traffic World 2006).
by the SWF Dubai International Capital. The fact that Doncasters owned “US plants that supply the Pentagon” (Mist News 2006) meant that there was a great potential for a negative reaction in Congress. Yet, it was observed at the time that “the US Administration has been keen to patch up relations with the United Arab Emirates (UAE) following the failed takeover of British owned P&O’s port operations by Dubai Ports World” because “the row ha[d] threatened to damage bilateral relations between the countries and undo lucrative US contracts” (Auger 2006). It was reported that the “mood” between the US and the UAE “improved 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). Thus, the administration and CFIUS learned from the ports case to engage lawmakers early on, and to let it be known that the deal was being heavily scrutinized from a national security perspective, which helped to prevent it from becoming heavily politicized. Indeed, there seemed a clear understanding on the part of not only the White House, but also of some lawmakers, that the US had ‘over-

---

288 The Doncasters deal would give “the [DIC] control nine plants in the US. These produce turbine fan parts and airfoils for tanks and helicopters, among other things” (Auger 2006).

289 Indeed, the American Business Group (ABG) of Dubai said at the end of April 2006 that “the Doncasters deal is now crucial” to the continued good relations between the US (Mist News 2006).

290 Unlike with the ports deal, 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 and Kirchgaessner 2006). This enhanced scrutiny seemed to be taken well in Dubai, likely because it was less politicized, and more in keeping with the normal CFIUS process. The Chief Executive of the DIC at the time (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).
balanced’ against the ports deal, as mitigation of the deal (i.e. – bounded balancing) would have been sufficient to deal with any actual national security issues.

**Conclusions on DP World / P&O**

In the end, then, this case is an ‘outlier’ that in a strange way supports our hypothesis, because it was this other vision of the geopolitical stakes that seemed to motivate lawmakers, and the public, against the deal. Though this vision was inaccurate, it does seem to be the primary motivator behind the actions taken to block the deal. Such cases are extremely rare, because such tremendously alternative understandings of the reality of a geopolitical relationship rarely coincide within one government. For while 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 very basic premise of that friendship. In this case, however, the opinions and visions of the very basic nature of the relationship itself were completely bifurcated. As mentioned above, some of this may have been rooted in discrimination, some in ‘political grandstanding.’ Yet, it was the politicization of this case that allowed for such a bifurcation of sentiment to persist: for an alternate 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. Thus, this case evidences some support for our hypothesis, but remains a special case nonetheless.

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

Case 5 – Macquarie / PCCW

The Story

On June 19th, 2006 PCCW Ltd. (based in Hong Kong) confirmed that a consortium led by Macquarie Bank (of Australia) had made a preliminary offer for its ‘core’ media and telephone assets for an estimated $5.15 billion (IHT 2006a; Mitchell 2006; Zephyr 2006c). The potential transaction came under fire almost immediately, as the Chinese state-owned China Netcom raised major objections to

---

291 Apparently, the announcement was made ‘unilaterally’ by PCCW in order “to spark a bidding war” (Mitchell 2006). In this endeavor PCCW was successful, as the private equity group “TPG Newbridge entered the fray a day later” (Mitchell 2006), and on June 29th it was reported that there was ‘interest’ in the deal from Rupert Murdoch’s News Corporation, which contemplated joining Macquarie’s consortium (Zephyr 2006c).

292 The China Network Communications Group Corporation is usually referred to as China Netcom or China Network.
the sale. At the time, China Netcom was the second-largest shareholder of PCCW, with a 20% stake and a “shareholder’s agreement” that gave it control over any future sale of the company over a certain threshold (Fellman and Ong 2006). The state-run company claimed on June 21st that “it ‘isn’t willing to see any major changes to the asset structure of PCCW’” (Fellman and Ong 2006), and was reported only two days later to “ha[ve] objected to any sale of PCCW’s assets on the basis that the company is and should remain ‘owned and managed by Hong Kong people’” (Lau and Mitchell 2006b).

China Netcom took action by making it clear that it would not approve of the sale to such a foreign consortium, an action that at the very least had the tacit approval of the Chinese government. By June 27th it was reported that “China Netcom, the State-owned Assets Supervision and Administration Commission, and the Ministry of Information submitted reports to China’s State Council about the bids for PCCW and are awaiting instruction” (Kwong 2006). Actions such as this made it fairly clear to observers that the state-run shareholder would do what Beijing wished in the matter, and “most people involved in the PCCW saga think the Chinese government worked through China Netcom to scuttle the Macquarie and TPG

\[293\] Their particular “shareholder’s agreement” holds that “PCCW needs China Netcom’s permission to sell a stake of 25 percent or more in PCCW-HKT Telephone Ltd, the phone services unit, or a stake of 10 percent or more in PCCW Media Ltd., the pay television unit” (Fellman and Ong 2006).

\[294\] An analyst from the Hong Kong based Atlantis Investment Management Ltd. (Lui Yang) confirmed that “[China Netcom was] really angry about this, as you can see from the fact they said something publicly” (Fellman and Ong 2006).
Newbridge bids on nationalist grounds” (Dyer, Tucker, and Mitchell 2006). The issue was greater than simply one of nationalism, however, the telecommunications sector is viewed as “a very strategic asset” in China, making the Chinese Government “sensitiv[e] toward overseas ownership” in that industry (Chan and Fellman 2006).

Macquarie’s consortium tried to overcome the stark opposition from China by offering to incorporate China Netcom into the deal. By June 25th, “Macquarie, seeking to make its bid acceptable to China, had offered China Network a 50 percent stake in a new Hong Kong phone company it planned to set up with the assets” purchased in the proposed transaction (Mitchell 2006). Yet, this only seemed to cause more political problems, as the Hong Kong authorities were concerned that this would only increase the “political and commercial clout” of Beijing in Hong Kong (Mitchell 2006). Similarly, it was argued that “China’s perceived sensitivity over the sale of Hong Kong assets to foreign parties raises questions about whether there are in fact unwritten limits to the territory's economic and financial freedoms, which are guaranteed under its mini-constitution, the Basic Law” (Lau and Mitchell 2006a). Yet, this solution seemed to unworkable for not only Hong Kong, but for Beijing as well. It did not, therefore, come as much of a surprise when Rupert Murdoch told the

---

295 Similarly, it was observed at the time that “it [wa]s widely believed the asset sale was blocked by Beijing on nationalistic grounds. State-controlled China Netcom, which owns 20 per cent of PCCW, declared its opposition to any sale to foreign buyers” (Tucker 2006).
press on July 29th that China was “treating Macquarie as hostile invaders” (Lau 2006).

Thus, it was not surprising when PCCW rejected the approaches from both Macquarie and TPG on July 25th. PCCW blamed the failure of the bids on China Netcom, because the company had, “in its capacity as a shareholder, … repeatedly indicated its opposition to such an asset sale” (Tucker and Mitchell 2006). Indeed, the market widely accepts that the Chinese government would have blocked the Macquarie/PCCW deal if necessary, though this was in effect achieved through the objections of its company China Netcom. As the exploration of the possible motivations for this behavior below will demonstrate, this was again a case of geopolitical competition and economic nationalism leading to state intervention in a cross-border acquisition.

**Geopolitical Competition**

China and Australia are not allies or members of the same security community, though their relationship is not necessarily negative. Certainly, Australia is not really perceived as a threat to China, though there are some points of tension and disagreement on issues such as on human rights, intellectual property, and the

---

296 Indeed, Murdoch was reported to have argued that “[Macquarie] might have had been encouraged … by a middle-level Chinese official … But higher authorities appeared to take a different view on the transaction and did not want to see Hong Kong’s biggest fixed-line company to fall into foreign hands” (Lau 2006).

297 See, e.g.: (Dyer, Tucker, and Mitchell 2006; Fellman 2006; Fellman and Ong 2006; Lau and Mitchell 2006a; Lau 2006; Tucker and Mitchell 2006).
treatment of Taiwan (Australia DFAT 2007b). Indeed, China is considered a major, and rising, power while Australia is not – and China is clearly more powerful than Australia in both military and economic terms. For example, China’s 5 year average economic growth rate was 12.09% in 2006, while Australia’s was 4.94% - and Australia’s GDP PPP in 2006 was only 2.93% of China’s (World Bank 2008). Similarly, China’s 5-year average growth rate of military expenditure was 12.35% in 2006, compared with Australia’s 4.56% (SIPRI 2006). Considering that Australia’s military expenditure is only about 27.87% that of China’s (SIPRI 2006), Australia has much greater concern for China’s power than the other way around.

Furthermore, China’s general level of dependence on energy imports was fairly low in 2006 at 0.14%, but there are some resource areas in which China recognizes the importance of its geopolitical relationship to Australia. First, China has signed two agreements with Australia on the transfer of nuclear material (the Australia-China Nuclear Material Transfer Agreement and the Nuclear Cooperation Agreement) which entered into force on February 3, 2006 (Australia DFAT 2007a). This is because China expects that it will soon be required to import uranium for the purposes of electrical generation in nuclear plants over the course of the next couple of years, as its own supply of nuclear energy becomes ‘outstripped by demand’ over time (Australia DFAT 2007a). Australia’s cooperation on this resource issue makes it seem more likely that China would wish to maintain a cordial economic relationship between the two countries.
Yet, at the same time, China has recently made it clear that it does not wish to become reliant on any individual country generally (and Australia specifically) for natural resources. Only two years after the PCCW case, the Chinese Government sought to block the acquisition of Rio Tinto by BHP Billiton, by purchasing enough shares of Rio Tinto in a “dawn raid” to achieve a 9% stake in the company, “make[ing] it more difficult for BHP to buy Rio” (Bream et al. 2008). Though steel is a non-energy related basic resource, it is vitally important to the running of any nation, especially one with a rapidly developing infrastructure and military. It was reported that “the Chinese government [wa]s dismayed at the prospect of a BHP takeover of Rio as it would give the combined company a virtual monopoly on iron ore supplies to China, which it fears would lead to higher prices and damage the country's economic growth” (Bream et al. 2008). The ‘dawn raid’ was “a joint exercise” between “Chinalco, a state-owned mining company” and “Alcoa, the US aluminum group,” who “spent $14bn in [the] move designed to block [the] planned $119bn takeover bid from rival miner BHP Billiton” (Bream et al. 2008). As one market source, who spoke on the condition of anonymity, confirmed, the primary mover behind the intervention was the Chinese government, whose concern over its source of steel prompted it to willingly (and greatly) overpay for the stake in order to prevent the takeover.298 Thus, it is clear that China is quite willing to block mergers

---

298 This information was passed on in a personal interview with a member of the financial industry who wished to remain anonymous (Interview, 2008).
and acquisitions that threaten its access to, or control over, certain key industries and resources.

Furthermore, China seems to exhibit a tendency to view most nations as strategic competitors – especially in geo-economic terms – irrespective of the historical details of their bilateral relationship. Thus, it would be difficult to imagine a scenario in which China’s actions to prevent a foreign takeover was not at least partially motivated by this larger geostrategic concern and desire to protect it’s geopolitical power position within the international system. As will be examined below, this outlook means that economic nationalism is tied to geopolitical competition.

**Economic Nationalism**

China and Australia have a fairly good economic relationship. Both are members of APEC, and the East Asia Summit (Australia DFAT 2008). There is also a FTA agreement between the two countries, and bilateral trade is one of the foundations of the relationship and continued dialogue between them (Australia DFAT 2007b).

Despite this, however, economic nationalism in the China is on the rise, and it is clear that economic nationalism played some role in government intervention in this case. It is true that the level of national pride in China is not overwhelming at
24.7%\(^{299}\), and that anti-globalization sentiment was ranked at 6.67 in 2006 (which places it on a similar level to anti-globalization sentiment in the US). Yet, in China there is an unusually high disconnect between these measurements (which are determined through questions asked of the general population) and the actual levels of nationalism or economic nationalist sentiment that are present in the Chinese government (which still runs a large portion of the state’s economy). In fact, the Economist Intelligence Unit’s 2007 Country Commerce report noted that there was “rising economic nationalism” in China, especially in opposition to foreign takeovers of Chinese companies (EIU 2007b). Similarly, Barry Naughton, argued in his 2007 testimony to the US-China Economic and Security Review Commission that there has been “a clear increase in economic nationalism” in China in recent years (US-China ESRC 2007).\(^{300}\)

In fact, there has been a history of significant support for ‘national champions’ in China ever since the 1980’s (US-China ESRC 2007). That was when China began to “experiment with industrial policies … designed to strengthen larger firms and grow ‘national champions’ (US-China ESRC 2007). While this policy weakened in the mid-1990’s, the experts agree that China seems to have resumed its support for national champions over “the past five years” (EIU 2007b; US-China ESRC 2007).

\(^{299}\) According to the Economist Intelligence Unit’s 2007 Country Profile of China in, however, “Nationalism is on the rise in China, partly because officials have stoked nationalist feeling to deflect attention from the country’s economic woes” (EIU 2007c).

\(^{300}\) According to Naughton: “In the past five years, the Hu Jintao-Wen Jiabao Administration has resuscitated a broad array of industrial policies... that, taken together, represent a clear increase in economic nationalism” (US-China ESRC 2007).
ESRC 2007). Though the Chinese government never referred to PCCW as a ‘national champion’ on record, the company held the majority of the telecommunications business in Hong Kong and was referred to as China Netcom’s “cash cow” (Schwankert 2006), making it – at the very least – an important asset for a national champion.

It is also important to note that the Chinese government formally banned foreign investment in the telecommunications industry (and thus in companies such as PCCW) just months after the Macquarie bid was blocked, indicating the degree of sentiment against foreign takeovers in China at the time, and the negative reactions to deals such as the one being investigated here. In August of 2006 (less than a month after the Macquarie/PCCW transaction failed) “a new set of rules on foreign M&As came into force… the ‘Provisions on Acquisitions of Domestic Enterprises by Foreign Investors.’” In these Provisions, “article 12 … states that transactions involving ‘major industries,’ ‘famous trademarks or traditional Chinese brands,’ and acquisitions that ‘may have an impact on state economic security’ are subject to review by the Ministry of Commerce” (EIU 2007b, 14).301

In addition to the new ‘Provisions on Acquisitions,’ two separate Chinese government bodies that have played a significant role in protectionist policies against foreign takeovers – the State Asset Supervision and Administration Commission

301 It is also important to note here, however, that “the new regulations failed to define ‘major industry’” (EIU 2007b, 14).
(SASAC) and the National Development and Reform Commission (NDRC) – issued new directives around the time of the failed Macquarie/PCCW transaction. First, “in December 2006 SASAC articulated a new foreign direct investment policy under which it outlined six sectors where the state will retain ‘absolute’ strategic control: military, power, telecommunications, petroleum, aviation, and shipping” (EIU 2007b). This means that the Chinese government will maintain “more than 50% ownership stakes in the primary firms in those industries” (US-China ESRC 2007). According to Naughton, this law “merely re-affirms the status quo” (US-China ESRC 2007), demonstrating that it was always unlikely that the Chinese government would have allowed Macquarie to take control of PCCW. Second, it was “reported in February 2007 that the … NDRC” wanted to create a body called the ‘Joint Review Commission for Foreign Investment Sectors,’ which would review foreign takeovers in a large number of Chinese sectors (EIU 2007b, 14).

Thus, it is clear that there was a high level of economic nationalism before, during, and after the failed Macquarie bid for PCCW – economic nationalism that was specifically targeted against foreign takeovers. It is also clear that

---

302 Furthermore, in the same month, “China’s State Administration of Radio, Film, and Television said … that it would ‘temporarily’ approve any new foreign investments in media companies in China, restricting foreign investment to ‘projects’” (EIU 2007b, 14). This seems to reinforce the idea that the PCCW deal was unlikely from the start, and that the Chinese government wanted to reaffirm its control over the media sector.

303 The Commission proposed by the NDRC would be given the authority to review deals in “the following [sectors]: military and national defense, power grid and power generation, oil and petrochemicals, telecommunications, coal, civil aviation, water transportation, banking and finance, steel and other metals, cars, heavy machinery and equipment, and electronics” (EIU 2007b, 14).
telecommunications and media are particularly sensitive industries for the Chinese government when it comes to foreign takeovers for strategic reasons. The directives issued shortly after Macquarie’s bid, illustrate the desire of the Chinese government to deter any such attempted takeovers in the future, and indicate their willingness to block those bids that are attempted. With all of this in mind, it is fairly obvious that economic nationalism – in addition to geopolitical concerns over their economic and military power – played a distinct role in motivating the Chinese to engage in unbounded intervention in this particular case.

**Presence of Interest Groups**

It is highly unlikely that interest group presence played a role in motivating intervention in this case. This is because the Chinese political system does not allow interest groups to flourish, but rather frequently crushes any opposition to the will of the government. There were no interest groups that were observed to be placing pressure on the government to block the deal at the time. Indeed, the only interest groups who seemed to appear in relation to the case represented members of Macquarie’s consortium and they were, obviously, in favor of the deal. This variable, therefore, can be ruled out as a motivating factor.
**Competition Concerns**

As will be recalled, one form of ‘competition’ that might be connected to China’s actions has to do with whether or not China is believed to be ‘competitive’ in the international market as a state open to foreign investment and business. It is fairly clear that in certain industries, such as the telecommunications industry examined here, China is not open to such investment in so far as large-scale takeovers are concerned. Yet, China has made a distinct effort to encourage such foreign investment in other sectors, and even to encourage alternative forms of FDI in ‘sensitive’ sectors – whether through joint ventures or co-sponsored ‘projects.’ This is why the subjective economic competitive rating for China in 2006 was 4.58, which is just below the mean rating for the countries examined in the previous chapter. Though it does seem certain that in this case government intervention was connected to one of those areas ‘closed’ to competition.

On the other hand, competition concerns (as they are traditionally understood) are unlikely to have played a role in motivating government intervention in this case. China did not have a formal anti-monopoly or a comprehensive anti-competition regime in place at the time of the failed Macquarie bid. Even if it had, there is no

---

304 At the time of this case there were only temporary guidelines to handle monopolistic behavior (the Interim Provisions on Preventing Acts of Price Monopoly) (EIU 2007b, 74). By the time of this case in 2006 there was a draft of the Anti-Monopoly of China, but this does not go into effect until August 1, 2008 (Managing Intellectual Property 2007; EIU 2007b, 74). There are some laws that deal with “some aspects of non-competitive behavior,” such as the Anti-Unfair Competition Law, but they are not anti-trust laws in the traditional sense (EIU 2007b, 74; Huang and Richardson 2005). For a further discussion of this issue, see: (EIU 2007b, 74; Huang and Richardson 2005).
evidence to suggest that the proposed transaction would have caused an unwelcome concentration within the telecommunications or media industries, as Macquarie is an investment bank and not a telecoms company.

**Conclusions on Macquarie / PCCW**

The Chinese government’s effort to block the takeover of PCCW by the consortium led by Australia’s Macquarie through the actions of its State-run company China Netcom, was primarily motivated by geopolitical and economic nationalist concerns that were deeply interrelated. In China, it seems to be more difficult to separate these two variables from one another, as economic nationalism in the M&A sector plays such an unambiguous role in the State’s efforts to increase or maintain its relative power, at the very same time that it is trying to open up other areas of the economy under WTO rules in order to enhance its international standing. Indeed, this remains one of the few areas that China can thus protect itself from unwanted foreign investment; as the ‘sensitivity’ of the sectors allows it to engage in such protectionism with some measure of impunity or fears of retaliation. Indeed, Macquarie’s failed bid did not seem to damage the overall relationship between Australia and China in any tangible way, though it may have discouraged similar attempts at investment from being made in the near future.
Conclusion

The five cases of unbounded intervention examined above provide excellent supporting evidence for both the primary and secondary hypotheses proposed in Chapter 2, as well as the conclusions reached in Chapter 3.

All of the cases discussed above clearly show that, in keeping with the primary hypothesis, governments were usually motivated by either geopolitical or economic nationalist concerns, with one being the primary and/or secondary motivation in every case. Even in the outlier case (DP World/P&O), the intervention that was eventually carried out by lawmakers was rooted in an (albeit) inaccurate conception of the true value of these variables; as two distinct understandings of the geopolitical relationship between the US and the UAE, and two separate values on the economic nationalism variable, emerged within the 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.

In further support of the conclusions reached in Chapter 3, geopolitical concerns were also the primary reason for unbounded intervention in every case where the two states involved were not members of the same security community. This includes the CNOOC/Unocal and Macquarie/PCCW cases, though the nature of China’s capitalist autocracy does make geopolitical concerns and economic
nationalism more difficult to disentangle in the latter case. Again, geopolitical concerns were arguably of primary importance in the DP World/P&O case, where even though the countries involved are strategic partners, they do not have a security community relationship, and it was thus possible to ‘frame’ the UAE as a threat.

Interestingly, the Check Point/Sourcefire case illustrated that geopolitical concerns can, under certain conditions, also be the primary motivator behind unbounded intervention within the security community context if, for example, the acquiring state raises very specific and hard to avoid security concerns regarding the takeover in question. In the Check Point/Sourcefire case, for example, the issue was Israel’s history of lax adherence to export control laws, and a target company with extremely sensitive technology used by US government agencies.

Not surprisingly, the only case in which economic nationalism provided the primary motivation behind unbounded intervention was the Pepsi/Danone case. Yet, it is important to note that even in this case, geopolitical tension was the secondary reason for the government’s desire to block the transaction in question. This suggests that geopolitical competition is usually present in some form or another when a state chooses a strategy of unbounded intervention over, say, one of ‘bounded’ intervention (a point that will be explored further in the Chapter 5).

Furthermore, the control variable of ‘interest group presence’ was found to play only a minor role, and the control variable of ‘competition concern’ was determined to play no role at all, in the government’s action in these five cases.
Indeed, interest groups were only moderately effective in raising awareness in two cases: 1) CNOOC/Unocal and 2) DP World/P&O (where this variable was arguably affected by the unusually politicized nature of this aberrational case). It is significant, however, that in both of those cases the role of interest groups was simply to alert government actors to pre-existing concerns, and was never a primary or secondary motivator of intervention, per se.

Thus, all in all, the five cases examined in this chapter provide clear support for the primary hypothesis and its supporting assumptions. Table 19, below, summarizes the motivations for unbounded intervention uncovered in each of these cases.

Table 19. – Motivation Matrix: Unbounded Intervention

<table>
<thead>
<tr>
<th>Cases</th>
<th>Geopolitical Concern</th>
<th>Economic Nationalism</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Security Community Cases:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PepsiCo / Danone</td>
<td>Secondary</td>
<td>Primary</td>
</tr>
<tr>
<td>Check Point / Sourcefire</td>
<td>Primary</td>
<td></td>
</tr>
<tr>
<td><strong>Non-Security Community Cases:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CNOOC / Unocal</td>
<td>Primary</td>
<td>Secondary</td>
</tr>
<tr>
<td>Macquarie / PCCW</td>
<td>Primary</td>
<td>Secondary</td>
</tr>
<tr>
<td><strong>Outlier Case:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DP World / P&amp;O</td>
<td>Primary</td>
<td>Secondary</td>
</tr>
</tbody>
</table>

Finally, each of these cases support the secondary hypothesis that the type of intervention employed by the state would be closely correlated to the deal outcome. In each of the five cases, governments engaged in unbounded intervention; and in
four out of the five cases, the deal was either completely or ‘effectively’ blocked. In the remaining case (DP World/P&O), the transaction as a whole was not blocked because the objecting state, the US, was only a third party to the deal. Yet, the US was still able to effectively block the sale of the assets on its national territory.
Chapter 5 – Bounded Intervention

Introduction

Bounded, like unbounded, balancing is a type of non-military internal balancing. Thus, its primary objective is to balance another state’s power, without fundamentally disrupting the overall diplomatic relationship with that other state. As hypothesized in Chapter 2, bounded balancing is also motivated by the same factors as unbounded balancing: economic nationalism and/or geopolitical competition concerns. The purpose of this chapter, therefore, is not only to confirm the validity of the primary and secondary hypotheses posited in Chapter 2. It is also to clarify how bounded balancing is different: i.e. – what does it entail, and when and why will a state choose to use it?

This chapter will begin by refining the definition of bounded balancing, and identifying the government actions and methods that characterize it. The motivations for bounded balancing will then be revisited. This will be followed by an in-depth examination of two further critical case studies: the takeover of America’s Lucent Technologies by France’s Alcatel, and that of IBM’s American PC Business by China’s Lenovo. Table 20 below provides an overview of these cases, which were chosen for their vital importance to a proper understanding of bounded balancing, and their ability to provide further insight into the statistical results presented in
Chapter 3. At the end of this chapter, it should be clear what bounded balancing is, what motivates it, and why governments choose to use it.

Table 20. – Bounded Intervention: Critical Cases

<table>
<thead>
<tr>
<th></th>
<th>Case 6</th>
<th>Case 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquirer Name</td>
<td>Alcatel</td>
<td>Lenovo Group</td>
</tr>
<tr>
<td>Acquirer Country</td>
<td>France</td>
<td>China</td>
</tr>
<tr>
<td>Target Name</td>
<td>Lucent Technologies</td>
<td>IBM Corporation’s PC Business</td>
</tr>
<tr>
<td>Target Country</td>
<td>USA</td>
<td>USA</td>
</tr>
<tr>
<td>Target Industry</td>
<td>Telecom</td>
<td>High-Tech</td>
</tr>
<tr>
<td>Deal Type</td>
<td>Acquisition</td>
<td>Acquisition</td>
</tr>
<tr>
<td>Deal Value (in $US Thousands)</td>
<td>13,400,000.00</td>
<td>1,750,000.00</td>
</tr>
<tr>
<td>Deal Status</td>
<td>Completed</td>
<td>Completed</td>
</tr>
<tr>
<td>Deal Year</td>
<td>2006</td>
<td>2005</td>
</tr>
</tbody>
</table>

Defining Bounded Balancing

Definitions

The difference between bounded and unbounded balancing lies largely in degree, intensity, and intent. With unbounded balancing, the intent of the government in question is to block a deal through whatever means necessary. Simply
put, the government believes that such action is necessary to resolve its concern over relative power positions, regardless of whether it is economic nationalism or geopolitical factors that has motivated that concern. However, when the government believes that the circumstances of a particular deal make it possible to resolve those concerns through a more limited form of intervention, it will often take the opportunity to exhibit restraint by using the bounded balancing alternative instead. This is because bounded balancing is even less likely to produce antagonism in the general relationship between the states involved.

With bounded balancing, the state will employ restricted (or ‘bounded’) intervention techniques with the intent of simply modifying a cross-border deal in its favor. In other words, the state’s intent is to allow the cross-border deal to occur, but in a modified form, which it has shaped. The means of modifying, or ‘mitigating,’ a deal will naturally vary in accordance with concerns raised by the host government of the target company (state A). So too will the level of bounded intervention that the government feels it is necessary to employ. This section aims to help the reader differentiate between the different levels of bounded intervention – high and low. It will also demonstrate that it is possible to identify the methods a government has at its disposal to ‘mitigate’ the negative effects of a deal in the interest of state security (as that state defines it), even though the list of possible government concerns and solutions is theoretically endless.

A hypothetical example will help the reader to grasp the basic difference
between high and low bounded interventions. Let us assume that state $A$ is concerned by the inclusion of a certain corporate division in a cross-border transaction, perhaps because it retains government contracts, is the primary manufacturer of a significant piece of military technology, or plays an important role in the military-industrial complex of that state. There are a number of ways that state $A$ might handle this concern, depending on the sensitivity of the technology involved, the nature of the government contracts, and the degree of concern which these factors raise vis-à-vis national security.

If state $A$ is exceptionally worried about the implications of the inclusion of this corporate division, as well as the intentions and reliability of the company and/or country involved in the takeover, it might choose a high level of bounded intervention. High bounded intervention entails the imposition of severe or exceedingly restrictive changes on the transaction in question, and may even require unique measures. For instance, state $A$ might pursue a formal arrangement by which the division in question remains entirely run and controlled by nationals of state $A$, allowing only the revenue of that division to go to the acquiring company in state $B$. Alternatively, state $A$ might go so far as to request that the division is excluded from the sale of the domestic company entirely.

The government of state $A$ may, however, choose to engage in a low level of bounded intervention if it feels that such severe measures are unnecessary to protect its national security. Low bounded intervention entails simpler, less intrusive
actions, which are not necessarily unique to the deal in question. For instance, in the hypothetical transaction discussed above, state A might feel that it is an adequate solution to simply require the acquiring company to respect its export control laws, and not pass on the technology involved in the deal to countries it deems ‘unfriendly.’ Alternatively, if the acquiring company comes from a country that is a close ally and economic partner of state A, it may have already signed a comprehensive security agreement as the result of high-bounded intervention in a previous transaction. In that case, state A may simply rely on that previous agreement to resolve its concerns; necessitating only a low level of intervention in the current transaction.

A real life example of this latter type of case, would be the when the United Kingdom’s BAE Systems purchased America’s United Defense Industries (UDI) in 2005. BAE Systems has purchased a number of US companies in the past, through its US subsidiary BAE Systems North America. The US government had, in previous deals, asked BAE Systems North America to sign a comprehensive set of security agreements. Thus, one industry analyst has pointed out that when the BAE-UDI takeover occurred, only minimal intervention was required on the part of the US government, because even though UDI was a major government supplier with sensitive technology, the earlier agreements signed by BAE would allay the majority of the security concerns inherent in the UDI transaction.

No matter what level of bounded intervention a state chooses to employ, it
will usually ensure that the modifications it makes to a deal are made legally binding upon the companies involved. In other words, the contracting parties (the acquiring and target companies) will be asked to sign a legal document (or series of documents) enumerating the ways in which the government has chosen to mitigate the negative effects of the deal, and confirming the contracting parties’ willingness to be bound by those modifications and requirements. In many countries, a government is unlikely to be satisfied with such agreements unless it “believes that the risks it identifies can be managed” successfully through deal modifications and assurances agreed to by the acquiring company (See Graham and Marchick's discussion of this in relation to the United States: 2006, 71-72). In other words, in order to be satisfied with this more restricted form of intervention, the government must be confident that the changes made to the deal will effectively protect its national security and, in some cases, its economic position (if that state believes economic security to be tied to national security).

In summary, **bounded** intervention is a restricted type of intervention used as a form of non-military internal balancing, where the goal is once again to protect or maximize the economic and/or military power of the state, without damaging the greater meta-relationship between the states involved. Such intervention allows cross-border mergers and acquisitions activity to continue, while preventing foreign governments (through the market actions of companies that they may either wholly control or later gain influence over) to gain access to sensitive technology,
information, or control of resources, materials, and networks that could eventually help to alter the economic and or military power balance.

Different States, Different Means…

The exact method and means through which a bounded intervention is executed varies by country. For example, the level of institutionalization of the procedures for intervention, the tools available for intervention, and the formality of the agreements negotiated between the government and the companies, can differ substantially depending on the country involved. Thus, before moving to the case studies, it will help to examine how bounded balancing is effected in four different countries: the US, China, Russia, and the United Kingdom.

The United States

In the United States the foreign takeover review process, and therefore the process through which a deal might be mitigated, is highly institutionalized. Throughout the course of a proposed takeover for a US company, the foreign acquirer and the domestic target companies will regularly consult with CFIUS, often even before the formal review process begins. During the course of this interactive process, CFIUS may raise its concerns with the companies on an informal basis, allowing them to address an issue before it is officially raised as part of the Committee’s official investigation. According to Graham and Marchick, those
government agencies represented within CFIUS may also contact the parties directly. They explain, for example, that the Department of Defense may “negotiate mitigation measures with the transaction party,” “if [it] believes that the risks [to national security] it identifies can be managed” successfully through alterations to the deal, or other assurances agreed to by the acquiring company (Graham and Marchick 2006, 71). They reveal that such measures “generally fall into four categories (in ascending order of restrictiveness)” (Graham and Marchick 2006, 71-72). These measures include: 1. some form of “board resolution” to ensure citizens of the target state remain involved in management, 2. the creation of a “limited facility clearance” to restrict foreign access to secure areas or technology, 3. a “Special Security Agreement (SSA)” or “Security Control Agreement (SCA)” that would enumerate a series of security measures to be followed by the acquirer, or 4. a “voting trust agreement” or a “proxy trust agreement” (Graham and Marchick 2006, 71-72). CFIUS may, on its own, also impose mitigatory measures as part of a National Security Agreement (NSA), which it can ask the contracting parties to sign before recommending a deal to the President for approval. Such NSAs may include onerous changes or modifications to a deal, or may seek more simple assurances that the company in question adhere to US export control laws and other industrial and security regulations. More severe and involved actions are considered to be cases of high-bounded intervention. In rare cases, companies might be forced to divest a portion of the target company. On one extraordinary occasion (in the Alcatel-Lucent
case examined below), the government reserved the right to force a reversal of the takeover if the acquiring company fails to adhere to the assurances it has made.\(^\text{305}\) Thus, while the US process is not necessarily the most transparent, it is highly institutionalized and fairly straightforward to navigate for those companies that wish to make a deal work. Bounded interventions occur within a recognized, established, and coherent legal framework, which can easily be adapted to handle different threats to national security.

**China**

Relative to the U.S., the foreign takeover review process is not as highly institutionalized or stable in China. As China has moved towards a more open economy, and since its accession to the WTO on December 11, 2002, the Chinese government has sought to reform and clarify the FDI laws and regulations in their country in order to bring them in line with WTO members’ expectations. The main body of regulations for foreign takeovers is currently provided by the Regulation for Guiding the Direction of Foreign Investment (RGDFI, revised in 2002) and the Provisions on Acquisitions of Domestic Enterprises by Foreign Investors (PADEFI, 2002).

\(^{305}\) One of the most recent CFIUS decisions, concerning the Alcatel – Lucent deal that will be examined in depth below, also made it clear that new forms of mitigation may be emerging. In the review of that takeover, the United States included a ‘evergreen’ clause as part of the security agreement between itself and the companies involved, which provides the US government with the right to force a reversal of the deal at any point in the future if it discovers that Alcatel has not lived up to its promises regarding measures to safeguard US national security.\(^{305}\) It is believed that such a clause has never been used before in a US security agreement regarding a cross-border acquisition (TelecomWeb 2006a).
introduced in draft form in 2003), supplemented in some cases by periodically issued government guidelines such as the 2004 Decision on Reforming the Investment System (DRIS). The purpose of these decrees has been to create a legal regime meant to protect China’s strategic and economic security by ensuring the government’s ability to modify cross-border deals to protect Chinese interests. The changes have not increased the transparency of the review process, but have instead demonstrated a trend towards greater bureaucratic protection of China’s self-defined strategic interests, in addition to a higher level of economic protectionism. Within this regime, the DRIS outlines those instances in which deals are ‘permitted,’ ‘encouraged,’ ‘restricted,’ and ‘prohibited.’ It specifically notes that those “projects that endanger state security or harm the public interest,” or those that “endanger the security or efficient use of military resources” are prohibited – as are any projects that threaten aspects of Chinese economic security enumerated in the document (EIU 2004a). For instance, the EIU reports that the Chinese government “reserves the right to block deals that will lead a company to control too large a share of the market” (EIU 2004a, p. 26).

306 The primary law covering FDI in China was the Provisional Regulations for Guiding the Direction of Foreign Investment from June 1995 – March 31st, 2002. This was replaced on April 1st, 2002 by the Regulation Guiding the Direction of Foreign Investment. On April 12th, 2003 the Provisional Rules on the Merger and Acquisition of Domestic Enterprises by Foreign investors was introduced, and replaced on August 8th, 2006 by the finalized Provisions on Acquisitions of Domestic Enterprises by Foreign Investors. These regulations are also supplemented by the Decision on Reforming the Investment System issued on July 25th, 2004. (For a detailed explanation of these laws, please refer to the Economist Intelligence Unit’s Country Commerce Reports for China from 2001-2008.)

307 It should be noted here that the DRIS document only provides guidelines to which industries will tend to be in these categories, and does not specifically enumerate any that are ‘permitted,’ only suggesting that those not mentioned in the document would be permitted (See: EIU 2001a).
The Chinese approval process also varies according to the specific nature of the deal. The 100% acquisition of a Chinese firm can take place through a number of different routes and types of acquisition vehicles.\textsuperscript{308} Most deals of the size\textsuperscript{309} and sector examined in this study, however, currently require government approval from the Ministry of Commerce (MOFCOM).\textsuperscript{310} Depending on the vehicle used, the size of the deal, and the sector involved, the transaction may require the additional approval of local, as well as regional, authorities.

Yet, there is wide latitude for the Chinese government to engage in bounded intervention, and clearly identifiable means through which the state might mitigate a deal in order to reduce any perceived or potential threat to national security. Both the MOFCOM review and the various local reviews, provide opportunities for the government to request that changes be made to a deal in order to place it in line with Chinese interests. The latitude for the government to make, or encourage, any modifications to a deal that they deem necessary is enhanced by the tangle of FDI legislation. The Economist Intelligence Unit, for example, points out that “approval

\textsuperscript{308} A foreign company may seek engage in a merger with or acquisition of a Chinese entity through the creation of a Foreign Investment Enterprise (FIE), as a Wholly Foreign Owned Enterprise (WFO - which may additionally be a Limited Liability Company (LLC) or a holding company), an Equity Joint Venture (EJV), a Contractual Joint Venture (CJV), or a Foreign Investment Joint Stock Company (also called a FICLS) (See: EIU 2002a; EIU 2004a). The discussion of the regulatory regime above applies to all of these, but there are additional acquisition and taxation regulations that apply to each type of acquisition entity in turn.

\textsuperscript{309} Originally, any deal over USD 30 million triggered a regulatory review, but this threshold changed to USD 100 million in 2004 (See: EIU 2007a, p. 31).

\textsuperscript{310} This review was formalized in the 2003 and 2006 PADEFI rules, as such deals became more commonplace. Reviews seem to have occurred on a more ad-hoc basis before 2003 by the Ministry of Foreign Trade and Cooperation (MOFTEC), which MOFCOM has since replaced.
procedures for most foreign activity remain complicated,” “bewildering,” and most importantly “arbitrary, as authorities experiment with new regulations” (EIU 2004a, p. 23). Chinese review authorities essentially, therefore, have the latitude to decide how a deal must be structured in order for it to comply with Chinese strategic interest, if they desire to do so. Companies seeking approval for their transaction then have the choice of whether or not to adjust to those demands. These conversations, however, are rarely made public, helping to explain the extremely low levels data available on bounded intervention in China.

**Russia**

In Russia, the foreign takeover process is even less transparent and institutionalized. Officially ‘recognized’ as a working market economy in 2002 (EIU 2003b, p. 10), Russia had been slowly opening itself to foreign investment. Yet, Russia has broadly “set foreign ownership caps in industries or individual companies in what are considered ‘strategic’ or sensitive sectors, including the power and gas monopolies, banking, insurance, mass media, diamond mining, and civil aviation” (EIU 2003b, p. 14). Notably, “the government [also] retains … stakes in” what it calls “the natural monopolies,” such as the oil and gas sectors, “for the sake of stability and national security” (EIU 2003b, p. 10). Yet, in many instances the “law” surrounding foreign ownership caps “[wa]s clearly not enforced” (EIU 2003b, p. 15). Furthermore, the purchase of assets and the takeover of private companies remained
possible in many of the industries being examined in this study (especially in those that did not involve natural resources such as the telecommunications industry). In these industries as a whole, the fundamental requirement for a foreign takeover has been that the “acquisition of a stake greater than 20% in any company requires prior approval from the Anti-Monopoly Ministry” (EIU 2001b, p. 14).

Yet, the attitude towards foreign investment arguably took a distinct inward turn in 2003/2004 following the downfall of the oil company Yukos. Since that time, Russian government intervention into foreign takeovers in these sectors has tightened under then President, and now Prime Minister, Vladimir Putin. As one industry source has noted, there is little formality to the review process at the Anti-Monopoly Ministry, and takeovers of assets deemed to be strategic by Putin are often subject to an additional review by the relevant government authority or Ministry (Interview September 22, 2008). This appears to be clearest in the energy and natural resources sectors, where Putin has sought to maintain control over resources in order to use them as a tool for Russian policy and the furtherance of Russian power. Furthermore, it now seems clear that any energy deal will only get approval if 51% of the new entity is to be owned by Russian citizens, and this trend seems to be affecting other strategic sectors as well (Interview September 22, 2008). This is clearly one rather blatant way in which the Russian government is seeking to mitigate the proposed foreign takeovers of certain companies it believes to be tied to its nation’s future security.
An excellent example of this is provided by the EniNeftegaz-Arktikgaz case. In this case, and joint venture (JV) company (EniNeftegaz) owned by two Italian energy companies (Eni and Enel) bid for 100% of the assets of the ‘gas production’ company Arktikgaz in a public auction. The Italian JV was allowed to take over the assets by the Russian authorities upon winning the auction, but it is clear that this was only allowed to happen because a preliminary deal had been forged with the Russian Gas giant Gazprom, whereby Gazprom would eventually control the assets (See: Global Insight 2007). The companies had “negotiated” an agreement whereby Gazprom retained “the option to buy a 51% stake in [Arktikgaz]” (Global Insight 2007). Furthermore, “Gazprom board chairman Dmitry Medvedev,” who became Russia’s President only a year later, was quick to announce “that Gazprom plans to exercise the option” (Global Insight 2007). One member of the beleaguered Russian legal community made it plain that this was not a case of “open, free auctions but rather [of] organized sales at knockdown prices … with predetermined winners,” where “in reality Gazprom,” a Russian government controlled entity, “is the winner” (Global Insight 2007). This highlights the now common effort by the Russian government to ensure that strategic companies remain domestically controlled, making it clear to foreign investors that foreign takeovers will only be allowed to occur in strategic sectors when they have been mitigated in such a manner.
The United Kingdom

The United Kingdom provides yet another example of the many different national approaches to bounded intervention that are possible. The United Kingdom arguably represents the economy most open to all forms of foreign direct investment. While there is no comprehensive law covering FDI generally, the 1973 Fair Trading Act (FTA) supplies the framework for competition review and “the Industry Act of 1975 provides the UK government with the authority to intervene when the takeover of important manufacturing concerns by nonresidents is against the national interest” (GAO 1996, p. 40). Most cross-border M&A will be reviewed first by the Director General of Fair Trading, who may then suggest to the Secretary of State for Business and Regulatory Reform that the deal be “investigated further by the Monopolies and Mergers Commission” (MMC) (GAO 1996, p. 40). Additionally, the FTA then gives “the Secretary … the authority to block or force divestiture of mergers and acquisitions that the [MMC] investigated and found to be against the public interest” (GAO 1996, p. 40). The right to block the takeover of any such company has never been formally invoked (GAO 1996), and there has been only minimal evidence of unbounded interventions on the part of the UK government, which prides itself on its openness to FDI.

Yet, even the UK government does not hesitate to engage in bounded

---

311 The Secretary is also the President of the Board of Trade, and before 2007 was called the Secretary of State for Trade and Industry. In June 2007, the Department of Trade and Industry was replaced by the Department for Business, Enterprise and Regulatory Reform (BERR), and this was when the title of the position changed.
intervention when it feels that it is necessary to preserve national security. Indeed, the Department for Business Enterprise and Regulatory Reform (BERR), even maintains a list of the most serious potential “mergers with a national security element” on their website, and provides the legal documentation given to justify intervention in those cases.\textsuperscript{312}

A good example of how bounded intervention is achieved in the UK is provided by the Finmeccanica-BAE case. In 2005, the Italian aerospace and defense company Finmeccanica sought to buy BAE System’s avionics and communications businesses, which had a close relationship with the UK military community. The Secretary of State and Industry at that time (now known as the Secretary of State for Business and Regulatory Reform), determined that the deal …

“might adversely affect the public interest on national security grounds as a result of both the communications and avionics business transferring to the ownership and control of an overseas company. The MoD has identified two main areas of concern arising from this merger: the maintenance of strategic UK capabilities and the protection of classified information” (Boys 2005).

Thus, the government intervened and negotiated a solution with the two companies that helped to ensure that those national security concerns would be mitigated, while still allowing the deal to occur. The changes made to the deal were that “the companies [would] … keep the businesses under the management of UK nationals [and] under the control of UK boards” (DMA 2005). Additionally, “the UK

\begin{footnotesize}
\textsuperscript{312} This list, however, only seems to relate to those mergers in the Aerospace & Defense sector, despite clear evidence of intervention in other strategic sectors. With this in mind, it should be noted here that the UK government’s open attitude towards the details of such intervention even in this one industry is extremely rare, and is a sign of its valued commitment to an open FDI regime.
\end{footnotesize}
government [was provided] with ‘golden-share’-esque guarantees that the businesses cannot be re-sold by Finmeccanica without its approval” (DMA 2005). Such agreements and remedies provide clear examples of how bounded intervention may be undertaken by even the most open of states.

Thus, there are differences in existing national approaches to the type of restricted intervention that we associate with bounded balancing. Yet, these very differences help to partially explain why we are more likely to see bounded balancing among the allies of the western security communities: the process for the review of cross-border mergers and acquisitions is more highly institutionalized among the western advanced industrial states. This is significant because higher levels of institutionalization allow allies to find alternative solutions to national security concerns; making it unnecessary for them to resort to other means such as blocking a deal, or throwing up such overwhelming opposition to it that the proposed acquirer voluntarily withdraws from the process. Low levels of institutionalization in states such as Russia and China (aside from the more closed natures of the their markets, which pose higher risk for investors) may also contribute to the low levels of cross-border deals in those states (especially in strategic sectors). This means that we have even fewer examples of bounded intervention in these countries than we might expect.
Motivations for Bounded Balancing

As with unbounded balancing, bounded balancing tends to be motivated by economic nationalism and/or geopolitical competition. It should be remembered that the relative importance of these factors varies depending on the subset of cases under examination.

Table 21. – Significant Motivating Factors

<table>
<thead>
<tr>
<th></th>
<th>Model I (All Deals)</th>
<th>Model II (Security Community Deals)</th>
<th>Model III (Non-Security Community Deals)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low - Bounded Intervention</td>
<td>Nationalism</td>
<td>Nationalism</td>
<td>Nationalism Inward FDI</td>
</tr>
<tr>
<td>High - Bounded Intervention</td>
<td>Nationalism</td>
<td>Nationalism Relative Military Power (Negative Direction) Resource Dependency</td>
<td>Nationalism Relative Military Power (Negative Direction)</td>
</tr>
</tbody>
</table>

Generally, the variable that is associated with a significant increase in the likelihood of bounded intervention across all cases (Model I) is nationalism. As suggested previously, this finding might indicate that higher levels of economic nationalism in state A could also lead a state to protect its national interests through such measures. The analysis of the case studies below should help to demonstrate the accuracy of the assumption that economic nationalism is likely to play at least some role in a government’s decision to employ bounded intervention.
When the population of cases is reduced to those that take place within the security community context (Model II), the significance of those factors representing geopolitical competition becomes apparent. Remember that there is a significant increase in the probability of high-bounded intervention when state A has higher levels of nationalism, resource dependency, and relative power. Interestingly, relative military power is shown to be significant in the negative direction, which may indicate that under certain conditions state A might feel more comfortable imposing modifications to foreign takeovers when it is in an advantaged power position versus state B. Put simply, state A may not feel that it is necessary to use unbounded intervention to solve its security concerns, when conditions allow for a solution to those problems through a more restricted form of intervention, which in turn helps to minimize political fallout from their actions. As will be demonstrated in the examination of the Lenovo case below, this may remain true even when the acquiring state is a rising power.

In the subset of cases that occurred outside of the security community context (Model III), geopolitical factors again show their importance, alongside nationalism.

---

As the reader will recall, none of the variables provide insight into why a state would be likely to pursue lower forms of bounded intervention within the security community context, a phenomenon that is most likely to be explained by two factors. First, many cases of even ‘low’ bounded intervention involve actions and agreements that are considered classified information in many countries – the public only learns about them if there is a press leak, or one of the companies involved releases the information. Second, ‘low’ bounded interventions that occur within the confines of a security community are often not mentioned within the press, as mergers and acquisition activity is so frequent and regularized between these countries that those companies involved in these transactions see the government’s actions as standard operating procedures and, thus, may not feel the need to publicize them of their own accord.
The statistical results showed that low-bounded intervention was significantly more likely when state A had high levels of nationalism and inward FDI. As inward FDI is an indicator of the relative economic power positions of states A and B, this demonstrates that the concern over the relative geopolitical position of those states plays an important role in determining how state A will handle a foreign takeover that hails from outside of its security community. The results also showed that high-bounded intervention was more probable in this subset of cases when state A had high levels of nationalism and relative military power. (Military power is again significant in the negative direction, for the reasons explained above.)

Thus, it is evident that nationalism and geopolitical competition increase the likelihood of the restricted form of intervention identified here as bounded intervention. As nationalism is used as a proxy for economic nationalism in the quantitative testing, the case studies below provide another opportunity to demonstrate the validity of this assumption, and thus demonstrate the importance of the role played by economic nationalism. The case studies should also help to further refine the reader’s understanding of the role played by geopolitical competition in motivating this type of intervention. The case studies will focus on high-bounded intervention cases, which provide both a tougher test of the hypotheses, and a greater opportunity to study the dynamics behind them in detail. Low-bounded interventions (such as those discussed above) do not provide as much of an opportunity to highlight these dynamics due to the more ‘routine’ nature of such cases, as states are
usually addressing more minor national security issues in such instances.

The case studies examined below should also help us to understand the general conditions under which a state might feel more comfortable engaging in bounded (rather than unbounded) intervention. Remember that bounded intervention is more common than unbounded intervention, with the former representing 29% of total cases, and the latter only 8%. This may be because allowing these foreign takeovers to be completed in modified form is even less likely to disrupt trade relationships or produce antagonism between the countries involved, than unbounded intervention. In other words, it best accomplishes the goal of non-military internal balancing: to balance power without necessarily disrupting the greater meta-relationship at stake between the two countries.

Case 6 – Alcatel / Lucent

The Context

Before delving into the Alcatel-Lucent case, it is important to understand where it stands in the context of the broader M&A market. This particular case involves a French company acquiring a US company in the telecommunications equipment manufacturing industry (which is part of the larger technology sector). Within the parameters of the database created for this investigation, sixty-eight US companies were targeted for foreign acquisition, and only seven of these deals occurred with this particular industry (please refer to Table 22 below). Of those
cases, only one involved an acquirer from a country that the Correlates of War project does not classify as a member of the same security community as the United States, and that country was Sweden (which though not a member of NATO, remains a very close NATO partner with significant economic, political, and cultural ties). This suggests that in the US, a foreign takeover in this industry is usually more likely to see successful completion when the acquiring company hails from a state with a close relationship to Washington.

Furthermore, of those seven cases, the US engaged in some form of intervention in almost every single one: bounded intervention in five cases, unbounded intervention in one case, and no intervention in only one case. And, significantly, there are indications that the US government would likely have engaged in some form of intervention in this latter instance, if the proposed bid had not been dropped before it was formally announced. The suggestion here is that even among allies, this sector is considered so strategically important that deals must be at the very least mitigated in order to ensure the protection of technology related to national security.

---

314 In other words, they are not classified as a Type I ally of the United States, because there is no formal treaty relationship for the provision of their mutual military defense.
<table>
<thead>
<tr>
<th>Year</th>
<th>Acquirer (French)</th>
<th>Target (American)</th>
<th>Sector</th>
<th>Industry</th>
<th>Intervention Type</th>
<th>Deal Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>Business Objects</td>
<td>Crystal Decisions</td>
<td>US</td>
<td>Technology</td>
<td>Software</td>
<td>Deal</td>
</tr>
<tr>
<td>2006</td>
<td>Alcatel</td>
<td>Lucent Technologies</td>
<td>US</td>
<td>Technology</td>
<td>Telecom Equipment</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>2007</td>
<td>Compagnie Générale de Géophysique</td>
<td>Veritas DGC</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>Producers, Equipment, &amp; Distribution &amp; Services</td>
<td>Deal</td>
</tr>
<tr>
<td>2007</td>
<td>Capgemini US</td>
<td>Kanbay International</td>
<td>US</td>
<td>Technology</td>
<td>Computer Hardware</td>
<td>Deal</td>
</tr>
<tr>
<td>2007</td>
<td>Schneider Electric</td>
<td>American Power Conversion Corporation</td>
<td>US</td>
<td>Technology</td>
<td>Computer Hardware</td>
<td>Deal</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Acquirer (American)</th>
<th>Target (French)</th>
<th>Sector</th>
<th>Industry</th>
<th>Intervention Type</th>
<th>Deal Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>Platinum Equity</td>
<td>Alcatel SA's European Enterprise Distribution &amp; Services Business</td>
<td>FR</td>
<td>Telecom</td>
<td>Fixed Line Telecom</td>
<td>Deal</td>
</tr>
<tr>
<td>2003</td>
<td>PanAmSat Holding Corporation</td>
<td>Eutelsat</td>
<td>FR</td>
<td>Telecom</td>
<td>Satellite Telecom</td>
<td>No Deal</td>
</tr>
<tr>
<td>2002</td>
<td>Intelsat</td>
<td>Eutelsat</td>
<td>FR</td>
<td>Telecomm</td>
<td>Satellite Telecom</td>
<td>No Deal</td>
</tr>
<tr>
<td>2004</td>
<td>UGI Corporation</td>
<td>AGZ Holding</td>
<td>FR</td>
<td>Oil &amp; Gas</td>
<td>Producers</td>
<td>No Deal</td>
</tr>
<tr>
<td>2005</td>
<td>Legg Mason</td>
<td>Permal Group</td>
<td>FR</td>
<td>Financials</td>
<td>Investment Services</td>
<td>Deal*</td>
</tr>
<tr>
<td>2005</td>
<td>Legg Mason</td>
<td>Permal Group</td>
<td>FR</td>
<td>Financials</td>
<td>Investment Services</td>
<td>No Deal*</td>
</tr>
</tbody>
</table>

* In the first deal Legg Mason acquired 80% of the Permal, in the second it failed to acquire the remaining 20% of the company.
The Alcatel-Lucent merger is also the only instance in the dataset in which a French company even tried to buy a US company in this particular industry. In fact, in the dataset as a whole, there are only 15 cases of a French company buying a foreign company in one of the target countries being examined here, and only 5 of those cases involved the purchase of a US company. Four of these five cases occurred in the technology sector as a whole, but only the Alcatel-Lucent deal involved the telecommunications hardware industry. This indicates that while takeovers in this subset of the technology sector have been rare, French takeovers of US companies in the technology sector as a whole are not. Table 22 shows that French takeovers in the rest of the sector met with little resistance, highlighting the need to explain intervention in this case.

**Significance**

Beyond this market context, there are a number of factors that make the Alcatel-Lucent merger a critical case. First, it is one of the most severe examples of ‘high’ bounded intervention. This is because in the course of its intervention, the US government employed a mitigating tool now known as an ‘evergreen clause,’ giving it the ability to reverse the merger at a future date if it becomes unsatisfied with the security implications of that deal. As this is the first known case in which such a method was used, most market and research analysts consider the case a critical one for understanding the nature of such intervention.
Second, this is also one of the clearest cases of bounded intervention available for study. Detailed knowledge of such cases are quite rare, because the mitigating measures taken by governments are usually classified. Thus, even when we know that alterations are made to a deal, we normally only hear the details of those measures if they are voluntary released by the companies, or are leaked to the press. The wealth of information in this case, therefore, makes it quite rare.

Finally, this case is vitally important to this investigation because it helps us to better understand the role of bounded intervention within security communities. To understand how, it is necessary to momentarily return to a discussion of the statistical context illustrated in Table 22 above. Out of the six attempts of US companies to buy French companies in any sector in the database, only one was successful. This reflects the high levels of economic nationalism in France generally, and the geopolitical antagonism towards foreign takeovers by US companies in particular – as illustrated by the infamous Pepsi-Danone case examined in the last chapter. On the other hand, the Alcatel-Lucent case is the only instance in recent history in which the US intervened when a French company tried to purchase a US technology company. As will also be discussed below, this is in part because of the timing of the Alcatel-Lucent deal, which came immediately on the heels of the DP World debacle and shortly after the CNOOC case, ensuring that economic nationalism would play a small but important role in the reaction of the US government. Yet, as will also be demonstrated, intervention was also triggered by
geopolitical concerns. Indeed, the Alcatel-Lucent case is the only one in which a French company targeted a US company that was involved in classified government work and contracts, heightening the geopolitical implications of the deal for the United States.

This case is, therefore, critical because it helps to highlight something that the statistical investigation in chapter 3 could not: that though economic nationalism will tend to play a significant role in cases of government intervention within security community cases of bounded intervention, such an alliance relationship does not necessarily preclude an important role for geopolitical concerns. In the Pepsi-Danone case, the French fear of US hegemony almost mandated that such a foreign takeover be blocked. In this case, the US has less to ‘fear’ from France, but France’s desire to score a geopolitical coup against the US, their determination at the time to cast the US in a bad diplomatic light, and their disregard for certain US sanctions regimes, ensured that the political tensions between the two countries would exacerbate the national security concerns raised by the sensitive nature of Lucent’s work.

**The Story**

On March 24, 2006, rumors of a merger between Alcatel SA of France and Lucent Technologies of the United States hit the newswires (Zephyr 2006b). The two companies had discussed a possible merger in 2001, but those talks had failed “over how much control [Alcatel] would have” of a new combined entity (Frost...
“Since then, however, Alcatel ha[d] grown faster than Lucent, giving it a clear upper hand in merger talks” (Frost 2006). Additionally, the sporadic bankruptcy rumors Lucent had faced in 2001 and 2002, as well as the periodic cutbacks and profit warnings it had suffered, made a merger with Alcatel now seem much more appealing (see: McKay 2006a; Morse 2006).

Both Alcatel and Lucent were telecommunications equipment manufacturers in the technology sector. Yet, while the majority of their business focused on the private sector, each company held defense contracts with their respective governments, and each had divisions dedicated to the development of sensitive technology. Alcatel, for example, owned a stake in two satellite-manufacturing joint ventures (JVs), Alcatel Alenia Space and Telespazio, with Italy’s Finmeccanica. Alcatel Alenia worked on sensitive projects such as the first iteration (Giove-A) of the Galileo Satellite (see: Alcatel 2006b). Lucent, meanwhile, held a number of contracts with the US Department of Defense that ranged from “provid[ing it with] classified technology” to “supply[ing] telecoms equipment for the Iraqi reconstruction project” (MacMillan 2006). Lucent also owned and operated Bell Laboratories, an entity that for 80 years had conducted classified work for the US government; producing the transistor, the laser, and the touch-tone phone, while pioneering solar cells, cell phones, and the communications satellite (Alcatel-Lucent

---

315 Both Alcatel and Lucent were at the time classified by the industry benchmark number 9578, which places them in the technology sector and telecommunications equipment industry (Zephyr 2006).
Such pedigrees indicated that any deal between Alcatel and Lucent would raise national security concerns for both the United States and France.

Not surprisingly, many analysts who felt the deal might make sense economically, remained wary that its security implications could lead to failure if not addressed early, adequately, and carefully. Others believed that even then the deal might be blocked. Thus, analysts had begun to contemplate the different ways such a deal might be mitigated in order to satisfy both Washington and Paris, while it remained only a rumor. The most common suggestions and commentary assumed that, at the bare minimum, France would encourage Alcatel to sell its satellite divisions to another French company, such as Thales, and Lucent would need to protect Bell Labs by either divesting it, or creating a subsidiary that would be closed off from foreign influence (see, e.g.: Butler 2006; Dow Jones 2006c; McKay 2006a; Morse 2006). While these hurdles were not low, many market and industry observers believed that if they were executed well, the merger would not be blocked unless it became “a political football” like Dubai Ports World deal did (MacMillan 2006). For, it was unlikely that France would completely block a deal that was largely in its favor, and viewed as a triumph for the French tech industry. On the other side, the

---

316 See, e.g.: AFP 2006c; McKay 2006b; Morse 2006; Wickham 2006.  
317 See, e.g.: MacMillan 2006.  
318 For instance, it was reported that “the announcement of merger talks between Alcatel and Lucent Technologies was greeted with quiet satisfaction in Paris, where the assumption is that the French group will effectively swallow its US counterpart. … The Alcatel-Lucent talks appeared to have the blessing of the French authorities. They are confident that the headquarters would remain in France, enabling them to comfort Gallic public opinion by presenting the new group as French” (Sage 2006).
need to protect classified materials combined with rising protectionist sentiment in the US at that particular time, and the lack of French cooperation geopolitically, ensured that the US government would at least intervene in a bounded fashion, and extreme politicization of the deal could have resulted in unbounded intervention.

By April 2, 2006, a definitive merger agreement was reached between the two companies valued at US $13.4 billion, giving Alcatel shareholders a 60% stake of the new combined entity and Lucent shareholders 40% (Zephyr 2006b). Because concerns over equality had quashed attempts of the two companies to merge in 2001, there was a clear effort to sell this as a “merger of equals” (MacMillan 2006). It was announced immediately, for example, that Lucent’s CEO Patricia Russo would head the new combined company, and (in return) its headquarters would remain in Paris; while its CFO would come from Alcatel, its COO from Lucent, and the new board of directors would be equally drawn from Alcatel and Lucent’s existing board members (AFX 2006a). Yet, despite these overt efforts made toward an equal partnership, the market generally viewed and treated the deal as a foreign takeover of a US company by a French one (Interview July 1, 2008). It was clear that Lucent was the “junior partner” in the merger, and even the M&A databases (such as Zephyr) classify the deal as an acquisition of Lucent by Alcatel (MacMillan 2006; Morse 2006; Zephyr

---

319 The value of the deal was based on the stock price of both companies at the time the agreement was signed (Zephyr 2006).
Thus, while the details of the French position will still be discussed below, Lucent will be treated as the target company for the purpose of this investigation.

Unlike most of the cases examined in the previous chapter, Alcatel and Lucent sought to address the national security implications of their proposed deal before it was even officially announced. In regards to France, Alcatel sought early on to push through a previously discussed deal in which the French defense electronics company Thales would take Alcatel’s stake in its satellite JV’s in return for a stake in Thales (see: TelecomWeb 2006c). This deal would both calm France’s worries about sensitive technology being seen by foreign citizens, and help the government to protect a vulnerable Thales from a takeover by EADS (see: TelecomWeb 2006c; Dow Jones 2006d; FT 2006a).

In the US, Lucent issued a press release when the proposed merger was announced in order to calm fears over the future security of Bell Labs. The release stated that “the combined company [would] form a separate, independent U.S. subsidiary under Bell Labs … to perform research and development work for the U.S. government that is of a sensitive nature,” and that bell labs would not be moved nor would its leadership be changed (Lucent 2006). Lucent also announced that they “ha[d] asked three experienced and distinguished members of the national security community to serve on the independent subsidiary's board, … subject to U.S.

\[320\] For reports of the companies meeting to discuss proposals for dealing proactively with these recognized issues, see, e.g.: (TelecomWeb 2006b; McKay 2006a).
government approval,” namely: former Secretary of Defense William Perry, former National Security Agency Director Lt. Gen. Kenneth Minihan, and former Director of Central Intelligence James Woolsey (Lucent 2006). These actions were meant to ‘black box’ Bell Labs from foreign control and influence, allowing only the revenue from those activities to go to the new entity. As mentioned above, such special subsidiaries can alleviate national security concerns, allowing governments, who wish to do so, to mitigate foreign takeovers without having to block them outright. Thus, by announcing their willingness to create such a subsidiary early on, Alcatel and Lucent were trying to anticipate the problems their deal might face, and cast their intentions in a positive light. It was likely hoped that this would alleviate existing geopolitical tensions between the two countries in order to prevent the kind of unbounded intervention so recently faced by DPW and CNOOC in the US. The companies then “submitted a voluntary notice of the merger to CFIUS in August 2006” (Alcatel 2006a), and were reported to have worked (and cooperated) closely with that same body in order to resolve the US government’s concerns (Dow Jones 2006e).

In order to properly understand the Alcatel-Lucent deal, and the US reaction to it, it is necessary to understand the political context in the US at the time. This deal surfaced just after the heavily politicized Dubai Ports World case, which unleashed a furor of congressional rhetoric about the threat that foreign takeovers
could potentially pose to national and economic security. Both economic nationalism and national security awareness were therefore abnormally heightened by this time, and was being manifested in a rush of legislation proposed to reform CFIUS and make the foreign takeover review process more stringent.

Not surprisingly, Congressmen Duncan Hunter, who had been vociferously against the DPW deal, came out early on against the Alcatel-Lucent deal (see: AFX 2006b). In a letter to President Bush date April 28th, Hunter stated:

“I have several grave concerns about the potential merger of French-owned Alcatel and American-owned Lucent Technologies. ... These concerns arise in large part because Lucent Technologies and Bell Labs, a critical component of the parent company Lucent Technologies, conduct a significant amount of highly classified work for the United States government, including the Department of Defense. I am skeptical whether the current CFIUS process could provide adequate, verifiable assurances that such sensitive work will be protected” (Silva 2006a).

Both companies responded directly to “Hunter’s concerns,” again reiterating the precautions they had already announced regarding the future of Bell Labs. Yet, it was clear that Hunter no longer believed CFIUS to be an effective review body, and was voicing his concerns in order to make CFIUS more accountable.

Another issue that Hunter raised, which the companies interestingly did not immediately address, was the fact that the merger “could result in transfers of sensitive technologies or information to several countries with which Alcatel has dealings, including [Myanmar], China, Cuba, Iran, North Korea, Sudan, and Syria” (Inside US Trade 2006a). This will be of significance to our discussion of
geopolitical tensions below, because though the French are part of the same security community, long standing tensions over French disrespect for US led sanctions regimes would prove difficult to entirely overcome – making it highly likely that the US government would intervene in this case in some way in order to protect the technology involved.

Despite these concerns, however, Congressman Hunter was largely alone in his desire to block the deal. In other words, his rallying cry for unbounded intervention was not answered in this case. This was because the French position as a formal ally made bounded intervention both more desirable for the US, as well as more creditable within the international community. For in this case, unlike the Check Point-Sourcefire deal, it seemed possible that mitigation could satisfactorily address the geopolitical and security issues raised by the deal, because the critical technology concerned did not comprise all of Lucent’s business. Thus, it was reported that Hunter’s message did not “resonate with many other members of congress,” and was not echoed by them (Inside US Trade 2006a). Indeed, “one private sector source” made it clear that Hunter’s actions were an attempt “to politicize the CFIUS process,” but “doubted [his actions] would impact a presidential decision on the CFIUS recommendation [regarding this deal], or on the broader
debate over how to reform the CFIUS process” in general (Inside US Trade 2006b).\textsuperscript{321}

Thus, by the middle of September 2006, the Alcatel-Lucent deal had received most of the necessary regulatory approvals. It “was approved by the boards of directors of both companies” on April 2\textsuperscript{nd}, and by the shareholders of both companies on September 7\textsuperscript{th} (Zephyr 2006b). The merger also received antitrust approval from the US Department of Justice on June 8\textsuperscript{th}, and competition clearance from the European Commission on July 24\textsuperscript{th} (Johnson 2006; Zephyr 2006b).

It is clear, however, that the heightened protectionist sentiment post-DP World, the one-off factor of the CFIUS reform debate that DPW and CNOOC had triggered, and geopolitical tensions with France, did contribute to a more rigorous investigation of the Alcatel-Lucent deal within CFIUS. Thus, on October 6\textsuperscript{th} it surfaced that CFIUS would engage in the formal 45-day investigation process (in addition to the normal 30-day review) of the proposed merger. In fact, Clay Lowery, the Treasury Assistant Secretary for International Affairs, later testified before Congress in regards to the Alcatel-Lucent review that “CFIUS conducted one of the most rigorous and thorough investigations ever on a transaction before the committee” (Dow Jones 2006e).

\textsuperscript{321} For example, as Chairman of the House Armed Services Committee, he tried to have a public hearing on the proposed merger, but was eventually forced into holding a closed hearing because of the classified nature of the discussion (Inside US Trade 2006b).
These factors motivated the US government to engage in one of the most severe cases of bounded intervention in the history of the United States. It was announced on November 14th that CFIUS had concluded its review of the proposed merger, and on November 17th that President Bush had accepted CFIUS’ recommendation to approve the deal, which by then included numerous mitigating changes requested by CFIUS and agreed to by both companies. It is likely that the proactive stance taken by both Alcatel and Lucent towards mitigation of the national security concerns of the US government helped it to navigate this process successfully, as did the fact that “CFIUS ha[d] been in contact with the companies even before the … formal security review process began” (Dow Jones 2006e). By November 30, 2006 the merger was officially completed, and the entity Alcatel-Lucent opened for business under its new moniker the next day.

Yet, it is important to understand that while this deal seemed to the general public to go through ‘without a hitch,’ the US government actually did engage in one of the clearest and intense examples of bounded intervention of which the details are publically known. For in addition to the proposed provisions made by the two companies regarding Bell Labs, which were adopted in the final agreement, the US government required Alcatel and Lucent to “enter into two robust and far-reaching agreements designed to ensure the protection of [US] national security:” a “National Security Agreement [(NSA)] and a Special Security Agreement [(SSA)]” (TR Daily
2006). Though the exact details of these agreements are classified it is assumed by the market that they covered the provisions made for the protection of Bell Laboratories’ and other classified work and contracts held by Lucent.

Furthermore, it was later confirmed that these agreements contained an ‘evergreen clause,’ which would allow the US government to call for a reversal of the merger at any future date if it felt that the agreements were not being properly implemented. According to private sector sources, such a clause had never been used before in the United States, and many viewed it as highly detrimental because it might prohibit future foreign direct investment (Interview January 11, 2007). Thus, on December 5, 2006 the Business Roundtable, the Financial Services Forum, the Organization for International Investment, and the United States Chamber of Commerce wrote to the Secretary of the US Treasury (Henry Paulson) to “express concern over [the] so-called ‘evergreen’ … condition … attached to CFIUS’ approval of the Alcatel-Lucent merger” (Inside US Trade 2006c). They pointed out that the serious nature of the inclusion of the evergreen clause lay in the fact that:

“The bedrock principle of openness … is challenged when the Executive imposes conditions on investments that effectively allow it to re-investigate transactions, impose new conditions, and even potentially unwind the transaction at any time. That CFIUS sought to and, apparently, did impose this condition on the Alcatel-Lucent merger is a disturbing departure from the government’s stated support for an open trade and investment regime. Such conditions can chill investment, make those who do invest more cautious about the types of commitments they are willing to give the government in the context of the CFIUS review and, ultimately, harm the economy.”
The text of their letter shows both how rare and severe the nature of this particular bounded intervention was. For it was clear that the government did not intend to block the merger (i.e. – did not intend to engage in unbounded intervention). However, it is also clear why this was a case of ‘high’ bounded intervention in the dataset – for this is the closest a country can come to blocking a deal without actually doing so. An investigation of the variables below should show that national security concerns combined with geopolitical tensions and economic nationalism to result in this outcome.

**Geopolitical Competition Concerns**

The overall US-French geopolitical relationship had not significantly altered since the Pepsi-Danone case in 2005, though in this case the target was the United States. France and the US remained part of the same security community, yet geopolitical tensions between the two major powers remained. Of course, the US did not view France as a threat in the same overarching kind of manner that France viewed US hegemonic power. However, France’s stated desire to compete with the US for strategic power within the international system would necessitate that the US could not necessarily trust France in the same way it might other allies. Indeed, the French government remained opposed to the US stance on Iraq and Iran, and
continued to do business with countries on which the US had imposed explicit export control regulations or strict sanctions regimes.

Thus, this deal had very different geopolitical implications for France and the United States. For the French, this take over was seen as a great achievement for French economic power. Yet, because fears of American hegemony remained, the French government was careful to takes steps that would protect their sensitive technology “from prying American eyes” (TelecomWeb 2006c). Thus, Chirac became personally involved in the deal, with the French government eventually backing a sale of Alcatel’s satellite divisions to Thales as mentioned above.322

For the United States, the geopolitical implications of the deal had a tri-fold effect on government intervention. First, the geopolitical relationship between the US and France ensured that the deal would not be blocked outright, but rather that it would be mitigated if necessary. For the US had no need to intervene in an unbounded fashion that would arouse French anger unnecessarily, and likely cause a resurgence in those tensions that had only just begun to ease. Given the sector and the countries involved, it is fairly obvious that US resource dependency did not play a

---

322 It became clear that the French government supported the sale of Alcatel’s satellite divisions to Thales early on in order to protect sensitive technology from the United States (see: TelecomWeb 2006a). Yet, at the same time, “the German Chancellor Angela Merkel and French President Jacques Chirac … met and agreed that EADS should take a stake in Thales” under a scheme that would allow EADS to sell its satellite arm to Thales as well (TelecomWeb 2006). Thus, in an odd twist, the French government wanted the sale of Alcatel’s satellite JV’s, but opposed any sale that did not include EADS (of which it owns 15 percent) in the deal (AFP 2006a; TelecomWeb 2006). In the end, the deal between Alcatel and Thales was approved (Aviation Week 2006), with the general understanding that Thales would remain open to future talks with EADS over its satellite assets.
role in this deal. As the clearly more powerful country in terms of military and economic might, the US also did not need to react to this case in the way that France had reacted to Pepsi’s bid for Danone. Furthermore, there was a desire not to engage in the same kind of overt protectionist rhetoric or unbounded intervention for which France was so well known. For the use of unbounded intervention in the case would have undoubtedly caused the French, albeit somewhat ironically, to use their soft power to denounce US as a protectionist country on the world stage – an unwelcome possibility following the wealth of such statements that flowed in the wake of DP World and CNOOC. Hence, “the White House [statement] that Bush’s ruling [in favor of the deal] ‘demonstrates the commitment of the United States to protect its national security interests and maintain its openness to investment, including investment from overseas which is vital to continued economic growth, job creation, and an ever-stronger nation’” (Silva 2006ii). The US also, for example, still hoped at this point to obtain French assistance on such diplomatic fronts as the nuclear situation with Iran (see: Wendlandt 2006). It was for such reasons that there was a clear realization in the market that there would be problems with the deal.

323 The United States general resource dependency ration in 2006 was around 0.38. While not low, the US did not depend on France for natural resources such as oil and gas. For example, France was not among the top fifteen importers of oil and petroleum products to the United States, and the US imported only a tiny fraction (26,736 thousand barrels) of its 5,003,082 thousand barrels of crude oil and petroleum products imported in total for 2006 (see: EIA 2008a; EIA 2008d).

324 France’s military power relative to the US was only 10.04% in 2006, and US military power was rising at a rate of 8.98%, while that of France was rising at only 1.13%. Similarly, the relative economic power of France to the US was only 15%. Interestingly, however, the growth rate of both countries was closer, with the five-year average economic growth rate registering at 3.38% for France, and 4.96% for the US.
because of US-French politics, but there was also a general belief that such problems could be overcome through the type of mitigation classified here as bounded intervention (Morse 2006).

Second, France’s stated desire to enhance its geopolitical position vis-à-vis the US ensured that such mitigation would be necessary. French geopolitical and economic aspirations, as well as its previous truculence towards the US on the world diplomatic stage, necessitated (at the very least) the rigorous protection of national security related technology through measures such as the NSA and SSA that were eventually implemented as part of the deal. If unbounded intervention was not a seemly option for the US in this case, it was clear that bounded intervention of some form would be necessary. This fact was heightened by the fact that France was clearly engaging in similar mitigating measures in order to protect its satellite technology from the United States through the sale of the Alcatel Alenia and Telespazio JVs. Hence, Congressman Hunter argued in his letter to President Bush that “the United States government must be able to protect its national security interests in at least the same manner as the French government” (Inside US Trade 2006a). On this particular point, at least, the rest of the US government seemed to clearly agree with Hunter.

Finally, the French position of doing business with countries from which the US most wanted to protect its vital technology, contributed to the severity of the mitigating measures that were eventually imposed. The need to ensure the security of
the highly sensitive technology conducted at Bell Labs and involved in the government contracts held by Lucent, would by necessity make the US mitigation procedures rigorous. Yet, given the outcome of the CFIUS review process, and the implementation of the evergreen clause in the security agreements concluded between Alcatel-Lucent and the US government, it is clear that at least one of the other issues Congressman Hunter raised publicly, was echoed confidentially within the CFIUS review process. This, of course, was the concern that the merger might “result in transfers of sensitive technologies or information to several countries with which Alcatel has dealings, including [Myanmar], China, Cuba, Iran, North Korea, Sudan, and Syria” (Inside US Trade 2006a). Indeed, upon the merger’s completion the new Alcatel-Lucent CEO Patricia Russo (a US citizen) announced: “I am forbidden by law from being involved in business in Iran… Clearly we have to respect U.S. laws for U.S. citizens and so U.S. citizens cannot participate in business done in U.S.-sanctioned countries” (Wendlandt 2006; see also: Optical Networks Daily 2006). The timing of her announcement infers that this was an issue raised within the CFIUS process. It was also followed by speculation, which was likely accurate, that the possibility of Alcatel-Lucent continuing to do business with Iran after the merger may have prompted CFIUS to include the evergreen clause that would allow the US to unwind the merger in the future (see, e.g. Wendlandt 2006). Professor Antonia Chayes later commented that “If Alcatel were to actively pursue business with Iran it could create tensions between the U.S. and France at a time
when the U.S. is trying to bring France into supporting sanctions against Iran” (Wendlandt 2006). Thus, at the same time that tensions with France and the French position on Iran motivated the US to intervene in this case in order to protect its technology and national security, the US desire to gain French cooperation on the Iranian issue and ease tension with their French ally ensured that such intervention would be bounded rather than unbounded.

**Economic Nationalism**

Though economic nationalism had been relatively low in the recent history of the United States, economic nationalism and national security awareness were abnormally heightened in 2006 in the wake of CNOOC’s attempted acquisition of Unocal, and the row over DP World. As mentioned above, this was highlighted by the large number of legislative and regulatory proposals put forward at that time to both reform CFIUS and to make the foreign takeover review process it oversees more stringent. Indeed, US nationalism was fairly high in 2006 as usual (at 71%), and anti-globalization sentiment was moderately high as well.\(^\text{325}\) There was also a clear recognition of ‘rising protectionist sentiment’ in the US at the time (AFP 2006c), and there were indeed some analysts who feared that the deal “could yet fall afoul of political obstacles at [such] a time of heightened protectionism” (Frost 2006).

---

\(^\text{325}\) Anti-globalization sentiment was at 6.25 in 2006.
Furthermore, though Bell Laboratories within Lucent was not officially labeled or discussed within the national discourse as a ‘national champion’ per se, it would certainly qualify as one because of the integral role its technology has played in the making of American as a super power. For it has provided some of the innovations in military, surveillance, and communication technology seen as vital to the protection, projection, and augmentation of that power’s national capabilities. Thus, though the United States has not traditionally supported companies as ‘national champions,’ it is clear that the special role of Bell Labs in the American power structure helped to ensure that its work would be protected by the government from an unconditional foreign takeover, and that the deal would need to be altered to accommodate this fact.

Nevertheless, this deal did not see the same kind of virulent reaction as did the Dubai Ports World deal. In large part this was because it was not heavily politicized, helping to stem the forces of economic nationalism that may have been present at the time. Indeed, there was really only one member of the legislature that was deeply opposed to this deal (Congressman Hunter), and his true concern seemed to be the safety of the technology produced by Bell Labs and the possibility it would be sold on to unfriendly regimes, rather than opposition to the sale of the company as a complete economic entity. Furthermore, there was also complete agreement in the market that these concerns and Hunter’s activities would not be strong enough to block the deal as a whole (see: AFP 2006c).
Thus, the real role of economic nationalism in this case was more indirect; its presence forced CFIUS to review the case more thoroughly than any other in US history (Dow Jones 2006e), and in this way may have contributed to the decision to impose stricter mitigation measures than ever before in the form of the evergreen clause.

**Interest Group Presence**

Though there were a small number of interest groups opposed to the Alcatel-Lucent deal, their pressure did not play an important or decisive role in prompting government intervention in this case. In part this was because those groups that were against the deal opposed it on the grounds that those they represented would not be making enough of a profit from it, and were unconcerned with either geopolitics or the protection of a ‘national champion.’ In France, “Proxinvest, a shareholder-rights consultant to leading French institutional investors, …advised [its] clients to vote against the … merger” on the basis that Alcatel was ‘overpaying’ for Lucent (Matlack 2006). While, “on the other side of the Atlantic, some Lucent shareholders … pursu[ed] a class-action lawsuit contending just the opposite – that they will get too little from the merger” (Matlack 2006). Significantly, however, this minority shareholder group’s attempt to get a court order to postpone the shareholder vote was unsuccessful and Institutional Shareholder Services, a powerful corporate governance/proxy voting services firm (which provides research and recommendations on such deals) also came out in support of the deal (Les Echoes
In the end, the shareholders of both Alcatel and Lucent approved the merger, as did the boards of both companies (Zephyr 2006b). At no time did any of these interest groups suggest that the US government should intervene in the deal in any way.

Indeed, the only group that even suggested that the deal “raises national security issues and should be referred to … CFIUS,” was the “US Business and Industry Council lobbying group” (Jane’s Defence Weekly 2006). Yet, this was also the same group that later came out against the inclusion of the evergreen clause in the security agreements that Alcatel and Lucent eventually signed with the US government. Thus, it is clear that while this particular group may have desired some form of bounded intervention if it was deemed necessary for national security purposes, they certainly did not desire it on that scale. Furthermore, it is clear in hindsight that the Council’s position was taken long after both companies were already in consultation with CFIUS because of the early recognition that some form of mitigation would be necessary for the protection of national security and the satisfaction of the geopolitical concerns mentioned above. Thus, it can be concluded that this particular lobbying group did not play a role in motivating government intervention in this case either.

Finally, the labor unions in both the US and France did not play a role in US government intervention in this case. It is true that the French labor unions were “upset” by Alcatel’s plans “to do away with a 23 year-old practice of having
employee representatives on its board” once the merger was completed (Gauthier-Villars 2006). Yet, this did not ultimately end up being an issue, and opposition quickly died down in France. While it is also true that heavy job losses were expected as a result of the merger (McLean 2006), this did not result in heavy union opposition. This is partly because the cuts were expected to take place in the US, rather than France; if the scenario were reversed, union opposition would have been much more likely (see: Sage 2006). Though labor groups and employees in the US were aware that most of the job cuts would take place in their country, they seemed to be more concerned over the fate of “health benefits and pensions” (McKay 2006c), and did not seek to prompt the type of bounded government intervention that eventually occurred.

**Competition Concerns**

Anti-trust competition concerns also did not turn out to be an issue in this case. The EU Commission announced its approval of the “proposed transaction” on the basis that it “w[ould] not significantly impede effective competition” (EU Commission 2006a). This was because though the companies were “engaged in similar activities,” they were sufficiently “focused on different regions” (AFP 2006b). The US Department of Justice also “granted antitrust approval” to the deal on the basis that it did not raise any significant competition concerns (Johnson 2006).
Conclusions on Alcatel / Lucent

The above discussion of the variables illustrates that in this case both geopolitical competition concerns and economic nationalism played a role in motivating bounded government intervention, and that the former factor played a more direct role than the latter. It was also shown that competition concerns and interest group pressure did not play a significant role in motivating government intervention in this case.

Thus, the US was not intervening solely for reasons of heightened economic nationalism at that particular point in time, but because of geopolitical concerns that were exacerbated by the sensitive nature of Lucent’s work. This is important, because it shows the importance of both variables, highlighting a behavior that can be lost in Model I, where most cases of bounded intervention are associated with economic nationalism, and geopolitical concerns only near significance. Thus, this case supports the findings in Model II, which show that geopolitical factors can play a significant role in increasing the likelihood of bounded intervention within security communities, as can economic nationalism. This case is also vital because it demonstrates that even within security communities, geopolitical competition considerations can be of equal or greater importance in motivating bounded intervention.
Case 7 – Lenovo / IBM

The Context

This next case examines Lenovo Group Ltd.’s takeover of the International Business Machine (IBM) Corporation’s Personal Computing (PC) business in 2005. Lenovo is a Chinese company whose majority stockholder is Legend Holding Ltd., a holding company owned and controlled by the Chinese Government. IBM, of course, is the pioneer of the original personal computer and in 2005 retained its position as the primary supplier of computers to the US government.

This is a critical case for two reasons. First, the Lenovo-IBM takeover is an excellent example of an extremely rare case type. Chinese acquisitions of this size, and in the national security industries examined here, have only been attempted twice in the United States between September 11, 2001 and May 15, 2007.326 The first instance was the CNOOC-Unocal case of unbounded intervention examined in the previous chapter, with the second being the Lenovo-IBM case discussed below. Such cases have largely been viewed as threatening in the US, because the government of the rising Chinese power has openly stated its desire to use the market to gain power, influence, and technology for military, as well as civilian, use.

326 As mentioned earlier, the Hutchinson Whampoa–Global Crossing case can be instructive in our understanding of these two cases, as it provides another example of unbounded intervention into the takeover of a US company by a Chinese one. The Whampoa case, however, cannot provide a pure comparison to either the Lenovo or the CNOOC case, because Hutchinson made its bid for Global Crossing in conjunction with the Singaporean company STT. In other words, it cannot be classified as a ‘simple’ cross-border takeover of the type examined in the database created for this dissertation, because the acquisition involved two purchasing companies from different countries.
This case is also critical for testing the primary and secondary hypotheses, as it helps to explain why a cross-border acquisition between similar countries and under seemingly similar conditions, might lead to dissimilar outcomes. For, while the CNOOC-Unocal case resulted in unbounded intervention and no deal, the Lenovo case only led to bounded intervention and a mitigated deal. Yet, both cases occurred in the same year (2005), and therefore were subject to the same general level of geopolitical tension and economic nationalism. How, then, can the different outcome in this case be explained within the context of the primary and secondary hypotheses?

The answer is that while geopolitical concerns were once again the primary, and economic nationalism the secondary, motivation for intervention in a case that occurred outside of the context of a security community, specific elements of the case helped to ameliorate those variables in a way that ensured intervention would only take the form of bounded intervention. In other words, this case is critical because it helps us, once again, to examine the hypothesis in a way that strict statistical data testing cannot. For the results of the multinomial logit function performed in chapter 3 only confirmed that the presence of geopolitical competition and economic nationalism make both bounded and unbounded intervention more likely than no intervention at all. This case study, however, in conjunction with the CNOOC case, can help us to understand why a government might choose one of these forms of intervention over the other.
**The Story**

On December 7th, 2004, it was announced that Lenovo would acquire 100% of IBM’s PC Division for a total consideration of $1.75 billion.\(^{327}\) It seemed that despite ‘Big Blue’s’ traditional role as the flagship of US computer technology, the PC division had become its least profitable business, with its software development and consulting services divisions providing much higher margins. IBM was thus looking for a buyer for this division, and welcomed Lenovo’s bid (see: Hachman 2004). As will be discussed further below, no competition concerns were expected and the deal received an early termination of its anti-trust review from the Federal Trade Commission on January 7th, 2005 (Spooner 2005a). Similarly, there was no real interest group movement against this deal. Shareholders were eventually won over, and labor groups were largely unconcerned in the US as it was clear that no real job losses would result from the takeover.

However, it was obvious early on that the deal would need CFIUS approval. This was both because of the industry involved, and because the majority shareholder in Lenovo was (and remains) the Chinese government, which owned 57% of Lenovo’s stock through a government owned and controlled holding company called Legend Group Holdings (Bilodeau and Kennedy 2005; Ramstad 2004). As a result,

---

\(^{327}\) The $1.75 billion figure is comprised of half a billion in Lenovo equity, which will become IBM’s stake in the new entity, and $1.25 million in cash (Market News Publishing 2004; Zephyr 2007a).
the companies “formally filed a notice seeking CFIUS clearance on December 29, [2004]” (Bilodeau and Kennedy 2005).

By January 24th, the first report surfaced of concerns emerging within CFIUS on national security grounds in a widely read and cited Bloomberg article (see: Bilodeau and Kennedy 2005). This article cited anonymous sources as saying that “members of [CFIUS], including the Justice Department and Department of Homeland Security, [were] worr[ied] that Chinese operatives might use an IBM facility in North Carolina to engage in industrial espionage, using stolen technologies for military purposes” (Bilodeau and Kennedy 2005).

On the following day, three congressmen sent a letter to CFIUS urging it to conduct a more rigorous 45-day review of the deal because of national security concerns (Orol 2005e). These were three fairly powerful Congressmen, whose input was likely be take into consideration by CFIUS: Duncan Hunter (Chairman of the House Armed Services Committee), Henry Hyde (Chairman of the House International Relations Committee; R-IL), and Donald Manzullo (Chairman of the House Small Business Committee; R-IL) (Orol 2005e). Yet, only Representative Manzullo seemed to be truly motivated by what could be identified as economic nationalism. He feared that the deal might provide China with control over the PC industry, or that China might be using ‘unfair’ government subsidies in order to help Lenovo purchase IBM. As will be discussed further below, however, the Congressmen were primarily focused on the geopolitical concern that sensitive or
dual-use technology might be transferred to a non-allied state, which could then apply it to military use. Indeed, given the Chinese government’s own stated intent to use foreign takeovers for this purpose, and the government’s control over Lenovo, this idea was not far-fetched.

Despite this, the market was still somewhat surprised on January 27th when CFIUS extended its review to the further (and more intensive) 45-day investigation (see: Moody 2005). For while some analysts had expected the deal to result in stark unbounded intervention (see e.g.: MPR 2005; WSJ 2005b), others truly believed that any security concerns could be dealt with in the initial 30-day review (see: Bilodeau and Kennedy 2005). This was because though the PC business did involve some ‘high tech’ aspects, and was once at the forefront of technology in the US, it was now considered to be relatively ‘low tech,’ in addition to ‘low margin’ by some market analysts (see, e.g.: Sinocast 2005b; Blustein and Musgrove 2005). As will be discussed below however, those more optimistic analysts were not really thinking of the dual-use military applications of some of that technology, nor did they realize how serious the US government seemed to take the Chinese espionage issue. For IBM’s PC Business was located in Triangle Park, NC, where there were other IBM research and development projects being carried out for the US government.

In the end, however, the government was able to work out a solution to these national security concerns with the cooperation of the companies involved. Thus, on

---

328 Please refer to the CNOOC case for more detail on this.
March 9, 2005 IBM announced that the takeover “was cleared by the US government” at the end of the 45-day extended review (Moody 2005). Indeed, it was reported that “Lenovo overcame U.S. concerns that the Chinese government would use Lenovo's PCs and the U.S. facilities for espionage” so successfully, that CFIUS eventually “g[ave] the deal its unanimous consent” (Auchard 2005a; Moody 2005). The deal was officially completed on May 2, 2005. Though many of the exact details of the alterations made to the deal for national security remain confidential, both the government and the companies publicly acknowledged that such measures were put in place. Furthermore, the changes that were announced or leaked to the press, as will be discussed below, highlight the credence given to geopolitical concerns over espionage and technology transfers to non-allied states.

Thus, the investigation of the variables below should demonstrate that, as with the CNOOC-Unocal case, intervention in the Lenovo bid was primarily motivated by geopolitical competition concerns, and secondarily by economic nationalism. In other words, the presence of these factors made some form of intervention more likely than no intervention at all. In this case, however, the result was bounded intervention rather than unbounded because the specific aspects of the deal afforded the government the option to choose mitigation over an outright block of the deal – a more diplomatic solution to the protection of national security in this case, and preferable given the government in question’s (i.e. the US’s) preference for open and engaged economic relations with China.
Interest Group Presence

There were no real interest groups pressing for government intervention in this case. Though some of Lenovo’s shareholders originally came out against the takeover, their concerns were soon overcome and they approved the deal on January 28th (Datamonitor 2005). Significantly, however, Lenovo’s shareholders were worried that the deal would be blocked by the US government, or that a new combined entity might face difficulty successfully combining the very different cultures of the two companies (ComputerWire 2005). In no way did they desire the US government to intervene, because it was clear that a successful deal would be to their benefit.

Labor groups were not incensed by the deal because the companies made announcements very early in the process that “no layoffs [we]re planned” and, furthermore, that “the deal w[ould] have a minimal effect on employment, benefits or compensation” (Cox 2004). This news seemed highly effective in quelling the initial fears of both IBM and Lenovo’s workers (Witte 2004; see also: McMillan 2005).

There was one interest group that was mobilized in favor of the deal: IBM. The company “hired consultants to help secure approval from CFIUS,” one of whom was “Brent Scowcroft, the former national-security adviser to President George H. W. Bush and Gerald Ford” (Bilodeau 2005). It was also reported that IBM hired …

“Bruce Mehlman, who served as President George W. Bush’s assistant secretary for technology policy at the Department of Commerce until January 2004, and partners at D.C.-based law firm Covington & Burling... includ[ing] Mark Plotkin and David
Marchick, a former deputy assistant secretary for trade policy at the State Department, according to federal lobbying records” (Bilodeau 2005). These individuals were highly respected within the government and had an intimate understanding of the CFIUS process. Marchick, for example, wrote one of the only books on US government intervention into cross-border M&A on national security grounds with Edward Graham. And though it is unknown what their exact brief from IBM entailed, it is generally understood that these individuals were hired to help IBM and Lenovo navigate the CFIUS process successfully. Given the individuals hired, their expertise, and current and former government positions, it is likely that the companies were advised on what mitigatory measures would be necessary to gain approval, rather than how to achieve the more unlikely ‘no intervention’ outcome, as these individuals would also be highly concerned with the preservation of national security in this case. In other words, they were hired to help the companies achieve a bounded intervention outcome successfully, rather than an unbounded intervention outcome – and it is fairly unlikely that they were really pushing for no intervention at all. It is also important to note that they were serving in an advisory, rather than a lobbying, capacity.

Thus, there were no real interest groups pushing for intervention in this case, or attempting to prevent the US government from pursuing bounded intervention in this case.
**Economic Competition Concerns**

Similarly, economic competition concerns did not seem to factor into the Lenovo-IBM case. Indeed, by January 7\textsuperscript{th}, 2005, the Federal Trade Commission declared “that it ha[d] granted Lenovo and IBM an early-termination ruling under the Hart-Scott-Rodino antitrust act” (Spooner 2005a). It was possible for the decision to be made quickly, because there was no apparent evidence that the takeover would create a monopoly, or anti-competitive concentration within the personal computer, or broader technology, industry. Thus, it seems clear that this was not a factor motivating bounded intervention within this case.

**Economic Nationalism**

As discussed in the CNOOC and DP World cases, the United States is not always associated with economic nationalism, though distinct pockets of such nationalism do exist within some parts of the US government and its institutions, and have been evidenced periodically in its history. Displays of economic nationalism in the US have historically been targeted and rare, and have often been caused by distinctive massive influxes of FDI from a particular country, such as Japan in the 1980s. Now nationalism was relatively high in the US in 2005, providing a solid base for potential economic nationalism.\textsuperscript{329} Yet, the Lenovo bid came at the very

---

\textsuperscript{329} It should be recalled from the CNOOC case, that in the 2001-2004 wave of the World Values Survey, 71.1\% of respondents in the United States claimed to be “very proud” of their nationality {,}
beginning of China’s notable surge in overseas investment and cross-border M&A activity; it would not be until later that same year, that Haier\textsuperscript{330} and CNOOC would both attempt large-scale takeovers in the US. Thus, though there is some evidence of antipathy towards Chinese FDI at this point, it is not nearly as marked or widespread as it was by the time CNOOC had made its bid for Unocal.

As was also mentioned in the CNOOC case, the United States has not traditionally shown great support or protection for so-called national champions, and this attitude remained true in this case with IBM. IBM, often called ‘Big Blue’ in the media and press, ostensibly makes a good candidate for a ‘national champion.’ For decades the company as a whole has stood at the forefront of the US technology sector, and is viewed as “the original grand dame flagship of the industry” (Sullivan 2004). Its large market share, and its relationship with many government agencies, has made it an American icon.

There were, therefore, some commentators and analysts at the time who noted the importance and significance of such an iconic brand as IBM being ‘sold to China’ – but they were not incensed by the possibility, and were clearly not advocating either for or against intervention in this case. Some did, for example, ask “how … America’s top PC maker end[ed] up as nothing more than lunch for an Asian Tiger?” (Sullivan 2004). However, the focus was mainly on the fact that it was a momentous

\textsuperscript{330} The Haier Group (China) bid for Maytag (US) in 2005.
and historical deal, as it was “the first major Chinese acquisition of a Fortune 100 company,” and clearly “a harbinger of deals to come” (Bilodeau and Kennedy 2005; Sullivan 2004). It seems that in the American psyche “no brand is eternal” (Boston Herald 2004) – an attitude that truly sums up the reluctance of the US government, and the public, to protect what would have been one of its national champions from a foreign takeover.

Indeed, an icon does not necessarily translate into a national champion, and a single division of such an icon, even less so. For it is important to reiterate here that IBM as a whole was not in danger of being taken over, only its ‘lower tech’ personal computing division was in play, and this because IBM wanted to sell the business that had become a “drag on margins and profitability” (Hachman 2004; see also: Blustein and Musgrove 2005). Market analysts were thus largely reported to believe that the White House’s attempt to “foster cooperative economic ties with Beijing,” combined with IBM's need and desire to get out of an unprofitable business, likely meant “that in the end Washington will allow the IBM-Lenovo deal to go ahead” (Blustein and Musgrove 2005). Of course, such a view was based on the inherent assumption that the larger geopolitical and national security concerns could be overcome through some form of mitigated intervention.

Despite this general lack of support for IBM as a national champion, however, there is some evidence that members of Congress believed the deal should be blocked on grounds that might be identified as economic nationalism. In the
letter that Congressmen Hunter, Hyde, and Manzullo sent to President Bush, they were evidently “concern[ed] that Lenovo w[ould] have an unfair competitive advantage over US computer makers because the People’s Republic of China subsidizes the company” (Orol 2005e). It should be noted, however, that Congressman Manzullo seemed to be the only one that was primarily motivated by such concerns. Certainly, Manzullo, known for “worr[ying] frequently about a … loss of US manufacturing jobs to China” (WSJ 2005b), was the only one to have publicly, and consistently, attempted to make an issue of the deal on these grounds. One of his representatives stated that Manzullo’s concerns stemmed from a belief that “China gets a competitive advantage for many things because they are a nonmarket economy,” and that “by selling IBM’s PC Business to China, it could corner the global market on computers” (Orol 2005e). Such comments caused a sparse few, such as the China Business Strategy group (quoted here), to claim that the deal had met with resistance due to those “who oppose globalization and economic integration” (PZMN 2005). At the same time, “Manzullo insist[ed] that his campaign “[w]as not protectionist” because “his concerns might be unfounded, but he won’t know unless Congress has more time to review the deal” (Kessler 2005). Despite this rather interesting logic, however, it is clear that Manzullo was mainly worried about the economic ramifications of the deal giving the Chinese undue control of, or advantage in, the PC market versus the United States.
It also later surfaced that the US-China Economic and Security Review Commission had sent a letter to the Hunter, Hyde and Manzullo, in which they advocated intervention in the deal. In the letter, the commission reportedly

“made plain, ... [their] view, that the CFIUS mandate is broader than a technical security-minded technology transfer, export-control oriented event, and that in fact it implicates the defense industrial base, the national security capabilities of the United States in a broader sense ... the bottom line is, in a sense, the security implications of the impact [of the deal] on the US economy” (Commission Vice Chairman Roger Robinson Jr. in: US-China ESRC 2005).

This statement demonstrates the Commission’s opinion that economic security and national security are intertwined, a position that has itself been tightly linked with protectionism (see, e.g. – Graham and Marchick 2006). The Commission was also clearly concerned by the increasing level of Chinese FDI, and Lenovo’s bid for IBM was a prime example of China’s efforts to become a ‘global player.’ In a later hearing, the US-China Economic and Security Review Commission voiced their belief that because the “velocity and the size of those Chinese acquisitions [is] clearly on the rise,” it “hope[d]” that there would “be an increasing use of the CFIUS process” (US-China ESRC 2005). Unfortunately, it is unclear whether the Commission’s letter was sent to the Congressmen before, or after, those Congressmen sent their own letter to the President advocating a further CFIUS investigation.

It is clear, however, that there were some elements of economic nationalism present in this case, and that these may have acted at least as a secondary motivation for government intervention. For CFIUS would be unlikely to seek alterations to the
Lenovo-IBM deal on economic nationalist grounds alone, as previously discussed in other cases. Yet, it does seem that the three Congressmen’s letter (which included Manzullo’s economic fears) did help to ensure 45-day CFIUS investigation. This, in turn, made it more likely that bounded intervention would occur as it provided greater focus on the national security concerns discussed below, and provided the opportunity for the government to seek changes to the deal that would allay those concerns.

It is important to note that though there is evidence of economic nationalism in this case beginning to be directed against Chinese foreign investment (as will be shown below), it had not yet reached the level that it would in the later CNOOC case, when Chinese investment came to be viewed as more threatening to US economic security. It should be remembered, however, that even in the CNOOC case, more traditional geopolitical and national security concerns overshadowed those of economic security when it came to decisions regarding intervention. Indeed, as was discussed in detail in that case, those instances of unbounded intervention into the Chinese purchase of a US company have always entailed a heavy presence of traditional national and military security concerns, whether or not economic nationalism was present. The next section on geopolitical competition will illustrate that the IBM-Lenovo case resulted only in bounded intervention because it was possible to mitigate such national security concerns, whereas this was not possible in those cases that resulted in unbounded intervention.
Geopolitical Concerns

The level of geopolitical competition between China and the United States was basically the same in this case as it was in the CNOOC case of the same year. In 2005, as today, China and the US were geopolitical strategic rivals with a highly complex relationship. China was positioned as a major power, with rising relative power in both the economic and military realms. This fact, combined with a widespread US government belief that China posed a potential future military threat, ensured that the intent of Chinese actions would be carefully examined. Disagreement over the status of Taiwan, worries over increasing Chinese military spending and quest for natural resources, on top of the economic disputes over the valuation of the yuan and intellectual property rights, created constant tension between the countries at the very time that the Bush administration was attempting to engage China diplomatically and economically. It was not surprising, therefore, that “while U.S. officials such as [Treasury Secretary John] Snow ha[d] called for closer ties between the two countries to foster trade, lawmakers such as Republican Senator James Inhofe of Oklahoma ha[d] raised objections to embracing China for security reasons” in 2005 (Bilodeau and Kennedy 2005). The Chinese government’s intent to use cross-border acquisitions to increase its economic, and even military, power generally only intensified such fears.\(^{331}\) With this in mind, the below will focus on the specific geopolitical concerns that affected the Lenovo-IBM case. (For a more

\(^{331}\) See, e.g. McKinsey & Co’s Analysis in: (Financial Express 2004).
detailed description of the general geopolitical relationship between China and the United States in 2005, please refer back to the CNOOC-Unocal case in Chapter 4).

It should also be noted here that certain aspects of the geopolitical competition between the two countries, led to a dissimilar outcome in the Lenovo and CNOOC cases, because of the difference in the industries involved. The level of US dependence on oil and China’s desire for ever-greater control over its own natural resource supply affected the type of intervention sought by the US government in the CNOOC case to a much greater degree than it did in the Lenovo case. For in the CNOOC case, the target was an oil company with proprietary dual-use technology. The likelihood of unbounded intervention was heightened because the purchase of Unocal by CNOOC would have meant complete control over a resource that was the focus of competition and contention, even if the deal could have been altered to prevent the transference of the dual-use technology. Thus, bounded intervention would not really have solved the national security concerns involved in that case. In the Lenovo case, however, it was possible (as will be shown below) to effectively mitigate the deal in a manner that assuaged the national security concerns raised by the deal. As the control over the PC business as a whole did not, in and of itself, pose a threat, and no resource was at risk, bounded intervention was a viable solution to the problem.

What were the national security concerns in this case that were raised and intensified by the level of geopolitical competition between the US and China?
The first concern that emerged was over the possibility that the Chinese government would use the facilities purchased in the takeover as a base for conducting both international and ‘industrial’ espionage (see, e.g.: Bilodeau 2005; Bilodeau and Kennedy 2005; Blustein and Musgrove 2005; Orol 2005a; Orol 2005b; Spooner 2005b; Tsuruoka 2005).\footnote{It should be noted here that some people found these concerns to be “overwrought;” examples of ‘anti-Chinese’ sentiment rooted in geopolitical (rather than economic) competition (see: Blustein and Musgrove 2005). Yet, the fear apparently had a basis in past US experience. For, “15 years [earlier], the Washington Post [had] revealed that the Chinese government was secretly owner of a number of retail outlets and restaurants frequented by government officials” (Rash 2005). Apparently, “these businesses existed as a means of funneling Chinese spies into the US, and as a way to keep tabs on unsuspecting government officials” (Rash 2005).} IBM’s PC facilities were largely located in the industrial compound of Triangle Park, NC, where IBM had also stationed a number of its other business divisions. These included some IBM research and development facilities that do work “specifically” for the US Department of Defense, making the security of these projects, and the park as a whole, of special concern to CFIUS (Orol 2005b). Indeed, it was reported that “CFIUS … decided on January 27\textsuperscript{th} to begin [the 45-day] formal investigation over concerns that the Chinese government will use Lenovo-made PCs and the company’s new U.S. facilities for espionage” (Bilodeau 2005). The same fear was voiced by Michael R. Wessel of the US government sponsored US-China Economic and Security Review Commission, who told the media that he had discussed this concern with the relevant government officials (See: Blustein and Musgrove 2005). Well into the 45-day review, this issue seemed to remain at the forefront of the US Government fears regarding the takeover. For in
late February, it was reported that the US “Justice Department and the Department of Homeland Security,” both of which are represented in CFIUS, were still “question[ing] whether Chinese operatives could use the facility [in Triangle Park] … to engage in industrial espionage” (Bilodeau 2005).

The espionage issue seems to have been the primary focus of discussions between CFIUS, IBM, and Lenovo over possible mitigatory measures that could be taken to make the deal viable. It is also appears that negotiations began long before the formal review process. Yet, it seems to have been intensified when “agents from the U.S. Secret Service and the Federal Bureau of Investigation inspected the Research Triangle site [in early February], and IBM offered to take measures such as closing its buildings in the office park to access by Lenovo employees” (Bilodeau 2005). Though, apparently, “IBM balked at other demands,” and “in a proposal that CFIUS considered [on February 23rd], the company refused to agree not to transfer any employees involved in research and development to the Research Triangle site and objected to some security measures, such as installing new safety doors” (Bilodeau 2005).

The concern over espionage was compounded by the fact that the Chinese government holding company that controlled Lenovo (Legend Group Holdings) had links to the Chinese military and the Chinese Academy of the sciences. In fact, the holding company that had the controlling interest in Lenovo “was established in 1984 by the Chinese Academy of Sciences, a government institution” that “plays a key role
in exploiting technologies in China” (Bilodeau and Kennedy 2005; Tsuruoka 2005). Not surprisingly, this fact fanned “the fear [that] Lenovo might transfer sensitive technology it develops with IBM to China’s military” (Tsuruoka 2005).

This ties in to the second concern, which was that Lenovo (and by extension the Chinese government) would be gaining access to dual use technology that could be used for military purposes. Indeed, the dual-use issue was among those raised early on by Mr. Wessel of the US-China ESCRC (WSJ 2005b), and William Triplett, a former member of the Senate Foreign Relations Committee (Tsuruoka 2005). This was because some of the PC components being developed by IBM at the time, such as super long-life batteries, could potentially have “military applications in the field” (Orol 2005a; see also: Orol 2005e). Some also worried that IBM’s microprocessor technology could be applied for use in missiles (Orol 2005a). Adam Segal of the Council on Foreign Relations (CFR), summed it up well when he pointed out that the CFIUS investigation was “symptomatic” of the fact that “as China develops its more competitive civilian sector, there are pretty large concerns in the United States … about civilian technology bleeding over to the military side” (Tsuruoka 2005).

A third concern was that China would re-export dual-use technology to other countries who were unfriendly to the US, such as Iran, given China’s past history of flouting US Export Control laws (see, e.g.: Rash 2005; Tsuruoka 2005). Indeed, one of the aspects of the geopolitical context between the US and China at this time that intensified national security concerns over the transfer of sensitive technology to
China, besides its own position as a strategic rival to the US, was its poor record about adhering to US export control laws. In January of 2005, the tension over this issue was heightened because US government “imposed penalties” on eight “of China’s largest companies” for exporting technology that would “[assist] Iran’s efforts to improve its ballistic missiles” (Sanger 2005).

Finally, there may also have been a fear that the Chinese government and/or military might use the Lenovo acquisition to gain back door access to US government computers. IBM provided PCs to a number of government agencies. Yet, China is “blacklisted” (along with Iran, Iraq, and North Korea) by the US Trade Agreements Act (TAA), meaning that the US government is not supposed to use Chinese suppliers (Aitoro 2005). Many analysts believed that the issue of supply would be easily obviated (because it was likely that the PCs would still be assembled in the US), or ignored. The worry over the security of that supply, however, remained. Mr. Wessel, again, pointed out that “IBM has ‘other facilities’ in North Carolina ‘that do R&D … so the issue is not just the making of boxes; its how the networks work. IBM has service contracts throughout the government and (knowledge about) how one networks these computers gives one not only the opportunity to do reverse engineering, but greater opportunities to hack in’” (Blustein and Musgrove 2005).

---

333 The act provides that “the government can spend taxpayer’s money with certain countries that are considered friends to the United States and whose products, therefore, qualify for an exception to the government’s preference to acquire only domestic end products” (Aitoro 2005).
There was also likely concern that the Chinese government could arrange ‘back door’ access to computers provided to the US government by Lenovo.

Eventually, a number of measures were agreed upon between CFIUS and the two companies as part of the US government’s strategy of bounded intervention to alleviate the national security concerns rooted in the geopolitical tension between the US and China at this time. In order “to win federal approval … Lenovo employees working at IBM’s manufacturing and design facility in Raleigh, NC, [had to] be housed in a separate building on campus” (CMP TechWeb 2005). By March 9th, it was revealed that the “staff working in the Research Triangle Park, North Carolina, area w[ould] be relocated to a central facility that [was] sold by IBM to Lenovo and is located in the same industrial park” (Auchard 2005a). This modification to the deal was obviously intended to protect the security of the IBM government R&D projects at the park, and to prevent opportunities for espionage. Though a number of modifications were apparently made to the deal as a result of government intervention, these changes are among the few that were made public by the companies. Overall, neither IBM, nor Lenovo appeared upset at the changes made to the deal as a result of the government’s intervention, likely because they were fairly reasonable and simple given the concerns voiced. In fact, the new CEO of Lenovo (Mr. Ward) told reporters that: “everything that CFIUS asked of us was perfectly reasonable” (Auchard 2005a). Thus, bounded intervention was an option in this case because it was possible for mitigation to alleviate the national security concerns listed
above, without losing the cooperation of the companies involved, or without having
to block the deal as a whole.

**Conclusions on Lenovo / IBM**

The discussion of the variables in the Lenovo-IBM case clearly shows that
geopolitical competition was the primary, and economic nationalism the secondary,
motivation for bounded intervention in this case, resulting in a changed deal. Once
again, interest group pressure and economic competition concerns did not play an
active role in guiding government intervention. This result is in line with the primary
hypothesis, and our expectations as a result of the statistical findings from Chapter 3.
In other words, given the presence of economic nationalism and geopolitical
competition in a case that took place outside of a security community context, we
expected to see some form of intervention (either bounded or unbounded), rather than
its absence.

The above examination of the variables also helps us to understand something
that the statistics did not: in other words, why we saw bounded intervention into the
Lenovo takeover, when the ostensibly similar CNOOC case resulted in unbounded
intervention. The result of the Lenovo-IBM takeover bid differed from that of the
CNOOC-Unocal one, because in the latter instance bounded intervention would have
not been as successful an option for the government. For the issue there was that
Chinese control over Unocal in and of itself became associated with the struggle for
control over resources, and politicization of the deal made it difficult for bounded intervention to appear to be enough to alleviate fears that the Chinese company’s intent was nefarious. With Lenovo, it was possible to mitigate national security concerns in a way that could not be accomplished in the CNOOC case. In the Lenovo case, the company being purchased was relatively ‘low tech’ for a ‘high tech’ industry, it was losing money rapidly, IBM wanted to exit the business, and there was a viable government strategy for protecting the technology that was deemed to be at risk of espionage in other parts of the company. Control over resource access was not at stake, and it was possible to solve the national security concerns posed by the deal without having to block the deal as a whole. In other words, bounded intervention in the form of mitigation strategies are likely to occur when the circumstance of the deal make it a viable option for the government to pursue, without jeopardizing their security. For few states would want to employ unbounded intervention unless it was considered absolutely necessary, because though unbounded intervention won’t damage the relationship between two countries in the same way other balancing techniques might, bounded intervention is even less likely to create tension between states. This is because though it is done on the basis of national security, it is pursued in a manner that is unlikely to negatively affect valuable trading relationships, and is often seen as an amicable compromise to a difficult problem. It can also be a matter of timing, for after the US government’s perceived need to block both the CNOOC-Unocal deal, and the Hutchinson
Whampoa deal, there was likely an even greater desire to seek a compromise in this case, where compromise was possible, in order to ease fears of anti-FDI sentiment among Chinese and other foreign investors.

Conclusion

The purpose of this chapter has been to provide a deeper understanding of the nature of bounded intervention. First, the definition of bounded intervention was refined. A state can effect a policy of bounded intervention by engaging in restricted forms of intervention into foreign takeovers, by mitigating the parts of the deal it deems dangerous to its national security and strategic position. An examination of the foreign takeover review processes in the US, Russia, China, and the UK, established that different states will employ different tools and methods to alter a deal, and that the modifications made will naturally vary in accordance with concerns that the deal raises. This discussion also examined the possibility that bounded intervention may occur more frequently within security communities, where the review process through which such deals are mitigated is more highly institutionalized and regularized.

Second, the case studies confirmed that both economic nationalism and geopolitical competition concerns can play a significant role in increasing the likelihood of bounded intervention. Additionally, economic competition concerns and interest groups politics did not seem to have a great effect on behavior in either
case. This provides clear support for the primary hypotheses. Though the statistical results in Model I only showed nationalism to be significant when examining the entire population of cross-border cases, Models II and III demonstrated that the significance of geopolitical factors emerges alongside nationalism, when the cases are restricted to subsets of either security community, or non-security community cases. In the Alcatel-Lucent case, bounded intervention was demonstrated to have been motivated by both a heightened economic nationalism at that particular point in time in the US, and by geopolitical concerns that were exacerbated by the sensitive nature of Lucent’s work, which involved classified government contracts. This was a case that took place within the context of a security community, highlighting the fact that one should not discount the possibility of geopolitical competition among allies. In the Lenovo-IBM case, which took place outside of a security community context, bounded intervention was primarily motivated by geopolitical competition between the US and China and concerns arising from potential for the deal to be used as a springboard for espionage, and economic nationalism was a secondary motivation. It should also be noted that in both cases economic nationalism did prove significant, rather than just nationalism alone, demonstrating that the use of the latter as an indicator of the former in the statistical analysis is not off base.

Third, in both cases the type of intervention chosen by the government affected the outcome of the deal in question, supporting the secondary hypothesis. In both cases the decision to utilize bounded intervention for balancing purposes
resulted in a modified (or ‘changed deal’) outcome.

Fourth, both of the cases examined helped to clarify something that the statistical modeling could not: under what conditions will a state choose to employ bounded, instead of unbounded, intervention? For this study has clearly demonstrated that both forms of intervention are a more probable outcome than ‘no intervention,’ when geopolitical concerns and/or economic nationalism are present in high levels. Yet, bounded intervention is more common than unbounded intervention, with the former representing 29% of total cases, and the latter only 8%.\textsuperscript{334} So why do states choose one over the other? They do so because by allowing these foreign takeovers to be completed in modified form is even less likely to disrupt trade relationships or produce antagonism between the countries involved, than unbounded intervention. In other words, it best accomplishes the goal of non-military internal balancing: to balance power without necessarily disrupting the greater meta-relationship at stake between the two countries. Thus, if state A feels that restricted intervention can adequately address the problems presented by a foreign takeover, it may prefer to engage in bounded intervention, which is largely

\textsuperscript{334} It is important to note here that the number of bounded intervention cases may be larger than the estimate provided here. This is because the actual existence of most of these forms of mitigation in an individual case is meant to be confidential, and their content is classified. Thus, we will only know of the existence of these forms of mitigation if they have been made public through a press release made by one of the companies in question, or the news of their existence has been leaked to the press. This will obviously skew any statistical results away from the correlation that this study seeks to find between mitigation and the variables proposed above. This is, however, an acceptable reality, because it means that we can largely assume that any correlation found is in fact much stronger than the statistical results indicate.
seen as a more desirable outcome by economists (because the market is not completely disrupted) and tends to be viewed as a more creditable action by the international community (which tends view unbounded intervention as protectionism, no matter what its motivation). This was certainly true in the Alcatel-Lucent case, where it was viewed as possible for mitigation to satisfactorily address the geopolitical and security issues raised by the deal, because the critical technology concerned did not comprise all of Lucent’s business. Additionally, the French position as a formal ally made bounded intervention more desirable for the US.

These dynamics were also present in the Lenovo-IBM case, where it was possible to effectively mitigate the deal in a manner that assuaged the US government’s concerns, largely because giving the Chinese control over the PC company as a whole did not, in and of itself, pose a threat. This is in stark contrast to the CNOOC-Unocal case examined in Chapter 4, where the likelihood of unbounded intervention was heightened, because allowing the purchase of Unocal would have entailed giving the Chinese complete control over a resource that was the focus of state competition and contention, even if the deal had been altered to prevent the transfer of the dual-use technology. Thus, bounded intervention is more likely to occur when the circumstances of a given foreign takeover make a restricted intervention strategy a viable option for the preservation and/or maximization of security and power.
Chapter 6 – Non-Intervention and the ‘Internal’ Intervention Alternative

Introduction

There are 131 cases of non-intervention in the database. This means that for a majority (62.68%) of the population of cross-border cases examined in this study, there is no evidence of direct government interference through either bounded or unbounded intervention. Yet, in a small number of cases, the target state may have obviated the need for such behavior by engaging in internal intervention. In other words, the state actively fosters an alternative domestic merger/acquisition for the vulnerable company, in the hopes of precluding the completion (and in some cases the initiation) of the foreign takeover that it believes to be threatening to its power and/or survival (national security).

Fostering a better understanding of both of these forms of state behavior is important, as each one has a potentially significant impact on the validity of the theory proposed in Chapter 2. This chapter will, therefore, be organized as follows. Part I of this chapter looks at the dynamics behind non-intervention. This includes: 1) a discussion of the value of negative cases for hypothesis testing, 2) an examination of two key instances of non-intervention, 3) an analysis of the population of non-intervention cases, and 4) observations on the mitigating circumstances that may cause states to pursue this strategy over others. Part II of this chapter examines the phenomena of internal intervention. This section provides a
more detailed discussion of the nature of this behavior and its relationship to traditional understandings of ‘internal balancing’ in international relations theory, and concludes with a detailed case study.

**Part I: Non-Intervention**

*Non-Intervention, Negative Cases, and Hypothesis Testing*

Instances of non-intervention serve as ‘negative cases’ for the primary hypothesis. If the basis of this hypothesis is that a high presence of either economic nationalism or geopolitical concerns can explain the motivation behind unbounded and bounded government intervention into cross-border M&A, then one would expect the majority of non-intervention cases to be characterized by either a lack, or very low levels, of these factors. The cases that provide the best test of the hypothesis, however, will be those in which ‘the dog didn’t bark.’ In other words: those cases in which one would expect bounded or unbounded intervention (based on the presence of high levels of economic nationalism in the target state and geopolitical competition between the parties), but this did not occur.

Selecting negative cases for the purpose of hypothesis testing, however, is a particularly difficult task in international relations theory. Too often, scholars choose to ignore the proverbially quiet dog, rather than become mired in methodological difficulties. In order to obviate the potential quagmire, this author has chosen to utilize insights from two of the most highly respected approaches to this issue.
First, the next section briefly examines the two most ‘relevant’ non-intervention cases, chosen on the basis of insights from Mahoney & Goertz’s ‘Possibility Principle’ (See: Skocpol 1984; Mahoney & Goertz 2004). Fundamental to this approach, though, is the belief that negative cases should be selected on the basis that they exhibit similar values on the independent variables to the ‘positive cases,’ and that the positive outcome was, as a result, ‘possible’ in these cases (see: Mahoney & Goertz 2004, 653-4). Each of the cases examined below, therefore, could have resulted in a positive outcome (i.e. bounded or unbounded intervention) because of the presence of a high level of economic nationalism and/or geopolitical competition, but did not. The lack of the intervention intimated by the hypothesis thus requires explanation. It should be noted, however, that the approach taken by these scholars needed to be adapted slightly, due to the probabilistic nature of this study’s hypotheses, and its use of continuous independent variables. (Please refer to Appendix I for a full description of how this was done.)

The second section below employs an alternative approach that, rather than limiting cases on the basis of the ‘possibility’ of positive outcomes, supports the inclusion of all cases. This approach to negative case-selection contends that all cases (both negative and positive) within a well-defined population should be used for hypothesis testing. The fundamental point being “that if researchers define the population carefully and appropriately, each case in the population contributes to
causal inference and is therefore useful” (Seawright 2002).\textsuperscript{335} The author feels that this is especially true in this study, where there may be additional circumstances that affect a state’s choice not to intervene in a given case. While this may be beyond the bounds of the primary hypothesis, such conditions are important to understanding the overall theory of non-military internal balancing of this type, and such observations may also provide important insights for future research and testing. For though it is not feasible or desirable to include detailed case studies of all 131 cases of non-intervention, it is possible to study them qualitatively, and to make some general observations here about interesting trends that occur within that population.

\textit{‘Relevant’ Negative Cases}

This section aims to confirm the accuracy of the hypothesis against the hardest ‘negative’ case tests that could be raised against it. In each case, a non-intervention outcome results despite the apparent presence of the independent variables hypothesized to motivate intervention. Yet, the fundamental assumption of the hypothesis is that these factors cannot have a true effect unless the deal is seen to pose a real or perceived threat to national security. In the sectors examined in this study, the lack of such a real or perceived threat is actually quite rare when these two

\textsuperscript{335} It should be noted that Seawright focuses on hypotheses “testing necessary and/or sufficient causes” (Seawright 2002). It is true that this particular study is more probabilistic in nature, as necessitated by the quantitative logit-model testing of a multinomial, rather than a bivariate, outcome. Yet, the observations referenced above by Seawright are still of great value here. Seawright also concentrates on sampling techniques, but this is not necessary here as the population examined is already relatively small.
factors are present at extremely high levels, but it can happen – and in those rare instances one must turn to qualitative analysis to understand what appears to be a deviation from the hypothesis. Once that is done, it is quite clear that the primary hypothesis can be confirmed.

Case 8 – CGG / Veritas

The French geophysical services and software business Compagnie Générale de Géophysique (CGG) announced on September 5, 2006 that it had agreed to acquire the American seismic data services company Veritas DGC. The deal was completed on January 1, 2007 without ostensible US government intervention.

One might have initially expected intervention in this case, because it fulfills certain criteria of the primary hypothesis. On the surface, this case appears structurally identical to the Alcatel-Lucent case of the same year. It involves a French company acquiring a US company in a strategic sector. The US government was exposed to the same degree of economic nationalism domestically, and was dealing with the same level of geopolitical tensions with France. In fact, it was this similarity of environment, the presence of ‘motivating factors’ for intervention, which led CGG and Veritas to immediately and voluntarily file the acquisition for review with CFIUS.

Yet, in the Alcatel-Lucent case, there was an unprecedented level of bounded intervention on the part of the US government. In this case, there was no intervention
of which the public was made aware. How, then, can we explain the difference in government strategy in these cases, when the levels of economic nationalism and geopolitical competition are ostensibly the same?

The answer is simple, but can only be found through a qualitative examination of the case itself: despite the presence of these broad factors, there were no national security issues specifically attenuated to the takeover of this particular company. Indeed, CFIUS wrote a letter to Veritas on November 16, 2006 confirming that it “had concluded its [preliminary 30 day review], having found no national security issues sufficient to warrant further investigation” (Veritas 2006, 29). From Veritas’ filing with the US Security and Exchange Commission (SEC), it also seems safe to assume that neither company was asked to modify the conditions of the transaction by either CFIUS or the President (Veritas 2006, 298). CFIUS does not, of course, make the details of their deliberations public. So it is difficult to determine exactly why the takeover of Veritas did not raise any major flags, despite the fact that seismic data is important for the military, who, for example, use it to monitor compliance with bans on nuclear warhead tests, and important for oil exploration. When asked, however, one equity research analyst pointed out that it was “presumably” because “either nothing material in terms of state security contracts or use of their technical capacity by US forces” existed or remained within Veritas (Interview November 13, 2008). In other words, there was no proprietary technology
at risk in the transaction that would negatively affect US defense, and the purchase of Veritas did not threaten US control over any kind of finite resource.

It should also be noted that the control variables in this case did not affect the intervention outcome. First, though the US government did investigate the deal in accordance with the Hart-Scott-Rodino Antitrust Improvements Act, it did not find any competition concerns related to the takeover (Zephyr 2007e). Second, interest groups did not play a significant role in affecting the US government’s stance on this takeover. The shareholders and boards of directors of both companies did support the takeover, as required for successful completion on the basis that the economic rationale deal was sound, significant ‘complementarities’ were present, and new opportunities for growth would be created (Zephyr 2007e). In contrast, there were no major interest groups (shareholders, unions, political, or otherwise) that emerged in strenuous opposition to this merger. However, none of these facts seems to have swayed the US government’s decision to not intervene in this case.

Thus, though the broad independent factors of geopolitical competition and economic nationalism were present, there were no specific national security concerns raised by the deal, making government intervention unlikely, rather than likely. This is important to note because it helps to highlight that the primary hypothesis assumes that geopolitical competition and economic nationalism will only lead to intervention in foreign takeovers when there is either a genuine, or at least plausible, national security concern raised by the proposed takeover. As mentioned in Chapter 2, a
government requires the presence of such a concern that it can point to as the reason for that intervention. For it is that concern that makes geopolitical competition relevant, and economic nationalism acceptable, in motivating government response. Thus, the lack of intervention in this case confirms the primary hypothesis.

**Case 9 – JP Morgan / Troika Dialog**

Rumors circulated the markets and newswires on August 28, 2006 that the US investment bank JP Morgan was considering an acquisition of the Russian investment bank Troika Dialog. As Western banks were seeking to expand into Moscow’s markets, Troika’s position as one of the older non-state owned banks made it a fairly attractive takeover target. Troika’s suitors included not only JP Morgan, but also the US firm Citigroup, the Swiss investment bank Credit Suisse, and even the Russian government owned Vneshtorgbank (VTB) (See: Prince and Baer 2006; Busvine 2006).

The Russian government did not ostensibly intervene in this case, despite the presence of geopolitical competition between the US and Russia, and of economic nationalism within Russia in 2006. Indeed, at this time there was increasing geopolitical tension between the US and Russia over a series of issues ranging from US involvement in Iraq and Afghanistan, to the initial failure to agree upon the bilateral US-Russian protocol needed for Russia’s bid for accession to the WTO (see, e.g.: Aslund 2006; Rutenberg and Kramer 2006). Furthermore, there was also a
fairly high degree of anti-globalization sentiment in Russia in 2006 (see: IMD 2007b).

Once again, however, there was no direct national security concern related to this potential takeover, despite the fact that it was occurring in a sector that was generally considered to be strategic. Troika’s independence from the Russian government gave it the opportunity during that time to search for the economic option for its company’s future from a purely fiduciary outlook – to the point where it was able to eventually reject the state-owned VTB’s offer on the basis that the price was too low (see: Busvine 2006). In the banking and financial services sector, an independent company is unlikely to be seen as an issue of national security unless: 1) it is a national champion, 2) it is fundamental to the health and/or identity of the national economy or 3) times of severe economic crisis require the active retention of capital and banking resources within the domestic economy. As Troika did not meet any of these conditions in the generally optimistic investment and economic climate of 2006, it was unlikely that the Russian government would have intervened. Even economic national sentiment in Russia at this point was focused on national champions in the natural and basic resource sectors, and was unlikely to spill over to the financial services sector to protect a company that was not necessarily seen as a national champion, and thus not necessarily a matter of national concern.

Finally, neither interest group pressure, nor competition concerns seem to play a role in Russia’s decision not to intervene in this case. Neither factor emerged
as an issue in response to the rumored takeover. They were not even mentioned by reporters, analysts, members of government, or the companies, in their discussion of the potential deal.

Thus, once again, this case confirms the primary hypothesis because despite the general presence of the motivating factors of economic nationalism in the target state, and general geopolitical competition between the countries involved, government intervention did not occur because of the absence of a national security issue inherent to takeover in question. Furthermore, it should also be noted that this particular proposed foreign takeover never made it pass the ‘rumor’ stage. This is because the management of the company, which had a controlling interest in Troika, decided not to sell on the basis that it desired to stay an independent ‘Russian’ bank, and therefore protected itself temporarily from a potential takeover by affecting a large employee stock purchase (Syedain 2007). Thus, the company itself also voluntarily obviated the true issue. The intervention outcome might have been different if this had not happened, and if the Russian government had decided to identify Troika as a national champion that it was necessary to protect on national security grounds.

**Overview of the Negative Case Population**

The purpose of this section is to provide a more general analysis of the negative case population within the dataset.
Primary Hypothesis

As will be recalled, the quantitative testing of the dataset in Chapter 3 supported the primary hypothesis. The result of MNLM I, demonstrated that a state was less likely to intervene into a foreign takeover, in an unbounded or bounded manner, when geopolitical tensions and economic nationalism were low.

Indeed, the notion that low levels of geopolitical friction between states makes direct intervention less likely seems bourn out by an examination of the population of negative cases in the data set. MNLM I confirmed that state A was significantly less likely to use unbounded or bounded forms of intervention (i.e. – they were more likely not to intervene), when state B was a member of the same security community. Indeed, 79% of cases in which ‘no intervention’ occurred took place within the security community context and, of that 79%, 83% of cases resulted in a completed and unmitigated deal. (This is striking when compared to the fact that of the 65% of unbounded intervention cases occurring within the confines of a security community, 73% were successfully prevented from resulting in any deal at all.) For the 21% of non-security community cases of no-intervention, MNLM III showed that state A was significantly less likely to intervene if its military power was greater relative to that of state B.

Furthermore, it also seems clear that direct intervention is unlikely to occur when levels of economic nationalism are very low. MNLM I demonstrated that, across all cases, intervention was significantly less likely when pro-globalization
sentiment in state A was high. At the same time, MNLM II proved that the significance of this relationship, between low-levels of economic nationalism and non-intervention, was even stronger for deals that took place within a security community.

The phenomenon of ‘non-intervention’ may, however, have some additional dynamics, that will be useful for understanding the implications of non-military internal balancing, and which may provide opportunities for future research. It is important to note that these observations do not contradict the primary hypothesis proposed here, but may, rather, add to its explanatory power.

**Mitigating Circumstances Identified in the Population of Negative Cases**

It appears that in each of those cases in the dataset where geopolitical competition concerns and economic nationalism are exceptionally high (whether quantitatively or qualitatively examined), non-intervention usually is the result only when the exact deal in question can still not be perceived as posing an unacceptable problem for national security. However, there also seems to be six ‘mitigating circumstances’ that emerge from this population which appear to ameliorate issues/deals that could potentially be seen as national security concerns, *if* the state wanted to make an argument to that effect.
1. Bid from an Institutional Investor

A state may be more open to a foreign takeover, despite the presence of the hypothesized motivating factors, when the acquirer is an institutional investor. An institutional investor may be generally defined as “a bank, mutual fund, pension fund, or other corporate entity that trades securities in large volumes” (FINRA 2008). However, the true nature of the institutional investor is captured by the fact that it must be a “third-party professional” whose purpose is to act as a “fiduciary investment capital allocation organization” on behalf of a client (Interview November 28, 2008).336

---

336 The author has chosen to use a broad definition of the term, which gets at the essence of the idea, but which is more widely applicable across countries. This is because he term institutional investor is frequently used, but rarely defined by governments, which often have slightly different definitions. For example, in the United States, an institutional investor is essentially an accredited investor, defined by the Securities and Exchange Commission as:

“1. a bank, insurance company, registered investment company, business development company, or small business investment company; 2. an employee benefit plan, within the meaning of the Employee Retirement Income Security Act, if a bank, insurance company, or registered investment adviser makes the investment decisions, or if the plan has total assets in excess of $5 million; 3. a charitable organization, corporation, or partnership with assets exceeding $5 million; 4. a director, executive officer, or general partner of the company selling the securities; 5. a business in which all the equity owners are accredited investors; 6. a natural person who has individual net worth, or joint net worth with the person’s spouse, that exceeds $1 million at the time of the purchase; 7. a natural person with income exceeding $200,000 in each of the two most recent years or joint income with a spouse exceeding $300,000 for those years and a reasonable expectation of the same income level in the current year; or 8. a trust with assets in excess of $5 million, not formed to acquire the securities offered, whose purchases a sophisticated person makes” (SEC 2008).

In the United Kingdom, the equivalent is a market counterparty, defined by the Financial Services Authority as:

“(a) a properly constituted government (including a quasi-governmental body or a government agency) of any country or territory; (b) a central bank or other national monetary authority of any country or territory; (c) a supranational whose members are either countries or central banks or national monetary authorities; (d) a State
The data provides some interesting facts regarding this type of investor. Out of all of the 209 cases in the database, 49 involved potential acquirers that may be classed as institutional investors. The government of the target company in question chose not to intervene in 39 (or 80%) of these 49 cases. Only 10 cases resulted in some form of government action. Half of these remained at the level of low-bounded intervention. Of the remaining cases, 3 involved high-bounded, and only 2 led to unbounded, interventions on the part of the state. This means that only 10% of institutional investor bids resulted in these less routine, and more intense, forms of government intervention.

This tendency, towards non-intervention into foreign takeovers that are proposed by institutional investors, indicates that governments may perceive such actors as less threatening than other types of potential acquirers. This might be because institutional investors are usually considered to be pure ‘market actors’ with
a fiduciary responsibility to act impartially in the best interest of their clients, i.e. – to be motivated by financial, rather than political, gain.

Granted, some institutional investors may be more political than they seem at first glance. Indeed, sovereign wealth funds (SWFs), state banks, and other state investment funds qualify as institutional investors, despite their connection to the state. The rise of the power and quantity of sovereign wealth funds over the last decade has been, for example, frequently discussed as having a potentially political impact because, though many continue to be innocuous market actors, some are viewed as potentially having political motivations for their investment choices. For example, Matthew Addison, a hedge-fund analyst, has pointed out that “some” sovereign wealth funds very simply “have a more political mandate from inception (Russia, Libya, etc.) than others (Alaska, Norway, Singapore)” (Interview November 28, 2008). He argues that, based on “the criteria of i) sources and target recipients of funds, ii) mandate and oversight of capital allocation, and iii) forms investments,” one could “array a spectrum of public/funded institutions, … from the most like a profit-maximizing fund manager to least” (Interview November 28, 2008). This range would appear as follows:

“(1) pension/retirement trusts for public employees, taxpayer entitlements' trusts, etc.; (2) sovereign wealth funds; (3) regulatory trusts (e.g. the Pension Benefit Guaranty Corporation and the Federal Deposit Insurance Corporation); (4) the World Bank [and other] multi-lateral lenders (e.g. the Inter-American Development Bank and the European Investment Bank); (5) the International Monetary Fund; (6) Central Banks” (Interview November 28, 2008).
Banks that are state owned, controlled, and run, he argues, are much more difficult to categorize (Interview November 28, 2008).

Thus, while there is a clear connection between non-intervention and acquirers that are institutional investors, the highly varied nature of this type of investor suggests that further research into this correlation is required.

2. Desired Exit

A state may also be more open to a foreign takeover, despite the presence of the hypothesized motivating factors, when it involves the purchase of a company that has actively and willingly placed the ‘for sale’ sign in its window; i.e. – when the takeover resolves a company’s desire to voluntarily exit the marketplace. There are many reasons for a ‘desired exit’ of this nature: the company may no longer be viable, it may have difficulty competing in a particular sector, it may have been placed up for sale by a parent company who thinks its margins are too low, or by a parent company who needs to concentrate its resources elsewhere. Whatever makes the target company pursue such a strategy, it does seem to have a distinct and ameliorating effect on intervention.

Across the full database of 209 cases there are 27 cases that can be classified as a ‘desired exit.’ In 21 (or 78%) of those 27 cases, the target company’s government chose not to intervene in the takeover. Of the remaining six cases, there were zero instances of unbounded intervention, only one of high-bounded
intervention, and the remaining five cases involved only low-bounded intervention. Thus, there seems to be a very clear trend that ‘desired’ exits will only rarely lead to intervention, and when they do, that intervention will tend to be of the more moderate ‘low-bounded’ variety.

There is a fairly simple explanation for this behavior. If a company ‘desires an exit’ because it is no longer a viable concern, its parent company cannot afford to operate it, or no longer wishes to do so (for whatever reason), then the company will need to find either a domestic, or an international, buyer. If that company is vital to national security (say because it is the sole producer of an important piece of military equipment), then the state has two preferred options. 1) It can hope for a domestic company to step in and take over the target, or it can actively facilitate such a domestic merger through internal intervention, as discussed in second half of this chapter. (Remember that in this scenerio the state’s actions are classified as non-intervention because it has not intervened directly to stop or alter the proposed foreign takeover from a specific company.) 2) It can allow the target to be taken over by a foreign company, but modify the deal in its favor in an effort to protect its national security interest in the company. Obviously, this may not be the preferred option for some states, but it will likely be a much better alternative than the complete failure or disappearance of the company, the continued function of which it perceives to be vital to national security. Thus, in this case, the state would rather
have the company bought and continue to operate, than go out of existence all together.

For instance, the Chinese government did not intervene in 2006 when the US networking equipment manufacturer, 3com Corporation, took over the joint venture company it had originally established in China with the Chinese telecommunications equipment manufacturer Huawei. This is an extremely interesting example because when Huawei attempted to acquire 3com only a year later, CFIUS found significant national security concerns to be involved in the transaction, and the US government eventually sought to stop the proposed transaction through unbounded intervention. Yet, in this earlier case where the Chinese JV was the target, the Chinese government did not react as the American government later did. This was because, despite tension between the US and the Chinese, and China’s stated efforts to protect their ‘strategic’ telecommunications companies from takeover, Huawei (and China) had already gained the technology they originally sought through the joint venture, and wanted to leave the project, making its sale a desired outcome.

3. Fear of a Bidder from a Less Friendly Country

Another circumstance that might influence a government’s decision to either not intervene, or to do so at only the low-bounded level, is when the proposed foreign acquirer is seen as coming from a ‘friendlier’ country than that from which alternative possible bidders might originate. Again, this remains true even in the
presence of perceived national security issues heightened by the presence of geopolitical competition and economic nationalism. While such an occurrence is rarer, and more difficult to identify and code on a consistent basis than the previous mitigatory circumstances identified above, its effect on intervention outcomes is undeniably clear.

One need only look, for example, at cases like the Indian steel manufacturer Mittal Steel’s takeover of Arcelor. Arcelor was another steel manufacturer, based in Luxembourg, but really seen as a French company. Mittal’s bid for Arcelor was rejected out of hand twice in early 2006, primarily because of virulent resistance from European leaders that argued the takeover would be dangerous for the security of the region. Here there was a definitively strong presence of economic nationalism, as well as geopolitical competition concerns aroused by India’s rising status as an economic power. Yet, the tune of these leaders did a dramatic about face when the Russian company Severstal emerged as an alternate bidder. Thus, despite the initial unbounded intervention of the government of France, this deal was eventually allowed to proceed unaltered, rather than have Arcelor’s steel production come under Russian control. This is not surprising, given the fact that Russia already controlled a large proportion of this particular resource, and had only recently proved it willingness to use control over another resource (i.e. – natural gas) as a means to demonstrate its power over its neighbors.
4. National Security Concerns Previously Addressed

Governments are also highly unlikely to engage in high-bounded or unbounded intervention when the national security concerns inherent to a particular target company’s takeover have already been addressed in some way. For example, this may mean that the foreign acquirer has already signed a stringent national security agreement (or the equivalent thereof) with the target state, or that the companies may have already agreed amongst themselves to divest or ‘black-box’ the division of the company that is identified as related to national security.

This particular mitigating circumstance may not have as great an effect in those target countries where economic nationalism is present in extremely high levels, as the government of the state may not wish to recognize the fact that a national security concern has already been addressed, but rather may wish to raise it for more political reasons. Yet, in those states where geopolitical competition is the main motivating factor of intervention, there is less likely to be unbounded or high-bounded intervention when the national security issues have already been dealt with in some way.

In other words, if the companies have arranged to ‘take care’ of the national security related aspects of the deal before the formal bid is made (or as part of the merger agreement), and has done so to the satisfaction of the target state, intervention is unlikely. This is often true even in the face of moderately high levels of economic nationalism or geopolitical tension.

368
Alternatively, if the companies have not made such arrangements, but the acquirer has a proven track record of acquisitions in the target country in strategic sectors, and has previously signed a national security agreement\textsuperscript{337} or similar contract with the target state that obligates it to adhere to certain security precautions and laws, and which can be adapted to the current takeover, then low-bounded intervention will ensure that this adaptation is made. In such a case, though the general geopolitical relationship between the states involved may be good, the deal is still identified as having implications for national security and power that must be dealt with. As discussed in Chapter 5, this was case when BAE Systems took over United Defense Industries in the US. BAE Systems had a subsidiary, BAE Systems North America, which could be used for the takeover, and which already had a series of stringent national security agreements with the US government, and a track record of honoring them. Thus, though the deal involved the takeover of a premier US defense company with multiple government contracts, the US only need to engage in low-bounded intervention to update these agreements. It stands to logic, however, that if the previous agreements signed by the acquirer can be perceived to cover the new proposed takeover, then no intervention will be considered necessary at all.

\textsuperscript{337} In non-American cases, national security agreements may be given another name, but they are essentially a contractual document that obligates the acquirer to agree to certain security precautions and laws as desired by the target state.
5. Deal Strengthens Industrial Base/Natl. Security

Another mitigating circumstance that will increase the chance of non-intervention or low-bounded intervention is if the deal is actually considered to be advantageous to national security, or is perceived to strengthen national security and/or the defense industrial base in some way (see, e.g.: Grundman and Roncka May 2006; Moran 1993). For example, Grundman and Roncka argue that there are twenty possible variables that might affect a company’s chance for survival of the US government review process of foreign takeovers, and seven of these variables are related to whether or not the deal can be seen as contributing to the health of the defense industrial sector (Grundman and Roncka May 2006, 8).338 A deal might, for example, increase the competition among companies in the production of a good considered vital to national security (e.g. – semiconductors). Alternatively, it could provide the state in question with access to a resource that it desperately needs (e.g. – uranium, natural gas).

Such considerations will, likely, be more common when the potential acquirer is a close ally. For it is unlikely that a bid originating from an ‘unfriendly’ country would be perceived as contributing positively to the target state’s defense sector. Furthermore, there may already be some degree of integration of the defense industrial base among close allies, and this may be viewed as preferable on the basis

---

338 Please refer to Chapter 2, pp. 38-39 for a more detailed description of these variables. It should also be noted here that Theodore Moran, from the public policy perspective, has argued that CFIUS should employ a test for the ability of a deal to contribute to the health of the defense industrial base far beyond that which already apparently exists (See: Moran 1993).

370
that it widens the scope of competition, and thus enhances the opportunities for the
development of new technologies while offering the possibility of lowering the price
of such advances.

It is important to note, however, alliance relationships are unlikely to matter if
the deal is still considered to have significant national security concerns or a highly
negative impact on the defense industry. This in part explains, for example, why the
US was willing to allow the takeover of United Defense Technologies by BAE
systems, but would never allow the same company to take over L-3 Communications.
For UDT arguably needed to be revitalized, but not only does L-3 have highly
sensitive government contracts integral to national security, there is also no glaring or
apparent benefit that its sale would contribute to the health of the defense
communications and technology sector.

6. **State pursues the internal intervention option**

Finally, there is one very particular instance in which economic nationalism
and/or geopolitical competition concerns may be present, along with a very
particularly national security concern, but the state does not ‘intervene’ in the deal
itself. This is when the state decides instead to pursue a course of ‘internal
intervention,’ in order to counter the threat posed by the deal. (It should also be
noted here that if a deal (Z) supports state A’s efforts toward internal intervention in
another case (Y), then state A will obviously not intervene in deal Z). The dynamics
behind the strategy of internal intervention are fully explained below in Part 2 of this chapter.

**Secondary Hypothesis**

The secondary hypothesis posits that the type of intervention chosen by the government of state A will affect deal outcome. If this is true, we would expect to find that, barring unforeseen circumstances, deals would go through unaltered if government intervention did not occur.

Once again, the numbers seem to support this hypothesis (see Table 23 below). Of the 131 cases of no intervention in the database, 102 deals (or 77.86%) were completed, all with ostensibly no changes or modifications.

**Table 23. – Non-Intervention and the Secondary Hypothesis**

<table>
<thead>
<tr>
<th>Intervention Type</th>
<th>Deal Outcome</th>
<th>Number of Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Intervention</td>
<td>Deal</td>
<td>102</td>
</tr>
<tr>
<td></td>
<td>Changed Deal</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>No Deal</td>
<td>29</td>
</tr>
</tbody>
</table>

Only 29 (or 22.14%) of the cases of no intervention did not result in a deal. There are some unforeseen factors that account for this. First, one of the companies

---

339 It should be noted that there is little utility in using the Mahoney and Goertz’s Possibility Principle to test the secondary hypothesis, as there is only one independent variable, and the correlation between it and the dependent variable is very strong. Instead, an examination of the population as a whole is both more useful and enlightening.
involved may have had a change of heart and were forced to pull out, either for financial reasons or because of intractable shareholder opposition. Second, the government of state A might have made it clear to the parties that they would have intervened in the deal if it were to have gone any further, without allowing that information to become public. Finally, state A might have not had to intervene in the deal itself in order to create an effective barrier to its completion. Instead, the state may have obviated the issue by choosing what we have termed the ‘internal intervention’ option.

Table 24. – Non-Intervention Cases: Outcome Breakdown by Sector

<table>
<thead>
<tr>
<th>Sector</th>
<th>Industries</th>
<th>Completed Deals (Total = 102)</th>
<th>Failed Deals (Total = 29)</th>
<th>All Non-Intervention Deals (Total = 131)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oil &amp; Gas</td>
<td>Oil &amp; Gas Producers</td>
<td>24</td>
<td>5</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td>Oil Equipment, Services &amp; Distribution</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic Resources</td>
<td>Aluminum</td>
<td>9</td>
<td>2</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>Steel</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Industrials</td>
<td>Aerospace</td>
<td>7</td>
<td>4</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>Defense</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Marine Transportation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telecommunications</td>
<td>Fixed Line Telecommunications</td>
<td>18</td>
<td>2</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>Mobile Telecommunications</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Satellite Telecommunications</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utilities</td>
<td>Electricity</td>
<td>15</td>
<td>6</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>Gas Distribution</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Multi-utilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Water</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financials</td>
<td>Investment Services (Stock Exchanges)</td>
<td>18</td>
<td>5</td>
<td>23</td>
</tr>
<tr>
<td>Technology</td>
<td>Software</td>
<td>11</td>
<td>5</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>Computer Hardware</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Semiconductors</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Telecommunications Equipment</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Part II: Internal Intervention

There are times when market analysts become aware that a company is susceptible to a potential takeover long before any potential ‘suitors’ emerge. In such circumstances the company in question, and the state in which it is domiciled (state A), may have a fairly long window of opportunity in which to assess its options, and to determine who might seek to buy the vulnerable target. If the company is viewed as a strategic asset, or a national champion, the government of state A may decide to monitor the situation closely.

If a foreign bidder then emerges for the vulnerable target, or it is believed one will do so in the near future, the government of state A has three options (see Figure 6 below). (1) If the foreign bidder is not perceived as threatening, for one of the reasons discussed above, the government may decide not to intervene. (2) If it is believed that the potential foreign acquirer, and the deal that they propose, poses a potential threat to national security, state A may choose to intervene directly into the proposed foreign takeover through a strategy of either ‘unbounded’ or ‘bounded’ intervention, once the deal has solidified. These first two choices were analyzed in the primary and secondary hypotheses proposed in this work. (3) Alternatively, when faced with such a threat, state A may choose to engage in a strategy of ‘internal intervention.’ As will be shown below, this strategy does not involve direct intervention into an unwelcome proposed takeover, but instead utilizes more indirect tools to accomplish a similar goal. It is, therefore, a strategy that can be used before a formal bid is made by the
potential foreign acquirer and even before a rumored suitor has been verified, in order to preempt the need for ‘direct’ intervention, while still obviating the outcome the state believes to be undesirable. Internal intervention may also occur later in the bidding process, or even in tandem with the forms of ‘direct’ intervention analyzed earlier. As a result, it provides the state with a greater degree of latitude and strategic flexibility.

Figure 6. – Non-Military Internal Balancing: M&A Intervention Options

As defined here, internal intervention can take one of three forms. First, it can mean that the government proactively seeks, encourages, and then supports a domestic company to act as an alternative bidder for the vulnerable target. Such a company would then act as a ‘White Knight;’ a welcomed and friendly bidder that
would fend off a hostile (and in this case foreign) bid by either acquiring, or merging, with the target. The case study below examines this form of intervention, as it is the most interesting and useful for our discussion of this particular form of non-military internal balancing. (As will be discussed in that case study, a French government sponsored ‘white knight’ (Gaz de France), stepped in to merge with the French power company (Suez), which was feared to be susceptible to an unwanted foreign takeover.)

Second, the government might aggressively encourage domestic investors and/or companies to purchase a large stake in the target in order to promote a high level of cross-shareholding. Such a strategy can help a vulnerable entity to defend itself from a takeover later, assuming that those new domestic shareholders will vote against the unwanted potential foreign takeover bid. The German government, for example, has been consistently active in promoting cross-shareholding between Porsche and VW (one of its ‘nationals champions’) in order to prevent VW from being acquired by a foreign company. Indeed, the promotion of cross shareholding to protect strategic sectors is popular in a number of European and Asian countries, such as France, Italy, Spain, and Japan.

Third, state A might promote or support a merger (that it would normally block on competition grounds) of two weaker domestic companies in order to create a national champion. Such a national champion would not only be less susceptible to a foreign takeover, but would also, arguably, provide other economic benefits.
Russia’s government, for example, is believed to have played a strong hand in the consolidation of the Russian aluminum companies Rusal and Sual in order to prevent these companies from becoming liable to a future foreign takeover. After the Rusal/Sual tie-up, it then supported a further merger with Glencore (of Switzerland) in order to create “the world’s biggest aluminum producer” (Pavliva 2007), but only on the understanding that the majority of the new company would remain in Russian hands. Oleg Deripaska, the owner of the newly merged entity United Company Rusal, has openly said that he is even prepared to “‘give up’ the company to the state if the Russian government asked for it,” because he “[does not] separate [him]self from the state” and “ha[s] no other interests” (Pavliva 2007). Such statements clearly indicate that the company remains under the definitive influence and control of the Russian government.

*Internal Intervention as a Tool of Non-Military Internal Balancing*

Internal intervention is, therefore, one potential means of non-military internal balancing. It allows the state to protect those sectors it deems vital to national security from foreign ownership and control, when such an outcome would be potentially detrimental to its relative power position and rank, or to its future survival. For example, internal intervention offers one possible way to obviate a potential foreign takeover that would place a highly sensitive industry, or vital and scarce resource, in the hands of a known political/military competitor and/or rising
power. Ally and foe alike, therefore, might be targeted by such a form of intervention, as both have the potential to change or challenge a state’s relative power position in a world where economic, political, and military power are inextricably linked – though challenges to state survival are obviously most likely to come from previously identified foes.

Like any other tool of non-military internal balancing, internal intervention is a strategy that allows the state to maintain (or maximize) the economic and military power necessary for state survival, and is a response to a specific threat (real and/or perceived) to relative power. It too (like the types of intervention discussed in the previous chapters) qualifies as form of ‘internal’ balancing, because it is a “move to increase economic capability” (Waltz 1979, 118) as part of the wider effort to preserve and/or maximize power in response to a challenge to that power. It is non-military in nature, because this balancing tool is also chosen for its ability to generally maintain the greater meta-relationship at stake between the states involved, as it is unlikely to ever lead to a truly negative or irreversible disruption in such a relationship.

On first appearance, this most direct internal form of intervention might look most similar to the ‘economic component’ of ‘traditional’ internal balancing as defined by Brawley (see: Brawley in Paul, et al. 2004). Yet, while it can be a tool connected to a direct “increase [in] military strength” (Waltz 1979, 118) or an “arms race” (Brawley in Paul, et al. 2004, 85), it may also simply be part of a more general
strategy that seeks to counter threat to other areas of economic power vital to a state’s power, position, and long-term survival. Furthermore, the temporal frame and cadence of the internal intervention strategy may also be very different from more conventional forms of internal balancing. In other words, while internal balancing has traditionally been understood to be a response to an ‘immediate,’ or near term, threat to power, the type of intervention discussed here may be part of a strategy to balance a challenge to power that may not threaten survival for many decades to come.\(^{340}\)

At this point, it is important to understand that the author is not arguing that the dynamics behind ‘internal intervention’ can be fully explained by the primary and secondary hypotheses posited earlier. For while the factors motivating the desire to intervene internally may be similar to those hypothesized to influence the direct forms (unbounded and bounded) of government intervention in most cases, there may be additional factors governing this particular type of state behavior under certain circumstances. It certainly must be stressed here that internal intervention is an alternative to direct intervention into a cross-border acquisition, and its indirect nature may make it subject to other domestic political factors.

Furthermore, while all governments retain the right to engage in direct intervention (bounded or unbounded) against a takeover it deems threatening to its

\(^{340}\) See Brawley on the distinction between the temporality of “balancing now,” or “balancing later” and its implications for the “economic component” of internal balancing (Brawley in Paul, et al. 2004, 85-88).
national security, not all governments are necessarily willing to engage in internal intervention as it is viewed by some states as aggressively anti-free-market behavior. However, other nations such as Russia, France, Italy, Germany, and Spain, have been more open in their willingness to help vulnerable national champions to find domestic ‘saviors.’ In other words, economic nationalism may play a larger role in this type of intervention.

Either way, the case study below is meant only to explore the possibility that internal intervention might be motivated by the same factors of economic nationalism and geopolitical competition, which have been found to have such a great affect on bounded and unbounded intervention. For it should be recalled that the primary hypothesis tested in the previous chapters is meant only to cover direct intervention into a foreign takeover. The purpose of the section below, therefore, is simply to provide insights on the basis of the primary hypothesis, which should help us to better understand the relationship between internal intervention, and other forms of non-military internal balancing. Hopefully, it will also contribute to the formation of a more complete hypothesis governing such indirect forms of intervention in the future.

**Case 10 – Gaz de France / Suez**

The merger of the French energy companies Suez S.A. and Gaz de France (GdF) is one of the most striking examples of internal intervention over the last
decade. Initiated as an effort by the French government to protect Suez from a hostile takeover by the Italian energy company Enel, the deal took over two years to complete, and pitted the French and Belgian governments against that of Italy. It stands as a testament to the lengths that a government will go to in order to fend off a foreign takeover that it perceives as threatening, even before such a takeover is formally attempted. It also clearly demonstrates how state power can be employed, and balanced, though the market. An overview of this case is provided below, as well as an examination of its connection to the factors examined in the primary hypothesis, and a discussion of how it exemplifies balancing through internal intervention.

The Story

The saga began in the middle of February 2006, when it became clear that Enel was likely to place a bid for Suez in the near future. At this point, the CEO of Enel, Fulvio Conti, confirmed that his company might be interested in a hostile takeover of Suez, in order to gain control of the “electricity assets” held by its Belgian subsidiary Electrabel (Freeman 2006; Thornton 2006b). The company then released a statement on February 25th, indicating that it was considering different options for “expanding abroad,” and specifying France as one of the countries in which it was “examining … opportunities” (Enel 2006).
The reaction of the French and Belgian governments was immediate and forceful. On the very same day as Enel’s press-release, the French government took two major and definitive steps. Its first step was to take preventative action by actively fostering a domestic merger between Suez and Gaz de France, which was still a French state-controlled entity. GdF was France’s leading natural gas supplier at that time, and the combination would create a ‘national champion’ whose size and ownership structure would be significantly strengthened against a foreign takeover (See, e.g.: Dempsey 2007; Ng 2006). Concern over Suez’s vulnerable position had already led Theirry Breton, the French Minister for Economy, Finance, and Industry, to ask that the companies “draft a merger plan in September 2005” (Robin 2006). Then, “less than one hour after Enel[‘s announcement]” on February 25th, “the top management of Gaz de France and Suez met together with the French [Prime Minister] and approved a friendly merger between the two groups,” that would have the explicit “support of the French and Belgian governments” (Freeman 2006; Roden 2006). The timing and speed of this official announcement sent a clear signal to any potential foreign bidders for Suez that the French government preferred a domestic partner for the company. This message was definitely received by Enel’s CEO, who rightly called the action “a pre-emptive maneuver to shield the country's utilities from foreign takeovers” in general (Freeman 2006).

Secondly, the French government made it clear, through public statements and personal communication to the Italian government, that it would not allow Suez
to be taken over by Enel specifically. The then Prime Minister of France, Dominique de Villepin, immediately called his “Italian counterpart Silvio Berlusconi to express his opposition to any Suez takeover” (Freeman, 2006). Indeed, Villepin’s opposition was vehement. He was widely reported to have “said that a hostile bid from Enel would be considered as an attack on France” (Roden 2006). Such language is more than mere French rhetorical style, for it clearly shows that the French government considered the speculated bid as a potentially serious threat to French economic and political power.

The Italian reaction to this position was equally pronounced. Berlusconi, for his part, initially requested that “the French government to be impartial in the face of Enel's takeover bid” (IHT 2006b). When it was apparent, however, that that was not going to happen, the Italian’s frustration became more pronounced. The Italian government cancelled a meeting between its “Industry Minister Claudio Scajola … [and] his French counterpart Francois Loos to discuss energy and competition” (Freeman 2006). Scajola declared publicly that “the political and economic destiny of the European Union will be compromised if neo-protectionism prevails” (Freeman 2006). For the Italian Minister not surprisingly viewed the French move as one of pure protectionism, despite the fact that there were obvious strategic implications for France of such a takeover (examined in detail below). Scajola’s position, however, was followed by some rather unfortunate rhetoric referencing the First World War, which did not strengthen the Italian position in French eyes. For Italy’s Economic
Minister Giulio Trementi on the same day stated: “We still have time to stop European Union states from building national barriers. If not, we risk the impact of August 1914” (IHT 2006b). The (perhaps unintended) bellicosity of this statement only seemed to make the French more wary. The Italians also registered a formal complaint with the European Commission over the proposed combination of GdF and Suez, in an effort to have it stopped.

In the end, however, the French achieved the creation of a new national champion (now called GdF Suez) and the Italians were forced to back down. As will be discussed in greater detail below, a foreign takeover of Suez was unacceptable to France for reasons of both economic nationalism and geopolitics. Yet, as will also be examined in greater detail below, the threat was diffuse and not necessarily specific to Italy. An act of internal balancing through intervention was thus required, because it would strengthen the French position against this type of threat from any external actor. At the same time, the overall relationship with Italy was not truly damaged. Despite the Italian government’s official rhetoric and frustration, it was unlikely that such a disagreement could permanently damage an otherwise healthy diplomatic relationship, and they were eventually mollified both politically and economically.

**Setting the stage: Geopolitics and Economic Nationalism**

Both geopolitical considerations and economic nationalism played a strong role in motivating the French government’s decision to intervene in this case. The
below will review the position of the companies within framework of France’s strong economic nationalism. It will also be shown that the country’s reaction had strong geopolitical underpinnings.

As one of the world’s top diversified utilities companies, Suez provided a large proportion of the electricity, natural gas, water, and waste management services in France. This provision of vital resource and energy services made Suez of special interest to the French government at a time when many European countries were seeking to consolidate their control over the provision of domestic utilities.\footnote{It should be noted that at the end of 2008, this process of consolidation and desire to create national utilities champions remains ongoing within mainland Europe, and is in constant tension with the European Commissions efforts to make the European energy market more competitive.} Competition in the recently liberalized European utilities market was (and still is) fairly low, and the European Commissioner for Competition Policy, Neelie Kroes, has made it a ‘top priority’ to change that situation since she acceded to her post in 2004 (See e.g.: Kroes 2008). Her push for legislation within the European Parliament would introduce significant structural reforms to Europe’s energy markets, and has led to a race among European companies (and the government’s which often control them) to consolidate control and resources before the proverbial ‘doors’ are opened to further competition and new market entrants (Scott 2008; Interview December 6, 2006).

At the same time, the French and Italian governments had recently been made highly aware of the dangers of natural gas dependence. Just under two months before
the proposed hostile takeover of Suez by Enel, Russia had flexed its geopolitical muscle through its control over natural gas resources. On January 1st, 2006, the Russian state-controlled oil company Gazprom cut off natural gas supplies to the Ukraine for almost four days following an alleged dispute over a rise in prices. The Ukraine was believed to have fought back by siphoning gas from that headed to Europe (BBC 2006). Whether it was truly ‘siphoning’ or other technical difficulties, the cut-off did have a deep impact on Europe, which saw a significant reduction in its natural gas supplies. Indeed, the French supply of Russian gas fell by 25-30%, and Italy by 24% (BBC 2006) – the true impact of which is understood when one recognizes that between 2006 and 2007, Russian natural gas exports accounted for 20% of French, and 25% of Italian, domestic consumption (EIA 2008b). The event seemed to impact deeply on both countries’ desire to gain access to alternative supplies of natural gas, as well as a desire to bolster their own domestic natural gas companies.

Indeed, the specter of Russian control over natural gas not only helps to explain Enel’s initial search for foreign expansion opportunities such as a Suez takeover, but also continued to be a motivating factor for France’s internal intervention throughout the duration of this case. For by December 2006 Russia threatened to take similar action against Belarus, which in turn threatened to siphon exports of Russian gas destined for Europe in retaliation (Osborn 2006). The dispute between Russia and the Ukraine over natural gas also revived in October 2007, and
Russia again cut off supplies to the Ukraine in January 2009. Once more, this caused (whether intentionally or not) a noticeable disruption in supply to continental Europe – demonstrating European concerns about Russia’s control over the resource to be well founded.

The French government, and the companies themselves, clearly saw the potential loss of strength in the natural gas sector as a source of geopolitical concern. The GdF-Suez merger prospectus clearly stated that the tie-up was largely motivated by the “greater geostrategic challenges associated with the security of European energy sources” (GdF Suez 2008). The primary problem being that:

“The European Union is currently dependant on imports for 55% of its natural gas needs. By 2020, it is estimated that imports will account for 85% of European Natural Gas requirements. Norway and two countries outside of Europe (Russia and Algeria) account for a significant share of current supplies and the future resources that will supplement those supplies are relatively concentrated in a few distant countries (particularly the Persian Gulf)” (GdF Suez 2008).

The Belgian government, whose country relied heavily on both Suez and GdF for both their natural gas and electricity supplies, shared this concern. Suez’s subsidiary Electrabel generated 92% of the electricity, and provided 70% of the natural gas, in Belgium (Roden 2006). At the same time GdF, through its subsidiaries Segeo, owned one of the larger gas pipelines in Belgium. Thus, it was not particularly surprising that the Belgian state supported the proposed merger of GdF and Suez. They had no national champion of their own to support, but the proven relationship with the French companies was highly satisfactory in relation to the unknown quantity of the Italian Enel.
This geopolitical competition over resources and economic power combined with high levels of economic nationalism in France to spur the vigorous response of the French government as a whole. The Pepsi-Danone Case the Alcatel-Lucent cases demonstrate that economic nationalism was high during this period. Indeed, France has never been shy about its desire to protect its markets or its national champions through the stated policy of ‘patriotism économique.’ In this particular case, the European Commission in this case specifically decried the use of “nationalist rhetoric” on the part of both the French and Italian governments (Times 2006). This case also came at a time when the French government had only recently announced its plan (in 2005) to protect the 11 sectors it deemed to be ‘strategic,’ which included the energy sector. Furthermore, French Prime Minister Villepin and Economic Minister Breton were consistently open about their desire to create a national champion through the merger of GdF and Suez that would have European reach.

The French government also ensured that the new ‘national champion’ would remain under state control by taking a ‘golden share’ in the newly formulated entity. A ‘golden share’ is a special issue of stock that gives a government certain final veto powers over decisions made about the company in question. The Merger Prospectus of GdF Suez makes it clear that: “the purpose of this golden share is to preserve the essential interests of France in the energy sector to ensure continuity or security of
energy supplies” (GdF Suez 2008). The Prospectus also made it clear that natural gas supplies were the primary energy concern of the French Government in this case.\footnote{The prospectus states that “the assets concerned by the French state’s veto rights conferred by the golden share include: natural gas transmission and distribution pipelines in France; assets related to natural gas distribution in France; underground natural gas storage facilities in France; liquefied natural gas facilities in France” (GdF Suez 2008).}

It is also important to note that the geopolitical threat was more diffuse in this case, than it was in the cases examined in previous chapters. There was likely some level of concern that Italy’s natural gas sector would soon fall under greater Russian control, and therefore increase the dependence of Europe on its supplies. This concern emanated from Russia’s stated desire at that time to gain greater market share in Italy’s gas distribution network. In general, however, it was not specific geopolitical tension with Italy, or a specific difference in the relative economic or political positions of France and Italy that seemed to have aroused French concern. Rather, it was the general concerns over France’s economic position, and control over resources before further deregulation by the European Commission, that was primarily at issue.

**Alternative Explanatory Factors: Interest Group Presence and Competition Concerns**

In the final analysis, neither interest groups nor competition concerns proved to be a significant factor in motivating French intervention in this case.
First, the French Unions did not significantly affect the outcome of government intervention in this case, because even though their opposition to the combination of GdF and Suez held up the completion of the merger, it never completely threatened to derail it. The French Unions were vociferously against the combination of GdF and Suez, because it would mean the privatization of Gaz de France and, thus, the loss of a number of employee protections and privileges (see, e.g.: ICEM 2006; IHT 2008). GdF’s unions thus initiated a brief strike against the proposed combination in June 2006 (Kanter 2006). They were also able to cause delays by requesting, through a court-stay, more time to review the deal before providing their official opinion on it (IHT 2008). The outcome, however, was never placed in jeopardy by this action. This was because the ‘official opinion’ required by the union under French law was only a legal formality for completion; the eventual negative opinion given by the Unions did not (and was not expected to) stop the merger (IHT 2008; Roden 2008). While the French Unions were not in favor of a GdF-Suez merger, however, they would likely have taken similar action against any action that would have privatized GdF. Their opposition was not enough to affect the French government’s decision.

Second, the powerful interest groups of the various powerful shareholders in both companies that could have tried to block the deal did not do so, largely because they agreed with the French government on the threat posed by an Enel takeover. In the end, the boards and shareholders of both companies approved the merger in 2008.
The major shareholders of Suez at the time were reported to be very close to the French government (Roden 2006). Market analysts believed that when Suez shareholders voted to enact a ‘poison pill’ against a potential Enel takeover in May of 2006, their actions were ‘politically motivated’ because of this proximity to the government (Roden 2006). Even the shareholders of GdF (beyond the French state itself, which owned a majority of GdF stock), who were not threatened by a hostile foreign takeover, voted in favor of the deal. Perhaps it is most telling that they did so despite the fact that many equity research analysts believed that the terms of the deal were unfavorable for GdF (Roden 2006). Thus shareholders were largely in favor of the merger, and it seemed that this was a political response to the threat identified by the French government in a hostile Enel takeover of Suez.

Finally, though the European Commission was initially concerned by the potential effect of the deal on competition, these problems were eventually easily resolved by two small asset disposals. The European Commission decided to investigate the proposed merger of GdF and Suez to ensure that the competition was not detrimental to energy competition in Europe. (This investigation was not conducted in response to Italy’s objections that the deal was ‘protectionist.’) In the end, the Commission ‘found that the deal would have anticompetitive effects in the gas and electricity wholesale and retail markets in Belgium and in the gas markets in

---

343 The European Commission made it clear early on in the process that “it would [intervene] only if the planned merger between Gaz de France and Suez broke competition rules” (Times 2006).
France” (European Commission 2006). It determined however, that these effects could be sufficiently assuaged by “structural remedies:” primarily “the divestiture of Distrigaz and SPE and Suez relinquishing its control of [the] Belgian network operator Fluxys” (European Commission 2006). These disposals were effected before the deal was completed in 2008, with Distrigaz being sold to the Italian energy company Eni – which may have provided some mollification for the Italian government. Furthermore, though the European Commission has generally sought to reduce the level of ‘golden share’ ownership within member states (on the basis that they are anti-competitive in nature), the Commission did not object to the inclusion of a golden-share for the French government in this particular case. In fact, the European Commissioner for the Internal Market and Services (Charlie McCreevy) wrote a letter to Minister Breton in September 2006, which “made clear that the decree establishing the golden share did not contain any ‘contentious’ elements that would merit legal action” on the part of Brussels (Buck et al. 2006). McCreevy reportedly attributed this to the fact that “France … managed to draft a decree that meets the Union’s strict criteria for such special rights” (Buck et al. 2006).

**Conclusions on GdF / Suez**

High levels of economic nationalism and geopolitical competition in this case combined to make a foreign takeover of Suez identifiable with a threat to French power and security, and thus made intervention of some kind extremely likely. As
threat was more diffuse in this case, an act of internal balancing through internal intervention was required, because it would strengthen the French position against this type of threat not only from Italy, but also from any future external actor.

This act of internal intervention also appears consistent in cause, purpose, and effect with more traditional notions of internal balancing. The cause was an identified threat to security and power, here in the form of a foreign takeover of Suez. The purpose and effect was to counter that threat through internal economic and political measures, which would enhance the future French power position in this area. In this case, that was achieved by the support of a domestic merger that created a national champion (GdF Suez) that the French government could control (through a golden share), and which increased the French position in the natural gas sector. This, thus, enhanced not only its national capabilities, but also its economic power.

At the same time, the goal of non-military internal balancing to maintain the greater meta-relationship between the two countries was also achieved. For, though Enel and the Italian government were forced to back down from their position, the overall relationship with Italy was not truly damaged. Despite the Italian government’s official rhetoric and frustration, it was unlikely that such a disagreement could permanently damage an otherwise healthy diplomatic relationship, and they were eventually mollified both politically and economically.\textsuperscript{344}

\textsuperscript{344} Indeed, their formal alliance within the European Union made it difficult to make too much of the issue. The French deal also eventually ensured that the Italians got access to the Belgian market,
**Conclusion**

Part I of this chapter demonstrated that the primary and secondary hypotheses concerning the motivations behind direct intervention into foreign takeovers still hold once the population of non-intervention, or ‘negative,’ cases have been examined.

This was achieved by testing the hypotheses against the ‘hardest’ negative case. In other words, against a case where the outcome was non-intervention, despite the presence of the high levels of economic nationalism and/or geopolitical competition hypothesized to motivate intervention. Two such cases were examined, CGG / Veritas and JP Morgan / Troika Dialog, and it was demonstrated that in each case, a fundamental assumption of the hypothesis was missing: there was no real or perceived threat to national security, despite the fact that each case took place within what are normally considered to be strategic sectors. Though the lack of such a real or perceived threat is rare in such sectors, it does occur, and when that happens non-intervention will tend result no matter the presence of economic nationalism or geopolitical competition. This is because in a generally liberal international economy, it is difficult to make a case for intervention without at least a plausible national security reason for doing so, and states are unlikely to pursue such a course of internal balancing, unless it believes it to be necessary.

through a side deal, which had initially prompted the idea of an Enel-Suez takeover. More importantly, however, the Italian government needed France’s political alliance/clout in the EU to get some economic reforms they needed approved (Roden 2007).
The first half of the chapter also posited that, in addition to the primary and secondary hypotheses, there might be six potentially mitigating circumstances that make non-intervention, or at least low-bounded intervention, a more likely outcome. These are when: (1) the proposed acquirer is an institutional investor; (2) the target is pursuing a desired exit from the marketplace; (3) state A fears a less friendly bidder will otherwise emerge; (4) the national security concerns inherent in the deal have been previously addressed; (5) the deal strengthens the defense industrial base; or (6) state A instead pursues the internal intervention option.

Part II of this chapter discussed the alternative, and indirect, form of non-military internal balancing that is internal intervention. A case study of internal intervention, Gaz de France-Suez, was then examined to illustrate the possibility that economic nationalism and geopolitical competition also play a role in motivating this type of intervention. It was demonstrated that, at least in this case, the French government’s actions seemed to be a clear internal balancing response to an imminent and identifiable external threat to French relative power and security. Though the purpose of this work was to test the hypothesis focused on direct forms of intervention (bounded and unbounded), this case study helped to illustrate that the hypothesis does potentially hold, and more thorough testing of it might provide a fruitful area for future research.
Chapter 7 – Conclusion

Introduction

The liberal economic order framed at Bretton Woods was intended to establish a global economic system founded on free-market principles. The purpose was not only to deepen the economic interdependence of nations in order to help the West and the World to realize the absolute gains that attend free trade, but also – through the deepening of such ties – to lower the likelihood of future conflict within the international system. The order was intended to be a durable one; institutionalizing the economic and political values of the West in manner that would outlast the eventual decline of the country that had thus far forcibly defended it: the United States (see: Ikenberry 2001).

Since 9/11, however, there has been a notable trend in state behavior that some observers believe to threaten that order. For though cross-border mergers and acquisitions have proven to be one of the foundation stones upon which the liberal economic order rests, there has been a recent surge of government intervention into foreign takeovers. Significantly, this interventionist behavior is not unique to any one country or group of countries – it is not a ‘Western’ or a ‘non-Western’ phenomena. Perhaps most surprising, has been the fact that states have intervened against ‘foreign takeovers’ that originate from within their own security communities – communities founded not only on the historical sense of ‘we-ness’ that emerges
from exceptionally close long-standing alliances, but which are also often rooted in a commitment to economic liberalization and (in the case of the EU) integration.

Indeed, it has been the purpose of this work to explain that simple puzzle – to understand why states are engaging in such behavior not only against their strategic and military competitors, but against their closest allies as well. As mentioned at the beginning of this work, existing theories can neither fully explain, nor fully specify, this behavior – and the provision of such a solution could contribute significantly to the body of literature in the fields of both the international relations and the political economy of international security. This work has therefore presented, and tested, a new theory that builds on the insights of realism and seeks to account for this type of state action, the logic and strategy behind it, and the motivations that precipitate it.

It has, thus, been argued here that government intervention into foreign takeovers can often be best understood as a tool of non-military internal balancing. As with any theory, there will be exceptions and outlier cases. However, the quantitative and qualitative analysis in this work has demonstrated that in many cases states are acting to preserve or strengthen their long term economic and military power – balancing against actual, and threatened, challenges to their own relative power. The exact form that intervention takes, and the motivations behind it, seem to vary with the both nature of relationship between the countries involved, and the exact nature of the threat posed by the transaction in question. Yet, it also seems clear that this particular strategy of internal balancing is designed to maintain the
relationship between those states involved – that it allows states to balance power and jostle for position even within a close alliance – without disrupting or fundamentally threatening that relationship as a whole. Thus, it is not surprising that one of the tools chosen to implement that strategy is flexible and effective; it is, after all, a right of states to intervene in takeovers that they believe to fundamentally threaten national security – but, at the same time, it is an action that is only rarely viewed by other states as being politically motivated.

In this way, it is possible not only to understand how and why states within security communities undertake such interventions against one another – but also how it need not necessarily threaten the liberal economic order. Instead, as will be discussed in greater detail below, it is the misuse of this tool of balancing which poses the threat, but when used properly and accurately by states it may actually help preserve the bases and values of that order for the future. Indeed, understanding the answer to this puzzle is vital under even the best of economic circumstances – but it takes on even greater urgency in times of economic crisis, when the foundations of the economic order that has provided stability for so long are shaking, and the possibility of a systemic change in the balance of power looms ahead.

Chapter Outline

This purpose of this chapter, therefore, is twofold. It is foremost to provide an overview of the theory, an explanation of how it helps to answer our puzzle, and a
discussion of its robustness. Yet, it is also the author’s intention to offer her conclusions regarding the significance and applicability of this theory going forward.

This chapter will proceed as follows. The first section, to follow, will provide a brief restatement of the theory and its attendant hypotheses. In the next section a summary of the quantitative and qualitative findings will be presented. The third section will offer a discussion of the significance of these findings for theory and practice. This part of the chapter will start with an examination of the solution to the puzzle and its implications. This will be followed by a discussion of the theory’s meaning for our understanding of the relationship between conflict and cooperation within the international system, as well as the relationship between globalization and government intervention. The last part of this section will discuss the current (2008-2009) economic climate and its meaning vis-à-vis the theory of non-military internal balancing, which proves to be highly robust and applicable in both good, and bad, economic times. The final part of this section will provide some concluding thoughts on the overall significance of the theory presented in this work.

**The Theory and Hypotheses Revisited**

In order to solve the puzzle named above, this study started from the realist assumption that states living in an anarchic system will compete for power, and will seek to balance challenges and threats to their relative power through either internal or external means in order to ensure their own survival. This work also began from
the premise that the struggle for power among states will not always be played out in the military or diplomatic realms. For, though nuclear weapons have decreased the likelihood of major power war, the competition for scarce resources and technology is arguably increasing. Thus, many realists expect that conflict may increasingly occur in the economic realm.

This is not to imply that the insights of neoliberal institutionalists or liberal economists are wrong. States do recognize the value of the absolute gains that free trade and cooperation can bring, as demonstrated by the efforts to reduce barriers to global trade through the World Trade Organization. Yet, there is a difference between agreeing to trade without the imposition of tariffs, and the willingness to allow (for example) a domestic company that makes the fighter jets for your air force be taken over by a foreign company. Indeed, it is for that very reason that states have refused to give up the right to block cross-border mergers and acquisitions that they believe to pose a threat to their national security – even if the result of such a transaction would be beneficial for their economy. As a result, and because governments reserve the right to identify the nature of such threats on their own, states have been largely unable (or unwilling) to agree to a multilateral treaty governing cross-border M&A; making this one of the last remaining arenas in which such economic power competition and conflict can play out, without violating international law.
This is especially important to recognize in light of the fact that some states will actively seek to use the market, through companies they control, to gain economic and military power. As mentioned earlier, for example, China has long been known, through companies it controls, to acquire foreign companies in order to gain control and/or access to technology and resources, or for the simple purpose of conducting espionage (Graham and Marchick 2006, 100-117). Russia has made no secret of its desire to use the M&A market as way to gain access to, and the rights to distribute, natural resources abroad. Indeed, theorists have long recognized that some states will try to take advantage of the interdependent relationships that arise from economic globalization and, though most of these theorists only address the dependencies that result from foreign trade, it is not unreasonable to assume that these dynamics apply to foreign direct investment (see: e.g.: Gilpin 1981; 1987; 2001; Hirschman 1945; Moran 1993; Shambaugh 1999; Tyson 1992; Waltz 1993;Waltz 1999). As a result, states are vigilant in ensuring that cross-border M&A transactions do not make them subject to such dependencies, or pose a threat their relative power more generally.

**The Theory**

This study has, therefore, posited that governments will intervene into foreign takeovers that they believe challenge or threaten their relative power, in order to
preserve and/or maximize that power. In so doing, these states are employing such intervention as a tool of *non-military internal balancing*.

It is *internal* balancing, because the state is seeking to preserve or enhance its economic and (in some cases) military capabilities. Thus, when the takeover of a particular domestic company challenges, or threatens to alter, the state’s relative possession of a particular set of capabilities vital to its survival, the state acts to counter this outside threat on its own.

This form of internal balancing is considered to be *non-military* in nature, not only because it occurs in the economic realm, but more importantly because it allows states to maximize their position vis-à-vis another state, without necessarily destabilizing or jeopardizing their overall relationship with that state. In other words, if two states have a competitive relationship, this form of balancing alone should not necessarily exacerbate tensions between those states. At the same time, if two states are members of the same security community, such balancing allows them to compete for power generally, and more particularly for position and rank within the context of that alliance.

It is in this way that one can understand not only why states engage in such behavior, but also why they might do so within the security community context. For this strategy seeks to balance an immediate challenge to a long-term understanding of power. Even though a security community by definition means that its members cannot imagine fighting one another, it does not necessarily mean that its members
do not strive for a greater position of power within that alliance, or that they do not believe improving their position within such a community to be integral to their long-term survival. Indeed, it would be a fundamental miscalculation for any state to believe that an alliance, within a security community or not, is truly permanent. International orders and systems have continually changed throughout the course of history, and planning for the best power position possible in the face of the unknown is a wise decision for any state. At the same time, however, it is equally logical that a state would not wish to upset a close alliance relationship when there is no immediate necessity to do so. Non-military internal balancing allows states to achieve both goals and, hence, makes sense both inside, and outside, of the security community context.

Government intervention of this nature is identified here as taking one of three primary forms. If a state acts directly to affect the transactional process of a proposed foreign takeover, it will do so through either unbounded or bounded intervention. In the latter case, the state seeks to mitigate the negative effects of a transaction and, in the former, to block it all together. The state may also choose the alternative of indirect internal intervention, in which it takes alternative internal actions that obviate the necessity for direct intervention into a particular transaction. This may, for example, involve fostering some form of domestic merger, or promoting cross-shareholding; either of which measures will protect the vulnerable target company from a foreign takeover.
The Hypotheses

This dissertation argues that by understanding the motivations that help to precipitate the actualization of this particular strategy of non-military internal balancing, one can also gain further insight into when such intervention is likely to occur, the exact form that it will take, and (again) why such internal balancing occurs within the security community context. Two hypotheses were thus proposed.

The primary hypothesis posits that government intervention, of the type examined here, is primarily motivated by either economic nationalism, or pressing geo-strategic concerns, controlling for interest group presence and competition concerns. It is important to remember that this hypothesis assumes there is also a legitimate element of the deal in question that could be construed as a national security risk, before questions of general geopolitical competition are raised, or economic nationalism emerges as an issue.

The secondary hypothesis suggests that intervention type will affect the outcome of the deal in question. This is crucial to the theory, because if states are unable to affect deal outcomes through their actions, they are unlikely to use intervention as a tool of non-military internal balancing. The next section will summarize the qualitative and quantitative tests of these hypotheses, and discuss their meaning for the validity of the theory.
Summary of the Findings

The Primary Hypothesis

The findings of the statistical and case studies largely support the primary hypothesis, and offer valuable insight into our puzzle.

Quantitative Findings

The multinomial logit models used in this work generally confirmed the hypothesis that the presence of geopolitical competition concerns and/or economic nationalism in state A will increase the likelihood that state A will engage in either unbounded or bounded intervention. Two variables were used to approximate economic nationalism: 1) nationalism (as it is one possible preliminary indicator of the concept) and 2) pro-globalization sentiment (because its reverse, anti-globalization sentiment, performs well as an indicator of economic nationalism). Four variables were used to approximate the presence of geopolitical competition between states A and B: 1) the presence of a security community relationship between these states, 2) a ratio representing the relative military power relationship between states A and B, 3) a ratio representing the level of resource dependency on the part of state A, and 4) the level of inward FDI in state A (which provides a proxy for its relative economic power).

MNLM I, confirmed the significance of the hypothesized variables by testing them against the entire population of 209 cross-border M&A cases. This model
showed that the variables representing economic nationalism significantly affected the likelihood of state A engaging in all forms of direct intervention, and those representing geopolitical competition to significantly affect the likelihood of state A engaging in unbounded intervention, and to near significance in its use of high-bounded intervention. To be more precise, the presence of greater levels of nationalism in state A was shown to increase the chances of low- and high-bounded intervention, while high levels of anti-globalization sentiment (not surprisingly) increased the likelihood that state A would attempt to block a deal through unbounded intervention. At the same time, the lack of a security community relationship and a large differential in military power (of the target state relative to the acquiring state) significantly increased the overall likelihood of unbounded intervention. Geopolitical factors, including high levels of inward FDI and resource dependency in state A, also neared significance in raising the chances of high-bounded intervention.

MNLM II focused on the population of security community deals within the database; it demonstrated further support for the primary hypothesis and provided some initial insight into the puzzle. This model showed that within the security community context, nationalism and variables representing geopolitical competition (such as relative military power and resource dependency) still increased the chances of high-bounded intervention. Yet, the factor to most significantly increase the likelihood of unbounded intervention was the presence of a high-level of anti-
globalization sentiment, with geopolitical competition (in the form of resource dependency) only nearing significance. This matched our expectations, because one would expect that either low- or high-bounded intervention would normally provide a feasible remedy for those lower-level geopolitical concerns that do tend to exist between members of a security community. In turn, one would also expect unbounded intervention within a security community context to be explained by high levels of economic nationalism in state A, the presence of which would be the most likely to cause such serious reaction where geopolitical tensions are generally lower. Indeed, the case studies largely supported these findings. As will be discussed in greater detail below, however, the case studies also illuminate the rarer instances in which competition can still play a role in motivating unbounded intervention into a transaction that occurs within the confines of a security community.

MNLM III, which examined the population of cases that occur outside of a security community, also supported the primary hypothesis. This model showed variables associated with economic nationalism and geopolitical competition to be associated with both low- and high-bounded forms of intervention. It also showed that in non-security community cases of unbounded intervention, geopolitical competition was the significant factor that increased the likelihood of state action. More precisely, it was relative military power and, significantly, high levels of inward FDI in state A, that made unbounded intervention significantly more likely to occur.
Thus, geopolitical competition and economic nationalism are generally the factors that increase the probability of direct government intervention into foreign takeovers. Furthermore, when it comes to unbounded intervention, as expected, economic nationalism was the most likely motivator of such action within security communities, and geopolitical competition the motivator outside of such a context. Finally, the control variables of interest group presence and economic competition did not prove to be significant in these quantitative tests, helping to confirm that these factors could not provide an alternative explanation for intervention.

**Qualitative Findings**

Each of the critical cases examined in this study supported the primary hypothesis by demonstrating that geopolitical competition and economic nationalism were the primary motivating factors of government intervention into foreign takeovers, rather than competition concerns or the influence of interest groups.

Five cases of unbounded intervention were examined, one of which was determined to be an outlier case. Of the four non-outlier cases, three showed both geopolitical competition and economic nationalism to play a role in motivating unbounded intervention, and in one case geopolitical competition alone proved relevant. (See Table 25 below for a summary of the main findings of both unbounded and bounded intervention.)
Even the outlier case (DP World / P&O), was determined to support the hypothesis. This was because an unusually high level of politicization of the case allowed two values of economic nationalism to emerge (one high, one low) and two alternative understandings of the geopolitical relationship between the two countries involved to take shape within the same government. In fact, unbounded intervention was only possible in this rather unique case because the lawmakers that were intent on such an action had been able to contextualize their spurious concerns in terms of national security, economic security, and geopolitical consequences – and did so in a manner that was saleable to the American public.

Table 25. – Case Study Findings: Unbounded and Bounded Intervention

<table>
<thead>
<tr>
<th>Intervention Type</th>
<th>Cases</th>
<th>Motivation</th>
<th>Economic Nationalism</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Security Community Cases:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unbounded</td>
<td>PepsiCo / Danone</td>
<td>Secondary</td>
<td>Primary</td>
</tr>
<tr>
<td></td>
<td>Check Point / Sourcefire</td>
<td>Primary</td>
<td></td>
</tr>
<tr>
<td>Bounded</td>
<td>Alcatel /Lucent</td>
<td>Primary</td>
<td>Secondary</td>
</tr>
<tr>
<td></td>
<td>Non-Security Community Cases:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unbounded</td>
<td>CNOOC / Unocal</td>
<td>Primary</td>
<td>Secondary</td>
</tr>
<tr>
<td></td>
<td>Macquarie / PCCW</td>
<td>Primary</td>
<td>Secondary</td>
</tr>
<tr>
<td>Bounded</td>
<td>Lenovo / IBM</td>
<td>Primary</td>
<td>Secondary</td>
</tr>
</tbody>
</table>
The remaining five case studies also supported the primary hypothesis. In both cases of bounded intervention, geopolitical competition and economic nationalism were determined to be the motivating factors behind government action. The two case studies examining non-intervention also actively support the primary hypothesis. In each of those cases, intervention of some form would have been predicted on the basis of the presence of the hypothesized variables, but no intervention occurred. It was found that in these rare cases, intervention had not occurred as expected because a fundamental underlying assumption of the primary hypothesis was not met: namely, the particular transactions involved in these cases did not actually pose a national security threat. The purpose of the final case study was to see if the primary hypothesis (which was formulated to explain direct forms of intervention) might hold for cases of indirect, or internal, intervention as well. This case did, indeed, suggest that the presence of geopolitical competition and economic nationalism was a fundamental cause of action, though, as discussed in chapter 6, further testing needs to be done in relation to the indirect form of internal intervention as additional factors may also play a role in explaining that particular form of state behavior.

The qualitative case studies did more, however, than simply confirm the primary hypothesis. They were also able to provide insight into the state behavior in a way that the statistical analysis could not.
First, these cases showed that though economic nationalism may generally play a greater role in motivating unbounded intervention within the security community context, geopolitical competition concerns might also prove to be significant under certain circumstances. In the PepsiCo / Danone case, as expected, unbounded intervention proved to be primarily motivated by economic nationalism and, secondarily, by the geopolitical tensions that had emerged between the US and France at the time of that case. The Check Point / Sourcefire case, however, demonstrated that geostrategic concerns can, under very certain conditions, be the primary and only factor behind unbounded intervention within the security community context. This is especially true if the acquiring state raises specific security concerns that are pertinent to the transaction in question, and which are difficult to avoid through mitigation. In this case, for example, Israel had a well known history of lax adherence to US export control laws, and the target company produced sensitive technology used by US government agencies on a daily basis. Thus, economic nationalism was not an issue in this case – the strategic concern was enough to warrant such a severe form of intervention on its own.

Furthermore, in another security community transaction – the Alcatel / Lucent case – economic nationalism and geopolitical competition both helped motivate high-bounded intervention, but the latter factor overshadowed the former largely because of the sensitive nature of Lucent’s work, which involved classified government contracts. Thus, this case once again demonstrates that even within security
communities, geopolitical competition considerations can be of equal or greater importance in motivating intervention under certain circumstances.

Second, both the Alcatel / Lucent and IBM / Lenovo cases helped to clarify under what conditions a state will choose to employ bounded intervention, rather than unbounded. It was determined that governments will choose to do so, because allowing a foreign takeover to be completed in modified form is even less likely to disrupt trade relationships, or produce antagonism between the countries involved, than unbounded intervention. Thus, bounded intervention best accomplishes the goal of non-military internal balancing: to balance power without disrupting the greater meta-relationship at stake between the two countries. Unbounded intervention was chosen in the Alcatel / Lucent case, because the US government believed that it was possible for mitigation to satisfactorily address the geopolitical and security issues raised by the deal, because the critical technology concerned did not comprise all of the target company’s business. France’s position as a fellow security community member also made bounded intervention more desirable for the US. In the Lenovo / IBM case it was found that bounded intervention was all that was necessary, despite the presence of the hypothesized variables at similar levels to the CNOOC / Unocal case. This was because – in stark contrast to the CNOOC / Unocal case – it was possible to effectively mitigate the Lenovo / IBM transaction in a manner that alleviated the US governments concerns. In other words, bounded intervention is more likely to occur when the circumstances of a given foreign
takeover make a restricted intervention strategy a viable option for the preservation and/or maximization of security and power.

**The Secondary Hypothesis**

The secondary hypothesis posited that intervention type would affect the outcome of the deal in question. In other words, that unbounded intervention will usually result in a ‘no deal’ outcome, bounded intervention in a ‘mitigated/changed deal’ outcome, and no intervention in an unaltered ‘deal’ outcome.\(^{345}\)

This secondary hypothesis was definitively born out in both the quantitative and qualitative analysis. The case studies clearly illustrated a link between intervention type and deal outcome. Each of the five critical cases of unbounded intervention resulted in no deal, and both critical cases of bounded intervention resulted in a mitigated deal. In both case studies of non-intervention, there were no national security concerns raised by the deal. Thus, one case resulted in a deal, and the other would have resulted in a deal, if the management of the company had not stepped in to buy it instead. MNLM IV confirmed these findings, demonstrating that it could be said with 99.9% confidence that intervention type significantly affects deal outcome across each of its categories. It also showed that as the level of

---

\(^{345}\) When state A does not engage in direct intervention, it will normally be because it was considered unnecessary by the state. This is usually because the deal did not pose a threat to national security. In those cases where the transaction may have posed a threat to national security, but the state still did not intervene directly, it will often be because internal intervention was pursued instead. In either case, ‘no intervention’ will usually result in an unaltered deal outcome.
government intervention increased, so did the chances that the deal would be mitigated or blocked. Again, such confirmation is vital to the theory and provides a comprehensive test alongside the case study method.

**Significance**

*The Puzzle Revisited*

Thus, the answer to the puzzle seems to lie in a few simple discoveries. First, it is important to recognize that intervention within the security community context will only rarely take the unbounded form. Indeed, across all cases, intervention will most often take the bounded, rather than unbounded, form. For the total population of cases examined in this study, the bounded intervention rate was 29% compared to a rate of only 8% for unbounded interventions. Significantly, when these numbers were broken down, it was confirmed that the rate of unbounded intervention is even lower in security communities (at 7%), than it us outside of them (where the rate is 12%).

It was found that this lower rate of unbounded interventions within security communities might be explained by a number of factors. Part of the reason is that the review process through which cross-border deals are mitigated is often more highly institutionalized in the countries that are coded here as being members of a strong security community, which may make bounded intervention more effective and reliable in the eyes of those states. A more fundamental reason for the lower level of
unbounded intervention within security communities, however, is simply that within that context such drastic measures of state action are only rarely considered necessary.

Which brings us to the second finding, namely that economic nationalism will, for the most part, play a greater role than geopolitical competition in motivating unbounded intervention within the security community context. As discussed earlier, this is because the geopolitical tensions within such relationships are usually very low, and therefore cross-border transactions within those contexts are less likely to pose intractable national security threats. In other words, any national security issue that originates from geopolitical concerns in this context will – again usually – be able to be resolved through mitigation of the deal in question. Geopolitical tensions or concerns will only rarely be so acute within such a context that they alone motivate unbounded intervention. Instead, high levels of economic nationalism will normally be the primary motivator of unbounded intervention in this context.

However, it is also important to understand that geopolitical competition can still play a role in explaining intervention within the security community context, under certain circumstances. First, the statistical analysis demonstrated that geopolitical competition would significantly increase the likelihood of bounded intervention within security communities. This finding was supported by the Alcatel / Lucent case of bounded intervention, where geo-strategically based national security concerns were shown to be the primary motivator of intervention.
Furthermore, intractable geopolitical competition and geo-strategic concerns can still occur within security communities, of a nature that cannot be resolved through bounded intervention. In those situations, these concerns can be the secondary, primary, and/or sole reason for unbounded intervention within a security community context. As mentioned earlier, this is likely to occur in cases such as the Check Point / Sourcefire, where the nature of the concern and the transaction makes unbounded intervention the only option to achieve non-military internal balancing and protect national security, despite the close relationship of the countries involved. An unusually high level of economic nationalism, for example, may exacerbate an existing geopolitical tension within a security community – such as that which existed between the France and the US during the PepsiCo / Danone case.

Thus, the answer to the puzzle becomes clear. The puzzle asked why states would engage in ostensibly protectionist behavior against not only against their strategic and military competitors, but also against members of the same security community founded in part on economic liberalism. It has been argued here that these acts of intervention can be more clearly understood once they are identified as a tool of non-military internal balancing. Internal balancing of this form is focused on immediate challenges to long-term power (military and economic). Such a challenge can come in the form of a foreign takeover initiated from non-allied and allied country alike. Yet, the tool of balancing used – in this case government intervention into those foreign takeovers – can be tailored to respond to the difference in the level
of threat. Thus, we have found that the most serious form of intervention, unbounded intervention, is only rarely used within security communities. The ability of states to employ a bounded form of intervention, in an institutionalized and routine manner, indeed helps explain how intervention is possible within the security community context. The fact that such internal balancing as a whole is non-military in nature, explains why even unbounded intervention has become possible and allowable within a security community. For, the end goal of such balancing is to protect and preserve power without disrupting the greater meta-relationship at stake between the two countries involved. Hence, even unbounded balancing – though generally more intense and serious – is unlikely to create any long-term rift within a security community relationship on its own.

Even within the EU, a security community founded on economic liberalism and integration, states are pursing this strategy of internal balancing to gain (especially economic) power and position within the context of that greater relationship. That government intervention into foreign takeovers, undertaken for the preservation of national security, is seen as a right of the state, and is not prohibited under international law, makes it in many ways one of the last areas in which state can intervene into the international market in order to preserve their economic and military power. Considered in that light, it is not surprising that states within close alliance relationships might use this form of balancing, perhaps to either balance a state whose rising power they think could prove destabilizing to the alliance over the
long term, or to preserve or gain a leadership position for themselves within that alliance. The interventionist behavior of Germany and France, and even Spain and Italy, provide an excellent example of this strategy being employed within the EU.

Where such action becomes shortsighted, and truly threatening to the foundations of the liberal economic order, however, is when it is fundamentally misused and becomes a case of over- or inappropriate balancing – as in the DP World / P&O case. Such cases, where intervention is almost universally perceived as unwarranted outside of the target state, are especially dangerous because they are either 1) seen as a case of pure economic protectionism with no true national security foundation, or 2) viewed as being antagonistic to the sending state. In either case, the goal of non-military balancing is lost, and there is the potential for a disruption in the meta-relationship between the states and (as will be discussed further below) possible negative affects on the economic system itself.

**Conflict, Competition, Economic Interdependence, and Systemic Change**

The theory and findings presented in this dissertation should also shed some additional light on the relationship between economic interdependence and conflict. As discussed at the beginning of this work, Waltz suggests that realists should expect conflict – especially economic conflict – to potentially increase with interdependence (Waltz 1993). Even Keohane & Nye recognize that “conflict will take new forms, and may even increase” as interdependence deepens over time (Keohane and Nye
Yet, both of the theoretical approaches represented by these men (realism and complex interdependence theory respectively), are underspecified and fairly vague about the form and intensity that such conflict is likely to take.

The theory presented in this work may, however, show the value of reconciling the insights from both of these approaches. For it may be that competition does take an increasingly economic form, but – especially within security communities that are also highly economically interdependent – such competition must take a novel form. It might be that as interdependence increases within the European Union, for example, that traditional forms of economic conflict (such as tariffs) disappear, and new ones (such as intervention into foreign takeovers) rise to take their place. This may be especially true when these new tools have the ability to appear less confrontational and sweeping. In fact, it might not only be that states are finding new ways to deal with the competition for economic power both within and outside of such interdependent relationships, but also that these increasingly interdependent relationships necessitate this evolution. For government intervention of the type examined here is, in many cases, truly vital to the protection of national security because of the increasingly open ability (and tendency) for cross-border M&A to occur.

This outcome can be viewed positively, therefore, as demonstrating an attempt by states to balance internally, and in a non-military fashion, in order to avoid more serious forms of conflict down the line. Certainly, the findings did
confirm that for all cases of intervention in the database (with the exception of the one outlier case), there was a legitimate state-defined national security concern attached to the affected transaction. The findings also demonstrated a preference for dealing with such concerns through simple deal mitigation (bounded intervention) rather than continual attempts to block disadvantageous deals (through unbounded intervention).

Thus, this work demonstrates the increasing need for theorists to have a more holistic understanding of power and national security. For though the presence of nuclear weapons has decreased the likelihood of major power war, conflict and competition has not disappeared. Instead, competition among great powers will increasingly take non-military form.

Given such a scenario, it is important to recognize that other forms of power become important for determining great power ‘rank.’ This does not just mean recognizing the usefulness and necessity of social power and soft power, it also means an acknowledgement of the increasing relevance of the economic component of power. This is particularly true if one believes that one of the next major sources of conflict in the international system will be the scarcity of vital resources such as water, oil, and natural gas (NIC 2008, 63).

Competition, especially over such resources, is increasingly likely to be played out in the economic sector in the future – and will do so regardless of the economic climate. Indeed, cross-border M&A is the front line of the battlefield over
scarce resources and other vital aspects of economic and military power. Intervention into such transactions takes on an important role as a form of internal balancing, for the very reason that some states will attempt to use foreign takeovers as a way to gain control over resources, technology, and information.

The looming possibility of systemic change only intensifies the need to understand such competition, and the type of balancing discussed here. For, as the US is faced with the possible loss of its primacy, the world may be moving towards a system that is truly multi-polar. This work began from the premise, after Nye, that the system was unipolar in the military realm and multipolar in the economic one. But it is quite possible to envision that we are on the cusp of systemic change – and that the system will be multipolar in both realms in the not too distant future. This change should not affect the theory of non-military balancing posited here, which was designed to hold regardless of the polarity of the international system. Such a scenario may, however, lead to an increase in the type of competition and balancing examined in this study. Thus, recognizing the importance of the economic component of power, the tools of non-military balancing available to states, and when and why such balancing might occur, only becomes more important.

*Globalization and Government Intervention into Foreign Takeovers*

It is also vital to realize the impact that this tool of non-military internal balancing could potentially have on globalization, and even the liberal economic
order, if it is misused. The reader will recall that cross-border M&A has become one of the main engines of globalization – and that position should not necessarily be threatened when non-military internal balancing of the type studies here is used appropriately. Yet, unnecessary or overbalancing, of the type witnessed by the DP World / P&O case, can carry a heavy cost. For the misapplication of the intervention tool means that the goals of non-military internal balancing will not be met and, therefore, that it could potentially lead to a strain on the economic, or worse the diplomatic, relationship of the countries involved. For such action is likely to be viewed as either antagonistic, or unnecessarily protectionist. If a country gets a reputation for such behavior, it will unintentionally ward off future deals – including those the state might desperately need. Indeed, such actions could lead to potentially lower levels of M&A more generally for that country, or for that particular industry. For if the potential cost of a transaction is seen as insurmountable or highly unprofitable, it won’t be attempted in the first place. This is important because – though the general level of M&A will not change the role that unbounded and bounded intervention plays as part of a strategy of non-military internal balancing – a global downturn in M&A that results from its constant misuse could potentially contribute to a further downturn, or even reversal, of the globalization process, as discussed in the introduction.
Economic Crisis and Non-Military Internal Balancing

In times of economic crisis, the issue of the correctly calculated use of non-military internal balancing becomes even more acute, because the potential costs of miscalculation become magnified. The failure to strike a balance between an open system of foreign investment and such balancing could certainly result in unforeseen consequences. Indeed, overbalancing could quell cross-border M&A to a dangerously low level globally and – in so doing – threaten to quench the pilot light of globalization.

Indeed, the issues discussed in this work are of particular concern in light of the current economic climate, where the stability of the international economy already faces a number of challenges. The sudden and severe contraction in the credit market has meant that many states have needed to nationalize failing banks and ‘bail out’ foundering companies in order to stabilize their economies. Combined with looming deflation, the current situation has raised the possibility of pending currency crises in Europe and Asia. The general lack of ready financing and capital within the system has also had an unmistakable impact on cross-border mergers and acquisitions, whose numbers have severely declined since the current financial crisis began. In fact, “global merger volume dropped by almost a third in 2008, ending five years of deal growth [and] … marking the lowest annual volume since 2005” (Hall 2008). In such a situation, states will need to be careful not to misuse the tool
of intervention in a manner that would threaten the stability of the international economy by shrinking M&A volume further.

Yet, it is also vital that the reader understands that lower global levels of cross-border M&A will not change the role that unbounded, bounded, and internal intervention play as a tool of non-military internal balancing. For it is true that we may have seen a higher level of both M&A and intervention in the recent past period of economic prosperity, but that correlation may simply correspond to the evolving nature of power and/or the fact that there had simply been more opportunities for the world to take notice of such activities. Either way, we can expect that economic competition will only intensify in future times of scarcity. Indeed, as private sector M&A activity levels off, it will be government subsidized, owned, or controlled companies that have the cash and financing to pursue cross-border deals. Thus, we may see an increasingly high proportion of government activity within the cross-border M&A sector during the economic downturn, especially given the increasing number of states that are nationalizing their banks. As a result, we may even see a rise in the use of foreign takeovers to enhance state power and, thus, a corresponding increase in the use of government intervention into such actions as a form of internal balancing.

States who wish to preserve the foundations of the liberal economic order, therefore, must make a choice to use such tools of balancing wisely and judiciously – especially in times of systemic financial crisis. The general gains from FDI are vital
to a state’s economic power, so if that economic power is important to them – and we know that it is – policy makers will have to find a balance moving forward between intervention and encouragement. If governments find themselves, in times of either severe competition or prosperity, using the intervention tool more often – then they must do so prudently.

This may mean increasing the institutionalization of the intervention process where possible, and making it more transparent so that potential acquirers know what to expect. The United States, for example, is arguably already trying to move towards better transparency of the intervention process. The Foreign Investment and National Security Act of 2007 (FINSA), which went into effect in October of 2007,\(^{346}\) amends previous US law regulating foreign acquisitions of US assets in such a way as to further clarify not only the review process and procedures for foreign acquirers, but also the national security criteria on which their transactions will be judged (see, e.g.: Plotkin et al. 2009; US DOT 2008c).\(^{347}\) One of the effects of the new regulations implemented under FINSA, is that they arguably should make the process more user friendly, both for the US in terms of achieving its national security goals, and for the companies that seek to navigate the CFIUS process successfully (see, e.g.: Plotkin et

---

\(^{346}\) FINSA amends section 721 of the Defense Production Act, and went into effect on October 24, 2007. After a period of public comment and analysis within CFIUS itself of the amendment requirements, the US DOT issued its ‘final regulations’ on the law on November 14, 2008.

\(^{347}\) It is important to note here that the new FINSA regulations do not materially affect the case studies or conclusions drawn as part of this study. The primary function of FINSA is to clarify procedure and codify certain existing realities already addressed within this work (such as the addition of ‘critical infrastructure’ as being a national security concern). It does not, however, materially change the CFIUS process. For further details on FINSA, please refer to footnotes 115 and 116.
In other words, making the review process less opaque should be good for business. Transactions will not drop in numbers because of fears that intervention will occur when necessary, but they will drop in the face of the inappropriate use of intervention.

Thus, the theory of non-military internal balancing is a robust one, providing valuable insights into the workings of the international system in times of both economic prosperity and crisis. The future may prove, however, that its lessons are most important for states to grasp in the times of crisis.

**Concluding Thoughts**

The theory of non-military internal balancing, therefore, provides valuable insights for theorists and policy makers alike. On the theoretical front, the solution to puzzle contributes to our understanding of the political economy of international security, and provides international relations theory with yet another take on the relationship between conflict, competition, and interdependence. For the businessman, this theory may help to show where transactions are more likely to be accepted. For Governments, a better understanding of the type of behavior examined here should contribute to a lower level of miscalculation and misunderstanding in its relations with other states regarding these matters.

For policymakers, it is hoped that this work has shown some of the true limits of globalization. This is key, because if you are a member of a government that
wishes to promote a deepening of global economic integration, you will need to understand where that is possible, and where it is not. Additionally, a more complete understanding of government intervention into foreign takeovers could help policymakers to potentially avoid an unnecessary reversal of globalization, which would have a negative impact on the economic welfare of all states. Indeed, given the nature of the current economic crisis and the potential for a systemic change in the balance of power in the near future, the US and other Western states will soon once again be trying to determine how to institutionalize their values for the future. This is not only because they may not be the dominant powers in the next system, but also because the next list of great powers is likely to include countries such as Russia and China – whose economies are not yet completely liberalized. In such a scenario, understanding the limits of the free market as demonstrated by the theory presented here, may contribute to the West’s ability to better entrench liberal economic principles in the next iteration of the international economic order.
## Appendix A – Detailed Listing of Cases in the Database

A complete list of the 209 cases of cross-border mergers and acquisitions examined in Chapter 3 is provided below. The data in these tables was sourced from the Zephyr Database (Zephyr 2008).

<table>
<thead>
<tr>
<th>Case</th>
<th>YEAR</th>
<th>Acquirer Name</th>
<th>Ultimate Acquirer</th>
<th>Target Name</th>
<th>Ultimate Target</th>
<th>Primary Industry</th>
<th>Deal Values (USD Thousands)</th>
<th>Deal Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2001</td>
<td>Petroleum Geo-Services ASA</td>
<td>NO</td>
<td>Veritas DGC Inc.</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>790,000</td>
<td>No Deal</td>
</tr>
<tr>
<td>2</td>
<td>2001</td>
<td>SES - Société Européenne des Satellites SA</td>
<td>LU</td>
<td>GE American Communications Inc.</td>
<td>US</td>
<td>Technology</td>
<td>4,300,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>3</td>
<td>2001</td>
<td>Royal Bank of Canada</td>
<td>CA</td>
<td>Tucker Anthony Stro Capital Markets</td>
<td>US</td>
<td>Financial</td>
<td>625,000</td>
<td>Deal</td>
</tr>
<tr>
<td>4</td>
<td>2001</td>
<td>Emerson Electric Company</td>
<td>US</td>
<td>Avansys Power Co.Ltd</td>
<td>CN</td>
<td>Technology</td>
<td>750,000</td>
<td>Deal</td>
</tr>
<tr>
<td>5</td>
<td>2001</td>
<td>Royal Dutch/Shell Group</td>
<td>NL</td>
<td>Euronet Corporation</td>
<td>US</td>
<td>Utilities</td>
<td>11,000,000</td>
<td>No Deal</td>
</tr>
<tr>
<td>7</td>
<td>2002</td>
<td>National Grid Group plc, The</td>
<td>GB</td>
<td>Niagara Mohawk Holdings Inc.</td>
<td>US</td>
<td>Utilities</td>
<td>8,900,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>8</td>
<td>2002</td>
<td>E.ON AG</td>
<td>DE</td>
<td>PowerGen plc</td>
<td>GB</td>
<td>Utilities</td>
<td>14,714,899</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>9</td>
<td>2002</td>
<td>Norsk Hydro ASA</td>
<td>NO</td>
<td>VAW Aluminium AG</td>
<td>DE</td>
<td>Basic Resources</td>
<td>2,730,481</td>
<td>Deal</td>
</tr>
<tr>
<td>10</td>
<td>2002</td>
<td>Usinor SA</td>
<td>FR</td>
<td>Aceralia Corporacion Siderúrgica SA</td>
<td>ES</td>
<td>Basic Resources</td>
<td>2,960,383</td>
<td>Deal</td>
</tr>
<tr>
<td>11</td>
<td>2002</td>
<td>Fortum Oyj</td>
<td>FI</td>
<td>Birka Energi AB</td>
<td>SE</td>
<td>Utilities</td>
<td>3,152,977</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>12</td>
<td>2002</td>
<td>Deutsche Börse AG</td>
<td>DE</td>
<td>Cedel International</td>
<td>LU</td>
<td>Financial</td>
<td>1,739,302</td>
<td>Deal</td>
</tr>
<tr>
<td>13</td>
<td>2002</td>
<td>Telia AB</td>
<td>SE</td>
<td>Sonera Oyj</td>
<td>FI</td>
<td>Telecom</td>
<td>7,531,338</td>
<td>Deal</td>
</tr>
<tr>
<td>14</td>
<td>2002</td>
<td>Euronext NV</td>
<td>NL</td>
<td>LIFFE (Holdings) plc</td>
<td>GB</td>
<td>Financial</td>
<td>803,787</td>
<td>Deal</td>
</tr>
<tr>
<td>15</td>
<td>2002</td>
<td>BP plc</td>
<td>GB</td>
<td>Veba Oel AG</td>
<td>DE</td>
<td>Oil &amp; Gas</td>
<td>2,480,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>16</td>
<td>2002</td>
<td>Eitel SpA</td>
<td>IT</td>
<td>Electra de Vias /&gt;</td>
<td>ES</td>
<td>Utilities</td>
<td>1,916,964</td>
<td>Deal</td>
</tr>
<tr>
<td>17</td>
<td>2002</td>
<td>Fortis NV</td>
<td>BE</td>
<td>Mecaria Enim Petroleum NV</td>
<td>NL</td>
<td>Oil &amp; Gas</td>
<td>2,890,434</td>
<td>Deal</td>
</tr>
<tr>
<td>18</td>
<td>2002</td>
<td>Cable &amp; Wireless plc</td>
<td>GB</td>
<td>Exodus Communications Inc.'s assets</td>
<td>US</td>
<td>Technology</td>
<td>750,000</td>
<td>Deal</td>
</tr>
<tr>
<td>19</td>
<td>2002</td>
<td>Platinum Equity LLC</td>
<td>US</td>
<td>Alcatel SA'S European enterprise distribution and services business</td>
<td>FR</td>
<td>Telecom</td>
<td>704,535</td>
<td>Deal</td>
</tr>
<tr>
<td>20</td>
<td>2002</td>
<td>RWE AG</td>
<td>DE</td>
<td>Innogy Holdings plc</td>
<td>GB</td>
<td>Utilities</td>
<td>7,375,758</td>
<td>Deal</td>
</tr>
<tr>
<td>21</td>
<td>2002</td>
<td>CVC Capital Partners Ltd</td>
<td>GB</td>
<td>Bendrofa SA'S high tension electricity network</td>
<td>ES</td>
<td>Utilities</td>
<td>803,269</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>22</td>
<td>2002</td>
<td>Saipem SpA</td>
<td>IT</td>
<td>Bouygues Offshore SA</td>
<td>FR</td>
<td>Oil &amp; Gas</td>
<td>990,491</td>
<td>Deal</td>
</tr>
<tr>
<td>23</td>
<td>2002</td>
<td>BP plc</td>
<td>GB</td>
<td>Veba Oel AG</td>
<td>DE</td>
<td>Oil &amp; Gas</td>
<td>3,259,259</td>
<td>Deal</td>
</tr>
<tr>
<td>24</td>
<td>2002</td>
<td>Gaz de France SA</td>
<td>FR</td>
<td>Preussag Energie GmbH</td>
<td>DE</td>
<td>Oil &amp; Gas</td>
<td>1,037,344</td>
<td>Deal</td>
</tr>
<tr>
<td>25</td>
<td>2002</td>
<td>Petroleum Geo-Services ASA</td>
<td>NO</td>
<td>Veritas DGC Inc.</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>525,000</td>
<td>No Deal</td>
</tr>
<tr>
<td>26</td>
<td>2002</td>
<td>Saipem SpA</td>
<td>IT</td>
<td>Bouygues Offshore SA</td>
<td>FR</td>
<td>Oil &amp; Gas</td>
<td>503,491</td>
<td>Deal</td>
</tr>
<tr>
<td>27</td>
<td>2002</td>
<td>Telstra Corporation Ltd</td>
<td>AU</td>
<td>CSL Ltd</td>
<td>CN</td>
<td>Telecom</td>
<td>614,000</td>
<td>Deal</td>
</tr>
<tr>
<td>Case</td>
<td>YEAR</td>
<td>Acquirer Name</td>
<td>Ultimate Acquirer</td>
<td>Target Name</td>
<td>Ultimate Target</td>
<td>Primary Industry</td>
<td>Deal Values (USD Thousands)</td>
<td>Deal Outcome</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>--------------------------------</td>
<td>-------------------------</td>
<td>-----------------------------------</td>
<td>-----------------</td>
<td>------------------</td>
<td>------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>28</td>
<td>2002</td>
<td>Vodafone AG</td>
<td>DE</td>
<td>Cegetel Groupe SA</td>
<td>FR</td>
<td>Telecom</td>
<td>6,183,746</td>
<td>No Deal</td>
</tr>
<tr>
<td>29</td>
<td>2002</td>
<td>Singapore Technologies</td>
<td>SG</td>
<td>Global Crossing Ltd</td>
<td>US</td>
<td>Telecom</td>
<td>750,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>30</td>
<td>2002</td>
<td>Callahan Associates International LLC</td>
<td>US</td>
<td>Telenet Holding's Mixed Intercommunales cable networks</td>
<td>BE</td>
<td>Telecom</td>
<td>923,589</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>31</td>
<td>2002</td>
<td>State Street Corporation</td>
<td>US</td>
<td>Deutsche Bank AG's global custody business</td>
<td>DE</td>
<td>Financial</td>
<td>1,500,000</td>
<td>Deal</td>
</tr>
<tr>
<td>32</td>
<td>2002</td>
<td>Vodafone European Investments</td>
<td>GB</td>
<td>Airtel Movil SA</td>
<td>ES</td>
<td>Telecom</td>
<td>1,970,318</td>
<td>Deal</td>
</tr>
<tr>
<td>33</td>
<td>2002</td>
<td>Yukos Oil Company OAO</td>
<td>RU</td>
<td>Alaskan oil refinery</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>1,000,000</td>
<td>No Deal</td>
</tr>
<tr>
<td>34</td>
<td>2002</td>
<td>Deutsche Börse AG</td>
<td>DE</td>
<td>Clearstream International SA</td>
<td>LU</td>
<td>Financial</td>
<td>1,586,043</td>
<td>Deal</td>
</tr>
<tr>
<td>35</td>
<td>2002</td>
<td>Woodside Petroleum Ltd</td>
<td>AU</td>
<td>Westport Resources Corporation</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>900,000</td>
<td>No Deal</td>
</tr>
<tr>
<td>36</td>
<td>2002</td>
<td>Vodafone AG</td>
<td>DE</td>
<td>Cegetel Groupe SA</td>
<td>FR</td>
<td>Telecom</td>
<td>6,645,073</td>
<td>No Deal</td>
</tr>
<tr>
<td>37</td>
<td>2002</td>
<td>Vodafone AG</td>
<td>DE</td>
<td>Cegetel Groupe SA</td>
<td>FR</td>
<td>Telecom</td>
<td>6,770,677</td>
<td>No Deal</td>
</tr>
<tr>
<td>38</td>
<td>2002</td>
<td>Yukos Oil Company OAO</td>
<td>RU</td>
<td>Agip Spa's oil refineries</td>
<td>IT</td>
<td>Oil &amp; Gas</td>
<td>706,429</td>
<td>No Deal</td>
</tr>
<tr>
<td>39</td>
<td>2002</td>
<td>Intelsat Ltd</td>
<td>US</td>
<td>Eutelsat SA</td>
<td>FR</td>
<td>Telecom</td>
<td>1,721,035</td>
<td>No Deal</td>
</tr>
<tr>
<td>40</td>
<td>2002</td>
<td>Vivendi Water UK plc</td>
<td>FR</td>
<td>First Aqua Ltd</td>
<td>GB</td>
<td>Utilities</td>
<td>3,012,491</td>
<td>No Deal</td>
</tr>
<tr>
<td>41</td>
<td>2003</td>
<td>Kohlberg Kravis Roberts &amp; Company</td>
<td>US</td>
<td>MTU Aero Engines GmbH</td>
<td>DE</td>
<td>Aerospace &amp; Defence</td>
<td>1,770,884</td>
<td>Deal</td>
</tr>
<tr>
<td>42</td>
<td>2003</td>
<td>RWE AG</td>
<td>DE</td>
<td>American Water Works Company Inc.</td>
<td>US</td>
<td>Utilities</td>
<td>8,600,000</td>
<td>Deal</td>
</tr>
<tr>
<td>43</td>
<td>2003</td>
<td>BP plc</td>
<td>GB</td>
<td>Tysmenskaya Neftyanaya Kompaniya</td>
<td>RU</td>
<td>Oil &amp; Gas</td>
<td>6,350,000</td>
<td>Deal</td>
</tr>
<tr>
<td>44</td>
<td>2003</td>
<td>DE Shaw &amp; Co.</td>
<td>US</td>
<td>Southern Water Capital Ltd</td>
<td>GB</td>
<td>Utilities</td>
<td>837,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>45</td>
<td>2003</td>
<td>PanAmSat Holding Corporation</td>
<td>US</td>
<td>Eutelsat SA</td>
<td>FR</td>
<td>Telecom</td>
<td>3,500,000</td>
<td>No Deal</td>
</tr>
<tr>
<td>46</td>
<td>2003</td>
<td>Eni SpA</td>
<td>IT</td>
<td>Uniön Fenosa Gas SA</td>
<td>ES</td>
<td>Oil &amp; Gas</td>
<td>1,062,364</td>
<td>Deal</td>
</tr>
<tr>
<td>47</td>
<td>2003</td>
<td>BC Partners Ltd</td>
<td>GB</td>
<td>Tele Columbus GmbH &amp; Co. KG</td>
<td>DE</td>
<td>Telecom</td>
<td>589,527</td>
<td>Deal</td>
</tr>
<tr>
<td>48</td>
<td>2003</td>
<td>State Street Corporation</td>
<td>US</td>
<td>Deutsche Bank AG's global securities services business</td>
<td>DE</td>
<td>Financial</td>
<td>1,500,000</td>
<td>Deal</td>
</tr>
<tr>
<td>49</td>
<td>2003</td>
<td>Amvescap plc</td>
<td>GB</td>
<td>Whitehall Asset Management Inc.</td>
<td>US</td>
<td>Financial</td>
<td>1,500,000</td>
<td>Deal</td>
</tr>
<tr>
<td>50</td>
<td>2003</td>
<td>Hitachi Ltd</td>
<td>JP</td>
<td>IBM Corporation's hard disk drive business</td>
<td>US</td>
<td>Technology</td>
<td>2,050,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>51</td>
<td>2003</td>
<td>Vodafone Group plc</td>
<td>GB</td>
<td>Vodafone Telecel-</td>
<td>PT</td>
<td>Telecom</td>
<td>761,780</td>
<td>Deal</td>
</tr>
<tr>
<td>52</td>
<td>2003</td>
<td>Deutsche Börse AG</td>
<td>DE</td>
<td>London Stock Exchange plc</td>
<td>GB</td>
<td>Financial</td>
<td>2,246,830,36</td>
<td>No Deal</td>
</tr>
<tr>
<td>53</td>
<td>2003</td>
<td>Siemens AG</td>
<td>DE</td>
<td>Legrand SA (old)</td>
<td>FR</td>
<td>Aerospace &amp; Defence</td>
<td>8,228,517.69</td>
<td>No Deal</td>
</tr>
<tr>
<td>54</td>
<td>2003</td>
<td>Alcan Inc.</td>
<td>CA</td>
<td>Peechney SA</td>
<td>FR</td>
<td>Basic Resources</td>
<td>4,070,881</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>Case</td>
<td>YEAR</td>
<td>Acquirer Name</td>
<td>Ultimate Acquirer</td>
<td>Target Name</td>
<td>Ultimate Target</td>
<td>Primary Industry</td>
<td>Deal Values (USD Thousands)</td>
<td>Deal Outcome</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>---------------</td>
<td>-------------------</td>
<td>-------------</td>
<td>-----------------</td>
<td>------------------</td>
<td>-----------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>55</td>
<td>2003</td>
<td>Business Objects SA</td>
<td>FR</td>
<td>Crystal Decisions Inc.</td>
<td>US</td>
<td>Technology</td>
<td>830,000</td>
<td>Deal</td>
</tr>
<tr>
<td>56</td>
<td>2004</td>
<td>Intelsat Inc.</td>
<td>GB</td>
<td>Loral Space &amp; Communications Ltd's North American business</td>
<td>US</td>
<td>Aerospace &amp; Defence</td>
<td>1,027,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>57</td>
<td>2004</td>
<td>Vodafone Group plc</td>
<td>GB</td>
<td>Vodafone-Panafon Hellenic Telecom Company SA</td>
<td>GR</td>
<td>Telecom</td>
<td>971,485</td>
<td>Deal</td>
</tr>
<tr>
<td>58</td>
<td>2004</td>
<td>Thomson Corporation, The</td>
<td>CA</td>
<td>TradeWeb LLC</td>
<td>US</td>
<td>Financial</td>
<td>535,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>59</td>
<td>2004</td>
<td>Alcan Inc.</td>
<td>CA</td>
<td>Pechiney SA</td>
<td>FR</td>
<td>Basic Resources</td>
<td>5,043,260</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>60</td>
<td>2004</td>
<td>Petro-Canada UK Ltd</td>
<td>CA</td>
<td>Intrepid Energy North Sea Ltd</td>
<td>GB</td>
<td>Oil &amp; Gas</td>
<td>840,000</td>
<td>Deal</td>
</tr>
<tr>
<td>61</td>
<td>2004</td>
<td>Siemens AG</td>
<td>DE</td>
<td>Alstom SA</td>
<td>FR</td>
<td>Utilities</td>
<td>19,021,559.84</td>
<td>No Deal</td>
</tr>
<tr>
<td>62</td>
<td>2004</td>
<td>UGI Corporation</td>
<td>US</td>
<td>AGZ Holding SA</td>
<td>FR</td>
<td>Oil &amp; Gas</td>
<td>649,787</td>
<td>Deal</td>
</tr>
<tr>
<td>63</td>
<td>2004</td>
<td>ST Assembly Test Services Ltd</td>
<td>SG</td>
<td>ChipPAC Inc.</td>
<td>US</td>
<td>Technology</td>
<td>1,127,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>64</td>
<td>2004</td>
<td>TransCanada Corporation</td>
<td>CA</td>
<td>Gas Transmission Northwest Corporation</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>1,703,000</td>
<td>Deal</td>
</tr>
<tr>
<td>65</td>
<td>2004</td>
<td>CGI Group Inc.</td>
<td>CA</td>
<td>American Management Systems Inc.</td>
<td>US</td>
<td>Telecom</td>
<td>858,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>66</td>
<td>2004</td>
<td>Teekay Shipping Corporation</td>
<td>CA</td>
<td>Naviera F Tapias SA</td>
<td>ES</td>
<td>Marine Transportation</td>
<td>810,000</td>
<td>Deal</td>
</tr>
<tr>
<td>67</td>
<td>2004</td>
<td>Encana Corporation</td>
<td>CA</td>
<td>Tom Brown Inc.</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>2,689,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>68</td>
<td>2004</td>
<td>RIVR Acquisition BV</td>
<td>US</td>
<td>Petroplus International NV</td>
<td>NL</td>
<td>Oil &amp; Gas</td>
<td>721,240.53</td>
<td>Deal</td>
</tr>
<tr>
<td>69</td>
<td>2004</td>
<td>Brascan Corporation</td>
<td>CA</td>
<td>Reliant Energy Inc.'s 72 power generation plants</td>
<td>US</td>
<td>Utilities</td>
<td>874,000</td>
<td>Deal</td>
</tr>
<tr>
<td>70</td>
<td>2004</td>
<td>Thomson Corporation, The</td>
<td>CA</td>
<td>Information Holdings Inc.</td>
<td>US</td>
<td>Technology</td>
<td>585,676</td>
<td>Deal</td>
</tr>
<tr>
<td>71</td>
<td>2004</td>
<td>Petro-Canada Ltd</td>
<td>CA</td>
<td>Prima Energy Corporation</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>512,700</td>
<td>Deal</td>
</tr>
<tr>
<td>72</td>
<td>2004</td>
<td>ARM Holdings plc</td>
<td>GB</td>
<td>Artisan Components Inc.</td>
<td>US</td>
<td>Technology</td>
<td>913,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>73</td>
<td>2004</td>
<td>Macquarie European Infrastructure Fund LP</td>
<td>AU</td>
<td>National Grid Transco plc's Wales and West England gas network</td>
<td>GB</td>
<td>Oil &amp; Gas</td>
<td>2,154,785</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>74</td>
<td>2004</td>
<td>BAE Systems North America Inc.</td>
<td>GB</td>
<td>DigitalNet Holdings Inc.</td>
<td>US</td>
<td>Technology</td>
<td>600,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>75</td>
<td>2005</td>
<td>Nordic Telephone Company APS</td>
<td>US</td>
<td>TDC A/S</td>
<td>DK</td>
<td>Telecom</td>
<td>15,600,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>76</td>
<td>2005</td>
<td>Electricité de France SA</td>
<td>FR</td>
<td>Itaenergia Bis</td>
<td>IT</td>
<td>Oil &amp; Gas</td>
<td>5,087,414.76</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>77</td>
<td>2005</td>
<td>Transalpina di Energia</td>
<td>FR</td>
<td>Edison SpA</td>
<td>IT</td>
<td>Utilities</td>
<td>2,973,588.10</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>78</td>
<td>2005</td>
<td>Weather Investments SpA</td>
<td>EG</td>
<td>Wind SpA</td>
<td>IT</td>
<td>Telecom</td>
<td>9,125,934</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>79</td>
<td>2005</td>
<td>France Télécom SA</td>
<td>FR</td>
<td>Amena Movil SL</td>
<td>ES</td>
<td>Telecom</td>
<td>7,556,972</td>
<td>Deal</td>
</tr>
<tr>
<td>80</td>
<td>2005</td>
<td>VNU NV</td>
<td>NL</td>
<td>IMS Health Inc.</td>
<td>US</td>
<td>Technology</td>
<td>7,000,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>81</td>
<td>2005</td>
<td>Talisman Energy Resources Ltd</td>
<td>CA</td>
<td>Paladin Resources plc</td>
<td>GB</td>
<td>Oil &amp; Gas</td>
<td>2,153,085</td>
<td>Deal</td>
</tr>
<tr>
<td>82</td>
<td>2005</td>
<td>TransCanada Corporation</td>
<td>CA</td>
<td>USGen New England Inc's hydroelectric generation assets</td>
<td>US</td>
<td>Utilities</td>
<td>505,000</td>
<td>Deal</td>
</tr>
<tr>
<td>Case</td>
<td>YEAR</td>
<td>Acquirer Name</td>
<td>Ultimate Acquirer</td>
<td>Target Name</td>
<td>Ultimate Target</td>
<td>Primary Industry</td>
<td>Deal Values (USD Thousands)</td>
<td>Deal Outcome</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>--------------------------------</td>
<td>-------------------</td>
<td>-------------------------------------------------------</td>
<td>-----------------</td>
<td>------------------</td>
<td>------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>83</td>
<td>2005</td>
<td>Statkraft SF</td>
<td>NO</td>
<td>Sydkraft AB's 20 hydropower plants in Sweden</td>
<td>SE</td>
<td>Utilities</td>
<td>580,840.02</td>
<td>Deal</td>
</tr>
<tr>
<td>84</td>
<td>2005</td>
<td>Ispat International NV</td>
<td>NL</td>
<td>International Steel Group Inc., The</td>
<td>US</td>
<td>Basic Resources</td>
<td>4,117,000</td>
<td>Deal</td>
</tr>
<tr>
<td>85</td>
<td>2005</td>
<td>Tanjong plc</td>
<td>AU</td>
<td>National Transcommunications Ltd</td>
<td>GB</td>
<td>Utilities</td>
<td>2,396,679</td>
<td>Deal</td>
</tr>
<tr>
<td>86</td>
<td>2005</td>
<td>Lenovo Group Ltd</td>
<td>CN</td>
<td>IBM Corporation's PC business</td>
<td>US</td>
<td>Technology</td>
<td>1,750,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>87</td>
<td>2005</td>
<td>Goldman Sachs Capital Partners</td>
<td>US</td>
<td>Pirelli Cavi e Sistemi SpA</td>
<td>IT</td>
<td>Basic Resources</td>
<td>1,569,479.66</td>
<td>Deal</td>
</tr>
<tr>
<td>88</td>
<td>2005</td>
<td>UniCreditio Italiano SpA</td>
<td>IT</td>
<td>Bayerische Hypo- und Vereinsbank AG</td>
<td>DE</td>
<td>Financial</td>
<td>16,105,109.84</td>
<td>Deal</td>
</tr>
<tr>
<td>89</td>
<td>2005</td>
<td>BP plc</td>
<td>GB</td>
<td>Repsol-YPF SA</td>
<td>ES</td>
<td>Oil &amp; Gas</td>
<td>48,021,502.56</td>
<td>No Deal</td>
</tr>
<tr>
<td>90</td>
<td>2005</td>
<td>Investment consortium led by JC Flowers &amp; Co LLC</td>
<td>US</td>
<td>NIB Capital NV</td>
<td>NL</td>
<td>Financial</td>
<td>2,490,807.73</td>
<td>Deal</td>
</tr>
<tr>
<td>91</td>
<td>2005</td>
<td>MLX</td>
<td>AU</td>
<td>London Stock Exchange plc</td>
<td>GB</td>
<td>Financial</td>
<td>2,658,632</td>
<td>No Deal</td>
</tr>
<tr>
<td>93</td>
<td>2005</td>
<td>CVC Capital Partners Ltd</td>
<td>GB</td>
<td>Unión Fenosa SA</td>
<td>ES</td>
<td>Utilities</td>
<td>10,139,776.36</td>
<td>No Deal</td>
</tr>
<tr>
<td>94</td>
<td>2005</td>
<td>Vattenfall AB</td>
<td>SE</td>
<td>Nordjyllandsvarket power plant</td>
<td>DK</td>
<td>Utilities</td>
<td>1,488,242.88</td>
<td>Deal</td>
</tr>
<tr>
<td>95</td>
<td>2005</td>
<td>Avnet Inc.</td>
<td>US</td>
<td>Memec Group Holdings Ltd</td>
<td>GB</td>
<td>Technology</td>
<td>661,995.00</td>
<td>Deal</td>
</tr>
<tr>
<td>96</td>
<td>2005</td>
<td>TUI AG</td>
<td>DE</td>
<td>CP Ships Ltd</td>
<td>GB</td>
<td>Marine Transportation</td>
<td>2,385,099.59</td>
<td>Deal</td>
</tr>
<tr>
<td>97</td>
<td>2005</td>
<td>Galileo Avionica SpA</td>
<td>IT</td>
<td>BAE Systems Avionics Ltd</td>
<td>GB</td>
<td>Aerospace &amp; Defence</td>
<td>713,060</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>98</td>
<td>2005</td>
<td>Huawei Technologies Co. Ltd</td>
<td>CN</td>
<td>Marconi Corporation plc</td>
<td>GB</td>
<td>Technology</td>
<td>1,419,916.70</td>
<td>No Deal</td>
</tr>
<tr>
<td>99</td>
<td>2005</td>
<td>Legg Mason Inc.</td>
<td>US</td>
<td>Permal Group SCA</td>
<td>FR</td>
<td>Financial</td>
<td>800,000</td>
<td>Deal</td>
</tr>
<tr>
<td>100</td>
<td>2005</td>
<td>CNOOC Ltd</td>
<td>CN</td>
<td>Unocal Corporation</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>18,209,400.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>101</td>
<td>2005</td>
<td>Suez SA</td>
<td>FR</td>
<td>Electabel SA</td>
<td>BE</td>
<td>Utilities</td>
<td>13,831,942</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>102</td>
<td>2005</td>
<td>Management</td>
<td>AU</td>
<td>Inexus Group (Holdings) Ltd</td>
<td>GB</td>
<td>Oil &amp; Gas</td>
<td>838,140</td>
<td>Deal</td>
</tr>
<tr>
<td>103</td>
<td>2005</td>
<td>Enel SpA</td>
<td>IT</td>
<td>Mosenergo OAO</td>
<td>RU</td>
<td>Utilities</td>
<td>1,000,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>104</td>
<td>2005</td>
<td>Norsk Hydro ASA</td>
<td>NO</td>
<td>Spinnaker Exploration Company</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>2,560,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>105</td>
<td>2005</td>
<td>Deutsche Börse AG</td>
<td>DE</td>
<td>Euronext NV</td>
<td>NL</td>
<td>Financial</td>
<td>9,451,956</td>
<td>No Deal</td>
</tr>
<tr>
<td>106</td>
<td>2005</td>
<td>Thunder FZE (Dubai Ports World)</td>
<td>AE</td>
<td>FenixMariner &amp; Oriental Steam Navigation Company plc</td>
<td>GB</td>
<td>Marine Transportation</td>
<td>5,701,063</td>
<td>No Deal</td>
</tr>
<tr>
<td>107</td>
<td>2005</td>
<td>Orix Corporation</td>
<td>JP</td>
<td>Houlihan Lokey Howard &amp; Zakin</td>
<td>US</td>
<td>Financial</td>
<td>500,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>108</td>
<td>2005</td>
<td>Legg Mason Inc.</td>
<td>US</td>
<td>Permal Group SCA</td>
<td>FR</td>
<td>Financial</td>
<td>5,56,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>109</td>
<td>2005</td>
<td>France Télécom SA</td>
<td>FR</td>
<td>Telindus Group NV</td>
<td>BE</td>
<td>Telecom</td>
<td>671,331.99</td>
<td>No Deal</td>
</tr>
<tr>
<td>110</td>
<td>2005</td>
<td>Nachtwache Acquisition GmbH</td>
<td>GB</td>
<td>G Kroemschriders Aktiengesellschaft</td>
<td>DE</td>
<td>Oil &amp; Gas</td>
<td>515,191.39</td>
<td>Deal</td>
</tr>
<tr>
<td>Case</td>
<td>YEAR</td>
<td>Acquirer Name</td>
<td>Ultimate Acquirer</td>
<td>Target Name</td>
<td>Ultimate Target</td>
<td>Primary Industry</td>
<td>Deal Values (USD Thousands)</td>
<td>Deal Outcome</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>-----------------------------------</td>
<td>-------------------</td>
<td>-----------------------------------</td>
<td>-----------------------</td>
<td>--------------------------</td>
<td>----------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>111</td>
<td>2005</td>
<td>Frontline Ltd</td>
<td>NO</td>
<td>General Maritime Corporation</td>
<td>US</td>
<td>Marine Transportation</td>
<td>1,500,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>112</td>
<td>2005</td>
<td>Statkraft SF</td>
<td>NO</td>
<td>Graninge AB's 24 hydropower plants</td>
<td>SE</td>
<td>Utilities</td>
<td>580,840.02</td>
<td>Deal</td>
</tr>
<tr>
<td>113</td>
<td>2006</td>
<td>Osprey Acquisitions Ltd</td>
<td>AU</td>
<td>AWG plc</td>
<td>GB</td>
<td>Utilities</td>
<td>4,142,643</td>
<td>No Deal</td>
</tr>
<tr>
<td>114</td>
<td>2006</td>
<td>Tata Steel UK Ltd</td>
<td>IN</td>
<td>Corus Group plc</td>
<td>GB</td>
<td>Basic Resources</td>
<td>8,043,396.93</td>
<td>No Deal</td>
</tr>
<tr>
<td>115</td>
<td>2006</td>
<td>ElectricInvest Acquisitions Ltd</td>
<td>BH</td>
<td>Viridian Group plc</td>
<td>GB</td>
<td>Utilities</td>
<td>4,030,672.43</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>116</td>
<td>2006</td>
<td>Iberdrola SA</td>
<td>ES</td>
<td>Scottish Power plc</td>
<td>GB</td>
<td>Utilities</td>
<td>22,480,620.16</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>117</td>
<td>2006</td>
<td>CPST Sweden Holdings AB</td>
<td>IL</td>
<td>Protect Data AB</td>
<td>SE</td>
<td>Technology</td>
<td>586,283.34</td>
<td>No Deal</td>
</tr>
<tr>
<td>118</td>
<td>2006</td>
<td>Dubai International Capital</td>
<td>AE</td>
<td>Doncasters Group Ltd</td>
<td>GB</td>
<td>Aerospace &amp; Defence</td>
<td>1,220,575</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>119</td>
<td>2006</td>
<td>T-Mobile Austria GmbH</td>
<td>DE</td>
<td>Tele.ring Telekom Service GmbH</td>
<td>AT</td>
<td>Telecom</td>
<td>1,620,341.52</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>120</td>
<td>2006</td>
<td>Deutsche Bahn AG</td>
<td>DE</td>
<td>BAX Global Inc.</td>
<td>US</td>
<td>Marine Transportation</td>
<td>1,100,000</td>
<td>Deal</td>
</tr>
<tr>
<td>121</td>
<td>2006</td>
<td>Telefonaktiebolaget LM Ericsson</td>
<td>SE</td>
<td>Marconi Corporation plc's Telecom equipment and international services businesses</td>
<td>GB</td>
<td>Telecom</td>
<td>2,135,991.46</td>
<td>Deal</td>
</tr>
<tr>
<td>122</td>
<td>2006</td>
<td>Telefónica SA</td>
<td>ES</td>
<td>O2 plc</td>
<td>GB</td>
<td>Telecom</td>
<td>31,068,984</td>
<td>Deal</td>
</tr>
<tr>
<td>123</td>
<td>2006</td>
<td>Intelsat Ltd</td>
<td>GB</td>
<td>PanAmSat Holding Corporation</td>
<td>US</td>
<td>Telecom</td>
<td>6,400,000.00</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>124</td>
<td>2006</td>
<td>Toshiba Nuclear Energy Holdings (US) Inc.</td>
<td>JP</td>
<td>BNFL USA Group Inc.</td>
<td>US</td>
<td>Utilities</td>
<td>5,400,000.00</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>125</td>
<td>2006</td>
<td>BCM Ireland Holdings Ltd</td>
<td>AU</td>
<td>Eircom Group plc</td>
<td>IE</td>
<td>Telecom</td>
<td>3,105,398</td>
<td>Deal</td>
</tr>
<tr>
<td>126</td>
<td>2006</td>
<td>Advent International Corporation</td>
<td>US</td>
<td>RWE Solutions AG</td>
<td>DE</td>
<td>Utilities</td>
<td>898,818.70</td>
<td>Deal</td>
</tr>
<tr>
<td>127</td>
<td>2006</td>
<td>NTL Inc. (old)</td>
<td>US</td>
<td>Virgin Mobile Holdings (UK) plc</td>
<td>GB</td>
<td>Telecom</td>
<td>1,775,272.09</td>
<td>Deal</td>
</tr>
<tr>
<td>128</td>
<td>2006</td>
<td>PSA International Pte Ltd</td>
<td>SG</td>
<td>Peninsular &amp; Oriental Steam Navigation Company plc</td>
<td>GB</td>
<td>Marine Transportation</td>
<td>6,330,357</td>
<td>No Deal</td>
</tr>
<tr>
<td>129</td>
<td>2006</td>
<td>DSV A/S</td>
<td>DK</td>
<td>Koninklijke Frans Maas Groep NV</td>
<td>NL</td>
<td>Marine Transportation</td>
<td>536,348.99</td>
<td>Deal</td>
</tr>
<tr>
<td>130</td>
<td>2006</td>
<td>Carlyle Group, The</td>
<td>US</td>
<td>Belgian Refining Corporation NV</td>
<td>BE</td>
<td>Oil &amp; Gas</td>
<td>601,251</td>
<td>Deal</td>
</tr>
<tr>
<td>131</td>
<td>2006</td>
<td>Amvescap plc</td>
<td>GB</td>
<td>PowerShares Capital Management LLC</td>
<td>US</td>
<td>Financial</td>
<td>730,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>132</td>
<td>2006</td>
<td>Mittal Steel Company NV</td>
<td>NL</td>
<td>Arcelor SA</td>
<td>LU</td>
<td>Basic Resources</td>
<td>23,003,429.69</td>
<td>No Deal</td>
</tr>
<tr>
<td>133</td>
<td>2006</td>
<td>Thunder FZE (Dubai Ports World)</td>
<td>AE</td>
<td>Peninsular &amp; Oriental Steam Navigation Company plc</td>
<td>GB</td>
<td>Marine Transportation</td>
<td>6,780,132</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>Case</td>
<td>YEAR</td>
<td>Acquirer Name</td>
<td>Ultimate Acquirer</td>
<td>Target Name</td>
<td>Ultimate Target</td>
<td>Primary Industry</td>
<td>Deal Values (USD Thousands)</td>
<td>Deal Outcome</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>---------------</td>
<td>-------------------</td>
<td>-------------</td>
<td>----------------</td>
<td>------------------</td>
<td>-----------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>134</td>
<td>2006</td>
<td>Tele2 AB</td>
<td>SE</td>
<td>Srednevolzhskaya Mehregionalnyaya Assotsiatsiya Radiotelekomunikatsionnykh Sistem ZAO</td>
<td>RU</td>
<td>Telecom</td>
<td>700,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>135</td>
<td>2006</td>
<td>National Grid USA Inc.</td>
<td>GB</td>
<td>New England Gas Company's Rhode Island Assets, The</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>575,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>136</td>
<td>2006</td>
<td>National Grid plc</td>
<td>GB</td>
<td>KeySpan Corporation</td>
<td>US</td>
<td>Utilities</td>
<td>11,800,000.00</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>137</td>
<td>2006</td>
<td>E.ON AG</td>
<td>DE</td>
<td>Endesa SA</td>
<td>ES</td>
<td>Utilities</td>
<td>65,951,982.80</td>
<td>No Deal</td>
</tr>
<tr>
<td>138</td>
<td>2006</td>
<td>Nightingale Acquisition Ltd</td>
<td>US</td>
<td>London Stock Exchange Group plc</td>
<td>GB</td>
<td>Financial</td>
<td>5,494,505.49</td>
<td>No Deal</td>
</tr>
<tr>
<td>139</td>
<td>2006</td>
<td>Alcatel SA</td>
<td>FR</td>
<td>Motorola Inc's Automotive Electronics Business</td>
<td>US</td>
<td>Technology</td>
<td>4,663,355</td>
<td>No Deal</td>
</tr>
<tr>
<td>140</td>
<td>2006</td>
<td>Alcatel SA</td>
<td>FR</td>
<td>Lucent Technologies Inc.</td>
<td>US</td>
<td>Technology</td>
<td>649,521</td>
<td>No Deal</td>
</tr>
<tr>
<td>141</td>
<td>2006</td>
<td>BAE Systems plc</td>
<td>GB</td>
<td>L-3 Communications Holdings Inc.</td>
<td>US</td>
<td>Telecom</td>
<td>13,400,000</td>
<td>Deal</td>
</tr>
<tr>
<td>142</td>
<td>2006</td>
<td>Admiral Acquisition Limited</td>
<td>UK</td>
<td>Associated British Ports Holdings plc</td>
<td>GB</td>
<td>Marine Transportation</td>
<td>5,494,505.49</td>
<td>No Deal</td>
</tr>
<tr>
<td>143</td>
<td>2006</td>
<td>Continental AG</td>
<td>DE</td>
<td>Motorola Inc's Automotive Electronics Business</td>
<td>US</td>
<td>Technology</td>
<td>1,000,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>144</td>
<td>2006</td>
<td>Holmar Holdings Ltd</td>
<td>US</td>
<td>Arcelor SA</td>
<td>LU</td>
<td>Basic Resources</td>
<td>3,105,398</td>
<td>Deal</td>
</tr>
<tr>
<td>145</td>
<td>2006</td>
<td>Mittal Steel Company NV</td>
<td>NL</td>
<td>Arcelor SA</td>
<td>RU</td>
<td>Basic Resources</td>
<td>16,575,150</td>
<td>Deal</td>
</tr>
<tr>
<td>146</td>
<td>2006</td>
<td>Tenaris SA</td>
<td>AR</td>
<td>Maverick Tube Corporation</td>
<td>US</td>
<td>Basic Resources</td>
<td>3,185,000</td>
<td>Deal</td>
</tr>
<tr>
<td>147</td>
<td>2006</td>
<td>Advent International Corporation</td>
<td>DE</td>
<td>BAX Global Inc.</td>
<td>US</td>
<td>Marine Transportation</td>
<td>1,000,000</td>
<td>Deal</td>
</tr>
<tr>
<td>148</td>
<td>2006</td>
<td>Toshiba Nuclear Energy Holdings (US) Inc.</td>
<td>JP</td>
<td>BNFL USA Group Inc.</td>
<td>US</td>
<td>Utilities</td>
<td>5,400,000.00</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>149</td>
<td>2006</td>
<td>BCM Ireland Holdings Ltd</td>
<td>AU</td>
<td>Ericom Group plc</td>
<td>IE</td>
<td>Telecom</td>
<td>3,105,398</td>
<td>Deal</td>
</tr>
<tr>
<td>150</td>
<td>2006</td>
<td>Advent International Corporation</td>
<td>US</td>
<td>RWE Solutions AG</td>
<td>DE</td>
<td>Utilities</td>
<td>898,818.70</td>
<td>Deal</td>
</tr>
<tr>
<td>151</td>
<td>2006</td>
<td>Panasonic Corporation</td>
<td>SE</td>
<td>Marconi Corporation plc's Telecom equipment and international services businesses</td>
<td>GB</td>
<td>Telecom</td>
<td>2,135,991.46</td>
<td>Deal</td>
</tr>
<tr>
<td>152</td>
<td>2006</td>
<td>PSA International Pte Ltd</td>
<td>SG</td>
<td>Peninsular &amp; Oriental Steam Navigation Company plc</td>
<td>GB</td>
<td>Marine Transportation</td>
<td>31,068,984</td>
<td>Deal</td>
</tr>
<tr>
<td>153</td>
<td>2006</td>
<td>DSV A/S</td>
<td>DK</td>
<td>Koninklijke Frans Maas Groep NV</td>
<td>NL</td>
<td>Marine Transportation</td>
<td>536,348.99</td>
<td>Deal</td>
</tr>
</tbody>
</table>

433
<table>
<thead>
<tr>
<th>Case</th>
<th>YEAR</th>
<th>Acquirer Name</th>
<th>Ultimate Acquirer</th>
<th>Target Name</th>
<th>Ultimate Industry</th>
<th>Deal Values (USD Thousands)</th>
<th>Deal Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>130</td>
<td>2006</td>
<td>Carlyle Group</td>
<td>US</td>
<td>Belgian Refining Corporation NV</td>
<td>BE</td>
<td>601,251</td>
<td>Deal</td>
</tr>
<tr>
<td>131</td>
<td>2006</td>
<td>Amvescap plc</td>
<td>GB</td>
<td>PowerShares Capital Management LLC</td>
<td>US</td>
<td>730,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>132</td>
<td>2006</td>
<td>Mittal Steel Company NV</td>
<td>NL</td>
<td>Arcelor SA</td>
<td>LU</td>
<td>23,003,429.69</td>
<td>No Deal</td>
</tr>
<tr>
<td>133</td>
<td>2006</td>
<td>Thunder FZE (Dubai Ports World)</td>
<td>AE</td>
<td>Peninsular &amp; Oriental Steam Navigation Company plc</td>
<td>GB</td>
<td>6,780,132</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>134</td>
<td>2006</td>
<td>Tele2 AB</td>
<td>SE</td>
<td>Srednevolzhskaya Mezhregionalnyaya Asotsiatziya Radiotelekomunikatsionnykh Sistem ZAO</td>
<td>RU</td>
<td>700,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>135</td>
<td>2006</td>
<td>National Grid USA Inc.</td>
<td>GB</td>
<td>New England Gas Company's Rhode Island Assets, The</td>
<td>US</td>
<td>575,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>136</td>
<td>2006</td>
<td>National Grid plc</td>
<td>GB</td>
<td>KeySpan Corporation</td>
<td>US</td>
<td>11,800,000.00</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>137</td>
<td>2006</td>
<td>E.ON AG</td>
<td>DE</td>
<td>Endesa SA</td>
<td>ES</td>
<td>65,951,982.80</td>
<td>No Deal</td>
</tr>
<tr>
<td>138</td>
<td>2006</td>
<td>Nightingale Acquisition Ltd</td>
<td>US</td>
<td>London Stock Exchange Group plc</td>
<td>GB</td>
<td>5,494,505.49</td>
<td>No Deal</td>
</tr>
<tr>
<td>139</td>
<td>2006</td>
<td>Aleris International Inc.</td>
<td>US</td>
<td>Corus Group plc's aluminium business</td>
<td>GB</td>
<td>1,054,109</td>
<td>Deal</td>
</tr>
<tr>
<td>140</td>
<td>2006</td>
<td>Alice One SA</td>
<td>GB</td>
<td>UPC France SA</td>
<td>FR</td>
<td>1,565,043</td>
<td>Deal</td>
</tr>
<tr>
<td>141</td>
<td>2006</td>
<td>Alcatel SA</td>
<td>FR</td>
<td>Lucent Technologies Inc.</td>
<td>US</td>
<td>13,400,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>142</td>
<td>2006</td>
<td>BAE Systems plc</td>
<td>GB</td>
<td>L-3 Communications Holdings Inc.</td>
<td>US</td>
<td>10,000,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>143</td>
<td>2006</td>
<td>Admiral Acquisitions UK Ltd</td>
<td>US</td>
<td>Associated British Ports Holdings plc</td>
<td>GB</td>
<td>4,571,218.26</td>
<td>No Deal</td>
</tr>
<tr>
<td>144</td>
<td>2006</td>
<td>Continental AG</td>
<td>DE</td>
<td>Motorola Inc's Automotive Electronics Business</td>
<td>US</td>
<td>1,000,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>145</td>
<td>2006</td>
<td>UBS AG</td>
<td>CH</td>
<td>Piper Jaffray's Private Client Services branch network</td>
<td>US</td>
<td>575,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>146</td>
<td>2006</td>
<td>Holmar Holdings Ltd</td>
<td>US</td>
<td>Telent plc</td>
<td>GB</td>
<td>649,521</td>
<td>No Deal</td>
</tr>
<tr>
<td>147</td>
<td>2006</td>
<td>Arcelor SA</td>
<td>LU</td>
<td>Severstal OAO</td>
<td>RU</td>
<td>16,575,150</td>
<td>Deal</td>
</tr>
<tr>
<td>148</td>
<td>2006</td>
<td>Mittal Steel Company NV</td>
<td>NL</td>
<td>Arcelor SA</td>
<td>LU</td>
<td>32,102,708</td>
<td>No Deal</td>
</tr>
<tr>
<td>149</td>
<td>2006</td>
<td>Tenaris SA</td>
<td>AR</td>
<td>Maverick Tube Corporation</td>
<td>US</td>
<td>3,185,000</td>
<td>Deal</td>
</tr>
<tr>
<td>150</td>
<td>2006</td>
<td>Admiral Acquisitions UK Ltd</td>
<td>US</td>
<td>Associated British Ports Holdings plc</td>
<td>GB</td>
<td>4,663,355</td>
<td>No Deal</td>
</tr>
<tr>
<td>151</td>
<td>2006</td>
<td>Philips Holding USA Inc.</td>
<td>NL</td>
<td>Intermagnetics General Corporation</td>
<td>US</td>
<td>1,300,000.00</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>152</td>
<td>2006</td>
<td>Admiral Acquisitions UK Ltd</td>
<td>US</td>
<td>Associated British Ports Holdings plc</td>
<td>GB</td>
<td>5,280,559</td>
<td>Deal</td>
</tr>
<tr>
<td>153</td>
<td>2006</td>
<td>Mittal Steel Company NV</td>
<td>NL</td>
<td>Arcelor SA</td>
<td>LU</td>
<td>34,473,920.29</td>
<td>Deal</td>
</tr>
<tr>
<td>154</td>
<td>2006</td>
<td>Macquarie Bank Ltd</td>
<td>AU</td>
<td>PCCW Ltd's core phone and media assets</td>
<td>CN</td>
<td>7,300,000</td>
<td>No Deal</td>
</tr>
<tr>
<td>155</td>
<td>2006</td>
<td>Macquarie Bank Ltd</td>
<td>AU</td>
<td>Daqaesne Light Holdings Inc.</td>
<td>US</td>
<td>3,150,000</td>
<td>Deal</td>
</tr>
<tr>
<td>156</td>
<td>2006</td>
<td>3Com Corporation</td>
<td>US</td>
<td>Huawei-3Com Co., Ltd</td>
<td>CN</td>
<td>882,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>157</td>
<td>2006</td>
<td>J.P. Morgan</td>
<td>US</td>
<td>Troika Dialog GK</td>
<td>RU</td>
<td>700,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>158</td>
<td>2006</td>
<td>ATN Inc.</td>
<td>AU</td>
<td>Energy Partners Ltd</td>
<td>US</td>
<td>838,953.00</td>
<td>No Deal</td>
</tr>
</tbody>
</table>

**Total Deals:** 434
<table>
<thead>
<tr>
<th>Case</th>
<th>YEAR</th>
<th>Acquirer Name</th>
<th>Ultimate Acquirer</th>
<th>Target Name</th>
<th>Ultimate Target</th>
<th>Primary Industry</th>
<th>Deal Values (USD Thousands)</th>
<th>Deal Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>159</td>
<td>2006</td>
<td>NASDAQ Stock Market Inc., The</td>
<td>US</td>
<td>OMX AB</td>
<td>SE</td>
<td>Financial</td>
<td>3,126,571.78</td>
<td>No Deal</td>
</tr>
<tr>
<td>160</td>
<td>2006</td>
<td>Ipsco Inc.</td>
<td>CA</td>
<td>NS Group Inc.</td>
<td>US</td>
<td>Basic Resources</td>
<td>1,460,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>161</td>
<td>2006</td>
<td>Cyprus Popular Bank</td>
<td>CY</td>
<td>Marfin Financial Group SA</td>
<td>GR</td>
<td>Financial</td>
<td>2,049,709</td>
<td>Deal</td>
</tr>
<tr>
<td>162</td>
<td>2006</td>
<td>Nortel Networks Corporation</td>
<td>CA</td>
<td>Force10 Networks Inc.</td>
<td>US</td>
<td>Technology</td>
<td>550,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>163</td>
<td>2006</td>
<td>E.ON AG</td>
<td>DE</td>
<td>Endesa SA</td>
<td>ES</td>
<td>Utilities</td>
<td>80,760,638.90</td>
<td>No Deal</td>
</tr>
<tr>
<td>164</td>
<td>2006</td>
<td>Osprey Acquisitions Ltd</td>
<td>AU</td>
<td>AWG plc</td>
<td>GB</td>
<td>Utilities</td>
<td>4,424,744</td>
<td>Deal</td>
</tr>
<tr>
<td>165</td>
<td>2006</td>
<td>Blackstone Group LP, The</td>
<td>US</td>
<td>TPH</td>
<td>IT</td>
<td>Financial</td>
<td>627,195.18</td>
<td>Deal</td>
</tr>
<tr>
<td>166</td>
<td>2006</td>
<td>Dubai Energy</td>
<td>AE</td>
<td>Premier Oil plc</td>
<td>GB</td>
<td>Oil &amp; Gas</td>
<td>1,882,885</td>
<td>No Deal</td>
</tr>
<tr>
<td>167</td>
<td>2006</td>
<td>Nucor Corporation</td>
<td>US</td>
<td>ThyssenKrupp AG</td>
<td>DE</td>
<td>Basic Resources</td>
<td>19,400,887.72</td>
<td>Deal</td>
</tr>
<tr>
<td>168</td>
<td>2006</td>
<td>Statoil ASA</td>
<td>NO</td>
<td>Anadarko Petroleum Corporation's Gulf of Mexico oil and gas assets</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>901,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>169</td>
<td>2006</td>
<td>CSN Acquisitions Ltd</td>
<td>BR</td>
<td>Corus Group plc</td>
<td>GB</td>
<td>Basic Resources</td>
<td>9,212,429.16</td>
<td>No Deal</td>
</tr>
<tr>
<td>170</td>
<td>2006</td>
<td>Sappi SpA</td>
<td>IT</td>
<td>Technip SA</td>
<td>FR</td>
<td>Oil &amp; Gas</td>
<td>7,892,276.48</td>
<td>No Deal</td>
</tr>
<tr>
<td>171</td>
<td>2006</td>
<td>Tata Steel UK Ltd</td>
<td>IN</td>
<td>Corus Group plc</td>
<td>GB</td>
<td>Basic Resources</td>
<td>9,233,926</td>
<td>No Deal</td>
</tr>
<tr>
<td>172</td>
<td>2006</td>
<td>Dell Inc.</td>
<td>US</td>
<td>Founder Technology Group Corporation's PC manufacturing business</td>
<td>CN</td>
<td>Technology</td>
<td>1,000,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>173</td>
<td>2006</td>
<td>BG Group plc</td>
<td>GB</td>
<td>Lake Road Power Plant, Dayville, Connecticut</td>
<td>US</td>
<td>Utilities</td>
<td>685,000</td>
<td>Deal</td>
</tr>
<tr>
<td>174</td>
<td>2007</td>
<td>Avio Holding SpA</td>
<td>US</td>
<td>FiatAvio SpA</td>
<td>IT</td>
<td>Aerospace &amp; Defence</td>
<td>1,749,679</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>175</td>
<td>2007</td>
<td>Gemalto NV</td>
<td>NL</td>
<td>Gemplus International SA</td>
<td>LU</td>
<td>Technology</td>
<td>814,618</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>176</td>
<td>2007</td>
<td>América Móvil SA de CV</td>
<td>MX</td>
<td>Telecomunicaciones de Puerto Rico Inc.</td>
<td>US</td>
<td>Telecom</td>
<td>1,638,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>177</td>
<td>2007</td>
<td>Abu Dhabi National Energy Company PJSC</td>
<td>AE</td>
<td>BP Nederlend Energie BV</td>
<td>NL</td>
<td>Oil &amp; Gas</td>
<td>694,000</td>
<td>Deal</td>
</tr>
<tr>
<td>178</td>
<td>2007</td>
<td>NYSE Euronext (Holding) NV</td>
<td>US</td>
<td>Euronext NV</td>
<td>NL</td>
<td>Financial</td>
<td>10,367,803.84</td>
<td>Deal</td>
</tr>
<tr>
<td>179</td>
<td>2007</td>
<td>Petroleus Holdings AG</td>
<td>CH</td>
<td>BP plc’s Coryton Refinery in Essex</td>
<td>GB</td>
<td>Oil &amp; Gas</td>
<td>1,400,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>180</td>
<td>2007</td>
<td>Compagnie Générale de Géophysique SA</td>
<td>FR</td>
<td>Veritas DGC Inc.</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>3,100,000</td>
<td>Deal</td>
</tr>
<tr>
<td>181</td>
<td>2007</td>
<td>China National Bluestar (Group) Corporation</td>
<td>CN</td>
<td>Rhodia SA's silicon products manufacturing division</td>
<td>FR</td>
<td>Technology</td>
<td>518,604.95</td>
<td>Deal</td>
</tr>
<tr>
<td>182</td>
<td>2007</td>
<td>Oscar Acquisition Merger Sub Inc.</td>
<td>RU</td>
<td>Oregon Steel Mills Inc.</td>
<td>US</td>
<td>Basic Resources</td>
<td>2,300,000.00</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>183</td>
<td>2007</td>
<td>Capgemini US LLC</td>
<td>FR</td>
<td>Kanbay International Inc.</td>
<td>US</td>
<td>Technology</td>
<td>1,300,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>184</td>
<td>2007</td>
<td>Schneider Electric SA</td>
<td>FR</td>
<td>American Power Conversion Corporation</td>
<td>US</td>
<td>Technology</td>
<td>6,100,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>185</td>
<td>2007</td>
<td>Nomura Holdings Inc.</td>
<td>JP</td>
<td>Instinet, The Institutional Broker</td>
<td>US</td>
<td>Financial</td>
<td>1,200,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>186</td>
<td>2007</td>
<td>Arqiva Ltd</td>
<td>AU</td>
<td>National Grid plc's wireless infrastructure business</td>
<td>GB</td>
<td>Telecom</td>
<td>4,907,735</td>
<td>Deal</td>
</tr>
</tbody>
</table>

435
<table>
<thead>
<tr>
<th>Case</th>
<th>YEAR</th>
<th>Acquirer Name</th>
<th>Ultimate Acquirer</th>
<th>Target Name</th>
<th>Ultimate Target</th>
<th>Primary Industry</th>
<th>Deal Values (USD Thousands)</th>
<th>Deal Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>187</td>
<td>2007</td>
<td>CPST Sweden Holdings AB</td>
<td>IL</td>
<td>Protect Data AB</td>
<td>SE</td>
<td>Technology</td>
<td>613,961.43</td>
<td>Deal</td>
</tr>
<tr>
<td>188</td>
<td>2007</td>
<td>Telefonaktiebolaget LM Ericsson</td>
<td>SE</td>
<td>Redback Networks Inc.</td>
<td>US</td>
<td>Technology</td>
<td>2,100,000.00</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>189</td>
<td>2007</td>
<td>Energias de Portugal SA</td>
<td>PT</td>
<td>Horizon Wind Energy LLC</td>
<td>US</td>
<td>Utilities</td>
<td>2,330,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>190</td>
<td>2007</td>
<td>Areva SA</td>
<td>FR</td>
<td>REpower Systems AG</td>
<td>DE</td>
<td>Utilities</td>
<td>171,359.93</td>
<td>No Deal</td>
</tr>
<tr>
<td>191</td>
<td>2007</td>
<td>Siemens AG</td>
<td>DE</td>
<td>UGS Corp</td>
<td>US</td>
<td>Technology</td>
<td>1,500,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>192</td>
<td>2007</td>
<td>UniCredit Italiano Spa</td>
<td>IT</td>
<td>Bayerische Hypo- und Vereinsbank AG</td>
<td>DE</td>
<td>Financial</td>
<td>1,893,048</td>
<td>Deal</td>
</tr>
<tr>
<td>193</td>
<td>2007</td>
<td>Tata Steel UK Ltd</td>
<td>IN</td>
<td>Corus Group plc</td>
<td>GB</td>
<td>Basic Resources</td>
<td>12,171,181.78</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>194</td>
<td>2007</td>
<td>E.ON AG</td>
<td>DE</td>
<td>ENDESA SA</td>
<td>ES</td>
<td>Utilities</td>
<td>87,392,550.14</td>
<td>No Deal</td>
</tr>
<tr>
<td>195</td>
<td>2007</td>
<td>Husky Energy Inc.</td>
<td>CA</td>
<td>Valero Energy Corporation's Ohio-based oil refinery</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>1,900,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>196</td>
<td>2007</td>
<td>Suzlon Windenergie GmbH</td>
<td>IN</td>
<td>REpower Systems AG</td>
<td>DE</td>
<td>Utilities</td>
<td>1,328,335.72</td>
<td>No Deal</td>
</tr>
<tr>
<td>197</td>
<td>2007</td>
<td>Tenaris SA</td>
<td>AR</td>
<td>Hydril Company LP</td>
<td>US</td>
<td>Basic Resources</td>
<td>2,160,000</td>
<td>Deal</td>
</tr>
<tr>
<td>198</td>
<td>2007</td>
<td>EniNeftegaz OOO</td>
<td>IT</td>
<td>Artikogaz OAO</td>
<td>RU</td>
<td>Oil &amp; Gas</td>
<td>5,824,011</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>199</td>
<td>2007</td>
<td>Mitsu &amp; Co. (USA) Inc.</td>
<td>JP</td>
<td>Steel Technologies Inc.</td>
<td>US</td>
<td>Basic Resources</td>
<td>532,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>200</td>
<td>2007</td>
<td>Meggitt-USA Inc.</td>
<td>GB</td>
<td>K&amp;F Industries Holdings Inc.</td>
<td>US</td>
<td>Aerospace &amp; Defence</td>
<td>1,800,000.00</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>201</td>
<td>2007</td>
<td>JLL Partners</td>
<td>US</td>
<td>McKechnie Aerospace Holdings Ltd</td>
<td>GB</td>
<td>Aerospace &amp; Defence</td>
<td>855,600</td>
<td>No Deal</td>
</tr>
<tr>
<td>202</td>
<td>2007</td>
<td>Univar NV</td>
<td>NL</td>
<td>CHEMCENTRAL Corporation</td>
<td>US</td>
<td>Oil &amp; Gas</td>
<td>700,000.00</td>
<td>No Deal</td>
</tr>
<tr>
<td>203</td>
<td>2007</td>
<td>Areva SA</td>
<td>FR</td>
<td>REpower Systems AG</td>
<td>DE</td>
<td>Utilities</td>
<td>1,047,255.45</td>
<td>No Deal</td>
</tr>
<tr>
<td>204</td>
<td>2007</td>
<td>Barclays plc</td>
<td>GB</td>
<td>ABN Amro Holding NV</td>
<td>NL</td>
<td>Financial</td>
<td>94,047,029</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>205</td>
<td>2007</td>
<td>Dubai Aerospace Enterprise</td>
<td>AE</td>
<td>Landmark Aviation</td>
<td>US</td>
<td>Aerospace &amp; Defence</td>
<td>1,800,000</td>
<td>Changed Deal</td>
</tr>
<tr>
<td>206</td>
<td>2007</td>
<td>E.ON AG</td>
<td>DE</td>
<td>ENDESA SA</td>
<td>ES</td>
<td>Utilities</td>
<td>90,890,983.93</td>
<td>No Deal</td>
</tr>
<tr>
<td>207</td>
<td>2007</td>
<td>Suzlon Windenergie GmbH</td>
<td>IN</td>
<td>REpower Systems AG</td>
<td>DE</td>
<td>Utilities</td>
<td>1,624,041.16</td>
<td>Deal</td>
</tr>
<tr>
<td>208</td>
<td>2007</td>
<td>Teekay Shipping Corporation</td>
<td>CA</td>
<td>OMI Corporation</td>
<td>US</td>
<td>Marine Transportati on</td>
<td>2,200,000.00</td>
<td>Deal</td>
</tr>
<tr>
<td>209</td>
<td>2007</td>
<td>Advent International plc</td>
<td>US</td>
<td>Lloyds TSB Registrars</td>
<td>GB</td>
<td>Financial</td>
<td>1,082,038.17</td>
<td>No Deal</td>
</tr>
</tbody>
</table>
## Appendix B. – Descriptive Statistics of Variables in MNLM I-IV

**MNLM I**

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Average Change</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Security Community</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Community</td>
<td>0 → 1</td>
<td>0.09112</td>
<td>0.16672</td>
<td>-0.06863</td>
<td>0.01552</td>
</tr>
<tr>
<td><strong>Relative Military Power</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Relative Military Power</td>
<td>Min→Max</td>
<td>0.23133</td>
<td>-0.28748</td>
<td>-0.06653</td>
<td>-0.12864</td>
</tr>
<tr>
<td>--&gt;1/2</td>
<td>0.00373</td>
<td>0.00502</td>
<td>0.00115</td>
<td>-0.00747</td>
<td>0.00129</td>
</tr>
<tr>
<td>--&gt;sd/2</td>
<td>0.06985</td>
<td>0.09528</td>
<td>0.02194</td>
<td>-0.13989</td>
<td>0.02268</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.00373</td>
<td>0.00502</td>
<td>0.00115</td>
<td>-0.00747</td>
<td>0.00129</td>
</tr>
<tr>
<td><strong>Resource Dependency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resource Dependency</td>
<td>Min→Max</td>
<td>0.21416</td>
<td>-0.42832</td>
<td>0.13471</td>
<td>0.25855</td>
</tr>
<tr>
<td>--&gt;1/2</td>
<td>0.10910</td>
<td>-0.21819</td>
<td>0.09054</td>
<td>0.10371</td>
<td>0.02394</td>
</tr>
<tr>
<td>--&gt;sd/2</td>
<td>0.03746</td>
<td>-0.07492</td>
<td>0.03195</td>
<td>0.05451</td>
<td>0.00846</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.10954</td>
<td>-0.21907</td>
<td>0.09377</td>
<td>0.10048</td>
<td>0.02482</td>
</tr>
<tr>
<td><strong>Nationalism</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nationalism</td>
<td>Min→Max</td>
<td>0.14197</td>
<td>-0.19701</td>
<td>0.16722</td>
<td>0.11671</td>
</tr>
<tr>
<td>--&gt;1/2</td>
<td>0.24762</td>
<td>-0.32387</td>
<td>0.27597</td>
<td>0.21927</td>
<td>-0.16237</td>
</tr>
<tr>
<td>--&gt;sd/2</td>
<td>0.04854</td>
<td>-0.07087</td>
<td>0.05784</td>
<td>0.03923</td>
<td>-0.02620</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.25897</td>
<td>-0.37918</td>
<td>0.30942</td>
<td>0.20852</td>
<td>-0.13876</td>
</tr>
<tr>
<td><strong>Pro-Globalization Sentiment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pro-Globalization Sentiment</td>
<td>Min→Max</td>
<td>0.28770</td>
<td>0.41447</td>
<td>0.15956</td>
<td>0.00138</td>
</tr>
<tr>
<td>--&gt;1/2</td>
<td>0.02696</td>
<td>0.02992</td>
<td>0.02401</td>
<td>-0.00825</td>
<td>-0.04568</td>
</tr>
<tr>
<td>--&gt;sd/2</td>
<td>0.02742</td>
<td>0.03044</td>
<td>0.02440</td>
<td>-0.00837</td>
<td>-0.04647</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.02636</td>
<td>0.02888</td>
<td>0.02385</td>
<td>-0.00842</td>
<td>-0.04431</td>
</tr>
<tr>
<td><strong>Economic Competitiveness</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Economic Competitiveness</td>
<td>Min→Max</td>
<td>0.09046</td>
<td>-0.11453</td>
<td>-0.06640</td>
<td>0.00145</td>
</tr>
<tr>
<td>--&gt;1/2</td>
<td>0.01765</td>
<td>-0.02019</td>
<td>-0.01512</td>
<td>-0.00145</td>
<td>0.03385</td>
</tr>
<tr>
<td>--&gt;sd/2</td>
<td>0.00107</td>
<td>-0.01720</td>
<td>-0.01294</td>
<td>-0.00126</td>
<td>0.02888</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.01739</td>
<td>-0.01974</td>
<td>-0.01504</td>
<td>0.00151</td>
<td>0.03327</td>
</tr>
<tr>
<td><strong>Inward Foreign Direct Investment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inward Foreign Direct Investment</td>
<td>Min→Max</td>
<td>0.11714</td>
<td>-0.05466</td>
<td>0.12120</td>
<td>-0.17962</td>
</tr>
<tr>
<td>--&gt;1/2</td>
<td>0.00062</td>
<td>-0.00043</td>
<td>0.00068</td>
<td>-0.00082</td>
<td>0.00057</td>
</tr>
<tr>
<td>--&gt;sd/2</td>
<td>0.00332</td>
<td>-0.00253</td>
<td>0.00384</td>
<td>-0.04387</td>
<td>0.03056</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.00062</td>
<td>-0.00043</td>
<td>0.00068</td>
<td>-0.00082</td>
<td>0.00057</td>
</tr>
<tr>
<td><strong>Interest Group Position</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest Group Position</td>
<td>Min→Max</td>
<td>0.07062</td>
<td>0.01497</td>
<td>0.12627</td>
<td>-0.12145</td>
</tr>
<tr>
<td>--&gt;1/2</td>
<td>0.01774</td>
<td>-0.00073</td>
<td>0.03549</td>
<td>-0.02911</td>
<td>-0.00565</td>
</tr>
<tr>
<td>--&gt;sd/2</td>
<td>0.01558</td>
<td>-0.00065</td>
<td>0.03116</td>
<td>-0.02554</td>
<td>-0.00497</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.01774</td>
<td>-0.00081</td>
<td>0.03549</td>
<td>-0.02901</td>
<td>-0.00567</td>
</tr>
<tr>
<td>Pr(y</td>
<td>x)</td>
<td></td>
<td>0.70996</td>
<td>0.16820</td>
<td>0.07593</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Variable</th>
<th>Security Community</th>
<th>Relative Military Power</th>
<th>Resource Dependency</th>
<th>Nationalism</th>
<th>Pro-Globalization Sentiment</th>
<th>Economic Competitiveness</th>
<th>Inward FDI</th>
<th>Interest Group Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>x</td>
<td>0.74877</td>
<td>5.51068</td>
<td>0.80780</td>
<td>0.49742</td>
<td>5.88792</td>
<td>4.84877</td>
<td>77.77100</td>
<td>6.73209</td>
</tr>
<tr>
<td>sd(x)</td>
<td>0.43479</td>
<td>17.37460</td>
<td>0.34215</td>
<td>0.18765</td>
<td>1.01634</td>
<td>0.85710</td>
<td>53.23630</td>
<td>0.87822</td>
</tr>
</tbody>
</table>
### MNLMM II

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Average Change</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Relative Military Power</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min-&gt;Max (+1/2)</td>
<td>0.08911</td>
<td>0.17821</td>
<td>-0.02880</td>
<td>-0.14799</td>
<td>-0.00143</td>
</tr>
<tr>
<td>+sd/2</td>
<td>0.00449</td>
<td>0.00786</td>
<td>0.00108</td>
<td>-0.00897</td>
<td>0.00004</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.00448</td>
<td>0.00785</td>
<td>0.00107</td>
<td>-0.00897</td>
<td>0.00004</td>
</tr>
<tr>
<td><strong>Resource Dependency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min-&gt;Max (+1/2)</td>
<td>0.25547</td>
<td>-0.49141</td>
<td>-0.01954</td>
<td>0.44398</td>
<td>0.06697</td>
</tr>
<tr>
<td>+sd/2</td>
<td>0.09469</td>
<td>-0.18939</td>
<td>0.02297</td>
<td>0.14820</td>
<td>0.01822</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.08794</td>
<td>-0.17589</td>
<td>0.02849</td>
<td>0.13208</td>
<td>0.01531</td>
</tr>
<tr>
<td><strong>Nationalism</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min-&gt;Max (+1/2)</td>
<td>0.10227</td>
<td>-0.19198</td>
<td>0.11596</td>
<td>0.08858</td>
<td>-0.01256</td>
</tr>
<tr>
<td>+sd/2</td>
<td>0.03852</td>
<td>-0.06637</td>
<td>0.04018</td>
<td>0.02987</td>
<td>-0.00367</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.18386</td>
<td>-0.34863</td>
<td>0.21159</td>
<td>0.15614</td>
<td>-0.01910</td>
</tr>
<tr>
<td><strong>Pro-Globalization Sentiment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min-&gt;Max (+1/2)</td>
<td>0.36010</td>
<td>0.60135</td>
<td>0.11742</td>
<td>0.00142</td>
<td>-0.72019</td>
</tr>
<tr>
<td>+sd/2</td>
<td>0.01254</td>
<td>0.02353</td>
<td>0.00417</td>
<td>-0.01401</td>
<td>-0.01369</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.18386</td>
<td>-0.34863</td>
<td>0.21159</td>
<td>0.15614</td>
<td>-0.01910</td>
</tr>
<tr>
<td><strong>Economic Competitiveness</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min-&gt;Max (+1/2)</td>
<td>0.08383</td>
<td>0.10326</td>
<td>-0.12758</td>
<td>-0.04009</td>
<td>0.06441</td>
</tr>
<tr>
<td>+sd/2</td>
<td>0.01257</td>
<td>0.02858</td>
<td>-0.02675</td>
<td>-0.00839</td>
<td>0.00655</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.02057</td>
<td>0.03376</td>
<td>-0.03132</td>
<td>-0.00982</td>
<td>0.00738</td>
</tr>
<tr>
<td><strong>Inward Foreign Direct Investment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min-&gt;Max (+1/2)</td>
<td>0.10046</td>
<td>0.20092</td>
<td>-0.04167</td>
<td>-0.12764</td>
<td>-0.03161</td>
</tr>
<tr>
<td>+sd/2</td>
<td>0.00059</td>
<td>0.00118</td>
<td>-0.00029</td>
<td>-0.00076</td>
<td>-0.00014</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.00059</td>
<td>0.00118</td>
<td>-0.00029</td>
<td>-0.00076</td>
<td>-0.00014</td>
</tr>
<tr>
<td><strong>Interest Group Position</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min-&gt;Max (+1/2)</td>
<td>0.19701</td>
<td>-0.29097</td>
<td>0.39364</td>
<td>-0.10304</td>
<td>0.00037</td>
</tr>
<tr>
<td>+sd/2</td>
<td>0.05846</td>
<td>-0.09307</td>
<td>0.11682</td>
<td>-0.02056</td>
<td>0.00011</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.05809</td>
<td>-0.08963</td>
<td>0.11606</td>
<td>-0.02656</td>
<td>0.00012</td>
</tr>
<tr>
<td>Pr(y</td>
<td>x)</td>
<td>0.77787</td>
<td>0.15374</td>
<td>0.06215</td>
<td>0.00625</td>
</tr>
</tbody>
</table>

### Coefficients

<table>
<thead>
<tr>
<th>Relative Military Power</th>
<th>Resource Dependency</th>
<th>Nationalism</th>
<th>Pro-Globalization Sentiment</th>
<th>Economic Competitiveness</th>
<th>Inward FDI</th>
<th>Interest Group Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>x=</td>
<td>6.26355</td>
<td>0.64045</td>
<td>0.49901</td>
<td>5.81662</td>
<td>4.90296</td>
<td>76.45350</td>
</tr>
<tr>
<td>sd(x)=</td>
<td>18.28520</td>
<td>0.35198</td>
<td>0.19037</td>
<td>1.03735</td>
<td>0.85326</td>
<td>51.37000</td>
</tr>
</tbody>
</table>

438
### MNLM III

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Average Change</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relative Military Power</td>
<td>Min-&gt;Max</td>
<td>0.47126</td>
<td>-0.77529</td>
<td>-0.05137</td>
<td>-0.11587</td>
</tr>
<tr>
<td></td>
<td>+1/2</td>
<td>0.00994</td>
<td>0.01143</td>
<td>-0.00614</td>
<td>-0.01373</td>
</tr>
<tr>
<td></td>
<td>+sd/2</td>
<td>0.21897</td>
<td>0.31222</td>
<td>-0.11533</td>
<td>-0.32261</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td></td>
<td>0.00990</td>
<td>0.01136</td>
<td>-0.00613</td>
<td>-0.01367</td>
</tr>
<tr>
<td>Nationalism</td>
<td>Min-&gt;Max</td>
<td>0.22795</td>
<td>-0.45591</td>
<td>0.33595</td>
<td>0.10897</td>
</tr>
<tr>
<td></td>
<td>+1/2</td>
<td>0.48887</td>
<td>-0.94099</td>
<td>0.94437</td>
<td>0.03336</td>
</tr>
<tr>
<td></td>
<td>+sd/2</td>
<td>0.06438</td>
<td>-0.12876</td>
<td>0.06902</td>
<td>0.04839</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td></td>
<td>0.31879</td>
<td>-0.63758</td>
<td>0.30040</td>
<td>0.26355</td>
</tr>
<tr>
<td>Pro-Globalization Sentiment</td>
<td>Min-&gt;Max</td>
<td>0.18605</td>
<td>-0.37391</td>
<td>0.22093</td>
<td>0.09266</td>
</tr>
<tr>
<td></td>
<td>+1/2</td>
<td>0.04427</td>
<td>-0.08854</td>
<td>0.03934</td>
<td>0.02949</td>
</tr>
<tr>
<td></td>
<td>+sd/2</td>
<td>0.01514</td>
<td>-0.02879</td>
<td>0.00064</td>
<td>-0.00150</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td></td>
<td>0.04255</td>
<td>-0.08510</td>
<td>0.03539</td>
<td>0.02937</td>
</tr>
<tr>
<td>Economic Competitiveness</td>
<td>Min-&gt;Max</td>
<td>0.06814</td>
<td>-0.12960</td>
<td>0.00236</td>
<td>-0.00668</td>
</tr>
<tr>
<td></td>
<td>+1/2</td>
<td>0.01770</td>
<td>-0.03365</td>
<td>0.00074</td>
<td>-0.00175</td>
</tr>
<tr>
<td></td>
<td>+sd/2</td>
<td>0.01762</td>
<td>-0.03350</td>
<td>0.00075</td>
<td>-0.00175</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td></td>
<td>0.01762</td>
<td>-0.03350</td>
<td>0.00075</td>
<td>-0.00175</td>
</tr>
<tr>
<td>Inward Foreign Direct Investment</td>
<td>Min-&gt;Max</td>
<td>0.40968</td>
<td>-0.74522</td>
<td>0.45621</td>
<td>-0.07415</td>
</tr>
<tr>
<td></td>
<td>+1/2</td>
<td>0.00191</td>
<td>-0.00343</td>
<td>0.00018</td>
<td>-0.00039</td>
</tr>
<tr>
<td></td>
<td>+sd/2</td>
<td>0.12554</td>
<td>-0.22773</td>
<td>0.08291</td>
<td>-0.02334</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td></td>
<td>0.00191</td>
<td>-0.00343</td>
<td>0.00018</td>
<td>-0.00039</td>
</tr>
<tr>
<td>Interest Group Position</td>
<td>Min-&gt;Max</td>
<td>0.49825</td>
<td>0.96866</td>
<td>-0.99650</td>
<td>0.01125</td>
</tr>
<tr>
<td></td>
<td>+1/2</td>
<td>0.15071</td>
<td>0.30143</td>
<td>-0.20371</td>
<td>-0.02469</td>
</tr>
<tr>
<td></td>
<td>+sd/2</td>
<td>0.14223</td>
<td>0.28446</td>
<td>-0.18840</td>
<td>-0.02437</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td></td>
<td>0.11195</td>
<td>0.22390</td>
<td>-0.10172</td>
<td>-0.03229</td>
</tr>
<tr>
<td>Pr(y</td>
<td>x)</td>
<td></td>
<td>0.85855</td>
<td>0.02041</td>
<td>0.03871</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Relative Military Power</th>
<th>Nationalism</th>
<th>Pro-Globalization Sentiment</th>
<th>Economic Competitiveness</th>
<th>Inward FDI</th>
<th>Interest Group Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>x</td>
<td>3.26682</td>
<td>0.49271</td>
<td>6.10042</td>
<td>4.68725</td>
<td>81.69770</td>
<td>6.70988</td>
</tr>
<tr>
<td>sd(x)</td>
<td>1.24750</td>
<td>0.12105</td>
<td>0.92834</td>
<td>0.85651</td>
<td>58.81650</td>
<td>0.96164</td>
</tr>
</tbody>
</table>

439
### MNLM IV

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Average Change</th>
<th>0</th>
<th>1</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intervention Type</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min-&gt;Max</td>
<td>0.49975</td>
<td>-0.74962</td>
<td>0.44900</td>
<td>0.30063</td>
</tr>
<tr>
<td>+1/2</td>
<td>0.37102</td>
<td>-0.55653</td>
<td>0.26882</td>
<td>0.28771</td>
</tr>
<tr>
<td>+sd/2</td>
<td>0.36460</td>
<td>-0.54690</td>
<td>0.26414</td>
<td>0.28276</td>
</tr>
<tr>
<td>Marginal Effect</td>
<td>0.41042</td>
<td>-0.61563</td>
<td>0.29701</td>
<td>0.31862</td>
</tr>
<tr>
<td>Pr(y</td>
<td>x)</td>
<td>0.32086</td>
<td>0.28953</td>
<td>0.38961</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Intervention Type</th>
<th>x=</th>
<th>sd(x)=</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.65550</td>
<td>0.97861</td>
</tr>
</tbody>
</table>
Appendix C. – Model III and Resource Dependency

For those cases in which security community = 0, the descriptive statistics for resource dependency are as follows:

<table>
<thead>
<tr>
<th>Resource Dependency</th>
<th>N</th>
<th>Minimum</th>
<th>Maximum</th>
<th>Mean</th>
<th>Std. Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid N (listwise)</td>
<td>51</td>
<td>.14</td>
<td>1.82</td>
<td>.5105</td>
<td>.29308</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Resource Dependency</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>.14</td>
<td>3</td>
<td>5.9</td>
<td>5.9</td>
</tr>
<tr>
<td>.19</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>7.8</td>
</tr>
<tr>
<td>.20</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>9.8</td>
</tr>
<tr>
<td>.21</td>
<td>3</td>
<td>5.9</td>
<td>5.9</td>
<td>15.7</td>
</tr>
<tr>
<td>.22</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>17.6</td>
</tr>
<tr>
<td>.31</td>
<td>2</td>
<td>3.9</td>
<td>3.9</td>
<td>21.6</td>
</tr>
<tr>
<td>.33</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>23.5</td>
</tr>
<tr>
<td>.35</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>25.5</td>
</tr>
<tr>
<td>.36</td>
<td>3</td>
<td>5.9</td>
<td>5.9</td>
<td>31.4</td>
</tr>
<tr>
<td>.38</td>
<td>3</td>
<td>5.9</td>
<td>5.9</td>
<td>37.3</td>
</tr>
<tr>
<td>.39</td>
<td>7</td>
<td>13.7</td>
<td>13.7</td>
<td>51.0</td>
</tr>
<tr>
<td>.55</td>
<td>2</td>
<td>3.9</td>
<td>3.9</td>
<td>54.9</td>
</tr>
<tr>
<td>.59</td>
<td>8</td>
<td>15.7</td>
<td>15.7</td>
<td>70.6</td>
</tr>
<tr>
<td>.59</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>72.5</td>
</tr>
<tr>
<td>.60</td>
<td>2</td>
<td>3.9</td>
<td>3.9</td>
<td>76.5</td>
</tr>
<tr>
<td>.61</td>
<td>2</td>
<td>3.9</td>
<td>3.9</td>
<td>80.4</td>
</tr>
<tr>
<td>.62</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>82.4</td>
</tr>
<tr>
<td>.63</td>
<td>2</td>
<td>3.9</td>
<td>3.9</td>
<td>86.3</td>
</tr>
<tr>
<td>.76</td>
<td>2</td>
<td>3.9</td>
<td>3.9</td>
<td>90.2</td>
</tr>
<tr>
<td>1.00</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>92.2</td>
</tr>
<tr>
<td>1.01</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>94.1</td>
</tr>
<tr>
<td>1.03</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>96.1</td>
</tr>
<tr>
<td>1.03</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>98.0</td>
</tr>
<tr>
<td>1.82</td>
<td>1</td>
<td>2.0</td>
<td>2.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>51</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>
For those cases in which security community = 0 and the dependent variable = 3, however, the descriptive statistics change dramatically.

<table>
<thead>
<tr>
<th>Descriptive Statistics</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
</tr>
<tr>
<td>-------------------------</td>
</tr>
<tr>
<td>Resource Dependency</td>
</tr>
<tr>
<td>Valid N (listwise)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Resource Dependency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
</tr>
<tr>
<td>Valid</td>
</tr>
<tr>
<td>.36</td>
</tr>
<tr>
<td>.55</td>
</tr>
<tr>
<td>.59</td>
</tr>
<tr>
<td>.60</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>
Appendix D. – Descriptive Statistics of Dataset Variables: Frequencies

<table>
<thead>
<tr>
<th>Statistics</th>
<th>Inward Foreign Investment</th>
<th>Economic Competitiveness</th>
<th>Global Sentiment</th>
<th>Proportion</th>
<th>Relative Power</th>
<th>Security Community</th>
<th>Intervention Type</th>
<th>Valid</th>
<th>Missing</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
</tr>
<tr>
<td>Mean</td>
<td>0.00</td>
<td>1.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>St. Deviation</td>
<td>0.10</td>
<td>0.10</td>
<td>0.10</td>
<td>0.10</td>
<td>0.10</td>
<td>0.10</td>
<td>0.10</td>
<td>0.10</td>
<td>0.10</td>
</tr>
<tr>
<td>Minimum</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Maximum</td>
<td>3.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Percentiles</td>
<td>25.00</td>
<td>20.00</td>
<td>20.00</td>
<td>20.00</td>
<td>20.00</td>
<td>20.00</td>
<td>20.00</td>
<td>20.00</td>
<td>20.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

443
### Bivariate Correlations of Dataset Variables

<table>
<thead>
<tr>
<th></th>
<th>Security Community</th>
<th>Relative Military Power</th>
<th>Resource Dependency</th>
<th>Nationalism</th>
<th>Pro-Globalization Sentiment</th>
<th>Economic Competitiveness</th>
<th>Inward Foreign Direct Investment</th>
<th>Interest Group Position</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Security Community</strong></td>
<td>Pearson Correlation</td>
<td>.104</td>
<td>.182**</td>
<td>-.002</td>
<td>-.117</td>
<td>.126</td>
<td>-.043</td>
<td>.024</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.135</td>
<td>.008</td>
<td>.973</td>
<td>.092</td>
<td>.070</td>
<td>.544</td>
<td>.732</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>203</td>
<td>209</td>
</tr>
<tr>
<td><strong>Relative Military Power</strong></td>
<td>Pearson Correlation</td>
<td>.104</td>
<td>.370**</td>
<td>-.285**</td>
<td>.084</td>
<td>.125</td>
<td>-.244**</td>
<td>.086</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.135</td>
<td>.000</td>
<td>.000</td>
<td>.226</td>
<td>.071</td>
<td>.000</td>
<td>.214</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>203</td>
<td>209</td>
</tr>
<tr>
<td><strong>Resource Dependency</strong></td>
<td>Pearson Correlation</td>
<td>.182**</td>
<td>.370**</td>
<td>1</td>
<td>-.529**</td>
<td>-.058</td>
<td>-.153</td>
<td>-.374**</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.008</td>
<td>.000</td>
<td>.000</td>
<td>.401</td>
<td>.027</td>
<td>.000</td>
<td>.574</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>203</td>
<td>209</td>
</tr>
<tr>
<td><strong>Nationalism</strong></td>
<td>Pearson Correlation</td>
<td>-.002</td>
<td>-.285**</td>
<td>-.529**</td>
<td>1</td>
<td>.364*</td>
<td>.486*</td>
<td>.389*</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.973</td>
<td>.000</td>
<td>.000</td>
<td>.000</td>
<td>.000</td>
<td>.000</td>
<td>.000</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>203</td>
<td>209</td>
</tr>
<tr>
<td><strong>Pro-Globalization Sentiment</strong></td>
<td>Pearson Correlation</td>
<td>-.117</td>
<td>.084</td>
<td>-.058</td>
<td>.364*</td>
<td>1</td>
<td>.625*</td>
<td>.369*</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.092</td>
<td>.226</td>
<td>.401</td>
<td>.000</td>
<td>.000</td>
<td>.000</td>
<td>.000</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>203</td>
<td>209</td>
</tr>
<tr>
<td><strong>Economic Competitiveness</strong></td>
<td>Pearson Correlation</td>
<td>.126</td>
<td>.125</td>
<td>-.153*</td>
<td>.486*</td>
<td>.625*</td>
<td>1</td>
<td>.065</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.070</td>
<td>.071</td>
<td>.027</td>
<td>.000</td>
<td>.000</td>
<td>.357</td>
<td>.000</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>203</td>
<td>209</td>
</tr>
<tr>
<td><strong>Inward Foreign Direct Investment</strong></td>
<td>Pearson Correlation</td>
<td>-.043</td>
<td>-.244**</td>
<td>-.374**</td>
<td>.389*</td>
<td>.369*</td>
<td>.065</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.544</td>
<td>.000</td>
<td>.000</td>
<td>.000</td>
<td>.000</td>
<td>.357</td>
<td>.000</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>203</td>
<td>203</td>
<td>203</td>
<td>203</td>
<td>203</td>
<td>203</td>
<td>203</td>
</tr>
<tr>
<td><strong>Interest Group Position</strong></td>
<td>Pearson Correlation</td>
<td>.024</td>
<td>.086</td>
<td>-.039</td>
<td>.329*</td>
<td>.801*</td>
<td>.670*</td>
<td>.385*</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.732</td>
<td>.214</td>
<td>.574</td>
<td>.000</td>
<td>.000</td>
<td>.000</td>
<td>.000</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>209</td>
<td>203</td>
<td>209</td>
</tr>
</tbody>
</table>

**. Correlation is significant at the 0.01 level (2-tailed).

*. Correlation is significant at the 0.05 level (2-tailed).
### Appendix F – Timelines of Unbounded Intervention Cases

#### PepsiCo/Danone Timeline

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 6, 2005</td>
<td>Rumors surface that PepsiCo Inc. of the United States is “preparing a bid” to take over Groupe Danone. PepsiCo refuses to comment on the rumors (Matthews 2005).</td>
</tr>
<tr>
<td>July 19, 2005</td>
<td>“Mr. Patrick Ollier, the chairman of France's parliamentary economic affairs committee, said that the French government is 'concerned' about a possible takeover of Danone, and that such a move would be 'culturally awkward’” (Zephyr 2005a).</td>
</tr>
<tr>
<td>July 20, 2005</td>
<td>French Prime Minister Villepin describes Groupe Danone as “one of the jewels of our industry” (Beaupuy 2005).</td>
</tr>
<tr>
<td>July 21, 2005</td>
<td>Danone announces that no company has approached them regarding a possible takeover (Perri and Deen 2005).</td>
</tr>
<tr>
<td></td>
<td>French President Jacques Chirac announces that: “As regards a large French company like Danone, the government and I are particularly vigilant and mobilized. …The priority for France is to protect its industrial competitiveness and the strength of its companies” (Beaupuy 2005).</td>
</tr>
<tr>
<td></td>
<td>Prime Minister Villepin claims that the French government will “defend France's interests” to ensure “a French future for Danone” (Vandore 2005a).</td>
</tr>
<tr>
<td>July 25, 2005</td>
<td>The French market regulatory body, the Autorite des Marches Financiers, announces that PepsiCo confirmed it was not preparing a bid for Danone “right now” (Perri and Deen 2005).</td>
</tr>
<tr>
<td></td>
<td>It is reported that the rumored deal “drew protests from members of the French government” (Perri and Deen 2005).</td>
</tr>
<tr>
<td>July 26, 2005</td>
<td>The Autorite des Marches Financiers begins an investigation of “the recent trading in Danone’ shares (Vandore 2005b).</td>
</tr>
<tr>
<td>July 27, 2005</td>
<td>The President (Jacques Chirac) and the Prime Minister (Dominique de Villepin) of France announce in a government meeting that France “must strengthen the measures to protect [its] key companies,” and suggested that a change in the law to protect French companies from hostile foreign takeovers may be necessary (Vandore 2005b).</td>
</tr>
<tr>
<td>August 31, 2005</td>
<td>Theirry Breton announces 11 sensitive strategic sectors that will be protected by foreign takeovers in the future.</td>
</tr>
<tr>
<td>September 13, 2005</td>
<td>“The [French] government … offer[s] to give Autorite des Marches Financiers increased powers to ensure the transparency of intentions of parties in a potential takeover” (Beaupuy 2005a).</td>
</tr>
<tr>
<td>December 31, 2005</td>
<td>The French government passes an anti-takeover decree, which gives it “the right to veto or impose conditions on foreign takeovers of domestic companies operating in as many as 11 sensitive industries” (Buck, Hollinger, and Braithwaite 2006).</td>
</tr>
</tbody>
</table>

---

348 This story initially leaked when the news service Dow Jones cited “an advance copy of the French publication Challenges” (Matthews 2005).
The French government has said the list conforms to EU exemptions for national security from market rules" (Vandore 2006).

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 3, 2006</td>
<td>“European Union regulators [threaten] to take France to court for blocking foreign takeovers” as a result of the December 31, 2005 anti-takeover decree (Vandore 2006).349</td>
</tr>
</tbody>
</table>

---

### CNOOC / Unocal Timeline

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 7, 2005</td>
<td>- CNOOC announces that it is considering a bid for Unocal (Zephyr 2005b).</td>
</tr>
<tr>
<td>March 3, 2005</td>
<td>- Chevron announces that it is contemplating a bid for Unocal (Zephyr 2005b).</td>
</tr>
<tr>
<td>April 2-3, 2005</td>
<td>- CNOOC withdraws itself from Unocal ‘race’ (Greenwire 2005c).</td>
</tr>
<tr>
<td>April 4, 2005</td>
<td>- Chevron announces its intention to buy Unocal for $18 billion in a debt/cash deal worth “an overall value of US $62.00 per share” (Zephyr 2005b; Zephyr 2005c).</td>
</tr>
<tr>
<td>June 7, 2005</td>
<td>- CNOOC “confirmed it was [again] considering launching a possible bid for … Unocal” (AFP 2005a).</td>
</tr>
<tr>
<td>June 10, 2005</td>
<td>- Chevron reveals that its “acquisition [of Unocal] has been accepted by the Federal Trade Commission” of the United States (Zephyr 2005b).</td>
</tr>
<tr>
<td>June 17, 2005</td>
<td>- U.S. Congressmen Duncan Hunter and Richard Pombo sent President George Bush a letter requesting that CFIUS investigate a potential CNOOC/Unocal deal because of national security concerns (Timmons 2005).</td>
</tr>
<tr>
<td>June 22, 2005</td>
<td>- Unocal makes public the higher offer it received from CNOOC of “US $67 per share in cash” (Zephyr 2005b; Zephyr 2005c).</td>
</tr>
<tr>
<td>June 27, 2005</td>
<td>- Congressmen Joe Barton and Ralph Hall write a letter to President Bush urging him to block a CNOOC takeover of Unocal because it “poses a clear threat to the energy and national security of the United States” (Orol 2005d); (Barton and Hall 2005).</td>
</tr>
</tbody>
</table>

---

349 Also see: (Buck, Hollinger, and Braithwaite 2006).
<table>
<thead>
<tr>
<th>Date</th>
<th>Events</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 29, 2005</td>
<td>- The U.S. Securities and Exchange Commission approves Chevron’s bid for Unocal.</td>
</tr>
</tbody>
</table>
| June 30, 2005| - Liu Jianchao, the spokesman for the Chinese Foreign Ministry, speaks out: “China wants to find a ‘win-win’ result. … This issue is a commercial transaction between two companies, and a normal exchange between China and the United States. It should stay free of political interference” (Dow Jones 2005a).  
  - The US Congress passed House Resolution 344, sponsored by Congressman Pombo, which formally recognized congressional concern that a CNOOC/Unocal deal “threatens to impair the national security” (US House 2005c).  
  - US Congress also passed Amendment 431 to H. R. 3058. This purpose of this amendment, sponsored by Congresswoman Carolyn Kilpatrick, to “prohibit the use of [Treasury] funds from being made available to recommend approval of the sale of Unocal Corporation to CNOOC Ltd. of China” (US House 2005c). |
| July 1, 2005 | - CNOOC takes the unusual step of requesting a CFIUS review, before an acquisition agreement has been reached (Amaewhule 2005). |
| July 5, 2005 | - The Chinese Foreign Ministry made the statement: “We demand that the US Congress correct its mistaken ways of politicizing economic and trade issues and stop interfering in the normal commercial exchanges between enterprises of the [China and the US]” (Dow Jones 2005d). |
| July 11, 2005| - “It was reported that the House Armed Services Committee is to review the deal” (Zephyr 2005c). |
| July 13, 2005| - CFIUS is reported to have “declined a request by CNOOC to give a preliminary opinion on its proposed acquisition” of Unocal (AFX 2005c).  
  - The House Armed Services Committee held a hearing to review the “national security implications” of a CNOOC takeover (Dow Jones 2005c). Senators Chuck Grassley and Max Baucus send a letter to the President expressing their concern over the a possible CNOOC takeover, supporting calls for a formal CFIUS review of the deal if an acquisition agreement was made with Unocal (Grassley 2005).  
  - It is reported that CNOOC is contemplating making a higher offer for Unocal (Canadian Press 2005). |
| July 14, 2005| - The board of Unocal “agreed that ‘assuming neither Chevron nor CNOOC improved the financial terms of its proposed transaction, the board’s inclination would be to withdraw its recommendation for the Chevron transaction’” (NG 2005). |
| July 15, 2005| - Senator Dorgan introduces S. 1412 to the Senate, a piece of legislation that would “prohibit the merger, acquisition, or takeover of Unocal Corporation by CNOOC Ltd. of China” outright, if it had been passed (US Senate 2005). |
| July 19, 2005| - Chevron raises its bid for Unocal to “an overall value of US $63.01 per share” (Zephyr 2005d).  
  - “The Unocal board recommends that stockholders vote in favor of adopting the amended merger agreement” with Chevron (Zephyr 2005d). |
<p>| July 22, 2005| - House Energy &amp; Commerce Committee Hearing to review the possible CNOOC/Unocal Deal. |</p>
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
</table>
| August 2, 2005 | - China announces that it will revalue its currency, the Renmibi, and “[switch] to a new currency regime based on an adjustable peg against a basket of currencies” (FT 2005c).  
- Senators Vitter, Bayh, Talent, Coburn, and Inhofe send a letter “urging Senate Energy and Natural Resources Committee Chairman Pete Domenici (R-NM) and Ranking Member Jeff Bingaman (D-NM) to include language in the Energy Bill Conference Report that would require the Secretary of Energy, along with the Secretaries of Defense and Homeland Security, to study the implications of such a transaction before a formal review could begin” (States News Service 2005b). |
| August 10, 2005 | - CNOOC withdraws its bid for Unocal following “the political environment in the U.S.,” where “unprecedented political opposition that followed the announcement of our proposed transaction” (CNOOC 2005).  
- Unocal holds shareholder meeting.  
- “Unocal announced that its shareholders have approved the merger agreement [with Chevron]” (Zephyr 2005d).  
- “Chevron Corporation announced that it has completed the acquisition” (Zephyr 2005d). |
Appendix G. – Full Text of Letter from Congressmen Barton and Hall to President Bush

The original full text of the letter from Congressman Joe Barton (Republican, Texas) and Congressman Ralph Hall (Republican, Texas) to President Bush is reproduced below in italics.\textsuperscript{350}

“June 27, 2005

The Honorable George W. Bush
The President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20504

Dear President Bush:

As Congress pursues an energy bill to ensure the future of our country's energy security, we are compelled to express deep concern about the proposed acquisition of Unocal by the China National Offshore Oil Corporation (CNOOC), a company owned 70% by the government of the People's Republic of China. This transaction poses a clear threat to the energy and national security of the United States.

As you know, the United States today faces severe challenges to its energy security. Global demand for oil is at its highest level in history, growing by 3.5% in 2004 alone -- its fastest rate of growth since 1978. According to EIA, China accounted for approximately 40% of the increased demand in oil over the last four years, sending oil prices to record levels this year. In addition, supply is constrained, with EIA estimating global spare capacity of 1-1.5 million barrels per day, the lowest in 30 years, down from more than 7 million barrels per day in 2001. Industry experts predict that Chinese demand will continue its rapid growth over the next 15 years.

U.S. national energy security depends on sufficient energy supplies to support U.S. and global economic growth. But those supplies are threatened by China's aggressive tactics to lock up energy supplies around the world that are largely dedicated for their own use. China has used its state-owned oil companies to advance this strategy, by buying up energy assets around the world without regard to human rights and environmental protection, in countries such as Sudan and Iran. And unlike other companies, these resources are not available to the global market.

CNOOC's bid to acquire Unocal is simply the latest, and most significant, step in this strategy. If approved, the transaction would put vital oil assets in the Gulf of Mexico and Alaska directly into the hands of a company controlled by the government of China. This would be directly contrary to the goal of enhanced energy independence embodied in H.R. 6 as passed by the House.

In addition to this obvious threat to our energy security, the acquisition of Unocal by a Chinese state-owned company poses other risks to our U.S. national security. As a significant player in the U.S. energy industry, Unocal uses a host of highly advanced technologies necessary for the

\textsuperscript{350} The text of this letter was sourced from: http://republicans.energycommerce.house.gov/108/News/06282005_1577.htm.
exploration and production of oil and gas. Many of these technologies have dual-use applications. Given the potential military threat posed by China to our allies in Asia and our security interests, it is of the utmost importance that U.S. export control laws be strictly applied to ensure that no sensitive technology falls into the hands of the Chinese government - or, through China, other, more dangerous regimes around the world - which can later be used to undermine our national security.

We urge you to protect American national security by ensuring that vital U.S. energy assets are never sold to the Chinese government. The Chinese are great economic and political rivals, not friendly competitors or allies in democracy. This sale would be a mistake under almost any circumstance, but it would be especially egregious at a time when energy markets are so tight and the U.S. is becoming even more dependent on foreign sources of energy.

Sincerely,
Joe Barton
Chairman of the House Energy and Commerce Committee

Ralph M. Hall
Chairman of the House Energy and Commerce Subcommittee on Energy and Air Quality”
Appendix H. – H. R. 6 § 1837

The full text of H. R. 6 § 1837 is reproduced below in italics.351

“SEC. 1837. NATIONAL SECURITY REVIEW OF INTERNATIONAL ENERGY REQUIREMENTS.

(a) Study- The Secretary, in consultation with the Secretary of Defense and Secretary of Homeland Security, shall conduct a study of the growing energy requirements of the People's Republic of China and the implications of such growth on the political, strategic, economic, or national security interests of the United States, including--

(1) an assessment of the type, nationality, and location of energy assets that have been sought for investment by entities located in the People's Republic of China;

(2) an assessment of the extent to which investment in energy assets by entities located in the People's Republic of China has been on market-based terms and free from subsidies from the People's Republic of China;

(3) an assessment of the effect of investment in energy assets by entities located in the People's Republic of China on the control by the United States of dual-use and export-controlled technologies, including the effect on current and future access to foreign and domestic sources of rare earth elements used to produce such technologies;

(4) an assessment of the relationship between the Government of the People's Republic of China and energy-related businesses located in the People's Republic of China;

(5) an assessment of the impact on the world energy market of the common practice of entities located in the People's Republic of China of removing the energy assets owned or controlled by such entities from the competitive market, with emphasis on the effect if such practice expands along with the growth in energy consumption of the People's Republic of China;

(6) an examination of the United States energy policy and foreign policy as it relates to ensuring a competitive global energy market;

(7) an examination of the relationship between the United States and the People's Republic of China as it relates to pursuing energy interests in a manner that avoids conflicts; and

(8) a comparison of the appropriate laws and regulations of other nations to determine whether a United States company would be permitted to purchase, acquire, merge, or otherwise establish a joint relationship with an entity whose primary place of business is in that other nation, including the laws and regulations of the People's Republic of China.

(b) Report and Recommendations- Not later than 120 days after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Defense, shall report to the President and the Congress on the findings of the study described in subsection (a) and any recommendations the Secretaries consider appropriate.

351 The text of this resolution is sourced from US H.R. 6 (US Congress 2005a).
(c) Regulatory Effect- Notwithstanding any other provision of law, any instrumentality of the United States vested with authority to review a transaction that includes an investment in a United States domestic corporation may not conclude a national security review related to an investment in the energy assets of a United States domestic corporation by an entity owned or controlled by the government of the People's Republic of China for 21 days after the report to the President and the Congress, and until the President certifies that he has received the report described in subsection (b).”
Appendix I. – Negative Case Selection, Skocpol, and Mahoney & Goertz

In chapter 6, four negative cases were chosen for study on the basis of insights Mahoney & Goertz’s ‘Possibility Principle’ (See: Skocpol 1984; Mahoney & Goertz 2004). These scholars’ approaches needed to be slightly adapted, because of the probabilistic nature of this study’s hypotheses and the use of continuous independent variables.

First, Mahoney & Goertz’s Possibility principle offers some ‘ideal’ guidelines for case selection, but these are not always practical or practicable for all forms of inquiry. The Possibility Principle posits that “only cases where the outcome of interest is possible should be included in the set of negative cases; cases where the outcome is impossible should be relegated to a set of uninformative and hence irrelevant observations” (Mahoney & Goertz 2004, 653). Yet, this methodology is most useful for those using typological theory or Boolean algebra, rather than the type of probabilistic theory employed in this study (Goertz & Mohoney, 2004, 654).

Furthermore, their approach is ideal for research that primarily employs dichotomous variables, which this work does not – and their method for selecting ‘relevant cases’ on the basis of continuous variables is problematic. They argue that “the analyst” should examine the range of each independent variable from the minimum to maximum, and for each variable “must [then] decide and justify the
exact threshold or cutoff point at which the outcome is considered possible” (Mahoney & Goertz 2004, 659). “In practice,” they claim …

“one often sets this threshold at a fairly high level (e.g., >50 [assuming a variable that is continuous from 0-1]) to ensure that at least one variable is clearly present in all cases. Under some circumstances, however, the analyst may be better served by intentionally setting the threshold at a lower level. This is especially true if the analyst has good reason to believe that the higher threshold would will exclude too many cases as irrelevant” (Mahoney & Goertz 2004, 659)

In other words, the application of the principle to continuous variables requires that the author make a subjective choice about the level at which each variable can be considered to have reached a threshold beyond which the hypothesized outcome will be affected. Such subjective choices are always open to counterargument, and are even more difficult to make when more than one outcome must be taken into consideration. This author set the threshold first at the median value\(^\text{352}\) of each independent variable, and then again at the average value of each. Each threshold is high, but still only a negligible number of cases could be dismissed as ‘irrelevant’ in this manner. This is likely because the population of cases has already been well defined by sector and size. Setting the threshold any higher would unnecessarily exclude cases as ‘irrelevant’ that might not be.

Furthermore, Mahoney & Goertz argue that irrelevant cases should be extracted from the sample of cases studied, primarily because their inclusion

\(^{352}\) As the variables used in this dataset do not all have a 0-1 range, this was considered the closest approximation to the ‘> .50’ advised level.
increases the potential that the true significance of the relationship between the variables will be hidden, or deflated (Mahoney & Goertz 2004, 654). Yet, if the relationship still shines through with a certain degree of clarity, this is not necessarily as great a problem as if the relationship were inflated. In other words, ‘irrelevant’ cases might make the researcher’s job harder, but it certainly doesn’t detract from any significant relationships between the dependent and independent variables that are found. It only implies that those relationships might be even stronger than they appear. Finally, by asking the researcher to make subjective decisions that affect the ‘relevant’/’irrelevant’ divide within a case universe, Mahoney & Goertz’s approach may actually hide some vital and interesting observations that can be drawn from a population of ‘negative’ cases. Populations that haven’t been parsed in such a manner may offer valuable insights both for a particular hypothesis, and for the building of the greater theory surrounding it.

What is important, however, is the basic argument on the part of Mahoney and Goertz that negative cases should be selected on the basis that they exhibits similar values on the independent variables to ‘positive cases,’ and that to the positive outcome was therefore ‘possible’ in these cases (See: Mahoney & Goertz 2004, 653-4). Thus, having excluded the ‘irrelevant’ using possibility principle, the key is to make a determination concerning which cases within the population are most relevant. As the approach taken within this study is a probabilistic one, the threshold values set earlier can be used in conjunction with qualitative data on the
variables to show which cases were most likely to have a positive outcome (i.e. which cases had the highest presence of economic nationalism and/or geopolitical competition concerns). A random sample of four was then chosen from among these cases. In summary, then, each of the four cases discussed in Chapter 6 could have resulted in a positive outcome (i.e. bounded or unbounded intervention) because of the presence of a high level of economic nationalism and/or geopolitical competition, but did not, and can therefore be considered ‘relevant’ for the purposes of hypothesis testing according to the Possibility Principle.
Bibliography


AFP. *See* Agence France Presse.

AFX. *See* AFX Financial News Service.


AFX Asia, February 27.


__. 2006f. Italy Gas Supplies from Russia Down 24 pct, 6 pct of Total - Eni CEO. 


Alcatel-Lucent. 2008. Bell Labs Top 10 Innovations. http://www.alcatel-lucent.com/wps/portal//ut/p/kcxml/04_Sj9SPykssy0xPLMnMz0vM0Y_QjzKLD4w3MXMBSYGYRq6m-pEoYgbxjggRX4_83FT9IHIv_QD9gtzQiHJHR0UAaOmbyQ!!/delta/base64xml/L3dJdyEvd0ZNQUFzQUzvNElVRS82X0FiNDZL.


AMF. See Autorité des Marchés Financiers.


Australia DFAT. *See* Australia Department of Foreign Affairs and Trade.


461


Blitzer, Wolf et al. 2006a. Tour of DP World; New Moves Aimed at Keeping Ports Safe; Dubai’s Economy is Booming; South Dakota Passes Strict Ban on Abortion; Advisor to Crown Prince of UAE Reacts to Ports Deal. CNN: The Situation Room. USA: Voxant, March 6.


CIA. *See* Central Intelligence Agency.


CNOOC. See Chinese National Offshore Oil Company.

Cohn, Meredith. 2006. Fate of Contracts Still to be Fleshed Out. The Baltimore Sun, March 10.


Dagoni, Ran. 2006. Analysts: Check Point - Sourcefire Deal was Doomed. Israel Business Arena, March 27.


Dasgupta, S. 2006. Mulling over Mittal – Is This India’s Achievement or the Achievement of an Indian? The Telegraph, June 30.


Davis, Tom. 2006. NJ Resolute in Opposing Ports Deal. The Record, February 27.


DMA. See Defense Mergers & Acquisitions.


471
Financial Times, May 3.

OsterDowJones Commodity Wire, June 30.

International News, June 23.

__, 2005c. House Panel Sets Hearing on Possible CNOOC-Unocal Bid. Dow Jones  
International News, July 8.

__, 2005d. US Officials Review of CNOOC-Unocal Bid Would Be Routine. Dow  
Jones International News, July 5.

Commodities Service, February 28.

__, 2006b. The Morning Brief: Port Deal Widens the Divide. Dow Jones New  
Service (WSJ.Com), March 9.

__, 2006c. The Skeptic: Alcatel Attempts to Square Off Thales. Dow Jones  

__, 2006d. Thales Buys Alcatel Security Ops for EUR 1.74B. Dow Jones  
International News, April 5.


DSS. See Defense Security Service.


___ 2006d. Regulatory Watch: UAE. Economist Intelligence Unit – Business Middle East, May 16.

The Economist Intelligence Unit and the Columbia Program on International Investment. 2006. World Investment Prospects to 2010; Boom or Backlash?

475
The Economist Intelligence Unit and the Columbia Program on International Investment. New York: The Economist Intelligence Unit and the Columbia Program on International Investment (CPII).

EIA. See Energy Information Administration of the United States.

EIRO. See European Industrial Relations Observatory.

EIU. See Economist Intelligence Unit.

EIU and CPII. See The Economist Intelligence Unit and the Columbia Program on International Investment.


EoE. See The Encyclopedia of Earth.

EU Commission. See European Commission.


FD. *See* Fair Disclosure Wire.


478


FINRA. *See* Financial Industry Regulatory Authority.


FSA. *See* Financial Services Authority.

FT. *See* Financial Times.

GAO. *See* General Accounting Office.


Chinese firm trumps Chevron with $18.5B Bid for Unocal. *Greenwire*, June 23.


Han, Kelvin. 2006. Protectionist Moves ‘Could Shackle S-E Asian Trade with US.’ Straits Times, May 29.


Harrison, M. 2005. Porsche Purrs, VW Circles the Wagons, but Germany’s National Solution Isn’t the Answer. The Independent, September 27.


Hensel, Bill. 2006a. Ill effects of Port Deal Remain in Middle East. Houston Chronicle, June 29.


486

ICEM. See ICEM News In Brief.


IGR. See International Gas Reporter.


IHT. See International Herald Tribune.


Interview with an Equity Research Analyst, December 6, 2006.

Interview with Members of the Legal Community, January 11, 2007.

Interview with a Member of the Energy Industry, September 22, 2008.

Interview with a Member of the Financial Industry Source, July 1, 2008.

Interview with an Equity Research Analyst, November 13, 2008.

Interview with Matthew Addison, November 28, 2008.


____. 2005c. US Congressmen Rail Against Chinese Bid. The International Oil Daily, June 29.


ISSP. See International Social Survey Programme.


MEJ. See Middle East Journal.


MPR. *See* Minnesota Public Radio.


OECD. *See* Organisation for Economic and Co-operation and Development.


PINR. See Power and Interest News Report.


Preeg, Ernest H. 2002. Exchange Rate Manipulation to Gain an Unfair Competitive Advantage: The Case Against Japan and China. In Dollar Overvaluation and


PZMN. See PrimeZone Media Network.


Rash, Wayne. 2005. Suppose IBM Lenovo Deal Doesn’t Happen; Opinion: It Wouldn’t Be the First Time that the Feds Have Turned Down A Technology Transfer. eWeek, January 24.


RFE. See Radio Free Europe.


Scott, Mark. 2008. An Uncertain Future for Europe’s Utilities; Despite Big Profits, Shareholders are Nervous About the Volatile Sector. An EU Drive to Break Apart Networks and the Cost of Going Green are Two Concerns. *Business Week*, February 25.

SEC. *See* Securities and Exchange Commission.


SIPRI. *See* Stockholm International Peace Research Institute.


509


Times. 2006. France Faces EU Fight Over ‘National Champions.’ *The Times Online*, March 2.  [http://www.timesonline.co.uk/tol/sport/football/european_football/article736561.ece](http://www.timesonline.co.uk/tol/sport/football/european_football/article736561.ece).


Tsuruoka, Doug. 2005. IBM PC Division Sale to Lenovo Expected to Get Regulator’s OK; Big Blue is Big Lobbyist, PCs are not High Tech, So Most Experts Content. *Investor’s Business Daily*, February 9.


UN. *See* United Nations.


___. 2005c. *Whereas Oil and Natural Gas Resources are Strategic Assets Critical to National Security and the Nation’s Economic Prosperity (Engrossed as Agreed to or Passed by House)*. H. RES. 344 EH. 109th Congress.

___. 2006a. *Disapproving the Results of the Review Conducted by the Committee on Foreign Investment in the United States (CFIUS) into the Purchase of Peninsular and Oriental Steam Navigation (P&O) by Dubai Ports World (DP World)*. H.J. Res. 79. 109th Congress (Sponsored by Representative Jane Harman).

To Promote the National Defense by Establishing Requirements for the Ownership, Management, and Operation of Critical Infrastructure in the United States, and for Other Purposes. H.R. 4881. (Sponsored by Representative Duncan Hunter).


A Bill to Ensure the Security of United States Ports, and for Other Purposes. S. 2334. 109th Congress (Sponsored by Senator Robert Menendez).


A Joint Resolution Disapproving the Results of the Review Conducted by the Committee on Foreign Investment in the United States (CFIUS) into the Purchase of Peninsular and Oriental Steam Navigation (P&O) by Dubai Ports World (DP World). S.J. Res. 32. 109th Congress (sponsored by Senator Susan M. Collins).


US DOT. See US Department of Treasury.


517


Whitfield, Fredericka, Aneesh Raman, Mike Chinoy, Tom Foreman, Adaora Udoji, Jeane Meserve, Paula Newton, Brooke Anderson, and Byron Harris. 2006.
Los Angeles Port Already Run by Foreign Owned Company. CNN: Live From: Voxant.


Wright, Robert and Stephanie Kirchgaessner. 2006. DP World Sells Us Ports to AIG. *The Financial Times*, December 11.

WSJ. *See Wall Street Journal*.

WVS. *See World Values Survey*.


