



**Hearing before the House Financial Services Committee,
Subcommittee on National Security, Illicit Finance, and International Financial Institutions:**

**“Mission Critical: Restoring National Security as the Focus of Defense Production Act,”
Tuesday, March 12th, 2024, 10 a.m.**

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Thank you, full committee Chairman McHenry and Ranking Member Waters, sub-committee Chairman Luetkemeyer and Ranking Member Beatty, and members of the committee.

I testify before you today in firm support of the reauthorization of the Defense Production Act of 1950 contingent on certain revisions and reforms.

As this committee knows, the DPA confers upon the President a broad set of authorities to shape the domestic industrial base so that, when called upon, it can provide essential materials and goods needed for the “national defense.”

Throughout 50 reauthorizations, Congress has expanded the definition of domestic preparedness, response, and recovery from natural hazards, terrorist attacks, and other emergencies. In addition to homeland security, DPA’s ambit has expanded to renewable energy sources such as solar, geothermal, wind, and biomass, as well as energy storage, distribution, and conversion.

This steady and seemingly inexorable expansion of the scope of DPA and the promiscuous growth in the definition of “national defense” is a concern I share.

Nonetheless, as I saw first-hand as Deputy Assistant of Defense for Industrial Policy, the DPA, if properly employed, remains an important tool to fill gaps in supply chains that have the potential to delay, if not stop, production of crucial military systems, fix weaknesses in defense infrastructure and, when needed, mobilize in the face of a broader national emergency, as was the case during 2020 with COVID-19.

The broader global risk context is essential. The security environment – and correlation of military and economic forces – is deteriorating for the United States around the world: the return of industrial-scale land warfare in Europe, Iran’s proxy offensives across the Middle East, and, most of all, the rise of a technically advanced and aggressive People’s Republic of China, which has a

defense and manufacturing industrial base that dwarfs our own. Indeed, the emerging China threat is on par with the Axis powers during World War II and the Soviet Union after that.

And America confronts these challenges with a defense industrial base much withered and denuded since the Cold War. Indeed, with this more fragile industrial infrastructure, it is all the more necessary to have special rapid authorities at the ready when an acute need arrives for scarce parts and materials.

The most compelling and “pure” use of this authority in recent memory came in the summer of 2007 when Secretary of Defense Robert Gates invoked the DPA, Title I, in this case, to secure supplies of reinforced steel to build Mine Resistant Ambush Protected Vehicles (MRAPs), to blunt the Improvised Explosive Devices and Explosively Formed Projectiles killing our troops nearly daily in Iraq.

Today, we are focused on DPA Title III cash grants, purchase commitments, and loan guarantees. These awards can support military supply chains, national defense mobilization, and critical civic infrastructure, including systems to protect public health, subsistence, and commerce. This category could encompass shipyards, materials, mineral refining, large water pumps, electrical generators and wiring, agricultural equipment, as well as transportation and computing infrastructure.

Having worked at senior executive levels of the Defense Department and industry, I believe DPA should be reauthorized to focus more effectively on national defense and indispensable public systems that enjoy uncontroversial, widespread bipartisan support.

A reformed authority would make DPA a ready tool to (1) rescue and fix serious gaps in America’s defense industrial base and buttress related commercial supply chains while (2) enabling a defense mobilization should Congress and a future president determine one is necessary.

The U.S. defense industrial base cannot be relied on to meet the nation's needs should we have to expand production to a significant level today. DPA Title III could be a crucial part of reviving that base.

As noted earlier, the darkening global security environment will likely require significantly more output of defense supplies – ships, aircraft, autonomous vehicles, and, most of all, longer-range munitions. The skillful and systematic use of DPA Title III could fill some of those holes and enable the entry of new defense tech entrants who, as we have seen, with space launches and drones enabled by artificial intelligence, could do things more quickly and cheaply if given the opportunity and proper incentives.

Currently, U.S. defense especially depends on a handful of large prime contractors – the big names familiar to most of you. Strong companies, for the most part. But the country should have the

option, as Congress and FDR created before World War II, to tap commercial entrepreneurs to bring innovation, competition, and economies of scale to military production. The key word being “before.”

We should also improve Title III's structure and processes to carry out the national defense mission if Congress and the president find such action necessary.

First, loan guarantees can be the cheapest yet most effective way for the government to facilitate private sector investments in military supply chain gaps and defense sector infrastructure. They do so while retaining entrepreneurial initiative through banking due diligence, effectively shaving critical basis points off the cost of credit rather than having the USG pick winners and losers with direct loans.

These shaved basis points are pivotal in a country like ours where capex-intensive businesses, which typify defense, face many more costs and disincentives compared to other advanced countries, whether adversaries like China or allies like Korea, Japan, and Germany.

The DPA's loan guarantee provisions are underused because the Defense Department, unlike other federal agencies (e.g., Agriculture), does not have the systems in place or much experience operating a credit program. The knowledge is not arcane; it just needs to be brought into the DoD.

Loan guarantees cannot easily happen unless the reauthorization includes a provision allowing the DoD to establish and maintain a *capital account* to backstop possible defaults. DoD should also use commercially available *insurance and counter-party credit* tools to reduce the amount needed to keep in the capital account.

Second, under current law, the DoD DPA office must use an executive agent—the U.S. Air Force, which provides these services through the Air Force Research Lab in Dayton, Ohio. As much as we may extoll the value of getting away from Washington, D.C., as a practical matter, it is time to close the distance between decision-makers and information.

Third, the technical, defense industrial, and supply chain expertise that DoD has long applied to the DPA Title III process, in my view, requires a significant overhaul. Congress should require the DPA Title III office to have approximately ten credentialed Subject Matter Experts in, for instance, energetics; critical mineral processing, metallurgy and materials; electronics; castings and forgings; machine tools and advanced manufacturing; weapons computing; shipbuilding and maintenance; and defense supply chain management.

Congress could allow DoD to pay for these SMEs as employees or under some other contractual arrangement, using up to ten percent of DPA III funding per year. Congress should also require the DoD to submit an annual report on its progress in hiring and retaining these ten or so experienced industrial professionals.

Fourth, DPA III awards are hamstrung by the same regulations delaying every other industrial and building project of consequence in our country. In recent years FAST 41 authorities have helped streamline the permitting processes for infrastructure projects. The next iteration of DPA should automatically apply FAST provisions to Title III awards as well.

Fifth, it is no good for a company to get a DPA Title III award but then be unable to find the advanced hardware trades and technical experts, which are in short supply in our country. A recipient should be allowed to use DPA Title III funds to recruit and train Americans in the advanced touch labor trades necessary for military hardware production: machinists, welders, electricians, chemical technicians, assemblers, pipefitters, and more.

Likewise, while we must not countenance any more abuse of the work visa system—H-1Bs and others—there is a defensible exception for advanced Masters and Doctoral technical fields in critical defense manufacturing projects funded by DPA.

Sixth, we are still not using the commercially available off-the-shelf technology to plan and guide sound DPA decisions. Commercially-built defense acquisition software is available today that allows near real-time identification of technology and supply chain needs without massive new federal capital IT investments or new starts.

After examining decades of federal IT debacles and the far better outcomes and lower costs that the commercial sector enjoys in information technology, Congress established the commercial preference rule, now codified in 10 USC Section 3453. It would be salutary for Congress to reiterate in a reauthorized DPA that the executive branch comply with the rule and cease trying to build technology from scratch that is already available in the commercial sector.

Seventh, accelerating DPA processes to reflect the “speed of relevance” is needed for modern defense, particularly when technology leaps in days and months rather than decades. DoD should adopt three months as the standard deadline for award decisions with rare exemptions justified by exceptional circumstances. The notices of award declines should be comprehensible and informative to applicants. For declines, a two-page crisp summary of facts and arguments tied to particular weapons systems is due to our fellow citizens and entrepreneurs rather than a vague brush-off.

In considering the future of the DPA, there are things to avoid as well.

Though some awards to Canadian, Australian, or Norwegian suppliers are appropriate in areas like processed critical minerals where there is little prospect for domestic capacity in the next five to ten years, the DPA, as a matter of course, should *not* be used as a surrogate foreign or defense assistance program.

As a general proposition, DPA loans and grants should go to businesses based in the U.S. working on American soil and with American workers. In addition to meeting immediate defense needs, these will help strengthen U.S. industrial capacity going forward.

Companies from allied countries, such as Korea, Japan, Norway, Israel, or Germany, sometimes possess technical abilities that American firms lack. They can be eligible for DPA grants by bringing their operations within the U.S. borders using U.S. citizens and legalized residents.

Finally, it must be restated that DPA is inappropriate as a shortcut to promote a *green* energy transition. Depending on one's point of view, projects like solar panels, windmills, hydrogen cells, and other carbon-reducing systems may or may not be worthy of federal support. However, these projects are not legitimate DPA candidates without a direct connection to military necessity or tightly construed public health, safety, or sustenance.

Some of the associated materials and components – critical minerals, industrial materials, fuel, and transmission infrastructure – that happen to be used by some of these environmentally related projects may also have a national defense application.

Yet, DPA awards must be anchored by compelling military needs and critical national infrastructure priorities. If everything is a priority, effectively nothing is.

In closing, Mr. Chairman, Congress should continue to ensure America has a DPA, expanded in some places, narrowed in others, to act with dispatch as the nation demands. It is time to set these investments in motion before a gathering threat becomes a crisis and then an emergency. As in so many post-mortems following calamity, we don't want to look back at missed opportunities to act for a lack of foresight and commitment.

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