

**Testimony Before the House Financial Services Subcommittee on National Security, Illicit Finance, and International Financial Institutions**

**Hearing on Mission Critical: Restoring National Security as the Focus of Defense Production Act**

**March 12, 2024**

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Chairman Luetkemeyer, Ranking Member Beatty, and distinguished members of the Committee, thank you for inviting me today to testify today on restoring national security as the focus of the Defense Production Act (DPA).

**Summary**

As this committee considers the 54th reauthorization of the DPA, it is prudent to consider that the United States faces the most dangerous international security environment since 1980, at a time where the U.S. military has lost or is losing its military superiority over our adversaries, and during a moment where the size of the force is declining with every passing year. Perennial continuing resolutions and flat or declining budgets have left the Pentagon unable to maintain its defense program, let alone grow the force to meet its national defense commitments. These factors plus persistent combat and peacetime operations have resulted in a military that has not been able to recapitalize its industrial base since the Reagan administration held office.

These realities make this the most consequential reauthorization of the DPA since its enactment in 1950. The wars in Ukraine and the Middle East have revealed that the United States may not be able to restore deterrence or, if necessary, prevail in a protracted conflict, absent a concerted effort to increase America's defense production. As Undersecretary of Defense Bill LaPlante recently said regarding the DoD's new National Defense Industrial Strategy, "Production itself is deterrence."<sup>1</sup> It is time to put

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<sup>1</sup> Joseph Clark, "Resilient Defense Industrial Base Critical for Deterring Conflict," *DOD News*, October 25, 2023, <https://www.defense.gov/News/News-Stories/Article/Article/3569067/resilient-defense-industrial-base-critical-for-deterring-conflict/#:~:text=Ultimately%2C%20LaPlante%20said%2C%20seizing%20on.It's%20as%20simple%20as%20that..>

Defense back into the business of the Defense Production Act, and to rededicate its funding and unique authorities to national defense projects that catalyze defense production for the 21st century. This testimony outlines the state of the defense industrial base today along with recent usage of the DPA and provides recommendations for this committee to consider as it embarks on the reauthorization of the DPA.

## **The International Security Environment & the State of the U.S. Defense Industrial Base**

The war in Ukraine is in its third year, the Israel-Hamas war is approaching the six month mark, and conflict looms in Asia as China threatens Taiwan and provokes the Philippines and others across the Indo-Pacific.<sup>2</sup> These grave security threats in the three critical regions of the world have exposed the limits of the U.S. military's ability to restore deterrence. Meanwhile, China's defense budget has seen substantial real increases annually for over 20 years, including a 7.2 increase next year, continuing the largest military buildup in the world since World War II.<sup>3</sup> And despite taking heavy losses in Ukraine, Russia has militarized its economy and is planning its largest defense budget since the fall of the Soviet Union.<sup>4</sup>

While the military confronts these security challenges it is also struggling to accomplish two essential objectives of any defense program: maintaining the readiness of the force and modernizing its capabilities. Readiness and modernization have suffered as the Department of Defense has been preoccupied, overstretched, and underfunded while

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<sup>2</sup> One needs to look no further than China's recent aggression around Second Thomas Shoal in the South China Sea. Chinese Coast Guard ships have harassed and rammed Filipino resupply vessels leading to four Filipino injuries and escalating a confrontation with a U.S. treaty ally. See, Jim Gomez, "Philippine and Chinese Vessels Collide in Disputed South China Sea and 4 Filipino Crew are Injured," Associated Press, March 5, 2024, <https://apnews.com/article/philippines-china-south-china-sea-collision-e69d9506e85d1d23685db4f220b50d71>.

<sup>3</sup> Department of Defense, "Military and Security Developments Involving the People's Republic of China 2023," (Washington DC: Department of Defense, 2023), 164, <https://media.defense.gov/2023/Oct/19/2003323409/-1/-1/1/2023-MILITARY-AND-SECURITY-DEVELOPMENTS-INVOLVING-THE-PEOPLES-REPUBLIC-OF-CHINA.PDF>; In addition to announcing sustained defense spending, Premier Li Qiang used his address to the National People's Congress to announce the CCP "will be firm in advancing the cause of China's reunification." This is a stark departure from Beijing's typical refrain calling for "peaceful reunification" with Taiwan and signals a tougher posture toward the island democracy. See, Huizhong Wu, "Economic Plans, Taiwan and Other Things to Know from the Opening of China's Legislature," *Associated Press*, March 5, 2024, <https://apnews.com/article/china-congress-legislature-takeaways-76ee304ab3fcfb45c0af9a2968e8d5d>.

<sup>4</sup> The last time Russia's defense budget occupied a third of the government's total budget was in 1990 when military spending was 29.4 percent. See, Leo Chiu, "Russia's 2024 Defense Budget Reaches All-Time Post-Soviet High," *Kyiv Post*, November 28, 2023, <https://www.kyivpost.com/post/24773>.

seeking to meet the laundry list of demands imposed upon it.<sup>5</sup> At the same time, the all volunteer force is failing to meet its recruiting targets yielding the smallest Army since before World War II and smallest Navy since World War I.<sup>6</sup>

While an \$850 billion defense budget is an eye-watering sum, about three quarters of the defense budget is spent on mandatory bills and expenses before policymakers can begin to choose how to advance national defense strategy priorities like addressing the threat of the People's Republic of China or investing in new technologies such as autonomy, hypersonics, and artificial intelligence.<sup>7</sup> Given these challenges and constraints, the Pentagon is neither funded nor equipped to make the capital investments necessary to expand its industrial capacity at a scale to meet today's requirements. In the event of a conflict, the military would fight with an industrial base that has insufficient capacity to sustain the force during a protracted conflict. This problem would be compounded were the U.S. would face simultaneous conflicts in two regions, not unlike what we see today in Europe and the Middle East.

Making matters worse, the Department of Defense is operating in a challenging budget environment. National defense accounts for only 12 percent of total federal spending, nearing historic lows and is projected to decline further.<sup>8</sup> In fact, as the Committee knows, this year the federal government will spend more on servicing our debt than on national defense.<sup>9</sup> The Fiscal Responsibility Act of 2023 capped defense spending equal to FY24 levels and imposes a 6% cut after inflation to the defense budget if Congress does not pass its appropriations bills.<sup>10</sup> Since FY 2011 the military has been subjected to almost 2000 days of Continuing Resolutions which on average amounts to about a third of a year. This has the effect of locking up billions of dollars of funding and

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<sup>5</sup> Mackenzie Eaglen, "The Paradox of Scarcity in a Defense Budget of Largesse," *American Enterprise Institute*, report, July 2022, 2,

<sup>6</sup> Davis Winkie, "Army Numbers Smallest Since WWII – What Units Face Cuts in 2024?" *Army Times*, December 28, 2023, <https://www.armytimes.com/news/your-army/2023/12/28/army-numbers-smallest-since-wwii-what-units-face-cuts-in-2024/#:~:text=The%20Army%20finished%20fiscal%20year.its%20smallest%20force%20since%201940.>

<sup>7</sup> Mackenzie Eaglen, "The Paradox of Scarcity in a Defense Budget of Largesse," *American Enterprise Institute*, report, July 2022, 2, [https://www.aei.org/wp-content/uploads/2022/07/The-Paradox-of-Scarcity-in-a-Defense-Budget-of-Largesse.pdf?x91208.](https://www.aei.org/wp-content/uploads/2022/07/The-Paradox-of-Scarcity-in-a-Defense-Budget-of-Largesse.pdf?x91208)

<sup>8</sup> "Budget Basics: National Defense," *Peter G. Peterson Foundation*, April 28, 2023, <https://www.pgpf.org/budget-basics/budget-explainer-national-defense#:~:text=The%20United%20States%20spent%20%24766.15%20percent%20of%20the%20budget.>

<sup>9</sup> Congressional Budget Office, *The Budget and Economic Outlook: 2024 to 2034*, (Washington DC: Congressional Budget Office, 2024), [https://www.cbo.gov/publication/59946#\\_idTextAnchor161.](https://www.cbo.gov/publication/59946#_idTextAnchor161)

<sup>10</sup> Roger Zakheim, "The Debt Deal's Defense Threat," *The Wall Street Journal*, June 4, 2023, [https://www.wsj.com/articles/the-debt-deals-defense-threat-military-sequester-dod-funding-continuing-resolution-37b51fa8.](https://www.wsj.com/articles/the-debt-deals-defense-threat-military-sequester-dod-funding-continuing-resolution-37b51fa8)

weakening the industrial base. The present continuing resolution only exacerbates the problem.

## **The Peacetime Role of the Defense Production Act**

It is critical for this Committee to consider ramping up employment of the DPA before we find ourselves in a war or national emergency. The United States should take advantage of this moment and take the interim steps necessary to recapitalize our military and expand America's industrial capacity. This would go a long way to building a military that can restore deterrence, uphold the peace, and avoid the wartime mobilization that the DPA was originally designed for.

While a full inventory of the military's capacity shortfalls is beyond the scope of this testimony, listed below is a high-level summary of several industrial base deficiencies in today's force whose remediation is critical to restoring deterrence. Each presents a significant strategic vulnerability requiring urgent attention and resources if we are to prevail in deterring conflict. The objective in all these cases should be investment in extra capacity, stockpiling inventory, funding cutting-edge emerging technologies, and expanding domestic production. It is essential that the DPA, especially Title III, be leveraged to address these critical gaps in production capacity.

- **Munitions and Weapons** – The war in Ukraine has only reinforced the urgency and scale of the shortage in weapons and munitions. Insufficient supply of basic artillery like 155 mm rounds has exposed the limitations of our production capacity. Both Russia and Ukraine have expended thousands of shells per day, and the eruption of war in Israel forced the U.S. to consider agonizing tradeoffs when a brittle industrial base could not supply both allies' defense.<sup>11</sup> Moreover, the U.S. was unable to surge production rapidly. As Under Secretary for Acquisition and Sustainment Bill LaPlante noted, in early 2023, 155 mm production hovered around 14,000 shells per month, doubling to 28,000 per month by September. Production is now expected to hit 57,000 shells in Spring 2024 and 100,000 per month by fiscal year 2025.<sup>12</sup> While the story of 155mm shells is encouraging, it took two years for the Department of Defense to

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<sup>11</sup> Mackenzie Eaglen, "The 'Arsenal of Democracy' Does Not Sustain Itself," *American Enterprise Institute*, October 23, 2023,

<https://www.aei.org/foreign-and-defense-policy/the-arsenal-of-democracy-does-not-sustain-itself/>.

<sup>12</sup> Noah Robertson, "Production of Key Mmunition Years Ahead of Schedule, Pentagon Says," *Defense News*, September 15, 2023,

<https://www.defensenews.com/pentagon/2023/09/15/production-of-key-munition-years-ahead-of-schedule-pentagon-says/>.

increase production capacity to the point where it could supply Ukraine and restock American arsenals.<sup>13</sup>

Capacity limitations within existing production lines are not limited to basic ammunition, but plague production lines across the spectrum of weapons, like HIMARs, Stingers, Javelins, and ATACMs.<sup>14</sup> In the first three months of the Russo-Ukrainian war, the U.S. provided Ukraine over a third of its stockpiled Javelins and a quarter of stockpiled Stingers.<sup>15</sup> While Congress has taken initial steps to support capital investments in production lines the effort is not comprehensive and will require sustained support.<sup>16</sup>

Air and missile defense systems also remain a high demand/low availability capability. In 2022, the U.S. shifted two surface-to-air missile batteries from the Middle East to Ukraine to fend off Russia's brutal missile campaign against Ukrainian cities, which left the Middle East with a capability gap for two years.<sup>17</sup> The story is similar for Taiwan which is also seeking U.S. air and missile defense

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<sup>13</sup> Noah Robertson, "Production of Key Munition Years Ahead of Schedule, Pentagon Says," *Defense News*, September 15, 2023, <https://www.defensenews.com/pentagon/2023/09/15/production-of-key-munition-years-ahead-of-schedule-pentagon-says/>. The war in Ukraine has revealed that armies consuming millions of shells and other munitions are not merely pages in a history book. Kiev requires 75-90,000 shells per month to sustain the war defensively, and 200-250,000 to launch any offensive. See, Anthony Deutsch and Jan Lopatka, "Inside Europe's Drive to get Ammunition to Ukraine as Russia Advances," *Reuters*, March 6, 2024, <https://www.reuters.com/world/europe/inside-europes-drive-get-ammunition-ukraine-russia-advances-2024-03-06/>.

<sup>14</sup> HIMARS, Stingers, Javelins, and ATACMs have gained notoriety due to their outsized role in Ukraine's defense and counter attacks against the Russians. Stingers are shoulder fired surface to air missiles which have downed numerous Russian aircraft and helicopters. Javelins are shoulder fired anti-tank missiles that have destroyed hundreds if not thousands of Russian armored vehicles and tanks, most notably the convoy outside of Kiev early in the war. HIMARS is a truck based multiple rocket launcher responsible for targeting Russian command posts beyond the frontline, which played a critical role in Ukraine's fall 2022 counter offensive. ATACMs are tactical ballistic missiles capable of precision strikes deep inside Russian occupied territory against fortified command posts and critical infrastructure.

<sup>15</sup> Ellen Mitchell, "Pentagon Moves 1.45 Billion to Restock Javelin, Stinger Missiles Sent to Ukraine," *The Hill*, May 6, 2022. <https://thehill.com/policy/defense/3479945-pentagon-moves-1-45-billion-to-restock-javelin-stinger-missiles-sent-to-ukraine/>.

<sup>16</sup> FY2023 NDAA Executive Summary FY2023 National Defense Authorization Act Executive Summary, [https://www.armed-services.senate.gov/imo/media/doc/fy23\\_ndaa\\_agreement\\_summary.pdf](https://www.armed-services.senate.gov/imo/media/doc/fy23_ndaa_agreement_summary.pdf); The go-big approach is criticized for throwing money at the problem but this is exactly what solving munitions shortfalls requires. The only way to increase production capacity and the workforce are providing promises of continued demand and investment. See, Edward N. Luttwak, "Why we Need More Waste, Fraud, and Mismanagement in the Pentagon," *Survival: Global Politics and Strategy* (Vol. 24 Iss. 3), 117-130, 1982. <https://doi.org/10.1080/00396338208442030>.

<sup>17</sup> Lee Hudson, "U.S. Looks to Shift Air Defense Systems from Middle East to Ukraine, Raytheon Chief Says," *Politico*, December 1, 2022. <https://www.politico.com/news/2022/12/01/raytheon-air-defense-ukraine-middle-east-00071687>. The United States saw firsthand the tragic consequences of insufficient air defense when three service members were killed at the Tower-22 outpost in Jordan in January 2024.

systems as well as long range precision weapons as it postures against Chinese aggression.<sup>18</sup> In 2021, Boeing was forced to delay the Harpoon Coastal Defense System's delivery to Taiwan by one to two years.<sup>19</sup> The limiting factor to supporting both partners has been insufficient capacity.<sup>20</sup>

Despite expert warnings that nearly any conflict between the United States and its most capable competitors would entail significant demand for long-range, high-precision munitions<sup>21</sup> current production lines will not produce at the scale required to meet demand during a conflict. Air Force studies on munition requirements for a conflict with China reveal that long range precision guided munitions (PGM) like JASSM, JASSM-ER, and LRASMs, would be exhausted in around a week, and highlighted the urgency to produce far more PGMs at scale.<sup>22</sup> Between 2011 and 2020 Congress cut roughly 40% of all munition procurement line items, which has resulted in flat or declining production capacity. As AEI expert Mackenzie Eaglen summarized the conundrum: "Year-to-year variance from their sole customer makes it difficult to keep plants open at all, and it is near-impossible for private industry to proactively invest."<sup>23</sup> The result is fewer production lines and shrinking capacity.

- **Naval Shipbuilding and Maintenance** – With 292 ships in its current battle force, the Navy is significantly below its stated goal of 355 ships. It has no plan to fill the void for decades.<sup>24</sup> The Biden administration's April 2022 thirty-year

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<sup>18</sup>Harry Halem and Eyck Freymann, "Ukraine Shows Why Taiwan Needs More Air Defense," *War on the Rocks*, April 7, 2022.

<https://warontherocks.com/2022/04/ukraine-shows-why-taiwan-needs-more-air-defense/>.

<sup>19</sup> Ryan White, "The U.S. Delays Delivery of Harpoon Coastal Defense System to Taiwan," *Naval Post*, March 9, 2021. <https://navalpost.com/taiwan-harpoon-coastal-defense-system-delivery-delays/>.

<sup>20</sup> Patriot air defense systems are a scarce resource, the Pentagon must understand the cost to U.S. modernization and training efforts, see Dan Lamothe, Karen DeYoung, and Alex Horton, "Pentagon Preparing to Send Patriot Missile System to Ukraine," *The Washington Post*, December 13, 2022.

<https://www.washingtonpost.com/national-security/2022/12/13/patriot-missile-defense-ukraine/>.

<sup>21</sup> National Defense Strategy Commission, *Providing for the Common Defense*, 41.

<sup>22</sup> Mark A. Gunzinger, "Affordable Mass: The Need for a Cost-Effective PGM Mix for Great Power Conflict," Policy Paper, *Mitchell Institute for Aerospace Studies*, vol. 31, November 2021, 19, [https://mitchellaerospacepower.org/wp-content/uploads/2021/11/Affordable\\_Mass\\_Policy\\_Paper\\_31-FINAL.pdf](https://mitchellaerospacepower.org/wp-content/uploads/2021/11/Affordable_Mass_Policy_Paper_31-FINAL.pdf).

<sup>23</sup> Mackenzie Eaglen, "If Ukraine Is Any Barometer Of Expenditure Rates In Modern War, America is Gonna Lose Taiwan," *19FortyFive*, August 1, 2023, <https://www.19fortyfive.com/2023/08/if-ukraine-is-any-barometer-of-expenditure-rates-in-modern-war-america-is-gonna-lose-taiwan/>; Eric Lofgren, "Are Munitions Really 'Bill Payers' for the Rest of Defense," *Acquisition Talk*, February 14, 2023, <https://acquisitiontalk.com/2023/02/are-munitions-really-bill-payers-for-the-rest-of-defense/>.

<sup>24</sup> The FY2018 NDAA included a provision sponsored by Senator Roger Wicker and Rep. Rob Wittman calling for the U.S. Navy to build up to 355 ships "as soon as practicable." However a 2017 CBO analysis of the feasibility of a 355 ship fleet revealed unbearable constraints on the industrial base with shipyards needing to increase their workforce by 40 percent over the next 5 to 10 years and billions in infrastructure investments and upgrades to realize a 355 ship fleet over the medium term. See, Congress.gov, "Text -

shipbuilding plan would not reach the 355 ship threshold until after 2040.<sup>25</sup> At the same time, the Chinese Navy has 370 ships and is expected to grow to 395 by 2025 and 435 by 2030.<sup>26</sup> This has led to a bipartisan view that “to project and sustain combat power into the Western Pacific and other theaters, the Navy must dramatically recapitalize and expand its military sealift forces.”<sup>27</sup>

Accelerating shipbuilding will require not only funding increases to the shipbuilding accounts, the domain of the defense authorization and appropriation committees, but will also demand capital investments in shipbuilding capacity – an area where the DPA should be utilized. Several years of focused congressional oversight concluded that squeezing more shipbuilding out of the current industrial base is nearly impossible. A prime example is that of attack submarines or SSNs where industrial capacity constraints and boat retirements will result in fewer total SSNs in the coming years than we have today.<sup>28</sup>

Moreover, industrial constraints limit the use of the current fleet. In FY22 the U.S. submarine fleet spent 1,500 days waiting for maintenance or repair, which is the equivalent to losing four submarines in the fleet.<sup>29</sup> A 2023 GAO report estimated a \$1.8 billion cost to complete the existing deferred-maintenance backlog.<sup>30</sup> The

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H.R.2810 - 115th Congress (2017-2018): National Defense Authorization Act for Fiscal Year 2018," December 12, 2017, 267, <https://www.congress.gov/bill/115th-congress/house-bill/2810/text>; Congressional Budget Office, *Costs of Building a 355-Ship Navy*, (Washington DC: Congressional Budget Office, 2017), 9-10, <https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52632-355shipnavy.pdf>.

<sup>25</sup> Sam LaGrone, “Navy’s Force Design 2045 Plans for 373 Ship Fleet, 150 Unmanned Vessels,” *USNI News*, July 26, 2022. <https://news.usni.org/2022/07/26/navys-force-design-2045-plans-for-373-ship-fleet-150-unmanned-vessel>

<sup>26</sup> Department of Defense, “Military and Security Developments Involving the People’s Republic of China,” (Washington DC: Department of Defense, 2023), 55, <https://media.defense.gov/2023/Oct/19/2003323409/-1/-1/1/2023-MILITARY-AND-SECURITY-DEVELOPMENTS-INVOLVING-THE-PEOPLES-REPUBLIC-OF-CHINA.PDF>.

<sup>27</sup> *Id.*

<sup>28</sup> “The United States must expand its submarine fleet”, National Defense Strategy Commission, Providing for the Common Defense, 36;

Megan Eckstein, “Workforce Development, Process Improvements Will Make or Break the Virginia Class Submarine Program,” *Defense News*, January 6, 2022. <https://www.defensenews.com/naval/2022/01/06/workforce-development-process-improvements-will-make-or-break-the-virginia-class-submarine-program/>;

<sup>29</sup> Seth Cropsey, “Delayed Repairs Shrink the U.S. Navy Submarine Fleet,” *The Wall Street Journal*, September 14, 2022, <https://www.wsj.com/articles/delayed-repairs-shrink-the-submarine-fleet-taiwan-china-navy-amphibious-as-sault-aircraft-private-shipyards-deployable-boats-materials-11663162266>.

<sup>30</sup> Wyatt Olson, “Navy’s Capacity to Wage War Hindered by Maintenance, Shipyard Problems, GAO Finds,” *Stars and Stripes*, May 4, 2023, <https://www.stripes.com/theaters/us/2023-05-03/navy-maintenance-shipyard-problems-gao-10005908.html>.

cause? The poor condition of the Navy's four public shipyards and a lack of capacity to handle rising maintenance requirements for the aging fleet. DPA authorities should focus on helping shipbuilders expand capacity by unleashing a capital infusion directly or via loan guarantees to invest in "brownfield" yards or reopen yards that were shuttered.<sup>31</sup>

- **Supply Chains and Strategic Materiel Shortfalls** – Congress should continue to support use of the DPA to create more resilient supply chains and address shortfalls in strategic materials vital to national defense. In June 2023, DOD announced a \$45.5 million agreement to expand domestic manufacturing and supply chains of high purity aluminum, a key component in munitions and missiles. The DOD explained that "The project will provide the United States much-needed surge capacity for HPA production and mitigate risks to national security in the event of an industrial mobilization."<sup>32</sup> In March 2022, President Biden issued Presidential Determination No. 2022-11, which invoked section 303 authorities of the DPA and directed the DOD to promote national defense and "secure a reliable and sustainable supply of such strategic and critical materials."<sup>33</sup>

While the DPA has been used to address brittle supply chains and strategic mineral dependencies, it has not been comprehensive. The DPA should go further and create resilient and secure supply chains across national defense industries and address the laundry list of strategic material shortfalls, such as the 35 strategic minerals deemed essential in 2018.<sup>34</sup>

These examples illustrate how the price of building and sustaining today's force significantly exceeds the Pentagon's current defense program. They also underscore and identify the urgent need of recapitalizing and expanding the industrial base. This is where the DPA should be focused going forward.

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<sup>31</sup> Ken Moriyasu, "U.S. Seeks to Revive Idled Shipyards with Help of Japan, South Korea," *Nikkei Asia*, March 4, 2024, <https://asia.nikkei.com/Politics/Defense/U.S.-seeks-to-revive-idled-shipyards-with-help-of-Japan-South-Korea#:~:text=Last%20week%2C%20Secretary%20of%20the,dormant%20shipyards%20in%20the%20U.S.>

<sup>32</sup> Department of Defense, "DOD Enters Agreement to Expand Domestic Manufacturing to Strengthen U.S. Missiles and Munitions Supply Chains," (Washington DC: Department of Defense, 2023), <https://www.defense.gov/News/Releases/Release/Article/3431173/dod-enters-agreement-to-expand-domestic-manufacturing-to-strengthen-us-missiles/>.

<sup>33</sup> The White House, "Presidential Determination Pursuant to Section 303 of the Defense Production Act of 1950, as Amended: Memorandum for the Secretary of Defense," *Federal Register* 87, no. 66 (April 6, 2022): 19775, <https://www.govinfo.gov/content/pkg/FR-2022-04-06/pdf/2022-07421.pdf>.

<sup>34</sup> Office of the Secretary of the Interior, "Final List of Critical Minerals 2018," *Federal Register* 83, no. 97 (May 18, 2018): 23295, <https://www.govinfo.gov/content/pkg/FR-2018-05-18/pdf/2018-10667.pdf>.

## Putting the “D” Back in the Defense Production Act

Today, the DPA is not sufficiently scaled and capitalized to update and expand industrial manufacturing capabilities essential for current and future national defense requirements. Title III of the DPA establishes a Treasury account, the Defense Production Act Fund, which acts as a vehicle for carrying out Title III functions. Monies in the DPA Fund are available until expended but the unobligated balance remaining at the end of a fiscal year cannot exceed \$750 million. Recent appropriations to the DPA fund have come through defense appropriation acts and other vehicles such as \$600 million from the Additional Ukraine Supplemental Appropriations Act 2022, and \$1 billion through the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act of 2020.<sup>35</sup> To arrest and reverse the defense production challenges outlined above, the Congress should expand DPA Title III funding for both present and future critical national defense needs.

In recent years, the DPA has drifted from its original focus on national defense to addressing non-defense national emergencies. Upon entering office, the Biden administration continued to leverage Title III authority to expand manufacturing capacity for 61 million Covid-19 tests, constructing new sites for domestic PPE manufacturing capacity, particularly nitrile gloves, and reducing dependence on foreign suppliers.<sup>36</sup> While use of the DPA for a national emergency like the Covid-19 pandemic proved essential it should be the exception, not the rule.<sup>37</sup>

Non-defense DPA usage has extended beyond the pandemic response. None of the \$500 million in DPA funding appropriated in Section 30001 of the Inflation Reduction Act of 2022 for the Department of Defense and Department of Energy has gone to core

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<sup>35</sup> Library of Congress, Congressional Research Service, *The Defense Production Act of 1950: History, Authorities, and Considerations for Congress*, by Alexandra G. Neenan and Luke A. Nicastro, R43767, (2023), 12.

<sup>36</sup> Nina Hart, Heidi Peters, and Eric Lee, “New Covid-19 Defense Production Act (DPA) Actions: Implementation Considerations,” *Congressional Research Service*, March 1, 2021, <https://crsreports.congress.gov/product/pdf/IN/IN11619>.

<sup>37</sup> In April 2020, the DOD used Title III authority under Section 303 to scale up production of nasal swabs and N-95 masks for a total of \$208 million in response to production capacity shortfalls in the early days of the pandemic. Department of Defense, “DOD Details \$75 Million Defense Production Act Title 3 Puritan Contract,” (Washington DC: Department of Defense, 2020), <https://www.defense.gov/News/Releases/Release/Article/2170355/dod-details-75-million-defense-production-act-title-3-puritan-contract/>; Department of Defense, “DOD Details \$133 Million Defense Production Act Title 3 Covid-19 Project,” (Washington DC: Department of Defense, 2020), <https://www.defense.gov/News/Releases/Release/Article/2158351/dod-details-133-million-defense-production-act-title-3-covid-19-project/>.

national defense needs.<sup>38</sup> In fall 2022, “the Department of Energy announced its intent to award \$250 million to accelerate domestic production and deployment of electric heat pumps under DPA authority.”<sup>39</sup> Heat pumps, an energy efficient alternative to furnaces or air conditioners, whatever their merits, can hardly be considered a critical national defense need.

On the DOD side, the \$250 million of Inflation Reduction Act appropriations will be applied to expanding domestic mining, mineral processing, and industrial sectors related to large capacity batteries.<sup>40</sup> One example of the DOD utilizing its IRA appropriations came in September 2023, when the DOD entered a \$90 million agreement using DPA Title III funds “to support the expansion of domestic mining and production of lithium.”<sup>41</sup> While using the DPA to expand domestic mining seems like a win for national defense, using the funds for lithium is a missed opportunity for addressing more urgent production needs. American tanks, warplanes, and ships will not be running on large lithium batteries anytime soon.

On the other hand, other critical minerals like rhenium, gallium, and rare earths like cobalt are essential to sustain today’s force. Moreover, China maintains a stranglehold on rare earths like gallium, producing 98 percent of the world’s supply. In 2023, China placed export controls on gallium, threatening U.S. supply chains and causing gallium prices to jump 27 percent.<sup>42</sup> DPA funding should be leveraged to expand domestic capacity of the most sensitive materials and minerals vital to national security.

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<sup>38</sup> Congress.gov. “Text - H.R.5376 - 117th Congress (2021-2022): Inflation Reduction Act of 2022.” August 16, 2022. <https://www.congress.gov/bill/117th-congress/house-bill/5376/text>.

<sup>39</sup>Office of Manufacturing and Energy Supply Chains, “Enhanced Use of Defense Production Act of 1950,” *Department of Energy*, <https://www.energy.gov/mesc/enhanced-use-defense-production-act-1950#:~:text=In%20August%20of%202022%2C%20Congress.out%20the%20Defense%20Production%20Act>.

<sup>40</sup> Office of the Assistant Secretary of Defense Industrial Base Policy, “Defense Production Act Title III,” (Washington DC: Department of Defense, 2023), 8, <https://www.businessdefense.gov/ibr/mceip/dpai/dpat3/docs/DPA-TitleIII-Overview.pdf>.

<sup>41</sup> Department of Defense, “DOD Enters Agreement to Expand Domestic Lithium Mining for U.S. Battery Supply Chains,” *Department of Defense*, September 12, 2023, <https://www.defense.gov/News/Releases/Release/Article/3522657/dod-enters-agreement-to-expand-domestic-lithium-mining-for-us-battery-supply-ch/#:~:text=The%20%2490%20million%20agreement%2C%20entered.of%20lithium%20for%20the%20nation's>.

<sup>42</sup> Rhenium is critical for high temperature coating on rockets and missiles and gallium is critical for semiconductors and 5G electronics. Cobalt and other rare earths power everything from stealth aircraft to critical components in missiles and radars. For a complete list of strategic minerals for national defense see, Office of the Secretary of the Interior, “Final List of Critical Minerals 2018,” *Federal Register* 83, no. 97 (May 18, 2018): 23295, <https://www.govinfo.gov/content/pkg/FR-2018-05-18/pdf/2018-10667.pdf>; Matthew Funaiole, Brian Hart, Aidan Powers-Riggs, “Mineral Monopoly: China’s Control over Gallium is a National Security Threat,” CSIS, July 18, 2023, <https://features.csis.org/hiddenreach/china-critical-mineral-gallium/>.

## **DPA Funding**

While the scope of the problem requires funding that far exceeds what Congress has appropriated for the program in recent years, the DPA should continue to be a funding priority and take on more ambitious projects. Projects that leverage advances in manufacturing technology are ideal as they have the potential to recapitalize the industrial base for pennies on the dollar. 3D printing is one such example because it effectively negates the need for tooling thus bending the cost curve of building manufacturing facilities. The DPA loan program should also be revitalized. Like other such programs in government, loans have the potential to catalyze private sector dollars by de-risking capital at low cost to the taxpayer.

Timely execution of the DPA Fund is essential too. Despite Congress appropriating \$1.1 billion this fiscal year, only \$342 million has been obligated with 70 percent or \$801 million unobligated halfway through the fiscal year.<sup>43</sup> This has led some to cut the DPA below the President's Budget request. This would be a strategic mistake. There is a high demand for Title III projects from industry and the Pentagon should accelerate its processes so it fully leverages appropriated funds.

The critical point for this Committee as it considers reauthorization of the DPA is that none of the DPA appropriations under the Inflation Reduction Act has been allocated to core national defense priorities such as the examples outlined earlier. The DPA as originally enacted defined national defense as "the operations and activities of the armed forces, the Atomic Energy Commission, or any other department or agency directly or indirectly and substantially concerned with the national defense." It is essential that we return to the definition of national defense along the lines of the language originally enacted with annual appropriations supporting DPA projects via grants and loan guarantees. Failure to align the use of the DPA to our national defense priorities would be a strategic blunder denying our country an extraordinary tool that strengthens our military.

## **DPA for the 21st Century**

The DPA was a critical 1950s-era innovation that removed bottlenecks in the defense supply chain during wartime, but it has become outdated as America's global leadership has evolved. The United States has entered a new era of enduring, tech-enabled superpower competition, and as a result there are a small number of key cutting-edge industries, such as the biotechnology sector, that require the establishment of new,

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<sup>43</sup> "Defense Production Act Purchases, Defense: FY24 Snapshot," *USA Spending*, [https://www.usaspending.gov/federal\\_account/097-0360](https://www.usaspending.gov/federal_account/097-0360).

enhanced policy measures to support supplier ecosystems, including manufacturing at scale. Updating the DPA for the 21st century will accelerate growth in these industries while preventing a wholly top-down federal industrial policy from emerging.<sup>44</sup>

As this committee embarks on reauthorizing the DPA it should consider upgrading the authority so it addresses four essential elements of the defense production value chain: (1) capital and/or loan guarantees to drive increased production capacity; (2) incentives to build and sustain the defense industrial base workforce; (3) fast track permitting for DPA supported projects; and (4) supporting and sustaining single points of failure in the defense industrial base supply chain. Without a concerted focus across these four lines of effort, use of the DPA authority will produce suboptimal and uneven outcomes risking failure.

The following are some reforms and modifications to the DPA recommended by a recent Reagan Institute Task Force broken out along the four lines of effort:

### **Title III Appropriations and Loan Guarantees**

- Annual appropriations for Title III projects tied to stated national defense priorities that will drive project financing at scale. Upgrading and recapitalizing production lines and shipyards will require billions of dollars in investment annually.<sup>45</sup> In the absence of a CHIPS Act for the U.S. defense industrial base, Congress should utilize the DPA to address these critical defense needs.
- DPA should leverage Title III loan authorities to catalyze private sector investment whenever possible. In cases of the government owned contractor operated or GOCOs facilities direct DPA funding should be utilized.
- Fund the Competitiveness Policy Council (authorized under Competitiveness Policy Council Act, 15 U.S.C. §4801 et seq.) to provide future recommendations to the president and oversee progress against the outcomes outlined in this Task Force report.

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<sup>44</sup> Report of the Task Force on National Security and U.S. Manufacturing Competitiveness, “A Manufacturing Renaissance: Bolstering U.S. Production for National Security and Economic Prosperity,” *The Ronald Reagan Institute*, November 2021, 30, <https://www.reaganfoundation.org/reagan-institute/centers/peace-through-strength/task-force-on-manufacturing-competitiveness/>.

<sup>45</sup> For perspective, the Navy’s Shipyard Infrastructure Optimization Program (SIOP) aims to modernize the Navy’s four public yards including dry docks, facilities, and equipment. While fully developed SIOP will not be released until fiscal year 2025, costs have ballooned. The Navy’s estimates for modernization at Pearl Harbor increased from \$6.1B in 2018 to \$16B in 2022. Additionally, in 2018 the Navy estimated it would require \$21B over 20 years to implement the SIOP. However projected costs and scope have grown since then. SIOP overruns and delays are just a single example and one begins to understand the generational capital investments required to recapitalize defense infrastructure. See, Government Accountability Office, *Navy Readiness: Actions Needed to Address Cost and Schedule Estimates for Shipyard Improvement*, GAO-23-106067, (Washington DC, 2023), 2, accessed March 6, 2024, <https://www.gao.gov/assets/gao-23-106067.pdf>.

- This council should assemble an independent advisory group composed of business, labor, and government leaders U.S. to develop policy recommendations that benefit the workforce across their sectors, like President Reagan's Commission on Industrial Competitiveness.

### **Workforce Programs**

- Expand the DPA to enable holistic solutions for critical manufacturing facilities, such as targeted visa approvals for STEM talent and workforce training.
- Enable manufacturers and government agencies to develop facilities and hire employees in economic empowerment zones and emphasize the hiring and retraining of veterans as they transition from active service.
- Widen the talent base for U.S. manufacturing by attracting new, skilled human capital sources and creating new visas and citizenship pathways for skilled immigrants from allies and partners working in critical manufacturing sectors.

### **Permitting for DPA Projects**

- Authorize automatic fast tracking for federal, state, & local permitting for DPA supported projects. Specifically, require Federal agencies like the Army Corps of Engineers and Environmental Protection Agency to automatically expedite permitting requests associated with DPA projects.
- Empower federal and state officials to designate "special manufacturing zones" with fast-tracked, simplified permitting, preferential tax treatment, focused workforce programs, and capital investments.

### **Supply Chains**

- Develop a centralized DPA supplier database where previous DPA beneficiaries and producers are cataloged and current suppliers who can readily convert and produce critical supplies across industries and states can register. Database registration entitles firms to be eligible for DPA program benefits and reduces crisis and production response time, enabling improved communications and funding between key suppliers and the Defense and Commerce Departments in the event of an emergency.
- Task the National Security Council and National Economic Council with publishing an integrated economic statecraft and competitiveness strategy at the beginning of each presidential administration, which should include recommendations to better prioritize existing federal investments—including from the Departments of Education, Labor, and Commerce—and build institutional capacities at the federal, state, and local levels to better coordinate on economic security issues.

## Conclusion

Since its enactment in 1950 during the Korean War, the DPA has been reauthorized over 50 times, most recently in the FY19 National Defense Authorization Act. In the six years since the world has dramatically changed. From wars in Europe to the Middle East to our strategic competition with the People's Republic of China to the technological revolution disrupting conventional warfare, the next reauthorization of the DPA is the most consequential in the history of the Defense Production Act.

While technology can solve some of this increasingly urgent problem, China's military build up and the wars in Ukraine and Israel have reminded us of the critical importance of industrial capacity in deterring, and if necessary, winning armed conflict. A recent study estimates that China has 232 times the shipbuilding capability of the United States. This is just one example, though perhaps the most striking, of how industrial power and output is a major vulnerability of the U.S. military.<sup>46</sup>

Not since the end of World War II has the United States confronted such a challenging and geographically disparate security environment. Not since 1980 have we attempted to rebuild and recapitalize our military. As President Reagan said in 1983 "We can't afford to believe that we will never be threatened. There have been two world wars in my lifetime...But we were ill-prepared for both. Had we been better prepared, peace might have been preserved."<sup>47</sup> Putting the "D" back into the DPA to address core national defense industrial needs will make our military better prepared and help preserve the peace we seek.

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<sup>46</sup> Mackenzie Eaglen, "The US Navy is Falling Behind China, and the Pentagon Knows It," *American Enterprise Institute*, October 31 2023, <https://www.aei.org/op-eds/the-u-s-navy-is-falling-behind-china-and-the-pentagon-knows-it/>.

<sup>47</sup> "Address to the Nation on Defense and National Security March 23 1983," *The Public Papers of President Ronald W. Reagan*, Ronald Reagan Presidential Library, <https://www.reaganlibrary.gov/archives/speech/address-nation-defense-and-national-security>.