House Financial Services Committee

Subcommittee on National Security, Illicit Finance, and International Financial Institutions

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

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March 12, 2024

Chairman Luetkemeyer, Ranking Member Beatty, and Distinguished Members of the Subcommittee, I thank you for the opportunity to testify on the Defense Production Act (DPA). My name is Todd Tucker, and I direct research on industrial policy and trade at the Roosevelt Institute, an economic policy think tank and the nonprofit partner to the Franklin D. Roosevelt Presidential Library and Museum.

As a political scientist who has studied the history and evolution of the DPA, I wish to make a few points. First, the DPA's purpose is to ensure the health of both the military and civilian economy. Second, toward this end, Congress has given the executive branch a wide range of DPA tools—including some that cost the taxpayer little to nothing. Finally, the DPA contributes to American competitiveness and preparedness in a volatile global environment. Thus, it is perhaps not surprising that the act has been reauthorized over 50 times on a bipartisan, and often unanimous, basis.[1]

The DPA Promotes the Health of the Economy as a Whole—Military and Civilian

My fellow witnesses have described the unique contributions and role that DPA has in providing for the national defense as conventionally understood. I will not repeat their many valid points.

Rather, I will note that, despite conclusions one might draw from the statute's name, neither the DPA, nor its predecessor laws from the Franklin Roosevelt administration (the War Powers Acts of 1941 and 1942), is narrowly focused on military issues or military procurement. From the beginning, the health of the civilian economy—and in particular energy production—has been a central animating concern. After all, we do not have two economies: Many industries produce for both the military and civilian sectors.

[1] Cecire, Michael H, and Heidi M Peters. "The Defense Production Act of 1950: History, Authorities, and Considerations for Congress." Washington, DC: Congressional Research Service, March 2, 2020. https://crsreports.congress.gov/product/pdf/R/R43767/10.

This dual mandate is well reflected through the referral of jurisdiction of the law to this Committee and the Senate Banking Committee, who can take a broad view of the economy relative to their armed services counterparts.

The deep interconnectedness of these missions can be found in the DPA text itself. Congress has made eight principal findings in the Declaration of Policy of the DPA, including the following.

- The first finding states: "[T]he security of the United States is dependent on the ability of the domestic industrial base to supply materials and services for the national defense and to prepare for and respond to military conflicts, natural or man-caused disasters, or acts of terrorism within the United States."[2] Thus, from the start, the law establishes the link between US security and the ability of domestic industry as a whole (not simply the *defense* industrial base) to respond to a wide range of challenges.
- The domestic industrial base, in turn, cannot be simply turned on like a spigot when the Defense Department identifies traditional military threats, but rather "actions are needed to support continuing improvements in industrial efficiency and responsiveness" for the economy as a whole,[3] with the DPA providing the president authorities "to shape national defense preparedness programs **and** to take appropriate steps to maintain and enhance the domestic industrial base" (emphasis added).[4]
- Another finding notes that "in order to ensure national defense preparedness, it is necessary and appropriate to assure the availability of domestic energy supplies for national defense needs."[5] But above and beyond that defense application, the DPA also states independently that, "to further assure the adequate maintenance of the domestic industrial base, to the maximum extent possible, domestic energy supplies should be augmented through reliance on renewable energy sources (including solar, geothermal, wind, and biomass sources), more efficient energy storage and distribution technologies, and energy conservation measures."[6]
- Bringing the military and civilian dimensions together, the DPA further states: "[M]uch of the industrial capacity that is relied upon by the United States Government for military production and other national defense purposes is deeply and directly influenced by—
(A) the overall competitiveness of the industrial economy of the United States; and
(B) the ability of industries in the United States, in general, to produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve competitiveness with respect to military and civilian production."[7]

[2] 50 U.S.C. § 4502(a)(1)
[3] 50 U.S.C. § 4502(a)(2)(b)
[4] 50 U.S.C. § 4502(a)(4)
[5] 50 U.S.C. § 4502(a)(5)
[6] 50 U.S.C. § 4502(a)(6). Note that the word "including" indicates a non-exhaustive list of energy sources to consider.
[7] 50 U.S.C. § 4502(a)(7)

In short, the DPA is not about military *or* nonmilitary needs, but about both—together and separately.

The DPA Is a Diverse Toolkit with Diverse Applications—Some at Low to No Cost

Toward these ends, Congress delegated to the executive branch a wide range of tools to address national and economic security needs.

First, Title I's priorities and allocations authorities are used over 300,000 times a year at minimal cost to the taxpayer.[8] These help resolve supply chain problems by making sure that materials go to the most urgent and important uses. The Franklin Roosevelt administration used the DPA's predecessor powers to ensure that steel, copper, and other materials were directed toward war- and essential civilian uses, over nonessential construction.[9] President Trump used DPA priority authorities to make sure that vaccine manufacturers had the inputs they needed.[10] Once determinations are made that items are critical, scarce, or essential, additional powers are unlocked—including those used by President Trump to go after price gouging in the personal protection equipment (PPE) industry.[11] President Biden's use of the DPA prioritized baby formula manufacturers' orders of key ingredients, helping to ensure parents across the country could feed their infants.[12]

Second, Title III offers a range of financial incentives to increase production useful to the national defense, industrial base, or energy production. During the 1940s, President Roosevelt used the DPA's predecessor authorities to increase US aluminum production sevenfold.[13] More recently, President Trump used DPA authorities to promote production of vaccines, swabs, test

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[8] Criswell, Deanne. "The Defense Production Act Committee Calendar Year 2020 Report to Congress." Washington, DC: Federal Emergency Management Agency, September 20, 2021. https://www.fema.gov/sites/default/files/documents/fema_DPAC-report-Defense-production-act-committee_2020.pdf.

[9] Koistinen, Paul A. C. *Arsenal of World War II: The Political Economy of American Warfare, 1940-1945*. Lawrence, KS: University Press of Kansas, 2004.

[10] Bown, Chad P. "COVID-19 Vaccine Supply Chains and the Defense Production Act." Working Paper. Washington, DC: Peterson Institute for International Economics, June 2022. https://www.piie.com/sites/default/files/documents/wp22-9.pdf.

[11] See US v. Krikor Topouzian, No. 20 CR 721, 2021 WL 5882204, at *3 (N.D. Ill. Dec. 13, 2021); United States v. Leal-Matos, No. CR 21-150 (SCC), 2022 WL 476094, at *1 (D.P.R. Feb. 15, 2022); United States v. Bulloch, 615 F. Supp. 3d 175 (E.D.N.Y. 2022); United States v. Ritchey, 604 F. Supp. 3d 397 (S.D. Miss. 2022).

[12] https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/22/president-biden-announces-first-two-infant-formula-defense-production-act-authorizations/. See also https://www.gillibrand.senate.gov/news/press/release/senator-gillibrand-calls-for-president-biden-to-invoke-the-defense-production-act-to-urgently-address-baby-formula-shortage/ ; https://posey.house.gov/news/documentsingle.aspx?DocumentID=397012 https://www.rubio.senate.gov/rubio-urges-biden-to-invoke-defense-production-act-to-address-baby-formula-shortage/ . Indeed, Senator Rubio complained that it took Biden six days to do so.

[13] Koistinen, at 136. More recently, Senator Josh Hawley called for use of the DPA to save one of the last primary aluminum smelters in the country. https://www.hawley.senate.gov/hawley-demands-biden-use-defense-production-act-save-missouri-aluminum-plant-and-union-jobs

kits, and respirators in the wake of the COVID-19 pandemic.[14] Then-ranking member of this Committee, Congressman McHenry, praised this "aggressive and necessary move," categorizing it as "another important step to expand production capacity and work with our manufacturers in this nationwide fight against coronavirus."[15] President Biden is also using DPA to support critical mineral mining,[16] government-owned munitions facilities,[17] sterile injectable medicines,[18] heat pump manufacturing, and exploring other sectors key to energy security.[19] These efforts are already bearing fruit, with 15 communities set to receive DPA heat pump investments, including in Cudahy, Wisconsin, and Spartanburg, South Carolina.[20]

Third, Title VII gives the government the power to obtain information from and encourage cooperation amongst private sector entities. Presidents Trump and Biden used this to get companies like McKesson, Honeywell, and others the flexibility they needed to be able to get vaccines out to workers and communities around the country.[21] Both administrations have also used the possibility of mandatory DPA information and cooperation orders in order to attain voluntary compliance, in sectors from PPE to semiconductors.[22] And today, the administration is using it to collect information from AI companies on possible future threats.[23]

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[14] Cecire, Michael H. "COVID-19 and Domestic PPE Production and Distribution: Issues and Policy Options." Washington, DC: Congressional Research Service, December 7, 2020, at 35, https://crsreports.congress.gov/product/pdf/R/R46628.
[15] McHenry, Patrick. "McHenry on Defense Production Act: This Is an Aggressive and Necessary Move." House Financial Services Committee, March 18, 2020. https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=407648.
[16] This includes cobalt exploration supported through the Additional Ukraine Supplemental Appropriations Act. See "DOD Enters Agreement to Expand Domestic Manufacturing and Strengthen U.S. Cobalt Supply Chains." Washington, DC: Department of Defense, June 15, 2023. https://www.defense.gov/News/Releases/Release/Article/3429442/dod-enters-agreement-to-expand-domestic-manufacturing-and-strengthen-us-cobalt/https%3A%2F%2Fwww.defense.gov%2FNews%2FReleases%2FRelease%2FArticle%2F3429442%2Fdod-enters-agreement-to-expand-domestic-manufacturing-and-strengthen-us-cobalt%2F.
[17] "President Biden Signs Presidential Waiver of Statutory Requirements for Supply Chain Resilience." Washington, DC: Department of Defense, February 28, 2023. https://www.defense.gov/News/Releases/Release/Article/3312486/president-biden-signs-presidential-waiver-of-statutory-requirements-for-supply/https%3A%2F%2Fwww.defense.gov%2FNews%2FReleases%2FRelease%2FArticle%2F3312486%2Fpresident-biden-signs-presidential-waiver-of-statutory-requirements-for-supply%2F.
[18] "President Biden Announces New Actions to Strengthen America's Supply Chains, Lower Costs for Families, and Secure Key Sectors." Washington, DC: White House, November 27, 2023. https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/27/fact-sheet-president-biden-announces-new-actions-to-strengthen-americas-supply-chains-lower-costs-for-families-and-secure-key-sectors/.
[19] "Defense Production Act to Accelerate Domestic Manufacturing and Adoption of Clean Energy Technologies: Summary of Roundtables and RFI Responses." Washington, DC: Department of Energy, April 2023. https://www.energy.gov/sites/default/files/2023-04/DOE%20DPA%20Roundtables%20and%20RFI%20Executive%20Summary%20FINAL%203-21-23.pdf.
[20] Office of Manufacturing and Energy Supply Chains. "Defense Production Act Heat Pump Program Selections." Washington, DC: Department of Energy, 2023. https://www.energy.gov/mesc/defense-production-act-heat-pump-program-selections.
[21] Criswell, Deanne. "Defense Production Act Voluntary Agreement Report to Congress: Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic, Calendar Year 2020 Report to Congress." Washington, DC: Federal Emergency Management Agency, August 10, 2021. https://www.fema.gov/sites/default/files/documents/fema_DPA-voluntary-agreement-report_2020.pdf.
[22] Tucker, Todd N., Sameera Fazili, Jane Flegal, Jennifer M. Harris, Janelle Jones, K. Sabeel Rahman, and Tim Wu. "Industrial Policy Synergies: Reflections from Biden Administration Alumni." New York: Roosevelt Institute, April 2023, at 14. https://rooseveltinstitute.org/publications/industrial-policy-synergies-reflections-from-biden-administration-alumni/. See also quotes from the Trump administration in Cecire, at 30, 37.
[23] "Executive Order 14110: Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence." *Federal Register*, November 1, 2023.

Despite the wide range of these tools, the DPA is not unlimited. In 1953, Congress rolled back the DPA's powers to requisition property, enact price and wage controls, settle labor disputes, and control real estate credit. Those had been key to the World War II and Korean mobilizations, and Congress could consider reintroducing them if they provided useful for navigating energy risks or threats of other kinds.[24]

DPA Can Boost American Competitiveness and Preparedness in a Volatile World

The US faces a number of international challenges that will strain the domestic industrial and energy base. DPA is and can be an important tool to boost resilience.

First, China and, to a lesser extent, other trading partners are aggressively pursuing industrial policies to capture market share at the expense of US companies. In recent decades, we have seen this in steel,[25] solar photovoltaic technologies,[26] and now electric vehicles.[27] To offer a comparison that will be familiar to members of this committee, the Organization of Petroleum Exporting Countries (OPEC) controls 40 percent of global petroleum production, a fact which has focused the mind of policymakers for half a century at least. Today, a single country—China—controls upwards of 90 percent of some of the supply chains that are critical to future energy resilience and independence.[28] Moreover, European allies are advancing beyond the US in critical sectors like wind[29] and green steel.[30] The US has lagged behind due to various factors, including inadequate policy supports,[31] supply chain shocks, and corporate inertia.[32]

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https://www.federalregister.gov/documents/2023/11/01/2023-24283/safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence.

[24] For more on the history of DPA, see Tucker, Todd N. "Priorities and Allocations: How the Defense Production Act Allows Government to Mobilize Industry to Ensure Popular Well-Being." New York: Roosevelt Institute, January 2, 2022. https://rooseveltinstitute.org/publications/priorities-and-allocations-how-the-defense-production-act-allows-government-to-mobilize-industry-to-ensure-popular-well-being/.

[25] Braw, Elisabeth. "China Is Dominating the World's Steel Industry. That Poses a Threat to US and European Security." *Foreign Policy*, May 19, 2020. https://foreignpolicy.com/2020/05/19/dont-let-china-steal-your-steel-industry/.

[26] Nemet, Gregory F. *How Solar Energy Became Cheap: A Model for Low-Carbon Innovation*. Routledge, 2019.

[27] Meyer, Robinson. "Opinion | China's Electric Vehicles Are Going to Hit Detroit Like a Wrecking Ball." *The New York Times*, February 27, 2024, sec. Opinion. https://www.nytimes.com/2024/02/27/opinion/gm-ford-electric-vehicles.html.

[28] "Solar Photovoltaics: Supply Chain Deep Dive Assessment." Washington, DC: Department of Energy, February 24, 2022. https://www.energy.gov/sites/default/files/2022-02/Solar%20Energy%20Supply%20Chain%20Report%20-%20Final.pdf.

[29] Lacal-Arántegui, Roberto. "Globalization in the Wind Energy Industry: Contribution and Economic Impact of European Companies." *Renewable Energy* 134 (April 1, 2019): 612–28. https://doi.org/10.1016/j.renene.2018.10.087.

[30] Algers, Jonas. "Leading With Industrial Policy: Lessons for Decarbonization from Swedish Green Steel." In *Industrial Policy 2025: Bringing the State Back In (Again)*, edited by Todd N. Tucker, 43–57. New York: Roosevelt Institute, 2024. https://rooseveltinstitute.org/publications/industrial-policy-2025/.

[31] Cooney, John, and Alan Zibel. "Government Subsidies for the Green Steel Transition." Washington, DC: Industrious Labs / Public Citizen, March 7, 2024. https://www.citizen.org/article/government-subsidies-for-the-green-steel-transition/.

[32] Estevez, Isabel, Hebah Kassem, Yong Kwon, and Iliana Paul. "The Political Economy of Steel Decarbonization: Prospects and Challenges of a Green Steel Transition in Dearborn, Michigan." New York: Roosevelt Institute, March 2024. (Forthcoming)

Second, and relatedly, US economic, military, and intelligence agencies deem climate change one of the top risks to economic and national security. Until recent years, it was rare for the United States to experience an extreme weather event that caused more than a billion dollars in damage. Today, these are happening on average once a month. In 2021, nearly a thousand people died from these events. These events have lasting impacts on regional economic growth, credit ratings, and insurance premiums.[33] Americans are affected in still other ways. The Department of Defense has noted it has incurred billions of dollars in damages to base camps and air force bases from extreme events, with America's ability to project power in the Asia-Pacific imperiled from rising sea levels in territories like Guam. As Defense Secretary Lloyd Austin has said, "There is little about what the Department does to defend the American people that is not affected by climate change."[34] Further, national intelligence agencies estimate climate change will strain stability around the globe, with up to 37 percent of the global population subjected to severe heat waves every 5 years (up from 5 percent every 20), and precipitation extremes increasing 37 percent. This will also affect geopolitical stability, as most countries with Al Qaeda and ISIS presence are highly vulnerable to climate change, and Russia and China race to increase their Arctic presence.[35] Each of these dynamics will interact with the previously noted industrial policy trends to create both challenges and opportunities for the US industrial base, and its efficiency, responsiveness, competitiveness, and access to energy.

In the face of all of these challenges, the DPA can serve as a patch and complement to other laws enacted by Congress, and put the United States on a more even playing field with its trading partners. Thank you for your time, I look forward to answering your questions.

[33] "The Rising Costs of Extreme Weather Events." Washington, DC: Council of Economic Advisers, September 1, 2022. https://www.whitehouse.gov/cea/written-materials/2022/09/01/the-rising-costs-of-extreme-weather-events/.
[34] "Department of Defense Climate Risk Analysis." Washington, DC: Department of Defense, October 2021, at 5. https://media.defense.gov/2021/Oct/21/2002877353/-1/-1/0/DOD-CLIMATE-RISK-ANALYSIS-FINAL.PDF.
[35] "National Intelligence Estimate: Climate Change and International Responses Increasing Challenges to US National Security Through 2040." Washington, DC: National Intelligence Council, 2021. https://www.dni.gov/files/ODNI/documents/assessments/NIE_Climate_Change_and_National_Security.pdf.