



## The DPA and Preparing the Nation for Global Catastrophic Risk

Testimony by Jared Brown, Executive Director of Global Shield, to the U.S. Senate Committee on Banking, Housing, and Urban Affairs on “Securing America: Key Authorities Under the Defense Production Act.”

### Opening Statement, as prepared

*Good morning, Chairman Scott, Ranking Member Warren, and distinguished members of the Committee. I am deeply grateful and honored to testify before you today on the importance of the Defense Production Act to our national security and defense.*

*My name is Jared Brown, and I am the co-founder and Executive Director of Global Shield. We are a nonprofit organization dedicated to helping the nation manage global catastrophic risk. Simply speaking, global catastrophic threats are the very worst crises our nation could face, and range from nuclear war to severe pandemics. They pose the risk of trillions of dollars in economic damage and millions of lives lost. These threats are so concerning that Congress passed the Global Catastrophic Risk Management Act into law in 2022 to develop U.S. government planning.*

*The DPA is a core instrument for the nation’s preparedness for and response to global catastrophic risk. As you are aware, the DPA’s Title I authorities ensure the government is given priority access to critical products and services from industry during a crisis. And the DPA’s Title III authorities support private industry expanding the supply of those products and services to meet national security demand. In the context of planning for and responding to catastrophes abroad and at home, I would like to make three key recommendations for a future-ready DPA.*

*First, it is not an exaggeration to say that dealing with any “worst case” scenario you can imagine depends, in part, on DPA authorities. Be it a major global military conflict, a global pandemic killing millions of Americans, the use of chemical or biological weapons by a terrorist group in a major US city, or a catastrophic hurricane or earthquake – all of our plans include the use of authorities in this Act. For every crisis that keeps policymakers like you up at night, the*



*DPA is indispensable tool to save American lives. Therefore, we urge Congress to reauthorize and modernize these authorities this year.*

*Second, even though our government agencies know how critical DPA authorities are in catastrophic scenarios, our plans for using the authorities are often based on unrealistic expectations about the private sector. Often, the government's planning says in effect, "if we had a shortage of this key service, or we needed private industry to make more of this key good, we will use the DPA authorities, and hope the private sector can respond." However, just because the government has the authority to order the production of something critical does not mean private industry can summon it up magically. Therefore, government agencies must work more closely with industries and service providers to better understand their true capabilities in a future time of need. We recommend that you modernize the DPA's Title VII authorities so that government agencies can better plan together with the private sector experts to address anticipated problems, and so that government agencies can deploy private sector experts into the government during a crisis.*

*Third, since the end of the Cold War, oversight and coordination of the DPA in the Executive Branch has atrophied. Congress has made numerous attempts to revitalize good governance in the Executive Branch in past reauthorizations of the DPA, including with the creation of an interagency DPA Committee. Unfortunately, these reforms have not been as successful as hoped. What makes this situation worse is that private industry and supply chains are now vastly more sophisticated than in 1950. In turn, this makes government plans for using the DPA to manage extreme risk even more complex. To help address this problem, we recommend that Congress improve the transparency and governance of the DPA under Title VII. It will benefit the nation both before and during a crisis if the private sector and policymakers are more aware of how the government plans to use DPA authorities.*

*Thank you again for your Committee's attention to the importance of the DPA in safeguarding America. With that, I look forward to your questions and supporting future reauthorization efforts.*



## Supporting Written Statement

*“Congress finds that the 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” (50 U.S.C. § 4502(a)(1), Declaration of Policy for the DPA)*

The Defense Production Act of 1950 (DPA, [50 U.S.C. §4501 et seq.](#)) grants the government a range of authorities to shape how the private sector provides materials, services, and expertise to the government in our national defense. These authorities, primarily granted to the President, have been delegated for use across the federal government in [E.O. 13603](#). The DPA is most known for its **Title I authorities**, which require companies to accept contracts for goods and services necessary for the national defense, and its **Title III authorities**, which create financial incentives and subsidies for critical domestic industries to produce more critical goods and materials. **The Congressional Research Service has a wide variety of [products](#) that explain the DPA in greater detail.**

### Overarching need for DPA modernization

The private sector possesses an immense wealth of expertise and capabilities that simply do not exist within government agencies. Our government is currently poorly prepared to leverage this private sector expertise in most crises. As a result, the use of powerful Title I and Title III DPA authorities will be haphazard or misguided when done under duress. Absent the modernization of the DPA, our government will be hampered in its ability to effectively use powerful DPA authorities during a crisis, leading to unnecessary cost and loss of life. Additionally, both the President and Congress need greater transparency and accountability to understand how government agencies plan to and will use DPA authorities effectively. Global Shield has a series of recommendations to modernize the DPA that will enable Congress and the Executive Branch to more seamlessly integrate private sector capabilities and expertise for national security needs, while also making this use more coordinated and transparent.

### Action 1: Reauthorize and modernize the DPA to protect the nation

Over the past 70 years, the DPA’s authorities have become the foundation of our preparedness for national emergencies arising from all threats, with a wide range of uses. Throughout the Cold War, the DPA enabled our domestic industries to out-compete the



Soviet Union in the provision of military equipment. Following major natural disasters, it has helped our communities get priority access to the critical materials they need to respond and rebuild. Due to an established sunset clause (50 U.S.C. § 4564), **Congress must reauthorize the DPA before September 30, 2025**, to avoid dangerously undermining the nation's preparedness. As our country faces growing global catastrophic risk (as identified in the Global Catastrophic Risk Management Act, [6 U.S.C. §821](#)), it is not hyperbolic to say that the **DPA's authorities are existentially necessary for our future**. Furthermore, given that private industry and supply chains are now vastly more sophisticated than in 1950, government plans for using the DPA to manage extreme risk are even more complex than in the Cold War. **Congress also needs to modernize, not just reauthorize, the DPA** in response to this complexity.

### **Action 2: Reduce bureaucracy for the creation of voluntary agreements**

Under the voluntary agreement authority of the DPA (50 U.S.C. §4558), the government is authorized to create and execute "plans of action" with private sector companies and individuals who voluntarily participate in the agreement. This unique authority is necessary to enable these action plans as it protects private sector companies against antitrust and contract law concerns when they conduct activities pursuant to the agreement. Given the diversity of needs for private-sector cooperation and support for any number of potential national crises, including during major military conflicts, the government should significantly expand its use of this authority. Pursuant to that goal, Global Shield recommends that Congress modernize this national security authority by simplifying and improving how government agencies develop and implement these voluntary agreements.

### **Action 3: Reestablish the National Defense Executive Reserve**

Much like the Armed Forces Reserves, the National Defense Executive Reserve was constructed during the Cold War using DPA authorities (50 U.S.C. §4560(e)). The NDER allowed patriotic Americans with unique expertise to serve in government agencies in the face of war or catastrophe. These individuals would receive training in government procedures, exercise activation, and work with public servant counterparts to identify what roles and responsibilities they may fill in government during a crisis. However, since the Cold War, agencies have shut down the NDER. While the past version of the NDER would not be fit for purpose in the modern national security landscape, the government needs access to the private sector's unique expertise now more than ever before. This is especially true given the growing technical complexity of threats we face as a nation. Therefore, Global Shield recommends that Congress modernize the authorization and



design of the NDER. Further, under revised policy guidelines, Congress should direct key government agencies to reestablish new NDER units for future use during a catastrophe.

#### **Action 4: Improve the Defense Production Act Committee**

In 2009, Congress created an interagency body to improve the government's coordination and preparedness for using the DPA. Called the Defense Production Act Committee (DPAC, 50 U.S.C. §4567), across multiple Administrations, this body has failed to live up to its intent to better manage the interagency use of the DPA. It has failed to produce regular, timely reporting as directed in law, and its membership has become ineffective in providing genuine interagency leadership for how the government uses the DPA's authorities. Therefore, Global Shield recommends that Congress enhance the effectiveness of the DPAC by restoring its original purpose of focusing on the full range of potential and actual uses of DPA authorities across the federal government. Further, we recommend that Congress ensure that the DPAC has the senior leadership and resources required to fulfill its mission as a critical coordination and planning focal point inside the Executive Branch. An improved and functional DPAC inside the government will also support Congressional oversight of the use of the DPA.

#### **Action 5: Create transparency on the use of DPA authorities**

The use of DPA authorities has gradually become too numerous and varied for Congress to track or oversee regularly. For example, the Department of Defense is reported to use the Title I priorities and allocation authority hundreds of thousands of times a year, and there is growing use of Title III across the government for various industrial shortfalls. Therefore, maintaining awareness of how the DPA is being used is challenging both for Congress and Executive Branch departments and agencies, including those agencies that are supposed to maintain proper oversight over particular uses as delegated to them under [E.O. 13603](#). Global Shield recommends that Congress create greater transparency on how the government uses DPA authorities by requiring the DPAC to produce a secure, accessible registry of all uses of DPA authorities. This registry would help agency leaders and Congress maintain oversight and coordination on the use of DPA authorities. Further, such a registry would enable policymakers both inside and outside government to quickly ascertain more information on particular uses, leading to more efficacious use during a crisis.