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HOUSE COMMITTEE  
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**Statement of  
Suzanne D. Patrick  
on the  
Reauthorization of the Defense Production Act  
before the  
Subcommittee on Domestic and International Monetary Policy,  
Trade and Technology  
of the  
House Committee on Financial Services  
March 19, 2003**

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Good afternoon, Mr. Chairman and members of the committee. I appreciate the opportunity to share with you Department of Defense (DoD) views regarding the Defense Production Act (DPA). This Act is critical to DoD, both in time of contingency or conflict as well as during peace in helping to obtain the goods and services needed to promote the national defense. Although enacted originally in 1950, the Act provides statutory authorities still relevant and necessary for the national defense in the 21<sup>st</sup> century. I also want to express the Department's support for reauthorizing the Act through September 30, 2008.

Let me start by saying a few words on why the Defense Production Act is important to the Department of Defense. A strong domestic industrial and technology base is one of the cornerstones of our national security. The Act provides the Department of Defense tools required to maintain a strong base that will be responsive to the needs of our armed forces. Specifically, it provides the President the authority to (1) direct priority performance of defense contracts and allocate scarce materials, services, and industrial facilities; and (2) establish, expand, or maintain essential domestic industrial capacity. The authorities in this Act continue to be of vital importance to our national security.

My testimony today focuses on one specific provision of the Defense Production Act, Title I. I particularly want to describe for you why Title I authority is important and how we are using it today.

**Title I**

Title I (Priorities and Allocations) of the DPA provides the President the authority to:

1. require preferential performance on contracts and orders, as necessary or appropriate to promote the national defense; and
2. allocate materials, services, and facilities as necessary or appropriate to promote the national defense.

Executive Order 12919 delegates these authorities to the Federal Departments and Agencies. The Department of Commerce (DoC) is delegated responsibility for managing industrial resources. To implement this authority, the Department of Commerce administers the

Defense Priorities and Allocations System (DPAS). The DPAS:

1. establishes priority ratings for contracts;
2. defines industry's responsibilities and sets forth rules to ensure timely delivery of industrial products, materials and services to meet approved national defense program requirements; and
3. sets forth compliance procedures.

The Department of Commerce has delegated to the Department of Defense authority under the DPAS to:

1. apply priority ratings to contracts and orders supporting approved national defense programs. (However, the Department of Defense is precluded from rating orders for end items that are commonly available in commercial markets and for items to be used primarily for administrative purposes, i.e., office computers); and
2. request the Department of Commerce to provide Special Priorities Assistance (SPA) to resolve conflicts for industrial resources among both rated and unrated (i.e., non-defense) contracts and orders; and to authorize priority ratings for allied nation defense orders in the United States when such authorization furthers U.S. national defense interests.

Except as noted above, all Department of Defense contracts are authorized an industrial priority rating. The authorities are like insurance, always present but only used when absolutely necessary. The Department of Defense uses two levels of rating priority, identified by the rating symbols "DO" or "DX." All DO rated orders have equal priority with each other and take preference over unrated orders. All DX rated orders have equal priority with each other and take preference over DO rated orders and unrated orders. If a contractor cannot meet the required delivery date because of scheduling conflicts, DO rated orders must be given production preference over unrated orders and DX rated orders must be given preference over DO rated orders and unrated orders. Such preferential performance is necessary even if this requires the diversion of items being processed for delivery against lower rated or unrated orders. Although the DPAS is largely self-executing, if problems occur, the contractor or the Department of Defense can request the Department of Commerce provide Special Priorities Assistance (SPA) to resolve the problem.

Although, important in peace, the DPAS is indispensable in the event of conflict or contingency. DPAS gives the Department of Defense the necessary power and flexibility to address critical warfighter needs involving the industrial base effectively and expeditiously. While the Department of Defense has used Title I since the 1950s, recent history, including that associated with Operation Desert Shield/Storm, Bosnia, Kosovo, ongoing activity today with Operation Enduring Freedom and preparation for possible military action in Iraq, illustrates its continued importance. Title I authorities proved invaluable during Operation Desert Shield/Storm and ensured that industry provided priority production and shipment of essential items urgently needed by the coalition forces. At the request of the Department of Defense, the

Department of Commerce formally took action to provide Special Priorities Assistance in 135 cases during Operation Desert Shield/Desert Storm from August 1990 to February 1991.

Even more recently, since 1995, DoD/DoC have used Special Priorities Assistance on more than 120 occasions to resolve industrial conflicts among competing U.S. defense orders and to permit NATO and specific allied nations to obtain priority defense contract performance from U.S. suppliers. These SPA cases can be categorized in two ways:

1. **Wartime vs. Peacetime Support:** Sixty-nine percent of the cases supported contingency/conflict needs (forty-two percent Bosnia, fifteen percent Kosovo, and twelve percent Operation Enduring Freedom) for items such as components for precision guided munitions, Global Positioning System receivers and navigational processors, Unmanned Aerial Vehicle sensors, and manpack and search and rescue radios. Thirty-one percent of the cases supported “peacetime” requirements.
2. **U.S. vs. non-U.S. Support:** forty percent of the cases supported U.S. defense requirements (thirty-five percent for DoD and five percent for defense-related activities of the State Department, NASA, NSA, and several other government agencies with defense programs), forty-one percent for NATO (NATO monies used), twelve percent for the United Kingdom, two percent for Canada. In addition, there were two cases each for Israel, Japan, and Germany.

Recent DoD/DoC actions to use DPAS authorities to support Operation Enduring Freedom illustrate the flexibility and responsiveness that DPAS provides:

Predator Unmanned Aerial Vehicles (UAVs) armed with Hellfire missiles were used for the first time in Afghanistan. They include an upgraded sensor package, the Multi-Spectral Targeting System (MTS). The contractor’s original delivery date for three systems was this month, March 2003. Using DPAS, we jumped this order to the head of the production queue and the contractor was able to deliver three systems in December 2001, 18 months earlier than originally promised. We all are aware of the dramatic impact armed Predators had in waging war in Afghanistan. Since that time, we’ve used DPAS to accelerate forty additional Multi-Spectral Targeting Systems.

The United Kingdom Ministry of Defense needed ARC 210 Satellite Communications Equipment to ensure secure satellite communications capabilities among United States and United Kingdom aircraft operating in and around Afghanistan. The United Kingdom requirements were critical to the warfighting effort. DPAS was used to give the United Kingdom order an industrial priority rating and it was moved ahead of some U.S. orders that were not for deployed/deploying forces. The United Kingdom received the equipment six months in advance of the initial delivery date quoted by the manufacturer – permitting vital secure communications among allied forces in theater.

The authority to provide preferential treatment for foreign defense orders in the United States when such treatment promotes national defense interests is increasingly important. Among the consequences of globalization and industrial restructuring are the creation of

multinational defense companies and an increasing degree of mutual defense interdependence. Reciprocal industrial priorities systems agreements with our allies encourage them to acquire defense goods from U.S. suppliers, promote interoperability, and simultaneously provide increased assurance that the DoD's non-U.S. defense suppliers will be in a position to provide timely supplies to DoD during both conflict/contingency situations and peacetime.

NATO has in place a NATO-wide agreement to encourage reciprocal priorities support within the alliance.

In addition to a NATO-wide agreement we are establishing formal *bilateral* agreements with key allies and trading partners. These provide an opportunity to establish stronger government-to-government agreements for reciprocal priority support, more quickly. The United States has a longstanding bilateral priorities support agreement with Canada. Within the past three years, DoD representatives have had discussions about such bilateral agreements with several allies and friends. The Department of Defense and United Kingdom Ministry of Defence representatives have now negotiated a formal bilateral agreement that commits each nation to establish and maintain a reciprocal priorities system and to provide the other nation reciprocal access to that system. Similar agreements are being formalized with Australia, Spain, Norway, the Netherlands, and Sweden.

During peacetime, the DPAS is important in setting priorities among defense programs that are competing for scarce resources and industrial output. Delayed deliveries of production parts and subassemblies to producers of weapon systems have consequences in terms of system cost and ultimately on the readiness of operational forces. DPAS gives the Department of Defense an opportunity to prioritize deliveries and minimize cost and schedule delays among DoD orders and for allied nation defense procurements in the United States. For example:

1. U.S. State Department: DPAS was employed to accelerate deliveries on multiple programs as part of the embassy security protection upgrade program worldwide.
2. United Kingdom: The UK contractor experienced delays in receiving Integrated Helmet Units needed for U.K. WAH-64 Apache Longbow helicopters. DoD/DoC authorized the use of a DO rating priority that permitted the manufacturer to ship the Integrated Helmet Units sooner than would have been possible without the rating authority, which allowed the contractor to meet its production delivery requirements to the U.K. Ministry of Defence.

DPA Title I provisions are a critical tool in DoD's arsenal. It would be very difficult for the Department of Defense to meet its national security responsibilities without that tool.

### **Extension of the DPA**

As you know, most provisions of the Defense Production Act are not permanent law and must be renewed periodically by Congress. The Act has been renewed many times since it was first enacted. The current law will expire September 30, 2003. We fully support reauthorizing the Defense Production Act through September 30, 2008.

## **Conclusion**

In summary, the Department of Defense needs the Defense Production Act. It contains authorities that exist no where else and I hope that I have conveyed to you the significant role those authorities play in ensuring our nation's defense.

Thank you for the opportunity to discuss the DPA with you today. We look forward to working with you to ensure a timely reauthorization of the DPA.