



Written by [Steve Byas](#) on May 19, 2022

Economic Fascism and Biden's Use of the Defense Production Act

Fascism, all in the name of national defense.

When President Joe Biden on Wednesday cited the Defense Production Act (DPA) as his authority to order an increase in baby-formula manufacturing (due to the recent national shortage), it was just the latest step in using the Cold War law to give the president carte blanche to control the economy of the United States in any way he sees fit.

No one disputes that the baby-formula shortage is real and, for those directly affected by it — parents with infant children — a serious problem. But, as the federal government has misused the “commerce clause” found in the U.S. Constitution to expand its power and reach over the U.S. economy, using the Defense Production Act to order increased production of baby formula sets the precedent that the president — whoever that president might be at the time — can use the law to essentially rule in a dictatorial manner.

The national shortage of baby formula was directly caused by the federal government and, as is typically the case, the solution when the government causes a problem is, well, more government. A baby-formula manufacturing plant was closed — by the federal government — in Sturgis, Michigan, after four infants who consumed products made there got sick, and two died, of a bacterial infection.

The manufacturer, Abbott Nutrition, disputes the charge that it was their baby formula that caused the bacterial infection, arguing there is “no conclusive evidence” that their product was to blame.

Additionally, the Biden administration has exacerbated the problem by diverting scarce supplies of baby formula to the southern border to take care of the flood of illegal immigrants attempting to enter the country — another problem caused directly by the government, specifically policies of Biden that almost invite more immigrants into the country.

In this use of the Defense Production Act, Biden is ordering suppliers to send their ingredients used in baby formula to baby-formula producers, instead of to other companies who have also ordered those same ingredients. In addition, Biden had ordered the federal departments of Health and Human Services and Agriculture to obtain infant formula from other countries — if they meet U.S. health and safety standards. While the U.S. has turned to imports for many consumer goods, baby formula has not been among those goods in the past, with almost 100 percent of baby formula consumed in the U.S.



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being manufactured in the U.S.

The Defense Production Act was enacted in 1950 during the Korean War. It allows the president to order businesses to accept and prioritize contracts for materials considered necessary for national defense — even if the business has to do so at a financial loss. A person who performs an act prohibited under the law or willfully fails to obey the dictates of the law can be charged with a *felony*, resulting in a fine of up to \$10,000 or a year in jail.

The law also gives the president the authority to allocate materials, services, and facilities to *promote national defense* and to *control the national economy* if needed for national defense. He can take property, and he can force businesses to expand production, set wages and prices, and even dictate where plants can be located.

Of course, this statute was enacted by Congress under the guise of a potentially dire national emergency, such as warding off invasion by a foreign power.

But since its enactment, presidents of both political parties have used the Defense Production Act to order economic actions that have nothing to do with national defense. For example, President Barack Obama used the law to force companies in the telecommunications field to provide detailed information to the Commerce Department on the use of foreign-made hardware and software. The reason given was to fight Chinese cyberespionage.

President Donald Trump, in response to the Covid-19 pandemic, issued an executive order that defined ventilators and protective equipment as “essential to the national defense.” He added that he hoped use of the Defense Production Act would not be necessary, and would only invoke it in a “worst-case scenario.” Interestingly, Speaker of the House Nancy Pelosi disagreed with Trump’s hesitancy to use the national defense law to order the production of ventilators, and said that he should “immediately use the powers of the DPA.”

A few days later, Trump issued an executive order saying that all “health and medical resources necessary to respond to the spread of COVID-19” were subject to the authority of the law to prohibit hoarding and price gouging. Of course, “price gouging” is a rather subjective standard, and the use of the term indicates one has little faith in the ability of the *free* market to respond to a crisis. Ordinarily, when there is a shortage of a product, businesses will accommodate more quickly in response to rising prices. Instead of allowing free-market laws of supply and demand to allocate products through a price system, though, this type of thinking dictates that government allocate resources.

Today it is quite common, unfortunately, for some government officials to be dubbed “czars.” Of course, in a republic, we should not have “czars,” but rather public servants. During the administration of Franklin Roosevelt, some officials were called “dictators,” but with the rise of Hitler, Stalin, and Mussolini, that term fell into disuse. But is calling someone a “czar” any better than calling them a “dictator?” In a constitutional republic?

Since taking office, Biden has made use of the Defense Production Act to order the production of more protective equipment related to the Covid-19 pandemic, and even to supply fire-hoses to combat wild-fires.

Now, the supply of baby formula falls under “national defense.”

Again, this is not to say that the shortage of baby formula is not a serious problem, but this illustrates how any time government is given a power, political leaders will predictably use it to expand their



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powers in general.



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