

Public Law 95-223
95th Congress

An Act

With respect to the powers of the President in time of war or national emergency.

Dec. 28, 1977

[H.R. 7738]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wartime or
national
emergencies.
Presidential
powers.

TITLE I—AMENDMENTS TO THE TRADING WITH THE
ENEMY ACT

REMOVAL OF NATIONAL EMERGENCY POWERS UNDER THE TRADING WITH
THE ENEMY ACT

SEC. 101. (a) Section 5(b)(1) of the Trading With the Enemy Act is amended by striking out "or during any other period of national emergency declared by the President" in the text preceding subparagraph (A).

50 USC app. 5.

(b) Notwithstanding the amendment made by subsection (a), the authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless extended, the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101(a) of the National Emergencies Act) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act. The President may extend the exercise of such authorities for one-year periods upon a determination for each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.

Termination or
extension,
effective date.
50 USC app. 5
note.

(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions.

50 USC 1601.
50 USC 1601
note.

(d) Paragraph (1) of section 502(a) of the National Emergencies Act is repealed.

50 USC 1621.

Repeal.
50 USC 1651.

WARTIME AUTHORITIES

SEC. 102. Section 5(b)(1) of the Trading With the Enemy Act is amended—

Supra.

(1) in the text preceding subparagraph (A), by striking out "or otherwise," the first time it appears; and

(2) by striking out "; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision".

- 50 USC app. 16. SEC. 103. (a) Section 16 of the Trading With the Enemy Act is amended by striking out "\$10,000" and inserting in lieu thereof "\$50,000".
- 50 USC app. 5. (b) Section 5(b)(3) of such Act is amended by striking out the second sentence.

International
Emergency
Economic Powers
Act.

TITLE II—INTERNATIONAL EMERGENCY ECONOMIC POWERS

SHORT TITLE

50 USC 1701
note.

SEC. 201. This title may be cited as the "International Emergency Economic Powers Act".

SITUATIONS IN WHICH AUTHORITIES MAY BE EXERCISED

Unusual and
extraordinary
threat.
Presidential
declaration of
national
emergency.
50 USC 1701.

SEC. 202. (a) Any authority granted to the President by section 203 may be exercised to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

(b) The authorities granted to the President by section 203 may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this title and may not be exercised for any other purpose. Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency which must be with respect to such threat.

GRANT OF AUTHORITIES

50 USC 1702.

SEC. 203. (a) (1) At the times and to the extent specified in section 202, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit—

(i) any transactions in foreign exchange,

(ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(iii) the importing or exporting of currency or securities; and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest;

by any person, or with respect to any property, subject to the jurisdiction of the United States.

(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in paragraph (1) either before, during, or after the completion thereof, or relative

Records,
maintenance and
availability.

to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. In any case in which a report by a person could be required under this paragraph, the President may require the production of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(3) Compliance with any regulation, instruction, or direction issued under this title shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this title, or any regulation, instruction, or direction issued under this title.

Liability.

(b) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly—

(1) any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value; or

(2) donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his ability to deal with any national emergency declared under section 202 of this title, (B) are in response to coercion against the proposed recipient or donor, or (C) would endanger Armed Forces of the United States which are engaged in hostilities or are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances.

CONSULTATION AND REPORTS

SEC. 204. (a) The President, in every possible instance, shall consult with the Congress before exercising any of the authorities granted by this title and shall consult regularly with the Congress so long as such authorities are exercised.

50 USC 1703.

(b) Whenever the President exercises any of the authorities granted by this title, he shall immediately transmit to the Congress a report specifying—

(1) the circumstances which necessitate such exercise of authority;

(2) why the President believes those circumstances constitute an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States;

(3) the authorities to be exercised and the actions to be taken in the exercise of those authorities to deal with those circumstances;

(4) why the President believes such actions are necessary to deal with those circumstances; and

(5) any foreign countries with respect to which such actions are to be taken and why such actions are to be taken with respect to those countries.

(c) At least once during each succeeding six-month period after transmitting a report pursuant to subsection (b) with respect to an exercise of authorities under this title, the President shall report to the

Congress with respect to the actions taken, since the last such report, in the exercise of such authorities, and with respect to any changes which have occurred concerning any information previously furnished pursuant to paragraphs (1) through (5) of subsection (b).

50 USC 1641. (d) The requirements of this section are supplemental to those contained in title IV of the National Emergencies Act.

AUTHORITY TO ISSUE REGULATIONS

50 USC 1704. SEC. 205. The President may issue such regulations, including regulations prescribing definitions, as may be necessary for the exercise of the authorities granted by this title.

PENALTIES

50 USC 1705. SEC. 206. (a) A civil penalty of not to exceed \$10,000 may be imposed on any person who violates any license, order, or regulation issued under this title.

(b) Whoever willfully violates any license, order, or regulation issued under this title shall, upon conviction, be fined not more than \$50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

SAVINGS PROVISION

50 USC 1706.
50 USC 1601
note. SEC. 207. (a) (1) Except as provided in subsection (b), notwithstanding the termination pursuant to the National Emergencies Act of a national emergency declared for purposes of this title, any authorities granted by this title, which are exercised on the date of such termination on the basis of such national emergency to prohibit transactions involving property in which a foreign country or national thereof has any interest, may continue to be so exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(2) Notwithstanding the termination of the authorities described in section 101(b) of this Act, any such authorities, which are exercised with respect to a country on the date of such termination to prohibit transactions involving any property in which such country or any national thereof has any interest, may continue to be exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

50 USC 1622. (b) The authorities described in subsection (a) (1) may not continue to be exercised under this section if the national emergency is terminated by the Congress by concurrent resolution pursuant to section 202 of the National Emergencies Act and if the Congress specifies in such concurrent resolution that such authorities may not continue to be exercised under this section.

50 USC 1601. (c) (1) The provisions of this section are supplemental to the savings provisions of paragraphs (1), (2), and (3) of section 101(a) and of paragraphs (A), (B), and (C) of section 202(a) of the National Emergencies Act.

(2) The provisions of this section supersede the termination provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of this section are inconsistent with these provisions.

50 USC 1601,
1621.

(d) If the President uses the authority of this section to continue prohibitions on transactions involving foreign property interests, he shall report to the Congress every six months on the use of such authority.

Report to
Congress.

SEC. 208. If any provision of this Act is held invalid, the remainder of the Act shall not be affected thereby.

Severability.
50 USC 1701
note.

TITLE III—AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1969

AUTHORITY TO REGULATE EXTRATERRITORIAL EXPORTS

SEC. 301. (a) The first sentence of section 4(b)(1) of the Export Administration Act of 1969 is amended to read as follows: "To effectuate the policies set forth in section 3 of this Act, the President may prohibit or curtail the exportation, except under such rules and regulations as he shall prescribe, of any articles, materials, or supplies, including technical data or any other information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States."

50 USC app.
2403.
50 USC app.
2402.

(b) (1) Section 4(b)(2)(B) of such Act is amended—

(A) in the first sentence, by striking out "from the United States, its territories and possessions,"; and

(B) in the second sentence—

(i) by striking out "from the United States"; and

(ii) by striking out "produced in the United States" and inserting in lieu thereof "which would be subject to such controls".

(2) Section 6(c)(2)(A) of such Act is amended by striking out "from the United States, its territories or possessions,".

50 USC app.
2405.

Approved December 28, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-459 (Comm. on International Relations).

SENATE REPORT No. 95-466 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 123 (1977):

July 12, considered and passed House.

Oct. 11, considered and passed Senate, amended.

Nov. 30, House concurred in certain Senate amendments, in others with amendments.

Dec. 7, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 13, No. 53:

Dec. 28, Presidential statement.