
DATES OF CONSIDERATION AND PASSAGE

House: June 15, 16, 22, 1993; April 28, 1994
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House Report (Foreign Affairs Committee) No. 103-126,
June 11, 1993 (To accompany H.R. 2333)

Senate Report (Foreign Relations Committee) No. 103-107,
July 23, 1993 (To accompany S. 1281)

House Conference Report No. 103-482,
Apr. 25, 1994 (To accompany H.R. 2333)

HOUSE CONFERENCE REPORT NO. 103-482
April 25, 1994
[To accompany H.R. 2333]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2333), to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1994 and 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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SEC. 525. FREE TRADE IN IDEAS.

(a) Sense of Congress.—It is the sense of the Congress that the President should not restrict travel or exchanges for informational, educational, religious, cultural, or humanitarian purposes or for public performances or exhibitions, between the United States and any other country.

(b) Amendments to Trading With the Enemy Act.—(1) Section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)) is amended to read as follows:

"(4) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979, or under section 6 of that Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code."

(2) 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, and are being exercised on the date of enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as amended by paragraph (1) of this subsection, may not be regulated or prohibited.

(c) Amendments to International Emergency Economic Powers Act.—

(1) Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended by striking paragraph (3) and inserting the following new paragraphs:

"(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export
under section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code; or

"(4) any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages."

(2) The amendments made by paragraph (1) to section 203(b)(3) of the International Emergency Economic Powers Act apply to actions taken by the President under section 203 of such Act before the date of enactment of this Act which are in effect on such date and to actions taken under such section on or after such date.

(3) Section 203(b)(4) of the International Emergency Economic Powers Act (as added by paragraph (1)) shall not apply to restrictions on the transactions and activities described in section 203(b)(4) in force on the date of enactment of this Act, with respect to countries embargoed under the International Emergency Economic Powers Act on the date of enactment of this Act.

SEC. 526. EMBARGO AGAINST CUBA.

It is the sense of the Congress that the President should advocate and seek a mandatory international United Nations Security Council embargo against the dictatorship of Cuba.

SEC. 527. EXPROPRIATION OF UNITED STATES PROPERTY.

(a) Prohibition. - None of the funds made available to carry out this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act may be provided to a government or any agency or instrumentality thereof, if the government of such country (other than a country described if subsection (d))-

(1) has on or after January 1, 1956-

(A) nationalized or expropriated the property of any United States person,

(B) repudiated or nullified any contract with any United States person, or

(C) taken any other action (such as the imposition of discriminatory taxes or other exactions) which has the effect of seizing ownership or control of the property of any United States person, and

(2) has not, within the period specified in subsection (c), either-

(A) returned the property,
The House bill contains no comparable provision. The conference substitute (sec. 524) is similar to the Senate amendment, but it does not include a provision which would have deleted two items from the President's written policy justification. The conference substitute also makes appropriate technical changes to reflect actions taken by the committee of conference on part E of this title.

Free trade in ideas

The Senate amendment (sec. 755) expresses the sense of the Congress that the President should not restrict informational, educational, religious, or humanitarian exchanges, or exchanges for public performances or exhibitions, or travel for any such exchanges, activities, performances or exhibitions, between the United States and any other country. The House bill contains no comparable provision. The conference substitute (sec. 525) amends the Senate language. The House bill had in its original form included a Part entitled Facilitation of Private Sector Initiatives (the "Free Trade in Ideas Act"), dealing with all these issues. This provision was withdrawn in committee at the request of the Secretary of State, whose letter "endorse[d] the underlying objectives of the Free Trade In Ideas Act", asked for the opportunity to implement those objectives by means of regulation, and suggested that statutory and regulatory changes might be useful in the future.

The provisions of the conference substitute seek to protect the constitutional rights of Americans to educate themselves about the world by communicating with peoples of other countries in a variety of ways, such as by sharing information and ideas with persons around the world, traveling abroad, and engaging in educational, cultural and other exchanges with persons from around the world. Such activities can also significantly promote the foreign policy objectives of encouraging democracy and human rights abroad, and improving understanding of and goodwill toward the United States abroad, thus enhancing the declining U.S. government resources available for such purposes. The committee of conference notes that private initiatives represent the lion's share of U.S. exchanges with the world, and that private citizens engaged in private activity are frequently the best purveyors of the values of American civilization.

The committee of conference believes that these protections should be broad and recognized and apply universally. While the statutory amendments made by this section do not include amendments to the U.N. Participation Act, the committee of conference has acted on the assurance of the executive branch that it intends *239 to work to exclude limits on the free flow of information and restrictions on travel from multilateral embargoes.
Subsection (a) is a sense of the Congress resolution that the President should not in any way restrict travel or exchanges for informational, educational, religious, cultural, or humanitarian purposes or for public performances or exhibitions between the United States and any other country, whether such restrictions are imposed pursuant to the Trading with the Enemy Act, the International Emergency Economic Powers Act, the United Nations Participation Act, the Immigration and Nationality Act, or any other authority. The committee of conference understands that it is the policy of the executive branch to now undertake to incorporate this principle through regulatory and administrative changes, including issuance of visas for these purposes, and removal of currency restrictions for such activities, in all existing and future embargoes.

Subsection (b) amends Section 5(b)(4) of the Trading with the Enemy Act (TWEA), 50 U.S.C. App. S 5(b)(4), to clarify it by eliminating **483 some of the unintended restrictive administrative interpretations of it.

The first part of paragraph (1) of Subsection (c) amends Section 203(b)(3) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. S 1702(b)(3), in identical terms and to the same effect.

These provisions in their original form, identical in terms in each statute, were adopted in 1988, (the Berman Amendment to the Omnibus Trade and Competitiveness Act), and established that no embargo may prohibit or restrict directly or indirectly the import or export of information that is protected under the First Amendment to the U.S. Constitution. The language was explicitly intended, by including the words "directly or indirectly," to have a broad scope. However, the Treasury Department has narrowly and restrictively interpreted the language in ways not originally intended. The present amendment is only intended to address some of those restrictive interpretations, for example limits on the type of information that is protected or on the medium or method of transmitting the information.

The committee of conference intends these amendments to facilitate transactions and activities incident to the flow of information and informational materials without regard to the type of information, its format, or means of transmission, and electronically transmitted information, transactions for which must normally be entered into in advance of the information’s creation.

The committee of conference further understands that it was not necessary to include any explicit reference in the statutory language to "transactions incident" to the importation or exportation of information or informational materials, because the conferees believe that such transactions are covered by the statutory language.

The second part of paragraph (1) of subsection (c) amends the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. S 1702(b) to add a new
subsection (4) that would prohibit restrictions of any kind, including currency restrictions, on travel and transactions ordinarily incident to travel by Americans under embargoes implemented pursuant to the IEEPA. This section does not apply to restrictions that are currently in place under existing IEEPA embargoes against Libya and Iraq. Because the embargoes on Cuba and North Korea are imposed not under IEEPA but under TWEEA, this change would also not apply to either of those embargoes. The new paragraph 203(b)(4) would apply to new restrictions on travel under existing or future embargoes imposed under IEEPA. This is a further effort to protect Americans' constitutional rights and to facilitate international freedom of movement.

Embargo against Cuba

The conference substitute (sec. 526) expresses the sense of Congress that the President should advocate and seek a mandatory international U.N. Security Council embargo against the dictatorship of Cuba.

**484 Expropriation of American property

The Senate amendment (secs. 744 and 759) revises section 620(e) of the Foreign Assistance Act, section 21 of the Inter-American Development Bank Act, and section 18 of the Asian Development Bank Act, and section 12 of the International Development Association Act regarding the prohibition of assistance to governments which expropriate the property of American citizens.

The House bill contains no similar provisions.

The conference substitute (sec. 527) combines and revises current law, known as the Hickenlooper and Gonzalez amendments, to state clearly the steps which must be undertaken by a foreign government to ensure that U.S. bilateral and multilateral aid is not terminated when the property of an American is expropriated.

The committee of conference believes that existing law has not been adequately applied by the executive branch in successive administrations and has included the Helms amendment to address this problem. The Hickenlooper law, which is intended to prohibit bilateral U.S. foreign assistance to nations which confiscate Americans' property, has been applied only twice since 1962 (and not once in the past 15 years). Similarly, the Gonzalez law, which requires that the U.S. vote against multilateral bank loans to governments which expropriate American property, has only been applied against two countries in 23 years. The committee of conference, however, is aware that the expropriation of Americans' property by foreign governments is a growing problem; there are currently more than 1,400 such cases in Central America alone.