

Whenever, during the present war, in the opinion of the President the public safety or public interest requires, the President may prohibit any or all foreign insurance companies from doing business in the United States, or the President may license such company or companies to do business upon such terms as he may deem proper.

(Oct. 6, 1917, ch. 106, § 4, 40 Stat. 413.)

### Editorial Notes

#### REFERENCES IN TEXT

For proclamation of April 6, 1917, 40 Stat. 1654, and proclamation of July 13, 1917, 40 Stat. 1684, referred to in subsec. (a), see World War I Presidential Proclamations notes below.

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the enemy Act, also known as the Trading with the Enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

#### CODIFICATION

Section was formerly classified to section 4 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

### Executive Documents

#### TRANSFER OF FUNCTIONS

Functions vested by law in Alien Property Custodian and Office of Alien Property Custodian transferred to Attorney General by Reorg. Plan No. 1 of 1947, § 101, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951, set out in the Appendix to Title 5, Government Organization and Employees.

#### WORLD WAR I PRESIDENTIAL PROCLAMATIONS

Proc. Apr. 16, 1917, 40 Stat. 1654, declared and proclaimed that branch establishments of German insurance companies doing business in the United States would be authorized to continue to do so, subject to the rules and regulations of the State in which such establishment's principal office is located, but prohibited transmission of any funds outside of the United States or the use of any funds for the establishment of any credit within or outside of the United States to or for the benefit or use of the enemy or any of its allies without the permission of the Federal Government.

Proc. July 13, 1917, 40 Stat. 1684, declared and proclaimed that branch establishments of German insurance companies doing business in the United States would be prohibited from transacting the business of marine and war risk insurance either as direct insurers or re-insurers and directed that such prohibition would extend and operate to suspend all existing contracts for the period of the war.

### **§ 4305. Suspension of provisions relating to ally of enemy; regulation of transactions in foreign exchange of gold or silver, property transfers, vested interests, enforcement and penalties**

(a) The President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this chapter so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing

such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section 4304 of this title, and to perform any act made unlawful without such license in section 4303 of this title, and to file and prosecute applications under subsection (b) of section 4310 of this title; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out the provisions of this chapter; and the President may exercise any power or authority conferred by this chapter through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section 4303 of this title he shall have authority to order the postponement of the performance of such act for a period not exceeding ninety days, pending investigation of the facts by him.

(b)(1) During the time of war, the President may, through any agency that he may designate, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, 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; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, 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 this subdivision either before, during, or after the completion thereof, or relative 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 this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term “United States” means the United States and any place subject to the jurisdiction thereof: *Provided, however,* That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision. As used in this subdivision the term “person” means an individual, partnership, association, or corporation.

(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 4604<sup>1</sup> of this title, or under section 4605<sup>1</sup> of this title 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.

(Oct. 6, 1917, ch. 106, § 5, 40 Stat. 415; Sept. 24, 1918, ch. 176, § 5, 40 Stat. 966; Mar. 9, 1933, ch. 1, § 2, 48 Stat. 1; May 7, 1940, ch. 185, § 1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, § 301, 55 Stat. 839; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Pub. L. 95-223, title I, §§ 101(a), 102, 103(b), Dec. 28, 1977, 91 Stat. 1625, 1626; Pub. L. 100-418, title II, § 2502(a)(1), Aug. 23, 1988, 102 Stat. 1371; Pub. L. 103-236, title V, § 525(b)(1), Apr. 30, 1994, 108 Stat. 474.)

<sup>1</sup> See References in Text note below.

## Editorial Notes

### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the enemy Act, also known as the Trading with the Enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

Sections 4604 and 4605 of this title, referred to in subsec. (b)(4), were repealed by Pub. L. 115-232, div. A, title XVII, § 1766(a), Aug. 13, 2018, 132 Stat. 2232.

### CODIFICATION

Words “, including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas” following “to the jurisdiction thereof:” in subsec. (b)(3) were omitted upon the authority of 1946 Proc. No. 2695, which granted the Philippine Islands independence, and which was issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse. Proc. No. 2695 is set out as a note under section 1394 of Title 22.

Section was formerly classified to section 5 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

Subsec. (b) was also formerly classified to section 95a of Title 12, Banks and Banking, prior to its omission from the Code.

### AMENDMENTS

1994—Subsec. (b)(4). Pub. L. 103-236 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The authority granted to the President in this subsection 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, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 4604 of this title or with respect to which no acts are prohibited by chapter 37 of title 18.”

1988—Subsec. (b)(4). Pub. L. 100-418 added par. (4).

1977—Subsec. (b)(1). Pub. L. 95-223, §§ 101(a), 102, substituted “During the time of war, the President may, through any agency that he may designate, and under such rules and regulations” for “During the time of war or during any other period of national emergency declared by the President, the President may, through any agency, that he may designate, or otherwise, and under such rules and regulations” in provisions preceding subpar. (A), and, in provisions following subpar. (B), struck out “; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision” after “control of such person”.

Subsec. (b)(3). Pub. L. 95-223, § 103(b), struck out provisions that whoever willfully violated any of the provisions of this subdivision or of any license, order, rule, or regulation issued thereunder, could be fined not more than \$10,000, or, if a natural person, could be imprisoned for not more than ten years, or both; and that any officer, director, or agent of any corporation who knowingly participated in that violation could be punished by a like fine, imprisonment, or both.

1941—Subsec. (b). Act Dec. 18, 1941, considerably broadened the powers of the President to take, administer, control, use and liquidate foreign-owned property and added a flexibility of control which enabled the President and the agencies designated by him to cope with the problems surrounding alien property, its ownership or control, on the basis of the particular facts in each case.

1940—Subsec. (b). Act May 7, 1940, included dealings in evidences of indebtedness or ownership of property in which foreign states, nationals or political subdivisions thereof have an interest.

1933—Subsec. (b). Act Mar. 9, 1933, among other things, extended President's power to any time of war national emergency, permitted regulations to be issued by any agency designated by President, provided for furnishing under oath of complete information relative to transactions under the subsection, and placed sanctions on violations to the extent of a \$10,000 fine or ten years imprisonment.

1918—Subsec. (b). Act Sept. 24, 1918, inserted provisions relating to hoarding or melting of gold or silver coin or bullion or currency and to regulation of transactions in bonds or certificates of indebtedness.

### Statutory Notes and Related Subsidiaries

#### REGULATIONS

Act Mar. 9, 1933, ch. 1, title I, § 1, 48 Stat. 1, provided that: "The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the act of October 6, 1917, as amended [50 U.S.C. 4305(b)], are hereby approved and confirmed."

#### LIMITATION ON EXERCISE OF EMERGENCY AUTHORITIES

Pub. L. 103-236, title V, § 525(b)(2), Apr. 30, 1994, 108 Stat. 474, provided that: "The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [50 U.S.C. 4305(b)], 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 the enactment of this Act [Apr. 30, 1994], 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."

Pub. L. 100-418, title II, § 2502(a)(2), Aug. 23, 1988, 102 Stat. 1371, provided that: "The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [50 U.S.C. 4305(b)], 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 the enactment of this Act [Aug. 23, 1988], 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 added by paragraph (1) of this subsection, may not be regulated or prohibited."

#### EXTENSION AND TERMINATION OF NATIONAL EMERGENCY POWERS UNDER THE TRADING WITH THE ENEMY ACT

Pub. L. 95-223, title I, § 101(b), (c), Dec. 28, 1977, 91 Stat. 1625, provided that:

"(b) Notwithstanding the amendment made by subsection (a) [amending this section], the authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [50 U.S.C. 4305(b)], 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 [50 U.S.C. 1601(a)]) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act [Sept. 14, 1976]. 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.

"(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) [50 U.S.C. 1601(a)] and of title II [50 U.S.C. 1621 et seq.] of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions."

### Executive Documents

#### DELEGATION OF FUNCTIONS

President's powers under subsec. (b) of this section delegated during World War II to Secretary of the Treasury by Memorandum of the President dated Feb. 12, 1942, 7 F.R. 1409, and to Alien Property Custodian by Ex. Ord. No. 9095, Mar. 11, 1942, 7 F.R. 1971.

Office of World War II Alien Property Custodian terminated and powers, duties, and functions vested in or transferred or delegated to such Office or in the Alien Property Custodian transferred to Attorney General, see Ex. Ord. No. 9788, set out under section 4306 of this title.

#### PROC. NO. 8271. TERMINATION OF THE EXERCISE OF AUTHORITIES UNDER THE TRADING WITH THE ENEMY ACT WITH RESPECT TO NORTH KOREA

Proc. No. 8271, June 26, 2008, 73 F.R. 36785, provided: I, GEORGE W. BUSH, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, including section 101(b) of Public Law 95-223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note) [now 50 U.S.C. 4305 note], hereby find that the continuation of the exercise of authorities under the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.) [now 50 U.S.C. 4301 et seq.] (TWEA) with respect to North Korea, as authorized in Proclamation 2914 of December 16, 1950, most recently continued under Presidential Determination 2007-32 of September 13, 2007 (72 FR 53407), and implemented by the regulations set forth below, is no longer in the national interest of the United States.

SECTION 1. The exercise of TWEA authorities with respect to North Korea, which were implemented by the Foreign Assets Control Regulations, 31 C.F.R. part 500, and the Transaction Control Regulations, 31 C.F.R. part 505, and that were continued by Presidential Determination 2007-32 of September 13, 2007, is terminated, and Presidential Determination 2007-32 is rescinded with respect to North Korea.

SEC. 2. The Secretary of the Treasury is authorized and directed to take all appropriate measures within the Secretary's authority to give effect to this proclamation.

SEC. 3. This proclamation is not intended to, and does not, create any right, benefit, or privilege, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

SEC. 4. This proclamation is effective at 12:01 a.m. eastern daylight time on June 27, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of June, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH.

#### EX. ORD. NO. 8389. REGULATING TRANSACTIONS IN FOREIGN EXCHANGE AND FOREIGN-OWNED PROPERTY, PROVIDING FOR THE REPORTING OF ALL FOREIGN-OWNED PROPERTY

Ex. Ord. No. 8389, Apr. 10, 1940, 5 F.R. 1400, as amended by Ex. Ord. No. 8405, May 10, 1940, 5 F.R. 1677; Ex. Ord. No. 8446, June 17, 1940, 5 F.R. 2279; Ex. Ord. No. 8484, July 15, 1940, 5 F.R. 2586; Ex. Ord. No. 8493, July 25, 1940, 5 F.R. 2667; Ex. Ord. No. 8565, Oct. 10, 1940, 5 F.R. 4062; Ex. Ord. No. 8701, Mar. 4, 1941, 6 F.R. 1285; Ex. Ord. No.

8711, Mar. 13, 1941, 6 F.R. 1443; Ex. Ord. No. 8721, Mar. 24, 1941, 6 F.R. 1622; Ex. Ord. No. 8746, Apr. 23, 1941, 6 F.R. 2187; Ex. Ord. No. 8785, June 14, 1941, 6 F.R. 2897; Ex. Ord. No. 8832, July 26, 1941, 6 F.R. 3715; Ex. Ord. No. 8963, Dec. 9, 1941, 6 F.R. 6348; Ex. Ord. No. 8998, Dec. 26, 1941, 6 F.R. 6787, provided:

SECTION 1. CERTAIN FOREIGN BANKING TRANSACTIONS  
PROHIBITED

All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise, if (i) such transactions are by, or on behalf of, or pursuant to the direction of any foreign country designated in this Order, or any national thereof, or (ii) such transactions involve property in which any foreign country designated in this Order, or any national thereof, has at any time on or since the effective date of this Order had any interest of any nature whatsoever, direct or indirect:

A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside the United States, of a banking institution within the United States);

B. All payments by or to any banking institution within the United States;

C. All transactions in foreign exchange by any person within the United States;

D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

SECTION 2. DEALINGS IN FOREIGN SECURITIES;  
REGULATIONS

A. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise:

(1) The acquisition, disposition or transfer of, or other dealing in, or with respect to, any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country designated in this Order or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign country, or where the attendant circumstances disclose or indicate that such stamp or seal may, at any time, have been stamped, imprinted, affixed or attached thereto; and

(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States.

B. The Secretary of the Treasury may investigate, regulate, or prohibit under such regulations, rulings, or instructions as he may prescribe, by means of licenses or otherwise, the sending, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States.

SECTION 3. FOREIGN COUNTRIES AFFECTED; EFFECTIVE  
DATE OF PROHIBITIONS

The term "foreign country designated in this Order" means a foreign country included in the following schedule, and the term "effective date of this Order"

means with respect to any such foreign country, or any national thereof, the date specified in the following schedule:

- (a) April 8, 1940—  
Norway and  
Denmark;
- (b) May 10, 1940—  
The Netherlands,  
Belgium and  
Luxembourg;
- (c) June 17, 1940—  
France (including Monaco);
- (d) July 10, 1940—  
Latvia, Estonia and  
Lithuania;
- (e) October 9, 1940—  
Rumania;
- (f) March 4, 1941—  
Bulgaria;
- (g) March 13, 1941—  
Hungary;
- (h) March 24, 1941—  
Yugoslavia;
- (i) April 28, 1941—  
Greece; and
- (j) June 14, 1941—  
Albania,  
Andorra,  
Austria,  
Czechoslovakia,  
Danzig,  
Finland,  
Germany,  
Italy,  
Liechtenstein,  
Poland,  
Portugal,  
San Marino,  
Spain,  
Sweden,  
Switzerland, and  
Union of Soviet Socialist Republics;
- (k) June 14, 1941—  
China and  
Japan;
- (l) June 14, 1941—  
Thailand;
- (m) June 14, 1941—  
Hong Kong.

The "effective date of this Order" with respect to any foreign country not designated in this Order shall be deemed to be June 14, 1941.

SECTION 4. RECORDS OF FOREIGN BANKING AND SECURITY  
TRANSACTIONS; INVESTIGATIONS

A. The Secretary of the Treasury and/or the Attorney General may require, by means of regulations, rulings, instructions, or otherwise, any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, from time to time and at any time or times, complete information relative to, any transaction referred to in section 5(b) of the Act of October 6, 1917 (40 Stat. 415) [50 U.S.C. 4305(b)], as amended, or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect, including the production of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed; and the Secretary of the Treasury and/or the Attorney General may, through any agency, investigate any such transaction or act, or any violation of the provisions of this Order.

B. Every person engaging in any of the transactions referred to in sections 1 and 2 of this Order shall keep a full record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least one year after the date of such transaction.

## SECTION 5. DEFINITIONS

A. As used in the first paragraph of section 1 of this Order "transactions (which) involve property in which any foreign country designated in this Order, or any national thereof, has \* \* \* any interest of any nature whatsoever, direct or indirect," shall include but not by way of limitation (i) any payment or transfer to any such foreign country or national thereof, (ii) any export or withdrawal from the United States to such foreign country, and (iii) any transfer of credit, or payment of an obligation, expressed in terms of the currency of such foreign country.

B. The term "United States" means the United States and any place subject to the jurisdiction thereof, and the term "continental United States" means the States of the United States, the District of Columbia, and the Territory of Alaska: *Provided, however*, That for the purposes of this Order the term "United States" shall not be deemed to include any territory included within the term "foreign country" as defined in paragraph D of this section.

C. The term "person" means an individual, partnership, association, corporation, or other organization.

D. The term "foreign country" shall include, but not by way of limitation,

(i) The state and the government thereof on the effective date of this Order as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof.

(ii) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise *de jure* or *de facto* sovereignty over the area which on such effective date constituted such foreign country, and

(iii) Any territory which on or since the effective date of this Order is controlled or occupied by the military, naval or police forces or other authority of such foreign country;

(iv) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing. Hong Kong shall be deemed to be a foreign country within the meaning of this subdivision.

E. The term "national" shall include,

(i) Any person who has been domiciled in, or a subject, citizen or resident of a foreign country at any time on or since the effective date of this Order,

(ii) Any partnership, association, corporation or other organization, organized under the laws of, or which on or since the effective date of this Order had or has had its principal place of business in such foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, such foreign country and/or one or more nationals thereof as herein defined.

(iii) Any person to the extent that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any national of such foreign country, and

(iv) Any other person who there is reasonable cause to believe is a "national" as herein defined.

In any case in which by virtue of the foregoing definition a person is a national of more than one foreign country, such person shall be deemed to be a national of each such foreign country. In any case in which the combined interests of two or more foreign countries designated in this Order and/or nationals thereof are sufficient in the aggregate to constitute, within the meaning of the foregoing, control of 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partner-

ship, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries. The Secretary of the Treasury shall have full power to determine that any person is or shall be deemed to be a "national" within the meaning of this definition, and the foreign country of which such person is or shall be deemed to be a national. Without limitation of the foregoing, the term "national" shall also include any other person who is determined by the Secretary of the Treasury to be, or to have been, since such effective date, acting or purporting to act directly or indirectly for the benefit or under the direction of a foreign country designated in this Order or national thereof, as herein defined.

F. The term "banking institution" as used in this Order shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers, and each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution".

G. The term "this Order", as used herein, shall mean Executive Order No. 8389 of April 10, 1940, as amended.

## SECTION 6. CONSTRUCTION WITH EX. ORD. NO. 6560; SAVING CLAUSE

Executive Order No. 8389 of April 10, 1940, as amended, shall no longer be deemed to be an amendment to or a part of Executive Order No. 6560 of January 15, 1934. Executive Order No. 6560 of January 15, 1934, and the Regulations of November 12, 1934, are hereby modified in so far as they are inconsistent with the provisions of this Order, and except as so modified, continue in full force and effect. Nothing herein shall be deemed to revoke any license, ruling, or instruction now in effect and issued pursuant to Executive Order No. 6560 of January 15, 1934, as amended, or pursuant to this Order; provided, however, that all such licenses, rulings, or instructions shall be subject to the provisions hereof. Any amendment, modification or revocation by or pursuant to the provisions of this Order of any orders, regulations, rulings, instructions or licenses shall not affect any act done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification or revocation, and all penalties, forfeitures and liabilities under any such orders, regulations, rulings, instructions or licenses shall continue and may be enforced as if such amendment, modification or revocation had not been made.

## SECTION 7. REGULATIONS BY SECRETARY OF THE TREASURY

Without limitation as to any other powers or authority of the Secretary of the Treasury or the Attorney General under any other provision of this Order, the Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this Order and to provide therein or otherwise the conditions under which licenses may be granted by or through such officers or agencies as the Secretary of the Treasury may designate, and the decision of the Secretary with respect to the granting, denial or other disposition of an application or license shall be final.

## SECTION 8. OFFENSES AND PENALTIES UNDER ACT OCT. 6, 1917

Section 5(b) of the Act of October 6, 1917, as amended [50 U.S.C. 4305(b)], provides in part:

"\* \* \* Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be

fined not more than \$10,000, 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.”

SECTION 9. AMENDMENTS OF ORDER AND REGULATIONS  
PRESCRIBED THEREUNDER

This Order and any regulations, rulings, licenses or instructions issued hereunder may be amended, modified or revoked at any time.

[Ex. Ord. No. 8389 and the regulations and general rulings issued thereunder by the Secretary of the Treasury were approved and confirmed by Res. May 7, 1940, ch. 185, §2, 54 Stat. 179.]

[Ex. Ord. No. 9760, July 24, 1946, 11 F.R. 7999, 50 U.S.C. 4306 note, relating to diplomatic property of Germany and Japan in the United States, supersedes conflicting provisions of Ex. Ord. No. 8389, set out above.]

EXECUTIVE ORDERS NOS. 8446, 8484, 8565, 8701, 8711, 8721,  
8746

The application of Ex. Ord. No. 6560, §§9 to 14, to French property by Ex. Ord. No. 8446, 5 F.R. 2279; to Latvian, Estonian and Lithuanian property by Ex. Ord. No. 8484, 5 F.R. 2586; to Rumanian property by Ex. Ord. No. 8565, 5 F.R. 4062; to Bulgarian property by Ex. Ord. No. 8701, 6 F.R. 1285; to Hungarian property by Ex. Ord. No. 8711, 6 F.R. 1443; to Yugoslav property by Ex. Ord. No. 8721, 6 F.R. 1622; to Greek property by Ex. Ord. No. 8746, 6 F.R. 2187, was incorporated in the provisions of Ex. Ord. No. 8389 as amended by Ex. Ord. No. 8785, set out above.

EX. ORD. NO. 9747. FUNCTIONS OF ALIEN PROPERTY CUSTODIAN AND TREASURY DEPARTMENT CONTINUED IN PHILIPPINES

Ex. Ord. No. 9747, July 3, 1946, 11 F.R. 7518, provided: The terms and provisions of Executive Order 9095 of March 11, 1942, as amended [formerly set out as a note under section 6 of the Appendix to Title 50, War and National Defense], and Executive Order No. 8389 of April 10, 1940, as amended [set out above], shall continue in force in the Philippines after July 4, 1946, and all powers and authority delegated by the said Executive Orders to the Alien Property Custodian and to the Secretary of the Treasury, respectively, shall after July 4, 1946, continue to be exercised in the Philippines by the said officers, respectively, as therein provided.

CONTINUATION OF THE EXERCISE OF CERTAIN AUTHORITIES UNDER THE TRADING WITH THE ENEMY ACT

Determination of President of the United States, No. 2021-12, Sept. 7, 2021, 86 F.R. 50831, provided:

Memorandum for the Secretary of State [and] the Secretary of the Treasury

Under section 101(b) of Public Law 95-223 (91 Stat. 1625; 50 U.S.C. 4305 note), and a previous determination on September 9, 2020 (85 FR 57075, September 14, 2020), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to expire on September 14, 2021.

I hereby determine that the continuation of the exercise of those authorities with respect to Cuba for 1 year is in the national interest of the United States.

Therefore, consistent with the authority vested in me by section 101(b) of Public Law 95-223, I continue for 1 year, until September 14, 2022, the exercise of those authorities with respect to Cuba, as implemented by the Cuban Assets Control Regulations, 31 CFR part 515.

The Secretary of the Treasury is authorized and directed to publish this determination in the Federal Register.

J.R. BIDEN, JR.

Prior extensions were contained in the following:

Determination of President of the United States, No. 2020-10, Sept. 9, 2020, 85 F.R. 57075.

Determination of President of the United States, No. 2019-23, Sept. 13, 2019, 84 F.R. 49189.

Determination of President of the United States, No. 2018-11, Sept. 10, 2018, 83 F.R. 46347.

Determination of President of the United States, No. 2017-11, Sept. 8, 2017, 82 F.R. 42927.

Determination of President of the United States, No. 2016-11, Sept. 13, 2016, 81 F.R. 64047.

Determination of President of the United States, No. 2015-11, Sept. 11, 2015, 80 F.R. 55503.

Determination of President of the United States, No. 2014-14, Sept. 5, 2014, 79 F.R. 54183.

Determination of President of the United States, No. 2013-13, Sept. 12, 2013, 78 F.R. 57225.

Determination of President of the United States, No. 2012-14, Sept. 10, 2012, 77 F.R. 56753.

Determination of President of the United States, No. 2011-15, Sept. 13, 2011, 76 F.R. 57623.

Determination of President of the United States, No. 2010-13, Sept. 2, 2010, 75 F.R. 54459.

Determination of President of the United States, No. 2009-27, Sept. 11, 2009, 74 F.R. 47431.

Determination of President of the United States, No. 2008-27, Sept. 12, 2008, 73 F.R. 54055.

Determination of President of the United States, No. 2007-32, Sept. 13, 2007, 72 F.R. 53409.

Determination of President of the United States, No. 2006-23, Sept. 13, 2006, 71 F.R. 54399.

Determination of President of the United States, No. 2005-35, Sept. 12, 2005, 70 F.R. 54607.

Determination of President of the United States, No. 2004-45, Sept. 10, 2004, 69 F.R. 55497.

Determination of President of the United States, No. 2003-36, Sept. 12, 2003, 68 F.R. 54325.

Determination of President of the United States, No. 02-31, Sept. 13, 2002, 67 F.R. 58681.

Determination of President of the United States, No. 2001-26, Sept. 12, 2001, 66 F.R. 47943.

Determination of President of the United States, No. 2000-29, Sept. 12, 2000, 65 F.R. 55883.

Determination of President of the United States, No. 99-36, Sept. 10, 1999, 64 F.R. 51885.

Determination of President of the United States, No. 98-35, Sept. 11, 1998, 63 F.R. 50455.

Determination of President of the United States, No. 97-32, Sept. 12, 1997, 62 F.R. 48729.

Determination of President of the United States, No. 96-43, Aug. 27, 1996, 61 F.R. 46529.

Determination of President of the United States, No. 95-41, Sept. 8, 1995, 60 F.R. 47659.

Determination of President of the United States, No. 94-46, Sept. 8, 1994, 59 F.R. 47229.

Determination of President of the United States, No. 93-38, Sept. 13, 1993, 58 F.R. 51209.

Determination of President of the United States, No. 92-45, Aug. 28, 1992, 57 F.R. 43125.

Determination of President of the United States, No. 91-52, Sept. 13, 1991, 56 F.R. 48415.

Determination of President of the United States, No. 90-38, Sept. 5, 1990, 55 F.R. 37309.

Determination of President of the United States, No. 89-25, Aug. 28, 1989, 54 F.R. 37089.

Determination of President of the United States, No. 88-22, Sept. 8, 1988, 53 F.R. 35289.

Memorandum of President of the United States, Aug. 27, 1987, 51 F.R. 33397.

Memorandum of President of the United States, Aug. 20, 1986, 51 F.R. 30201.

Memorandum of President of the United States, Sept. 5, 1985, 50 F.R. 36563.

Memorandum of President of the United States, Sept. 11, 1984, 49 F.R. 35927.

Memorandum of President of the United States, Sept. 7, 1983, 48 F.R. 40695.

Memorandum of President of the United States, Sept. 8, 1982, 47 F.R. 39797.

Memorandum of President of the United States, Sept. 10, 1981, 46 F.R. 45321.

Memorandum of President of the United States, Sept. 8, 1980, 45 F.R. 59549.

Memorandum of President of the United States, Sept. 12, 1979, 44 F.R. 53153.

Memorandum of President of the United States, Sept. 8, 1978, 43 F.R. 40449.

### § 4306. Alien Property Custodian; general powers and duties

The President is authorized to appoint, prescribe the duties of, and fix the salary of an official to be known as the alien property custodian, who shall be empowered to receive all money and property in the United States due or belonging to an enemy, or ally of enemy, which may be paid, conveyed, transferred, assigned, or delivered to said custodian under the provisions of this chapter; and to hold, administer, and account for the same under the general direction of the President and as provided in this chapter. The President may further employ in the District of Columbia and elsewhere and fix the compensation of such clerks, attorneys, investigators, accountants, and other employees as he may find necessary for the due administration of the provisions of this chapter; *Provided*, That such clerks, investigators, accountants, and other employees shall be appointed from lists of eligibles to be supplied by the Civil Service Commission<sup>1</sup> and in accordance with the civil-service law.

(Oct. 6, 1917, ch. 106, § 6, 40 Stat. 415; Pub. L. 92-310, title II, § 235, June 6, 1972, 86 Stat. 214; Pub. L. 94-273, § 11(5), Apr. 21, 1976, 90 Stat. 378; Pub. L. 100-418, title II, § 2501(b), Aug. 23, 1988, 102 Stat. 1371.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the enemy Act, also known as the Trading with the Enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

##### CODIFICATION

Section was formerly classified to section 6 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

Provisions that limited the salary of the alien property custodian to not more than \$5,000 per annum have been omitted as obsolete and superseded. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

##### AMENDMENTS

1988—Pub. L. 100-418 struck out before period at end "": *Provided further*, That the President shall cause a detailed report to be made to Congress on the first day of April of each year of all proceedings had under this chapter during the year preceding. Such report shall contain a list of all persons appointed or employed, with the salary or compensation paid to each, and a statement of the different kinds of property taken into custody and the disposition made thereof".

<sup>1</sup> See Transfer of Functions note below.

1976—Pub. L. 94-273 substituted "April" for "January".

1972—Pub. L. 92-310 struck out provisions which required the Alien Property Custodian to give a bond.

#### Executive Documents

##### TRANSFER OF FUNCTIONS

Functions vested by statute in United States Civil Service Commission transferred to Director of Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

Functions vested by law in Alien Property Custodian or Office of Alien Property Custodian transferred to Attorney General by Reorg. Plan No. 1 of 1947, § 101, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951, set out in the Appendix to Title 5, Government Organization and Employees.

Jurisdiction over certain blocked assets transferred from Attorney General to Secretary of the Treasury, see Ex. Ord. No. 11281, set out below.

EX. ORD. NO. 9760. AUTHORITY OF SECRETARY OF STATE REGARDING DIPLOMATIC PROPERTY OF GERMANY AND JAPAN

Ex. Ord. No. 9760, July 23, 1946, 11 F.R. 7999, provided:

1. The Secretary of State is authorized and empowered as he deems necessary in the national interest to direct, manage, supervise, or control diplomatic and consular property within the United States owned or controlled by Germany or Japan, including all assets on the premises of such property.

2. The Alien Property Custodian shall not exercise any power and authority conferred upon him by any other Executive order with respect to diplomatic and consular property within the United States owned or controlled by Germany or Japan except so far as the Secretary of State releases his authority over such diplomatic and consular property under this order and so notifies the Alien Property Custodian in writing.

3. When the Secretary of State determines to exercise any power and authority conferred upon him by this order with respect to any property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of such property, except as authorized or directed by the Secretary of State.

4. This order supersedes all conflicting provisions of prior Executive orders, including Executive Orders Nos. 8389, as amended [50 U.S.C. 4305 note] and 9095, as amended [Mar. 11, 1942, 7 F.R. 1971].

5. The Secretary of State is authorized to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this order.

HARRY S. TRUMAN.

EX. ORD. NO. 9788. TERMINATION OF OFFICE OF WORLD WAR II ALIEN PROPERTY CUSTODIAN AND TRANSFERENCE OF ITS FUNCTIONS TO THE ATTORNEY GENERAL

Ex. Ord. No. 9788, Oct. 14, 1946, 11 F.R. 11981, provided:

1. The Office of Alien Property Custodian in the Office for Emergency Management of the Executive Office of the President, established by Executive Order No. 9095 of March 11, 1942 [7 F.R. 1971], is hereby terminated; and all authority, rights, privileges, powers, duties, and functions vested in such Office or in the Alien Property Custodian or transferred or delegated thereto are hereby vested in or transferred or delegated to the Attorney General, as the case may be, and shall be administered by him or under his direction and control by such officers and agencies of the Department of Justice as he may designate.

2. All property or interests vested in or transferred to the Alien Property Custodian or seized by him, and all