

116TH CONGRESS
2D SESSION

H. R. 5879

To impose certain limits relating to the national emergency authorities of the President, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2020

Ms. OMAR introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Transportation and Infrastructure, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose certain limits relating to the national emergency authorities of the President, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Congressional Over-
5 sight of Sanctions Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Article I, section 8 of the United States
9 Constitution gives Congress the power “to regulate

1 Commerce with foreign Nations” as well as to “de-
2 fine and punish Piracies and Felonies committed on
3 the high Seas, and Offenses against the Law of Na-
4 tions”.

5 (2) The House Committee on International Re-
6 lations report (No. 95–459) on the International
7 Emergency Economic Powers Act (50 U.S.C. 1701
8 et seq.) states “that given the breadth of the au-
9 thorities and their availability at the President’s dis-
10 cretion upon a declaration of national emergency,
11 their exercise should be subject to various sub-
12 stantive restrictions. The main one stems from a
13 recognition that emergencies are by their nature
14 rare and brief, and are not to be equated with nor-
15 mal, ongoing problems”.

16 (3) It further states, “A national emergency
17 should be declared and emergency authorities em-
18 ployed only with respect to a specific set of cir-
19 cumstances which constitute a real emergency, and
20 for no other purpose” and that “[t]he emergency
21 should be terminated in a timely manner when the
22 factual state of emergency is over and not continued
23 in effect for use in other circumstances. A state of
24 emergency should not be a normal state of affairs”.

1 (4) Since 1977, Presidents have invoked au-
2 thorities under the International Emergency Eco-
3 nomic Powers Act with respect to 56 declarations of
4 national emergency. On average, these emergencies
5 last nearly a decade.

6 (5) As of August 2019, there are 31 ongoing
7 national emergencies involving the International
8 Emergency Economic Powers Act, the oldest of
9 which was put in place forty years ago.

10 (6) The average length of an emergency de-
11 clared in the 1980s and invoking International
12 Emergency Economic Powers Act authorities was
13 four years. That average extended to 10 years for
14 emergencies declared in the 1990s and 12 years for
15 emergencies declared in the 2000s.

16 **SEC. 3. SENSE OF CONGRESS.**

17 It is the sense of Congress that—

18 (1) successive Presidents from both parties have
19 used the authority granted by the International
20 Emergency Economic Powers Act (50 U.S.C. 1701
21 et seq.) and the National Emergencies Act (50
22 U.S.C. 1601 et seq.) to declare national emergencies
23 that do not meet the threshold of “unusual and ex-
24 traordinary threat[s] to the national security and
25 foreign policy of the United States”; and

1 (2) in order to restore Congress' original intent
 2 in enacting such laws, it is necessary to reclaim Con-
 3 gress' constitutional power over the use of sanctions.

4 **SEC. 4. CONGRESSIONAL APPROVAL REQUIRED TO EXTEND**
 5 **NATIONAL EMERGENCIES.**

6 (a) AUTOMATIC TERMINATION.—Subsection (a) of
 7 section 202 of the National Emergencies Act (50 U.S.C.
 8 1622) is amended—

9 (1) in the matter preceding paragraph (1), by
 10 striking “if”;

11 (2) in paragraph (1), by inserting “if” before
 12 “there is enacted”;

13 (3) in paragraph (2), by inserting “if” before
 14 “the President issues”;

15 (4) in the matter following paragraph (2)—

16 (A) by striking “clause (1)” and inserting
 17 “paragraph (2)”; and

18 (B) by striking “clause (2)” and inserting
 19 “paragraph (3)”;

20 (5) by redesignating paragraphs (1) and (2), as
 21 so amended, as paragraphs (2) and (3), respectively;
 22 and

23 (6) by inserting before paragraph (2), as so re-
 24 designated, the following new paragraph:

1 “(1) on the date that is 60 days after the first
2 day on which either House of Congress is in session
3 following the date of the declaration, unless a joint
4 resolution to extend the emergency is enacted in ac-
5 cordance with subsection (c);”.

6 (b) JOINT RESOLUTION OF EXTENSION.—

7 (1) IN GENERAL.—Subsection (b) of such sec-
8 tion 202 is amended by striking “terminated” and
9 inserting “extended for a six-month period”.

10 (2) CONFORMING AMENDMENT.—Subsection
11 (c)(1) of such section 202 is amended by striking
12 “terminate” and inserting “extend”.

13 (c) PROHIBITION ON SUCCESSOR DECLARATIONS.—
14 Such section 202 is further amended by adding at the end
15 the following new subsection:

16 “(d) If a joint resolution to extend the emergency is
17 not enacted in accordance with subsection (c) within 60
18 days after the first day on which either House of Congress
19 is in session following the date of the declaration, the
20 President may not declare a new national emergency
21 based on substantially similar facts during the 1-year pe-
22 riod following such 60-day period.”.

23 (d) ADDITIONAL CONFORMING AMENDMENTS.—Sec-
24 tion 207(b) of the International Emergency Economic
25 Powers Act (50 U.S.C. 1706(b)) is amended—

1 (1) by striking “concurrent resolution” each
2 place it appears and inserting “joint resolution”;
3 and

4 (2) by inserting “or if the national emergency
5 terminates in accordance with subsection (a)(1) of
6 such section 202” before the period at the end.

7 **SEC. 5. ADDITIONAL EXCEPTIONS TO GRANTS OF AUTHORI-**
8 **TIES.**

9 (a) **SAFE HARBOR FOR MAINTENANCE OF INFRA-**
10 **STRUCTURE.**—Subsection (a) of section 203 of the Inter-
11 national Emergency Economic Powers Act (50 U.S.C.
12 1702) is amended by adding at the end the following new
13 paragraph:

14 “(4) In implementing the authority under para-
15 graph (1), the President shall allow for the expor-
16 tation of equipment and material to a territory that
17 is subject to the control of a person otherwise sub-
18 ject to sanctions under the laws of the United States
19 if the exporter certifies that such equipment or ma-
20 terial is intended for use in the maintenance, in such
21 territory, of—

22 “(A) civilian healthcare facilities;

23 “(B) water infrastructure;

24 “(C) civilian energy infrastructure; or

1 “(D) primary or secondary educational fa-
2 cilities.”.

3 (b) EXCEPTION FOR SUPPORT INCIDENTAL TO COM-
4 MUNICATION INTENDED TO REDUCE CONFLICT OR AL-
5 LEVIATE SUFFERING.—Subsection (b) of such section 203
6 is amended—

7 (1) in paragraph (3), by striking “; or” and in-
8 serting a semicolon;

9 (2) in paragraph (4), by striking the period at
10 the end and inserting “; or”; and

11 (3) by adding at the end the following new
12 paragraph:

13 “(5) any support provided to a foreign person
14 subject to sanctions under the laws of the United
15 States, including organizations designated as foreign
16 terrorist organizations under section 219(a)(1) of
17 the Immigration and Nationality Act, that is inci-
18 dental to speech or communication with such person
19 for the purpose of—

20 “(A) reducing or eliminating the frequency
21 and severity of violent conflict, including by fos-
22 tering diplomatic solutions to violent conflict; or

23 “(B) preventing or alleviating the suffering
24 of a civilian populations.”.

1 **SEC. 6. ADDITIONAL REPORTS TO CONGRESS.**

2 (a) IN GENERAL.—Subsection (b) of section 204 of
3 the International Emergency Economic Powers Act (50
4 U.S.C. 1703) is amended—

5 (1) in the matter preceding paragraph (1), by
6 striking “to the Congress” and inserting “to the ap-
7 propriate congressional committees”;

8 (2) by redesignating paragraphs (4) and (5) as
9 paragraphs (9) and (10), respectively; and

10 (3) by inserting after paragraph (3) the fol-
11 lowing new paragraphs:

12 “(4) the goals and outcomes expected to be
13 achieved through such actions;

14 “(5) other tools considered to address the emer-
15 gency, and the reason for choosing to respond to
16 such emergency through the imposition of sanctions;

17 “(6) a list of other countries imposing sanctions
18 in accordance with the sanctions imposed by the
19 President or, if such sanctions are unilateral, an ex-
20 planation for why no other country has imposed
21 such sanctions;

22 “(7) the strategy of the President to provide
23 compliance guidance to entities in the private sector
24 (including financial institutions), humanitarian orga-
25 nizations, and peacebuilding organizations;

1 “(8) the criteria, if any, that a sanctioned per-
2 son must meet before any sanctions imposed in the
3 exercise of such authority with respect to such per-
4 son may be lifted;”.

5 (b) CONFORMING AMENDMENT.—Such section 204 is
6 further amended by adding at the end the following new
7 subsection:

8 “(e) For purposes of this section, the term ‘appro-
9 priate congressional committees’ means—

10 “(1) the Committee on Foreign Affairs and the
11 Committee on Financial Services of the House of
12 Representatives; and

13 “(2) the Committee on Foreign Relations and
14 the Committee on Banking, Housing, and Urban Af-
15 fairs of the Senate.”.

16 (c) REPORT ON TREATY OBLIGATIONS.—Not later
17 than 90 days after the date of the enactment of this Act,
18 and annually thereafter, the Secretary of State and the
19 Secretary of the Treasury shall jointly submit to Congress
20 a report, which shall be submitted in unclassified form but
21 may include a classified annex, on the manner and extent
22 to which each action taken during the preceding 1-year
23 period using the authorities of the International Emer-
24 gency Economic Powers Act (50 U.S.C. 1701 et seq.) is

1 in compliance with the treaty obligations of the United
2 States.

3 **SEC. 7. REPORTS REQUIRED.**

4 (a) PROJECTION REPORT.—Not later than 30 days
5 after the publication of any executive order, proclamation,
6 or other notice to declare a national emergency, the Comp-
7 troller General of the United States shall submit to Con-
8 gress a report that includes the following:

9 (1) The expected impact of such declaration on
10 the economic interests of the United States and of
11 allied countries.

12 (2) The expected humanitarian impact of such
13 declaration, including the extent to which organiza-
14 tions or entities attempting to provide humanitarian
15 assistance face restricted access as a result of such
16 declaration.

17 (3) The expected impact of such declaration on
18 the economy of any country targeted by such dec-
19 laration.

20 (4) The expected financial impact of such dec-
21 laration on United States citizens and entities, in-
22 cluding the impact on any such citizens or entities
23 who maintain accounts or assets in financial institu-
24 tions subject to sanctions pursuant to such declara-
25 tion.

1 (b) IMPACT REPORT.—Not later than 1 year after the
2 publication of an executive order, proclamation, or other
3 notice described in subsection (a), the Comptroller General
4 shall submit to Congress an updated report that includes
5 the assessment of the Comptroller General with respect
6 to the actual impact of the declaration of such national
7 emergency on each of the interests described in para-
8 graphs (1) through (3) of subsection (a).

9 (c) CONSULTATIONS REQUIRED.—In preparing the
10 report required by subsection (b), the Comptroller General
11 shall consult with relevant nongovernmental organizations
12 working in areas affected by the applicable declaration, in-
13 cluding organizations engaged in the provision of humani-
14 tarian assistance.

15 (d) GOALS AND OUTCOMES REPORT.—Not later than
16 1 year after the publication of an executive order, procla-
17 mation, or other notice described in subsection (a), the
18 President shall submit to Congress a report that sets
19 forth, with respect to each goal and outcome described
20 pursuant to section 204(b)(3) of the International Emer-
21 gency Economic Powers Act (50 U.S.C. 1703(b)(4))(as
22 added by section 6 of this Act), the manner and extent
23 to which such goal or outcome has been achieved through

- 1 the sanctions imposed pursuant to the declaration of such
- 2 national emergency.

○