

and Cuban nationals in response to hostile acts against the United States by the Castro regime. Regulations implementing these sanctions are set forth at 31 CFR part 515. In 1966, the Justice Department returned responsibility for administering the FFCR to the Treasury Department, and these regulations were set forth at 31 CFR part 520.

Section 16 of TWEA provides for corporate criminal penalties of up to \$1,000,000, and individual criminal penalties not to exceed \$100,000 or ten years' imprisonment, or both, per count. Fines for criminal violations may be increased pursuant to 18 U.S.C. 3571. TWEA also provides for forfeiture of property that is the subject of a violation. TWEA authorizes civil penalties of up to \$50,000 per count, adjusted for inflation to \$55,000. It also allows the respondent to request an agency hearing, with the right to prehearing discovery, and, if the respondent elects this option, the civil penalty may be imposed only after such a hearing.

The International Emergency Economic Powers Act. In 1977, the Congress passed the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. 1701–06, replacing TWEA as the statutory authority for a Presidential declaration of a national emergency in peacetime for the purpose of imposing economic sanctions. Pre-existing programs continue to be administered under TWEA, but new programs under TWEA may be established only during wartime. At this time, sanctions remain in place under TWEA solely with respect to (1) comprehensive sanctions against Cuba, (2) a residual blocking of North Korean assets previously blocked and an ongoing prohibition against the importation of certain goods from North Korea without an OFAC license, and (3) certain offshore trade in strategic goods with the former Soviet Bloc.

A significant distinction between the two statutes is that, until recently, IEEPA contained no Presidential vesting authority. With the passage of the USA PATRIOT Act of 2001, Pub. L. No. 107–56, IEEPA was amended to permit the vesting of assets under defined circumstances. While IEEPA does not authorize forfeiture absent an exercise of vesting authority, it does provide civil and criminal penalty authority, but in amounts less than those provided in TWEA. OFAC relies upon the U.S. Customs Service, operating under separate statutory authority, for the forfeiture of seized property.

IEEPA provides for civil penalties not to exceed \$10,000, adjusted for inflation

to \$11,000. Criminal penalties range up to \$50,000, or, if a natural person, up to ten years imprisonment, or both. Fines for criminal violations may be increased pursuant to 18 U.S.C. 3571.

National Emergencies under IEEPA. The first use of IEEPA occurred in 1979, in response to the Iranian hostage crisis. President Carter blocked over twelve billion dollars in Iranian assets subject to U.S. jurisdiction, enabling those assets to be used as leverage in negotiating the release of the U.S. hostages. Although most of the prohibitions contained in these sanctions were lifted prospectively by general license in 1981 in accordance with the Algiers Accords, transactions involving Iranian property within the United States or in the possession or control of U.S. persons remain regulated pursuant to 31 CFR part 535, that is, permitted only by general license. Import sanctions were imposed against Iran by President Reagan in 1987, under the authority of the International Security and Development Cooperation Act of 1985 ("ISDCA"), 22 U.S.C. 2349aa–9. Since this statute does not provide for criminal or civil penalty authority, OFAC relied upon the U.S. Customs Service, operating under separate statutory authority, for the imposition of criminal and civil penalties (including forfeiture of merchandise). President Clinton invoked IEEPA in 1995 to prohibit all trade with and investment in Iran, imposing the most comprehensive economic sanctions currently in place short of an assets freeze. Regulations implementing these sanctions are set forth at 31 CFR part 560.

President Reagan invoked IEEPA in 1985 to impose a trade embargo against the Sandinista regime in Nicaragua, and then again in 1986 to impose comprehensive economic sanctions, including an assets freeze, against the Government of Libya. The Libyan Sanctions Regulations remain in place at this time and are set forth at 31 CFR part 550. In 1986, Congress passed the Comprehensive Anti-Apartheid Act, prohibiting trade in certain goods and new investment in South Africa by codifying and expanding Executive Branch sanctions against that country imposed under IEEPA in 1985.

President Bush invoked IEEPA in 1988 to impose comprehensive economic sanctions against the Noriega regime in Panama, which sanctions were lifted after the U.S. invasion of that country in 1989. Assets of the Government of Panama remained blocked until the new government settled claims against it by U.S. persons. President Bush invoked IEEPA again in

1990 in response to the Iraqi invasion of Kuwait. Kuwaiti assets subject to U.S. jurisdiction were protected under an assets freeze until the Government of Kuwait was restored. Although OFAC did not conduct a formal census of these assets, the total Kuwaiti assets blocked under this program were estimated to exceed sixty billion dollars. Punitive sanctions against Iraq, including a comprehensive assets freeze, also were imposed in 1990 and remain in effect as set forth at 31 CFR part 575.

Since 1990, other countries have been subject to economic sanctions imposed under IEEPA, calibrated to respond to the given situation and U.S. foreign policy and national security objectives. Many "country-based" sanctions programs have a nexus to the U.S. government's response over time to the threat to U.S. national security and foreign policy posed by international terrorism. The Secretary of State has designated seven countries—Cuba, North Korea, Libya, Iran, Iraq, Sudan and Syria—as supporting international terrorism. Most of these countries are subject to comprehensive economic sanctions.

In 1995, President Clinton used IEEPA to deal with the threat to U.S. foreign policy and national security posed by terrorists who threaten to disrupt the Middle East Peace Process. This marked an expansion in the use of economic sanctions as a tool of U.S. foreign policy to target groups and individuals, as well as foreign governments. The Terrorism Sanctions Regulations are set forth at 31 CFR part 595. The trend of targeting groups and individuals continued later in 1995 when President Clinton invoked IEEPA to block assets and prohibit transactions with significant narcotics traffickers centered in Colombia. Regulations implementing these sanctions are set forth at 31 CFR part 536.

IEEPA has also been invoked to promote the national security and foreign policy objectives of the United States with respect to nonproliferation. In 1998, certain foreign entities were designated by the Secretary of State as promoting the proliferation of weapons of mass destruction. As set forth in 31 CFR part 539, OFAC regulations prohibit the importation of goods, technology, or services produced or provided by these entities. In 2000, President Clinton also invoked IEEPA to protect assets of the Russian Federation relating to the implementation of the agreement between the United States and Russia on the disposition of highly enriched uranium. Transfers of these assets in support of the agreements are licensed by OFAC. These protective