

that "materially * * * assist in or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities" of the named drug kingpins or other, already designated SDNTs.

In implementing the Colombia IEEPA-SDNT program, OFAC analysts identify and research foreign targets that can be linked by evidence to individuals or entities already designated pursuant to E.O. 12978. To establish sufficient linkage, OFAC initially relied upon a significant body of documentary evidence through criminal law enforcement raids and seizures. The President's involvement was required in the designation of the original four Cali cartel kingpins named in the annex to E.O. 12978. Additional kingpin listings in Colombia have been developed through close coordination between OFAC and the Department of Justice, and the preponderance of Colombian SDNTs have been designated as a product of OFAC's research and collection efforts.

In the Colombia IEEPA-SDNT program, OFAC has reached designation determinations only after extensive reviews of the evidence internally and with the Department of Justice. E.O. 12978 has required that the State and Justice Departments be consulted by the Treasury prior to a designation. As noted above, Justice is deeply involved in examining the sufficiency of the evidence that occurs before any parties are added to the list.

OFAC regulations provide for post-designation review and remedies. The usual forum for considering removal of a designation (such as a change in circumstances or behavior) is one in which the named person or entity petitions OFAC for removal. Most petitioners initiate the review process simply by writing OFAC. Exchanges of correspondence, additional fact-finding and meetings occur before OFAC decides whether there is a basis for removal. Although a number of persons have been removed through this means, only a very few persons or entities on the SDNT and other SDNT lists have ever petitioned for removal. Federal courts have held that no pre-deprivation hearing is required in blocking of assets because of the Executive Branch's plenary authority to act in the area of foreign policy and the obvious need to take immediate action upon designation to avoid dissipation of affected assets.

SEC. 806. AUTHORITIES

This section generally restates the applicable provisions of the International Economic Emergency Powers Act.

SEC. 807. ENFORCEMENT

This section generally restates the applicable provisions of the Trading with the Enemy Act.

SEC. 808. DEFINITIONS

This section defines specific terms used in this title.

SEC. 809. EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF DRUG TRAFFICKERS

This section restates the applicable provisions of the Immigration and Nationality Act of 1952 as amended in 8 U.S.C. 1182(a)(2)(c). Designation on this list will result in the denial of visas and inadmissibility of specially designated narcotics traffickers, their immediate families, and their business associates.

SEC. 810. JUDICIAL REVIEW COMMISSION ON FOREIGN ASSET CONTROL

This section creates a commission to review the current judicial, regulatory, and administrative authorities under which the

United States government blocks assets of foreign persons and to provide a detailed constitutional examination and evaluation of remedies available to United States persons affected by the blocking of assets of foreign persons. The commission is required to report back to Congress no later than one year after the date of enactment of this act on its findings, conclusions, and recommendations, if any, on the matters under their review. The managers believe that the public interest can best be served if the commission can reach consensus on its conclusions. The managers acknowledge, however, that consensus may not be able to reach on the significant issues on which the commission will deliberate. To that end, therefore, the managers have provided that the report to be submitted to Congress at the end of the commission's review period shall include all additional or dissenting views, if any.

Four of the commission members are to be appointed by the Chairmen and Ranking Democrats of the congressional intelligence committees. The fifth member of the Commission shall be appointed by the four members of the commission appointed by the intelligence committee Chairmen and Ranking Democrats. The commission shall also be provided the cooperation and assistance that it requests from any agency in the federal government.

The managers are determined to ensure that the judicial, regulatory, and administrative remedies and procedures available to U.S. persons affected by the blocking of assets of foreign persons pass constitutional muster. As expected, the managers concern centers on the fundamental question of due process and whether that principle is affirmed and sustained in the execution of this legislation. The managers expect the members of the Commission to examine and report on at least the following constitutional and other issues:

(1) whether reasonable protections of innocent U.S. businesses are available under the regime currently in place that is utilized to carry out the provisions of the International Emergency Economic Powers Act ("IEEPA");

(2) whether advance notice prior to blocking of one's assets is required as a matter of constitutional due process;

(3) whether there are reasonable opportunities under the current IEEPA regulatory regime and the Administrative Procedures Act for an erroneous blocking of assets or mistaken listing under IEEPA to be remedied;

(4) whether the level of proof that is required under the current judicial, regulatory, or administrative scheme is adequate to protect legitimate business interests from irreparable financial harm;

(5) whether there is constitutionally adequate accessibility to the courts to challenge agency actions under IEEPA, or the designation of persons or entities under IEEPA;

(6) whether there are remedial measures and legislative amendments that should be enacted to improve the current asset blocking scheme under IEEPA or this title; and

(7) whether the resources made available for the Office of Foreign Assets Control ("OFAC") at the Department of Treasury in the fiscal year 2001 budget submission are adequate to carry out the provisions of this title or the other programs currently in effect under IEEPA.

SEC. 811. EFFECTIVE DATE

This section establishes the effective date for this title.

From the Permanent Select Committee on Intelligence, for consideration of the Senate

amendment, and the House bill, and modifications committed to conference:

PORTER GOSS,
JERRY LEWIS,
BILL MCCOLLUM,
MICHAEL N. CASTLE,
SHERWOOD BOEHLERT,
CHARLES F. BASS,
JIM GIBBONS,
RAY LAHOOD,
HEATHER WILSON,
JULIAN C. DIXON,
NANCY PELOSI,
SANFORD BISHOP, Jr.,
NORMAN SISISKY,
GARY CONDIT.

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities:

FLOYD SPENCE,
BOB STUMP,
ROBERT E. ANDREWS,

Managers on the Part of the House.

From the Select Committee on Intelligence:

RICHARD SHELBY,
BOB KERREY,
RICHARD G. LUGAR,
MIKE DEWINE,
JON KYL,
JIM INHOFE,
ORRIN HATCH,
PAT ROBERTS,
WAYNE ALLARD,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
CHUCK ROBB,
FRANK R. LAUTENBERG.

From the Committee on Armed Services:

JOHN WARNER,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MARTINEZ (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. KANJORSKI (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. MCINNIS (at the request of Mr. ARMEY) for today on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STRICKLAND) to revise and extend their remarks and include extraneous material:)

Mrs. MALONEY of New York, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material: