



Policy Brief.....October 23, 2003

Information Regarding Declarations of War and Congressionally Authorized Military Engagements

Official Declarations of War and Other Congressionally Authorized Military Engagements:

Official Declarations of War:

The United States formally has declared war against foreign nations eleven separate times. Each time the declaration of war was requested by the President either in writing or in person before a Joint Session of Congress.

Great Britain	June 18, 1812
Mexico	May 13, 1846
Spain	April 25, 1898
World War I – Germany	April 6, 1917
World War I – Austria-Hungary	December 7, 1917
World War II – Japan	December 8, 1941
World War II – Germany	December 11, 1941
World War II – Italy	December 11, 1941
World War II – Bulgaria	June 5, 1942
World War II – Hungary	June 5, 1942
World War II – Rumania	June 5, 1942

Congressionally Authorized Military Engagements:

In several instances, the U.S. engaged in extended military engagements that, while not formally declared wars, were explicitly authorized by Congress, short of a formal declaration of war. In some instances, action was prompted by attacks on U.S. interests.

Undeclared Naval War with France	1798-1800
First Barbary War (Against Barbary Pirates)	1801-1805
Second Barbary War (Against Barbary Pirates)	1815
Africa (Raid of Slave Traffic)	1820-1823
Paraguay (Seek Redress for an Attack on a Naval Vessel)	1859

Lebanon (Protect Government Against an Insurrection)	1958
Vietnam War	1964-1973
Lebanon (Restoration of Lebanese Government)	1982
Gulf War	1991
“Nations, Organizations, or Persons” related to the 9/11 terrorist attacks (<i>authority used against Afghanistan</i>)	2001
Iraq	2003

*Note: the Korean War, 1950-1953, was **not** a congressionally authorized war. President Truman cited authority under United Nations resolutions.*

Typical Construction of a Declaration of War:

All eight of the declarations of war issued during the 20th Century contained identical language stating that the President is:

“authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against [the ‘Government’ of the particular nation]; and to bring the conflict to a successful termination, all of the resources of the country are hereby pledged by the Congress of the United States.”

Implications of a Declaration of a National Emergency, State of War, and Declaration of War:

Implications of a Declaration of War Under International Law:

According to research performed by the Congressional Research Service, there seems to be few differences under international law (including the Hague and Geneva Conventions) between an officially declared war and any other form of military engagement.

Implications of a Declaration of War Under Domestic Law:

Under numerous domestic laws, the President can invoke a number of powers either as a result of his declaration of a national emergency or the declaration of war. The following authorities were identified by FEMA in the 1992 document Emergency Executive Authorities.

Powers That May Be Invoked by a Declaration of a National Emergency:

- (1) Permit the Secretary of Agriculture to adjust marketing quotas for various crops;
- (2) Permit the limitation or prohibition of agricultural exports;
- (3) Allow the acquisition and use of farmland for national defense purposes;
- (4) Allow imposition of restrictions on member banks of the Federal Reserve System;
- (5) Allow the extension of patents kept secret for national security reasons;
- (6) Allow the suspension of operations on outer continental shelf lands;
- (7) Allow the modification of defense contracts to “facilitate national defense”;
- (8) Allow extensive regulation of banking, transfers of credit, property acquisition, and imports and exports (including the freezing of foreign assets within U.S. jurisdiction);
- (9) Waive restrictions and conditions regarding U.S. purchase of minerals, materials, and agricultural commodities;
- (10) Allow suspension of the Davis-Bacon Act on certain projects;

- (11) Allow the exclusion of aliens who are outside the U.S. in order to evade the draft;
- (12) Criminalize the destruction or conspiracy to destroy war material or to obstruct U.S. prosecution of a war;
- (13) Criminalize the willful production of defective war material;
- (14) Allow the Coast Guard to recall retired officers and enlisted men to duty and to extend the tours of duty of enlisted men;
- (15) Allow the exemption of U.S. warships from the pollution control requirements of Annex V to the International Convention for the Prevention of Pollution from Ships;
- (16) Restrict the construction and sale of vessels to foreign owners;
- (17) Allow the requisition of foreign-owned vessels “lying idle” in U.S. waters;
- (18) Allow the U.S. to have the exclusive use and control over any portion of a public airport that has received surplus federal property; and
- (19) Allow the U.S. to dispose of surplus property without using competitive bids.

Powers That May Be Invoked by the Existence of a State of War (Would Not Require Formal Declaration):

- (1) Allow the U.S. to direct the priority use of communications carriers;
- (2) Criminalize the obstruction of interstate or foreign communications and allows the use of the armed forces to prevent such obstruction;
- (3) Allow the suspension or seizure of wire communications facilities;
- (4) Allow the Federal Energy Regulatory Commission to order the temporary connection of electric energy facilities;
- (5) Allow the seizure and use of lumber-related property;
- (6) Provide the U.S. priority in any orders for manufacturing and allows the seizure and operation of any plants that refuse to cooperate;
- (7) Allow the sale of war supplies, land, and buildings to allies of the U.S.;
- (8) Provide the U.S. priority in the purchase of outer continental shelf minerals;
- (9) Provide extensive authority to regulate economic transactions with foreign countries and nationals, including the freezing and vesting of enemy property within U.S. jurisdiction;
- (10) Make desertion from an armed force a permanent bar to naturalization;
- (11) Direct that a naturalized citizen shall lose his nationality if he serves in the armed forces of a hostile state;
- (12) Make provision of defense-related information to enemy governments punishable by death or life imprisonment;
- (13) Criminalize interference with the operation of U.S. armed forces and with recruitment;
- (14) Allow the U.S. to take control of transportation systems for military purposes; and
- (15) Allow precedence to the transportation of troops and material of war over all other traffic.

Powers That May Be Invoked Only By a Formal Declaration of War:

- (1) Allow the Nuclear Regulatory Commission to suspend licenses relating to atomic energy, recapture special nuclear material, and operate nuclear power facilities;
- (2) Allow the U.S. to seize property of the Tennessee Valley Authority for the purpose of manufacturing explosives or for other war purposes;
- (3) Authorize the President to “apprehend, restrain, secure, and remove” alien enemies; and
- (4) Allow electronic surveillance to obtain foreign intelligence information without a court order for 15 days after a declaration of war.

Sources:

CRS Report RL30146: *Declaration of War against Yugoslavia: Implications for the United States.*
CRS Report RL30172: *Instances of Use of United States Armed Forces Abroad, 1798-2001*
Special thanks to Richard Grimmett of the Congressional Research Service (CRS).