



Written by [Bob Adelman](#) on August 26, 2019

## Trump's "Order" Backed by Power Congress Gave Up to the Executive Branch in 1977

Following President Trump's "order" that U.S. companies doing business in China find "an alternative" place, he received pushback from much of the mainstream media that he once again was overstepping his bounds and turning his administration in a dictatorship.

Here's what the president tweeted on Friday:

Our Country has lost, stupidly, Trillions of Dollars with China over many years. They have stolen our Intellectual Property at a rate of Hundreds of Billions of Dollars a year & they want to continue. I won't let that happen! We don't need China and, frankly, would be far better off without them.

The vast amounts of money made and stolen by China from the United States, year after year, for decades, will and must STOP.

And then he added:

Our great American companies are hereby ordered to immediately start looking for an alternative to China, including bringing your companies HOME and making your products in the USA.

When the media jumped all over him, claiming he was assuming powers he didn't have, Trump responded:

For all of the Fake News Reporters that don't have a clue as to what the law is relative to Presidential powers, China, etc., try looking at the Emergency Economic Powers Act of 1977. Case closed!

It was the *New York Times* that took the lead in accusing the president of overreach:

Mr. Trump's claim that he can order American companies to pull out of China also represented the latest audacious assertion of power by a president who has repeatedly crossed lines his predecessors did not.

While he took office criticizing President Barack Obama for exceeding his authority, Mr. Trump has gone even further in finding creative ways to take action on his priorities.

Neither statement is true. In fact, a careful look at the facts reveals that Trump is not asserting a power that he doesn't have. Second, Trump is correct that the Congress gave the executive branch the power Trump claims back in 1977 — and the fact of the matter is that the law passed in 1977 actually reined in even more expansive powers given to past presidents! Third, he has been showing restraint in his use of a power, and past presidents have used the same power — many times.





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The International Emergency Economic Powers Act (IEEPA), signed into law by President Jimmy Carter, authorizes the president to declare the existence of an “unusual and extraordinary threat ... to the national security, foreign policy, or economy of the United States,” which threat is present “in whole or substantial part outside the United States.”

The law has teeth. It authorizes the president, once he has declared that emergency, to block transactions and freeze assets to deal with and neutralize that threat.

The law limits the power of the executive branch given to it by Congress back in 1917 (the Trading with the Enemy Act, or TWEA). Prior to passage of the IEEPA, the executive branch had the power to declare emergencies without limiting their scope or duration, without having to cite relevant statutes, and without congressional oversight.

However, those limitations have not restrained previous administrations which have, since 1977, invoked IEEPA more than 50 times, with 29 actions still in force. In fact, the first use of IEEPA occurred in 1979, when an emergency was declared in response to the taking of the U.S. embassy staff as hostages by Iran. That national emergency remains in force today.

What should be noted is the remarkable restraint President Trump has shown in not using IEEPA! On Sunday, during CNN's *State of the Union* broadcast, White House economic advisor Larry Kudlow made that point crystal clear:

Ultimately [the president does have] such authority but it is not going to be exercised presently. What [the president] is suggesting to American businesses ... something he has said to many companies in many different forms and on many different occasions ... you ought to think about moving your operations and your supply chains away from China....

We would like to you come back home. Come back to the U.S.A. where we have very low corporate tax rates and massive deregulation programs ... come back to America.

Treasury Secretary Steve Mnuchin reiterated the point on Fox News on Sunday: “I think what [the president] is saying is he’s ordering companies to start looking. He wants to make sure [that] to the extent that we are in an extended trade war, that [U.S.] companies don’t have these issues [and to consider now] a move out of China.”

The president himself is on record as saying that he has the power but doesn’t want to use it, yet. He told reporters on Sunday, “If I want, I could declare a national emergency. In many ways [the theft of intellectual property by the Chinese is] an emergency [but] I have no plans [to declare one] right now.”

That’s the story that the *Times* and others missed. His “order” for U.S. companies to start looking to relocate out of China isn’t an “audacious assertion of power” nor is he “exceeding his authority.” Instead he is restraining the use of powers that Congress gave up to the executive branch (unconstitutionally, of course) decades ago, hoping instead that the increasing pressure of tariffs on China will hasten the day when fair trade can be enacted and enforced through an agreement with that rogue nation.

Image of Donald Trump: [Screenshot of donaldjtrump.com](#)

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