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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 972c; title 48 section 1904.

§ 1971. "Vessel of the United States" defined

For the purposes of this chapter the term "vessel of the United States" shall mean any private vessel documented or certificated under the laws of the United States. Notwithstanding any other law, the documentation or certification of any such vessel shall not be considered to be affected, for the purposes of this chapter, in any manner or to any extent if at any time during any voyage for the purpose of fishing beyond the fishery conservation zone (as defined in section 1802(8)¹ of title 16), the vessel is commanded by other than a citizen of the United States.

(Aug. 27, 1954, ch. 1018, §1, 68 Stat. 883; Pub. L. 95-541, §14(a), Oct. 28, 1978, 92 Stat. 2057; Pub. L.

¹ See References in Text note below.

96-561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

REFERENCES IN TEXT

Section 1802(8) of title 16, referred to in text, which defined "fishery conservation zone", was repealed and section 1802(6) of Title 16, Conservation, defining the term "exclusive economic zone", was added by Pub. L. 99-659, title I, §101(a), Nov. 14, 1986, 100 Stat. 3706. Section 1802 was subsequently amended and the term "exclusive economic zone" is defined elsewhere in that section.

AMENDMENTS

1996—Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1802(8) of title 16.

1980—Pub. L. 96-561 made technical amendment to reference in original act which appears in text as reference to section 1802(8) of title 16.

1978—Pub. L. 95-541 provided that the documentation or certification of a vessel of the United States not be affected if at any time during the voyage for the purpose of fishing beyond the fishery conservation zone, the vessel is commanded by other than a citizen of the United States.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104-208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96-561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 14(b) of Pub. L. 95-541 provided that the amendment made by section 14(a) of Pub. L. 95-541, amending this section, was to take effect Jan. 1, 1978, prior to the general amendment by Pub. L. 104-227, title I, §107, Oct. 2, 1996, 110 Stat. 3042.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-450, title I, §101, Nov. 7, 2000, 114 Stat. 1941, provided that: "This title [amending section 1977 of this title] may be cited as the 'Fishermen's Protective Act Amendments of 2000'."

SHORT TITLE

Pub. L. 90-482, §4, Aug. 12, 1968, 82 Stat. 730, provided that: "The Act of August 27, 1954 (68 Stat. 883; 22 U.S.C. 1971-1976), as amended by this Act [this chapter], may be cited as the 'Fishermen's Protective Act of 1967'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 48 section 1904.

§ 1972. Action by Secretary of State upon seizure of vessel by foreign country; preconditions

If—

(1) any vessel of the United States is seized by a foreign country on the basis of claims to jurisdiction that are not recognized by the United States, or on the basis of claims to jurisdiction recognized by the United States but exercised in a manner inconsistent with international law as recognized by the United States;¹

(2) any general claim of any foreign country to exclusive fishery management authority is

¹ So in original. Probably should be followed by "or".

recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions—

(A) are unrelated to fishery conservation and management,

(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

(C) are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1811 et seq.]), or

(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive fishery management authority;

the Secretary of State, unless there is clear and convincing credible evidence that the seizure did not meet the requirements under paragraph (1) or (2), as the case may be, shall immediately take such steps as are necessary—

(i) for the protection of such vessel and for the health and welfare of its crew;

(ii) to secure the release of such vessel and its crew; and

(iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 1973(a) of this title.

(Aug. 27, 1954, ch. 1018, § 2, 68 Stat. 883; Pub. L. 92-569, § 1, Oct. 26, 1972, 86 Stat. 1182; Pub. L. 94-265, title IV, § 403(a)(1), Apr. 13, 1976, 90 Stat. 360; Pub. L. 96-561, title II, § 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 98-364, title III, § 303(a), July 17, 1984, 98 Stat. 444; Pub. L. 104-208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (2)(C), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended. Title I of the Act is classified generally to subchapter II (§ 1811 et seq.) of chapter 38 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 16 and Tables.

AMENDMENTS

1996—Par. (2)(C). Pub. L. 104-208 substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

1984—Pub. L. 98-364, in par. (1), substituted “any vessel of the United States is seized by a foreign country on the basis of claims to jurisdiction that are not recognized by the United States, or on the basis of claims to jurisdiction recognized by the United States but exercised in a manner inconsistent with international law as recognized by the United States;” for “any vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or the high seas which are not recognized by the United States; or”, and in provisions following par. (2)(D), substituted “the Secretary of State, unless there is clear and convincing credible evidence that the seizure did not meet the requirements under paragraph (1) or (2), as the case may be, shall immediately take such steps as are necessary” for “and there is no dispute as to the material facts

with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall immediately take such steps as are necessary”.

1980—Par. (2)(C). Pub. L. 96-561 substituted “Magnuson Fishery Conservation and Management Act” for “Fishery Conservation and Management Act of 1976”.

1976—Pub. L. 94-265 redesignated existing subsecs. (a) and (b) as pars. (1) and (2), respectively, and, in par. (1) struck out reference to rights in territorial waters, and in par. (2) substituted provisions relating to any general claim of any foreign country, conditions, and restrictions of seizure, lack of dispute as to material facts, and steps authorized for Secretary of State upon seizure, for provisions relating to lack of dispute as to material facts and actions authorized for Secretary of State upon seizure.

1972—Subsec. (b). Pub. L. 92-569 required the Secretary of State to take appropriate action to immediately ascertain the fees, fines, and other direct charges paid by a United States vessel owner to the seizing foreign country for the release of the vessel and its crew.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104-208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 303(c) of Pub. L. 98-364 provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1974 of this title] apply with respect to seizures made after April 1, 1983, by foreign countries of vessels of the United States.”

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96-561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 403(b) of Pub. L. 94-265 provided in part that the amendment made by section 403(a)(1) of Pub. L. 94-265 to this section was to take effect Mar. 1, 1977, prior to the general amendment of title IV of Pub. L. 94-265 by Pub. L. 104-297.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 6 of Pub. L. 92-569 provided that: “The amendments made by this Act [enacting section 1979 of this title and amending this section and sections 1973, 1975, and 1977 of this title] shall apply with respect to seizures of vessels of the United States occurring on or after the date of the enactment of this Act [Oct. 26, 1972]; except that reimbursements under section 3 of the Fishermen's Protective Act of 1967 [section 1973 of this title] (as in effect before such date of enactment [Oct. 26, 1972]) may be made from the fund established by the amendment made by section 5 of this Act [enacting section 1979 of this title] with respect to any seizure of a vessel occurring before such date of enactment [Oct. 26, 1972] and after December 31, 1970, if no reimbursement was made before such date of enactment [Oct. 26, 1972].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973, 1977 of this title; title 16 section 973a.

§ 1973. Reimbursement of owner for any direct charges paid to secure release of vessel and crew

(a) Reimbursement by Secretary of State; “other direct charge” defined; source of reimbursement

In any case where a vessel of the United States is seized by a foreign country under the condi-