

tions of section 1972 of this title and a fine, license fee, registration fee, or any other direct charge must be paid in order to secure the prompt release of the vessel and crew, the owners of the vessel shall be reimbursed by the Secretary of State in the amount determined and certified by him as being the amount of the fine, license fee, registration fee, or any other direct charge actually paid. For purposes of this section, the term “other direct charge” means any levy, however characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee. Any reimbursement under this section shall be made from the Fishermen’s Protective Fund established pursuant to section 1979 of this title.

(b) Determination and certification of charges by Secretary of State; reimbursement as lien on vessel; termination of lien

The Secretary of State shall make a determination and certification under subsection (a) of this section as soon as possible after he is notified pursuant to section 1972(b) of this title of the amounts of the fines, fees, and other direct charges which were paid by the owners to secure the release of their vessel and crew. The amount of reimbursement made by the Secretary of State to the owners of any vessel under subsection (a) of this section shall constitute a lien on the vessel which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the vessel may be. Any such lien shall terminate on the ninetieth day after the date on which the Secretary of State reimburses the owners under this section unless before such ninetieth day the United States initiates action to enforce the lien.

(Aug. 27, 1954, ch. 1018, § 3, 68 Stat. 883; Pub. L. 90-482, § 2, Aug. 12, 1968, 82 Stat. 730; Pub. L. 92-569, § 2, Oct. 26, 1972, 86 Stat. 1182; Pub. L. 94-265, title IV, § 403(a)(2), Apr. 13, 1976, 90 Stat. 360; Pub. L. 98-364, title III, § 302(a), July 17, 1984, 98 Stat. 444.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-364, § 302(a)(1), substituted “Secretary of State in the amount determined and certified by him” for “Secretary of the Treasury in the amount certified to him by the Secretary of State”.

Subsec. (b). Pub. L. 98-364, § 302(a)(2), inserted “determination and” before “certification” in first sentence, and substituted “State” for “the Treasury” in second and third sentences.

1976—Subsec. (a). Pub. L. 94-265 inserted definition of “other direct charge”.

1972—Pub. L. 92-569 designated existing provisions as subsec. (a), inserted provision that reimbursement under this section shall be made from the Fishermen’s Protective Fund, and added subsec. (b).

1968—Pub. L. 90-482 inserted “, license fee, registration fee, or any other direct charge” after “fine” whenever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 403(b) of Pub. L. 94-265 provided in part that the amendment made by section 403(a)(2) of Pub. L. 94-265 to this section was to apply with respect to seizures of vessels of the United States occurring on or

after Dec. 31, 1974, prior to the general amendment of title IV of Pub. L. 94-265 by Pub. L. 104-297.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-569 applicable with respect to seizure of vessels of the United States occurring on or after Oct. 26, 1972, except that reimbursements under this section may be made from the fund established by section 1979 of this title with respect to seizure of vessels occurring after Dec. 31, 1970 and before Oct. 26, 1972 if no reimbursement was made before Oct. 26, 1972, see section 6 of Pub. L. 92-569, set out as a note under section 1972 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1972, 1975, 1977, 1979 of this title.

§ 1974. Inapplicability of chapter to certain seizures

The provisions of this chapter shall not apply with respect to a seizure made by a country at war with the United States or a seizure made in accordance with the provisions of any applicable convention or treaty, if that treaty or convention was made with advice and consent to¹ the Senate and was in force and effect for the United States and the seizing country at the time of the seizure.

(Aug. 27, 1954, ch. 1018, § 4, 68 Stat. 883; Pub. L. 98-364, title III, § 303(b), July 17, 1984, 98 Stat. 444.)

AMENDMENTS

1984—Pub. L. 98-364 substituted “any applicable convention or treaty, if that treaty or convention was made with advice and consent to the Senate and was in force and effect for the United States and the seizing country at the time of the seizure” for “any fishery convention or treaty to which the United States is a party”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-364 applicable with respect to seizures made after Apr. 1, 1983, by foreign countries of vessels of the United States, see section 303(c) of Pub. L. 98-364, set out as a note under section 1972 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 972c.

§ 1975. Claims for amounts expended because of seizure

(a) Action by Secretary

The Secretary of State shall—

(1) immediately notify a foreign country of—

(A) any reimbursement made by him under section 1973 of this title as a result of the seizure of a vessel of the United States by such country,

(B) any payment made pursuant to section 1977 of this title in connection with such seizure, and

(2) take such action as he deems appropriate to make and collect claims against such foreign country for the amounts so reimbursed and payments so made.

(b) Withholding amount of unpaid claim from foreign assistance funds

If a foreign country fails or refuses to make payment in full on any claim made under sub-

¹ So in original. Probably should be “of”.

section (a)(2) of this section within one hundred and twenty days after the date on which such country is notified pursuant to subsection (a)(1) of this section, the Secretary of State shall transfer an amount equal to such unpaid claim or unpaid portion thereof from any funds appropriated by Congress and programmed for the current fiscal year for assistance to the government of such country under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] unless the President certifies to the Congress that it is in the national interest not to do so in the particular instance (and if such funds are insufficient to cover such claim, transfer shall be made from any funds so appropriated and programmed for the next and any succeeding fiscal year) to (1) the Fishermen's Protective Fund established pursuant to section 1979 of this title if the amount is transferred with respect to an unpaid claim for a reimbursement made under section 1973 of this title, or (2) the separate account established in the Treasury of the United States pursuant to section 1977(c) of this title if the amount is transferred with respect to an unpaid claim for a payment made under section 1977(a) of this title. Amounts transferred under this section shall not constitute satisfaction of any such claim of the United States against such foreign country.

(Aug. 27, 1954, ch. 1018, §5, 68 Stat. 883; Pub. L. 90-482, §3, Aug. 12, 1968, 82 Stat. 730; Pub. L. 92-569, §3, Oct. 26, 1972, 86 Stat. 1182; Pub. L. 98-364, title III, §302(b), July 17, 1984, 98 Stat. 444.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1984—Subsec. (a)(1)(A). Pub. L. 98-364 substituted “him” for “the Secretary of the Treasury”.

1972—Pub. L. 92-569 substituted provisions that the Secretary of State notify the foreign country of reimbursements made under section 1973 of this title and payments made under section 1977 of this title, take appropriate action to make and collect claims against such foreign country and on failure to receive payment or on refusal to pay within 120 days after the notification, transfer an amount equal to the unpaid amount from funds programmed for assistance to that country to the Fishermen's Protective Fund or the separate account in the Treasury as the case may be, and in the case of inadequate funds programmed in the current fiscal year make the deduction from succeeding fiscal years, with exception that no such transfer be made when the President certifies to Congress that it is in the national interest not to do so, for provisions that the Secretary of State take appropriate action to collect claims against such foreign country and withhold amounts equal to the unpaid claims from the foreign assistance programmed for that fiscal year when such country fails or refuses to pay within 120 days of receipt of notice of claim.

1968—Pub. L. 90-482 inserted provisions authorizing the Secretary to act when payments are made pursuant to section 1977 of this title, and provisions authorizing the Secretary to withhold the amount of any unpaid claim against the foreign country from the foreign assistance funds programmed for that country, such amounts withheld not to constitute satisfaction of any unpaid claim.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-569 applicable with respect to seizures of vessels of the United States occurring on or after Oct. 26, 1972, see section 6 of Pub. L. 92-569, set out as a note under section 1972 of this title.

EX. ORD. NO. 11772. DELEGATION OF CERTAIN AUTHORITY OF PRESIDENT TO SECRETARY OF STATE

Ex. Ord. No. 11772, Mar. 21, 1974, 39 F.R. 10879, provided:

By virtue of the authority vested in me by the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1971, et seq.), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, the Secretary of State is hereby designated and empowered to exercise, without ratification, or other action of the President, the function conferred upon the President by Section 5(b) of the Fishermen's Protective Act of 1967, as amended [22 U.S.C. 1975(b)], of certifying to the Congress that it is in the national interest not to transfer to the Fishermen's Protective Fund or to the separate account established under the Act, pursuant to that Section, amounts appropriated by the Congress and programmed for assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.].

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1977, 1979 of this title; title 48 section 1904.

§ 1976. Authorization of appropriations

There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this chapter.

(Aug. 27, 1954, ch. 1018, §6, 68 Stat. 883.)

§ 1977. Reimbursement for seized commercial fishermen

(a) Agreement to reimburse for actual costs, confiscation or spoilage of fish, and loss of income

The Secretary, upon receipt of an application filed with him at any time after the effective date of this section by the owner of any vessel of the United States which is documented or certificated as a commercial fishing vessel, shall enter into an agreement with such owner subject to the provision of this section and such other terms and conditions as the Secretary deems appropriate. Such agreement shall provide that, if said vessel is seized by a foreign country and detained under the conditions of section 1972 of this title, the Secretary shall guarantee—

(1) the owner of such vessel for all actual costs, except those covered by section 1973 of this title, incurred by the owner during the seizure and detention period and as a direct result thereof, as determined by the Secretary, resulting (A) from any damage to, or destruction of, such vessel, or its fishing gear or other equipment, (B) from the loss or confiscation of such vessel, gear, or equipment, or (C) from dockage fees or utilities;

(2) the owner of such vessel and its crew for the market value of fish caught before seizure of such vessel and confiscated or spoiled during the period of detention; and

(3) the owner of such vessel and its crew for not to exceed 50 per centum of the gross in-