

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-

come lost as a direct result of such seizure and detention, as determined by the Secretary of Commerce, based on the value of the average catch per day's fishing during the three most recent calendar years immediately preceding such seizure and detention of the vessel seized, or, if such experience is not available, then of all commercial fishing vessels of the United States engaged in the same fishery as that of the type and size of the seized vessel.

(b) Distribution of payments according to commercial fishing practices and procedures

Payments made by the Secretary under paragraphs (2) and (3) of subsection (a) of this section shall be distributed by the Secretary in accordance with the usual practices and procedures of the particular segment of the United States commercial fishing industry to which the seized vessel belongs relative to the sale of fish caught and the distribution of the proceeds of such sale.

(c) Establishment of fees; amount of fees; credit of fees to separate Treasury account; payment from collected fees; authorization of appropriations

The Secretary shall from time to time establish by regulation fees which shall be paid by the owners of vessels entering into agreements under this section. Such fees shall be adequate (1) to recover the costs of administering this section, and (2) to cover a reasonable portion of any payments made by the Secretary under this section. All fees collected by the Secretary shall be credited to a separate account established in the Treasury of the United States which shall remain available without fiscal year limitation to carry out the provisions of this section. Those fees not currently needed for payments under this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all revenues accruing from such deposits or investments shall be credited to such separate account. If a transfer of funds is made to the separate account under section 1975(b)(2) of this title with respect to an unpaid claim and such claim is later paid, the amount so paid shall be covered into the Treasury as miscellaneous receipts. All payments under this section shall be made first out of such fees so long as they are available and thereafter out of funds which are hereby authorized to be appropriated to such account to carry out the provisions of this section.

(d) Finality of determinations; insured losses

All determinations made under this section shall be final. No payment under this section shall be made with respect to any losses covered by any policy of insurance or other provision of law.

(e) Effective date

The provisions of this section shall be effective until October 1, 2003; except that payments may be made under this section only to such extent and in such amounts as are provided in advance in appropriation Acts.

(f) Definitions

For the purposes of this section—

(1) the term "Secretary" means the Secretary of State.

(2) the term "owner" includes any charterer of a commercial fishing vessel.

(Aug. 27, 1954, ch. 1018, § 7, as added Pub. L. 90-482, § 1, Aug. 12, 1968, 82 Stat. 729; amended Pub. L. 92-569, § 4, Oct. 26, 1972, 86 Stat. 1183; Pub. L. 92-594, §§ 1, 2, Oct. 27, 1972, 86 Stat. 1313; Pub. L. 94-273, § 3(17), Apr. 21, 1976, 90 Stat. 377; Pub. L. 95-194, § 1, Nov. 18, 1977, 91 Stat. 1413; Pub. L. 95-376, § 1, Sept. 18, 1978, 92 Stat. 714; Pub. L. 97-68, § 1, Oct. 26, 1981, 95 Stat. 1040; Pub. L. 98-364, title III, § 301, July 17, 1984, 98 Stat. 444; Pub. L. 99-659, title IV, § 408, Nov. 14, 1986, 100 Stat. 3740; Pub. L. 100-151, § 1, Nov. 3, 1987, 101 Stat. 884; Pub. L. 100-350, § 2, June 27, 1988, 102 Stat. 660; Pub. L. 101-627, title III, § 301, Nov. 28, 1990, 104 Stat. 4462; Pub. L. 104-43, title IV, § 403, Nov. 3, 1995, 109 Stat. 390; Pub. L. 106-450, title I, § 102, Nov. 7, 2000, 114 Stat. 1941.)

AMENDMENTS

2000—Subsec. (a)(3). Pub. L. 106-450, § 102(b), substituted "Secretary of Commerce" for "Secretary of the Interior".

Subsec. (e). Pub. L. 106-450, § 102(a), substituted "2003" for "2000".

1995—Subsec. (c). Pub. L. 104-43, § 403(a), struck out after second sentence "The amount fixed by the Secretary shall be predicated upon at least 33½ per centum of the contribution by the Government."

Subsec. (e). Pub. L. 104-43, § 403(b), substituted "October 1, 2000" for "October 1, 1993".

1990—Subsec. (e). Pub. L. 101-627 substituted "October 1, 1993" for "October 1, 1989".

1988—Subsec. (e). Pub. L. 100-350 substituted "October 1, 1989" for "October 1, 1988".

1987—Subsec. (e). Pub. L. 100-151 substituted "October 1, 1988" for "October 1, 1987".

1986—Subsec. (f)(1). Pub. L. 99-659 substituted "Secretary of State" for "Secretary of Commerce".

1984—Subsec. (e). Pub. L. 98-364 substituted "October 1, 1987" for "October 1, 1984".

1981—Subsec. (c). Pub. L. 97-68, § 1(1), inserted provision that fees not currently needed for payments under this section be kept on deposit or invested in obligations of, or guaranteed by, the United States and that all revenues accruing from such deposits or investments be credited to the separate account established in the Treasury of the United States to carry out the provisions of this section.

Subsec. (e). Pub. L. 97-68, § 1(2), substituted "October 1, 1984" for "October 1, 1981".

1978—Subsec. (e). Pub. L. 95-376 substituted "October 1, 1981; except that payments may be made under this section only to such extent and in such amounts as are provided in advance in appropriation Acts" for "October 1, 1978".

1977—Subsec. (e). Pub. L. 95-194 substituted "October 1, 1978" for "October 1, 1977".

1976—Subsec. (e). Pub. L. 94-273 substituted "October" for "July".

1972—Subsec. (c). Pub. L. 92-569 inserted provision that amounts paid subsequent to transfer to the separate account be covered into the Treasury as miscellaneous receipts.

Subsec. (e). Pub. L. 92-594, § 1, extended provisions of this section until July 1, 1977, and struck out provisions relating to issuance of regulations.

Subsec. (f)(1). Pub. L. 92-594, § 2, substituted "Secretary of Commerce" for "Secretary of the Interior".

EFFECTIVE DATE OF 1986 AMENDMENT

Section 408 of Pub. L. 99-659 provided that the amendment made by that section is effective Oct. 1, 1986.

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, 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 section 1975 of this title.

§ 1978. Restriction on importation of fishery or wildlife products from countries which violate international fishery or endangered or threatened species programs

(a) Certification to President

(1) When the Secretary of Commerce determines that nationals of a foreign country, directly or indirectly, are conducting fishing operations in a manner or under circumstances which diminish the effectiveness of an international fishery conservation program, the Secretary of Commerce shall certify such fact to the President.

(2) When the Secretary of Commerce or the Secretary of the Interior finds that nationals of a foreign country, directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species, the Secretary making such finding shall certify such fact to the President.

(3) In administering this subsection, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall—

(A) periodically monitor the activities of foreign nationals that may affect the international programs referred to in paragraphs (1) and (2);

(B) promptly investigate any activity by foreign nationals that, in the opinion of the Secretary, may be cause for certification under paragraph (1) or (2); and

(C) promptly conclude; and reach a decision with respect to; any investigation commenced under subparagraph (B).

(4) Upon receipt of any certification made under paragraph (1) or (2), the President may direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of any products from the offending country for any duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the World Trade Organization (as defined in section 3501(8) of title 19) or the multilateral trade agreements (as defined in section 3501(4) of title 19).

(b) Notification to Congress

Within sixty days following certification by the Secretary of Commerce or the Secretary of the Interior, the President shall notify the Congress of any action taken by him pursuant to such certification. In the event the President fails to direct the Secretary of the Treasury to prohibit the importation of fish products or wildlife products of the offending country, or if such prohibition does not cover all fish products or wildlife products of the offending country, the President shall inform the Congress of the reasons therefor.

(c) Importation of fish products from offending country prohibited

It shall be unlawful for any person subject to the jurisdiction of the United States knowingly

to bring or import into, or cause to be imported into, the United States any products prohibited by the Secretary of the Treasury pursuant to this section.

(d) Periodic review by Secretary of Commerce or Secretary of the Interior; termination of certification; notice

After making a certification to the President under subsection (a) of this section, the Secretary of Commerce or the Secretary of the Interior, as the case may be, shall periodically review the activities of the nationals of the offending country to determine if the reasons for which the certification was made no longer prevail. Upon determining that such reasons no longer prevail, the Secretary concerned shall terminate the certification and publish notice thereof, together with a statement of the facts on which such determination is based, in the Federal Register.

(e) Penalties; forfeiture; customs laws

(1) Any person violating the provisions of this section shall be fined not more than \$10,000 for the first violation, and not more than \$25,000 for each subsequent violation.

(2) All products brought or imported into the United States in violation of this section, or the monetary value thereof, may be forfeited.

(3) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with this section.

(f) Enforcement

(1) Enforcement of the provisions of this section prohibiting the bringing or importation of products into the United States shall be the responsibility of the Secretary of the Treasury.

(2) The judges of the United States district courts, and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and regulations issued thereunder.

(3) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this section.

(4) Such person so authorized shall have the power—

(A) with or without a warrant or other process, to arrest any persons subject to the jurisdiction of the United States committing in his presence or view a violation of this section or the regulations issued thereunder;

(B) with or without a warrant or other process, to search any vessel or other conveyance subject to the jurisdiction of the United States, and, if as a result of such search he has reasonable cause to believe that such vessel or other conveyance or any person on board is engaging in operations in violation of this sec-