

(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; Pub. L. 107-228, div. A, title II, §209, Sept. 30, 2002, 116 Stat. 1365; Pub. L. 108-219, title III, §302, Apr. 13, 2004, 118 Stat. 616.)

AMENDMENTS

2004—Subsec. (e). Pub. L. 108-219 substituted “2008” for “2003”.

2002—Subsec. (a)(3). Pub. L. 107-228 substituted “Secretary of State” for “Secretary of Commerce”.

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

Pub. L. 99-659, title IV, §408, Nov. 14, 1986, 100 Stat. 3740, 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.

§ 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 section or the regulations issued thereunder, then to arrest such person.

(5) Such person so authorized, may seize, whenever and wherever lawfully found, all products brought or imported into the United States in violation of this section or the regulations issued thereunder. Products so seized may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary of the Treasury after consultation with the Secretary of Health and Human Services.

(g) Regulations

The Secretary of the Treasury, the Secretary of Commerce, and the Secretary of the Interior are each authorized to prescribe such regulations as he determines necessary to carry out the provisions of this section.

(h) Definitions

As used in this section—

(1) The term “person” means any individual, partnership, corporation, or association.

(2) The term “United States” means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.

(3) The term “international fishery conservation program” means any ban, restriction, regulation, or other measure in effect pursuant to a bilateral or multilateral agreement which is in force with respect to the United States, the purpose of which is to conserve or protect the living resources of the sea, including marine mammals.

(4) The term “international program for endangered or threatened species” means any ban, restriction, regulation, or other measure in effect pursuant to a multilateral agreement which is in force with respect to the United States, the purpose of which is to protect endangered or threatened species of animals.

(5) The term “taking”, as used with respect to animals to which an international program for endangered or threatened species applies, means to—

(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.

(Aug. 27, 1954, ch. 1018, § 8, as added Pub. L. 92-219, Dec. 23, 1971, 85 Stat. 786; amended Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 95-376, § 2, Sept. 18, 1978, 92 Stat. 714; Pub. L. 96-61, § 3(b), Aug. 15, 1979, 93 Stat. 408; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100-711, § 8, Nov. 23, 1988, 102 Stat. 4772; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 102-582, title II, § 201, Nov. 2, 1992, 106 Stat. 4904; Pub. L. 106-36, title I, § 1002(d), June 25, 1999, 113 Stat. 133.)

AMENDMENTS

1999—Subsec. (a)(4). Pub. L. 106-36 substituted “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)” for “General Agreement on Tariffs and Trade”.

1992—Subsec. (a)(4). Pub. L. 102-582, §201(a)(1), substituted “any products from the offending country for any duration” for “fish products (if the certification is made under paragraph (1)) or wildlife products (if the certification is made under paragraph (2)) from the offending country for such duration”.

Subsecs. (c), (e)(2). Pub. L. 102-582, §201(a)(2), (3), substituted “products” for “fish products or wildlife products”.

Subsec. (f). Pub. L. 102-582, §201(a)(4), substituted “products” for “fish products and wildlife products” in pars. (1) and (5) and “Products” for “Fish products and wildlife products” in par. (5).

Subsec. (h)(2). Pub. L. 102-582, §201(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The term ‘United States’, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, and the United States Virgin Islands.”

Subsec. (h)(3). Pub. L. 102-582, §201(b)(2), inserted “bilateral or” before “multilateral” and “, including marine mammals” before period at end.

Subsec. (h)(4). Pub. L. 102-582, §201(b)(3), (4), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “The term ‘fish products’ means any aquatic species (including marine mammals and plants) and all products thereof exported from an offending country, whether or not taken by fishing vessels of such country, or packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof.”

Subsec. (h)(5). Pub. L. 102-582, §201(b)(5), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “The term ‘taking’ means—

“(A) for purposes of subsection (a)(2) of this section—

“(i) to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or

“(ii) to attempt to engage in any such conduct with respect to,

animals to which an international program for endangered or threatened species applies; and

“(B) for purposes of paragraph (6), any conduct described in subparagraph (A)(i), whether or not such conduct is legal under the laws of the offending country, undertaken with respect to any wild animal.”

Pub. L. 102-582, §201(b)(4), redesignated par. (7) as (5). Former par. (5) redesignated (4).

Subsec. (h)(6). Pub. L. 102-582, §201(b)(3), struck out par. (6) which read as follows: “The term ‘wildlife products’ means fish (other than those to which paragraph (4) applies) and wild animals, and parts (including eggs) thereof, taken within an offending country and all products of any such fish and wild animals, or parts thereof, whether or not such products are packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof. Such term does not include any wild animal or fish if brought or imported into the United States for scientific research.”

Subsec. (h)(7). Pub. L. 102-582, §201(b)(4), redesignated par. (7) as (5).

1988—Subsec. (h)(4). Pub. L. 100-711 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The term ‘fish products’ means fish and marine mammals and all products thereof taken by fishing vessels of an offending country whether or not packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof.”

1979—Subsec. (a)(3), (4). Pub. L. 96-61, §3(b)(1), added par. (3) and redesignated former par. (3) as (4).

Subsecs. (d) to (h). Pub. L. 96-61, §3(b)(2), (3), added subsec. (d) and redesignated subsecs. (d) to (g) as (e) to (h), respectively.

1978—Subsec. (a). Pub. L. 95-376, §2(1), designated existing provisions as par. (1), struck out a provision enabling the President, upon receipt of certification, to direct the Secretary of the Treasury to prohibit importation of fish products of the offending country for as long as he determines appropriate and to the extent such prohibition is sanctioned by the General Agreement on Tariffs and Trade, and added pars. (2) and (3).

Subsec. (b). Pub. L. 95-376, §2(2), inserted “or the Secretary of the Interior” after “Secretary of Commerce” and inserted “or wildlife products” after “fish products” in two places.

Subsec. (c). Pub. L. 95-376, §2(3), inserted “or wildlife products” after “fish products”.

Subsecs. (d)(2), (e)(1). Pub. L. 95-376, §2(4), (5)(A), inserted “and wildlife products” after “fish products”.

Subsec. (e)(4)(B). Pub. L. 95-376, §2(5)(B), inserted “or other conveyance” after “vessel” wherever appearing.

Subsec. (e)(5). Pub. L. 95-376, §2(5)(A), (C), inserted “and wildlife products” after “all fish products”, and substituted “Fish products and wildlife products” for “Any fish products”.

Subsec. (f). Pub. L. 95-376, §2(6), inserted references to the Secretary of Commerce and the Secretary of the Interior.

Subsec. (g)(3). Pub. L. 95-376, §2(7)(A), (B), substituted “in effect” for “in force”, and “which is in force with respect to the United States” for “to which the United States is a signatory party”.

Subsec. (g)(5) to (7). Pub. L. 95-376, §2(7)(C), added pars. (5) to (7).

CHANGE OF NAME

“United States magistrate judges” substituted for “United States magistrates” in subsec. (f)(2) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously “United States magistrates” substituted for “United States commissioners” pursuant to Pub. L. 90-578. See chapter 43 (§631 et seq.) of Title 28.

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (f)(5) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

§ 1979. Fishermen’s Protective Fund

There is created a Fishermen’s Protective Fund which shall be used by the Secretary of State to reimburse owners of vessels for amounts determined and certified by him under section 1973 of this title. The amount of any claim or portion thereof collected by the Secretary of State from any foreign country pursuant to section 1975(a) of this title shall be deposited in the fund and shall be available for the purpose of reimbursing vessel owners under section 1973 of this title; except that if a transfer to the fund was made pursuant to section 1975(b)(1) of this title with respect to any such claim, an amount from the fund equal to the amount so collected shall be covered into the Treasury as miscellaneous receipts. There is authorized to be appropriated to the fund (1) the sum of \$3,000,000 to provide initial capital, and (2) such additional sums as may be necessary from time to time to supplement the fund in order to meet the requirements of the fund.

(Aug. 27, 1954, ch. 1018, §9, as added Pub. L. 92-569, §5, Oct. 26, 1972, 86 Stat. 1183; amended Pub. L. 98-364, title III, §302(c), July 17, 1984, 98 Stat. 444.)

AMENDMENTS

1984—Pub. L. 98-364 substituted “Secretary of State” for “Secretary of the Treasury” and “determined and