

## 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.

### § 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 subsection (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 programed 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 programed 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.

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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 programed 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.

### § 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 income lost as a direct result of such seizure and detention, as determined by the Secretary of State, 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, 2008; 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; 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.)

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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".