

ject 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-364, title III, § 303(c), July 17, 1984, 98 Stat. 445, 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

Pub. L. 96-561, title II, § 238(b), Dec. 22, 1980, 94 Stat. 3300, provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-265, title IV, § 403(b), Apr. 13, 1976, 90 Stat. 360, 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

Pub. L. 92-569, § 6, Oct. 26, 1972, 86 Stat. 1183, 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].”

§ 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 conditions 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 Pro-

tective 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-265, title IV, § 403(b), Apr. 13, 1976, 90 Stat. 360, 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.

§ 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.)

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

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 par-

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