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, 2018; 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.


AMENDMENTS


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

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 33% per centum of the contribution by the Government.”

Subsec. (e). Pub. L. 104–43, § 403(b), substituted “October 1, 2000” for “October 1, 1993”.


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.


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”.


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. 92–569, § 2, substituted “Secretary of Commerce” for “Secretary of the Interior”.

EFFECTIVE DATE OF 1986 AMENDMENT


EFFECTIVE DATE OF 1972 AMENDMENT


§ 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, in consultation with the Secretary of State, 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, in consultation with the Secretary of State, 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.
§ 1978

Secretary of State, 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) The Secretary of Commerce and the Secretary of the Interior shall each report to Congress each certification to the President made by such Secretary under this subsection, within 15 days after making such certification.

(5) 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 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).

(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), the Secretary of Commerce or the Secretary of the Interior, as the case may be, in consultation with the Secretary of State, 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 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.

The term “taking” means to use with respect to animals to which an international program for endangered or threatened species applies, means to—

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

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


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2016—Subsec. (a)(1). Pub. L. 114–231, §501(1)(A), which directed the insertion of “; in consultation with the Secretary of Commerce,” after “Secretary of Commerce,” was executed by making the insertion after “Secretary of Commerce” the first time appearing to reflect the probable intent of Congress.


Subsec. (a)(4), (5). Pub. L. 114–231, §501(1)(D), (E), added par. (4) and redesignated former par. (4) as (5).

Sub. (d). Pub. L. 114–231, §501(2), inserted “in consultation with the Secretary of State,” after “as the case may be.”

1996—Subsec. (a)(4). Pub. L. 104–63 substituted “World Trade Organization (as defined in section 3501(b) of title 19) or the multilateral trade agreements (as defined in section 3501(b) 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) of the offending country for such duration”.


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)(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 ‘products’ means 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, prepared for export in such country or within the jurisdiction thereof.”


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

(i) to harass, harm, pursue, 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.”

Sub. (h)(6). Pub. L. 102–582, §201(b)(6), 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.”


1985—Subsec. (a)(1). Pub. L. 99–61, §3(b)(1), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 96–61, §3(b)(2), (3), added sub. (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 enacting 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”.

Subsec. (e)(2). Pub. L. 102–582, §201(a)(2), (3), substituted “products” for “fish products or wildlife products.”
§ 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 1987 of this title may be made from the fund established by this section with respect to seizure of vessels occurring after Oct. 26, 1972, except that reimbursements under section 1973 of this title may be made from the fund established by this section 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 an Effective Date of 1972 Amendment note under section 1972 of this title.

§ 1980. Compensation for loss or destruction of commercial fishing vessel or gear

(a) Definitions

For purposes of this section—

(1) The terms “fishery”, “fishery conservation zone”, “fishing”, “fishing vessel”, “Secretary”, and “vessel of the United States” shall each have the same respective meaning as is given to such terms in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

(2) The term “fishing gear” means any equipment or appurtenance which is necessary for carrying out fishing operations by a fishing vessel, whether or not such equipment or appurtenance is attached to such vessel.

(3) The term “fund” means the Fishing Vessel and Gear Damage Compensation Fund established under subsection (f).

(4) The term “resulting economic loss” means the gross income, as estimated by the Secretary, that a fishing vessel owner or operator who is eligible for compensation under this section for damage to, loss of, or destruction of a fishing vessel or the fishing gear used with such vessel will lose by reason of not being able to engage in fishing, or having to reduce his fishing effort, during the period before the vessel or gear, or both, are repaired or replaced and available for use.

(b) Causes of loss or destruction

Subject to the provisions of this section, the owner or operator (hereinafter referred to as the “vessel owner”) of any fishing vessel which is a vessel of the United States is eligible for monetary compensation under this section for loss, or destruction of such vessel, or any fishing gear used with such vessel, or both, and for any resulting economic loss, if the damage, loss, or destruction—

(1) in the case of such vessel—

(A) occurs when such vessel is engaged in any fishery subject to the exclusive fishery management authority of the United States under the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.], and

(B) is attributable to any vessel (or its crew or fishing gear) other than a vessel of the United States; or

(2) in the case of such fishing gear—

(A) occurs when such fishing gear is being used for fishing in any fishery subject to such exclusive management authority, and

(B) is attributable to any other vessel, whether or not such vessel is a vessel of the United States.

For purposes of subparagraph (B), there shall be a rebuttable presumption that any damage, loss, or destruction of fishing gear is attributable to another vessel.

(c) Eligibility for compensation

A vessel owner is not eligible for compensation under this section with respect to fishing vessel or fishing gear damage, loss, or destruction and resulting economic loss unless such owner—

1 See References in Text note below.