



THE DEPARTMENT OF THE TREASURY
BUREAU OF CUSTOMS
WASHINGTON, D.C.



JAN 22 1974

REFER TO

VES-7-03:R:CD:C
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Dear Mr. Helfer:

Reference is made to your letter of January 9, 1974, requesting a copy of the documents embodying the decision of the U.S. Customs Service which permits foreign-flag vessels to land their catches of fish in American Samoa notwithstanding the provisions of title 46, section 251, United States Code.

In accordance with your request there are enclosed copies of Marine Circular No. 124, dated June 12, 1953, and Supplement No. 1, dated November 15, 1955. The above circulars are now cited as Custom Circulars: VES-07-MA, dated as above.

Sincerely yours,

(SIGNED) J. P. TEBEAU

J. P. Tebeau
Director
Carriers, Drawback and Bonds Division

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Washington, D.C. 20006

Enclosures

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TREASURY DEPARTMENT

BUREAU OF CUSTOMS

WASHINGTON 25

June 12, 1953

IN REPLY REFER TO
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BUREAU OF CUSTOMS
MARINE CIRCULAR NO. 124

UES-07-MA.

SUBJECT: Inapplicability to Guam and American Samoa of prohibition in section 251, title 46, United States Code, against a foreign-flag vessel engaged in certain fishery operations.

For your information, the following is the pertinent part of the Bureau's reply to an inquiry which included the question whether section 4311, Revised Statutes (46 U.S.C. 251), as amended by the Act of September 2, 1950 (64 Stat. 577), has application to Guam and American Samoa:

You ask whether the Bureau has settled the question of the statute's application to Guam and American Samoa, and, if so, under what authority of law the settlement was determined. The section of law cited prohibits, except as permitted by treaty or convention, a foreign-flag vessel, whether documented as a cargo vessel or otherwise, from landing in a port of the United States its catch of fish taken on board on the high seas or fish products processed therefrom, or any fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish products.

The Act of August 1, 1950 (ch. 512, 64 Stat. 384-393; 48 U.S.C. Supp. V, 1421-1424b.), declaring Guam to be an unincorporated territory of the United States and setting forth its form of government, also states that no law of the United States thereafter enacted shall have any force or effect within Guam unless specifically made applicable by act of the Congress, either by reference to Guam by name or by reference to "possessions." The Act of September 2, 1950 (64 Stat. 577), being a "law of the United States thereafter enacted," has no force or effect within Guam because the act is not specifically made applicable, either by reference to Guam by name or by reference to "possessions."

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American Samoa is an unorganized, unincorporated territory appurtenant to the United States. As such neither American Samoa itself nor any port or place therein is a "port of the United States" within the purview of section 4311 of the Revised Statutes, as amended, unless it can be made to appear that Congress intended otherwise. To this Bureau, it does not so appear.

The Bureau therefore is of the opinion that a foreign-flag vessel is not prohibited by section 4311 of the Revised Statutes, as amended, from landing in Guam or American Samoa its catch of fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products.

Collectors of customs and others concerned should be guided thereby when furnishing information in response to like inquiries.

H. B. Sturtevant
Acting Commissioner of Customs

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November 15, 1955

UES-87-MA

BUREAU OF CUSTOMS
MARINE CIRCULAR NO. 124, SUPPLEMENT NO. 1

SUBJECT: Applicability to certain islands of the United States of prohibition in section 251, title 46, United States Code, against a foreign-flag vessel engaged in certain fishery operations.

In Marine Circular No. 124, you were advised of the Bureau's opinion that section 4311, Revised Statutes (46 U.S.C. 251), as amended by the Act of September 2, 1950 (64 Stat. 577), prohibiting foreign-flag vessels from landing at a port of the United States that has taken or had transhipped on the high seas, was not applicable to Guam and American Samoa.

In response to an inquiry, the Bureau has expressed the opinion that the prohibition does not apply to the ports of Canton Island, Christmas Island, or Palmyra. The Assistant to the Director of the Canal Zone has officially expressed the opinion that the prohibition does not apply to the Canal Zone.

The Bureau is of the opinion that the prohibition does apply to the ports of Hawaii, Puerto Rico, and the Virgin Islands.

(Signed) C. A. EMERICK

Assistant Commissioner of Customs

GEL:cap 10-22-55

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