

pose a surcharge on imports into the United States.

(Pub. L. 93-618, title I, § 122, Jan. 3, 1975, 88 Stat. 1987.)

### § 2133. Compensation authority

#### (a) New concessions

Whenever—

(1) any action taken under part 1 of subchapter II of this chapter or subchapter III of this chapter, or under part 2 of subchapter IV of this chapter; or

(2) any judicial or administrative tariff reclassification that becomes final after August 23, 1988;

increases or imposes any duty or other import restriction, the President—

(A) may enter into trade agreements with foreign countries or instrumentalities for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

(B) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as he determines to be required or appropriate to carry out any such agreement.

#### (b) Reductions in rates of duty

(1) No proclamation shall be made pursuant to subsection (a) of this section decreasing any rate of duty to a rate which is less than 70 percent of the existing rate of duty.

(2) Where the rate of duty in effect at any time is an intermediate stage under section 2902(a) of this title, the proclamation made pursuant to subsection (a) of this section may provide for the reduction of each rate of duty at each such stage proclaimed under such section 2902(a) of this title by not more than 30 percent of such rate of duty, and may provide for a final rate of duty which is not less than 70 percent of the rate of duty proclaimed as the final stage under such section 2902(a) of this title.

(3) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitations provided by paragraphs (1) and (2) of this subsection by not more than the lesser of—

(A) the difference between such limitation and the next lower whole number, or

(B) one-half of 1 percent ad valorem.

(4) Any concessions granted under subsection (a)(1) of this section shall be reduced and terminated according to substantially the same time schedule for reduction applicable to the relevant action under sections 2253(e) and 2254 of this title.

#### (c) Consideration of past violations of trade concessions

Before entering into any trade agreement under this section with any foreign country or instrumentality, the President shall consider whether such country or instrumentality has violated trade concessions of benefit to the United States and such violation has not been adequately offset by the action of the United States or by such country or instrumentality.

#### (d) Basic authority for trade agreements as authority for granting new concessions as compensation

Notwithstanding the provisions of subsection (a) of this section, the authority delegated under section 2902 of this title shall be used for the purpose of granting new concessions as compensation within the meaning of this section until such authority terminates.

#### (e) International obligations determination prerequisite to application of authority

The provisions of this section shall apply by reason of action taken under subchapter III of this chapter only if the President determines that action authorized under this section is necessary or appropriate to meet the international obligations of the United States.

(Pub. L. 93-618, title I, § 123, Jan. 3, 1975, 88 Stat. 1989; Pub. L. 100-418, title I, §§ 1104, 1401(b)(1)(A), Aug. 23, 1988, 102 Stat. 1132, 1239; Pub. L. 106-286, div. A, title I, § 104, Oct. 10, 2000, 114 Stat. 891.)

#### AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106-286 inserted “, or under part 2 of subchapter IV of this chapter” after “subchapter III of this chapter”.

1988—Subsec. (a). Pub. L. 100-418, § 1104(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Whenever any action has been taken under section 2253 of this title to increase or impose any duty or other import restriction, the President—

“(1) may enter into trade agreements with foreign countries or instrumentalities for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

“(2) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as he determines to be required or appropriate to carry out any such agreement.”

Subsec. (b)(2). Pub. L. 100-418, § 1104(2), substituted “section 2902(a)” for “section 2119” and “such section 2902(a)” for “section 2111” in two places.

Subsec. (b)(4). Pub. L. 100-418, § 1401(b)(1)(A), substituted “action under sections 2253(e) and 2254 of this title” for “import relief under section 2253(h) of this title”.

Subsec. (d). Pub. L. 100-418, § 1104(3), substituted “section 2902” for “section 2111”.

Subsec. (e). Pub. L. 100-418, § 1104(4), added subsec. (e).

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1401(b)(1)(A) of Pub. L. 100-418 effective Aug. 23, 1988, and applicable with respect to investigations initiated under part 1 (§ 2251 et seq.) of subchapter III of this chapter on or after that date, see section 1401(c) of Pub. L. 100-418, set out as a note under section 2251 of this title.

### § 2134. Two-year residual authority to negotiate duties

#### (a) Trade agreements

Whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes of this chapter will be promoted thereby, the President—

(1) may enter into trade agreements with foreign countries or instrumentalities thereof, and

(2) may proclaim such modification or continuance of any existing duty, such continuance of existing duty-free or excise treatment, or such additional duties, as he determines to be required or appropriate to carry out any such trade agreement.

**(b) Maximum volume of imported articles subject to reduction of duties or continuance of duty-free or excise treatment**

Agreements entered into under this section in any 1-year period shall not provide for the reduction of duties, or the continuance of duty-free or excise treatment, for articles which account for more than 2 percent of the value of United States imports for the most recent 12-month period for which import statistics are available.

**(c) Maximum reduction in duties**

(1) No proclamation shall be made pursuant to subsection (a) of this section decreasing any rate of duty to a rate which is less than 80 percent of the existing rate of duty.

(2) No proclamation shall be made pursuant to subsection (a) of this section decreasing or increasing any rate of duty to a rate which is lower or higher than the corresponding rate which would have resulted if the maximum authority granted by section 2111 of this title with respect to such article had been exercised.

(3) Where the rate of duty in effect at any time is an intermediate stage under section 2119 of this title, the proclamation made pursuant to subsection (a) of this section may provide for the reduction of each rate of duty at each such stage proclaimed under section 2111 of this title by not more than 20 percent of such rate of duty, and, subject to the limitation in paragraph (2), may provide for a final rate of duty which is not less than 80 percent of the rate of duty proclaimed as the final stage under section 2111 of this title.

(4) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitations provided by paragraphs (1) and (2) of this subsection by not more than the lesser of—

- (A) the difference between such limitation and the next lower whole number, or
- (B) one-half of 1 percent ad valorem.

**(d) Two-year period of authority**

Agreements may be entered into under this section only during the 2-year period which immediately follows the close of the period during which agreements may be entered into under section 2111 of this title.

(Pub. L. 93-618, title I, §124, Jan. 3, 1975, 88 Stat. 1990.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

**§ 2135. Termination and withdrawal authority**

**(a) Grant of authority for termination or withdrawal at end of period specified in agreement**

Every trade agreement entered into under this chapter shall be subject to termination, in whole or in part, or withdrawal, upon due notice, at the end of a period specified in the agreement. Such period shall be not more than 3 years from the date on which the agreement becomes effective. If the agreement is not terminated or withdrawn from at the end of the period so specified, it shall be subject to termination or withdrawal thereafter upon not more than 6 months' notice.

**(b) Authority to terminate proclamations at any time**

The President may at any time terminate, in whole or in part, any proclamation made under this chapter.

**(c) Increased duties or other import restrictions following withdrawal, suspension, or modification of obligations with respect to trade of foreign countries or instrumentalities**

Whenever the United States, acting in pursuance of any of its rights or obligations under any trade agreement entered into pursuant to this chapter, section 1821 of this title, or section 1351 of this title, withdraws, suspends, or modifies any obligation with respect to the trade of any foreign country or instrumentality thereof, the President is authorized to proclaim increased duties or other import restrictions, to the extent, at such times, and for such periods as he deems necessary or appropriate, in order to exercise the rights or fulfill the obligations of the United States. No proclamation shall be made under this subsection increasing any existing duty to a rate more than 50 percent above the rate set forth in rate column numbered 2 of the Tariff Schedules of the United States, as in effect on January 1, 1975, or 20 percent ad valorem above the rate existing on January 1, 1975, whichever is higher.

**(d) Retaliatory authority**

Whenever any foreign country or instrumentality withdraws, suspends, or modifies the application of trade agreement obligations of benefit to the United States without granting adequate compensation therefor, the President, in pursuance of rights granted to the United States under any trade agreement and to the extent necessary to protect United States economic interests (including United States balance of payments), may—

(1) withdraw, suspend, or modify the application of substantially equivalent trade agreement obligations of benefit to such foreign country or instrumentality, and

(2) proclaim under subsection (c) of this section such increased duties or other import restrictions as are appropriate to effect adequate compensation from such foreign country or instrumentality.

**(e) Continuation of duties or other import restrictions after termination of or withdrawal from agreements**

Duties or other import restrictions required or appropriate to carry out any trade agreement