(c) Presidential proclamations liberalizing imports

Whenever the President determines that fundamental international payments problems require special import measures to increase imports—

(1) to deal with large and persistent United States balance-of-trade surpluses, as determined on the basis of the cost-insurance-freight value of imports, as reported by the Bureau of the Census, or

(2) to prevent significant appreciation of the dollar in foreign exchange markets,

the President is authorized to proclaim, for a period of 150 days (unless such period is extended by Act of Congress)—

(A) a temporary reduction (of not more than 5 percent ad valorem) in the rate of duty on any article; and

(B) a temporary increase in the value or quantity of articles which may be imported under any import restriction, or a temporary suspension of any import restriction.

Import liberalizing actions proclaimed pursuant to this subsection shall be of broad and uniform application with respect to product coverage except that the President shall not proclaim measures under this subsection with respect to those articles where in his judgment such action will cause or contribute to material injury to firms or workers in any domestic industry, including agriculture, mining, fishing, or commerce, or to impairment of the national security, or will otherwise be contrary to the national interest.

(d) Nondiscriminatory treatment of import restricting actions

(1) Import restricting actions proclaimed pursuant to subsection (a) of this section shall be applied consistently with the principle of nondiscriminatory treatment. In addition, any quota proclaimed pursuant to subparagraph (B) of subsection (a) of this section shall be applied on a basis which aims at a distribution of trade with the United States approaching as closely as possible that which various foreign countries might have expected to obtain in the absence of such restrictions.

(2) Notwithstanding paragraph (1), if the President determines that the purposes of this section will best be served by action against one or more countries having large or persistent balance-of-payments surpluses, he may exempt all other countries from such action.

(3) After such time when there enters into force for the United States new rules regarding the application of surcharges as part of a reform of internationally agreed balance-of-payments adjustment procedures, the exemption authority contained in paragraph (2) shall be applied consistently with such new international rules.

(4) It is the sense of Congress that the President seek modifications in international agreements aimed at allowing the use of surcharges in place of quantitative restrictions (and providing rules to govern the use of such surcharges) as a balance-of-payments adjustment measure within the context of arrangements for an equitable sharing of balance-of-payments adjustment responsibility among deficit and surplus countries.

(e) Broad and uniform application of import restricting actions

Import restricting actions proclaimed pursuant to subsection (a) of this section shall be of broad and uniform application with respect to product coverage except where the President determines, consistently with the purposes of this section, that certain articles should not be subject to import restricting actions because of the needs of the United States economy. Such exceptions shall be limited to the unavailability of domestic supply at reasonable prices, the necessary importation of raw materials, avoiding serious dislocations in the supply of imported goods, and other similar factors. In addition, uniform exceptions may be made where import restricting actions will be unnecessary or ineffective in carrying out the purposes of this section, such as with respect to articles already subject to import restrictions, goods in transit, or goods under binding contract. Neither the authorization of import restricting actions nor the determination of exceptions with respect to product coverage shall be made for the purpose of protecting individual domestic industries from import competition.

(f) Quantitative limitations

Any quantitative limitation proclaimed pursuant to subparagraph (B) or (C) of subsection (a) of this section on the quantity or value, or both, of an article—

(1) shall permit the importation of a quantity or value which is not less than the quantity or value of such article imported into the United States from the foreign countries to which such limitation applies during the most recent period which the President determines is representative of imports of such article, and

(2) shall take into account any increase since the end of such representative period in domestic consumption of such article and like or similar articles of domestic manufacture or production.

(g) Suspension, modification, or termination of proclamations

The President may at any time, consistent with the provisions of this section, suspend, modify, or terminate, in whole or in part, any proclamation under this section either during the initial 150-day period of effectiveness or as extended by subsequent Act of Congress.

(h) Termination of tariff concessions

No provision of law authorizing the termination of tariff concessions shall be used to impose 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