

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 or subchapter III, 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) 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) 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) 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), 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 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