

(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

(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) 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) 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) 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) 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

entered into pursuant to this chapter, section 1821 of this title, or section 1351 of this title shall not be affected by any termination, in whole or in part, of such agreement or by the withdrawal of the United States from such agreement and shall remain in effect after the date of such termination or withdrawal for 1 year, unless the President by proclamation provides that such rates shall be restored to the level at which they would be but for the agreement. Within 60 days after the date of any such termination or withdrawal, the President shall transmit to the Congress his recommendations as to the appropriate rates of duty for all articles which were affected by the termination or withdrawal or would have been so affected but for the preceding sentence.

(f) Public hearings

Before taking any action pursuant to subsection (b), (c), or (d), the President shall provide for a public hearing during the course of which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard, unless he determines that such prior hearings will be contrary to the national interest because of the need for expeditious action, in which case he shall provide for a public hearing promptly after such action.

(Pub. L. 93-618, title I, § 125, Jan. 3, 1975, 88 Stat. 1991.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), (e), 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.

The Tariff Schedules of the United States, referred to in subsec. (c), to be treated as a reference to the Harmonized Tariff Schedule pursuant to section 3012 of this title. The Harmonized Tariff Schedule is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

AUTHORITY TO INCREASE DUTIES ON IMPORTS OF CERTAIN TOBACCO AND TOBACCO PRODUCTS

Pub. L. 103-465, title IV, § 421, Dec. 8, 1994, 108 Stat. 4964, provided that:

"(a) IN GENERAL.—In the application of section 125(c) of the Trade Act of 1974 (19 U.S.C. 2135) with respect to any item provided for in subheadings 2401.10.60, 2401.20.30, 2401.20.80, 2401.30.30, 2401.30.60, 2401.30.90, 2403.10.00, 2403.91.40, or 2403.99.00 of the HTS, '350' shall be substituted for '20' where it appears in such section.

"(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Dec. 8, 1994]."

TARIFF REDUCTIONS UNDER TRADE AGREEMENTS ACT OF 1979

Pub. L. 96-39, title V, § 502(b), July 26, 1979, 93 Stat. 251, provided that: "For purposes of section 125 (19 U.S.C. 2135) of the Trade Act of 1974 the amendments made under sections 508, 511, 512, and 513 [amending items 135.41, 135.42, 750.26, 750.27, 750.28, 870.45, 905.10, and 905.11 of the Tariff Schedules of the United States. See Publication of Tariff Schedules note under section 1202 of this title] not including the rates of duty appearing in rate column numbered 2, if any, shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 [this chapter], of benefit to foreign countries or instrumentalities."

Pub. L. 96-39, title VI, § 601(b), July 26, 1979, 93 Stat. 268, provided that: "For purposes of section 125 of the