

Dear Ann,

### Re. Challenging IEEPA Tariffs at the Court of International Trade (CIT)

No tariffs are provided for in the IEEPA, as is plain upon reading its provisions. That legal determination is not difficult given the US Constitution, Statutory law and Statutory interpretation. No value judgements are required on that determinative question of law.

Other than a Declaration of National Emergency being a prerequisite for any IEEPA action, existence of an "emergency" is irrelevant to any IEEPA tariffs' illegality.

Additional information can be provided to any interested persons.

A US Trade Lawyer very experienced with the CIT is prepared to file at the CIT

- a Complaint seeking return of IEEPA duties assessed without legal authority and
- an Expedited Application for Preliminary Injunction (PI) suspending such tariffs, on behalf of a US importer (resident or nonresident). Costs, including Appeals, up to filing the Trial Brief would be US\$250,000 or less.

Many law firms are now reluctant to challenge Trump given his recent oppression of law firms.

Time is of the essence. An important legal issue now is substantiating there would be "irreparable harm",

so as to get the Injunction in addition to eventually overturning all IEEPA tariffs by way of the CIT trial process and appeals therefrom. The direct monetary cost of the tariffs is generally considered not to constitute irreparable harm.

If SCOTUS upholds a PI, a highly probable result based on recent decisions, **IEEPA tariffs could be suspended starting as early as 6-7 weeks after the CIT Complaint** and Motion for PI are filed.

Such **suspension of illegal IEEPA tariffs** is estimated to **last at least 3 1/2 months** after CIT filings:

- If a CIT Trial Brief, etc. is filed thereafter, it **would remain illegal to assess/collect IEEPA tariffs** until a final contrary court decision was eventually reached on the merits of the Complaint.
- That could take between **1.5 - 4 years** depending on how long it took for the courts to rule and whether SCOTUS agrees to hear an appeal from the Federal Circuit Court of Appeal. Additional legal costs would arise.

Please note:

- Only re. IEEPA tariffs is there an opportunity to quickly gain a US court decision quashing a Trump tariff.
- A Wall Street Journal Editorial Board Opinion Mar. 6 called IEEPA tariffs illegal and said Trump should be sued, attached.
- The Apr. 3 Senate Resolution to remove IEEPA tariffs against Canada can't be compelled to be taken up in the House, and so become law, because the House passed a Rule that all upcoming days are only 1 day..
- The House is trying to pass a Measure that would prohibit Federal Judges (e.g. CIT judges) from issuing a nationally applicable PI and compel limiting its effect to only the Applicant in the case. This would horribly handicap efforts to maintain/protect the rule of law.

**Candidates for fighting IEEPA tariffs as above,**  
if their circumstances substantiate "irreparable harm"  
include importers having paid or that will pay IEEPA tariffs:

- 1) effective Mar. 4 (Fentanyl tariffs) on Canadian or Mexican non-USMCA origin goods, generally 25%.

Concerning irreparable harm:

- a. Such IEEPA tariffs have been in place a while now so circumstances invite a DOJ argument, "It's been this long, what's the big rush now to get an Injunction?"
  - b. However, the importer may have only recently discovered:
    - i. IEEPA tariffs are illegal,
    - ii. customer(s) will/could be lost,
    - iii. staff will/could be let go,
    - iv. research/development must be foregone if IEEPA tariffs persist,
    - v. it must begin importing goods subject to IEEPA tariffs,
    - vi. etc..
- 2) on China goods, 10% Feb. 4, 20% Mar. 4.  
Concerning irreparable harm, see 1) a. and b. above.
  - 3) announced Apr. 2, (Reciprocal tariffs), 10% initially on Apr. 5, rising Apr. 9 for many countries' goods

Concerning irreparable harm:

- a. Such IEEPA tariffs being new, are not subject to the 1) a. DOJ argument.
- b. The importer's circumstances may include:
  - i. customer(s) will/could be lost,
  - ii. staff will/could be let go,
  - iii. research/development must be foregone if IEEPA tariffs persist,
  - iv. etc..

Importers having paid IEEPA tariffs on Canada and Mexico USMCA originating goods, Mar. 4 to Mar. 7, are not likely to obtain a PI due to absence of irreparable harm.

Best regards,

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