



Tariffs and Legal Challenge Updates

Last Thursday, May 29th, the DTA issued an alert, calling to its members' attention a court decision issued by the U.S Court of International Trade ("CIT") that permanently enjoined all tariffs imposed by President Trump using the International Emergency Economic Powers Act (IEEPA). **Since then, the following events have occurred.**

- **The CIT decision was immediately and temporarily "stayed"** by the US Court of Appeals for the Federal Circuit while the parties brief the court on whether the stay should be extended to cover the entire period of the appeal. A decision on the stay extension request is expected by the middle of June. **Because a stay is now in place (perhaps only temporarily), the IEEPA-based duties remain in effect and are being assessed and collected on imports currently being entered.**
- **A second court, the US District Court for the District of Columbia, issued a preliminary injunction** against the continued assessment and collection of IEEPA duties on goods imported by the two named plaintiffs in that case. **The DC District Court preliminarily determined that the President likely exceeded his authority by using the IEEPA to impose customs duties**, finding that the likelihood of the plaintiffs' ultimate success in the lawsuit warranted a preliminary injunction to protect the two plaintiffs from irreparable harm that the court determined would befall them. Then the DC District court stayed its preliminary injunction for fourteen days to allow the government time to seek an immediate appeal at the US Court of Appeals for the DC Circuit.
- The DC District Court decision only impacts the two-named plaintiffs in its case, unlike the CIT case which covered all importers. But both decisions rejected the use of the IEEPA by the President to impose these tariffs. The two decisions from the different courts, however, **present a vexing jurisdictional issue** as to which courts – the CIT or the various US district courts – have authority to hear these and similar cases. This issue will impact how importers position themselves to avoid future duty assessments or claim refunds of IEEPA-based duties previously paid. Look for the US Supreme Court to hear one or both cases after the appeals courts have spoken on the issues.
- Late Friday, **a class action-based lawsuit was filed at the CIT**, seeking certification to represent all importers in IEEPA duty refund claims. Historically the

DENTAL TRADE ALLIANCE



CIT has shied away from certifying class actions, but it does have authority to do so. A decision on certification is forthcoming.

- Also last Friday, President Trump stated his intent to **raise the existing section 232 duties being assessed on steel and aluminum from 25% to 50%**, effective June 4, 2025. No official action has been taken yet to formalize this increase.
- And also last Friday, President Trump announced on social media his belief that **China had violated the agreement** reached between the US and China in Geneva this past mid-May. This agreement resulted in President Trump reducing the reciprocal tariff being assessed against Chinese origin goods from 125% to 10%. **No details or plans of retaliation were set out in the social media post but this issue bears watching.**

Any questions can be directed to Rick Van Arnam, the Dental Trade Alliance's regulatory affairs counsel, at rvanarnam@barnesrichardson.com.

DENTAL TRADE ALLIANCE

4350 N. Fairfax Drive, Suite 650, Arlington, VA 22203 | 703.379.7755 | dentaltradealliance.org