

Imperial Tobacco Granted Temporary US Asset Protection

By Rick Archer

Law360 (March 26, 2019, 8:19 PM EDT) -- A New York bankruptcy judge has granted Imperial Tobacco Canada Ltd. temporary protection for its U.S. assets until Canadian restructuring proceedings launched this month in the wake of an \$11 billion tobacco suit judgment are formally recognized in the U.S.

In an order issued Monday, U.S. Bankruptcy Judge Shelley Chapman granted a preliminary injunction to the court-appointed restructuring monitor for ITC, who said the company will be unable to operate if its tobacco shipments through the U.S. are left vulnerable to seizure by creditors.

In the motion, the monitor said most of ITC's tobacco shipments are routed through the U.S. and it has "substantial" amounts of inventory in U.S. warehouses.

"Any attempt to freeze, seize, or otherwise control the debtor's products at any point in the distribution system would cripple the debtor's business or even bring the debtor's business to an abrupt halt," it said.

On March 13, the monitor asked Judge Chapman for both Chapter 15 recognition of ITC's Canadian bankruptcy and an injunction shielding its assets in the U.S. from seizure until the recognition is extended.

In early March, the Quebec Court of Appeals largely upheld a lower court's 2015 ruling that ITC — a Canadian subsidiary of British American Tobacco PLC — JTI-Macdonald Corp., and a third company, a subsidiary of Philip Morris International, were on the hook for about CA\$15.6 billion (\$11.27 billion) plus interest to Quebecois smokers and former smokers who developed a smoking-related disease or addiction.

JTI-Macdonald — a subsidiary of Japan Tobacco Inc. — was granted bankruptcy protection March 8.

ITC's restructuring monitor put the company's share of the judgment with interest at about CA\$9.1 billion (\$6.8 billion).

The monitor said this was one of more than 20 tobacco litigation claims that have been filed in Canada against ITC and other major tobacco distributors — including suits for medical costs by all 10 provincial governments — seeking more than CA\$330 billion (\$248 billion) in damages.

On March 12, the Ontario Superior Court of Justice granted ITC protection under the Companies' Creditors Arrangement Act after the company said it is facing legal liabilities exceeding its assets by "many orders of magnitude."

Counsel for ITC did not immediately respond to requests for comment Tuesday.

The restructuring monitor is represented by Jennifer Feldsher and Mark E. Dendinger of Bracewell LLP.

The case is In re: Imperial Tobacco Canada Ltd., case number 19-10771, in the U.S. Bankruptcy Court for the Southern District of New York.

--Editing by Jay Jackson Jr.