

## Vitamin C Antitrust Judgment Overturned

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A recent [ruling](#) of United States Court of Appeals for the Second Circuit in an antitrust case has posed challenges for plaintiffs in current and future cases.

This appeal arises from a multi-district antitrust class action brought against defendants Hebei Welcome Pharmaceutical and North China Pharmaceutical Group Corporation, entities incorporated under the laws of China. Plaintiffs, Animal Science Products and The Ranis Company, both United States vitamin C purchasers, allege that the defendants conspired to fix the price and supply of vitamin C sold to U.S. companies on the international market in violation of the Sherman Act and the Clayton Act. The appeal followed the district court's denial of the defendants' initial motion to dismiss, a subsequent denial of summary judgment, and after a jury trial, entry of judgment awarding the plaintiffs approximately \$147 million in damages and enjoining the defendants from engaging in future anti-competitive behavior. This case raises issues of what laws and standards should control when U.S. antitrust laws are violated by foreign companies that claim to be acting at the express direction or mandate of a foreign government.

The defendants argued that they acted pursuant to Chinese regulations regarding vitamin C export pricing and were required by the Chinese government, specifically the Ministry of Commerce, to coordinate prices and create a supply shortage. The Ministry of Commerce [filed](#) an *amicus curiae* brief in support of the defendants, which is the first time any entity of the Chinese Government has appeared *amicus curiae* before any U.S. court.

The Second Circuit [deferred](#) to the official statements of the Ministry of Commerce on interpretation of relevant Chinese laws and regulations, and concluded that Chinese law required the defendants to engage in activities in China that constituted antitrust violations in the United States. The Second Circuit found that there was a true conflict between the applicable laws of China and the United States, and that the defendants could not comply with both U.S. antitrust laws and Chinese laws regulating the foreign export of vitamin C.

While it was reasonably foreseeable that China's vitamin C policies would generally have a negative effect on the plaintiffs as participants in the international market for vitamin C, the Second Circuit noted that there is no evidence that the defendants' antitrust activities were specifically directed at plaintiffs or other U.S. companies. The Second Circuit ultimately concluded that the conflict in the defendants' legal obligations, balanced with other factors, mandated dismissal of the suit on international comity grounds.