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Vitamin C Price Fixing

A former Chinese official testifying for vitamin C exporters sued by U.S. companies said they had no choice but to follow China's rules and thus can't be blamed for price-fixing in the \$500 million market.

Qiao Haili, a retired Ministry of Commerce official who oversaw the vitamin C companies, testified yesterday in federal court in Brooklyn, New York. A key witness for the defense, he told jurors vitamin C makers were required by the Chinese government to adhere to agreed-upon pricing and volume restrictions.

Hong Kong-based China Pharmaceutical Group Ltd. (1093), its Weisheng Pharmaceutical unit, North China Pharmaceutical (600812) Co., and its Hebei, China-based unit Hebei Welcome Pharmaceutical Co. are accused of fixing prices for bulk vitamin C sold in the U.S.

Speaking through a translator, Qiao testified that the agency where he worked would "convene meetings, discuss export pricing and prevent malicious competition in order to protect the healthy

China Updates is a service provided by U.S.-China Health Products Association. The Newsletters are issued approximately three times a month. China Updates provides news on regulatory environment, new legislation, association activities and any information related to China's natural health products industry.



development” of vitamin C manufacturers in China.

Qiao told jurors that he instructed the defendants to form a subcommittee for the purpose of conducting the industry coordination of vitamin C exports.

‘Strictly Implement’

“Defendants were required to strictly implement industry coordination measures under the chamber’s supervision, with penalties imposed for any attempts at circumvention,” lawyers for the defendants said in court documents.

Animal Science Products Inc., a livestock-supplement firm based in Nacogdoches, Texas, and Ranis Co., a food company based in Elizabeth, New Jersey, filed complaints in 2005 accusing the Chinese companies of conspiring to inflate prices for bulk vitamin C.

U.S. bulk vitamin C buyers alleged the Chinese companies acted voluntarily, abusing their dominance over the global market from at least late 2001 through mid-2006.

Together, the firms supplied about 80 percent of the vitamin C in the U.S., William Isaacson, a lawyer for the plaintiffs, said in his opening statement last month. Prices rose to as much as \$15 a kilogram (\$6.82 a pound) in April 2003 from about \$2.50 a kilogram in December 2001 as a result of the alleged conspiracy, the plaintiffs said. The scheme cost U.S. businesses \$54.1 million in damages, Isaacson said.

State Action

Initially, Aland Jiangsu Nutraceutical Co. and Shenyang, China-based Northeast Pharmaceutical Group (000597) Co. were also accused of participating in the scheme. Those companies settled with plaintiffs before the trial.

State action isn’t an unusual defense in antitrust cases targeting foreign companies, said Jeffrey S. Jacobovitz, an antitrust lawyer at Arnall Golden Gregory LLP who isn’t involved in the case.

However, when the foreign government is accused of direct involvement, “it changes the nature of the litigation,” he said in a phone interview. “The political overtones are important to the extent that the government probably will not be pleased to be accused of facilitating antitrust violation.”

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Qiao’s testimony marks the first time a former Chinese official has testified in a U.S. court, according to lawyers in the case.

Qiao formerly served in the Ministry of Commerce as an official at the China Chamber of Commerce of Medicines and Health Products Importers & Exporters and specifically oversaw vitamin C export regulation, according to court papers.

Export Regulator

Prior to his career as a vitamin C export regulator, Qiao spent 21 years in the Chinese army and received a college degree in Chinese literature, according to the papers.

He joined China’s commerce ministry, formerly the Ministry of Foreign Trade and Economic Cooperation, in 1992 and retired in 2011, according to court filings.

U.S. District Judge Brian M. Cogan allowed Qiao to take the stand, setting aside plaintiffs’ objections that, according to a brief filed in November, he would exceed “the bounds of proper lay witness testimony” by describing Chinese legal matters.

In a September 2011 ruling, Cogan found that the Chinese government didn’t necessarily compel price-fixing by the companies after policy changes in 2002. Around that time, China told the U.S. and the World Trade Organization that it had given up export administration of the nutrient, according to Cogan’s order.



‘Self-Disciplinary’ Organization

A new charter in 2002 described the subcommittee as “a self-disciplinary industry organization jointly established on a voluntary basis,” according to the ruling.

Cogan noted in his order that he disagreed with an interpretation of Chinese law submitted to the court by the ministry, which said in a 2009 filing that vitamin C makers were subject to a “system of self-discipline.”

“Self-discipline does not mean complete voluntariness or self-conduct,” the Ministry said in the filing. “Under this regulatory system, the parties involved consult with each other to reach consensus on coordinated activities for the purpose of reaching the objectives and serving the interest as set forth under Chinese laws and policies.”

The case is *In re Vitamin C Antitrust Litigation*, 1:06- md-01738, U.S. District Court, Eastern District of New York (Brooklyn). (Source: *Bloomberg*)

China to Re-organize its Food Safety Supervision

More details have emerged about the new central government agency to be responsible for the regulation of food and drug safety as part of restructuring to be approved during the annual meeting of the National People's Congress.

The reorganization plan will see departments in charge of food safety from various government agencies integrated with the State Food and Drug Administration (SFDA) to create a single safety agency avoid overlaps and blind spots, a source familiar with the plan said.

The executive office of the State Council's Food Safety Commission, the State Administration for Industry and Commerce's food market regulation department and the General Administration of Quality Supervision, Inspection and Quarantine's food production regulation department would be detached from their original agencies and integrated into the new SFDA.

The Food Safety Commission, headed by premier-in-waiting Li Keqiang , two other deputy premiers and a dozen ministerial-level officials, will remain separate. It was established in 2010 as a high-level coordination body to make food safety operations run more smoothly.

The new agency will be upgraded to ministerial level, directly under the cabinet, and is expected to be headed by SFDA chief Yin Li, the source said.

The government restructuring will give three agencies control of food safety regulation. The new SFDA will be in charge of regulating food production, with the Ministry of Agriculture overseeing primary production and the Ministry of Health in charge of establishing food safety standards and risk evaluation.

Thirteen government agencies are currently involved in four aspects of food safety, with the health authorities in charge of co-ordination, the quality inspection authorities in charge of production, the industry and commerce authorities in charge of food distribution and the SFDA in charge of restaurant food. Food safety experts have complained that the system has created many loopholes for agencies to shun their responsibilities, as in the melamine-tainted-milk scandal in 2008 in which at least six children died and 300,000 fell ill with kidney problems.

Milk collection stations were blamed for adding the industrial chemical to raw milk to pass protein tests, but the Ministry of Agriculture and the General Administration of Quality Supervision, Inspection and Quarantine both tried to avoid responsibility because the boundary between their jurisdictions was not clear-cut.

Professor He Jiguo, director of the college of food science and nutritional engineering at China Agricultural University, said it was unrealistic to count on the new agency to solve all the mainland's food safety problems. *(Source: South China Morning Post)*

Atrium Announces JV in China

Atrium Innovations Inc. announced that it has entered into a joint venture contract with Fosun Industrial, incorporated in Hong Kong, wholly owned of Shanghai-based Fosun Pharma for the purposes of distributing Atrium brands in China.

According to IMS Health Incorporated, Fosun Pharma is one of the top five domestic pharmaceutical companies in the People's Republic of China ("PRC"), by revenue, in the pharmaceutical manufacturing segment.

The new joint venture will operate under the FOSIUM Innovations name.

FOSIUM Innovations will initially import, market and sell Pure Encapsulations® products in the Chinese mainland market. The products will continue to be manufactured in the United States. Other existing Atrium brands will subsequently be introduced. Atrium will make an initial investment in the joint venture of \$1 million, for a participation of 49%.

"China has been a market of interest for Atrium for several years. We have considered many entry scenarios in light of the complexity associated with product registration and the particularity of distribution channels. Our joint venture with Fosun Pharma will provide needed local expertise and access to a wide range of distribution channels. Although we expect some revenues in 2013, our investment in this new market should be viewed as a long-term commitment where we believe we can distribute other brands of our portfolio," said Pierre Fitzgibbon, President and CEO of Atrium Innovations. *(Source: Atrium)*

Anhui Governor to be New Health Minister

Anhui governor Ms. Li Bin, the only female governor on the mainland, has become the frontrunner to succeed Dr Chen Zhu as health minister, sources say.

Li's appointment would accompany a bigger role for the health ministry with a government restructuring plan expected to be approved during the annual session of the National People's Congress, a source close to the matter said.

The source said the National Population and Family Planning Commission would be scrapped and integrated into other agencies. After the abandonment of a plan to integrate the whole commission into the health ministry, its family planning section would merge with the ministry of health and its population section would go to the National Development and Reform Commission.



A senior health official said yesterday the next health chief would be a woman.

Shanghai vice-mayor Shen Xiaoming , a renowned paediatrician and a former president of Shanghai's top-level Xinhua Hospital, had also once been considered for the post of health minister, sources said.

The ministry's party secretary, vice-minister Zhang Mao , is expected to head the State Administration of Industry and Commerce, with another vice-minister, Yin Li, a contender to head the upgraded State Food and Drug Administration, which will be detached from the Ministry of Health and become a ministry-level agency after integrating with other government agencies.

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Chen, who was elected chairman of the Chinese Peasants and Workers Democratic Party in December, is expected to become a "state leader" as a vice-chairman of the National People's Congress, filling a vacancy left by the party's former chairman, Sang Guowei.

A haematologist by training and an academician of the Chinese Academy of Science, Chen is expected to still play a big role in the mainland's medical sector. His party, founded in Shanghai in 1930, is mainly made up of intellectuals in the fields of medicine, health, population policy and the environment.

Li, 58, was appointed governor of Anhui only a year ago after spending more than four years at the National Population and Family Planning Commission, first as a deputy minister and then as its minister.

She has a doctorate in economics from Jilin University and has spent most of her political career in Jilin province, where she was in charge of civil affairs, health, population and family planning for six years as deputy governor before being promoted to Beijing.

She started out as a teacher at the Changchun Institute of Education and then a junior party official in charge of propaganda in Changchun .

Her first provincial-level post came in 1994, serving as deputy director of Jilin's planning commission for four years, followed by four years in charge of the province's economic reforms. *(Source: China Daily)*

Shoppers Becoming More Sophisticated

Chinese shoppers have become far smarter than their Western counterparts at checking product information online before taking the plunge, according to a new report from the global consulting firm Accenture.

The study, which garnered opinions from more than 500 people across the country, said the proportion of respondents doing research online topped 90 percent, which Fabio Vacirca, global managing director of consumer goods and services of Accenture, said was one of the highest worldwide.



Social media, such as the Twitter-like Sina Weibo, played an increasingly critical role with the same percentage of Chinese people using micro blogs to learn about products or service delivery — also, one of the highest figures of any country covered in the survey.

China's 600 million Internet users mean it is the world's biggest online shopping hub.

About 74 percent of the respondents were found to trust the comments they found on social media sites about companies, posted by people they know, compared to 68 percent in 2011.

"On digital media, you have a tsunami of information. In the digital world, there is a third element, the influencer, added to the two elements of shoppers and consumers that companies used to watch closely in a traditional model.

"A teenager can be influenced easily by the people in their group. This is growing at a fast speed, on a huge scale in China," said Vacirca.

"On one side, you have new consumers coming from rural China to urban China who are becoming first-time users of branded goods.

"But at the same time, you have consumers who are the first generation of Internet users," Vacirca added.

"With social media, they talk and comment on brands. Therefore, branded goods companies have to capture consumers from rural China and an already very digitalized group of consumers at the same time.

"With the two overlapping, this market is very powerful," he said.

Some brands from all over the world, including China, are now just basing their campaigns on the influence of social networks, which are proving more effective in some cases, and almost always cheaper in terms of marketing, Vacirca added.

Accenture's report also said that China's urbanization process is playing a huge part in influencing how people shop.

The report estimated that as approximately 13 million people in China move to different cities each year, online shopping and research are opening up areas of China not previously available to retailers.

"Consumers from rural China are not used to buying any branded goods. But they are exposed to branded goods for the first time, and if you have a good product, households become loyal to that brand," said Vacirca.

China is not yet considered a consumption economy.

The contribution of household consumption to China's GDP was just 38.8 percent in 2010, compared to the 71 percent in the United States and 50 to 60 percent in most European and other BRICS countries.

A report of the 18th National Congress of the Communist Party of China in November said that domestic consumption should account for 45 percent of GDP by 2020.

In the Government Work Report delivered on Tuesday, Premier Wen Jiabao reiterated that boosting domestic consumption is "a long-term strategy for economic development", adding that "to expand individual consumption, we should enhance people's ability to consume, keep consumption expectations stable, boost the desire to consume, improve the consumption environment and make economic growth



China's Expanding Waistlines

After 20 years of the country's rapid economic growth, the most frequently overheard sentence at a school reunion for China's middle-aged people may be: "You've got bigger!" The proportion of people in the country who are overweight or obese has risen from 25% in 2002 to 38.5% in 2010, statistics from the World Health Organization reveal.

The figure is expected to rise to 50%-57% by 2015, the WHO estimates, according to our sister paper Want Daily.

The average waistline of men in China in 1985 was 26 inches but is now almost 30 inches, meaning Chinese men have become 15% fatter on average, according to *Fat China*, a book by Paul French and Matthew Crabbe. Most people with weight problems are between the ages of 40 and 50.

Meanwhile, average chest measurements of women in China have gone up by 0.4 inches over the past decade, says the Beijing Institute of Fashion Technology.

"Chinese people's waistlines are growing faster than the country's GDP," noted state newswire Xinhua in a rare display of humor. Obesity was almost unheard of in China in times past, but now 40% of the country's population has a weight problem, a survey conducted in 2010 indicated.

What has made China fat? Most people with weight problems reportedly come from urban areas, where westernized eating habits, city life and a lack of exercise, even time spent with mobile phones and computers have been cited as causes. The increasing proportion of car ownership is also seen as a reason. One survey indicates that people spent an average of 3.8 hours a day sitting in cars in 2007 and the rising traffic congestion that has plagued China's major cities saw this figure rise to 4.8 hours by 2010. (*Source: www.wantchinatimes.com*)

Expo West Wrap Up



Another Expo West / Engredea has come and gone. Let the plans begin for next year! As a mobile unit, I bounced around the show from meeting to meeting and I have to say the show never fails to impress. It will be interesting to see the final figures on attendance. By my estimate, it was certainly larger than last year.

The association had a very productive show meeting lots of new potential members, visiting with current members and getting confirmations from three new companies to join up and support the association's endeavors in China.

Together with Charlie Rast from the US Department of Commerce, the association gave a presentation on China's dietary supplement industry sponsored by New Hope's Engredea. The presentation was well attended filling the Grand Salon at the Marriott. This is a testament to the growing interest and need for "on the ground" intelligence on China's expanding natural health product industry.

On behalf of the association, I'd like to give special thanks to Len Monheit, Nora Simmons and team over at Engredea for inviting us and doing a wonderful job making all the arrangements. *(Source: Jeff Crowther)*

If you have China related news that you would like to share with the association for publication in its newsletter please contact us at:

news@uschinahpa.org

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