

# Supreme Court Revives Price-Fixing Case Against Chinese Vitamin C Makers

**Justices unanimously rule lower court was too deferential to Chinese government**



*The Supreme Court, in an opinion by Justice Ruth Bader Ginsburg, ruled unanimously that an appeals court was wrong to take a hands-off approach in a vitamin price-fixing case.*

By Brent Kendall

**WASHINGTON—**The Supreme Court revived a price-fixing case against Chinese vitamin C makers Thursday, ruling a lower court was too deferential to arguments by the Chinese government in defense of its companies.

The case raised delicate political, economic and legal questions, and pitted the Trump administration against China.

The litigation dates to 2005, when vitamin C purchasers, including a Texas animal-feed company and a New Jersey vitamin distributor, alleged that Chinese vitamin manufacturers conspired to fix prices and supplies in the U.S.

Instead of denying the allegations, the Chinese companies, Hebei Welcome Pharmaceutical Co. and an affiliated company, North China Pharmaceutical Group Corp. , said their conduct was mandated by Chinese regulations on export pricing.

China's Ministry of Commerce, in an unprecedented move, participated in the U.S. case, supporting the companies' position.

A Brooklyn, N.Y., judge imposed about \$150 million in damages, saying China's characterization of its own laws in litigation was contradicted by other evidence. An appeals court, however, threw out the award in 2016, saying the courts needed to defer **to China's interpretation of its own laws.**

The Supreme Court, in an opinion by Justice Ruth Bader Ginsburg, ruled unanimously Thursday that the appeals court was wrong to take such a hands-off approach.

**"A federal court should accord respectful consideration to a foreign government's submission, but is not bound to accord conclusive effect to the foreign government's statements," Justice Ginsburg wrote.**

The justices sent the case back to lower courts for further consideration.

The Justice Department argued against China in the case, saying courts shouldn't be so rigid in deferring to the Chinese position.

Michael Gottlieb, a lawyer for the plaintiffs who sued the Chinese companies, said the decision "will promote free and open markets, while protecting the independence of the U.S. courts."

Jonathan Jacobson, a lawyer representing the Chinese firms, called the ruling disappointing, but said he was confident his clients would prevail in future lower court proceedings.