SUPREME COURT OF THE UNITED STATES

Syllabus

ANIMAL SCIENCE PRODUCTS, INC., ET AL. *v.* HEBEI WELCOME PHARMACEUTICAL CO. LTD. ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 16–1220. Argued April 24, 2018—Decided June 14, 2018

Petitioners, U.S.-based purchasers of vitamin C (U.S. purchasers), filed a class-action suit, alleging that four Chinese corporations that manufacture and export the nutrient (Chinese sellers), including the two respondents here, had agreed to fix the price and quantity of vitamin C exported to the United States, in violation of §1 of the Sher-man Act. The Chinese sellers moved to dismiss the complaint on the ground that Chinese law required them to fix the price and quantity of vitamin C exports, thus shielding them from liability under U. S. antitrust law. The Ministry of Commerce of the People's Republic of China (Ministry) filed an *amicus* brief in support of the motion, explaining that it is the administrative authority authorized to regulate foreign trade, and stating that the alleged conspiracy in restraint of trade was actually a pricing regime mandated by the Chinese Government. The U. S. purchasers countered that the Ministry had identified no law or regulation ordering the Chinese sellers' price agreement, highlighted a publication announcing that the Chinese sellers had agreed to control the quantity and rate of exports without government intervention, and presented supporting expert testimony.

The District Court denied the Chinese sellers' motion in relevant part, concluding that it did *not regard the Ministry's statements as "conclusive,"* particularly in light of the U. S. purchasers' evidence. When the Chinese sellers subsequently moved for summary judgment, the Ministry submitted another statement, reiterating its stance, and the U. S. purchasers pointed to China's statement to the World Trade Organization that it ended its export administration of vitamin C in 2002. The court denied this motion as well. The case was then tried to a jury, which returned a verdict for the U.S. purchasers.

The Second Circuit reversed, holding that the District Court erred by denying the Chinese sellers' motion to dismiss the complaint. When a foreign government whose law is in contention submits an official statement on the meaning and interpretation of its domestic law, the court concluded, federal courts are "bound to defer" to the foreign government's construction of its own law, whenever that construction is "reasonable." Inspecting only the Ministry's brief and the sources cited therein, the court found the Ministry's account of Chinese law "reasonable."

***Held*: A federal court determining foreign law under Federal Rule of Civil Procedure *44.1 should accord respectful consideration* to a foreign government's submission, but the court is *not bound to accord conclusive effect* to the foreign government's statements.**

Rule 44.1 fundamentally changed the mode of determining foreign law in federal courts. Before adoption of the rule in 1966, a foreign nation's laws had to be "proved as facts." *Talbot* v. *Seeman*, 1 Cranch 1, 38. Rule 44.1, in contrast, specifies that a court's determination of foreign law "must be treated as a ruling on a question of law." And in ascertaining foreign law, courts are not limited to materials submitted by the parties, but "may consider any relevant material or source." Appellate review, as is true of domestic law determinations, is *de novo*. The purpose of these changes was to align, to the extent possible, the process for determining alien law and the process for determining domestic law.

Neither Rule 44.1 nor any other rule or statute addresses the weight a federal court determining foreign law should give to the views presented by a foreign government. In the spirit of "international comity," *Société Nationale Industrielle Aérospatiale* v. *United States Dist. Court for Southern Dist. of Iowa*, 482 U. S. 522, 543, and n. 27, a federal court should carefully consider a foreign state's views about the meaning of its own laws. The appropriate weight in each case, however, will depend upon the circumstances; a federal court is neither bound to adopt the foreign government's characterization nor required to ignore other relevant materials. No single formula or rule will fit all cases, but relevant considerations include the statement's clarity, thoroughness, and support; its context and purpose; the transparency of the foreign legal system; the role and authority of the entity or official offering the statement; and the statement's consistency with the foreign government's past positions.

Judged in this light, the Second Circuit's unyielding rule is inconsistent with Rule 44.1 and, tellingly, with this Court's treatment of analogous submissions from States of the United States. If the relevant state law is established by a decision of "the State's highest court," that decision is "binding on the federal courts," *Wainwright* v. *Goode*, 464 U. S. 78, 84, but views of the State's attorney general, while attracting "respectful consideration," do not garner controlling weight, *Arizonans for Official English* v. *Arizona*, 520 U. S. 43, 76–77, n. 30. Furthermore, because the Second Circuit riveted its attention on the Ministry's submission, it did not address evidence submitted by the U. S. purchasers. The court also misperceived the pre-Rule 44.1 decision of *United States* v. *Pink*, 315 U. S. 203. Under the particular circumstances of that case, this Court found conclusive a declaration from the government of the Russian Socialist Federal Soviet Republic on the extraterritorial effect

of a decree nationalizing assets: The declaration was *obtained by the United States* through official "diplomatic channels," *id.*, at 218; there was no indication that the declaration was inconsistent with the Russian Government's past statements; and the declaration was consistent with expert evidence in point.

The Second Circuit expressed *concern about reciprocity*, but the United States has not historically argued that foreign courts are *bound* to accept its characterizations or precluded from considering other relevant sources. International practice is also inconsistent with the Second Circuit's rigid rule. Pp. 7–12.

837 F. 3d 175, vacated and remanded.

GINSBURG, J., delivered the opinion for a unanimous

Court.