

MAY 26, 1994, THURSDAY

**WEEKLY MEDIA AVAILABILITY WITH ATTORNEY GENERAL JANET RENO
ALSO PARTICIPATING FROM THE ANTITRUST DIVISION:
ROBERT LITAN, DEPUTY ASSISTANT ATTORNEY GENERAL, REGULATORY AFFAIRS
DIANE WOOD, DEPUTY ASSISTANT ATTORNEY GENERAL, POLICY AND LEGISLATION
DEPARTMENT OF JUSTICE WASHINGTON, DC**

ATTY GEN. RENO: Good morning.

I have asked Bob Litan and Diane Wood from the Antitrust Division to join me this morning because I would like to announce that the Justice Department has acted to break a licensing stranglehold on glass manufacturing that kept American companies from designing and building glass-making plants overseas. A lawsuit and a proposed consent decree involving a British company, Pilkington, and its U.S. subsidiary is the first under a 1992 policy change that permits the department to challenge foreign business conduct that harms U.S. export trade.

Pilkington, which dominates the \$15 billion a year flat glass industry, was accused of closing off foreign markets to U.S. companies and costing American jobs by strictly limiting the use of commercial (float ?) glass technology, only a portion of which it developed and patented more than 30 years ago. Glass produced by this process is used in most of the world's cars and buildings. Each year about 10 glass plants are put up somewhere in the world involving contracts worth about \$1 billion a year, yet Americans have not been able to compete to build them because Pilkington used its licensing agreements to confine U.S.-built plants to America.

The department's proposed settlement ends this anti-competitive behavior. This settlement will open new markets abroad for American business, exporting high-tech services, and therefore create additional well-paying jobs for highly-skilled American workers and professionals here at home. It demonstrates this department's determination to use its antitrust enforcement powers in appropriate circumstances to preserve the ability of American enterprises to compete on fair terms in international markets for U.S. export businesses. I think this is an extremely important step, and I would like for Bob and Diane to be available now to answer any technical questions that you might have.

Q Does the fact that the first movement -- (off mike) -- policy comes against a British company, does that signal that you find the keiretsu system in Japan acceptable under U.S. antitrust law?

MR. LITAN: The fact that we brought this case against this particular defendant says nothing about our practices elsewhere. One of Ann's priorities and her publicly stated positions has been that we will vigorously enforce the antitrust laws, all of them, including the 1982 law.

This was an investigation that was open several years ago, and we have aggressively pursued it to a successful conclusion.

Q Are there other cases under investigation now?

MR. LITAN: We have other conduct under study right now, but I obviously can't comment on it.

Q What does Pilkington get out of this, Bob, their consent agreement, what do they get in return?

MR. LITAN: Pilkington was the defendant in the action. They have to give up, not get things. They had to give up the restrictions that they had imposed on U.S. and other licensees around the world, and they avoid further litigation, so do we. We got our result without spending millions and millions of taxpayers dollars by going ahead and getting this consent decree.

Q If they didn't develop this technology, how were they able to get this stranglehold?

MR. LITAN: Well they did develop the technology some 30 years ago. They had patents on it. The patents expired. The royalties had been paid up. As basically as late as 1982, all of the patents and royalties were gone, and yet Pilkington was insisting on enforcing provisions in its license agreements, despite the expiration of all these patents and these royalties, on carving up world markets in glass-making technology. And it was these continuing restrictions that we brought suit against.

Q I don't quite understand that. I'm not that familiar with this area. But if your patent runs out, how do you force other companies not to use your technology?

MR. LITAN: Pilkington insisted it had trade secrets and licensed firms ostensibly under trade secret law. We brought this suit because we believe that those trade secrets were not of a sufficient value to justify the extreme breadth and scope of the license restrictions. In effect, what Pilkington did, it said that its competitors around the world had to stick to their home bases; they couldn't build plants outside their home territories. It said that if the licensees developed new technology on their own they couldn't use it. And in many of these licenses Pilkington said that if the owner of the plant wanted to export glass from around the world they couldn't do that either. So in a variety of ways, Pilkington carved up the market in a way to insulate itself from competition. And these provisions were so extreme, were so broad in comparison to the intellectual property rights that remained that we brought an antitrust action and obtained this consent decree.

Q Did Pilkington develop this technology? And what does your action say to other companies about the value of their technology and the possibility that they may lose their rights to it?

MR. LITAN: The division and the administration is strongly committed to enforcing sound intellectual property laws. We believe that intellectual property laws promote innovation. But what this case stands for is that one cannot abuse intellectual property protection. One cannot hide behind relatively insubstantial rights and then use those rights purportedly to cartelize world markets. You can, in other words, go to far and Pilkington went far too far.

MR. : Can I ask of you -- have your further questions after we go to some general topics? Let's take some general questions now and then we'll return to this in a few minutes. General questions?

Q (Off mike) -- last week when you seemed to say that the final decision on how to deal with the case against Congressman Rostenkowski would not be left solely up to the U.S. attorney. But everybody that I've been talking to for the last week -- and I think everybody else around this table has been talking to -- have been saying that it really in Eric Holder's (sp) hands to decide what kind of plea to strike or whether to go ahead with an indictment, and I was hoping that you could help us a little bit, again, just to understand the process of how a case like this is dealt with in the department.

ATTY GEN. RENO: As this investigation is currently pending, I will not comment on any aspect of it.

Q (Off mike) -- there's a lot of sniping from Republicans on Capitol Hill saying that they are watching this process closely, and if there is any hint of a political deal or a -- some type of sweetheart deal for Congressman Rostenkowski, that they're going to raise hell. Can you use this opportunity, again, to stress that the department is going to follow the book in its prosecution on these particular charges?

ATTY GEN. RENO: We're going to address everything in this department based on one overriding question, and that is what is the right thing to do.

Q (Off mike) -- if the congressman does accept a plea bargain that the Justice Department may be accused of favoritism?

ATTY GEN. RENO: I'm not going to comment on any aspect of the case.

Q Ms. Reno, the Congress is on the verge of reinvigorating the independent counsel law. Will Mr. Fiske -- would you move to make Mr. Fiske, the independent counsel, to continue his work on the Whitewater case?

ATTY GEN. RENO: I want to do everything I can working with him, and I can't comment on his aspect of it, because, as you know, I have done everything -- or tried to do everything -- I know to do to make him independent. But at the appropriate time, I want to work with him to take the right step to ensure absolute continuity in the investigation and independence.

Q Ms. Reno? Last week, you talked about an enforcement matter involving the enforcement of the Motor-Voter Act. I'd like to ask you a question about another aspect of voting rights enforcement. As you know, two years ago, the Supreme Court in a case out of Alabama ruled the Voting Rights Act did not apply to transfers of authority involving of-fice-holders. You have stated that you support a legislative overturning of that ruling by the Court. Is that still your position? And could you elaborate on it if it is? And could you tell me what the department is doing to support the effort in Congress to overturn that ruling?

ATTY GEN. RENO: What I would like to do is check with the head of the Civil Rights Division and give you an update as soon as we've finished the press conference so that I can make sure that I give you as much information as possible.

Q Could you tell me at least that you still -- that's still your position?

ATTY GEN. RENO: Let me check with him and make sure that we present it to you in the most accurate context possible.

Q (Inaudible) -- any kind of political corruption case?

ATTY GEN. RENO: I would not answer that question, because it's phrased in the context of a pending investigation, and I do not want to comment on the pending investigation.

Q Could I ask you on the crime bill? Congress doesn't seem to be making too much progress at getting this to conference, apparently in part because Congressman Brooks still does not think the assault weapon provision should be in this bill, even though both houses passed it. Can you see any reason for delay in the conference on this bill or any reason for excluding the assault weapon provisions?

ATTY GEN. RENO: I am very satisfied with the progress being made in the crime bill. I've talked with the chairmen of both judiciary committees. And I think the process is ongoing, and I feel good about it.

Q What about the assault weapon question? Should that be in the bill?

ATTY GEN. RENO: I feel sure it will be in the bill.

Q While we're on the crime bill, I think there was some comment last week from the Democratic leadership or from someone in the Democratic leadership that there may not be enough money to fund the things that are authorized by the crime bill. Have you looked at the figures? And is this a problem? Are you going to have a problem putting 100,000 police officers on the street?

ATTY GEN. RENO: One of the points we first have to resolve is to reconcile the Senate and House versions, figure out what the dollar figure will be. And I'm dedicated to doing everything I can to making sure that any provision in that bill is properly funded. One of the key provisions of the bill is to provide 100,000 police officers on the streets of America, and I feel sure that we can do that.

Q (Inaudible) -- started to come in about the 100,000 police officers? I know when -- in the program this summer, which I believe provided 2,000 police officers, you got a tremendous amount of interest. Are you getting a lot of inquiries now from departments?

ATTY GEN. RENO: Just to put it in -- you referred to this summer. This was the bill passed last summer that provided a \$150 million supplement for police hiring. We just awarded the last round of that grant. We had some 3,000 applications. We were only able to award 250 applications, totaling some 2,000, 2,500 police officers. It's now a situation where I go to a community, and if they've made a grant application, I can barely get out of the community (hall ?) without explaining why we don't have enough money to meet their needs now.

That's the reason I think it's so important that we get the bill passed as soon as possible. Community policing is working around the nation. Wherever I have gone, I see police officers working with citizens in developing crime initiatives that are making a difference. Mayors, police chiefs, sheriffs have all supported this concept. Most recently I watched it work in just a fine fashion in Tampa, Florida.

Interestingly enough, at that meeting I listened to a sheriff from a less populated county, a chief of police from a smaller city, and the deputy chief from Tampa talk about how it was working in different types of communities, and I think it's important that we get the bill passed as soon as possible because it takes time to recruit properly and to train police officers. We want to do it in an effective, proper manner according to the best standards for policing, and the sooner we get the bill passed, the better able we will be able to do it.

Q Ms. Reno, I read in Time magazine this morning that last week -- correct me if I'm wrong -- that you became the first attorney general in more than a decade to fail to attend a memorial service of the DEA for slain agents. And also, according to the report that I read, is that someone in the FBI criticized you for some events you attend over other events. One senior official who criticized you was suspended without pay. Is that correct? And could you comment on your relationship with the DEA in wake of last week's service?

ATTY GEN. RENO: That's the first that I had heard of it. The demands in terms of people being concerned because I can't attend all the meetings or the events that people would want me to attend is one of the concerns that I have, but I simply am human and cannot do it. I haven't heard about anybody being suspended.

Q Did you plan to look into it, or is it --

ATTY GEN. RENO: This is the first I've heard about anybody being suspended.

Q (Off mike.)

ATTY GEN. RENO: Excuse me? I can't hear you.

Q We've asked a number of various questions in various fashions on the Rostenkowski matter on who makes the ultimate decision, and you've said you can't respond because the investigation is ongoing. Could you just explain on a conceptual basis what possible effect there is on the investigation of your telling the American people where the buck stops on the Rostenkowski matter?

ATTY GEN. RENO: If I comment on any aspect of a pending investigation, I've discovered that it opens up one question after another, and for an investigation of this sensitivity, I think it appropriate that I not comment.

Q (Off mike.) (Laughter.)

ATTY GEN. RENO: Speak for yourself, but I don't think you can speak for your colleagues. And I think it is important when you have an investigation that has attracted this attention and is of this nature that it be conducted in an ap-

propriate way. And one of the appropriate ways that I think is important for any prosecutor's office is that we not comment.

Q Could you comment in general in that case, about why prosecutors would be interested in having a plea bargain? Why -- a lot of people are critical of the plea bargain process. Why would federal prosecutors be interested at all in having plea bargains?

ATTY GEN. RENO: I think the appropriate way to respond to your question is to wait until the investigation is complete and the matter has been concluded. And then it has always been my policy to be accountable and to try to answer every question possible.

Q But I didn't ask you about this -- (off mike).

ATTY GEN. RENO: Yes, but you do what so many reporters do, which is in the context of a specific investigation you ask a general question and then you may not do it, but your colleagues will place the answer in the context of the pending investigation. And I suddenly wake up the next morning and read a newspaper that says Reno commented specifically on an investigation, and I don't want to do that.

Q Without -- (inaudible) -- any specific investigation, do you believe that the independent counsel legislation should be broadened to include members of Congress?

ATTY GEN. RENO: I don't think that there is a conflict between the Congress and the attorney general. You've got two different branches of government. And so I don't think that there is a need for it.

Q Ms. Reno, can you clarify where the INS is in terms of evaluating asylum claims from Haitians? Will INS people be doing it at Guantanamo Bay? Will they be doing on it ships? Will they be doing it in other countries?

ATTY GEN. RENO: We're working with all the agencies involved, Immigration is working with other agencies to make sure that we have a well-planned effort to deal with it, either on board ship or in another location. Q Is there a possibility of doing them again at Guantanamo Bay? Some Haitians have been taken there, apparently.

ATTY GEN. RENO: I would not comment on that, except to say that we're trying to review all possible options.

Q Ms. Reno, what was your reaction to the sentence in the World Trade Center case? And do you think it has any -- it says anything about the second -- the pending case in the bombing?

ATTY GEN. RENO: Your reference to the second case is the reason I can't comment on the first case.

Q If he had left that part of it out -- (laughter) -- what would you think of the sentences?

ATTY GEN. RENO: These things happen! (Laughter.)

Thank you all.

STAFF: Those who wish to stay to discuss further today's antitrust matter, please stay as you are.

Diane, why don't you move over?

Q Has the U.S. Trade Representative's Office been consulted in respect to any implications to the GATT or any other -- any of the negotiations involving the Japanese with respect to this particular action?

MR. LITAN: His office was not consulted with respect to this investigation or -- I'll leave it at that.

Q Well, why not? I mean, it could --

MR. LITAN: Well, this is a law enforcement responsibility. We have a law to enforce. Congress enacted this law in 1982. The division found conduct that violated the law, and so we brought action. That's what we do here at the department.

Q Did the British then -- this British corporation appeal -- or the British government appeal to the GATT mechanism with respect to this as an interference in their operations in other --

MR. LITAN: To my knowledge, the British company did not appeal to GATT.

Yeah, Diane may want to expand. By the way, for those you who don't know Diane, Diane is the deputy in charge of international antitrust issues.

MS. WOOD: Right. This is not the sort of thing that the British would look to the GATT for. We did notify the British government throughout this investigation. They're aware of it. We went through our ordinary procedures by which both the State Department and the British government were informed.

Q Any idea of how many American jobs might be created as a result of this?

MR. LITAN: It's difficult to estimate the number of jobs. The information that we got during the course of the investigation permitted a much more precise estimate of the dollars of export sales. And the graphics that have been handed out hopefully explain that. Briefly speaking, we expect up to 50 plants, glass plants, to be built around the world through the year 2000, primarily in Southeast Asia, East Europe and other countries outside the United States. Before this case, U.S. firms basically would have been locked out of this market entirely. Now that this consent decree has been filed, and hopefully after it's approved, we think that as many as half of these plants could be built by U.S. plants, although we have a range here.

And there's further indication here from the last graphic that the average plant costs somewhere between \$100 million and \$150 million. Associated with each plant is exports of goods and services from the United States -- in other words, equipment that goes into making the plant, design and construction services and so forth that could account for as much as half the cost of the plant. And so, when you multiply all the dollars out, we come up with a range of anywhere from \$150 million to \$1-1/4 billion of additional exports that will be enabled as a result of this consent decree.

Q By 2000?

MR. LITAN: Huh?

Q By the year 2000?

MR. LITAN: Through the year 2000. This is a cumulative number. Now the reason why you can't get specific job estimates is that with respect to each individual plant you don't know whether it's going to be the equipment or the services that are actually going to be hired, and rather than engage in speculation about the mix of these things, we focused on the dollar estimate. But there's no question that between the direct effect and also the multiplier effect of additional exports, that this will be a substantial boon, at least in this sector of the economy to jobs for Americans.

Q You mentioned that there -- you had some -- a number of other companies under investigation. Without going into the specifics of any specific investigation, are any of these Japanese companies?

MR. LITAN: I'm not going to comment.

Q To what extent, though, would you say that the use of trade secret and licensing arrangements after patents have expired is a pattern in other industries?

MR. LITAN: Well, there's no question the trade secret law is used throughout the economy, throughout the world.

Q But here you say this was not a legitimate use of --

MR. LITAN: In this particular case -- in fact, all anti-trust cases are very fact-specific. You have to look at the circumstances, and the circumstances here is that we found that the bulk of the technology over which Pilkington claimed that it had trade secrets was in fact already made public. There were other firms that already knew the information, so it was no longer secret, and then of the material that could have remained secret, that total technology was not of sufficient value to have justified the extreme scope and breadth of these restrictions.

Q Just to follow on that, and what I was curious about is does this consent decree essentially send a message to other industries where companies are doing similar kinds of things that you might view as wrong? I mean, is there -- MR.

LITAN: There's no question that this case sends two messages, at least: number one, that you can't abuse your intellectual property protection. We firmly believe in intellectual property protection, but you can't hide behind its substantial trade secret protection in order to justify large restrictions of this nature. The second message it sends is that this government will bring suit against foreign private parties where they violate our anti-trust laws in a way that has a direct, substantial and reasonably foreseeable adverse effect on our exports and where that company has offices in the United States; in other words, does business in the United States so they can be sued. And those circumstances applied here.

Q Did this -- was this the result of any complaints by -- specifically by American companies and do you entertain complaints by American companies that you would investigate with respect to these kind of actions?

MR. LITAN: We did receive complaints from American companies against these practices. Certain of these companies, in fact, are involved in private litigation against Pilkington. We also definitely received complaints in other sectors of the economy, from private firms that feel they are victimized by anti-competitive conduct.

Q (Off mike) -- the extent to which this case was just sort of ripe for picking. Can you step back and give us a little broader perspective? Can we now expect to see a lot more of these? And secondly, given the delicate world of international trade, how will this new posture by the U.S. result in possible retaliation by other governments?

MS. WOOD: The policy to bring cases against exports was announced in 1992, which reinstated the fact that we enforce our laws against exports, which had been the case up until 1988.

So there was only a four-year period where we didn't bring this kind of case. This particular one, because it had been investigated, as Bob said, for many years, was, in fact, at a point where we could bring it to a successful conclusion. Anne Bingaman has made it very clear that international enforcement, which includes enforcement against export restraints and enforcement when people are harming our import markets, is a very high priority, and she's backing that up.

MR. LITAN: Could I -- I want to elaborate two things. First, the fact that we were able to aggressively pursue this case was due in no small measure to two people who are over here on the side, Craig Walthane (sp), who is a special counsel to Anne Bingaman, and also to Curt Shaffert (sp), who was the lead attorney on the case, and many other staff members and economists who worked on this case, and we're very grateful to them.

The second fact is that, in effect, by passing the 1982 law, Congress said the following. It said, "Look. Foreign firms can come to our market in an unrestricted way and do business here, and they can compete freely against American firms, but a condition for doing that is that they do not on their home territory take actions which block out American exports. What's fair is fair." That's in effect what the 1982 law says, and that's what we're enforcing.

MS. WOOD: And the 1982 law, I should add, simply underscored what had been going on. You can find cases like this case throughout the history of antitrust.

Q You mentioned Southeast Asia and Eastern Europe as probable destinations for these new plants. Are we talking about specific countries, such as Vietnam, in Southeast Asia? And did it have any connection with this country's current diplomatic efforts with that country? Or am I just way in left field on this?

MR. LITAN: I don't know which field you're in, but diplomatic considerations of the kind that you describe were not at the center of this investigation. There is no question that markets are going to -- are going to be open to building more of these plants. I don't know about Vietnam. We definitely know that China's building these plants. There's clearly other markets in Southeast Asia where economic growth is proceeding at 5, 6, 7 percent a year, and glass demand obviously proceeds roughly in proportion to overall economic growth. So --

Q So you're saying there's a good chance that in 10 years the cars we're driving will have glass made in Chinese plants?

MR. LITAN: They could have glass made anywhere.

Q What about Eastern Europe? Do you have specific countries? Are you talking about Russia or the old members of the Soviet Union, or are you just saying generally.

MR. LITAN: I think generally speaking it is expected that there will be construction of these plants.

MS. WOOD: And actually, I would put it the other way. I think it means in 10 years that the glass that's made in these dynamic, growing markets will be made in plants built by U.S. companies, perhaps operated by U.S. companies, so it will be a long-term benefit to the U.S.

Q Is the division still developing these broader intellectual property guidelines that had been discussed for some time? And how does this case fit into that framework? Does this sort of presage the release of these guidelines?

MR. LITAN: Well, we have been at work developing a revision to our intellectual property guidelines. I would say in a number of weeks -- I can't give you the exact timetable -- we will have a proposed set of revisions that will be available for public comment. The proposal should be in the Federal Register. There is no question that this case will be consistent with those guidelines, because clearly, one aspect of those guidelines, in fact in antitrust law generally, is that, as I said, you can't abuse your intellectual property rights to cartelize markets.

Q Rob, I understand -- you've said a couple of times here that this case sends a message. Now I know every case is separate, but in terms of the symbolism, why not -- you know there are many other complaints that are as old as this glass complaint -- (Trona ?) Manufacturers trying to get into Japan, for example. Are the British notoriously bad in this area? Why is the first case against a British company and not a Japanese company?

MR. LITAN: I think you referred to the fact earlier that we had this investigation ongoing when we assumed office -- I'm saying when this administration assumed office. A lot of the facts had been developed, but they were already here and we aggressively pursued them to their logical conclusion. All I can tell you is, is that as we receive information of a similar nature, we will aggressively pursue it. But this happened to be somewhere in the pipeline and we pushed it to the end.

Q Well does that mean that there are no -- the Justice Department doesn't have any mature investigations about complaints against the Japanese government?

MR. LITAN: I'm not going to comment on any specific government or any specific country.

STAFF: If we can just have another question or two and then we'll go (off ?).

Q On page three of the complaint it notes that Pilkington owns 80 percent controlling interest of Libby-Owens-Ford of the U.S. How did that add up to monopoly conduct, and is that part of the monopoly conduct you're alleging? I couldn't find it elsewhere in the complaint.

MR. LITAN: Well that was its U.S. subsidiary, in effect, and they are active in the glass-making technology, and they're doing business here in the United States -- Pilkington is -- and that is what allows us to have personal jurisdiction over them.

Q Was this investigation underway before the 1988 suspension?

MR. LITAN: I don't think so.

STAFF: This gentleman has been trying to get in a question.

Q Oh, sorry.

Q I hate to seem dense, but if you can help me here; if I want to open up -- if I had wanted to open up, you know, Joe Blow Flat Glass Company somewhere, what were these guys doing to keep me from doing that? If you're Pilkington, what did you do to keep me from opening this plant?

MR. LITAN: Well, first, you'd have to come to Pilkington and pay them a bunch of money for "trade secrets" that we don't think were worth it. Second, even if you had paid them the money, they would have restricted you to doing business perhaps in a very narrow territory. They would have said, well, you can't go to East Asia or to Eastern Europe and build plants in competition with us. They would have said in many of these licenses, if you build a plant, you won't be

able to export the glass. And then they would have said, even if you get our technology and you put your engineers to work trying to make improvements on it, you can't use the improvements. So you would have had no incentive to innovate.

Q And what would have prevented a company from doing that, just doing it?

MR. LITAN: Well, if you did it, Pilkington would sue you. And in fact, Pilkington was quite aggressive over the last number of years and decades in pursuing litigation against companies that it thought were violating its trade secret protection.

Q You said most of this was in the public domain already, though.

MR. LITAN: That is correct, but Pilkington aggressively pursued litigation arguing otherwise.

That itself -- that itself is clearly creating barriers to entry which now no longer will be there.

Q Did they win any of those lawsuits?

MR. LITAN: Huh?

Q Did they win those lawsuits?

MR. LITAN: They had one suit where they won partial claims against PPG, which is a large American company, and now they're in a current round of litigation. PPG has sued Pilkington in the same federal district court where we filed suit in Arizona. PPG will be a beneficiary of this action, of this consent decree if it's approved. No question.

Q Is that why this was filed in Arizona, because of the PPG?

MR. LITAN: That is -- it's a convenient form, the case was already there, and the judge there had already decided that Pilkington was subject to U.S. law, personal jurisdiction.

MR. : Thank you very much.

END