

## JUSTICE NEWS

### Department of Justice

Office of Public Affairs

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## **Three South Korean Companies Agree to Plead Guilty and to Enter Into Civil Settlements for Rigging Bids on United States Department of Defense Fuel Supply Contracts**

### **Three Companies Agree to Plead Guilty and Pay a Total of \$236 Million in Criminal Fines and Civil Damages**

South Korea-based companies SK Energy Co. Ltd., GS Caltex Corporation, and Hanjin Transportation Co. Ltd. have agreed to plead guilty to criminal charges and pay a total of approximately \$82 million in criminal fines for their involvement in a decade-long bid-rigging conspiracy that targeted contracts to supply fuel to United States Army, Navy, Marine Corps, and Air Force bases in South Korea, the Department of Justice announced today.

“These charges are the first to be announced in this investigation into bid rigging and price fixing of fuel supply services to the Department of Defense in this critical region,” said Assistant Attorney General Makan Delrahim of the Department of Justice’s Antitrust Division. “Section 4A of the Clayton Act is a powerful yet historically underused enforcement tool that empowers the United States to obtain treble damages for anticompetitive conduct when the government is itself the victim. The Antitrust Division has a long history of vigilantly protecting the interests of American consumers through civil and criminal antitrust enforcement. Going forward, it is my goal to apply that same vigilance to protect the interests of American taxpayers. When a firm cheats the United States by rigging bids, the Division will insist on robust civil settlements like those announced today.”

“Those who subvert the open-bidding process to supply services to the United States by conspiring to fix prices will be found out and prosecuted,” said U.S. Attorney of the Southern District of Ohio Benjamin C. Glassman. “Such a conspiracy is no less illegal for being hatched in South Korea, and as this case shows, federal law enforcement authorities can bridge the distance.”

In separate civil resolutions, SK Energy, GS Caltex, and Hanjin have agreed to pay a total of approximately \$154 million to the United States for civil antitrust and False Claims Act violations related to the bid-rigging conspiracy. These settlements reflect the important role of both Section 4A of the Clayton Act and the False Claims Act to ensure that the United States is fully compensated when it is the victim of anticompetitive conduct.

“We depend on companies like SK Energy, GS Caltex, and Hanjin to provide valuable services to our military,” said Assistant Attorney General Joseph H. Hunt for the Department of Justice’s Civil Division. “We will continue to ensure that fuel suppliers who contract with the federal government do not engage in corrupt practices at the expense of our nation’s military and the American taxpayer.”

#### **The Criminal Case:**

According to three felony charges filed today in the U.S. District Court for the Southern District of Ohio in Columbus, the Defense Logistics Agency and the Army and Air Force Exchange Service are two U.S. Defense Department agencies that contract with South Korean companies to supply fuel to the numerous U.S. military bases throughout

South Korea. Beginning at least in or around March 2005 and continuing into 2016, South Korean petroleum and refinery companies and their agents, including the defendants and their co-conspirators, participated in a combination and conspiracy to suppress and eliminate competition during the bidding process for these fuel supply contracts. SK Energy, GS Caltex, and Hanjin have agreed to cooperate with the department's ongoing criminal investigation. The plea agreements are subject to court approval.

"Protecting the integrity of the Department of Defense acquisition process and delivery of fair-priced resources to the U.S. military are among our highest priorities," said Director Dermot F. O'Reilly of the Department of Defense, Defense Criminal Investigative Service (DCIS). "These guilty pleas and significant fines demonstrate the heavy consequences that come to those who enrich themselves through collusion in order to defraud the American taxpayer. This exhaustive investigation was a multi-year endeavor by DCIS, its investigative partners, and the Department of Justice. DCIS will continue to identify, disrupt, and bring to justice those who threaten U.S. military readiness through fraud and corruption."

"These guilty pleas clearly demonstrate our organization's steadfast commitment to hold corporations, foreign and domestic, accountable for engaging in anticompetitive conduct," said Brigadier General Duane R. Miller, deputy commander of the U.S. Army Criminal Investigation Command (Army CID). "The highly trained special agents from our Major Procurement Fraud Unit, along with our federal law enforcement partners, will continue to aggressively investigate organizations that participate in illegal conspiracies and do harm to the readiness of our Army."

"The FBI remains committed to holding corporations—both foreign and domestic—accountable for anticompetitive conduct and fraudulent practices toward the United States," said FBI Executive Assistant Director Amy Hess. "The conduct by the corporations in this case is particularly egregious, as they targeted the U.S. military in a critically strategic region, defrauded the U.S. government, and ultimately, cheated the American taxpayers of millions of dollars."

"The FBI is committed to investigating companies and individuals around the world who engage in bid rigging and other forms of corruption to defraud the U.S. Government," said Assistant Director in Charge Paul D. Delacourt of the FBI's Los Angeles Field Office. "True competition is an economic bedrock of our democratic society. These criminal and civil charges demonstrate the ability of the FBI, our federal law enforcement partners, and the Department of Justice to bring to justice those who choose not to follow the rule of law, and to ensure they are not enriched by their illegal conduct."

A criminal violation of Section 1 of the Sherman Act carries a maximum fine of \$100 million for corporations. The maximum fines may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

Today's charges are the result of an ongoing federal investigation into bid rigging, price fixing and other anticompetitive conduct targeting U.S. Department of Defense fuel supply contracts in South Korea. The criminal case is being prosecuted by the Antitrust Division's Washington Criminal I Section and the United States Attorney's Office of the Southern District of Ohio in conjunction with the DCIS, the Federal Bureau of Investigation, the Army CID, the Defense Logistics Agency Office of the Inspector General, and the Air Force Office of Special Investigations. Anyone with information in connection with this investigation is urged to call the Antitrust Division's Citizen Complaint Center at 888-647-3258 or visit [www.justice.gov/atr/contact/newcase.html](http://www.justice.gov/atr/contact/newcase.html).

#### **The Civil Case:**

The Department's Antitrust Division today filed a civil antitrust complaint in the U.S. District Court for the Southern District of Ohio, and at the same time filed proposed settlements that, if approved by the court, would resolve the lawsuit against SK Energy, GS Caltex, and Hanjin for their anticompetitive conduct targeting the U.S. military in South Korea.

As a result of this conduct, the United States Department of Defense paid substantially more for fuel supply services in South Korea than it would have had SK Energy, GS Caltex, and Hanjin competed for the fuel supply contracts.

Under Section 4A of the Clayton Act, the United States may obtain treble damages when it has been injured by an antitrust violation. The proposed settlement provides that SK Energy pay \$90,384,872, GS Caltex pay \$57,500,000, and Hanjin pay \$6,182,000 to the United States to resolve the civil antitrust violations. In addition to the payments, SK Energy, GS Caltex, and Hanjin have agreed to cooperate with the ongoing civil investigation of the conduct and to abide by antitrust compliance program requirements. The amount paid by each defendant exceeds the amount of the individual overcharge and reflects the value of defendants' cooperation commitments and the cost savings realized by avoiding extended litigation.

The payments will also resolve civil claims that the United States has under the False Claims Act against SK Energy, GS Caltex, and Hanjin for making false statements to the government in connection with their agreement not to compete. The Civil Division has entered into separate settlement agreements with the companies to resolve these claims.

Except where based on admissions by defendants in the criminal pleas, the claims resolved by the civil agreements are allegations only.

The civil settlements were handled by the Antitrust Division's Transportation, Energy, and Agriculture Section, by the Civil Division's Fraud Section, and by the United States Attorney's Office in the Southern District of Ohio.

The United States' False Claims Act civil investigation resulted from a whistleblower lawsuit filed under the *qui tam* provisions of the False Claims Act. Those provisions allow for private parties to sue on behalf of the United States and to share in any recovery.

The proposed civil antitrust settlement, along with the department's competitive impact statement, will be published in *The Federal Register*, as required by the Antitrust Procedures and Penalties Act. Any person may submit written comments concerning the proposed settlement within 60 days of its publication to Kathleen O'Neill, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, U.S. Department of Justice, 450 Fifth Street, N.W., Suite 8000, Washington, D.C. 20530. At the conclusion of the 60-day comment period, the court may enter the civil antitrust settlement upon a finding that it serves the public interest.

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**Attachment(s):**

[Download Complaint](#)

[Download Hanjin Settlement \(redacted\)](#)

[Download SK Settlement \(redacted\)](#)

[Download GS Caltex Settlement \(redacted\)](#)

[Download PFJ - SK Energy](#)

[Download PFJ - GS Caltex](#)

[Download PFJ - Hanjin](#)

[Download Explanation of Consent Decree](#)

[Procedures](#)

[Download CIS](#)

**Topic(s):**

Antitrust

False Claims Act

**Component(s):**

[Antitrust Division](#)

[Civil Division](#)

[USAO - Ohio, Southern](#)

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