

ANNEX 4-B

Key Aspects of Revised U.S. Antitrust Division Corporate Leniency Program¹

Leniency Before an Investigation Has Begun or Part 'A' amnesty will be granted automatically to a corporation reporting illegal activity before an investigation has begun, if the following six conditions are met: (1) At the time the corporation comes forward to report the illegal activity, the Division has not received information about the illegal activity being reported from any other source; (2) the corporation, upon its discovery of the illegal activity being reported, took prompt and effective action to terminate its part in the activity; (3) the corporation reports the wrongdoing with candor and completeness and provides full, continuing and complete cooperation to the Division throughout the investigation; (4) the confession of wrongdoing is truly a corporate act, as opposed to isolated confessions of individual executives or officials; (5) where possible, the corporation makes restitution to injured parties; and (6) the corporation did not coerce another party to participate in the illegal activity and clearly was not the leader in, or originator of, the activity.

Alternative Requirements for Leniency or Part 'B' leniency may be available if a corporation comes forward to report illegal antitrust activity and does not meet all six of the conditions set out in Part A. The corporation, whether it comes forward before or after an investigation has begun, will be granted leniency if the following seven conditions are met: (1) The corporation is the first one to come forward and qualify for leniency with respect to the illegal activity being reported; (2) the Division, at the time the corporation comes in, does not yet have evidence against the company that is likely to result in a sustainable conviction; (3) the corporation, upon its discovery of the illegal activity being reported, took prompt and effective action to terminate its part in the activity; (4) the corporation reports the wrongdoing with candor and completeness and provides full, continuing and complete cooperation that advances the Division in its investigation; (5) the confession of wrongdoing is truly a corporate act, as opposed to isolated confessions of individual executives or officials; (6) where possible, the corporation makes restitution to injured parties; and (7) the Division determines that granting leniency would not be unfair to others, considering the nature of the illegal activity, the confessing corporation's role in it, and when the corporation comes forward.

¹ U.S. Department of Justice Antitrust Division, CORPORATE LENIENCY POLICY (August 10, 1993).