

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	) No. 1:10cr207
	)
v.	) COUNT ONE, 18 U.S.C. § 371
	) Conspiracy to Violate the Arms Export
HONG WEI XIAN,	) Control Act and to Smuggle Goods from
a/k/a "Harry Zan,"	) the United States
	)
and	) COUNT Two, 22 U.S.C. § 2778
	) & 22 C.F.R. § 127.1
LI LI,	) Attempted Export of USML Items in
a/k/a "Lea Li,"	) Violation of the Arms Export Control Act
	)
Defendants	) FORFEITURE, 18 U.S.C. § 981(a)(1)(C)
	) & 21 U.S.C. §853(p)

SUPERSEDING INDICTMENT

September Term - at Alexandria

THE GRAND JURY CHARGES THAT:

At all times relevant to this Indictment:

GENERAL ALLEGATIONS

*The Defendants*

1. Defendant HONG WEI XIAN, a/k/a "Harry Zan" ("XIAN"), is the president of Beijing Starcreates Space Science and Technology Development Company Limited ("Beijing Starcreates"). XIAN is a citizen of the People's Republic of China ("PRC") and resides in the PRC.

2. Defendant LI LI, a/k/a "Lea Li" ("LI") is the vice president of Beijing Starcreates. LI is a citizen of the PRC and resides in the PRC.

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3. Beijing Starcreates, using an address at Room 904, No. 7 Building, Hui Min Yuan, Chao Yang District, Beijing, PRC, engages in the business of importing and selling, among other things, programmable read-only memory microchips to China Aerospace Science and Technology Corporation, which is located in the PRC. China Aerospace is controlled by the PRC government. Directly, and through its numerous subsidiaries, academies, research institutes, and universities, China Aerospace plays a substantial role in the research, design, development, and production of strategic and tactical missile systems and launch vehicles for the PRC.

*The Arms Export Control Act*

4. The Arms Export Control Act ("AECA") authorizes the President of the United States to control the export of "defense articles" by designating items, such as spacecraft systems and associated equipment, on the United States Munitions List.

5. The Arms Export Control Act and its implementing regulations, the International Traffic in Arms Regulations ("ITAR"), require a person to apply for and obtain an export license from the Directorate of Defense Trade Controls ("DDTC") of the United States Department of State before exporting arms, ammunition, or articles of war, which are all classified as "defense articles," from the United States. In the application for an export license, the exporter is required to state, among other things, the nature of the defense articles to be exported, the end recipient of the defense articles, and the purpose for which the defense articles are intended. These factors and others assist the DDTC in determining whether the export of the defense articles would further the security and foreign policy interests of the United States.

6. The defense articles which are subject to such licensing requirements are designated on the United States Munitions List. Those designations are made by the State Department with concurrence of the Defense Department.

7. Category XV(e) of the Munitions List includes spacecraft systems and associated equipment. This category includes all varieties of satellites, including communication satellites, remote sensing satellites, scientific satellites, as well as radiation-hardened microelectronic circuits which meet certain characteristics and all designed or modified systems or subsystems, components, parts, accessories, attachments, and associated equipment for the articles in this category.

8. A programmable read-only memory microchip ("PROM") serves to store the initial start-up program for a computer system. The PROMs used in satellite systems and other space-based applications must be able to withstand the conditions present in outer space. A company located in the Eastern District of Virginia ("Company A") manufactures a radiation-hardened PROM, with product number 197A807-241C, that is specifically designed for such applications. The DDTC has determined that these Company A PROMs are "defense articles" under Category XV(e) of the United States Munitions List.

9. Since 1990, the U.S. government has maintained an arms embargo against the PRC that prohibits the export, re-export, or re-transfer of any defense article to the PRC. It is the policy of the United States and the U.S. Department of State to deny license applications and any other written requests or approvals for the export, re-export, or transfer to the PRC of defense articles on the United States Munitions List.

10. At no time did the defendants XIAN or LI apply for, receive, or possess a license to export defense articles of any description.

COUNT ONE

18 U.S.C. § 371

*Conspiracy to Violate the Arms Export Control Act  
and to Smuggle Goods From the United States*

1. The Grand Jury realleges and incorporates by reference the General Allegations of this Indictment.

2. From in or about April 2009 through at least September 1, 2010, in the Eastern District of Virginia and elsewhere, HONG WEI XIAN, a/k/a "Harry Zan," and LI LI, a/k/a "Lea Li," unlawfully and knowingly combined, conspired, confederated and agreed with each other, and with others known and unknown to the Grand Jury, to commit the following offenses against the United States:

a. To willfully export and cause to be exported, without a license for such export issued in accordance with the Arms Export Control Act and the International Traffic in Arms Regulations, items designated as defense articles on the United States Munitions List, in violation of Title 22, United States Code, Section 2778; and

b. To fraudulently and knowingly export and send from the United States and cause to be exported and sent from the United States, merchandise, articles, and objects contrary to the laws and regulations of the United States, in violation of Title 18, United States Code, Section 554.

3. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Eastern District of Virginia and elsewhere:

- a. On or about April 2009, XIAN contacted Company A to purchase a number of the radlation-hardened Company A PROMs.
- b. On or about May 5, 2009, XIAN spoke with an individual whom XIAN understood to be able to purchase the Company A PROMs and acknowledged that the PROMs would require a license to be exported to the PRC and that such a license would not be granted.
- c. On or about May 27, 2009, XIAN discussed with the individual via email alternate delivery locations, such as Australia or New Zealand.
- d. On or about October 2009, XIAN stated that he would pay a final price of approximately \$64,500 for 40 PROMs.
- e. On or about November 30, 2009, XIAN sent a partial payment from a bank account in the PRC to a bank account in Virginia to initiate the manufacture and eventual export of the Company A PROMs.
- f. On or about March 4, 2010, XIAN and LI met outside the United States with the individual for the purpose of discussing the sale of the Company A PROMs and possible future business between the individual and the defendants. During the course of this meeting:
  - i. XIAN explained that the Company A PROMs that Beijing Starcreates was purchasing were intended for China Aerospace Science Technology Corporation.
  - ii. XIAN stated that he had attempted to get an export license for other products in the past but determined that it was difficult and took a long time. In addition, XIAN stated that in order to get a license XIAN would have to identify the end user and describe the end use.

iii. XIAN expressed an interest in purchasing 1000 Company A PROMs and suggested breaking the order up into as many as twelve shipments to avoid drawing attention to the order by the manufacturer. When the individual explained to XIAN and LI that to export the Company A PROMs without a license would be breaking the law, XIAN said, "Yeah, I know."

iv. LI asked the individual to suggest a country for the delivery of 40 Company A PROMs, and XIAN suggested several countries, including Indonesia and New Zealand.

v. LI suggested that the individual set up additional companies to use in making future orders to purchase greater quantities of Company A PROMs

g. On or about April 27, 2010, XIAN agreed to deposit in the individual's bank account approximately \$20,000 as an additional payment toward the purchase and export of the Company A PROMs.

h. On or about May 1, 2010, XIAN agreed to meet the individual to receive the Company A PROMs at a location outside the United States.

i. On or about May 9, 2010, XIAN offered to pay the individual an additional \$20,000 for bearing the risk of exporting the Company A PROMs.

j. On or about August 27, 2010, XIAN wire transferred approximately \$29,355 to the individual's bank account, which constituted a partial payment toward the purchase and export of the Company A PROMs, plus a \$10,000 "success fee" that was, according to Xian's prior email communications with the individual, an acknowledgment that Xian and his co-conspirators were "seriously considering your [the individual's] risks."

k. On or about September 1, 2010, XIAN and LI traveled to a location outside the United States to meet with the individual for the purpose of obtaining delivery of the Company A PROMs.  
(In violation of Title 18, United States Code, Section 371).

**COUNT TWO**

**22 U.S.C. § 2778**

***Attempted Export of Defense Articles in Violation of the AECA***

1. The Grand Jury realleges and incorporates by reference the General Allegations and the Overt Acts listed in Count One of this Indictment.

2. From in or about April 2009 through at least September 1, 2010, in the Eastern District of Virginia and elsewhere, HONG WEI XIAN, a/k/a "Harry Zan," and LI LI, a/k/a "Lea Li," willfully attempted to export and to cause to be exported, without a license for such export issued in accordance with the Arms Export Control Act and the International Traffic in Arms Regulations, an item designated as a defense article on the United States Munitions List, that is, radiation-hardened programmable read-only memory microchips, with product number 197A807-241C.

(In violation of Title 22, United States Code, Section 2778 and Title 22, Code of Federal Regulations, Sections 121.1, 123.1, and 127.1.)

FORFEITURE

1. The allegations of Counts One and Two of this Indictment are realleged and by this reference fully incorporated herein for the purpose of alleging forfeitures to the United States of America of property in which one or more of the defendants has an interest, pursuant to the provisions of Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 981(a)(1)(C).

2. Upon conviction of any of the offenses charged in Counts One or Two of this Indictment, the defendants, HONG WEI XIAN, a/k/a "Harry Zan," and LI LI, a/k/a "Lea Li," shall forfeit to the United States all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the aforesated offenses, for which the defendants shall be jointly and severally liable, including but not limited to the sum of \$48,710.00, which represents the amount of proceeds obtained as a result of the offense.

3. If any of the above described property, as a result of any act or omission of the defendants;

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

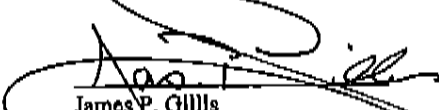
It is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

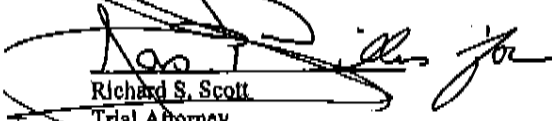
**A TRUE BILL:**

Pursuant to the Federal Government Act, the original of this page has been filed under seal in the Clerk's Office.

FOREPERSON

NEIL H. MACBRIDE  
UNITED STATES ATTORNEY

  
James P. Gillis  
Assistant United States Attorney

  
Richard S. Scott  
Trial Attorney  
Counterespionage Section  
U.S. Department of Justice

ARRAIGNMENT CALENDAR - April 7, 2011

(Rptr: R. Wilson)

Judge: Gerald Bruce Lee  
6<sup>th</sup> Floor, Courtroom 601  
Time: 2:15 p.m.

10 min.

\*1) XIAN,  
Hong Wei WFA, PNG,  
a/k/a "Harry Zan" JURY

1:10cr207  
(D) Remanded  
1) In Custody  
2) In Custody

AUSA: James P. Gillis  
Defense: 1) W. Todd Watson  
2) Harry A. Dennis, III  
Motions: WED. 5-18-11 9:00  
Trial: 7-18-11 10:00  
Date Returned: 09/16/10 (Superseding)  
Speedy Trial: 06/16/11 WAIVED

\*2) LI,  
Li WFA, PNG,  
a/k/a "Lea Li" JURY

(D) Remanded JURY

(Conspiracy to Violate the Arms Export Control Act and to Smuggle Goods from the United States and Attempted Export to USML Items in Violation of the Arms Export Control Act)

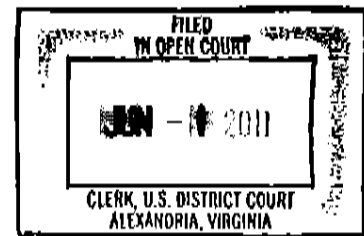
Motions due 4-26-11  
Responses due 5-3-11

Discovery Orders entered + filed.  
As voir dire'd on Speedy trial; Speedy Trial Waivers (paper) entered + filed in open Court.

If any mot. filed requires evidence, counsel to call chambers for a different mot. date, as the Court will be doing its Fri. docket on Wed. 5-18-11 + will not have time to hear the evidence.

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA )  
 )  
 v. )  
 )  
 LI LI, )  
 a/k/a "Lea Li," )  
 )  
 Defendant )

No. 1:10cr207

STATEMENT OF FACTS

The parties stipulate that the allegations in Count One of the indictment and the following facts are true and correct, and that had the matter gone to trial the United States would have proven them beyond a reasonable doubt.

1. Defendant Hong Wei Xian, a/k/a "Harry Zan" ("Xian") and defendant Li Li, a/k/a "Lea Li" ("Li") are officers of Beijing Starcreates Space Science and Technology Development Company Limited ("Beijing Starcreates").

2. Beijing Starcreates, using an address at Room 904, No. 7 Building, Hui Min Yuan, Chao Yang District, Beijing, PRC, engages in the business of importing and selling, among other things, programmable read-only memory microchips to China Aerospace Science and Technology Corporation, which is located in the PRC. China Aerospace is controlled by the PRC government. Directly, and through its numerous subsidiaries, academies, research institutes, and universities, China Aerospace plays a substantial role in the research, design, development, and production of strategic and tactical missile systems and launch vehicles for the PRC.

3. In or about April 2009, Xian contacted a company located in the Eastern District of Virginia ("Company A") to purchase a number of radiation-hardened programmable read-only memory microchips. Programmable read-only memory chips (PROMs) serve to store the initial start-up program for a computer system. Radiation-hardened PROMs are used in satellite systems and other space-based applications; these memory chips must be manufactured to be able to withstand the conditions present in outer space. These radiation-hardened microchips are "defense articles" under Category XV(e) of the United States Munitions List. Any export or attempted export of radiation-hardened microchips from the United States to any company or individual in a foreign country requires a license from the U.S. Department of State.

4. Over the course of several months beginning in May 2009, Xian engaged in communications with an undercover law enforcement agent whom he understood to be able to obtain the Company A PROMs. By email and telephone with Xian, as well as at a meeting with both Xian and Li, an agreement was reached in which the undercover agent would obtain 40 radiation-hardened microchips from Company A and sell them to Xian and Li. Xian and Li agreed to pay a final price of approximately \$64,500.

5. On March 4, 2010, Xian and Li met outside the United States with the undercover agent for the purpose of finalizing the details concerning the sale and delivery of the microchips, as well as to discuss possible future business between the undercover agent and Xian and Li. During the course of this meeting:

a. Xian explained that the radiation-hardened PROMs were intended for China Aerospace Science Technology Corporation in the People's Republic of China.

b. Xian stated that he had attempted to get an export license for other products in the past but determined that it was difficult and took a long time. In addition, Xian stated that in order to get a license Xian would have to identify the end user and describe the end use.

c. Xian expressed an interest in purchasing 1,000 radiation-hardened microchips and suggested breaking the order up into as many as twelve shipments to avoid drawing the manufacturer's attention to the order. When the undercover agent explained to Xian and Li that to export the microchips without a license would be breaking the law, Xian said, "Yeah, I know."

d. Xian and Li also discussed using another company in New Zealand to receive a shipment of radiation-hardened microchips from Company A. It was clear from the context of the conversation that the use of another company would be for the purpose of avoiding detection of the unlicensed export of the microchips.

e. Xian suggested other locations, including Hong Kong, Indonesia, and New Zealand, for delivery of the microchips. It was clear from the context of the conversation that the purpose for using such locations was to avoid detection of the unlicensed export of the microchips.

f. Li further suggested using several companies to obtain future orders of radiation-hardened microchips from Company A. It was clear from the context of the conversation that the purpose for using such companies was so that the manufacturer would not become suspicious.

6. On or about May 9, 2010, Xian offered to pay the undercover agent a "success fee" of \$20,000 for bearing the risk of unlawfully exporting the radiation-hardened microchips.

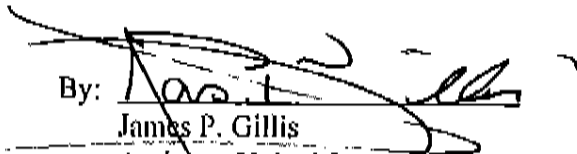
7. On or about August 27, 2010, Xian wire transferred approximately \$29,355 to the undercover agent's bank account, which constituted a partial payment toward the purchase and export of the microchips, plus a \$10,000 "success fee." According to Xian's and Li's prior communications with the undercover agent, it is clear that this "success fee" was an acknowledgment that Xian and Li were "considering your risks."

8. The acts taken by the defendant in furtherance of the offense charged in Count One of the indictment, including the acts described above, were done willfully and knowingly with the specific intent to violate the law. The defendant acknowledges that the foregoing statement of facts does not describe all of the defendant's conduct relating to the offenses charged in this case nor does it identify all of the persons with whom the defendant may have engaged in illegal activities. The defendant further acknowledges that he is obligated under his

plea agreement to provide additional information about this case beyond that which is described in this statement of facts.

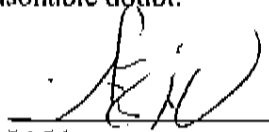
Respectfully submitted,

NEIL H. MACBRIDE  
UNITED STATES ATTORNEY

By:   
James P. Gillis  
Assistant United States Attorney

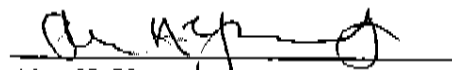
After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, Li Li, and the United States, I hereby stipulate that the above statement of facts is true and accurate, and that had the matter proceeded to trial, the United States would have proven them beyond a reasonable doubt.

Dated: 5/24/11

  
\_\_\_\_\_  
Li Li  
Defendant

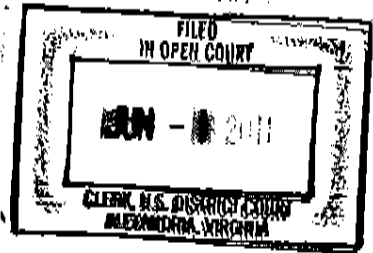
I am Li Li's attorney. I have carefully reviewed the above statement of facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Date: 5/24/11

  
\_\_\_\_\_  
Alan H. Yamamoto  
Counsel for the Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA )

v. )

No. 1:10cr207

HONG WEI XIAN, )  
a/k/a "Harry Zan," )

Defendant )

STATEMENT OF FACTS

The parties stipulate that the allegations in Count One of the indictment and the following facts are true and correct, and that had the matter gone to trial the United States would have proven them beyond a reasonable doubt.

1. Defendants Hong Wei Xian, a/k/a "Harry Zan" ("Xian"), and Li Li, a/k/a "Lea Li" ("Li"), are representatives of Beijing Starcreates Space Science and Technology Development Company Limited ("Beijing Starcreates").

2. Beijing Starcreates, using an address at Room 904, No. 7 Building, Hui Min Yuan, Chao Yang District, Beijing, PRC, was formed to engage in the business of importing and selling, among other things, programmable read-only memory microchips.

3. Programmable read-only memory chips ("PROMs") serve to store the initial start-up program for a computer system. Radiation-hardened PROMs are used in satellite systems and other space-based applications; these memory chips must be manufactured to be able to withstand the conditions present in outer space. These radiation-hardened microchips are "defense articles" under Category XV(e) of the United States Munitions List. Any export or

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*[Handwritten signature]*

attempted export of radiation-hardened microchips from the United States to any company or individual in a foreign country requires a license from the U.S. Department of State.

4. In or about late 2008, Xian <sup>an associate of Xian's</sup> contacted a company located in the Eastern District of Virginia ("Company A") to inquire about purchasing radiation-hardened PROMs for Beijing Starcreates. An employee of Company A told Xian about another company ("Company B"), <sup>an associate of Xian's</sup> which the employee said <sup>was a trusted partner of Company A that "exclusively handles our radiation hardened products in your territory."</sup> had the ability to purchase PROMs from Company A. In or about April 2009, Xian contacted a representative of Company B who, unbeknownst to Xian, was an undercover law enforcement agent.

5. Over the course of several months beginning in May 2009, Xian and Li engaged in communications with the undercover law enforcement agent. These negotiations included a March 4, 2010, meeting between Xian and Li with the undercover agent at which the defendants told the undercover agent that ~~Starcreates intended to sell the microchips to~~ China Aerospace Science Technology Corporation (also known as "CASC") in the People's Republic of China <sup>is a Starcreates client.</sup>

6. Over the course of months of negotiations, by email and telephone with Xian, as well as at a meeting with both Xian and Li, an agreement was reached in which the undercover agent would obtain 40 radiation-hardened microchips from Company A and sell them to Starcreates thorough Xian and Li. Xian and Li, on behalf of Starcreates, agreed to pay a final price of approximately \$64,500.

7. On March 4, 2010, Xian and Li met outside the United States with the undercover agent for the purpose of finalizing the details concerning the sale and delivery of the microchips, as well as to discuss possible future business between the undercover agent and Xian and Li. During the course of this meeting:

a. <sup>and Li</sup> Xian explained that ~~the radiation-hardened PROMs were intended for~~ China Aerospace Science Technology Corporation. *→ is a Starcreates client.*

*JPR/BJ*

b. Xian stated that he had attempted to get an export license for other products in the past but determined that it was difficult and took a long time. In addition, Xian stated that in order to get a license Xian would have to identify the end user and describe the end use.

c. Xian stated that Starcreates was interested in purchasing 1,000 radiation-hardened microchips and suggested breaking the order up into as many as twelve shipments to avoid drawing the manufacturer's attention to the order. Xian and Li indicated they were interested in pursuing the purchase despite the undercover agent's explanation that exporting the microchips without a license would be breaking the law.

d. Xian and Li also discussed with the undercover agent the possibility of using another company in New Zealand to receive a shipment of radiation-hardened microchips from Company A. It was clear from the context of the conversation that the use of another company would be for the purpose of avoiding detection of the unlicensed export of the microchips.

e. Xian, Li and the undercover agent discussed other locations, including Hong Kong, Indonesia, and New Zealand, for delivery of the microchips. It was clear from the context of the conversation that the purpose for using such locations was to avoid detection of the unlicensed export of the microchips.

f. Li further suggested using several companies to obtain future orders of radiation-hardened microchips from Company A. It was clear from the context of the

*VH*

conversation that the purpose for using such companies was so that the manufacturer would not become suspicious.

8. On or about May 9, 2010, Xian sent an email to the undercover agent which offered that Starcreates would pay the undercover agent a "success fee" of \$20,000 for bearing the risk of unlawfully exporting the radiation-hardened microchips.

9. On or about August 27, 2010, with Xian's knowledge, Starcreates wire transferred approximately \$29,355 to the undercover agent's bank account. The wire constituted a partial payment toward the purchase and export of the microchips, plus a \$10,000 "success fee."

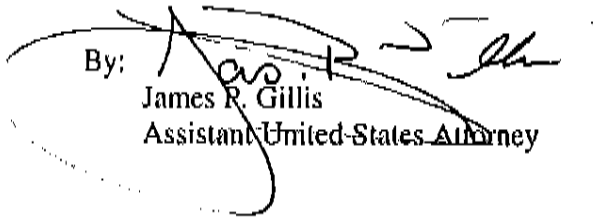
10. The acts taken by the defendant in furtherance of the offense charged in Count One of the indictment, including the acts described above, were done willfully and knowingly with the specific intent to violate the law. The defendant acknowledges that the foregoing statement of facts does not describe all of the defendant's conduct relating to the offenses charged in this case nor does it identify all of the persons with whom the defendant may have engaged in illegal activities. The defendant further acknowledges that he is obligated under his



plea agreement to provide additional information about this case beyond that which is described in this statement of facts.

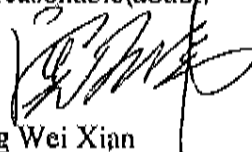
Respectfully submitted,

NEIL H. MACBRIDE  
UNITED STATES ATTORNEY

By:   
James R. Gillis  
Assistant United States Attorney


After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, Hong Wei Xian, and the United States, I hereby stipulate that the above statement of facts is true and accurate, and that had the matter proceeded to trial, the United States would have proven them beyond a reasonable doubt.

Dated: 18th May 2011

  
Hong Wei Xian  
Defendant

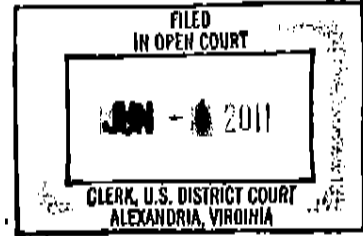
I am Hong Wei Xian's attorney. I have carefully reviewed the above statement of facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Date: 5/18/2011

  
John P. Rowley III  
Counsel for the Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA )

v. )

LI LI, )

a/k/a "Lea Li," )

Defendant )

No. 1:10cr207

PLEA AGREEMENT

The United States and the defendant, LI LI, have entered into an agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of the agreement are as follows:

I. **Offense and Maximum Penalties**

The defendant agrees to plead guilty to Count One of the superseding indictment filed on September 16, 2010 ("the indictment"), which charges the defendant with conspiring to violate the Arms Export Control Act and to smuggle goods from the United States, in violation of Title 18, United States Code, Section 371. The maximum penalties for this offense are a maximum term of five years of imprisonment, a fine of \$250,000, forfeiture, a special assessment, and three years of supervised release. The defendant understands that this supervised release term is in addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

**2. Factual Basis for the Plea**

The defendant will plead guilty because the defendant is in fact guilty of the charged offense. The defendant admits the facts set forth in the statement of facts filed with this plea agreement and agrees that those facts establish guilt of the offense charged beyond a reasonable doubt. The statement of facts, which is hereby incorporated into this plea agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

**3. Assistance and Advice of Counsel**

The defendant is satisfied that the defendant's attorney has rendered effective assistance. The defendant understands that by entering into this plea agreement, defendant surrenders certain rights as provided in this agreement. The defendant understands that the rights of criminal defendants include the following:

- a. the right to plead not guilty and to persist in that plea;
- b. the right to a jury trial;
- c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings; and
- d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

**4. Role of the Court and the Probation Office**

The defendant understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximum described above but that the Court will determine the defendant's actual sentence in accordance with Title 18, United States Code, Section 3553(a).

The defendant understands that the Court has not yet determined a sentence and that any estimate of the advisory sentencing range under the U.S. Sentencing Commission's Sentencing Guidelines Manual the defendant may have received from the defendant's counsel, the United States, or the Probation Office, is a prediction, not a promise, and is not binding on the United States, the Probation Office, or the Court. Additionally, pursuant to the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220 (2005), the Court, after considering the factors set forth in Title 18, United States Code, Section 3553(a), may impose a sentence above or below the advisory sentencing range, subject only to review by higher courts for reasonableness. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence. The United States and the defendant agree that the defendant has assisted the government in the investigation and prosecution of the defendant's own misconduct by timely notifying authorities of the defendant's intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently. If the defendant qualifies for a two-level decrease in offense level pursuant to U.S.S.G. § 3E1.1(a) and the offense level prior to the operation of that section is a level 16 or greater, the government agrees to file, pursuant to U.S.S.G. § 3E1.1(b), a motion prior to, or at the time of, sentencing for an additional one-level decrease in the defendant's offense level.

#### **5. Waiver of Appeal, FOIA and Privacy Act Rights**

The defendant also understands that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and any sentence within the statutory maximum

described above (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatsoever, in exchange for the concessions made by the United States in this plea agreement. This plea agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b). The defendant also hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act, Title 5, United States Code, Section 552a.

**6. Special Assessment**

Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars (\$100.00) per count of conviction.

**7. Payment of Monetary Penalties**

The defendant understands and agrees that, pursuant to Title 18, United States Code, Section 3613, whatever monetary penalties are imposed by the Court will be due immediately and subject to immediate enforcement by the United States as provided for in Section 3613. Furthermore, within 14 days of a request, the defendant agrees to provide all of his financial information to the United States and the Probation Office and, if requested, to participate in a pre-sentencing debtor's examination and/or complete a financial statement under penalty of perjury. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. If the

defendant is incarcerated, the defendant agrees to voluntarily participate in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments.

**8. Immunity from Further Prosecution in this District**

The United States will not further criminally prosecute the defendant in the Eastern District of Virginia for the specific conduct described in the indictment or statement of facts.

**9. Dismissal of Other Counts**

Upon the Court's acceptance of the defendant's plea of guilty pursuant to this plea agreement, the United States will move to dismiss the remaining counts of the indictment against this defendant.

**10. Defendant's Cooperation**

The defendant agrees to cooperate fully and truthfully with the United States, and provide all information known to the defendant regarding any criminal activity, as well as all information deemed by the government to be of intelligence value, as requested by the government. In that regard:

- a. The defendant agrees to testify truthfully and completely at any grand juries, trials or other proceedings.
- b. The defendant agrees to be reasonably available for debriefing and pre-trial conferences as the United States may require.
- c. The defendant agrees to provide all documents, records, writings, or materials of any kind in the defendant's possession or under the

defendant's care, custody, or control relating directly or indirectly to all areas of inquiry and investigation.

- d. The defendant agrees that, at the request of the United States, the defendant will voluntarily submit to polygraph examinations, and that the United States will choose the polygraph examiner and specify the procedures for the examinations.
- e. The defendant agrees that the statement of facts is limited to information to support the plea. The defendant will provide more detailed facts relating to this case during ensuing debriefings.
- f. The defendant is hereby on notice that the defendant may not violate any federal, state, or local criminal law while cooperating with the government, and that the government will, in its discretion, consider any such violation in evaluating whether to file a motion for a downward departure or reduction of sentence.
- g. Nothing in this plea agreement places any obligation on the government to seek the defendant's cooperation or assistance.

#### **11. Use of Information Provided by the Defendant Under This Agreement**

The United States will not use any truthful information provided pursuant to this plea agreement in any criminal prosecution against the defendant in the Eastern District of Virginia, except in any prosecution for a crime of violence or conspiracy to commit, or aiding and abetting, a crime of violence (as defined in Title 18, United States Code, Section 16). Pursuant to U.S.S.G. § 1B1.8, no truthful information that the defendant provides under this plea agreement

will be used in determining the applicable guideline range, except as provided in section 1B1.8(b). Nothing in this plea agreement, however, restricts the Court's or Probation Officer's access to information and records in the possession of the United States. Furthermore, nothing in this plea agreement prevents the government in any way from prosecuting the defendant should the defendant knowingly provide false, untruthful, or perjurious information or testimony, or from using information provided by the defendant in furtherance of any forfeiture action, whether criminal or civil, administrative or judicial. If requested, the United States will bring to the attention of other prosecuting offices this plea agreement and the government's assessment of the full extent of the defendant's cooperation.

**12. Defendant Must Provide Full, Complete and Truthful Cooperation**

This plea agreement is not conditioned upon charges being brought against any other individual. This plea agreement is not conditioned upon any outcome in any pending investigation. This plea agreement is not conditioned upon any result in any future prosecution which may occur because of the defendant's cooperation. This plea agreement is not conditioned upon any result in any future grand jury presentation or trial involving charges resulting from this investigation. This plea agreement is conditioned upon the defendant providing full, complete and truthful cooperation.

**13. Motion for a Downward Departure**

The parties agree that the United States reserves the right to seek any departure from the applicable guidelines sentencing range, pursuant to section 5K1.1 of the Sentencing Guidelines and Policy Statements, or any reduction of sentence pursuant to rule 35(b) of the Federal Rules of

Criminal Procedure, if, in its sole discretion, the United States determines that such a departure or reduction of sentence is appropriate.

**14. Forfeiture Agreement**

The defendant agrees to forfeit all interests in any unlawful export related asset that the defendant owns or over which the defendant exercises control, directly or indirectly, as well as any property that is traceable to, derived from, fungible with, or a substitute for property that constitutes the proceeds of his offense, including but not limited to the sum of \$48,710, which the defendant agrees represents proceeds obtained as a result of the offense. The defendant further agrees to waive all interest in the assets in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. The defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of rules 32.2 and 43(a) of the Federal Rules of Criminal Procedure regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. The defendant understands that the forfeiture of assets is part of the sentence that may be imposed in this case. Defendant admits and agrees that the conduct described in the charging instrument and statement of facts provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government.

**15. Waiver of Further Review of Forfeiture**

The defendant further agrees to waive all constitutional and statutory challenges to forfeiture in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The defendant also waives any failure by

the Court to advise the defendant of any applicable forfeiture at the time the guilty plea is accepted as required by Rule 11(b)(1)(J). The defendant agrees to take all steps as requested by the United States to pass clear title to forfeitable assets to the United States, and to testify truthfully in any judicial forfeiture proceeding. The defendant understands and agrees that all property covered by this plea agreement is subject to forfeiture as proceeds of illegal conduct, property facilitating illegal conduct, property involved in illegal conduct giving rise to forfeiture, or substitute assets for property otherwise subject to forfeiture.

**16. The Defendant's Obligations Regarding Assets Subject to Forfeiture**

Upon request by the government, the defendant agrees to identify all assets in which the defendant had any interest or over which the defendant exercises or exercised control, directly or indirectly, within the past five years. The defendant agrees to take all steps as requested by the United States to obtain from any other parties by any lawful means any records of assets owned at any time by the defendant. The defendant agrees to undergo any polygraph examination the United States may choose to administer concerning such assets and to provide and/or consent to the release of the defendant's tax returns for the previous five years.

**17. Consent Given for Removal from the United States**

The defendant acknowledges that the defendant is removable from the United States and agrees not to contest any removal proceedings brought against the defendant by the Department of Homeland Security (DHS). If the DHS files a Notice to Appear or other administrative charging document against the defendant, the defendant agrees to request an expedited removal hearing and to consent to removal. The defendant acknowledges that by consenting to removal, the defendant will be immediately removed from the United States upon the completion of any

period of incarceration. The defendant knowingly waives any and all rights to appeal, reopen, reconsider, or otherwise challenge this removal.

**18. Waiver of Rights Related to Removal from the United States**

Except as provided in the following paragraph, the defendant agrees to waive the defendant's rights to apply for any and all forms of relief or protection from removal, deportation, or exclusion under the Immigration and Nationality Act (as amended) and related federal regulations. These rights include, but are not limited to, the ability to apply for the following forms of relief or protection from removal: (a) voluntary departure; (b) asylum; (c) withholding of deportation or removal; (d) cancellation of removal; (e) suspension of deportation; (f) adjustment of status; and (g) protection under Article 3 of the Convention Against Torture. As part of this agreement, the defendant specifically acknowledges and states that the defendant has not been persecuted in, and has no present fear of persecution in, the People's Republic of China on account of race, religion, nationality, membership in a particular social group or political opinion. Similarly, the defendant further acknowledges and states that the defendant has not been tortured in, and has no present fear of torture in the People's Republic of China.

**19. Exception for Changed Circumstances Arising After Plea.**

Nothing in this plea agreement shall prohibit the defendant from applying for asylum, withholding of removal, or protection under Article 3 of the Convention Against Torture, provided the application is based solely on changed circumstances arising after the entry of this plea but before the defendant's removal.

**20. The Defendant's Cooperation In the Defendant's Removal**

The defendant agrees to assist the DHS in the execution of the defendant's removal. Specifically, the defendant agrees to assist the DHS in the procurement of any travel or other documents necessary for the defendant's removal; to meet with and to cooperate with representatives of the country or countries to which the defendant's removal is directed; and to execute those forms, applications, or waivers needed to execute or expedite the defendant's removal. The defendant further understands that the defendant's failure or refusal to assist the DHS in the execution of the defendant's removal shall breach this plea agreement and may subject the defendant to criminal penalties under Title 8, United States Code, Section 1253.

**21. Plea Agreement Binding for Purposes of Removal Proceedings.**

The defendant agrees that the defendant intends the agreements contained in this plea agreement to be binding upon the defendant during any removal proceeding that may be instituted against the defendant as a result of this plea agreement. In particular, the defendant acknowledges and agrees that the agreements concerning removal contained in the plea agreement were entered into by the defendant and the United States with the express understanding that the agreements are binding for purposes of any future removal proceeding before the Board of Immigration Appeals, an immigration judge, or the DHS.

**22. Breach of the Plea Agreement and Remedies**

This plea agreement is effective when signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this plea agreement at the date and time scheduled with the Court by the United States (in consultation with the defendant's attorney). If the defendant withdraws from this plea agreement, or commits or attempts to

commit any additional federal, state or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violates any provision of this agreement, then:

- a. The United States will be released from its obligations under this plea agreement, including any obligation to seek a downward departure or a reduction in sentence. The defendant, however, may not withdraw the guilty plea entered pursuant to this plea agreement;
- b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this plea agreement is signed. Notwithstanding the subsequent expiration of the statute of limitations, in any such prosecution, the defendant agrees to waive any statute-of-limitations defense; and
- c. Any prosecution, including the prosecution that is the subject of this plea agreement, may be premised upon any information provided, or statements made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before or after the date of this plea agreement, including the statement of facts accompanying this plea agreement or adopted by the defendant and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under FED. R. EVID. 410, FED. R. CRIM. P. 11(f),

the Sentencing Guidelines or any other provision of the Constitution or federal law.

Any alleged breach of this plea agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence. The proceeding established by this paragraph does not apply, however, to the decision of the United States whether to file a motion based on "substantial assistance" as that phrase is used in rule 35(b) of the Federal Rules of Criminal Procedure and section 5K1.1 of the Sentencing Guidelines and Policy Statements. The defendant agrees that the decision whether to file such a motion rests in the sole discretion of the United States.

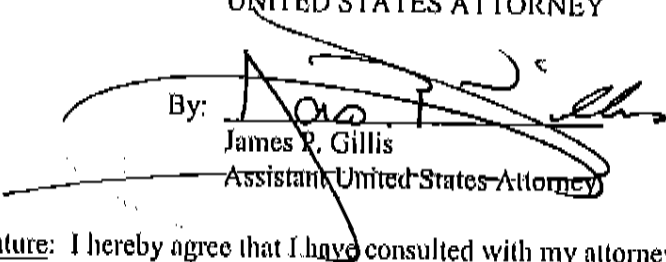
**23. Nature of the Agreement and Modifications**

This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, to cause the defendant to plead guilty. Any

modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

Respectfully submitted,

NEIL H. MACBRIDE  
UNITED STATES ATTORNEY

By:   
James P. Gillis  
Assistant United States Attorney

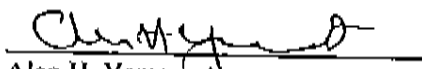
Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending indictment. Further, I fully understand all rights with respect to Title 18, United States Code, Section 3553 and the provisions of the Sentencing Guidelines Manual that may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this plea agreement and voluntarily agree to it.

Dated: 5/24/11

  
Li Li  
Defendant

Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending indictment. Further, I have reviewed Title 18, United States Code, Section 3553 and the Sentencing Guidelines Manual, and I have fully explained to the defendant the provisions that may apply in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date: 5/24/11

  
Alan H. Yamamoto  
Counsel for the Defendant