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CHINESE NATIONAL PLEADS GUILTY TO ECONOMIC ESPIONAGE AND THEFT OF TRADE SECRETS

First Prosecution in Indiana for Foreign Economic Espionage

WASHINGTON – Kexue Huang, a Chinese national and a former resident of Carmel, Ind., pleaded guilty today to one count of economic espionage to benefit a component of the Chinese government and one count of theft of trade secrets.

The guilty plea was announced by Assistant Attorney General Lanny A. Breuer of the Criminal Division, Assistant Attorney General for National Security Lisa O. Monaco, U.S. Attorney Joseph H. Hogsett of the Southern District of Indiana, U.S. Attorney B. Todd Jones of the District of Minnesota, and Robert J. Holley, Special Agent in Charge of the Indianapolis Field Office of the FBI.

This is the first trade secret prosecution in Indiana under a provision of the Economic Espionage Act that prohibits trade secret theft intended to benefit a component of a foreign government. Since its enactment in 1996, there have been a total of eight such cases charged nationwide under the Economic Espionage Act.

Huang, 48, pleaded guilty to the charges before U.S. District Judge William T. Lawrence in the Southern District of Indiana. In July 2010, Huang was charged in an indictment filed in the Southern District of Indiana for misappropriating and transporting trade secrets to the People's Republic of China (PRC) while working as a research scientist at Dow AgroSciences LLC. Today, a separate indictment filed in the District of Minnesota was unsealed, charging Huang with stealing a trade secret from a second company, Cargill Inc.

According to court documents, from January 2003 until February 2008, Huang was employed as a research scientist at Dow, a leading international agricultural company based in Indianapolis that provides agrochemical and biotechnology products. In 2005, Huang became a research leader for Dow in strain development related to unique, proprietary organic insecticides marketed worldwide.

As a Dow employee, Huang signed an agreement that outlined his obligations in handling confidential information, including trade secrets, and prohibited him from disclosing any confidential information without Dow's consent. Dow employed several layers of security to

preserve and maintain confidentiality and to prevent unauthorized use or disclosure of its trade secrets.

Huang admitted that during his employment at Dow, he misappropriated several Dow trade secrets. According to plea documents, from 2007 to 2010, Huang transferred and delivered the stolen Dow trade secrets to individuals in Germany and the PRC. With the assistance of these individuals, Huang used the stolen materials to conduct unauthorized research with the intent to benefit foreign universities that were instrumentalities of the PRC government. Huang also admitted that he pursued steps to develop and produce the misappropriated Dow trade secrets in the PRC, including identifying manufacturing facilities in the PRC that would allow him to compete directly with Dow in the established organic pesticide market.

According to court documents, after Huang left Dow, he was hired in March 2008 by Cargill, an international producer and marketer of food, agricultural, financial and industrial products and services. Huang worked as a biotechnologist for Cargill until July 2009 and signed a confidentiality agreement promising never to disclose any trade secrets or other confidential information of Cargill. Huang admitted that during his employment with Cargill, he stole one of the company's trade secrets – a key component in the manufacture of a new food product, which he later disseminated to another person, specifically a student at Hunan Normal University in the PRC.

According to the plea agreement, the aggregated loss from Huang's criminal conduct exceeds $7 million but is less than $20 million.

"Mr. Huang used his insider status at two of America's largest agricultural companies to steal valuable trade secrets for use in his native China," said Assistant Attorney General Breuer. "We cannot allow U.S. citizens or foreign nationals to hand sensitive business information over to competitors in other countries, and we will continue our vigorous criminal enforcement of economic espionage and trade secret laws. These crimes present a danger to the U.S. economy and jeopardize our nation's leadership in innovation."

"Today's plea underscores the continuing threat posed by the theft of business secrets for the benefit of China and other nations," said Assistant Attorney General Monaco.

U.S. Attorney Hogsett noted that it is the first time economic espionage has been charged in the Southern District of Indiana. Hogsett remarked that "as U.S. Attorney, I am committed to working with Hoosier businesses who have been victimized and doing everything within our influence to protect Hoosier companies." Hogsett praised Dow for its cooperation with the investigation and prosecution, noting that "companies must first report and then work with federal investigators and prosecutors if we are to stem the illicit export of trade secrets vital to the economy not only of Indiana but the United States." Hogsett also stated, "the dual prosecutions from Indiana and Minnesota should serve as a warning to anyone who is considering robbing American companies of their information and weaken the American economy by selling that information to foreign governments or others that he will face severe consequences. The federal agents and prosecutors who worked tirelessly in these two cases are to be commended for their hard work and dedication."

FBI Special Agent in Charge Holley stated: "Among the various economic espionage and theft of trade secret cases that the FBI has investigated in Indiana, the vast majority involve an inside employee with legitimate access who is stealing in order to benefit another organization or country. This type of threat, which the FBI refers to as the Insider Threat, often causes the most damage. In order to maintain our competitive advantage in these sectors, industry must identify their most important equities, realize that they are a target, implement internal protection mechanisms to protect their intellectual property, and communicate issues of concern immediately to the FBI."

At sentencing, Huang faces a maximum prison sentence of 15 years on the economic espionage charge and 10 years on the theft of trade secrets charge.

The case is being prosecuted by Assistant U.S. Attorney Cynthia J. Ridgeway of the Southern District of Indiana, Trial Attorneys Mark L. Krotoski and Evan C. Williams of the Criminal Division's Computer Crime and Intellectual Property Section, and Assistant U.S. Attorney Jeffrey Paulsen of the District of Minnesota, with assistance from the National Security Division's Counterespionage Section.

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