

NEWS

United States Department of Justice
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Christopher J. Christie, U.S. Attorney

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Contact: xu1031.rel
Michael Drewniak, Public Information Officer FOR IMMEDIATE RELEASE
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Chinese National Charged with Trying to Buy
Night Vision Technology for Export to China

(More)

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NEWARK – A Chinese national was charged in a federal criminal Complaint today with attempting to export military-grade night-vision technology from the United States to the Republic of China, U.S. Attorney Christopher J. Christie announced.

Bing Xu, 37, of Nanjing, China, was taken into custody on Monday by Special Agents of Immigration and Customs Enforcement, the Defense Criminal Investigative Services, and New Jersey State Police. At that time, Xu was charged with an immigration offense relating to false statements made on his application for a visa to enter the United States.

Today, Xu was charged in a one-count criminal Complaint with attempting to export technology in violation of U.S. export laws and regulations. The charge carries a maximum penalty of 10 years in prison and a \$250,000 fine.

Xu made an initial appearance today in federal court before U.S. Magistrate Judge Esther Salas. Judge Salas ordered that Xu be detained pending trial.

The complaint alleges that Xu, through his employer, Everbright Science & Technology Co., Ltd. of Nanjing (Everbright), made arrangements to purchase night-vision technology that is manufactured in the United States. The particular grade of night-vision equipment that Xu sought to purchase is designated as a defense article on the United States Munitions List and cannot be exported from the United States without written permission from the Department of State. The United States maintains an arms embargo with China, and State Department policy is to deny permission for the export of defense articles such as the night-vision technology that Xu sought to order.

According to the criminal Complaint, Xu, and others at his employer used e-mail messages to negotiate the deal to purchase night-vision technology with a U.S. company that Xu believed would ship the items to China without following proper licensing procedures.

Knowing that one request to the United States to export this night-vision technology to Xu's employer had already been denied by the State Department, Xu traveled to the U.S. to complete the purchase of this technology in such a way that would have circumvented U.S. policy and the licensing requirements of the U.S. Department of State. Xu arrived in New York aboard a flight from China on Oct. 26, a day after a wire transfer of \$14,080 was completed as payment by Everbright for the purchase of night-vision equipment.

Despite the charge set forth in the complaint, every defendant is presumed innocent, unless and until found guilty beyond a reasonable doubt, following a trial at which the defendant has all of the trial rights guaranteed by the U.S. Constitution and federal law.

In determining an actual sentence, the judge to whom the case is assigned would, upon a

conviction, consult the advisory U.S. Sentencing Guidelines, which provide appropriate sentencing ranges that take into account the severity and characteristics of the offense, the defendant's criminal history, if any, and other factors. The judge, however, is not bound by those guidelines in determining a sentence.

Parole has been abolished in the federal system. Defendants who are given custodial terms must serve nearly all of that time.

Christie credited Special Agents of the Department of Homeland Security, Immigration and Customs Enforcement, under the direction of Special Agent in Charge Kyle Hutchins and Special Agents from the Department of Defense, Defense Criminal Investigative Services, under the direction of Resident Agent in Charge James Murawski, as well as the New Jersey State Police, under the direction of Superintendent Colonel Rick Fuentes, and the Piscataway Township Police Department, under the direction of Chief of Police Kevin Harris, with the investigation leading to the criminal complaint.

The government is represented by Assistant U.S. Attorney Philip James Degnan of the U.S. Attorney's Office Criminal Division in Newark.

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Defense Counsel:

Peter Carter, Esq., Federal Public Defender's Office, Newark.