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8 Attorneys for Plaintiff
 UNITED STATES OF AMERICA
 9

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 SONY DONG,

16 Defendant.

No. CR 16-827-SJO

PLEA AGREEMENT FOR DEFENDANT
SONY DONG

17
 18 1. This constitutes the plea agreement between SONY DONG
 19 ("defendant") and the United States Attorney's Office for the Central
 20 District of California (the "USAO") in the above-captioned case.
 21 This agreement is limited to the USAO and cannot bind any other
 22 federal, state, local, or foreign prosecuting, enforcement,
 23 administrative, or regulatory authorities.

24 DEFENDANT'S OBLIGATIONS

25 2. Defendant agrees to:

26 a. At the earliest opportunity requested by the USAO and
 27 provided by the Court, appear and plead guilty to count one of the
 28

1 indictment in United States v. Sony Dong, CR No. 16-827-SJO, which
2 charges defendant with conspiracy, in violation of 18 U.S.C. § 371.

3 b. Not contest facts agreed to in this agreement.

4 c. Abide by all agreements regarding sentencing contained
5 in this agreement.

6 d. Appear for all court appearances, surrender as ordered
7 for service of sentence, obey all conditions of any bond, and obey
8 any other ongoing court order in this matter.

9 e. Not commit any crime; however, offenses that would be
10 excluded for sentencing purposes under United States Sentencing
11 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
12 within the scope of this agreement.

13 f. Be truthful at all times with Pretrial Services, the
14 United States Probation Office, and the Court.

15 g. Pay the applicable special assessment at or before the
16 time of sentencing unless defendant lacks the ability to pay and
17 prior to sentencing submits a completed financial statement on a form
18 to be provided by the USAO.

19 THE USAO'S OBLIGATIONS

20 3. The USAO agrees to:

21 a. Not contest facts agreed to in this agreement.

22 b. Abide by all agreements regarding sentencing contained
23 in this agreement.

24 c. At the time of sentencing, move to dismiss the
25 remaining counts of the indictment as against defendant. Defendant
26 agrees, however, that at the time of sentencing the Court may
27 consider any dismissed charges in determining the applicable
28

1 Sentencing Guidelines range, the propriety and extent of any
2 departure from that range, and the sentence to be imposed.

3 d. At the time of sentencing, provided that defendant
4 demonstrates an acceptance of responsibility for the offense up to
5 and including the time of sentencing, recommend a two-level reduction
6 in the applicable Sentencing Guidelines offense level, pursuant to
7 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an
8 additional one-level reduction if available under that section.

9 e. Recommend that defendant be sentenced to a term of
10 imprisonment no higher than the low end of the applicable Sentencing
11 Guidelines range, provided that the offense level used by the Court
12 to determine that range is 12 or higher and provided that the Court
13 does not depart downward in offense level or criminal history
14 category. For purposes of this agreement, the low end of the
15 Sentencing Guidelines range is that defined by the Sentencing Table
16 in U.S.S.G. Chapter 5, Part A, without regard to reductions in the
17 term of imprisonment that may be permissible through the substitution
18 of community confinement or home detention as a result of the offense
19 level falling within Zone B or Zone C of the Sentencing Table.

20 NATURE OF THE OFFENSE

21 4. Defendant understands that for defendant to be guilty of
22 the crime charged in count one, that is, conspiracy, in violation of
23 Title 18, United States Code, Section 371, the following must be
24 true: (1) Beginning on an unknown date and continuing to on or about
25 December 3, 2016, there was an agreement between two or more persons
26 to unlawfully import or bring wildlife into the United States; (2)
27 defendant became a member of the conspiracy knowing of at least one
28 of its objects and intending to help accomplish it; and (3) one of

1 the members of the conspiracy performed at least one overt act for
2 the purpose of carrying out the conspiracy.

3 PENALTIES

4 5. Defendant understands that the statutory maximum sentence
5 that the Court can impose for a violation of Title 18, United States
6 Code, Section 371, is: five years imprisonment; a three-year period
7 of supervised release; a fine of \$250,000 or twice the gross gain or
8 gross loss resulting from the offense, whichever is greatest; and a
9 mandatory special assessment of \$100.

10 6. Defendant understands that supervised release is a period
11 of time following imprisonment during which defendant will be subject
12 to various restrictions and requirements. Defendant understands that
13 if defendant violates one or more of the conditions of any supervised
14 release imposed, defendant may be returned to prison for all or part
15 of the term of supervised release authorized by statute for the
16 offense that resulted in the term of supervised release, which could
17 result in defendant serving a total term of imprisonment greater than
18 the statutory maximum stated above.

19 7. Defendant understands that, by pleading guilty, defendant
20 may be giving up valuable government benefits and valuable civic
21 rights, such as the right to vote, the right to possess a firearm,
22 the right to hold office, and the right to serve on a jury.
23 Defendant understands that once the court accepts defendant's guilty
24 plea, it will be a federal felony for defendant to possess a firearm
25 or ammunition. Defendant understands that the conviction in this
26 case may also subject defendant to various other collateral
27 consequences, including but not limited to revocation of probation,
28 parole, or supervised release in another case and suspension or

1 revocation of a professional license. Defendant understands that
2 unanticipated collateral consequences will not serve as grounds to
3 withdraw defendant's guilty plea.

4 8. Defendant understands that, if defendant is not a United
5 States citizen, the felony conviction in this case may subject
6 defendant to: removal, also known as deportation, which may, under
7 some circumstances, be mandatory; denial of citizenship; and denial
8 of admission to the United States in the future. The court cannot,
9 and defendant's attorney also may not be able to, advise defendant
10 fully regarding the immigration consequences of the felony conviction
11 in this case. Defendant understands that unexpected immigration
12 consequences will not serve as grounds to withdraw defendant's guilty
13 plea.

14 FACTUAL BASIS

15 9. Defendant admits that defendant is, in fact, guilty of the
16 offense to which defendant is agreeing to plead guilty. Defendant
17 and the USAO agree to the statement of facts provided below and agree
18 that this statement of facts is sufficient to support a plea of
19 guilty to the charge described in this agreement and to establish the
20 Sentencing Guidelines factors set forth in paragraph 11 below but is
21 not meant to be a complete recitation of all facts relevant to the
22 underlying criminal conduct or all facts known to either party that
23 relate to that conduct.

24 Beginning on an unknown date and continuing to on or about
25 December 3, 2016, defendant, co-conspirator Quang Truong, and others
26 entered into an agreement to unlawfully import Asian songbirds from
27 Vietnam into Los Angeles, California. Defendant and unindicted co-
28 conspirator 1 would solicit co-conspirator Truong to travel from Los

1 Angeles, California to Vietnam and to bring back Asian songbirds.
2 Defendant and unindicted co-conspirator 2 would provide money to co-
3 conspirator Truong which co-conspirator Truong would use to pay for
4 expenses while in Vietnam. Defendant and unindicted co-conspirator 2
5 would drive co-conspirator Truong to the airport so that co-
6 conspirator Truong could fly to Vietnam.

7 While in Vietnam, co-conspirator Truong would receive Asian
8 songbirds that had been packed into one or more suitcases in a manner
9 that was designed to escape detection by United States authorities.
10 Upon co-conspirator Truong's return to Los Angeles from Vietnam,
11 defendant or unindicted co-conspirator 2 would pick up co-conspirator
12 Truong at Los Angeles International Airport ("LAX").

13 In or about September or October 2015, defendant provided co-
14 conspirator Truong with \$500 that co-conspirator Truong was to use
15 for expenses in Vietnam. Thereafter, in or about September or
16 October 2015, co-conspirator Truong traveled to Vietnam where he
17 obtained Asian songbirds to be brought to Los Angeles. When co-
18 conspirator Truong returned to Los Angeles, defendant picked up co-
19 conspirator Truong at LAX and received luggage from co-conspirator
20 Truong that contained Asian songbirds.

21 In or about April 2016, defendant and unindicted co-conspirator
22 1 solicited co-conspirator Truong to again travel to Vietnam to bring
23 back birds. Thereafter, co-conspirator Truong traveled to Vietnam
24 and received birds. However, while at an airport in Vietnam where he
25 intended to travel back to Los Angeles, co-conspirator Truong was
26 caught by authorities for carrying several birds, including Asian
27 songbirds, that were found strapped to his legs underneath his
28 clothing and in a suitcase.

1 In or about September 2016, unindicted co-conspirator 1 met with
2 defendant and co-conspirator Truong and provided money for co-
3 conspirator Truong's flight to and from Vietnam. In or about
4 September 2016, co-conspirator Truong again traveled to Vietnam for
5 the purposes of obtaining and bringing back birds. Later, co-
6 conspirator Truong returned to Los Angeles with luggage containing
7 birds, which he later delivered to unindicted co-conspirator 2.

8 In or about November 2016, co-conspirator Truong traveled to
9 Vietnam. On or about December 3, 2016, co-conspirator Truong met
10 with an unindicted co-conspirator in Vietnam who provided co-
11 conspirator Truong with two suitcases, each of which contained
12 Chinese Hwamei Asian songbirds (*Garrulax canorus*) that were concealed
13 to evade detection by United States authorities. Later, on or about
14 December 3, 2016, defendant drove to LAX to pick up co-conspirator
15 Truong and to receive the Asian songbirds that co-conspirator Truong
16 had brought from Vietnam in his suitcases.

17 SENTENCING FACTORS

18 10. Defendant understands that in determining defendant's
19 sentence the Court is required to calculate the applicable Sentencing
20 Guidelines range and to consider that range, possible departures
21 under the Sentencing Guidelines, and the other sentencing factors set
22 forth in 18 U.S.C. § 3553(a). Defendant understands that the
23 Sentencing Guidelines are advisory only, that defendant cannot have
24 any expectation of receiving a sentence within the calculated
25 Sentencing Guidelines range, and that after considering the
26 Sentencing Guidelines and the other § 3553(a) factors, the Court will
27 be free to exercise its discretion to impose any sentence it finds
28

1 appropriate up to the maximum set by statute for the crime of
2 conviction.

3 11. Defendant and the USAO agree to the following applicable
4 Sentencing Guidelines factors:

5	Base Offense Level:	6	U.S.S.G. § 2Q2.1(a)
6	Specific Offense		
7	Characteristics (pecuniary		
8	gain/commercial purpose):	+2	U.S.S.G. § 2Q2.1(b) (1) (A)
9	(risk of disease		
10	transmission)	+2	U.S.S.G. § 2Q2.1(b) (2) (B)
11	(value of wildlife):	+4	U.S.S.G.
			§§ 2Q2.1(b) (3) (A) (ii),
			2B1.1(b) (1) (C)

12 Defendant and the USAO reserve the right to argue that additional
13 specific offense characteristics, adjustments, and departures under
14 the Sentencing Guidelines are appropriate.

15 12. Defendant understands that there is no agreement as to
16 defendant's criminal history or criminal history category.

17 13. Defendant and the USAO reserve the right to argue for a
18 sentence outside the sentencing range established by the Sentencing
19 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a) (1),
20 (a) (2), (a) (3), (a) (6), and (a) (7).

21 WAIVER OF CONSTITUTIONAL RIGHTS

22 14. Defendant understands that by pleading guilty, defendant
23 gives up the following rights:

- 24 a. The right to persist in a plea of not guilty.
- 25 b. The right to a speedy and public trial by jury.
- 26 c. The right to be represented by counsel -- and if
27 necessary have the court appoint counsel -- at trial. Defendant
28 understands, however, that, defendant retains the right to be

1 represented by counsel -- and if necessary have the court appoint
2 counsel -- at every other stage of the proceeding.

3 d. The right to be presumed innocent and to have the
4 burden of proof placed on the government to prove defendant guilty
5 beyond a reasonable doubt.

6 e. The right to confront and cross-examine witnesses
7 against defendant.

8 f. The right to testify and to present evidence in
9 opposition to the charges, including the right to compel the
10 attendance of witnesses to testify.

11 g. The right not to be compelled to testify, and, if
12 defendant chose not to testify or present evidence, to have that
13 choice not be used against defendant.

14 h. Any and all rights to pursue any affirmative defenses,
15 Fourth Amendment or Fifth Amendment claims, and other pretrial
16 motions that have been filed or could be filed.

17 WAIVER OF APPEAL OF CONVICTION

18 15. Defendant understands that, with the exception of an appeal
19 based on a claim that defendant's guilty plea was involuntary, by
20 pleading guilty defendant is waiving and giving up any right to
21 appeal defendant's conviction on the offense to which defendant is
22 pleading guilty.

23 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

24 16. Defendant agrees that, provided the Court imposes a total
25 term of imprisonment on all counts of conviction of no more than 18
26 months, defendant gives up the right to appeal all of the following:
27 (a) the procedures and calculations used to determine and impose any
28 portion of the sentence; (b) the term of imprisonment imposed by the

1 Court; (c) the fine imposed by the court, provided it is within the
2 statutory maximum; (d) the term of probation or supervised release
3 imposed by the Court, provided it is within the statutory maximum;
4 and (e) any of the following conditions of probation or supervised
5 release imposed by the Court: the conditions set forth in General
6 Orders 318, 01-05, and/or 05-02 of this Court; the drug testing
7 conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the
8 alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

9 17. The USAO agrees that, provided (a) all portions of the
10 sentence are at or below the statutory maximum specified above and
11 (b) the Court imposes a term of imprisonment of no less than 12
12 months, the USAO gives up its right to appeal any portion of the
13 sentence.

14 RESULT OF WITHDRAWAL OF GUILTY PLEA

15 18. Defendant agrees that if, after entering a guilty plea
16 pursuant to this agreement, defendant seeks to withdraw and succeeds
17 in withdrawing defendant's guilty plea on any basis other than a
18 claim and finding that entry into this plea agreement was
19 involuntary, then (a) the USAO will be relieved of all of its
20 obligations under this agreement; and (b) should the USAO choose to
21 pursue any charge or any civil, administrative, or regulatory action
22 that was either dismissed or not filed as a result of this agreement,
23 then (i) any applicable statute of limitations will be tolled between
24 the date of defendant's signing of this agreement and the filing
25 commencing any such action; and (ii) defendant waives and gives up
26 all defenses based on the statute of limitations, any claim of pre-
27 indictment delay, or any speedy trial claim with respect to any such
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1 action, except to the extent that such defenses existed as of the
2 date of defendant's signing this agreement.

3 EFFECTIVE DATE OF AGREEMENT

4 19. This agreement is effective upon signature and execution of
5 all required certifications by defendant, defendant's counsel, and an
6 Assistant United States Attorney.

7 BREACH OF AGREEMENT

8 20. Defendant agrees that if defendant, at any time after the
9 signature of this agreement and execution of all required
10 certifications by defendant, defendant's counsel, and an Assistant
11 United States Attorney, knowingly violates or fails to perform any of
12 defendant's obligations under this agreement ("a breach"), the USAO
13 may declare this agreement breached. All of defendant's obligations
14 are material, a single breach of this agreement is sufficient for the
15 USAO to declare a breach, and defendant shall not be deemed to have
16 cured a breach without the express agreement of the USAO in writing.
17 If the USAO declares this agreement breached, and the Court finds
18 such a breach to have occurred, then: (a) if defendant has previously
19 entered a guilty plea pursuant to this agreement, defendant will not
20 be able to withdraw the guilty plea, and (b) the USAO will be
21 relieved of all its obligations under this agreement.

22 21. Following the Court's finding of a knowing breach of this
23 agreement by defendant, should the USAO choose to pursue any charge
24 or any civil, administrative, or regulatory action that was either
25 dismissed or not filed as a result of this agreement, then:

26 a. Defendant agrees that any applicable statute of
27 limitations is tolled between the date of defendant's signing of this
28 agreement and the filing commencing any such action.

1 error, although each party agrees to maintain its view that the
2 calculations in paragraph 11 are consistent with the facts of this
3 case. While this paragraph permits both the USAO and defendant to
4 submit full and complete factual information to the United States
5 Probation Office and the Court, even if that factual information may
6 be viewed as inconsistent with the facts agreed to in this agreement,
7 this paragraph does not affect defendant's and the USAO's obligations
8 not to contest the facts agreed to in this agreement.

9 24. Defendant understands that even if the Court ignores any
10 sentencing recommendation, finds facts or reaches conclusions
11 different from those agreed to, and/or imposes any sentence up to the
12 maximum established by statute, defendant cannot, for that reason,
13 withdraw defendant's guilty plea, and defendant will remain bound to
14 fulfill all defendant's obligations under this agreement. Defendant
15 understands that no one -- not the prosecutor, defendant's attorney,
16 or the Court -- can make a binding prediction or promise regarding
17 the sentence defendant will receive, except that it will be within
18 the statutory maximum.

19 NO ADDITIONAL AGREEMENTS

20 25. Defendant understands that, except as set forth herein,
21 there are no promises, understandings, or agreements between the USAO
22 and defendant or defendant's attorney, and that no additional
23 promise, understanding, or agreement may be entered into unless in a
24 writing signed by all parties or on the record in court.

25 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

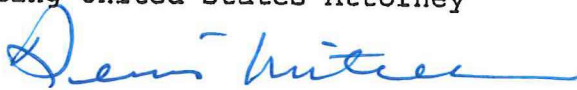
26 26. The parties agree that this agreement will be considered
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28

1 part of the record of defendant's guilty plea hearing as if the
2 entire agreement had been read into the record of the proceeding.

3 AGREED AND ACCEPTED

4 UNITED STATES ATTORNEY'S OFFICE
5 FOR THE CENTRAL DISTRICT OF
6 CALIFORNIA

7 SANDRA R. BROWN
8 Acting United States Attorney



9 DENNIS MITCHELL
10 Assistant United States Attorney

9-21-17
Date

11 SONY DONG
12 Defendant

9/11/2017
Date


13 PHILIP P. DeLUCA
14 Attorney for Defendant SONY DONG

9/19/17
Date

15 CERTIFICATION OF DEFENDANT

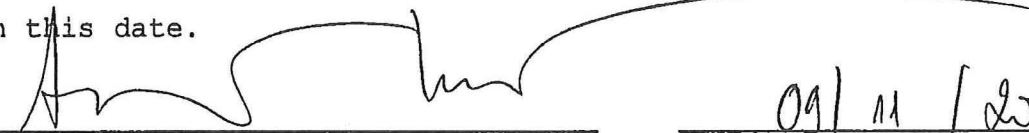
16 This agreement has been read to me in Vietnamese, the language I
17 understand best. I have had enough time to review and consider this
18 agreement, and I have carefully and thoroughly discussed every part
19 of it with my attorney. I understand the terms of this agreement,
20 and I voluntarily agree to those terms. I have discussed the
21 evidence with my attorney, and my attorney has advised me of my
22 rights, of possible pretrial motions that might be filed, of possible
23 defenses that might be asserted either prior to or at trial, of the
24 sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant
25 Sentencing Guidelines provisions, and of the consequences of entering
26 into this agreement. No promises, inducements, or representations of
27 any kind have been made to me other than those contained in this
28 agreement. No one has threatened or forced me in any way to enter

1 into this agreement. I am satisfied with the representation of my
2 attorney in this matter, and I am pleading guilty because I am guilty
3 of the charges and wish to take advantage of the promises set forth
4 in this agreement, and not for any other reason.

5 
6 _____ Date 9/11/2017
7 SONY DONG
8 Defendant

8 CERTIFICATION OF INTERPRETER

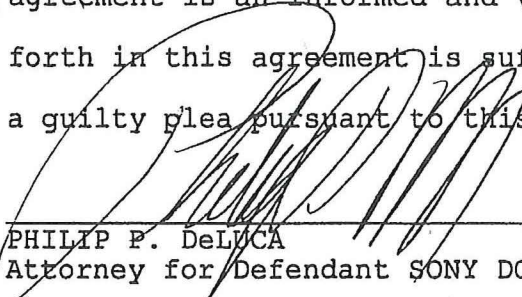
9 I, Lynn Trang am fluent in the written and spoken
10 English and Vietnamese languages. I accurately translated this
11 entire agreement from English into Vietnamese to defendant SONY DONG
12 on this date.

13 
14 _____ Date 09/11/2017
15 INTERPRETER

16 CERTIFICATION OF DEFENDANT'S ATTORNEY

17 I am SONY DONG's attorney. I have carefully and thoroughly
18 discussed every part of this agreement with my client. Further, I
19 have fully advised my client of his rights, of possible pretrial
20 motions that might be filed, of possible defenses that might be
21 asserted either prior to or at trial, of the sentencing factors set
22 forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines
23 provisions, and of the consequences of entering into this agreement.
24 To my knowledge: no promises, inducements, or representations of any
25 kind have been made to my client other than those contained in this
26 agreement; no one has threatened or forced my client in any way to
27 enter into this agreement; my client's decision to enter into this
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1 agreement is an informed and voluntary one; and the factual basis set
2 forth in this agreement is sufficient to support my client's entry of
3 a guilty plea pursuant to this agreement.

4 
5 _____
6 PHILIP F. DeLUCA
7 Attorney for Defendant SONY DONG

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Date

9/12/17