

ALERT

Commerce Suspends Export Privileges of Chinese Telecom Giant ZTE

April 16, 2018

The U.S. Department of Commerce's Bureau of Industry and Security (BIS) activated a suspended denial order imposing significant, far-reaching export restrictions on ZTE, a Chinese telecom giant. These restrictions—which are effective immediately—prohibit U.S. producers from supplying even common, off-the-shelf EAR99 and other low-level technology electronic components and commercial software to ZTE.

On March 23, 2017, ZTE entered into a settlement agreement with the U.S. government regarding a multi-year conspiracy to violate the U.S. trade embargo against Iran, as well as illegal shipment of U.S. telecom equipment to North Korea. In addition to a record \$1.19 billion fine, ZTE agreed not to commit any further violations, under penalty of having its export privileges revoked for a seven-year period.

The settlement subjected ZTE to mandatory, periodic reporting. Pursuant to this requirement, on February 2, 2018, the U.S. government requested a status report on individuals that ZTE had previously indicated, in November 30, 2016 and July 20, 2017 communications, were disciplined as part of voluntary efforts to respond to the violations that gave rise to the settlement agreement. The status report showed that ZTE had provided false information regarding the disciplinary efforts, and had not undertaken any efforts to correct its prior false statements until after receiving the February 2, 2018 information request.

BIS's denial order prohibits ZTE (including ZTE Corporation and ZTE Kangxun Telecommunications Ltd.), its officers, agents, employees, representatives, and other persons acting on their behalf from "directly or indirectly . . . participat{ing} in any transaction involving

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Practice Areas

International Trade
Telecom, Media & Technology

any commodity, software or technology . . . exported or to be exported from the United States” that is subject to the Export Administration Regulations (EAR), or undertaking activities subject to the regulations, including imports of ZTE products. ZTE and those in its ambit, as described above, are prohibited from:

- applying for, obtaining, or using any export control licenses, exceptions, or documents;
- negotiating for, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way any transaction involving items subject to the EAR, or conducting any other activity subject to the regulations; or
- benefitting in any way from any activity involving an item/activity subject to the EAR.

This action will have major ripple effects throughout the United States, as U.S. companies as well as foreign companies purchasing U.S. items can no longer export or reexport those items to ZTE, facilitate ZTE’s acquisition of U.S. products, or ship goods or software abroad to service ZTE-owned or -controlled items.