

## US Restricts Exports and Reexports to Chinese Telecom Company ZTE

March 8, 2016

The US Commerce Department's Bureau of Industry and Security ("BIS") has issued a final rule amending the Export Administration Regulations ("EAR") and imposing trade restrictions against Zhongxing Telecommunications Equipment Corporation ("ZTE"), one of China's largest telecommunications equipment companies, as well as three designated ZTE affiliates in China and Iran. BIS alleges that ZTE, and its designated affiliates, "planned and organized a scheme to establish, control and use a series of 'detached' (*i.e.*, shell) companies to illicitly reexport controlled items to Iran in violation of US export control laws."

BIS has added ZTE and its designated affiliates to the "Entity List," a restricted-party list identifying foreign persons that engage in activities contrary to US national security and/or foreign policy interests. As a result and as described in more detail below, exports, reexports and in-country transfers to the following ZTE entities will now require a specific license from BIS:

Country	Entity	License Requirement	License Review Policy
China, PRC	Beijing 8 Star International Co. Unit 601, 6th Floor Tower 1, Prosper Center, No. 5 Guanghua Road Chaoyang District Beijing, China	For all items subject to the EAR	Presumption of Denial
China, PRC	Zhongxing Telecommunications Equipment (ZTE) Corporation ZTE Plaza, Keji Road South Hi-Tech Industrial Park Nanshan District Shenzen, China	For all items subject to the EAR	Presumption of Denial
China, PRC	ZTE Kangxun Telecommunications Ltd. 2/3 Floor, Suite A Zte Communication Mansion Keji (S) Road Hi-New Shenzhen, 518057 China	For all items subject to the EAR	Presumption of Denial

Country	Entity	License Requirement	License Review Policy
Iran	ZTE Parsian No. 100, Africa Avenue Mirdamad Enterseccion Tehran, Iran	For all items subject to the EAR	Presumption of Denial

Effective immediately, exports, reexports, or in-country transfers to the designated ZTE entities of any item (i.e., commodities, software or technology) subject to the EAR will require a specific license from BIS. Items subject to the EAR include all items (i) in the United States (irrespective of origin); (ii) US-origin items wherever located; (iii) foreign-origin (i.e., non-US) items that incorporate more than a de minimis amount of US-origin controlled content; (iv) certain foreign-made direct products of US origin technology or software; and (v) certain commodities produced by any plant or major component of a plant located outside the United States that is a direct product of US-origin technology or software. Exports to these designated ZTE entities will not be eligible for any license exceptions under the EAR, and license applications for shipments to these companies will be subject to a policy of denial. The BIS action contains a "savings clause" that authorizes impacted shipments that were shipped prior to the imposition of restrictions and that are en route.

Today's action will have immediate and significant implications for any companies doing business with designated ZTE entities. BIS's action will require suppliers of ZTE to screen equipment, software, or technology destined for the designated ZTE affiliates to determine whether it is subject to the EAR. Such suppliers will generally be prohibited – in the absence of a license – from providing a designated ZTE entity with any equipment, software, or technology that is US-origin, contains more than a de minimis level of controlled US-origin content, or that is otherwise subject to the EAR. The types of activities that could violate these restrictions include:

- sending US-origin equipment from the US to a designated ZTE entity;
- permitting a designated ZTE entity to download software or non-public technical information from servers in the US;
- sending foreign-origin equipment that incorporates US origin parts or components to a designated ZTE entity;
- transferring US-origin equipment or software to a designated ZTE entity within China; or
- providing certain forms of technical support to ZTE personnel in connection with items subject to the EAR.

For more information, see the BIS [Final Rule](#) in the Federal Register. For assistance in assessing the applicability of these new export restrictions to your existing or potential business, please contact a member of our export control team, including [Kevin King](#), [Shannon MacMichael](#), and [Rebecca Ross](#). For telecommunication-specific inquiries, please contact [Michael Basile](#) or Michael Pryor.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. This content may be considered **Attorney Advertising** and is subject to our [legal notices](#).

---

## Key Contacts

Christopher Kimball Washington, DC	ckimball@cooley.com +1 202 842 7892
Kevin King Washington, DC	kking@cooley.com +1 202 842 7823
Shannon MacMichael Washington, DC	smacmichael@cooley.com +1 202 728 7069
Rebecca Ross Washington, DC	rross@cooley.com +1 202 728 7150
Christina Zhang Shanghai	

---

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.