

# Secretary of Commerce Wilbur L. Ross, Jr. Announces \$1.19 Billion Penalty for Chinese Company's Export Violations to Iran and North Korea

[Trade and Investment Export Administration Regulations \(EAR\)](#)[Iranian Transactions and Sanctions Regulations \(ITSR\)](#)[Wilbur L. Ross](#)

Secretary of Commerce Wilbur L. Ross, Jr. today announced that China's Zhongxing Telecommunications Equipment Corporation and ZTE Kangxun Telecommunications Ltd., known collectively as ZTE, has agreed to a record-high combined civil and criminal penalty of \$1.19 billion, pending approval from the courts, after illegally shipping telecommunications equipment to Iran and North Korea in violation of the Export Administration Regulations (EAR) and the Iranian Transactions and Sanctions Regulations (ITSR).

As part of the settlement, ZTE has agreed to pay a penalty of \$661 million to Commerce's Bureau of Industry Security (BIS), with \$300 million suspended during a seven-year probationary period to deter future violations. This civil penalty is the largest ever imposed by the BIS and, if the criminal plea is approved by a federal judge, the combined \$1.19 billion in penalties from Commerce, the Department of Justice, and the Department of Treasury, would be the largest fine and forfeiture ever levied by the U.S. government in an export control case.

“We are putting the world on notice: the games are over,” said Secretary Ross. “Those who flout our economic sanctions and export control laws will not go unpunished – they will suffer the harshest of consequences. Under President Trump’s leadership, we will be aggressively enforcing strong trade policies with the dual purpose of protecting American national security and protecting American workers.”

In addition to these monetary penalties, ZTE also agreed to active audit and compliance requirements designed to prevent and detect future violations and a seven-year suspended denial of export privileges, which could be quickly activated if any aspect of this deal is not met.

“The results of this investigation and the unprecedented penalty reflects ZTE’s egregious scheme to evade U.S. law and systematically mislead investigators,” Secretary Ross said. “This penalty is an example of the extraordinary powers the Department of Commerce will use to vigorously protect the interests of the United States. I am very proud of the outstanding work of the Department’s Bureau of Industry and Security, Office of Export Enforcement and its Office of Chief Counsel.”

As part of the \$1.19 billion plea deal, the U.S. District Court for the Northern District of Texas will consider imposing \$430,488,798 in combined criminal fines and forfeiture on ZTE as part of a plea agreement with the Department of Justice. ZTE has also agreed to pay the Department of the Treasury’s Office of Foreign Assets Control (OFAC) \$100,871,266 pursuant to a settlement agreement.

## **ZTE’s Scheme**

Starting no later than January 2010 and continuing through April 2016, ZTE conspired to evade the long-standing and widely known U.S. embargo against Iran in order to obtain contracts with and related sales from Iranian entities, including entities affiliated with the Iranian Government, to supply, build, operate, and/or service large-scale telecommunications networks in Iran, the backbone of which would be U.S.-origin equipment and software.

As a result of the conspiracy, ZTE was able to obtain hundreds of millions of dollars in contracts with and sales from such Iranian entities. Additionally, ZTE undertook other actions involving 283 shipments of controlled items to North Korea with knowledge that such shipments violated the EAR.

Shipped items included routers, microprocessors, and servers controlled under the EAR for national security, encryption, regional security, and/or anti-terrorism reasons. In addition, ZTE engaged in evasive conduct designed to prevent the U.S. government from detecting its violations.

### **The Investigation, Sanction, and Subsequent Charges**

The BIS Office of Export Enforcement Dallas Field Office, in partnership with the U.S. Attorney's Office for the Northern District of Texas, The Department of Justice Counterintelligence and Export Control Section, FBI and the Department of Homeland Security's Homeland Security Investigations, investigated ZTE for five years, beginning in 2012 when allegations of illegal conduct first surfaced in media reports. BIS's subsequent service of an administrative subpoena on ZTE's U.S. affiliate, ZTE USA, Inc., led ZTE to slow its unlawful shipments to Iran.

BIS later learned that in November 2013, following a meeting of senior managers chaired by its then-CEO, ZTE made plans to resume transshipments to Iran that would continue during the course of the investigation.

On March 7, 2016, the Department of Commerce sanctioned ZTE by adding it to the Entity List, which created a license requirement to export, reexport, or transfer (in-country) to ZTE any items subject to the EAR. The principal basis for the addition were two ZTE corporate documents titled "Report Regarding Comprehensive Reorganization and Standardization of the Company Export Control Matters," which indicated that ZTE reexported controlled items to sanctioned countries contrary to U.S. law and "Proposal for Import and Export Control Risk Avoidance," which described how ZTE 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 U.S. export control laws.

During the course of the investigation, ZTE made knowingly false and misleading representations and statements to BIS or other U.S. law enforcement agencies, including that the company had previously stopped shipments to Iran as of March 2012, and was no longer violating U.S. export control laws. ZTE also engaged in an elaborate scheme to prevent disclosure to and affirmatively mislead the U.S. Government, by deleting and concealing documents and information from the outside counsel and forensic accounting firm that ZTE had retained with regard to the investigation.

This scheme included forming and operating a 13-member "Contract Data Induction Team" within ZTE between January and March 2016,

that destroyed, removed, or sanitized all materials concerning transactions or other activities relating to ZTE's Iran business that post-dated March 2012; deleted on a nightly basis all of the team's emails to conceal the team's activities; and required each of the team members to sign a non-disclosure agreement covering the ZTE transactions and activities the team was tasked with hiding. Under the non-disclosure agreement, team members would be subject to a penalty of 1 million Renminbi (or approximately \$150,000) payable to ZTE if it determined a disclosure occurred.

"Despite ZTE's repeated attempts to thwart the investigation, the dogged determination of investigators uncovered damning evidence of an orchestrated, systematic scheme to violate U.S. export controls by supplying equipment to sanctioned destinations," said Douglas Hassebrock, Director of the Bureau of Industry and Security's Office of Export Enforcement which spearheaded the investigation.