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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 160106014-6014-01]

RIN 0694-AG82

Additions to the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by adding four entities to the Entity List. The U.S. Government has determined that the four entities are acting contrary to the national security or foreign policy interests of the United States. The four entities will be listed on the Entity List under the destinations of People's Republic of China (China) and Iran.

DATE: This rule is effective [INSERT DATE OF PUBLICATION].

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Fax: (202) 482-3911, E-mail: ERC@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to Part 744) identifies entities and other persons reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. The EAR imposes additional licensing requirements on, and limits the availability of most license exceptions for, exports, reexports, and transfers (in-country) to those listed. The “license review policy” for each listed entity or other person is identified in the License Review Policy column on the Entity List and the impact on the availability of license exceptions is described in the **Federal Register** notice adding entities or other persons to the Entity List. BIS places entities and other persons on the Entity List pursuant to sections of part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The ERC, composed of representatives of the Departments of Commerce (Chair),

State, Defense, Energy, and, where appropriate, the Treasury, determines all additions to, removals from, and other modifications to the Entity List. The ERC makes decisions to add an entry to the Entity List by majority vote and decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions

Additions to the Entity List

This rule implements the decision of the ERC to add four entities -- three in China and one in Iran -- to the Entity List under the authority of § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR.

The ERC reviewed § 744.11(b) (Criteria for revising the Entity List) in making the determination to list these four entities. Under that paragraph, entities and other persons for which there is reasonable cause to believe, based on specific and articulable facts, have been involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States, and those acting on behalf of such persons, may be added to the Entity List. Paragraphs (b)(1) through (5) of § 744.11 set out an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States.

Pursuant to § 744.11 of the EAR, the ERC determined that Zhongxing Telecommunications Equipment Corporation (“ZTE Corporation”), located at ZTE Plaza, Keji Road South, Hi-Tech Industrial Park, Nenshan District, Shenzhen, China, be added to the Entity List under the destination of China for actions contrary to the national security and foreign policy interests of the United States. Specifically, the ZTE Corporation document “Report Regarding Comprehensive Reorganization and Standardization of the Company Export Control Related Matters” (available at <http://www.bis.doc.gov>) indicates that ZTE Corporation has reexported controlled items to sanctioned countries contrary to United States law. The ZTE Corporation document “Proposal for Import and Export Control Risk Avoidance” (available at <http://www.bis.doc.gov>) describes how ZTE Corporation also 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.

Pursuant to § 744.11 of the EAR, the ERC determined that three entities located in China and one in Iran should be added to the Entity List for actions contrary to the national security or foreign policy interests of the United States. Specifically, the following three entities (in addition to ZTE Corporation) were identified in the scheme developed by ZTE Corporation to reexport controlled items to Iran contrary to United States law, as detailed in the ZTE Corporation document “Proposal for Import and Export Control Risk Avoidance,” referenced above and available on the BIS website:

- (a) ZTE Kangxun Telecommunications Ltd. is named in the ZTE Corporation document “Proposal for Import and Export Control Risk Avoidance.” This entity was

designated by ZTE Corporation to purchase controlled items and provide them to a Chinese intermediary trading company for reexport to Iran.

- (b) Beijing 8-Star, identified as “8S” is described in the ZTE Corporation document “Proposal for Import and Export Control Risk Avoidance.” This entity was designated by ZTE Corporation to sign contracts with Iranian clients, make purchases of controlled items, and reexport the items from China to Iran.
- (c) ZTE Parsian is identified as “ZTE YL” in the ZTE Corporation document “Proposal for Import and Export Control Risk Avoidance.” This entity was designated by ZTE Corporation to facilitate the illicit reexport scheme by providing contracted engineering services to ZTE client(s) in Iran receiving the controlled items.

Pursuant to § 744.11(b)(5) of the EAR, the ERC determined that the conduct of these four entities raises sufficient concern that the prior review of exports, reexports, and transfers (in-country) of items subject to the EAR involving these entities, and the possible imposition of license conditions or license denials on shipments to the entities, will enhance BIS’s ability to prevent violations of the EAR.

For the four entities this rule adds to the Entity List on the basis of § 744.11, the ERC specified a license requirement for all items subject to the EAR and a license review policy of presumption of denial. The license requirements apply to any transaction in which items subject to the EAR are proposed for export, reexport, or transfer (in-country) to any of the four listed entities or any other transaction in which such entities act as purchaser, intermediate consignee, ultimate consignee, or end user of items subject to the EAR. In addition, no license exceptions are available for exports, reexports, or transfers

(in-country) of items subject to the EAR to the entities being added to the Entity List in this rule.

This final rule adds the following four entities to the Entity List:

China

(1) Beijing 8-Star International Co.,

Unit 601, 6th Floor, Tower 1, Prosper Center, No. 5, Guanghua Road, Chaoyang District, Beijing, China;

(2) Zhongxing Telecommunications Equipment (ZTE) Corporation,

ZTE Plaza, Keji Road South, Hi-Tech Industrial Park, Nanshan District, Shenzhen, China;

and

(3) ZTE Kangxun Telecommunications Ltd.,

2/3 Floor, Suite A, Zte Communication Mansion Keji (S) Road, Hi-New Shenzhen, 518057 China.

Iran

(1) ZTE Parsian,

No. 100, Africa Ave., Mirdamad Intersection, Tehran, Iran.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were *en route* aboard a carrier to a port of export or reexport, on [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER], pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2015, 80 FR 48233 (August 11, 2015), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222, as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental,

public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to Jasmeet_K._Seehra@omb.eop.gov, or by fax to (202) 395-7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. For the four entities added to the Entity List in this final rule, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). BIS implements this rule to protect U.S. national security or foreign policy interests by preventing items from being exported, reexported, or transferred (in-country) to the entities being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, then entities being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, because these parties may receive notice of the U.S. Government's intention to place this entity on the Entity List if a proposed rule is published, doing so would create an incentive for these entities to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing on the Entity List once a final rule was published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subject in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015); Notice of September 18, 2015, 80 FR 57281 (September 22, 2015); Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of January 20, 2016, 81 FR 3937 (January 22, 2016).

2. Supplement No. 4 to part 744 is amended:

- a. By adding under China, in alphabetical order, three Chinese entities; and
- b. By adding under Iran, in alphabetical order, one Iranian entity.

The additions read as follows:

Supplement No. 4 to Part 744 – Entity List

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Country	Entity	License requirement	License review policy	Federal Register citation

CHINA, PEOPLE'S REPUBLIC OF	*****			
	Beijing 8 Star International Co., Unit 601, 6 th Floor, Tower 1, Prosper Center, No. 5, Guanghua Road, Chaoyang District, Beijing, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	81 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

	Zhongxing Telecommunications Equipment (ZTE) Corporation, ZTE Plaza, Keji Road South, Hi-Tech Industrial Park, Nanshan District, Shenzhen, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	81 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
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. (See §744.11 of the EAR).	Presumption of denial.	81 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].	

IRAN	*****			

	ZTE Parsian, No. 100, Africa Ave., Mirdamad Entersection, Tehran, Iran.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	81 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Dated: March 3, 2016

Kevin J. Wolf

Assistant Secretary for Export Administration

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