

Congress of the United States
Washington, DC 20515

July 13, 2016

The Honorable Penny Pritzker
Secretary
United States Department of Commerce
Washington, D.C.

The Honorable Jack Lew
Secretary
United States Department of the Treasury
Washington, D.C.

The Honorable John Kerry
Secretary
United States Department of State
Washington, D.C.

Dear Secretary Pritzker, Secretary Lew, and Secretary Kerry:

Recently, it has come to our attention that the Commerce Department has extended its temporary trade sanctions relief on the Chinese government-affiliated company, ZTE Corporation. As you know, ZTE is being accused of developing a scheme to violate U.S. export control laws by establishing a series of shell companies to illicitly re-export controlled items to sanctioned countries without proper licensing and authorization.¹

As referenced in our enclosed letter dated April 27, the United States restricted the sale of certain technologies to Iran in an effort to curb the Iranian government's ability to oppress dissidents and restrict the free-flow of information. ZTE, however, appears to have blatantly worked to evade American sanctions and export control laws in an effort to continue its business with entities in Iran.

In response to the news about the sanctions relief, ZTE's Chairman and President, Dr. Zhao Xianming, stated: "We are very pleased by today's decision. *This extension of relief reflects ZTE's continuing efforts to fulfill its commitments to create a best-in-class compliance program.* [emphasis added]"²

After meeting with ZTE's representatives and reviewing Dr. Xianming's statement, ZTE appears to be creating an export control compliance regime for the first time, despite having done business in the United States since 1998.³

According to Section 758.3 of the Export Administration Regulations (EAR), "all parties that participate in transactions subject to the EAR must comply with the EAR."⁴ Thus, it is

¹ "Documents Pertaining to the Addition of ZTE Corporation and Related Entities to the Entity List." U.S. Commerce Department. Bureau of Industry and Security Newsroom. March 7, 2016 found at <http://www.bis.doc.gov/index.php/about-bis/newsroom>

² "ZTE Statement Regarding U.S. Department of Commerce's TGL Renewal." June 27, 2016 found at <http://www.zte.com.cn/global/about/press-center/news/201606/201606280927>

³ ZTE USA Website, "About Us" Section, found at <https://www.zteusa.com/about-us/>

⁴ 15 CFR § 758.3, Responsibilities of parties to the transaction.

incumbent on businesses from the outset of cross-border transactions to be responsible for EAR compliance.

In the past, the Commerce Department has sought stiff penalties against companies that violated Iran re-exportation laws, even without doing so “knowingly” (*Iran Air v. Kugelman*).⁵ Here, we urge you to punish ZTE for appearing to purposefully and blatantly re-export technologies to Iran without even a modest attempt to maintain an internal compliance regime.

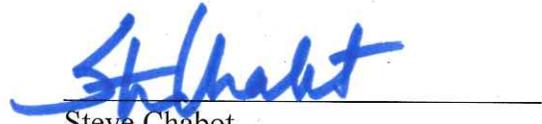
Failure to act would set a dangerous precedent of allowing companies to subvert the law but then be exempt from sanctions because of post-transaction willingness to comply. As Members of Congress, we do not want to see the effectiveness of export control laws become compromised, especially export laws intended to address human rights violations and systematic oppression.

With this in mind, we write to urge you again to re-impose ZTE’s status on Commerce’s Entity List. ZTE’s actions undermined American efforts to address severe human rights violations in Iran, and the company should remain on the Entity List as you conduct your remaining civil and criminal investigations.

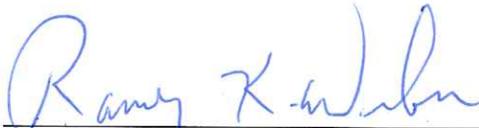
Sincerely,



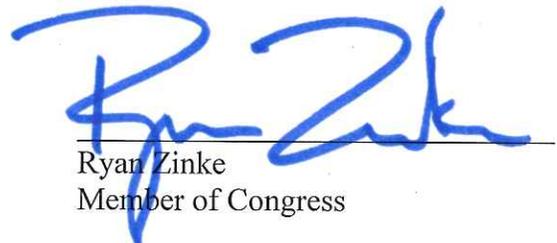
Robert Pittenger
Member of Congress



Steve Chabot
Member of Congress



Randy Weber
Member of Congress



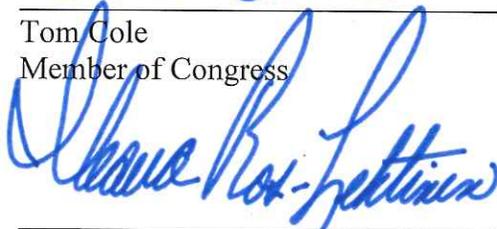
Ryan Zinke
Member of Congress



Tom Cole
Member of Congress



Doug LaMalfa
Member of Congress



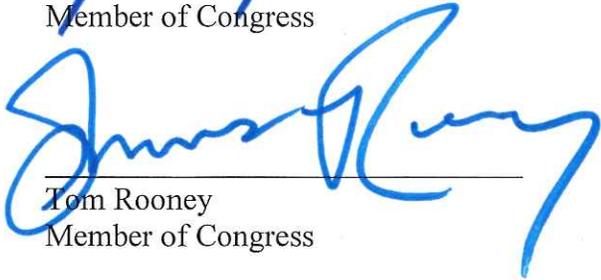
Ileana Ros-Lehtinen
Member of Congress



Kevin Cramer
Member of Congress

⁵ *Iran Air v. Kugelman*, 996 F.2d 1253.


Trent Franks
Member of Congress


Tom Rooney
Member of Congress


Dana Rohrabacher
Member of Congress


Joe Pitts
Member of Congress


Mike Pompeo
Member of Congress


Sam Johnson
Member of Congress

Congress of the United States
Washington, DC 20515

April, 27, 2016

The Honorable Penny Pritzker
Secretary
United States Department of Commerce
Washington, D.C.

The Honorable Jack Lew
Secretary
United States Department of the Treasury
Washington, D.C.

The Honorable John Kerry
Secretary
United States Department of State
Washington, D.C.

Dear Secretary Pritzker, Secretary Lew, and Secretary Kerry:

The Commerce Department recently imposed trade sanctions on the Chinese state-influenced firm, ZTE Corporation, for violating export control laws which restricted the sale of technological goods to entities in Iran. Weeks later, however, it appears Commerce reached a deal with ZTE to temporarily suspend those sanctions as part of its investigation.

We are concerned that if ZTE is not ultimately punished for its reported misconduct, American export control laws and international efforts to promote human rights in Iran will be weakened.

The United States restricted the sale of certain information technology (IT) equipment to Iran in an effort to limit the government's abilities to oppress dissidents and restrict the free-flow of information. In 2012, it was reported that ZTE violated our export controls by selling embargoed equipment to the Telecommunications Company of Iran (TCI), a government-controlled entity, which would enable TCI to monitor and control all electronic communications within Iran. These allegations were recently confirmed by documents released by the Commerce Department during its investigation.

Despite this administration's recent efforts with the Iran nuclear deal, Iran has not made any significant progress with regard to human rights. A recent March 2016 report published by the United Nations Special Rapporteur on the situation of human rights in Iran highlighted many of the ongoing abuses being committed by the Iranian government. Specifically, the Iranian government continues to conduct "widening crackdowns" on freedom of expression and opinion, as well as promote the continued arrests and prosecution of religious minorities, women, journalists, and other dissidents¹.

We encourage the Commerce Department to continue its investigation of ZTE and impose penalties for any conduct found to violate American laws and regulations. Further, we strongly urge Commerce to reconsider its decision to temporarily remove ZTE from its Entity List. If

¹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, U.N. Human Rights Council, March 10, 2016 *found at* http://www.iranhrdc.org/files/pdf_en/SR_Report_HRC2016FF_255352891.pdf

evidence currently exists to implicate ZTE, we believe it is appropriate for Commerce to take immediate action and re-impose ZTE's standing on the Entity List.

Especially in light of recent Iranian provocation and aggression, America must send a strong message that we are committed to reversing its human rights abuses. Our government must hold accountable those who violate the law and enable such abuses through the sale of embargoed technologies to Iran.

Additionally, we respectfully request that you provide us information about the terms of your agreement with ZTE to temporarily lift restrictions.

Similar to ZTE, a number of Congressional offices wrote this administration in 2011 to raise concerns with respect to Huawei Technologies Company and possible export control violations.

In the documents released by the Commerce Department which were used to illustrate ZTE's malfeasance, an unidentified company, referred to only as "F7," appears a number of times and is cited by ZTE as an example of a rival company that successfully evaded American export controls. Several news outlets have reported that ZTE's internal description of F7 appears to match public descriptions of Huawei.

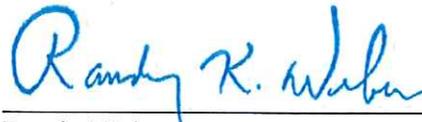
As you move forward with your investigation of ZTE, we urge you to publicly identify F7 and impose appropriate penalties on the company should you find evidence of wrongdoing.

Thank you for your consideration and for your continued diligence on this matter.

Sincerely,



Robert Pittenger
Member of Congress



Randy Weber
Member of Congress



David Rouzer
Member of Congress



Ann Wagner
Member of Congress



Dana Rohrabacher
Member of Congress



Ryan Zinke
Member of Congress



Bill Posey
Member of Congress



Paul Cook
Member of Congress



Joseph Pitts
Member of Congress



Kenny Marchant
Member of Congress



Chris Smith
Member of Congress



Randy Hultgren
Member of Congress



Trent Franks
Member of Congress



Doug LaMalfa
Member of Congress



Cresent Hardy
Member of Congress



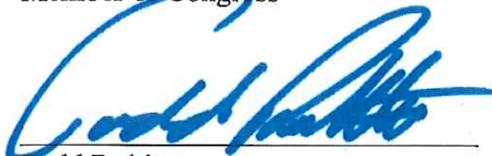
French Hill
Member of Congress



Sam Johnson
Member of Congress



Kevin Cramer
Member of Congress



Todd Rokita
Member of Congress



Gregg Harper
Member of Congress

Robert E. Latta

Robert E. Latta
Member of Congress

Vicky Hartzler

Vicky Hartzler
Member of Congress

Mike Pompeo

Mike Pompeo
Member of Congress