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U.S. HOUSE OF REPRESENTATIVES
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-4121

Michael Allen
STAFF DIRECTOR

MICHAEL H. SHANK
MINORITY STAFF DIRECTOR

June 12, 2012

Mr. Lixin Chen
Chief Executive Officer
ZTE USA
2425 North Central Expressway
Richardson, TX 75080

Dear Mr. Chen:

As part of the Committee's investigation into the threat posed to United States national security interests by Chinese telecommunications companies, on April 12, 2012, staff from the Committee met with you and other ZTE officials at ZTE's corporate headquarters in Shenzhen, China. Subsequently, Members of the Committee met with ZTE officials in Hong Kong on May 23, 2012.

As you know, the purpose of our investigation is to examine the threat posed to our critical infrastructure and the United States' counterintelligence posture by companies with ties to the Chinese government. This investigation also informs our review of the intelligence community's resources to address this threat. We appreciate the opportunity to discuss these issues, and we note your stated desire to remain transparent, candid, and cooperative throughout this investigation. Accordingly, we now write to follow-up on these discussions and to seek additional information and documents supporting your claims.

Pursuant to House Rules X and XI of the U.S. House of Representatives, we request that you provide answers to the attached questions pertaining to the Committee's investigation no later than three weeks from the date of this letter. Should you have any questions or concerns regarding the investigation, please contact Committee staff at 202-225-4121.

Sincerely,

Handwritten signature of Mike Rogers in black ink, with the initials "M.C." written below the signature.

Mike Rogers
Chairman

Handwritten signature of C.A. Dutch Ruppersberger in black ink.

C.A. Dutch Ruppersberger
Ranking Member

An additional attachment provides information on how to respond to Committee document requests.

1. At the April 12 and May 23 meetings, ZTE officials stated that ZTE is not controlled by or influenced by the Chinese government or the Chinese Communist Party (CCP). Rather, you suggest that your interaction with the Chinese government is typical of a regulated company in the telecommunications sector.
 - a. Please describe ZTE's interactions with the following Chinese entities over the last 5 years. Please include the names and titles of officials with whom ZTE most frequently interacted, and the dates of any meetings.
 - i. The Ministry of Industry and Information Technology (MIIT)
 - ii. The Ministry of Commerce
 - iii. The Ministry of Finance
 - iv. The Ministry of National Defense
 - v. The Ministry of State Security
 - vi. The People's Bank of China (PBOC)
 - vii. The China Investment Corporation
 - viii. The China Export Import Bank
 - ix. The CCP
2. At the April 12 meeting, ZTE officials asserted that the Chinese government provides only standard export buyer credits that are extended to customers of their equipment procurement as listed in ZTE's annual statements. For example, in 2009, ZTE received a \$15 billion credit line from China Development Bank while only posting an annual revenue of \$8.4 billion. This loan was given with favorable terms, including a three year moratorium on interest payments.
 - a. How was ZTE able to receive a favorable bank loan in excess of annual revenue?
 - b. Please provide detailed information about which international carriers have used this line of credit or other incentives by the Chinese government.
 - c. Please explain in detail how ZTE operates as an "intermediary & bridge between operators and financial institutions" when arranging customer financing with Chinese banks.
3. The Chinese government over the past five years has provided funding for Chinese corporations' research and development (R&D) in indigenous and innovative technologies.

- a. Please describe in detail the specific grants or funding that ZTE has received from the Chinese government for ZTE's growing R&D?
 - b. How much of this funding has supported any ZTE activities in the United States?
 - c. Other than funding, please describe any other support or assistance the Chinese government has provided ZTE.

4. We understand that Chinese law provides that the Chinese government may task Chinese companies with providing information or acting on behalf of the Chinese government.
 - a. Has ZTE ever been ordered by the Chinese government to perform a task or seek information on behalf of the government?
 - b. If so, what did ZTE do in response?
 - c. If not, what is ZTE's corporate policy and strategy for responding to such government orders?
 - d. Would the Chinese government's orders apply to ZTE's subsidiaries, including those within the United States?
 - e. Would ZTE disobey any orders or direction by the PRC government or the CPP, including any direction or orders by individuals within the PRC or the CCP to use ZTE equipment or access for purposes of economic or foreign espionage or other action against networks or other assets within the United States?

5. At the April 12 meeting, ZTE officials discussed ZTE's cybersecurity assurance system. At that meeting, and again in your May 14, 2012 submission to the Committee, ZTE asserts that it has no knowledge of any cybersecurity incidents. The Committee would like further information explaining that surprising statement:
 - a. To your knowledge, has a ZTE employee, whether with the consent of supervisors or not, ever attempted to obtain private information from an individual, company, or government, through ZTE's network? If so, please list all such circumstances, and describe what actions were taken to reprimand or punish such employee(s).
 - b. To your knowledge, has ZTE ever been the victim of a cyber incident whereby a non-ZTE employee or other company attempted to retrieve ZTE's intellectual property by maliciously exploiting ZTE's networks? If so, please describe how ZTE learned about the incident(s) and any remedial action(s) taken.
 - c. Has ZTE ever been the victim of cyber exploitation by the government of the People's Republic of China? If so, please describe how ZTE learned about the incident(s) and any remedial or follow-up action(s) taken.
 - d. Please explain in detail the system and processes by which ZTE is assured that it is or would be informed of any such incident.

- e. Please provide all documents relating to questions 5(a) through 5(d).
6. ZTE's annual statement explains that Mr. Hou Weigui, Chairman of ZTE's Board and legal representative to Zhongxing WXT—the controlling shareholder of Zhongxingxin Co., a joint state-owned entity (SOE) with controlling share of ZTE—founded ZTE in 1985.
 - a. Please explain in detail how ZTE was founded—by whom and with what capital?
 - b. List each of the founders along with their relationship to or participation with the Chinese Communist Party (both past and present).
 - c. Please explain the mission of the No. 691 Factory, along with any ties to the Chinese government, the CCP, or the PLA.
 - d. How did the No. 691 Factory evolve from a state-owned entity into the Zhongxing Semiconductor Co., which is purportedly a privately held technology enterprise?
 - e. If Zhongxing Semiconductor Co. is still in existence today, explain why it is considered the “ancestor” of ZTE?
7. In ZTE's May 14, 2012 submission to the Committee, ZTE asserts that it is both “accountable to its shareholders”, but is not controlled by Zhongxingxin, the largest single shareholder of the company, which allegedly holds a 30.76% share in ZTE.
 - a. Please explain how ZTE is both accountable to its shareholders, but not influenced or controlled by its largest shareholder?
 - b. Zhongxingxin is owned by three companies, two of which are state-owned enterprise and comprise 51% of the ownership of Zhongxingxin. Please explain why those two companies which hold a majority stake in Zhongxingxin are not able to effectively control Zhongxingxin, and thereby exercise control over ZTE?
 - c. Please explain why Zhongxingxin is prohibited from selling more than 5% of its ZTE shares in any six-month period, as stated on page 3 of your April 12, 2014 submission to the Committee.
 - d. Please explain in detail the history and mission of Zi'an Microelectronics, including what role it has played in the development of ZTE's mission and products.
 - e. Please explain in detail the history and mission of Aerospace Guangyu, including what role it has played in the development of ZTE's mission and products.
 - f. Please explain in detail the relationship of Aerospace Guangyu and Zi'an Microelectronics to Mr. Hou Weigu and Zhongxing WXT, the other owner of Zhongxingxin.
8. At the April 12, 2012 meeting, ZTE suggested that it was not a national champion for the PRC.

- a. Please explain which telecommunications companies ZTE considers to be PRC National Champions.
 - b. How would ZTE know if it were a National Champion for the PRC?
 - c. Why do you believe the PRC does not consider ZTE a National Champion?
 - d. How does the PRC's view of ZTE affect ZTE's strategy and operations?
 - e. Does the company receive any direction from the CCP? If so, by whom?
 - f. Does ZTE produce any technology for the Chinese government/military? Please list all products provided to the Chinese military or intelligence services.
9. What role, if any, did ZTE play in the investigation against Philippine officials—including former President Gloria Macapagal-Arroyo—for accepting bribes to push through a \$330 million (USD) government contract?
- a. Did ZTE provide any kickbacks?
 - b. Similarly, the Nigerian government is investigating a \$470 million (USD) contract for the Nation Communication Security System. The investigation will determine whether the award of the project to ZTE conformed to guidelines for government contracts and whether substandard material was used by ZTE. Is there any merit to these allegations?
10. The Committee is interested in ZTE's policies and practices to ensure the security of their systems from a threat from the inside the company.
- a. Do ZTE employees sign legally-binding agreement or contracts whereby they promise as a condition of employment not to participate in malicious cyber activities against host countries?
 - b. If so, how is this agreement enforced? If not, why not?
 - c. What are the legal ramifications if an employee is found to have conducted such activity?
 - d. Has any legal action ever been taken against a ZTE employee for such activity?
11. Huawei filed a lawsuit against ZTE in Germany, France, and Hungary claiming ZTE infringed patents related to data cards and LTE.
- a. What is the status of this lawsuit?
12. ZTE boasts that it holds over 40,000 patents.
- a. How many of these patents are held in China?
 - b. How many of the Chinese patents were granted after 2008?

13. ZTE claims to invest 10% of its annual revenue in R&D. ZTE also claims to employ around 30,000 researchers.
 - a. How many of these researchers are employed out of ZTE's 15 Research Centers and 10 innovation centers?
 - b. What is the difference between a research and innovation center?
 - c. Are all research employees PRC citizens? If not, what is the composition of this workforce?
 - d. ZTE states that innovation centers are joint world-wide research centers run in cooperation with "mainstream operators." Please list these operators?

14. The Committee is interested in ZTE's hiring practices, particularly within the United States.
 - a. Please provide a complete breakdown of the number of individuals employed by ZTE within the United States, including the location of employment, and nationality of all employees within the United States.
 - b. Please explain how ZTE conducts recruitment within the United States.
 - c. Are non-PRC nationals allowed to attend ZTE University? If so, what is the breakdown between PRC nationals and non-PRC nationals?

15. According to press reporting, ZTE entered a \$131 million contract with the Telecommunications Company of Iran (TCI) in 2012. Reports indicate this contract included sanctioned surveillance equipment such as the highly sophisticated and intrusive ZXMT surveillance system, which is capable of analyzing "packets" of data traveling across the internet. ZTE's response to the public attention to its contract with TCI stated the company's "main focus for business in Iran is to provide standard communications and network solutions for commercial use to help operators upgrade their network."
 - a. Does ZTE consider the sale of highly sophisticated surveillance technology—capable of tracking internet users, searching and reconstructing e-mail messages, blocking specific types of internet traffic, and delivering altered web pages to users—to a sanctioned country "standard"?
 - b. Does ZTE provide training and maintenance contracts to host countries, including Iran?
 - c. ZTE's contract with TCI was also signed by ZTE's Iranian subsidiary, ZTE Parsian and another Chinese company—Beijing 8-Star International Co.—which is reportedly responsible for providing certain "relevant third party equipments."
 - i. What is ZTE's relationship with Beijing 8-Star International Co.?
 - ii. Please provide all documents relating to ZTE's relationship with Beijing 8-Star International Co.?

16. In late March 2012, ZTE announced it would no longer seek to expand its business with Iran.
- a. What prompted this change?
 - b. Does ZTE plan to honor its current contracts with Iran to the fullest extent? If so, do these contracts include training or maintenance of the sanctioned surveillance equipment?
 - c. Does ZTE currently hold any open contracts with other sanctioned countries? If so, please list the countries.
 - d. Press reporting indicates ZTE is also reselling several U.S.-made hardware and software products despite the ban on the sale of U.S. technology to Iran.
 - i. Please list all U.S. companies and their products that ZTE re-sold to Iran.
 - ii. Please provide all documents related to ZTE's sale of these products, including agreements authorizing the sales.
17. In ZTE's May 15, 2012 submission to the Committee, ZTE states that it is not a security threat to the United States given ZTE's limited presence in the United States.
- a. What are ZTE's future intentions to grow and expand in the United States?
 - b. Does ZTE intend to remain focused only on selling hand-held devices and not other equipment?
 - c. At the April 12, 2012 meeting in Shenzhen, ZTE officials stated that the company is willing to lose money on projects in the United States to get a foothold in the United States and to understand the technology and standards used in the United States.
 - i. Do you purposely bid on projects below cost?
 - ii. How often?
 - iii. How are you able to sustain this loss?
18. ZTE claims to be open and transparent, and highlights that it is listed on the Hong Kong and Shenzhen stock exchanges, which have transparency requirements.
- a. Now that ZTE has entered the North American market, will the company be listing shares on the New York Stock Exchange (NYSE)?
 - b. If not, why not? What additional reporting and transparency requirements does ZTE believe it will face if it were to list on the NYSE?
 - c. ZTE's representatives in Washington mentioned that ZTE could not disclose or give the Committee any corporate documents without first getting the review and permission by the Chinese government.
 - i. What agency, office, or officials within the Chinese government would review such documents?

- ii. Does this requirement exist for all companies in China, whether state owned or partially state owned?
- iii. Does this requirement exist for ALL communications and transactions – whether investigatory or transactional?
- iv. Does this requirement apply to litigation matters involving ZTE in the United States?

Responding to Committee Document Requests

In responding to the Committee's document request, please apply the instructions and definitions set forth below:

Instructions

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. Documents should be provided in English, unless the original document was in another language, in which case the original plus an English translation should be provided.
4. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.
5. Each document should be produced in a form that may be copied by standard copy machines.
6. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.
7. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.
8. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.
9. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.
10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject, and recipients) and explain the circumstances

under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, state:
 - a. How the document was disposed of;
 - b. The name, current address, and telephone number of the person who currently has possession, custody, or control over the document;
 - c. The date of disposition;
 - d. The name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.
12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction, or unavailability.
13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
15. All documents should be bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.
16. Two sets of the documents should be delivered to the Committee, one set to the majority staff, and one set to the minority staff, both of which are located in HVC-304 of the House Visitor Center. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.
17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide the following information concerning any such document; (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; (e) the relationship of the author and addressee to each other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege"

includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a privilege log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term "document" also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. A document bearing any notation not part of the original text is considered to be a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “documents in your possession, custody, or control” means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.
3. The term “communication” means each manner or means of disclosure, transmission, or exchange of information, in the form of facts, ideas, opinions, inquiries, or otherwise, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, instant message, discussion, release, personal delivery, or otherwise.
4. The terms “and” and “or” should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The term “person” or “persons” mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.
6. The terms “referring” or “relating”, with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.
7. The terms “you” or “your” mean and refer to you as a natural person, and ZTE Corp., and any of its subsidiaries, holding companies, joint ventures, subdivisions, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, or any other persons acting on your behalf or under your control or direction; and includes any other person(s) defined in the document request letter.