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Has the Ban on Huawei Really Been Lifted?

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On June 29, 2019, President Donald Trump announced at the G-20 summit in Japan that United States companies would be allowed to sell equipment to Huawei provided that those sales did not pose a “great” national security risk. Many news organizations reported that the U.S. had agreed to drop sanctions against Huawei as part of an agreement with China to reopen trade negotiations.

But the underlying reality is not so clear-cut. Days after the president’s announcement, it is still not clear what sanctions – if any – have been or will be revoked. First, the president’s announcement applies only to U.S. companies seeking to *sell* goods to Huawei. At least on its face, it does not apply to U.S. companies or individuals that *purchase* goods or services from Huawei. As Butzel Long reported in May, exports to Huawei are affected by the decision of the U.S. Department of Commerce Bureau of Industry and Security (“BIS”) to place Huawei on its “Entity List,” which requires U.S. companies to obtain a license before selling goods or services ultimately bound for Huawei. But companies that purchase goods or services from Huawei are governed by a different government decree – Executive Order 13873, which President Trump issued on May 15, 2019. That executive order is still in force, and later news reports clarified that it was unaffected by the June 29 announcement.

Second, it not even yet clear how the agreement announced on June 29 will affect sales to Huawei. Although many news organizations have reported that Huawei and its affiliates were being removed from the Entity List, BIS has not announced such an action. And on Sunday, June 30, Larry Kudlow, the Director of the National Economic Council and top economic advisor to President Trump, denied that Huawei would be removed from the Entity List. In an interview broadcast on Fox News Sunday, Mr. Kudlow stated that BIS was likely to issue new temporary general licenses that would allow more U.S. businesses to sell products to

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Huawei but would not remove Huawei from the Entity List. He stated that those licenses would allow companies to sell generally commercially available goods that were available from other foreign companies and that did not pose a national security threat to the United States. Mr. Kudlow, however, did not disclose any further specifics.

So, despite the president's announcement on June 29, none of the U.S. sanctions on Huawei have yet been officially changed, and it remains unclear what U.S. companies will be able to do legally once details are announced. For the time being, U.S. sanctions against Huawei continue in place until BIS (or the White House) take further action. The situation remains fluid, and Butzel Long will report further developments as the situation warrants.

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