

Congress of the United States
Washington, DC 20515

June 10, 2021

The Honorable Janet Yellen
Secretary
U.S. Treasury Department
1500 Pennsylvania Ave, NW
Washington, D.C. 20220

The Honorable Lloyd Austin
Secretary
U.S. Department of Defense
1400 Defense Pentagon
Washington, D.C. 20220

Dear Secretary Yellen and Secretary Austin,

We write to express our concerns regarding President Biden's Executive Order Addressing the Threat from Securities Investments that Finance Certain Companies of the People's Republic of China issued June 3, 2021.¹ According to the guidance issued by the Department of the Treasury, "Effective June 3rd, 2021, the NS-CMIC List replaced and superseded in its entirety the Non-SDN Communist Chinese Military Companies List (NS-CCMC List), which has been deleted from OFAC's website."² In particular, we are deeply concerned that issuing its new list, the Biden administration has failed to include sixteen companies which were either included in the NS-CCMC List or identified by the Department of Defense as a Chinese Communist Military Companies (CCMC).³

As you are aware, the Department of Defense had determined that these sixteen companies meet the criteria to be designated as CCMCs pursuant to the definition laid out under Section 1237 of the 1999 National Defense Authorization Act (NDAA). Furthermore, investment in the publicly traded securities of such companies was prohibited (and divestment in such securities was required) pursuant to President Trump's EO 13959 Addressing the Threat from Securities Investments that Finance Communist Chinese Military Companies issued on November 12, 2020. By not including these companies in the new NS-CMIC list, the Biden administration is permitting certain forms of investment in these Chinese Communist Military Companies. Disturbingly, one of the companies that has been delisted is China's Sugon. Last October, in a letter I sent to former Commerce Secretary Wilbur Ross I noted that "in addition to being the largest manufacturer of supercomputers in Asia, [Sugon] was also a key enabler of China's hypersonic glide vehicle testing program and it played a key role in helping the Chinese military do nuclear weapons simulation testing."⁴ The Washington Post has reported that "Sugon's supercomputers help power the Urumqi Cloud Computing Center in Xinjiang, where Chinese authorities monitor massive amounts of surveillance

¹ Executive Order on Addressing the Threat from Securities Investments that Finance Certain Companies of the People's Republic of China. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/03/executive-order-on-addressing-the-threat-from-securities-investments-that-finance-certain-companies-of-the-peoples-republic-of-china/>

² Frequently Asked Questions: Chinese Military Companies Sanctions. The Department of the Treasury. Accessed June 9, 2021. <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/5671>

³ SMIC Semiconductor Manufacturing (Shanghai) Co., Ltd, CRRC Corp., Dawning Information Industry Co (Sugon), China National Chemical Corporation (ChemChina), China National Chemical Engineering Group Co., Ltd. (CNCEC), China State Construction Group Co., Ltd., China Three Gorges Corporation Limited, Sinochem Group Co Ltd, China Construction Technology Co. Ltd. (CCTC), China International Engineering Consulting Corp. (CIECC), China National Aviation Holding Co. Ltd. (CNAH) Advanced Micro-Fabrication Equipment Inc. (AMEC), Beijing Zhongguancun Development Investment Center Commercial Aircraft Corporation of China, Ltd. (COMAC), Global Tone Communication Technology Co. Ltd. (GTCOM), GOWIN Semiconductor Corp, and Grand China Air Co. Ltd. (GCAC).

⁴ "Members of Congress write to Commerce Secretary Wilbur Ross about Chinese Computing Companies." The Washington Post. https://www.washingtonpost.com/context/members-of-congress-write-to-commerce-secretary-wilbur-ross-about-chinese-computing-companies/110634cb-b096-4dbf-bc29-1001edb5808e/?itid=lk_inline_manual_41

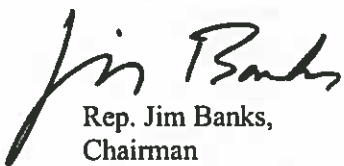
footage.”⁵ It is illogical that President Biden’s removed investment restrictions on Sugon while proclaiming in his EO, “the use of Chinese surveillance technology outside the PRC and the development or use of Chinese surveillance technology to facilitate repression or serious human rights abuse constitute unusual and extraordinary threats, which have their source in whole or substantial part outside the United States, to the national security, foreign policy, and economy of the United States, and I hereby expand the scope of the national emergency declared in Executive Order 13959 to address those threats.”

Please respond to this letter with information and answers to the following questions by June 24, 2021:

1. Does the Department of Defense continue to assess that SMIC Semiconductor Manufacturing (Shanghai) Co., Ltd, CRRC Corp., Dawning Information Industry Co (Sugon), China National Chemical Corporation (ChemChina), China National Chemical Engineering Group Co., Ltd. (CNCEC), China State Construction Group Co., Ltd., China Three Gorges Corporation Limited, Sinochem Group Co Ltd, China Construction Technology Co. Ltd. (CCTC), China International Engineering Consulting Corp. (CIECC), China National Aviation Holding Co. Ltd. (CNAH) Advanced Micro-Fabrication Equipment Inc. (AMEC), Beijing Zhongguancun Development Investment Center Commercial Aircraft Corporation of China, Ltd. (COMAC), Global Tone Communication Technology Co. Ltd. (GTCOM), GOWIN Semiconductor Corp, and Grand China Air Co. Ltd. (GCAC) meet the criteria described in Sec. 1237 of the 1999 NDAA to be designated as Chinese Communist Military Companies (CCMC)? If yes, why has the Department of Treasury lifted prohibitions on investment for those sixteen companies? If not, why does the Department of Defense no longer stand by its previous assessment?
2. Why has the Department of Treasury permitted American citizens to invest in Sugon, a company which has played a key role in helping the Chinese military do nuclear weapons simulation testing? How does such a move further the national security interests of the United States?
3. How is permitting investment in Sugon consistent with President Biden’s stated commitment to hold China accountable for the use of surveillance technology to facilitate repression or serious human rights abuse?
4. Does President Biden’s June 3, 2021 EO require Americans to divest from Chinese military companies or simply prohibit new investment?

Thank you and we look forward to your reply.

Sincerely,



Rep. Jim Banks,
Chairman
Republican Study Committee



Rep. Joe Wilson
Chairman
Republican Study Committee National Security and Foreign Affairs Task Force

⁵ Jeanne Whalen and Ellen Nakashima. "Biden expands Trump order by banning U.S. investment in Chinese companies linked to the military or surveillance technology." The Washington Post.
<https://www.washingtonpost.com/technology/2021/06/03/investment-ban-chinese-surveillance-tech/>