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**House of Representatives**

**SELECT COMMITTEE ON THE CHINESE COMMUNIST PARTY**

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February 20, 2023

Secretary Janet Yellen  
U.S. Department of the Treasury  
1500 Pennsylvania Ave. NW  
Washington, DC 20220

Dear Secretary Yellen,

I write to urge the Treasury Department to take decisive action against PRC companies involved in the PRC spy balloon program and to ensure US entities are not aiding and abetting this program. Earlier this month, the Commerce Department added six PRC entities to the Entity List preventing US exports to the companies without a license because they aided the balloon program.<sup>1</sup> Recent reporting indicates that numerous PRC companies were, indeed, assisting the program.<sup>2</sup> According to the reports, the balloon manufacturer has close ties to the People's Liberation Army (PLA) and is even a PLA "approved vendor."<sup>3</sup> However, because the Entity List does not restrict financial support to those companies, it is an inadequate response. With the American homeland under the threat of surveillance from the PRC balloon program, it is vital to cut off U.S. technological and financial support to PRC companies that aid and abet its balloon surveillance program, especially given the history of U.S. technology aiding advanced PLA weapons systems.<sup>4</sup>

<sup>1</sup> 88 Fed. Reg. 9389, Feb. 10, 2023.

<sup>2</sup> Edward Wong & Julian E. Barnes, "Chinese Balloon Had Tools to Collect Electronic Communications, U.S. Says," *The New York Times*, Feb. 9, 2023, <https://www.nytimes.com/2023/02/09/us/politics/china-spy-balloon-program.html>; Vivian Salama, "Chinese Balloon Carried Antennas, Other Equipment to Gather Intelligence, U.S. Says," *The Wall Street Journal*, Feb. 9, 2023, <https://www.wsj.com/articles/chinese-balloon-carried-antennas-other-equipment-to-gather-intelligence-u-s-says-11675953033>.

<sup>3</sup> Ibid.

<sup>4</sup> Cate Cadell & Ellen Nakashima, "American technology boosts China's hypersonic missile program," *Washington Post*, Oct. 17, 2022, <https://www.washingtonpost.com/national-security/2022/10/17/china-hypersonic-missiles-american-technology/>.

The PRC spy balloon that spent days traversing U.S. airspace was a clear violation of U.S. sovereignty. The balloon featured extensive surveillance equipment to spy on Americans.<sup>5</sup> Worse yet, the balloon was part of a vast surveillance system that repeatedly violated the sovereign airspace of the U.S. and our allies while targeting sensitive information on military installations.<sup>6</sup> These actions were so flagrant that Congress unanimously voted on a resolution condemning the incursion.<sup>7</sup> While I commend the Commerce Department for placing six PRC entities on the Entity List for their ties to the spy balloon program, on its own, the Entity List is not a fail-safe against U.S. technology finding its way to listed national security threats.<sup>8</sup> For example, in recent years the Commerce Department has granted export licenses worth over \$100 billion to two entity-listed companies that are leading PRC national champion tech companies, Huawei and SMIC.<sup>9</sup>

In order to buttress these listings, the Treasury Department should also act against PRC companies that are found to support the surveillance balloon program by adding these entities on the Non-SDN Chinese Military Industrial Complex List (NS-CMIC List). The NS-CMIC list is designed to impose costs on, and prevent U.S. persons from aiding, companies that “operate or have operated in the defense and related material sector or the surveillance technology sector of the economy of the PRC” or are owned and controlled by such companies.<sup>10</sup> As the Commerce Department put it when it added these six PRC entities to the List, they “support...the People’s Liberation Army’s (PLA) aerospace programs, including airships and balloons and related materials and components.”<sup>11</sup> Clearly, the recent companies placed on the Entity List meet the NS-CMIC threshold.

There are additional questions about why these companies were not already added to the NS-CMIC List for their work in the PRC defense industry. For example, one of the six, Eagles Men Aviation Science and Technology Group, even publicly described itself in 2019 as “one of the national model businesses of military-civil fusion.”<sup>12</sup> Eagles Men, and the rest of the companies involved in the balloon program belong on the NS-CMIC List.

Furthermore, DOD maintains its own list of Chinese Military Companies under Sec. 1260H of the National Defense Authorization Act of 2021. These companies are “military-civil fusion

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<sup>5</sup> Wong & Barnes, “Chinese Balloon,” <https://www.nytimes.com/2023/02/09/us/politics/china-spy-balloon-program.html>; Salama, <https://www.wsj.com/articles/chinese-balloon-carried-antennas-other-equipment-to-gather-intelligence-u-s-says-11675953033>.

<sup>6</sup> Ellen Nakashima, et. al., “Chinese balloon part of a vast aerial surveillance program, U.S. says,” *The Washington Post*, Feb. 7, 2023, <https://www.washingtonpost.com/national-security/2023/02/07/china-spy-balloon-intelligence/>.

<sup>7</sup> H. Res. 104 (2023).

<sup>8</sup> 88 Fed. Reg. 9389, Feb. 10, 2023.

<sup>9</sup> Press Release, “McCaul Brings Transparency to Tech Transferred to Blacklisted Chinese Companies,” House Committee on Foreign Affairs, Oct. 21, 2021, <https://foreignaffairs.house.gov/press-release/mccaul-brings-transparency-to-tech-transferred-to-blacklisted-chinese-companies/>.

<sup>10</sup> E.O. 13959, Sec. (1)(a), June, 3, 2021.

<sup>11</sup> 88 Fed. Reg. 9389, Feb. 10, 2023.

<sup>12</sup> Ana Swanson and Chris Buckley, “Behind China’s Balloons, a Push for Business to Serve the Military,” *The New York Times*, Feb. 16, 2023, <https://www.nytimes.com/2023/02/16/world/asia/spy-balloon-military-china.html>.



contributor[s] to the Chinese defense industrial base.”<sup>13</sup> There are many different ways a company can meet the 1260H definition of “military-civil fusion contributor,”<sup>14</sup> but all the elements seem to describe private companies that in some way or other meet the NS-CMIC List definition of “operate or have operated in the defense and related material sector or the surveillance technology sector of the economy of the PRC.”<sup>15</sup>

Nonetheless, the Treasury Department’s NS-CMIC List omits certain companies that are on DOD’s list. One company that is notably on DOD’s list but not Treasury’s is China National Chemical Corporation (ChemChina). This is notable, because a ChemChina subsidiary dominates the PRC high altitude balloon market, making 75% of the high-altitude balloons used by the China Meteorological Administration.<sup>16</sup> We have not yet discovered whether ChemChina has contributed to the PRC’s surveillance balloon program. However, ChemChina is precisely the sort of company that the U.S. government should have sanctioned long ago and should do so now.

In addition to those on DOD’s 1260H list, there are likely hundreds or thousands of additional PRC companies that meet the threshold definition for inclusion on the NS-CMIC list but have not yet been added. After all, under MCF, private companies in the PRC can be co-opted at will to aid PLA.<sup>17</sup> In the aftermath of this flagrant violation of US sovereignty, Treasury should diligently adhere to and implement Executive Order 13959, which established the NS-CMIC List, and add all companies that meet the definitions therein.

Finally, in the aftermath of this infringement on U.S. sovereignty, the Treasury Department should go one step further in its action against entities on the NS-CMIC List. Executive Order 13959 only prohibited U.S. persons from purchasing or trading publicly held securities of the listed entities.<sup>18</sup> However, many of these companies do not even issue publicly traded securities because they are privately held. Furthermore, restricting U.S. persons from trading securities in the companies does not prohibit their access to U.S. technology or to the U.S.-led financial system. The Biden Administration should therefore order all the entities on the NS-CMIC List be placed on the Specially Designated Entity (SDN) List and subject them to full blocking sanctions. SDN-Listed companies’ assets are blocked, and U.S. persons are prohibited from transacting with them, effectively cutting them off from the U.S.-led global financial system. Only by placing the PRC companies involved in the balloon program on the SDN List can the Biden Administration send a strong message to these entities and ensure U.S. persons and technology do not aid the surveillance program. If an entity is too dangerous to U.S. national

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<sup>13</sup> William M. (Mac) Thornberry National Defense Authorization Act of 2021, Sec. 1260H(d)(1)(B)(i)(II).

<sup>14</sup> Ibid., Sec. 1260H(d)(2).

<sup>15</sup> E.O. 13959, Sec. (1)(a), June, 3, 2021.

<sup>16</sup> “Explainer: What we know and don’t know about the Chinese balloon,” Reuters, Feb. 8, 2023, <https://www.reuters.com/world/what-we-know-dont-know-about-chinese-balloon-2023-02-08/>.

<sup>17</sup> “The Chinese Communist Party’s Military-Civil Fusion Policy,” U.S. Department of State, <https://2017-2021.state.gov/military-civil-fusion/index.html>.

<sup>18</sup> E.O. 13959, Jun. 3, 2021.

security for U.S. persons to trade those entities' public securities, U.S. persons should not be engaging in commercial transactions with them at all.

In addition to the above actions, I request that you please set up a time to brief the Select Committee as expeditiously as possible on the following questions:

1. Does the Treasury Department concur with the Commerce Department assessment that the six recent additions to the Entity List have aided PLA "aerospace programs, including airships and balloons and related materials and components?"
2. Does the Treasury Department have any plans to add the six entities recently placed on the Entity List to the NS-CMIC List or to the SDN List? If not, why?
3. Is the Treasury Department currently considering adding any entities on the NS-CMIC List to the SDN List?
4. Does the Treasury Department have any plans to further expand the NS-CMIC List to encompass the full range of PRC entities that "operate or have operated in the defense and related material sector or the surveillance technology sector of the economy of the PRC"?<sup>19</sup>
5. What is the Treasury Department's overall decision-making process for listing entities on both the SDN and NS-CMIC Lists? How, if at all, does DOD's 1260H List or the Commerce Department's Entity List factor into this decision?
6. Does the U.S. government have any evidence about technology produced in whole or in part by U.S. entities used in the PRC spy balloon program? Will this affect Treasury's decision-making process?

Thank you very much for your consideration of this vitally important national security matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "AG", followed by a horizontal line.

Mike Gallagher  
Chairman

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<sup>19</sup> E.O. 13959, Sec. (1)(a), June, 3, 2021.